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# **The Accountability of Private Schools to Public Values**

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## Summary

### *Public values*

Enrolments at private schools have been growing rapidly in Australia and now account for 32 per cent of the total. The Federal Government has suggested that this is, at least in part, the result of the lack of ‘values’ being taught in public schools. But at the same time the affordability of private schooling has improved due to large increases in Commonwealth funding.

Despite the shift to private schooling, there remains widespread agreement in the Australian community about the values that school education should promote. These values include equality of opportunity, the right of all children to a high-quality education, rejection of discrimination and respect for ethnic and religious differences. Everyone seems to agree that, so far as they can, both private and public schools should contribute to the graduation of young adults who are tolerant, egalitarian and respectful of others.

It has always been accepted that organisations must be accountable for the public funds they receive. The large increase in government funding for private schools prompts the question of whether those schools are sufficiently accountable. Are they committed to the public values that all schools are expected to uphold? While the private school sector, in all of its diversity, promotes some of these public values some of the time, some private schools fail to uphold them. Yet these schools remain answerable primarily to their own boards rather than to the Australian public. To the extent that some sectors of the private school system actively seek to be exclusive, either because of the fees they charge or on religious grounds, the private school system cannot achieve the degree of inclusiveness inherent in the public school system.

This paper considers some of the failings of private schools to protect public values and argues that the receipt of government funding should be contingent on upholding them. This focus should not detract from the many laudable qualities of the sector as a whole, nor does it suggest that there are not some failings of the public school system. Its purpose is to attempt to balance what has been a very one-sided debate and to call for the application of the normal principles of accountability for the billions of dollars of Commonwealth and state funding spent on private schools each year.

### *Inclusiveness*

All children have the right to a high-quality school education. Yet private schools are exempted from anti-discrimination laws and may expel or refuse to enrol gay students or students who become pregnant. While advocates of religious and private schools sometimes declare that they do not make use of these exemptions, some oppose their abolition. The Archbishop of Sydney, Cardinal Pell, has defended the ‘right’ of religious schools to discriminate against gay and pregnant teenagers on the basis that such discrimination is essential to religious freedom in Australia.

This view is contrary to the belief of a large majority of Australians that school values should begin with respect for tolerance of difference. A Newspoll survey conducted for this study finds that discrimination against children on the basis of their sexuality is strongly rejected by Australians. Table S1 shows that 90 per cent of Australians disagree with the statement that private schools should have the right to expel students because they are gay.

**Table S1 Responses to ‘Private schools should be able to expel students because they are gay’, by age and whether have children (%)**

	Age				Children		Total
	18-24	25-34	35-49	50+	Yes	No	
Agree	10	2	5	12	5	9	8
Disagree	90	96	92	83	92	87	89
Don’t know	0	3	3	5	3	4	4

Source: Newspoll. Figures may not add due to rounding.

Similarly, private schools may choose to refuse enrolment to students with special needs, such as those with disabilities, if they believe that the cost of accommodating those children would reduce the resources available to educate other students. They may also refuse to enrol students they believe will cause disruption to other students and place pressure on poorly performing students to leave so they do not slow the learning of their peers and drag down the school’s overall performance. Not all private schools choose to take advantage of these rights in selecting their desired student body, but the fact remains that the choice is theirs to make. Public schools cannot make these choices and suffer a disproportionate disadvantage.

### *Tolerance*

The steady growth of the private school sector is creating a growing tension between public funding of private schools and the values that are taught in some private schools. There is growing concern that students of differing ethnic and religious backgrounds are being isolated from each other through the growth of church-based schools. Multiculturalism, understood as respect and tolerance for different cultural practices and religious beliefs, occurs above all in the school yard. The overwhelming majority of survey respondents believe that it is good for children of different ethnic and religious backgrounds to mix at school, with 96 per cent agreeing and only two per cent disagreeing – see Table S2.



**Table S2 Responses to the statement that it is good for children of different ethnic and religious backgrounds to mix at school (%)**

	Male	Female	Sydney	Melbourne	Total
Strongly agree	87	84	83	87	85
Partly agree	10	12	12	10	11
<b>Total agree</b>	<b>97</b>	<b>96</b>	<b>95</b>	<b>96</b>	<b>96</b>
Partly disagree	1	1	1	1	1
Strongly disagree	1	2.2	2	2	2
<b>Total disagree</b>	<b>2</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>2</b>

Source: Newspoll. Figures may not add due to rounding.

### *Equality of opportunity*

The refusal of some private schools to conform to community values such as inclusiveness and tolerance is not the only problem that needs to be tackled by policy makers if they wish to rely more heavily on the private sector to uphold public values. The Federal Government's adoption of a new model to distribute funds between private schools has resulted in greater inequality of access to schooling, with the largest increases in per student funding having been allocated to schools with the highest fees. Not only can private schools select the easiest students to teach, but the Federal Government ensures that the most favourable of four different funding approaches is applied to each private school.

The issue of accountability arises in another area of private school funding, one so far absent from public debate – the value of tax-deductibility for parental donations to private schools. No comprehensive data for the private school sector are available, but it is apparent that by counting only grants and excluding tax expenditures government assistance to private schools has been significantly understated. Elite private schools with networks of well-heeled old boys are in a strong position to benefit from the tax-deductibility of donations, with some schools increasing their public subsidies by 50 per cent or more above Commonwealth grants. In addition, data collected for this report show that there is widespread misuse of school building funds with many donations wrongly claimed as tax deductions and some schools providing misleading information to parents.

There is a general view that the extension of private schooling, and especially the role of elite schools, is entrenching class divisions in Australia. At elite private schools, the school population is largely comprised of students from the same socioeconomic group because only wealthy families can afford to send their children to these schools. When students from elite schools do mix with other students, it is typically with students from schools of a similar socioeconomic standing. The concern is that not only will students

at these exclusive schools not learn ‘how the other half lives’ but that, as a result of their social isolation, they will develop elitist values and behaviours. Our Newspoll survey reveals that 58 per cent of Australian adults believe that expensive private schools promote snobbery in society. Respondents in Sydney were more likely to agree than those in Melbourne.

### *Public values and the national interest*

There appears to be a deep uneasiness in many sections of the Australian community about the social implications of the rapid expansion of private schools. The public values that schooling has always been designed to promote appear to have been neglected in the shift from public to private schools. Equality of opportunity, the right of all children to a high-quality education and respect for ethnic and religious differences are being eroded by some aspects of the growth of private schools, and this calls for greater accountability in the disbursement of public funds.

It is perhaps for these reasons that a majority of Australians do not believe governments should be facilitating the growth of private schools. Only one third of respondents to this study’s Newspoll survey agreed with the statement that policies to increase the percentage of children going to private schools would be good for Australia (Table S3). Even among parents who send their children to private schools, there is considerable doubt about the social value of promoting the sector, with less than half believing the promotion of private schools to be good for Australia.

While the rhetoric of ‘choice’ in the schools debate is prominent, parents have repeatedly stated that they would prefer to spend more public money on education instead of receiving tax cuts. This preference has been ignored. Instead, parents are asked to choose between a public school system that, in some instances, does not live up to their expectations and a private school system in receipt of a growing amount of Federal Government funding. For some parents, the personal choice to send their children to a private school is made because their choice as citizens of greater funding for government schooling has been ignored.

**Table S3 Percentage of respondents who believe that ‘policies to increase the number of children going to private school would be good for Australia’, by whether they have children in private schools (%)**

	Children in private schools		All adults
	Yes	No	Total
Strongly agree	22	11	16
Partly agree	25	14	18
Total agree	47	25	33
Partly disagree	17	22	21
Strongly disagree	25	44	36
Total disagree	42	65	57
Neither/don’t know	11	9	10

Source: Newspoll. Figures may not add due to rounding.



## **1. Introduction**

### **1.1 Motivation for the study**

Despite the shift to private schooling, there remains widespread agreement in the Australian community about the values that school education should promote. These values include equality of opportunity, the right of all children to a high-quality education, rejection of discrimination and respect for ethnic and religious differences. Everyone seems to agree that, so far as they can, both private and public schools should contribute to the graduation of young adults who are tolerant, egalitarian and respectful of others.

It has always been accepted that organisations must be accountable for the public funds they receive. The large increase in government funding for private schools naturally causes the community to ask whether those schools are sufficiently accountable for their commitment to the public values that all schools are expected to uphold. Without doubt, the private school sector, in all of its diversity, does promote these public values; but some types of private schools have failed to uphold some of these public values. Yet these schools remain answerable primarily to their own boards rather than to the Australian public more generally.

This paper considers some of the failings of private schools to protect the public values and argues that the receipt of government funding should be contingent on upholding them. This focus should not detract from the many laudable qualities of the sector as a whole, nor does it suggest that there are not some failings of the public school system. Its purpose is to attempt to balance what has been a very one-sided debate and to call for the application of the normal principles of accountability for the billions of dollars of Commonwealth and state funding spent on private schools each year.

The paper is organised as follows. Section 2 discusses private and public school values. Section 3 examines the ability of private schools to exclude individuals. Section 4 considers the benefits associated with children from a range of backgrounds mixing at school. Section 5 discusses the exclusive nature of elite private schools. Section 6 raises some financial accountability concerns surrounding the private school sector. Finally, Section 7 asks whether more private schools will be good for Australia and draws some conclusions.

### **1.2 The role of schools in Australia**

Governments at both state and Federal levels view education as being of central importance to the development of Australian society and the economy.<sup>1</sup> It is widely acknowledged that education is an important source of economic and social development providing the foundation for research, development and innovation (ATSE

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<sup>1</sup> The former Federal Education Minister, Dr David Kemp, stated that ‘the Government’s main objectives for schooling derive firstly from our desire to see a strengthening of the educational foundations of our democratic society, and secondly from our belief that the quality of our education is the surest guarantee that Australia will meet the challenges of competition in the global economy and provide our citizens with jobs and opportunities in the years ahead’ (Kemp 1999).

2003; DEST 2004a). In addition, education is critical to sustaining economic growth, improving productivity and ensuring that Australian industries remain internationally competitive (Guy 2002; Dowrick and Day 2003). Education is also central to policy debates about employment and unemployment (RBA 1998; United Nations 2002) and the distribution of income between genders and people of different cultural backgrounds (United Nations 2002; Argy 2003). Further, education plays an important role in promoting social cohesion and personal development. While education is essential for these economic and social reasons, governments are also influenced by the fact that education is high in the rankings of voter concerns (Morgan Poll 2000; ACSSO 2004).

Despite being central to such a wide range of social and economic issues, national debate about the nature, extent and provision of education has been sporadic and disjointed. In relation to the private education system, while much has been said about the need to protect parental choice in the delivery of education services, the debate has been muted with respect to the more fundamental question of the extent to which private schools contribute to the public values of the education system as a whole. Other germane questions, largely at the periphery of the public debate, include the following:

- If a private school receives funding from the government, to what extent should the government be able to determine the values that are taught in it? Should private schools be required to comply with community standards with respect to discrimination, for instance?
- To what extent should governments oversee and regulate the administration of private schools, particularly where private schools rely on government funding for their financial survival? How accountable should they be?
- If governments are promoting growth in the private school sector, what role are public schools intended to play? Are they merely intended to provide a 'safety net' education for children from disadvantaged backgrounds? Does society have an obligation to ensure that all students have access to, if not the best facilities, at least a level of educational resources that will provide stimulation and support, enabling them to reach their full potential?

### **1.3 Private schools in Australia**

Schools in Australia are typically grouped into three broad categories: government, Catholic and independent. Both Catholic and independent schools are referred to as private schools in this paper.

- Government schools are administered by state or territory education departments and funded by both Commonwealth and state or territory governments.<sup>2</sup>
- Catholic 'systemic' schools are administered by state or territory Catholic Education Commissions and funded from a range of sources, including Commonwealth and state or territory grants, fees, donations and investments.

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<sup>2</sup> Some government schools ask for voluntary contributions. However, these are mostly only nominal.

- Independent schools include non-systemic Catholic schools — those that are not administered by state or territory Catholic Education Commissions — as well as:
  - ♦ religious schools including denominational and non-denominational Christian, Islamic and Jewish schools;
  - ♦ Montessori schools;
  - ♦ Rudolf Steiner schools;
  - ♦ community schools;
  - ♦ Indigenous community schools;
  - ♦ specialist schools (for example, those that are specifically designed to meet the needs of students with disabilities and other special educational needs); and
  - ♦ schools constituted under Acts of Parliament, such as some grammar schools (NCISA 2003a, p. 1).

A large majority (80 per cent) of independent schools are administered as individual schools, with the remaining 20 per cent administered as part of a group such as the Lutheran, Anglican and Seventh Day Adventist schools (NCISA 2003a, p. 1; ISCA 2004a). Like Catholic systemic schools, independent schools are funded from government grants, fees, donations and investments.

Within the education sector there is some disagreement about the use of the term ‘private’ to describe non-government schools.<sup>3</sup> Those opposed to its use say that non-government schools are not truly private because they receive a substantial proportion of their funding from the government (and are therefore clients of government), are registered with state or territory education authorities and offer a standardised curriculum. However these characteristics do not, by themselves, address the issue of whether or not a school, or school system, is private from a policy perspective. That is, while the degree of public funding is an obvious distinction between government and non-government schools, other attributes are also relevant, including whether a school is accessible to all students, whether it is publicly accountable, and who makes decisions about the curriculum. In this paper we use the term ‘private schools’ to refer to the Catholic systemic schools and independent schools.

#### *The legal status of private schools*

All private schools receiving government funding must be not-for-profit organisations. This means that while they are allowed to generate a surplus and retain excess funds, they are prohibited from distributing any surplus to owners or members. According to the Independent Schools Council of Australia (ISCA), ‘any income they receive is

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<sup>3</sup> See Aulich and Aulich 2003.

directed to meeting the operating costs of the school or invested in providing resources or improving the school's facilities' (ICSA 2004b).

Private schools can adopt a range of different legal forms; they can be:

- established by Acts of Parliament with the specific purpose of founding the school as a charitable institution (for example, Sydney Grammar School);
- completely owned by a church (for example, the Uniting Church schools);
- an administrative unit functioning within a 'system' or association owned by a church; or
- incorporated schools, many of which are companies limited by guarantee with all the assets owned by a church property trust; typically, the company fully owns the school (NCISA 2000, p. 2).

The law currently recognises private schools as charitable institutions but not as public benefit institutions, which must meet a stricter public interest test (NCISA 2000, p. 5).<sup>4</sup> As charities, private schools are eligible for a number of concessions or tax expenditures (Sheppard *et al.* 2001).

The Commonwealth Government has clearly stated that no entity receiving Commonwealth funding for school education can be a for-profit organization. However, not-for-profit entities that are providing education services similar to those provided by the for-profit organisations that own them have been identified (see Nicholls 2004). Several associations have been established to represent the interests of various types of, and persons associated with, private schools and these lobby governments about matters affecting private schools, administer government funding and promote the private school sector. As a consequence, the system as a whole has a powerful voice in national and state education policy debates, and is able to exercise a high degree of influence over the shape and direction of these policies. It also appears to have considerable electoral influence due to the fact that a large proportion of those in the sector appear willing to vote according to the interests of private schools.

#### *The drift from public to private schools*

Over the last 20 years, the numbers of children attending private schools in Australia have risen steadily, at an average rate of 0.4 per cent per annum.<sup>5</sup> To a large extent this is a result of government funding policies that have encouraged the growth of private schools (Martin 2002). Recent increases can be attributed to the fact that in 2000 the Commonwealth Government changed the model on which funding to individual private

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<sup>4</sup> The common law meaning of a charity is an entity that is non-profit, provides a public benefit and has a charitable purpose that is within the spirit and intention of the Preamble to the Statute of Elizabeth. A public benefit organisation is a not-for-profit body that does not seek to provide private gain for particular persons and whose main activity is the relief of distress, destitution, helplessness, poverty, sickness and suffering, misfortunes that draw compassion or pity in the community (Sheppard *et al.* 2001).

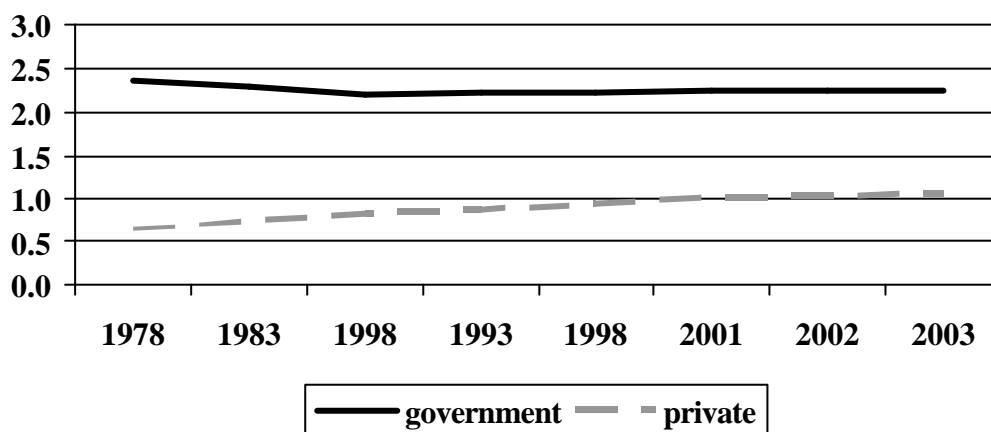
<sup>5</sup> This figure has been calculated over the period 1982 to 2001 (Martin 2002).



schools was determined and increased the global amount allocated to private schools through the *States Grants (Primary and Secondary Education Assistance) 2000 Act* (see Section 5). The same Act also introduced a regime of start-up grants aimed at providing money to encourage the formation of new private schools (see Nicholls 2001).

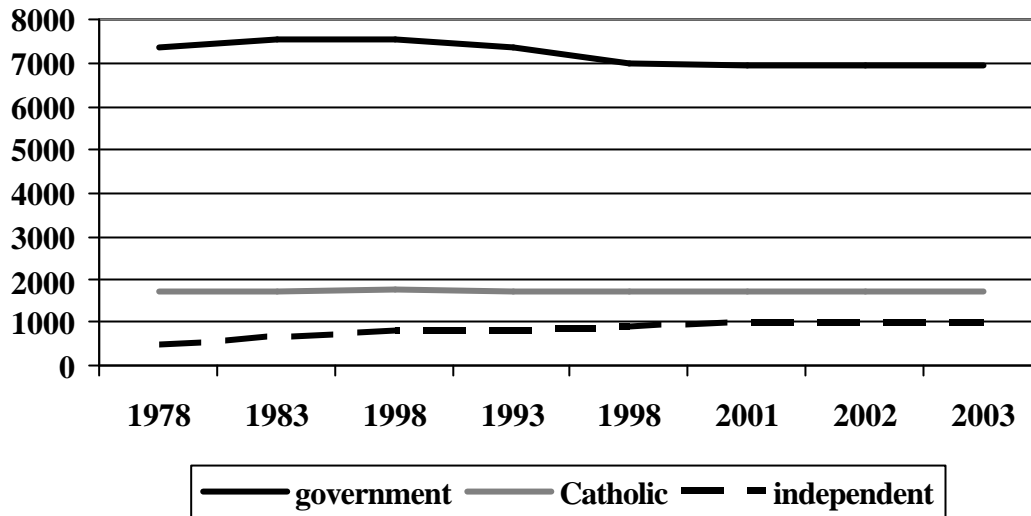
The Federal Government's stated motive for increasing funding to private schools is to facilitate choice. While government schools continue to educate the majority of Australian students (67.9 per cent in 2003), Figure 1 shows the strong trend towards private education over the last 25 years. Between 1993 and 2003, the number of full-time students attending private schools increased by 22.3 per cent, against only 1.2 per cent at government schools. Over the 20 year period between 1982 and 2001, the growth in enrolments in the private sector led to a 7.4 per cent increase in the relative share of enrolments of private schools (Martin 2002). This change can be attributed to both an increase in the number of students educated in the private system for the entirety of their compulsory school education, and the transfer of students from public to private schools, most of which occur when students enter secondary school (Martin 2002).

**Figure 1 Number of full-time students attending government and private schools (million)**



Source: ABS 2004, Table 6

As might be expected, the growth in the number of students attending private schools has led to a corresponding increase in the number of private schools, especially in the independent school sector. Figure 2 illustrates the slight decline in the number of government schools, the slow growth in Catholic schools and the rapid growth of independent schools over the period 1978-2003.

**Figure 2 Number of government, Catholic and independent private schools**

Source: ABS 2004, Table 6

### *Growth in religious schools*

In Australia, Catholic schools continue to comprise the largest segment of private schools, although their growth, together with that of Jewish schools, has stagnated in the last ten years (Rahmani 2003, p. 63) (see Table 1). By contrast, in the same period there has been a significant growth in the number of Christian Schools.<sup>6</sup>

There has also been rapid growth in the number of Muslim schools, albeit from a low base (NSWDET 2002; Rahmani 2003), partly attributable to Islam being either ignored or presented in a biased manner in the public school system (Donohue-Clyne cited in Morris 2003).

### *Policies guiding the development of new private schools*

Concerns have been raised about the lax regulatory environment that has enabled new private schools to develop in instances where they are not commercially viable or where there are other problems that should preclude their establishment (Nicholls 2004). For example, in some new Christian schools concerns about the viability of the school are secondary to the need to spread the Christian faith. The CSA website, says that:

Once the foundations are laid through prayer and the development of an understanding of what Christian education is about, the detailed investigation of planning for the school can commence (Christian Schools Australia 2002).

<sup>6</sup> These are schools that form part of the Christian Schools of Australia (CSA).

**Table 1 Number and growth of religious schools, by religion, 1993-2002**

Affiliation	1993	2002	% growth
Ananda Marga	2	2	0
Assemblies of God	17	16	-6
Anglican	115	139	21
Baptist	41	40	-2
Brethren	6	9	50
Catholic	1,698	1,698	0
Churches of Christ	3	2	-33
Hare Krishna	2	1	-50
Jewish	19	19	0
Lutheran	71	81	14
Montessori School	20	34	70
Muslim	6	24	300
Orthodox	10	14	40
Pentecostal	18	18	0
Presbyterian	12	12	0
Seventh Day Adventist	71	57	-20
Society of Friends	1	1	0
Steiner School	28	46	64
Uniting Church in Australia	45	42	-7
Inter-Denominational	46	29	-37
Non- Denominational	157	163	4
Other Religious Affiliation	21	5	-76
Other	91	80	-12
Scientology	1	1	0
Christian Schools	52	130	150
Total	2,553	2,663	4

Note: Data for Scientology and Christian Schools begin from 1997 rather than 1993.

Source: Rahmani 2003, p. 63.

Further:

It is important at this early stage to develop a clear understanding of what a Christian school is, the Biblical principles upon which it is based, and the reason that God is calling you to start a school. Understanding these issues will be vital if the vision is to be communicated effectively to others (Christian Schools Australia 2002).

The Christian Schools Association makes starting a school sound easy, with only two legal requirements necessary, state registration and compliance with local government planning laws (Christian Schools Australia 2002). According to Nicholls, a policy environment has been created:

where financial and regulatory controls are inadequate, are lacking or are selectively ignored. An atmosphere exists where virtually anything goes. Those planning to establish new private schools, as well as those responsible for the running of existing schools, seem to have got the message that an unquestioning Commonwealth will provide them with funds while requiring minimal accountability and little transparency (Nicholls 2004, p. 9).

It can therefore be argued that changes to government policy have resulted in a substantial shift in the relative strengths of the forces that lead to the creation of new schools. Rather than being created to meet an existing demand from parents, it now appears that they are being created out of the desire by some groups to start a new school. Given the Commonwealth Government's increasing reliance on private schools it is important to ensure that each private school is providing an education, and an educational environment, consistent with the *National Goals for Schooling*. This paper raises concerns about the ability of the private school sector, as it currently operates, to meet all of these Goals.

#### **1.4 Why some parents are sending their children to private schools**

Australian parents, more than ever, are expecting schools to foster values such as tolerance, trust, mutual respect, courage, compassion, honesty, courtesy and doing one's best (Nelson, 2004a).

When the Prime Minister and several of his colleagues argued earlier this year that parents are turning to private schools because the sector teaches better values, they provided little evidence to support the view. In fact, it was subsequently revealed<sup>7</sup> that a report published in 2003 by the Commonwealth Department of Education and Science and Training (DEST 2003) had found that 'better values' were not one of the most important reasons for parents choosing private schools (although the study did not address the issue of why parents chose one sector over another). The study found that although 'values' comprised the most important of six social factors given (prestige, tradition, religion, values, discipline and peer group), social factors, taken as a whole, ranked fifth behind quality of teachers, secure environment, academic reputation and facilities (DEST 2003, p. 9).

In addition, the DEST study found that when considering the important issues in choosing a school for their children, only a slight difference separated the responses of parents with children at public schools and those with children at private schools. Both categories of parents considered 'teacher quality' the most important factor, with parents of children in public schools ranking it only slightly lower (78.7 per cent) than

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<sup>7</sup> See for example Tomazin, 2004.

parents with children in private schools (80.5 per cent).<sup>8</sup> Similarly, both sets of parents regarded a secure environment as the next most important factor, followed by academic reputation and, lastly, facilities. However, in contrast to parents of children in private schools, public school parents ranked 'location' and 'cost' above 'social factors', while both sets of parents ranked 'extra-curricula activities' as the least important consideration.

The importance of 'teacher quality' to parents of children in private schools may have significant implications as to why some parents choose private over public schools. Firstly, 'teacher quality' was the only factor that parents of public school children did not rank higher than their private school counterparts. Secondly, research has shown that for some parents the perceived pressure on teachers in the public system is a key reason for their choosing the private school sector (AISV 1998). In contrast to the Government's denial that parents are sending their children to the private sector because of the resource gap between the two sectors (Queensland Newspapers 2004), an Association of Independent Schools of Victoria (AISV) study involving 12 focus groups found that some participants were ideologically torn between sending their children to a public school – a system they supported – and sending them to a better-resourced private school. The report observed:

In such cases, concern for the immediate needs of the child overrides their ideological predispositions.

Although it was seldom made explicit, there was an undercurrent of belief that the government schools were under considerable pressure and were finding it increasingly difficult to offer a high quality educational environment.

This meant, in the eyes of many of our respondents, that government teachers were also under considerable pressure, and that they were unable, even with the best of intentions, to give individual attention to individual pupils, particularly those who were not readily or easily noticed (AISV 1998, p. 5).

These parents may agree with a government school religious educator, John Russell who, when commenting about the drift to private education, said:

There is an argument that state schools, outside the selective schools, are becoming the repositories of residual education. Like public housing became residual housing, our state schools are becoming places of last resort. And I think that is the real tragedy (Russell cited in Burke 2003a).

Professor Richard Teese, one of those who argues that growing enrolments in the private sector are mainly due to increasing government grants, points to the fact that students in private schools have an average of \$3,000 more spent on them each year (Teese cited in Tomazin and Russell 2004).<sup>9</sup> This has resulted in better facilities,

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<sup>8</sup> A considerable amount of research has shown that teacher quality is the most important factor influencing educational outcomes. See, for example, Rowe & Rowe, 2002.

<sup>9</sup> This figure includes funding from government grants and tuition fees. Others suggest that the resource gap is around \$2,000 (AEU 2004a).

reduced class sizes<sup>10</sup> and more specialist teachers in the private sector, a perception shared by some parents.

The provision of a religious education is one obvious reason for some parents to choose private over public schools. But amongst religious schools, differing levels of emphasis are placed on religion, evidenced in the material published on websites and elsewhere.<sup>11</sup> It appears that on the one hand there are parents who want a smattering of religious teaching in their child's education, and on the other, parents who want their child's education, including the curriculum, to be significantly influenced by religious doctrine. With respect to the latter group, the enrolment form at Tyndale Parent Controlled Christian School requires parents to indicate their religious denomination, the name of the church they attend and their involvement in the church and to describe their relationship with the Lord Jesus Christ. Enrolment at the school is subject to conditions including that 'the parents will agree to allow the child to share fully in the life and programme of the School' and that 'the student agrees to behave in a Christian way and not use alcohol, tobacco or other drugs while at school, or while travelling to or from school' (Tyndale Parent Controlled Christian School 2004a).<sup>12</sup>

Many elite private schools also emphasise the superior facilities available to their students. By way of example, the facilities listed by Scotch College in Victoria include:

- A specialist staff of 60 music educators;
- Over 30 pianos, one pipe organ and a 400 seat music auditorium;
- One 25 metre heated swimming pool;
- Three squash courts;
- 24 tennis courts; and
- Six ovals/sporting fields (Scotch College 2004).

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<sup>10</sup> Haileybury College in Victoria, for example, one of the schools that has benefited significantly from the move to the SES funding model, has a small class size commitment. 'Haileybury is committed to small class sizes and it guarantees that they are provided. We know of no school that can match this commitment or guarantee. Haileybury guarantees classes that count towards the VCE and university entrance score will have no more than 15 students, with an average of 12 students per class in 2004. This small class size commitment extends to all levels of schooling. Small class sizes are essential, as they allow each student to receive the individual attention he or she needs for optimal learning' (Haileybury College 2004).

<sup>11</sup> There are also different levels of involvement by religious officials in the councils of schools of the same faith. For example, amongst elite Anglican schools in Sydney, the synod is involved in the school councils of The King's School, Barker, Shore, Kambala and Abbotsleigh but not of Cranbrook and Meriden.

<sup>12</sup> In addition, students enrolling in Years 11 and 12, are required to sign an agreement that stipulates that they will fulfil the conditions of enrolment and that they understand that their failure to do so could result in expulsion (Tyndale Parent Controlled Christian School 2004a).

In relation to facilities, the DEST (2003) study mentioned above found that parents of children in private schools rated technology facilities as being the most important, followed by library facilities, shade, science labs, sporting facilities, playgrounds and hall/auditorium. This result seems to indicate a high priority given to academic pursuits over more physical and cultural activities.<sup>13</sup> However, among elite private boys' schools, there appears to be a significant emphasis placed on sport and sporting facilities, which may relate to social factors like prestige and tradition for example. In describing the school's sports grounds, Shore's headmaster says that:

[F]or many, to play on the ground has been the fulfilment of an ambition. For a select few, it has effectively been the beginning of a subsequent international career (Grant cited in Shore 2004a, p. 2).

While not all private schools consider prestige and tradition as enticements to prospective students, many elite private schools place considerable emphasis on these factors.<sup>14</sup> For example, The King's School boasts of the 'white picket fences of its main oval, the carved sandstone of its neo-gothic chapel' (The King's School 2004a), while The Shore School stresses its 'magnificent views of the Harbour and the City of Sydney' (Shore 2004b). In Victoria, the Methodist Ladies College exults that the school was named *The Australian School of the Year* for 2002, and in 1990 'was the first school in the world to introduce laptop computers for all students from Year 5 – 12' (Methodist Ladies College 2004a; Methodist Ladies College 2004b). Prestige and tradition may be important to some parents for social and cultural reasons as well as for more practical ones since graduation from an elite private school can assist with job entry and advancement in certain professions through the creation of social and professional networks.<sup>15</sup>

As the above discussion indicates, several push and pull factors, which appear to differ according to parents' perceptions of their children's and their own needs, provide the reasons for the shift to private schools. The perception of better values in private schools is one of these reasons, but the belief that the private sector offers a better quality of education in relation to, amongst other things, teacher quality and facilities appears to be the deciding factor.

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<sup>13</sup> As discussed above, extra-curricula activities were rated last of eight factors by parents of children in both public and private schools.

<sup>14</sup> The DEST study (2003, p. 10) indicates that prestige and tradition are likely to be important only to a relatively small percentage of parents with children attending private schools. When asked which social factors were very important to them in choosing a school, only 14.4 per cent of parents with children at private schools said that prestige was very important and only 14.1 per cent rated tradition as being very important. This compares with the 62.3 per cent and the 61.2 per cent of private school parents who rated values and discipline respectively as very important. Although prestige appears to be of consequence to a small number of parents only, it is possible that the parents involved in the study systematically underestimated the importance of this factor. Of parents with children at public schools, 16.7 per cent (2.3 per cent more than private school parents) stated that prestige was 'very important' to them when choosing a school. While some private schools also market themselves by stressing prestige and tradition, it appears that most public schools do not include these factors prominently in their own marketing material.

<sup>15</sup> See for example, Maslen (1982, p. 49): 'A great many of the top jobs in politics, law, medicine, the sciences, business and industry will be theirs, not necessarily for the asking, but almost by right of birth and the schools they attended.'

## 1.5 Government funding of private schools

Private schools are funded by both private and public sources. While the ratio of public to private funding in private schools varies widely, all private schools receive a considerable amount of assistance from the Commonwealth and, to a lesser extent, state and territory governments. This section discusses the various sources of funding for private schools and how they have changed in recent times. Some of the problems with current funding arrangements are discussed in Section 5.

### *Commonwealth funding*

Commonwealth assistance to private and public schools is provided through grants known as ‘specific purpose payments’ to individual states. In addition, although it is not well known, private schools receive substantial Commonwealth funding by way of tax expenditures. This section discusses only Commonwealth grants. The assistance provided to private schools through tax expenditures is examined in Sections 6 and 3.6.

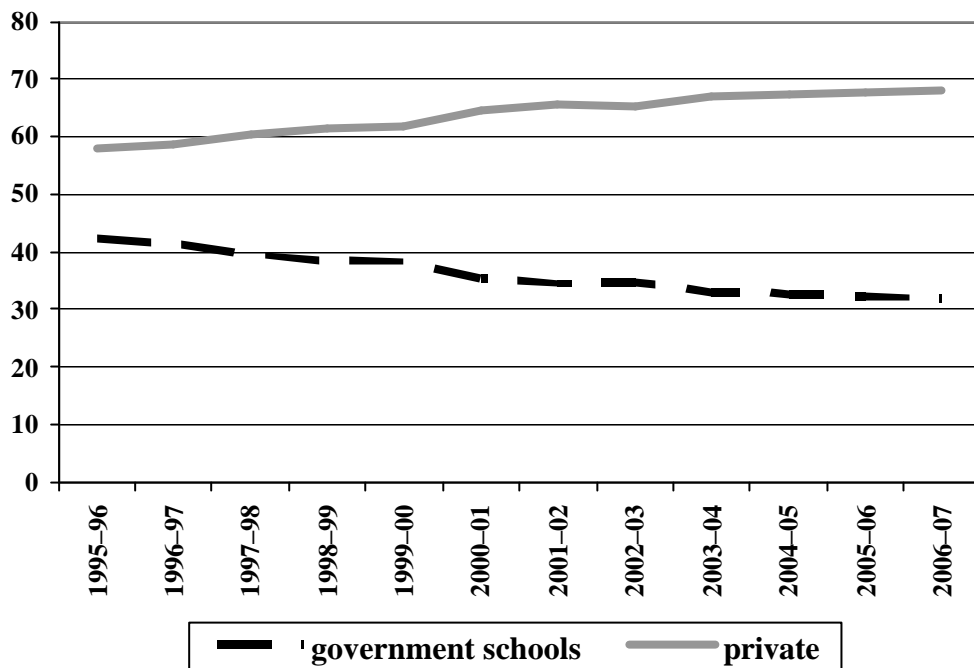
Commonwealth funding for private schools is a relatively recent phenomenon. For most of last century, both the Liberal and Labor parties were opposed to ‘state aid’ for private schools, but chronic problems with overcrowding in Catholic schools and the inability of state schools to absorb adequately the growth in enrolments in the 1950s and 1960s led to considerable political pressure on the parties to change their positions. They did this over a short space of time: in 1956 the Menzies Government began providing funds to ACT private schools and then in 1964, following that Government’s return to power, the Commonwealth began providing science grants to private schools nationwide (McIntosh 1996). Today, the Coalition Government’s position is that:

... [E]very parent, having paid their taxes, deserves some level of public assistance to support the education of their child, regardless of which school their child attends (Australian Government 2004).

By the 1990s, both Federal Labor and Liberal governments were directing the majority of Commonwealth schools expenditure to private schools, whereas state and territory governments continue to apportion the majority of their schools expenditure to public schools. The principal difference between the two parties is the extent of the largess, with the Coalition Government proving to be far more generous towards the private sector than the previous Labor Government was (see Figure 3). There is also evidence to suggest that the Coalition has favoured the high fee-paying elite schools in contrast to Labor which funded low and middle fee-paying schools more generously (Hayward and Esposito 2004).



**Figure 3 Proportion of Commonwealth specific purpose payments allocated to government and private schools, 1995-96 to 2006-07 (%)**



Source: Harrington 2004.

The bulk of specific purpose payments are provided as general recurrent grants (GRGs), but additional payments include capital grants and funding for targeted programs (see Harrington 2004). Table 2 provides data and forecasts relating to Commonwealth specific purpose payments for schools from 1995-96 to 2006-07 and shows that while expenditure on public schools is expected to grow, the rate of growth for private schools is much more rapid, so much so that the proportion of Commonwealth funding going to government schools is forecast to fall from 42.2 per cent in 1995-96 to 31.9 per cent in 2006-07. That is, over the Howard Government's time in office, the proportion of schools expenditure directed to private schools has increased from 57.8 per cent in 1995/1996 (the proportion set by the Keating Government) to 66.9 per cent in 2003-04.

The estimated \$4.3 billion spent on private schools in 2003/04 was more than the Commonwealth spent on higher education, a first time for any Commonwealth Government (Harrington 2004). In addition, the 2005-08 quadrennium will be the first time that Commonwealth expenditure on independent schools alone (not including Catholic schools) will exceed expenditure on public schools (\$7.6 billion compared with \$7.2 billion) over four years (Martin 2004, p. 3). Indeed, the Commonwealth has been particularly generous to independent schools during this funding quadrennium (see Table 3).

**Table 2 Commonwealth specific purpose payments for schools, 1995-96 to 2006-07**

	Govt. schools	Govt. schools	Private schools	Private schools	All schools
	Amount (\$m)	Proportion (%)	Amount (\$m)	Proportion (%)	Amount (\$m)
1995–96	1 427.6	42.2	1 953.0	57.8	3 380.6
1996–97	1 533.1	41.5	2 157.8	58.5	3 691.0
1997–98	1 594.3	39.5	2 446.7	60.5	4 041.1
1998–99	1 669.9	38.5	2 671.6	61.5	4 341.5
1999–00	1 768.4	38.3	2 846.5	61.7	4 614.9
2000–01	1 827.5	35.4	3 339.5	64.6	5 167.0
2001–02	1 926.8	34.5	3 654.3	65.5	5 581.2
2002–03	2 015.0	34.6	3 803.5	65.4	5 818.5
2003–04	2 131.5	33.1	4 307.1	66.9	6 438.7
2004–05	2 255.1	32.7	4 645.5	67.3	6 900.6
2005–06	2 378.3	32.3	4 994.4	67.7	7 372.8
2006–07	2 510.2	31.9	5 357.7	68.1	7 867.9

Source: Harrington 2004.

**Table 3 Commonwealth recurrent funding for the 2005-2008 quadrennium**

	% of enrolments	Recurrent funding for 2005 – 2008 (\$ billion)	% of recurrent funding for 2005 – 2008	Recurrent funding for 2001 – 2004 (\$ billion)	% of recurrent funding for 2001 – 2004
Public	68	\$7.2	26	\$5.7	29
Catholic	21	\$12.6	46	\$9.1	46
Independent	11	\$7.6	28	\$5.2	26

Source: Martin 2004.

In addition to the strong trend in Commonwealth funding away from government schools and towards private schools, a second trend is the increasing generosity of Commonwealth government grants to exclusive, high fee-charging, private schools. In 2001, the Commonwealth introduced a new funding formula for private schools to replace the Education Resources Index (ERI) system that was based on an assessment of individual private schools' ability to generate income through fees, investments, fundraising and donations. The new system is based on an estimate of the

socioeconomic status (SES) of the areas in which the parents of private school students live.<sup>16</sup>

The intention of the new model was that schools drawing students from poorer areas would receive higher funding than those drawing students from wealthier areas. However, although the system is meant to be more equitable, a safety clause ensures that no private school receives less funding than it did under the previous funding arrangements, even where parameters indicate that it should. For example, the majority of Catholic schools (approximately 60 per cent) which will join the SES system from the 2005-08 quadrennium will have their funding maintained at the old rate because application of the provisions of the new model would otherwise result in a loss of funding (Martin 2004, p. 2). Further, the Government's policy of ensuring that no private school is worse off under the SES system has led to the farcical situation where private schools will, from 2005, will be funded under four different regimes (Martin 2004, p. 2).

### *State government funding*

In addition to substantial funding from the Federal Government, private schools receive funding from their state governments, a relatively recent phenomenon which began soon after Commonwealth allocations to private schools were initiated in the 1960s. Prior to this, state governments adhered to the tradition, established through legislation passed during the 1870s and 1880s, that government funding should go only to education that is free and secular (McIntosh 1996).

While the states rely on different formulae for determining the level of assistance provided to individual private schools, states and territories (apart from the Northern Territory, Tasmania and South Australia) base their funding allocations, at least in part, on the former Commonwealth enrolment resources index (ERI) categories (NCISA 2003b). Levels of funding for school children of different ages also vary by state. In the ACT, for example, primary school students in years four to six attract a higher level of territory government funding than younger students. In NSW, on the other hand, all primary school students at a given school attract the same amount of state government funding (see NCISA 2003b). Table 4 provides a summary of the maximum and minimum state government payments available to non-government schools in each state on a per student basis.

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<sup>16</sup> The Department of Education, Science and Training (DEST) uses the address of each student attending a school to identify the ABS collection districts that apply to them. Once these collector districts are identified, DEST analyses key statistics including the educational attainment, occupation and income of adults residing in each relevant collector district. This information is then used to calculate the SES score for each school (DEST 2004b).

**Table 4 Overview of state government payments to non-government schools (per student)**

State	Minimum	Maximum
NSW primary	\$526	\$764
NSW secondary	\$1380	\$1905
QLD primary <sup>a</sup>	\$848	
QLD secondary <sup>a</sup>	\$1297	
SA primary <sup>a</sup>	\$466.31	
SA secondary <sup>a</sup>	\$648.17	
TAS primary	\$954	\$1307
TAS secondary	\$1284	\$2405
VIC primary	\$315	\$865
VIC secondary	\$463	\$1360
WA primary <sup>b</sup>	\$970	\$1268
WA secondary <sup>c</sup>	\$1472	\$2072

a. NCISA data contained in 'Funding of Independent Schools' provides base rate only.

b. For remote areas the maximum is \$1904.

c. For remote areas the maximum is \$3106.

Source: NCISA 2003b, Appendix B

## 2. Private and public school values

### 2.1 National Goals for Schooling

Five years ago, Federal, state and territory Education Ministers codified a new set of values or principles on which the provision of education in Australia was to be based.<sup>17</sup> This process resulted in a statement entitled *The National Goals for Schooling in the Twenty-first Century*. The preamble to the statement indicates that schooling should pursue outcomes for both individuals and the community as a whole based on the values of social justice and mutual respect.

Schooling provides a foundation for young Australians' intellectual, physical, social, moral, spiritual and aesthetic development. By providing a supportive and nurturing environment, schooling contributes to the development of students' sense of self-worth, enthusiasm for learning and optimism for the future.

Governments set the public policies that foster the pursuit of excellence, enable a diverse range of educational choices and aspirations, safeguard the entitlement of all young people to high quality schooling, promote the economic use of public resources, and uphold the contribution of schooling to a socially cohesive and culturally rich society (MCEETYA 1999).

The perceived importance of the contribution of schooling to a socially cohesive and culturally rich society can be gleaned from the fact that this goal is explored in its own section of the statement, which states:

Schooling should be socially just, so that:

students' outcomes from schooling are free from the effects of negative forms of discrimination based on sex, language, culture and ethnicity, religion or disability; and of differences arising from students' socioeconomic background or geographic location.

the learning outcomes of educationally disadvantaged students improve and, over time, match those of other students.

Aboriginal and Torres Strait Islander students have equitable access to, and opportunities in, schooling so that their learning outcomes improve and, over time, match those of other students.

all students understand and acknowledge the value of Aboriginal and Torres Strait Islander cultures to Australian society and possess the knowledge, skills

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<sup>17</sup> The new goals, which were released in April 1999, are sometimes referred to as The Adelaide Declaration on National Goals for Schooling in the Twenty-First Century (1999). The Adelaide Declaration (1999) superseded The Hobart Declaration (1989) (MCEETYA 2000).

and understanding to contribute to, and benefit from, reconciliation between Indigenous and non-Indigenous Australians.

all students understand and acknowledge the value of cultural and linguistic diversity, and possess the knowledge, skills and understanding to contribute to, and benefit from, such diversity in the Australian community and internationally.

all students have access to the high quality education necessary to enable the completion of school education to Year 12 or its vocational equivalent and that provides clear and recognised pathways to employment and further education and training (MCEETYA 1999).

These laudable national goals apply equally to the public and private education sectors and, in this respect, it is worth noting that the goals reinforce many of the traditional values ascribed to public education, including the values of social justice, respect for people of all races and cultural backgrounds and respect for the disadvantaged. The goals are supposed to ‘establish a foundation for action among Commonwealth, State and Territory governments and non-government school authorities’ (MCEETYA 1999).<sup>18</sup> They should therefore provide a framework for school funding decisions and for the development and implementation of all other educational policies.

While educational authorities must commit to the National Goals as a condition of Commonwealth funding and report against them for the purposes of the *National Report on Schooling*, the goals are not enforceable and require no changes in policy or practice. For example, while the goals state that schooling should be socially just in order to ensure that students’ outcomes from schooling are free from the negative forms of discrimination, the reality is that Commonwealth and state laws allow private schools to engage in such discrimination (see below). There is also considerable evidence to suggest that the Commonwealth schools funding policy does not lead to equitable outcomes as the Goals suggest it should. Given the growth in the reliance by Government on the private school sector there is a strong argument, on accountability grounds, for ensuring that private schools are effective in achieving the national Goals if they are to receive public funding.

## 2.2 The traditional values of public education

In 1872, Victoria became the first Australian colony to create a public education system based on the principles that schooling should be free, compulsory and secular. Legislators believed that such a system was in the interests of both individual citizens and the common good. Specifically, it was argued that a secular education would help avoid religious conflict, and would instead promote the development of a more cohesive and harmonious society (Commonwealth of Australia 2002).

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<sup>18</sup> The document states that ‘Common and agreed goals for schooling establish a foundation for action among State and Territory governments with their constitutional responsibility for schooling, the Australian Government, non-government school authorities and all those who seek the best possible outcomes for young Australians, to improve the quality of schooling nationally’ (MCEETYA 1999).

The role of public education as an agent of social cohesion and democracy remains central to the public education system today (Vinson 2003). There is widespread agreement that public education should provide:

- equality of access and opportunity for all young people regardless of race, socioeconomic status or class, religion, sexuality, gender or culture;
- the basis for an informed citizenry who will uphold Australia's democratic traditions; and
- the basis for understanding different beliefs and values and in doing so, engendering greater respect for the differences amongst us (see Australian Education Union 2004b; Smyth *et al.* 1998).

These values are well described in the following statement from Professor Tony Vinson who chaired a recent inquiry into public education in NSW.

At the general level, public education has long aspired to provide all children with an equal opportunity to cultivate their talents to the limits of their individual abilities. It has also aspired to be a force for social cohesion, for building mutual understanding between people of different ethnic, religious, vocational and socioeconomic backgrounds. This disposition towards social cohesion has advantaged Australian society in the past, by contributing to the peaceful co-existence of different groups and the maintenance of social arrangements and communal services that help to preserve the dignity of all Australians. The challenges of the present era (such as growing sectarianism) make its preservation doubly important. Equally challenging to the preservation of a cohesive and caring society is the widening gap between the economic fortunes, and consequently, educational and social opportunities, of different sections of the Australian community (Vinson 2003, p. 2).

In addition, the Australian Education Union (AEU) suggests that public education should aim to bridge what it calls the 'achievement gap' between those who are from privileged as opposed to disadvantaged and poorer backgrounds (AEU 2004d). Indeed, it has long been argued that the best way of promoting greater equality in society is through a strong public education system.

At the same time, it is acknowledged that the public education system has often favoured children from wealthier backgrounds, and in doing so has sometimes failed to achieve its laudable goals, for example teacher shortages are often worse in poor schools located in rural and remote areas. Of those who acknowledge this reality, there is the added concern that in recent years there has been a shift away from public values towards the market-orientated, liberal values of the private sector.

It is our fear that Australian public schools are being taken in a direction that is the antithesis of an egalitarian sensibility – a sensibility that is against the intrusion of the market and is still alive and kicking in our public schools. We can be thankful that most of our public school teachers make decisions about their teaching practice using an ethical framework that has yet to be trampled by

the logic of the market – a logic which privileges individualism over community, instrumental reason over ethics, and private ownership over common wealth (Hattam *et al.* 1998, p. 1).

Vinson writes:

Even the vocabulary of education has changed. Concepts such as competition, choice, diversity, efficiency, standards, accountability, performance indicators, deregulation and privatisation have become commonplace. These ideals have infused public education policy to a very significant extent (Vinson 2003, p. 4).

This shift can be seen as having culminated in the recent overt attack on some of the basic values of public education, specifically that it should be secular, tolerant and universally accessible.

*What's wrong with the politically correct values of public schools?*

The tradition of public schools as places of tolerance, free from racism, sexism and homophobia are entrenched goals, yet some in the community seek to undermine them. According to Health Minister Tony Abbot, for example, political correctness is encouraging Australians to tolerate the intolerable, but when asked to give examples earlier this year, none were forthcoming (Metherell *et al.* 2004).

An example given by the Prime Minister involved the decision by a small number of public schools not to perform nativity plays at Christmas (ABC News 2004b). That decision was presumably taken with a view to ensuring that children who were not Christian would not be excluded from the Christmas celebrations. While this is not the only solution to the dilemma faced by schools (many public schools actually perform nativity plays), the challenge of meeting the needs of different religious groups is a real and sometimes difficult one. The principal of a Muslim school explains:

It's hard at Christmas when public schools are doing two weeks of Christmas crafts and the Muslim children need to be kept segregated. Or during Ramadan, the fasting month, it helps if everyone is doing it and knows what it means (Styer cited in Morris 2003).

It is interesting that the Prime Minister's implied solution to this clash of values or cultures is not that public schools should attempt to better reflect the traditions of all the students that attend them; rather it appears to encourage those schools to reflect the traditions of the Anglo-Christian majority with other families looking elsewhere if they are unhappy about it. Although it is much easier to manage a school where all students are of the same faith than one that encompasses the values of many different religions and cultures, the goal has traditionally been to accept the challenge. As the Howard Government itself has stated:

The key to the success of Australian multiculturalism is inclusiveness. Every Australian benefits from our diversity and all Australians have the right to be active and equal participants in Australian society, free to live our lives and maintain their cultural traditions (Australian Government 2003, p. 5).



Within the private education system there are some that agree with the Government's claims that the politically correct culture of public schools is problematic. Phillip Heath, principal of St Andrew's Cathedral School and president of the Australian Anglican Schools Network argues:

The culture of consensus morality has forced state schools into a corner of political correctness ... People are confused about what state schools actually stand for, and their requirement of accepting everybody for every reason (Heath cited in Burke 2003a).

But while many involved in private education have not claimed that private schools teach superior values, others like Keith Dalleywater, Head of the Preparatory School at The King's School, have certainly hinted at it.

Much has been said in the media of late about the ticklish matter of values education. Some apologists for the State sector have been enraged by the suggestion that private schools handle this better than the public schools. 'We have lots of values', they argue, 'It is programmed into our curriculum'.

I am not about to claim that values are non-existent in State schools. I will not arrogantly proclaim that King's – or indeed any private school – has a monopoly on values. However, I will say that actions speak louder than words. That values do not really exist unless they are applied in daily living. That all the values education in the world will count for nothing unless it translates into doing (Dalleywater 2004, p. 13).

The irony of Mr Dalleywater's comments is that there are serious questions to be raised about the values of private schools, both in relation to individual schools, and to the sector more generally. While the politically correct values of the public school system are sometimes mocked, either explicitly or implicitly, the fact remains that such values form the foundation of the *National Goals for Schooling*.

### **2.3 The values of private schools<sup>19</sup>**

Although many private schools espouse values similar to those espoused by the public sector,<sup>20</sup> there are some important differences in the treatment of values between the two sectors. These differences often stem from the fact that most private schools are religious, and hence teach values that are specific to, or stressed by, that religion. For example, some religious schools teach that life begins at conception and that contraception is wrong because of the specific values that the relevant religion holds with respect to human life. This has obvious ramifications for what is taught in these schools about abortion and human cloning and in sex education classes. Some schools also rely on different scientific 'facts', the most pertinent example being the teaching of

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<sup>19</sup> It is beyond the scope of this paper to address all of the values taught in private schools. For this reason, this section concentrates on the differences in the values taught between public and private schools, and between the values taught within the private sector.

<sup>20</sup> For a discussion of values that are common to both public and private schools see Curriculum Corporation 2003.

creationism in science classes. Creationism is the belief that the world was created in seven days, a teaching that is at odds with established science. The Australian Academy of Science (AAS) says that, as creationism is an article of religious faith and cannot be tested, it has no place in science classes (AAS 2004).<sup>21</sup>

Yet even where schools profess the same religious faith, the values taught can differ. Many elite Christian schools, for example, place great emphasis on the value of competition, while other Christian schools eschew it.<sup>22</sup> As Christian educator, Dan Roy explains:

The emphasis on academic excellence in many Christian schools has unfortunate connotations of elitism and thus, exclusiveness. To whom are the rewards given at the annual speech night? What is the hidden message that such practice carries? If academic excellence, then what about moral, social, creative or spiritual excellence? And if such categories are being acknowledged and rewarded, what is their relative status in the eyes of teachers, parents and students? (Roy 2003).<sup>23</sup>

In relation to values traditionally ascribed to the public education system such as tolerance, mutual respect and equality of opportunity, there are important, often subtle, differences in the emphasis placed on these values by individual private schools. Elite private schools, for example, often talk about cultural diversity, tolerance and mutual respect,<sup>24</sup> but they rarely mention other values such as equality of opportunity and the role of schooling in the pursuit of a more egalitarian society. Rather, they are more likely to mention the importance of community service or caring for others, and their desire to provide an inclusive education for those gifted students who come from poorer areas. In relation to the poor in our community, for example, Xavier in Melbourne says:

We strive at Xavier, to give students a desire and the requisite preparation, to serve God in the world and to have, especially, a committed and practical concern for the poor. We look to the formation of potential leaders who will make an explicit connection between their Christian faith and their work for justice in the world, serving the vision of the Beatitudes (Xavier 2004).

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<sup>21</sup> The AAS says that it ‘sees no objection to the teaching of creationism in schools as part of a course in dogmatic or comparative religion, or in some other non-scientific context. There are no grounds, however, for requiring that creationism be taught as part of a science course’ (AAS 2004).

<sup>22</sup> At Tyndale Christian School, for example ‘Competition is discouraged... There are no prize days. Clever children are taught that their gifts are God-given and such innate talents should not be rewarded, but shared’ (Burke 2003b).

<sup>23</sup> Roy (2003) further argues, ‘The spirit of aggressive competition pervades society. The argument that we need to provide competitive activity in the school to teach students how to survive in such a world has dubious justification and support. There is no denying it is a difficult issue that calls for careful study. What needs to be considered are such questions as, to what extent do these activities highlight the difference between winners and losers; success and failure; selfishness and self sacrifice? What is the hidden curriculum underpinning all that is occurring? Is there a disparity between what we articulate as our aims and objectives and what we are likely to achieve between theory and practice, if you like? How conducive are such activities to harmony and community?’

<sup>24</sup> For example, the website of the Methodist Ladies College in Melbourne has a moving banner running across the top of its website with words that are meant to convey the ‘values’ that the school is trying to engender in its students, tolerance, self-esteem, cultural differences, diversity, understanding and confidence (MLC, 2004a). See also Ravenswood, 2004.

Teaching students concern for the poor in their community is a noble goal. However, teaching concern for the poor is not the same as ensuring that the poor are given access to a quality education, which is one of the objectives of the *National Goals for Schooling*. Indeed, it would appear that most elite private schools rarely talk about their responsibilities to educate the poor or to ensure that their system of education leads to less inequality rather than more.<sup>25</sup> Concerns have even been raised about proposals for a more equitable distribution of resources within schools of the same faith. In relation to the Sydney Anglican synod, for example, some principals of elite schools have expressed their fears that:

... the synod may ratchet up the call for a more equitable way of sharing the diocese's education revenue. Dr Jenson, they say, has already flagged the idea of a tithing system to siphon off some of the elite schools' fat and beef up the new and devout low-fee Anglican schools in Sydney's outer ring (Doherty *et al.* 2003).

There are also some notable differences concerning the treatment of the value of tolerance and mutual respect amongst religious schools in relation to homosexuality. In some schools, these values are neither taught nor practised in relation to this issue (see Section 3).

Tolerance towards people of different religions is also of concern in some religious schools. Some private religious schools will not employ people who are of a faith different from that of the school. The employment policies of schools that form part of the Australian Association of Christian Schools (AACS) is an example:

WE AFFIRM that a Christian school is a school where Christ is confessed as the Lord of Creation. Empowered by the Holy Spirit, its special task is to teach the children to understand the world from a Christ-centred perspective and to equip them for their calling in life in subjection to Jesus Christ as Lord.

*WE AFFIRM that, in pursuit of their task, Christian schools only employ Christian teachers and Christian non-teaching staff who are able to subscribe to this Statement of Affirmation* (AACS 2002, emphasis added).

As indicated above, this blanket prohibition extends to teachers and ancillary staff, including accountants, personal assistants and cleaners, but not usually to students, a situation that begs the question as to the real motivation behind this prohibition.

While it is understandable that parents want to give their children all the opportunities that are available, schools need to keep outcomes for the community and individuals in

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<sup>25</sup> Rather than extolling the virtues of greater equity, most websites of elite private schools explain the ways in which they can widen the achievement gap by ensuring that their students leave as winners, whether in the classroom or on the sporting ground. A common way of sending this message to potential parents is to promote the academic and sporting achievements of current and past students, in particular, by prominently displaying this information on websites and other school publications. A number of elite private schools, for example, detail the academic results on their internet sites, in some cases, on their main web page. See, for example Cranbrook, 2004a, Newington 2004; Methodist Ladies College, 2004c, Brisbane Grammar School, 2004 and Presbyterian Ladies' College, 2004.

balance because what is best for the individual may not necessarily be best for the community as a whole (see Section 7). It is the Government's responsibility to ensure that private schools in receipt of public funding are actively and efficiently implementing the *National Goals for Schooling*. The following sections outline areas in which private schools are, at present, failing to achieve the National Goals.

### **3 The effectiveness of private schools in achieving inclusiveness**

#### **3.1 Accessibility of public and private schools**

Australia's public education system is open to all Australian citizens of school age.<sup>26</sup> By contrast, all private schools can choose their student population. According to Phillip Heath, Principal of St Andrew's Cathedral School and President of the Australian Anglican Schools Network, not everyone values the open access arrangement of the public education sector.

People are confused about what state schools actually stand for, and their requirement of accepting everybody for every reason (Heath cited in Burke, 2003a).

Conditions of entry to private schools vary with each individual school but will generally include the parents' ability to pay tuition and other fees (see Section 5) and a willingness to abide by the rules of the school. However, having the financial resources to afford the school fees at these establishments does not necessarily guarantee enrolment. Waiting lists are often full many years in advance, with some parents enrolling their children at their chosen school at birth. Indeed, it is the limited supply of places, particularly at the most elite private schools, which has led some parents to offer substantial donations to ensure that their child gains entry into a particular school (see Section 6). The role of these 'donations' makes access to elite private schools even more inequitable than the high fees might suggest.

A further hurdle to enrolment at many elite private schools is that the sons and daughters of Old Boys and Girls are given preferential treatment. At Scotch College in Adelaide, for example, the enrolment criteria include:

- family enrolment;
- date of application; and
- parents being Old Collegians (Fisher 2004).

Sydney's Scots College has taken the extra step of creating a scholarship fund to support the enrolment of Old Boys' sons who could not otherwise afford to attend the school (The Scots College 2004b). The preference for Old Boys and Girls arguably helps maintain the sense of tradition associated with these establishments, and by implication their exclusivity.

In addition, private schools have considerable legal discretion as to whom they admit. While the enrolment policies of all private schools must comply with Federal and state or territory anti-discrimination laws, as discussed below the large number of exemptions

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<sup>26</sup> State and territory education departments have guidelines about the schools that students should attend in a specific geographic area. In addition, selective public schools (which are most numerous in NSW) can impose academic conditions upon enrolment. Public schools can also suspend or expel students in some limited circumstances.

that private schools, and in particular religious schools, enjoy under these laws means that, unlike public schools, they can legally refuse to enrol students from many segments of the community.

### **3.2 Student attitudes on the rhetoric and the reality**

Some students attending private and public schools perceive that there is a marked difference between how their schools promote themselves to parents, what they say about the values they embrace and how they actually behave. Martino and Pallotta-Chiarolli (2003) found that boys are concerned about the way in which religious teaching is used to condone homophobic practices, in contrast to the rhetoric of caring for others.

Another area of growing awareness and cynicism among some boys was recognition that despite the rhetoric of ‘love, respect for all, care for all’, religious schools are not putting these values into action when it comes to students who are non-heterosexual. Catholic schools are using their exemption from anti-discrimination legislation, as well as the protection that democratic legislation gives them in terms of supporting religious freedoms, to practice religious bigotry in relation to homosexuality and bisexuality (Martino and Pallotta-Chiarolli 2003, p. 225).

A former student of a Catholic school, now aged 18, explains.

There was once where the Dean of students called my mother up at work and said that it was not acceptable for me to be making them aware about homosexual rights. He was the one that actually said in one of the school assemblies – his exact words were – ‘X College is not a place for differences in lifestyles and cultures.’ ... They gave students a false perception that they were able to speak their minds freely, but when it came to the bottom line, they weren’t allowed (Luc cited in Martino and Pallotta-Chiarolli 2003, p. 225).

In some cases, Martino and Pallotta-Chiarolli found that although schools had tried to dissuade pupils from discussing issues such as homophobia, the students had found support from some individual teachers. They often recognised that the failure of schools to implement anti-homophobia strategies stemmed from the pressure to maintain the status quo from conservative parents, religious leaders and other school leaders. Michael Kelly, a spokesperson for the Rainbow Sash movement and a former teacher and seminarian, agrees and suggests that teachers can subtly exacerbate homophobia, particularly in religious schools because they do not want to be seen as being too supportive of gay and lesbian students in case they are labelled as being gay themselves. According to Kelly, ‘bullies in religious schools can readily grab for church teachings to justify their behaviour’ (Kelly quoted in Milligan 2002a). However, in some cases school leaders had resisted the pressures imposed upon them.

Some of the bosses up in the higher ranks don’t like it because we’re addressing homosexuality which isn’t accepted in the Catholic Church. But a lot of parents have written to the school praising it, and others have come back negative saying it shouldn’t happen because it’s Catholic. But the deputy principal, he

won't tolerate it [homophobia] one bit. He just put his foot down and decided no matter what the religion says, it's time to get rid of it (Matthew cited in Martino and Pallotta-Chiarolli 2003, p. 97).

Luc cited above also juxtaposed the social justice rhetoric of his school with the way it ensured that its students received only the best facilities and equipment available. In more recent research, Martino and Pallotta-Chiarolli found that some students denied the claims made by their schools that they are representative of a diverse section of the community, saying instead that they are schools for rich students only (Pallotta-Chiarolli *pers. comm.*).

### 3.3 Values *versus* practice: Legal discrimination in Australian private schools

In recent decades the desire to promote a more tolerant and inclusive society has been enshrined in legislation enacted by both Commonwealth and state governments, it has also been made an explicit objective of the *National Goals for Schooling*. Anti-discrimination legislation at Commonwealth and state levels regulates the practices of all educational authorities. However, these laws often provide extensive exemptions for private schools that enable them to engage in discriminatory practices that are prohibited in public schools and other sectors. Consequently, it is often left to the management of each private school to determine whether it will engage in, or condone, discriminatory behaviour.

The different attitudes of public and private schools to anti-discrimination laws means that employees, contract workers and students in the public sector have more rights than their counterparts in private schools. Furthermore, by establishing exemptions for some areas of discrimination but not others, legislators have created a *de facto* hierarchy, with discrimination on the grounds of sexuality or pregnancy, for instance, more likely to be lawful for private schools than racial discrimination.

As outlined in Section 2, the goals of the Federal-State Ministerial Council *National Goals for Schooling in the Twenty-first Century* reflect Australia's obligations under several international treaties<sup>27</sup> and it is ironic that one of their objectives is that schooling should be free from the negative forms of discrimination (MCEETYA, 1999). In addition, the recent 'Bullying. No Way' statement declares:

We all have the right to learn in a safe and supportive school environment that values diversity - an environment free from bullying, harassment, discrimination and violence. We all have the right to be treated with fairness and dignity. We all have a responsibility to keep others safe and to treat them in the

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<sup>27</sup> These include the International Covenant on Civil and Political Rights, the Convention Against Discrimination in Education, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Discrimination (Employment and Occupation) Convention. For example, Article 26 of the *International Covenant on Civil and Political Rights* states: 'All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'

same way - with fairness, dignity and respect. Australian school communities working together to build safe, supportive, respectful and inclusive environments for every member of the school community - empowering students to be active in the pursuit of justice (Australian Educational Authorities 2004).

The discussion below explores the differences in the treatment by public and private schools of anti-discrimination laws. As such, it does not provide a comprehensive list of all exemptions that apply to both sectors, such as exemptions enabling single sex schools to enrol only students of that sex, or schools catering exclusively for students with disabilities to enrol only such students.

### *Commonwealth anti-discrimination legislation*

The main pieces of Commonwealth anti-discrimination legislation regulating the conduct of educational authorities are the *Human Rights and Equal Opportunity Commission Act 1986*, *Racial Discrimination Act 1975*, *Sex Discrimination Act 1984* and *Disability Discrimination Act 1992*.<sup>28</sup>

The *Human Rights and Equal Opportunity Commission Act* established the Human Rights and Equal Opportunity Commission and provides the framework for the hearing and conciliation of complaints by the Commission concerning unlawful discrimination under the *Racial Discrimination Act*, *Sex Discrimination Act* and *Disability Discrimination Act 1992*.

In addition to the power to conciliate complaints concerning unlawful discrimination, the Commission also has the power to inquire into any act or practice that is inconsistent with, or contrary to, any human right that constitutes discrimination under the Act. Discrimination is defined for these purposes as including any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, age, marital status, disability, nationality, sexual preference and trade union activity.<sup>29</sup> However, there are two exemptions. Firstly, discrimination for these purposes does not include any distinction, exclusion or preference in respect of a particular job based on the inherent requirements of the job (the 'inherent requirements of the job exemption').<sup>30</sup> Secondly, it excludes any distinction, exclusion or preference:

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<sup>28</sup> S. 109 of the Commonwealth Constitution provides that where a law of a state is inconsistent with a law of the Commonwealth, the Commonwealth law will prevail to the extent of the inconsistency. However, all three Acts mentioned above include provisions that indicate they are not intended to limit or exclude the operation of state anti-discrimination laws capable of operating concurrently with the Commonwealth laws (see s. 6A(1) of the *Racial Discrimination Act (Cwlth)*; s. 10 of the *Sex Discrimination Act 1984 (Cwlth)*; and s. 13 of the *Disability Discrimination Act 1992 (Cwlth)*). Note also, at the time of writing a bill outlawing discrimination on the grounds of age was before the Federal Parliament (the *Age Discrimination Bill 2004*).

<sup>29</sup> See *Human Rights and Equal Opportunity Commission Act 1986*, s. 3; and *Human Rights and Equal Opportunity Commission Regulations*, reg. 4.

<sup>30</sup> For discussion of the scope of this exemption, see HREOC (1998) and International Labour Conference (1998).



... in connection with employment as a member of the staff of an institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed, being a distinction, exclusion or preference made in good faith in order to avoid injury to the religious susceptibilities of adherents of that religion or that creed.

This is sometimes described as the ‘religious institutions exemption’. Religious institutions have been held to include organisations that are responsible for the administration of religious schools.<sup>31</sup> Therefore, if homosexual behaviour is against the teachings of a religion, there is a strong argument that a school conducted for children of that religion could refuse to employ a person who openly engages in a homosexual relationship without being deemed to have taken an act that constitutes discrimination under the *Human Rights and Equal Opportunity Commission Act*.<sup>32</sup>

The *Disability Discrimination Act*, which makes it unlawful for a person to discriminate against another on the grounds of disability, treats public and private educational institutions equally. However, unlike the *Racial Discrimination Act* which contains no exemptions for public and private schools, the *Disability Discrimination Act 1992* provides exemptions for both private and public educational institutions.<sup>33</sup>

The *Sex Discrimination Act* makes it unlawful for an educational institution to discriminate against a person on the grounds of sex, marital status, pregnancy or potential pregnancy in relation to employment, contract work and the provision of education.<sup>34</sup> For students, this means that educational institutions cannot refuse admission, deny access to benefits, expel a student or subject them to any other detriment on these grounds.<sup>35</sup> It also prevents schools from refusing to employ, dismissing, or imposing special conditions or restrictions on teachers and other staff on the grounds of sex, marital status, pregnancy or potential pregnancy.<sup>36</sup> However, the Act contains a number of exemptions that are relevant to the administration of public and private schools.

Importantly, public schools, state education departments and other relevant state government agencies are exempt from the prohibitions concerning discrimination on the

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<sup>31</sup> See HREOC (1998).

<sup>32</sup> See HREOC (1998).

<sup>33</sup> Under the *Disability Discrimination Act 1992 (Cwlth)*, it is unlawful for an educational authority to discriminate against a person on the grounds of the person’s disability in relation to admission, access to benefits or expulsion, or to subject them to any other detriment. However, both public and private educational authorities can refuse the admission of a student where the person ‘would require services or facilities that are not required by students who do not have a disability and the provision of which would impose unjustifiable hardship on the educational authority’ (see s. 22(4)). Furthermore, both private and public schools are able to rely on the ‘reasonableness requirement’ to avoid liability for indirect discrimination in relation to enrolments and existing students (see s. 6, *Finney v Hills Grammar School* [1999] HREOCA 14 (20 July 1999); *Hills Grammar School v Human Rights and Equal Opportunity Commission* [2000] FCA 658 (18 May 2000)).

<sup>34</sup> See ss. 14, 16 & 21.

<sup>35</sup> S. 21(1) & (2). However, s.21(3) allows a school to refuse to admit a student of one sex where it is conducted solely for students of the opposite sex and where education at the level at which the applicant is seeking admission is provided by the school only or mainly for students of the opposite sex.

<sup>36</sup> Ss.14 and 16.

grounds of sex, marital status, pregnancy and potential pregnancy in relation to employment and sexual harassment.<sup>37</sup> While this exemption may seem strange, it stems from an implied Constitutional limitation on the Commonwealth's legislative power, 'which protects the States from an exercise of power that would threaten their existence or capacity to govern or would impose a particular disability or burden upon an operation or activity of a State or the execution of its constitutional powers'.<sup>38</sup> However, as is discussed below, all states have legislation that prohibits discrimination on the grounds of sex, marital status, pregnancy and potential pregnancy in relation to employment.

The *Sex Discrimination Act* also contains several exemptions that apply only to religious private schools and organisations that are responsible for the administration of religious schools.<sup>39</sup> With regard to students, religious schools are exempt from the prohibitions concerning marital status and pregnancy if the discrimination is done 'in good faith in order to avoid injury to the religious susceptibilities of adherents of that religion or creed'.<sup>40</sup> Religious schools are also permitted to discriminate against a person in connection with employment or a position as a contract worker on the grounds of sex, marital status or pregnancy. Again, this exemption is subject to the proviso that it be done 'in good faith in order to avoid injury to the religious susceptibilities of adherents of that religion or creed'.<sup>41</sup>

Therefore, a religious school may lawfully be able to expel a female student on the grounds that she is unmarried and pregnant if it is against the doctrines of the religion to give birth out of wedlock. Similarly, it may also be lawful for a religious school to refuse employment to a person on the grounds they are in a *de facto* relationship if it is against the teachings of the religion to have sexual intercourse out of wedlock. The same may also be true of a divorced and remarried person, or a person who is gay or lesbian.

Some may argue the exemptions for religious schools are necessary due to s.116 of the Commonwealth Constitution, which provides that the Commonwealth cannot make laws 'for prohibiting the free exercise of any religion'.<sup>42</sup> However, the High Court has

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<sup>37</sup> Ss.12 and 13.

<sup>38</sup> *Australian Education Union v Human Rights and Equal Opportunity Commission* [1997] FCA 1288 (25 November 1997). See also *Re Australian Education Union and Ors; Ex parte the State of Victoria* (1995) 184 CLR 188. It is unclear why there is not an equivalent exemption in the *Disability Discrimination Act* and the *Racial Discrimination Act*.

<sup>39</sup> See s.38.

<sup>40</sup> S.38(3).

<sup>41</sup> S.38(1) and (2). Note, there is also a broad exemption for 'bodies established for religious purposes' (see s.37). In order to apply, the discriminatory act must conform to the doctrines of the religion or be necessary to avoid injury to the religious susceptibilities of adherents of that religion. While there is uncertainty about the relationship between this exemption and the exemption in s.38, it is arguable that it applies to organisations established for religious purposes that are responsible for the administration of religious schools.

<sup>42</sup> See, for example, discussion of s.116 of the Constitution in Senate Legal and Constitutional Committee, *Inquiry into Sexuality Discrimination*, Commonwealth of Australia, 1997. Note also, the states are not bound by the restrictions in s.116 of the Constitution. Hence, they are able to pass laws banning or restricting the free exercise of any religion (providing the laws are not inconsistent with a Commonwealth law).

adopted a narrow interpretation of the restrictions in s.116<sup>43</sup> which has provided the Commonwealth with considerable scope to make laws that only incidentally affect the free exercise of a religion, particularly where those laws are intended to achieve an ‘overriding public purpose’, such as fulfilling an international obligation to outlaw all forms of discrimination.<sup>44</sup> Therefore, there is a strong argument that these exemptions are not necessary to ensure the Constitutional validity of the provisions of the *Sex Discrimination Act* prohibiting discrimination in schools.

#### *State and territory anti-discrimination legislation*

With respect to the treatment of employees (including teachers), contract workers and students, all state and territory anti-discrimination legislation allows private schools exemptions that are either not available to public schools or that, in practice, apply only or mainly to private schools. These exemptions vary in breadth (in terms of the areas of discrimination they cover) and scope (in terms of the conditions that must be satisfied for the exemption to apply). Some of the major exemptions that apply in NSW and Victoria are summarised in Table 5 and a full discussion of private school exemptions applicable in all states and territories is contained in Wilkinson, Hamilton and MacIntosh (2004).

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<sup>43</sup> See *Kruger v Commonwealth* (1997) 190 CLR 1, *Attorney-General (Victoria); Ex rel Black v Commonwealth* (1981) 146 CLR 559, *Adelaide Company of Jehovah’s Witnesses Inc v Commonwealth* (1943) 67 CLR 116, and *Krygger v Williams* (1912) 15 CLR 366.

<sup>44</sup> For example, in *Kruger v Commonwealth* (1997) 190 CLR 1, Gaudron J stated: ‘a law will not be a law for ‘prohibiting the free exercise of any religion’, notwithstanding that, in terms, it does just that or that it operates directly with that consequence, if it is necessary to attain some overriding public purpose or to satisfy some pressing social need. Nor will it have that purpose if it is a law for some specific purpose unconnected with the free exercise of religion and only incidentally affects that freedom’. Similarly, in the same case, Gummow J stated: ‘freedom to act in accordance with religious beliefs is not co-extensive with freedom of religious belief. Action in pursuance of a particular religious belief that is both monotheistic and eager to proselytise may conflict impermissibly with toleration both of other religions and of an absence of religion’.

**Table 5 Exemptions from NSW and Victorian anti-discrimination laws specific to private schools**

Area of discrimination	NSW	Victoria
Age or age group	✓	✓
Disability/impairment	✓	✓
Homosexuality/sexuality	✓	✓
Marital status	✓	✓
Pregnancy or potential pregnancy	✓	✓
Race	X	✓
Sex	✓	✓

Key: X – No exemptions  
 ✓ – Specific exemptions for private or religious schools

Note: Some of these exemptions may not be available due to the operation of inconsistent Commonwealth laws.

#### *Prevalence of discrimination by private schools*

Although discrimination against students occurs in both public and private schools, private schools are able to discriminate in ways that are unlawful in public schools. Importantly, if discrimination does occur in a public school, those affected can usually seek some form of legal redress. Further, it is often the case that state educational authorities will take steps, for example through the development of specific policies, to ensure that public schools comply with their legal obligations. By contrast, private schools often have no incentives to develop such policies, because in many cases, they are exempt from anti-discriminatory provisions of the legislation. In both the public and private education sectors, there are some schools that are performing well in their attempts to rid their schools of various forms of discrimination, and others that are performing poorly.

#### *Discrimination on the basis of pregnancy*

Compared with many other developed countries, Australia has a high teenage pregnancy rate with 19 live births and an estimated 22 abortions per 1000 teenage girls per year (Skinner and Hickey 2003).<sup>45</sup> There are no data to indicate how many of these teenagers become pregnant or terminate their pregnancies while at school, but if around 12,000 young women below the age of 19 (Boulden 2000, p. 7) become pregnant each year, it is likely that more than half will be at school at the time. Given that those teenagers who

<sup>45</sup> The figures are based on 1997-1999 data. However, the abortion rate is likely to be an underestimate since it is based on Medicare claims.

do become pregnant are more likely to live in an area of socioeconomic disadvantage (Skinner and Hickey 2003), and that the majority of students from low socioeconomic groups attend government schools (Preston 2003), it is also likely that more than 70 per cent of young women who become pregnant while at school will be in the public education system. However, this leaves potentially hundreds of young women who become pregnant each year while attending a private school.

Boulden provides a comprehensive analysis of the relationship between youth pregnancy and education. She finds that the overwhelming majority of young women who become mothers while at school do not finish their secondary education to Year 12 level (Boulden 2000, p. 7). While many of those who do become pregnant and elect to continue their pregnancies are already 'at risk', they are put at further risk of a lifetime of poverty and welfare dependency if they do not complete their education:

Other consequences of becoming a young mother and leaving school before completing secondary education include social isolation, a higher than average likelihood of a second pregnancy during the teenage years, a higher risk of involvement in unstable and violent relationships, and poorer than average outcomes for children in terms of health, welfare and educational achievement. There is also clear evidence of an inter-generational trend in becoming a teenage parent (Association of Women Educators 2004).

It appears, however, that despite the risks, some schools are encouraging pregnant girls to leave because they are worried about the potential damage to the reputation of the school. According to Boulden:

Some schools still fear that having pregnant girls and young mums on campus will give the school a 'bad image', and they fail to encourage young women to stay.

Others actively encourage them to leave. In researching this study we heard more than once of pregnant young women who had been told by their schools, 'You've made your bed, now lie in it.' (Boulden 2000, pp. 7-8).<sup>46</sup>

As part of her study, Boulden (2000) contacted both public and private educational authorities about the existence of policies dealing with the continuing education of pregnant and parenting students. While she found there was considerable variation amongst the policies of state education authorities, with two states having no such policies, overall the response of the public sector appeared to be better than that of the private sector. Boulden says that in relation to independent (non-Catholic) schools:

The advice was that no such policies existed at a statewide level, and that such issues were a matter for individual schools.

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<sup>46</sup> None of the 11 schools, which Boulden (2000) described as having developed good quality programs for retaining young mothers, were private schools.

There appears to be no broad policy framework for Catholic schools either, due to the absence of systemic relationships between Catholic schools. Contact with Diocesan Education Offices around Australia did not reveal any policy in relation to pregnant and parenting students, although the Broken Bay Diocesan Office in NSW did indicate that such a policy was being considered (Boulden 2000, p. 15).

### *Discrimination on the basis of sexuality*

The website of the Human Rights and Equal Opportunity Commission notes that 'there have been documented cases of both teachers and students being victimised because of their sexual orientation' (Human Rights and Equal Opportunity Commission 2001). Discrimination, verbal abuse and physical abuse have been reported. For many gay, lesbian and bi-sexual students, school is an unsafe environment. One study found that such students were likely to feel as unsafe at school as they are on the street (Hillier *et al.* 1998, p. 38). According to the authors of the study:

Part of the reason for this was the belief that there was no protection available in the ostensibly regulated school environment. There was evidence that if assault or harassment occurred, procedures and practices would not be set in motion to ensure justice or to prevent such behaviour recurring. A number of students commented on the inconsistencies between their schools' dealings with racism and sexism as opposed to heterosexism. In many cases, little was seen to be done by school authorities to address the hostility that was directed at gay, lesbian or bisexual students (Hillier *et al.* 1998, p. 38).

While students involved in the study cited examples of discrimination and abuse in both public and private schools, the culture of boys only schools (which tend to be predominantly in the private sector) can be particularly homophobic. Hillier *et al.* quote Rowan, who was then 19 years old:

I was at an all boys private school which was horribly homophobic until year 11 but moved to a mixed school to do year 11 and 12. There, I was in a very caring and open minded environment, with a lot of other people in my situation both boys and girls (approx. 10% of students were not 'Strait'). So here it was easy to finally find myself and 'Come Out'. I had no problems and all my friends were extremely supportive, as were the teachers who worked it out for themselves (Hillier *et al.* 1998, p. 40).

As discussed above, although many private schools may be able to expel students because they are gay or lesbian, it appears that the more common scenario is for schools to pressure such students into leaving. Students feel forced to leave school early due to the constant bullying and the failure of the school to tackle the abuse. Commenting on the feedback of students involved in their study, Hillier *et al.* suggest 'many young people were hunted out of their schools and driven to attempts at suicide' (Hillier *et al.* 1998, p. 36).

In 2002, a former student of Hillcrest Christian College in Berwick, Victoria commenced proceedings against the school under the *Equal Opportunity Act 1995* (Vic)

on the grounds the school discriminated against him because he was homosexual (ABC 2002). The student alleged that the Principal told him that ‘I shouldn’t be admitting it, I shouldn’t be proud of it, and that’s the last he wanted to hear about it’ (ABC 2002). He also alleged that a second teacher remarked that he ‘had the devil in him’ (Milligan 2002a). At the time the claim was lodged he stated that ‘he eventually felt he had no option but to leave the school and continue by distance education’ (ABC 2002).

The Principal of Hillcrest Christian College, Tony Ham, denied the allegations, and said:

We [the school] state that we will actively share with them [students] the Christian faith. They [parents] sign on the dotted line. We don’t apologise for that... We don’t talk about being defective, we talk about sin and disobeying God (quoted in Milligan 2002b).

He was also reported as saying that he teaches ‘mutual respect’ for gay people, yet, like some other religious educators, ‘stands by the motto ‘Love the sinner, hate the sin’ (Milligan 2002b). However, by teaching pupils that homosexuality is a sin, schools are likely to perpetuate homophobic attitudes, which may result in students and teachers being vilified on the basis of their sexuality.<sup>47</sup>

While school authorities have frequently discriminated against gay and lesbian students in more subtle and indirect ways, private schools have often engaged in direct discrimination against homosexual employees and contract workers. This was vividly illustrated in a complaint investigated by the Human Rights and Equal Opportunity Commission in the late 1990s. The complainant, Ms Jacqui Griffin, was an openly homosexual woman who was a member of the Gay and Lesbian Teachers and Students Association. Ms Griffin applied to the Catholic Education Office of the Archdiocese of Sydney (CEO) for classification as a teacher in Catholic schools in the Archdiocese. The CEO refused her application, which meant she was unable to teach in schools administered by the CEO.

The primary reason given by the CEO for the refusal of Ms Griffin’s application was her ‘high profile as a co-convenor of the Gay and Lesbian Teachers and Students Association and her public statements on lesbian lifestyles’. In its defence against the claim that it had discriminated against Ms Griffin, the CEO stated that it was entitled to rely on the ‘inherent requirements of the job’ and the ‘religious institutions’ exemptions. The Human Rights and Equal Opportunity Commission found in favour of Ms Griffin on the basis that no evidence had been produced by the CEO to indicate that Ms Griffin advocated a lifestyle or engaged in conduct contrary to the teachings of the Catholic Church. While this case received publicity due to the inquiry conducted by the Human Rights and Equal Opportunity Commission, instances of discrimination against homosexual teachers in religious private schools are probably more common than the

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<sup>47</sup> The Department of Education Tasmania defines homophobia as ‘a fear or loathing of homosexuality, homosexual people, lesbian, gay and bisexual identity, and refers to the values and behaviours which express this fear and loathing’ (Department of Education Tasmania 2003).

number of legal cases suggests (see Gay and Lesbian Rights Lobby 2002; HREOC 2001).

While it is not suggested that all, or even most, private schools condone or encourage discrimination against students the fact remains that, under current anti-discrimination laws, such conduct is legal. The *National Goals for Schooling*, on the other hand, make it clear that such conduct on the part of schools is not acceptable. If the Commonwealth Government is to rely more heavily on private schools to meet the educational needs of Australia the conflict between the current anti-discrimination law and the current Goals will need to be addressed.

### **3.4 Public attitudes to discrimination by private schools**

Public attitudes to various aspects of private schooling have been explored by way of an opinion survey for this report. Newspoll was commissioned to survey a randomly selected sample of 650 adults in NSW and Victoria by telephone over 19-22 April 2004. In addition to the usual demographic information, respondents were asked whether they themselves had attended a private or state school for the majority of their high school education, or whether they had attended both types equally. Parents were also asked whether their children were at private or state schools.

Respondents were asked whether they agreed or disagreed with the following statements:

Private schools should be able to expel students because they are gay; and

Private schools should be able to expel girls if they become pregnant.

If they agreed they were asked whether they strongly agreed or partly agreed. If they disagreed they were asked whether they strongly disagreed or partly disagreed.

The responses to the first question are reported in Tables 6-8 below. The Newspoll survey shows that nine out of ten (89 per cent) respondents disagree that private schools should be able to expel gay students – Table 6. Although not shown in the table, 76 per cent *strongly* disagree with the view that private schools should be able to expel gay students, an opinion held by parents with children in both private schools (76 per cent strongly disagree) and state schools (75 per cent strongly disagree). It is an opinion held consistently by residents of capital cities and country areas, although country Victorians are a little more conservative (Table 7). It is important to note that 89 per cent of people who send their children to private schools disagree that those schools should be able to expel gay students. Interestingly, young adults (18-24) and older people (50+) are more conservative on this issue than are those aged 25-34 and 35-49 (Table 8).



**Table 6 Responses to ‘Private schools should be able to expel students because they are gay’, by high school education and whether children attend private school (%)**

	High school education		Children in private school		Total
	Private only	State only	Yes	No	
Agree	9	7	8	6	8
Disagree	90	90	89	90	89
Don't know	2	3	4	4	4

Figures may not add due to rounding.

**Table 7 Responses to ‘Private schools should be able to expel students because they are gay’, by area (%)**

	Area				Total
	Sydney	Melbourne	Rest NSW	Rest VIC	
Agree	8	8	7	10	8
Disagree	90	90	88	84	89
Don't know	3	2	5	6	4

Figures may not add due to rounding.

**Table 8 Responses to ‘Private schools should be able to expel students because they are gay’, by age and whether have children (%)**

	Age				Children		Total
	18-24	25-34	35-49	50+	Yes	No	
Agree	10	2	5	12	5	9	8
Disagree	90	96	92	83	92	87	89
Don't know	0	3	3	5	3	4	4

Figures may not add due to rounding.

The responses to the second question are reported in Tables 9-11. A large majority of respondents, 77 per cent, disagree with the view that private schools should be able to expel girls who are pregnant (Table 9), with 62 per cent strongly disagreeing. Those who attended private schools or send their children to private schools are just as likely to oppose expulsions. It is perhaps surprising, however, that 17 per cent believe that private schools should be able to expel pregnant girls, twice the number that favours expelling gay students.

Sydney residents appear more tolerant of pregnant girls than those in Melbourne and country areas although, with the exception of country Victoria, the difference is not large (Table 10). High-income households are more tolerant than low-income ones (Table 11), even though pregnant girls are more likely to come from poorer households. Once again, young adults and older adults are more conservative on this question than those in their 30s and 40s (Table 11).

**Table 9 Responses to ‘Private schools should be able to expel girls if they are pregnant’, by high school education and whether children attend private school (%)**

	High school education		Children in private school		Total
	Private only	State only	Yes	No	
Agree	16	16	17	17	17
Disagree	79	78	76	77	77
Don't know	5	5	7	6	6

Figures may not add due to rounding.

**Table 10 Responses to ‘Private schools should be able to expel girls if they are pregnant’, by area and income (%)**

	Area				Household income			Total
	Sydney	Melbourne	Rest NSW	Rest Vic	Less than \$30000	\$30000 to \$59999	\$60000 plus	
Agree	14	18	18	20	26	17	13	17
Disagree	81	77	76	69	65	79	83	77
Don't know	5	6	6	11	9	4	3	6

Figures may not add due to rounding.

**Table 11 Responses to ‘Private schools should be able to expel girls if they are pregnant’, by age and whether have children (%)**

	Age				Children		Total
	18-24	25-34	35-49	50+	Yes	No	
Agree	18	7	15	22	16	17	17
Total disagree	82	88	81	69	80	76	77
Don't know	0	5	5	9	4	7	6

Figures may not add due to rounding

#### *Private school responses to criticism*

According to the National Catholic Education Commission, publicly supported religious schools contribute to all the public policy goals included in the *National Goals for Schooling* (NCEC 2002a, p. 5). As the following quote indicates, the Commission disputes claims that it promotes sectarian values.

The claim is often heard these days that religious schools do not warrant public support because they promote private “sectarian” values, rather than public ones. For example, the argument is sometimes made that the purpose of religious schools is to shut out people with different ideas, beliefs and social backgrounds. In other words, religious schools, rather than bringing public benefits, detract from the common good.

A common erroneous assumption underpinning such arguments is that the religious purpose of religious schools can be clearly separated and distinguished from other essentially ‘secular’ goals ...

This betrays a fundamental misunderstanding of the religious world-view. For Catholic educators, the social justice goal that secularists describe as “secular” is integral to religious formation, not separate from it. The Catholic schools’ support for these goals is inspired and informed by the Catholic understanding of the social dimension of religious faith (NCEC 2002a, pp. 5-6).

The NCEC further argues that ‘religious schools make a particular contribution, as they actively promote diversity and respect (not just tolerance) of others and working for social justice as a religious imperative’ (NCEC 2002a, p. 5). However, as the above discussion illustrates, the promotion of diversity, respect, tolerance and social justice is sometimes narrowly defined and executed according to the doctrines of the religion to which they are primarily accountable. As the NCEC goes on to say:

While Catholic schools receive public funds, they are not public agencies. Fidelity to the church’s mission is the primary concern of Catholic schools, which ought not to be compromised. In order to comply with what the Catholic

community regards as essential to the character and mission of Catholic education, the latter must prevail and no penalties, financial or otherwise, should result (NCEC 2002a, p. 6).

Where areas of conflict arise, religious schools often raise the right to freedom of religion. Recently Catholic Archbishop George Pell defended laws allowing religious schools to discriminate against people by arguing that tolerance should include tolerance for their own discriminatory teachings and behaviours where they accord with the doctrines of a particular religion. In other words, the community should tolerate their intolerant views and the discrimination that occurs against gay, lesbian and bisexual people in their name. As we saw, Cardinal Pell has argued:

We have a right to teach our Christian teachings and to follow out the consequences of that.

Nobody is forced to send their children to Catholic schools.

Parents send children to Catholic schools because they know they will get a certain set of values there (Pell cited in ABC 2004a).

In the eyes of many in the community, this argument is deeply flawed because it supposes that freedom of religion should be held above other community values. However, freedom of religion is not absolute and neither the High Court nor the nation's parliaments have held this to be true. Indeed, Australian legislators have moved to outlaw certain practices that are connected with particular religious observances or cultural practices. Laws prohibiting female genital mutilation<sup>48</sup> and preventing Aboriginal men from claiming their traditional or promised marriage to a girl under 16 as a mitigating factor in cases of sexual offences against that person are two examples.<sup>49</sup>

Furthermore, the provision of government funding for private schools should deliver public benefits, as defined under the Goals for schools. Under Commonwealth and state legislation, private schools are permitted a wide range of exemptions from anti-discrimination laws. The Newspoll survey reported in this study canvassed public attitudes to the ability of private schools to expel gay students and girls who become pregnant and found that there is widespread and strong opposition in the Australian community to the way private schools are able to exempt themselves from anti-discrimination laws on these grounds. There is no difference in the strength of opposition to these laws between parents who send their children to private schools and

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<sup>48</sup> Female genital mutilation (FGM) has been defined as 'the collective term for a number of procedures, involving cutting or removal of the external female genitalia. Some of these procedures are minor in nature, while others involve significant intervention. It is usually performed on girls or adolescent women' (Department of Health and Human Services, Tasmania 2004). Legislation explicitly banning female genital mutilation has been passed in all states and territories, except Queensland and Western Australia, which rely upon the Criminal Code in relation to assault. While FGM is not a religious practice per se, those who carry it out often do so in the name of a religion (Department of Health and Human Services, Tasmania 2004).

<sup>49</sup> See *Sentencing Amendment Bill 2003*, Northern Territory.

[http://notes.nt.gov.au/dcm/legislat/Acts.nsf/0/f8afcbe212b2a22f69256cda000a471c?OpenDocument&ExpandSection=1,3#\\_Section1](http://notes.nt.gov.au/dcm/legislat/Acts.nsf/0/f8afcbe212b2a22f69256cda000a471c?OpenDocument&ExpandSection=1,3#_Section1)

those who send them to public schools. Opinion is especially strong on the question of the expulsion of gay students. These findings indicate that exemptions from laws banning discrimination are out of step with community values and, for this reason, there is likely to be strong support for the reform of anti-discrimination laws in favour of more consistent treatment of public and private schools under the relevant statutes.

Furthermore, the broad-ranging capacity of private schools to discriminate against their students and staff contradicts the Prime Minister's declaration that it is government schools that are 'values neutral'. While there is no doubt that some private schools uphold the principles of anti-discrimination legislation, there is also no doubt that students and staff who may be subject to discrimination on the basis of their sexuality, pregnancy or marital status have significantly fewer opportunities for legal redress. If private school students are to learn and practise the same values of tolerance, compassion and mutual respect as their public school peers, then the ability of private schools to practise discrimination on the basis of sexuality and pregnancy should be eliminated. There is an extraordinarily high degree of consensus among parents on this issue.

### **3.5 Students with disabilities**

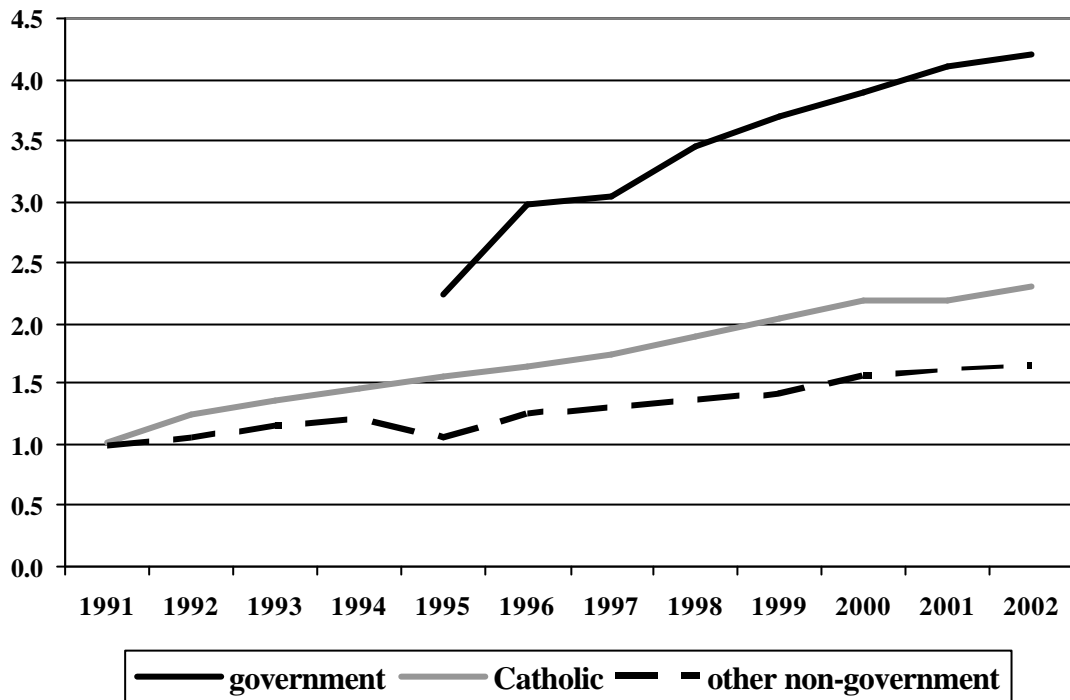
In recent years, there has been a large increase in the number of students with disabilities attending both public and private schools (PC 2003, p. 90). In the case of private schools, between 1991 and 2002 the number of full-time students with disabilities attending Catholic schools increased by 240 per cent and for all other non-government schools by 250 per cent, although the increase was from a small base (PC 2003, p. 90).<sup>50</sup> The non-government schools sector attributes this growth to improvements in the identification of students with disabilities, a growing desire to integrate students with disabilities into mainstream classes and the introduction of Commonwealth anti-discrimination legislation which has outlined the legal rights of students with disabilities (NCEC 2002b, p. 1; NCISA 2002).

Despite this rapid growth, there remains a considerable disparity in the numbers of students with disabilities in the private sector compared with the public sector (see Figure 4)<sup>51</sup> and this is especially the case for students with moderate to severe disabilities. In 2002, 4.2 per cent of students at public schools had a disability compared with 2.25 per cent at Catholic schools and only 1.6 per cent at other private schools. Thus proportionally, public schools accommodate twice as many students with disabilities. Indeed, the magnitude of the difference led the Senate Workplace Relations and Education Committee in its 2002 inquiry into the education of students with disabilities to question the equity of access to private schools (Senate Employment, Workplace Relations and Education References Committee 2002, pp. 115-116).

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<sup>50</sup> Corresponding data for the government school sector are not available prior to 1995. For the period 1995-2002, the numbers of full-time students with disabilities attending government schools increased by 88 per cent.

**Figure 4 Students with a disability as a proportion of all full-time equivalent students 1991-2002 (%)**



Source: Productivity Commission 2003

#### *Financial responsibility for students with disabilities*

Private schools have access to recurrent and targeted funding from both Commonwealth and state and territory governments for the education of students with disabilities<sup>52</sup> with most funding coming from the Commonwealth Government. In contrast, funding for students with disabilities in the public system comes mostly from state and territory governments. Despite the funding that is available, associations representing private schools typically argue that it is not enough and contend that they should have minimal or no financial responsibility for educating students with disabilities – see Table 12. The NCISA, for example, argues that ‘the cost of educating students with disabilities should ... be fully met by government expenditure irrespective of the school sector in which they are educated’ (NCISA 2002, p. 2).

<sup>52</sup> For a discussion of Commonwealth funding for students with disabilities in the private sector see SEWRERC (2002) and DEST (2002). For the state government sector, see the submissions of state governments to SEWRERC (2002). These are available online at [http://www.aph.gov.au/Senate/committee/eet\\_ctte/ed\\_students\\_withdisabilities/submissions/sublist.htm](http://www.aph.gov.au/Senate/committee/eet_ctte/ed_students_withdisabilities/submissions/sublist.htm). Note that in Tasmania specific funding for students with disabilities is not factored into their funding for private schools.

**Table 12 Attitudes of private school authorities to the funding of students with disabilities in that sector**

Private school authority	Relevant comments
Adventist Education	<p>‘We believe that the cost of providing special care to students with disabilities should be covered by the public purse via government.’</p> <p>‘Any future funding commitment should include a review of the recurrent funding of students with disabilities in non-government schools and a focused targeted funding program to accommodate students with disabilities.’</p>
Australian Associations of Christian Schools	‘All students with disabilities should receive the same additional funding regardless of whether they are attending a Government or non-Government school.’
National Catholic Education Commission	‘The Strategic Assistance amount for non-government schools [should] be set at their AGSRC percentage of the average cost of educating a student with a disability in government regular schools... For Catholic system schools this would be 56.2% (51.2% in the ACT).’
National Council of Independent Schools of Australia (NCISA)	<p>‘The cost of educating students with disabilities should ... be fully met by government expenditure irrespective of the school sector in which they are educated.’</p> <p>This requires ‘the provision of recurrent funding in respect of the individual student that fully meets the costs identified above’ and ‘the provision of capital assistance to schools to meet the costs of adapting and providing suitable facilities for students with disabilities.’</p>
Lutheran Schools	‘... students with severe learning disability needs [should] receive the same amount of support from government regardless of the school sector in which they are enrolled.’

Source: Taken from submissions to the Senate inquiry into the Education of Students with Disabilities (SEWRERC 2002).

The reluctance of private schools to use their own financial resources to support the educational needs of students with disabilities invariably relates to the impact this will have on their non-disabled students. As Lutheran Education Australia notes:

Schools are often faced with decisions relating to equitable distribution of resources, eg, \$200,000 to provide a wheelchair lift for one child. Decisions to undertake such projects impact upon the broader educational programs in the school (Lutheran Education Australia 2002).

Some, like NCISA, make the more blatant point that in an education market it is unfair for the parents of students who do not have disabilities to subsidise the education of those that do.

NCISA is concerned that while the *Disabilities Discrimination Act 1992* has introduced a rights-based model for students with disabilities, current government funding arrangements inhibit its implementation. It potentially places an inequitable burden on the families in those independent schools which have students with disabilities enrolled (NCISA 2002, p. 8).

*Failure to comply with the Disability Discrimination Act (Cwlth)*

The *Disability Discrimination Act 1992 (Cwlth)* makes it unlawful for any educational authority, including both public and private schools, to discriminate against students with disabilities in relation to admission, access to benefits provided by the educational authority, or to expulsions.<sup>53</sup> However, this prohibition is not absolute: an educational authority can refuse to enrol a student whose admission ‘would require services or facilities that are not required by students who do not have a disability and the provision of which would impose unjustifiable hardship on the educational authority.’<sup>54</sup> Further, the draft disability standards for education (to be made under the *Disability Discrimination Act*) would extend the ‘unjustifiable hardship’ test to cover participation, curriculum development, accreditation and delivery, student support services, the elimination of harassment and victimization in addition to enrolment practices.<sup>55</sup>

In the 80 per cent of private schools that are administered individually, those that are not part of a system, it is easier to show that the enrolment of a student with disabilities would constitute an ‘unjustifiable hardship’ because they cannot spread the costs of educating that child over other schools. Despite this, NCISA has major concerns with the Act, and the costs that it believes are unfairly imposed by it.

The requirements that the legislation places on schools in terms of the provision of appropriate facilities and of supporting the specific educational needs of students with disabilities is open-ended. Potentially, this involves the school community bearing very large resource costs in terms of ensuring access to facilities and in supporting the specific educational needs of the student to allow them to access and participate in the curriculum (NCISA 2002, p. 8).

Evidence presented to the Senate Workplace Relations and Education Committee in its 2002 inquiry indicates considerable variability in the levels of compliance with the Act between states and territories and between public and private school sectors. Within the private sector, there is anecdotal evidence to suggest that those in compliance with the Act are in the minority. According to the Independent Education Union of Australia (IEUA) which represents teachers working in private schools:

The consistent and strong feedback from members is that the resources and funding arrangements for students with disabilities in non government schools

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<sup>53</sup> See *Disability Discrimination Act 1992*, s. 22.

<sup>54</sup> See *Disability Discrimination Act 1992*, subs. 22(4).

<sup>55</sup> S. 31(3) of the *Disability Discrimination Act 1992* allows the Attorney-General to make standards for education to clarify the obligations of authorities under the Act. For a copy of the draft standards see: [http://www.dest.gov.au/archive/iae/analysis/Draft\\_Disability\\_Standards.htm](http://www.dest.gov.au/archive/iae/analysis/Draft_Disability_Standards.htm) (3 February 2004).



are not adequate and that schools are therefore vulnerable to being in breach of the Act (IEUA 2002, p. 1).

In a number of poorer private schools, it is likely that the decision of whether or not to allocate funds to support the education of a student with disabilities is weighed against the genuine needs of the student body at large to a quality education. However, in a significant number of cases it is clear that this dilemma has not been considered. These schools have simply decided to provide non-essential services and facilities for the majority of students who do not have disabilities rather than to create an inclusive and accessible school environment for the few that do.<sup>56</sup>

Some students with disabilities are leaving the private sector because the standard of facilities provided is better in public schools (NCISA 2002, p. 7), although, sometimes the opposite is the case. Others suggest that some private schools are refusing to take students with disabilities, particularly those with high needs:

... I think it is our experience, based on our research, that the state takes the bulk of students with severe disabilities. Although the Catholic education system is increasingly taking children with high support needs, I believe that independent schools, because of their independent nature, are able to select students much more carefully and may, in fact, seek ways of precluding students from attendance or enrolment in their schools, despite the anti-discrimination legislation (Kraaynoord cited in SEWRERC 2002, p. 116).

As the above discussion illustrates, it is clear that some private schools, and in particular the associations that represent them, do not see themselves as being responsible for the provision of public goods in relation to the education of young people with disabilities. On the contrary, despite the Goals, they see their role as ensuring that individual parents get 'value for money' measured exclusively against their individual child.<sup>57</sup> The lobby's argument that it is the right of parents of children with disabilities to choose a private education (NCISA 2002, p. 1) is one that comes with minimal or no financial responsibilities for the sector to make this choice a viable option.

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<sup>56</sup> Of further concern is the anecdotal evidence to suggest that targeted funding for students with disabilities has not been spent on these students. According to SEWRERC, '... the committee cannot be assured that Commonwealth funds are being used as Parliament intended. Committee members have considerable anecdotal evidence gleaned from visits to schools in their states and of reports to electoral offices that children eligible for funded support are not being supported in a manner that corresponds to the funds provided to the school' (SEWRERC 2002, p. 48) These allegations apply to both the public and private sectors.

<sup>57</sup> It is clear, however, that both the Federal Government and Opposition agree that private schools do have a financial responsibility towards the education of students with disabilities and that private schools should not be the exclusive domain of students without disabilities. In its majority report, the Senate Committee rejected the demands of the private sector for further funds to assist them to meet their statutory obligations to students with disabilities. The Committee stated that it 'does not accept that the non-government sector lacks the financial resources required to address the needs of students with disabilities' (SEWRERC 2002, p. 129).

## 4. The effectiveness of private schools in achieving cultural diversity

### 4.1 Introduction

There is a strongly held view within the community that an ability to relate to people from diverse backgrounds is not fostered by interaction solely confined to people of similar backgrounds. Children enrolled in ethnically, religiously or socially homogenous schools are less likely to develop anything other than a textbook understanding of the different social and cultural groups that make up Australian society. Experiences at school, however, often play a crucial role in developing a child's ability to relate to and accept people from different backgrounds. Research has shown that it is not simply the diversity of students that makes the difference but also the efforts schools take to engender a greater understanding and acceptance between groups of students (Moody 2001). This has particular ramifications for the development of friendships across social divides.

School yards are often places where children's friendships are divided along gender, ethnic or other lines. Among the reasons for this is the fact that broader social and cultural hierarchies tend also to be in play at school (Moody 2001; Martino and Pallotta-Chiarolli 2003). Speaking about the reasons for the cultural hierarchy at his school, Michael says:

They [Indians and Italians] just stick to their own little groups. I think because maybe they can talk the same language that they feel they're more comfortable with people from their own country. We don't mind at all, we just stick to our groups (Michael cited in Martino and Pallotta-Chiarolli 2003, p. 106).

Marc points to the fact that students from a particular ethnic background may find safety in numbers, meaning that they are less likely to be subject to bullying from other students. Problems arise when ethnic identity (including those of an Anglo-Saxon identity) becomes ethnic chauvinism (see Martino and Pallotta-Chiarolli 2003).

The wogs have made themselves into a huge group ... they all dress the same with their soccer tops and their Adidas clothes and their greasy hair. They do it purposely. They could look Aussie if they wanted to but they want to look like wogs because it makes them feel tougher ... if there was a big argument and a fight broke out between the wogs and the sportos and the musos, the sportos and musos would get together because they're Australian (Marc cited in Martino & Pallotta-Chiarolli 2003, p. 107).

Although divisions along ethnic lines are a reality in some schools, research has shown that inter-racial friendships are more likely in schools with large numbers of ethnic groups, and less likely in those composed only of small or moderate numbers of different racial groups (Moody 2001).

A related concern is that students educated in single sex schools will not learn to develop appropriate relationships with members of the opposite sex. However, this is disputed, with some studies suggesting that it is not necessarily the case

and that friendships in co-educational schools can also be divided along gender lines.<sup>58</sup>

## 4.2 Religious diversity in schools

Although Australian public schools are secular institutions, because they operate in a predominantly Christian society they display Judeo-Christian influences. A practical expression of this is the fact that school holidays are based around major Christian celebrations. The overwhelming majority of private schools, on the other hand, have a religious affiliation. In many jurisdictions, they are legally able to refuse to enrol persons of faiths other than those of the school. However, most accept students of different faiths. Queenwood in NSW, for example, states that it 'is based on Christian ideals, but girls of all faiths are welcomed. Understanding and acceptance of different beliefs are encouraged' (Queenwood 2004). St Michael's Anglican school declares that 'students from non-Christian background are encouraged to respect their own faiths' (St Michael's Grammar School 2004). Indeed, even devout religious schools may have a significant population of students who are not of their faith. For example, around one quarter of students at the Pacific Hills Christian School in Dural, NSW and the Tyndale Parent Controlled Christian School in Blacktown, NSW are not Christians. As the following quotation shows, however, conversion to Christianity is sought. In the words of a teacher at the school:

I cannot but hear the death toll for many of the students here who do not believe ... Their rejection of God and ultimate eternal separation from him diminishes me, as I am a member of his creation. And so the bell is tolling for these students and their parents, and it is my fervent prayer that this school will always prove to be a place where it can be heard (Walls cited in Burke 2003b).

The principal of Tyndale explicitly states that 'parents have to recognise that there is a goal in the school that the students will come to recognise Christ' (Glanville cited in Burke 2003b).

Although most religious schools accept students of different faiths, the majority are dominated by students of the same religion, if not of one denomination within that religion. Table 13 provides data on the percentage of students from selected religions who attend different types of schools. It shows that the majority of students of varying religious faiths are educated in government schools. Catholic students constitute the exception although some 44 per cent of Catholic primary students and 42 per cent of Catholic secondary students are also educated in government schools. The table indicates that a significant population of both Christian and Muslim students attend government schools. Some 79 per cent of Muslim primary students and 83 per cent of Muslim secondary students attend a government school, compared with 19 per cent and 13 per cent respectively at non-government schools and two per cent and four per cent respectively at Catholic schools.

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<sup>58</sup> One Australian study, for example, found that single or co-educational schooling made no difference to the number of friendships formed by students with those of the opposite sex (University of Tasmania 2000; Epstein & Sears 1999).

**Table 13 Percentage of Australian students of selected religions who attend different types of schools (%)**

Type of school attended	Catholic religion		Non-catholic or no religion		Islamic religion	
	Primary (%)	Secondary (%)	Primary (%)	Secondary (%)	Primary (%)	Secondary (%)
Government	44	42	83	74	79	83
Catholic	52	52	5	8	2	4
Other non-government (independent)	4	6	11	18	19	13
All schools	100	100	100	100	100	100

Source: Preston 2003, Table 4.1

### 4.3 Public attitudes to religious and ethnic mixing at school

While many private schools cultivate a religiously and ethnically diverse student body others do not, with some private schools designed to provide an education to particular religious or ethnic sub-groups of the population. This is often justified on the grounds of religious or cultural freedom or because children from predominantly non-Christian faiths may be inadvertently discriminated against in public schools. However, the creation of schools that are almost exclusively comprised of students and teachers from a single religious or ethnic group leads to a concern that these schools will be unable to promote a real understanding of difference, based on actual engagement with others, and that as a consequence society will become more divided.

The Newspoll survey asked whether respondents believe that it is good for children of different religious and ethnic backgrounds to mix at school. Overall, 96 per cent of respondents agreed with the statement – see Table 14. This view is held equally strongly by all groups in the sample.

**Table 14 Responses to the statement that it is good for children of different ethnic and religious backgrounds to mix at school (%)**

	Male	Female	Sydney	Melbourne	Total
Strongly agree	87	84	83	87	85
Partly agree	10	12	12	10	11
<b>Total agree</b>	<b>97</b>	<b>96</b>	<b>95</b>	<b>96</b>	<b>96</b>
Partly disagree	1	1	1	1	1
Strongly disagree	1	2	2	2	2
<b>Total disagree</b>	<b>2</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>2</b>

Source: Newspoll. Figures may not add due to rounding.

The results suggest that Australians cleave strongly to the view that all segments of society should learn to understand and respect those with differing ethnic and religious backgrounds and that schools are the best place for this to start. The preference of some private schools to establish ethnically and religiously homogeneous school environments has almost no support in the Australian community.

#### **4.4 Students from different socioeconomic backgrounds**

Public schools provide an education for the overwhelming majority of students from low-income families. Table 15 shows that in public schools 42 per cent of the student population are from low-income families (those with an income of less than \$800 per week), 37 per cent are from medium-income families and only 21 per cent are from high-income families (Preston 2003). By contrast, in non-government or independent schools less than a quarter of the student population are from low-income families (23 per cent). Compared with Catholic schools, which serve a greater cross-section of families, the independent sector is biased towards students from high-income families, 47 per cent of which earn more than \$78,000 per year or \$1500 per week (ISCA 2004a). Of this group, 27 per cent are from very high-income families earning over \$104,000 per year or \$2000 per week.

The accessibility of private schools varies quite markedly reflecting the diversity in tuition fees which, as discussed in the next section, range from \$1000 to over \$18,000 per annum. As a result, the socioeconomic composition of the student population in private schools is also likely to be quite varied across the sector as a whole, but not necessarily within individual schools that may be stratified by income. At one extreme, there are the very exclusive private schools, predominantly of the Anglican faith, which are located principally in the inner cities of Melbourne and Sydney. At the other, there are low-fee schools, including those which serve Aboriginal populations, located principally on the urban fringe and in rural areas. These schools are from a broader

range of faiths and include Catholic, Muslim and Anglican establishments. Many of the newly created Christian schools are in this category.

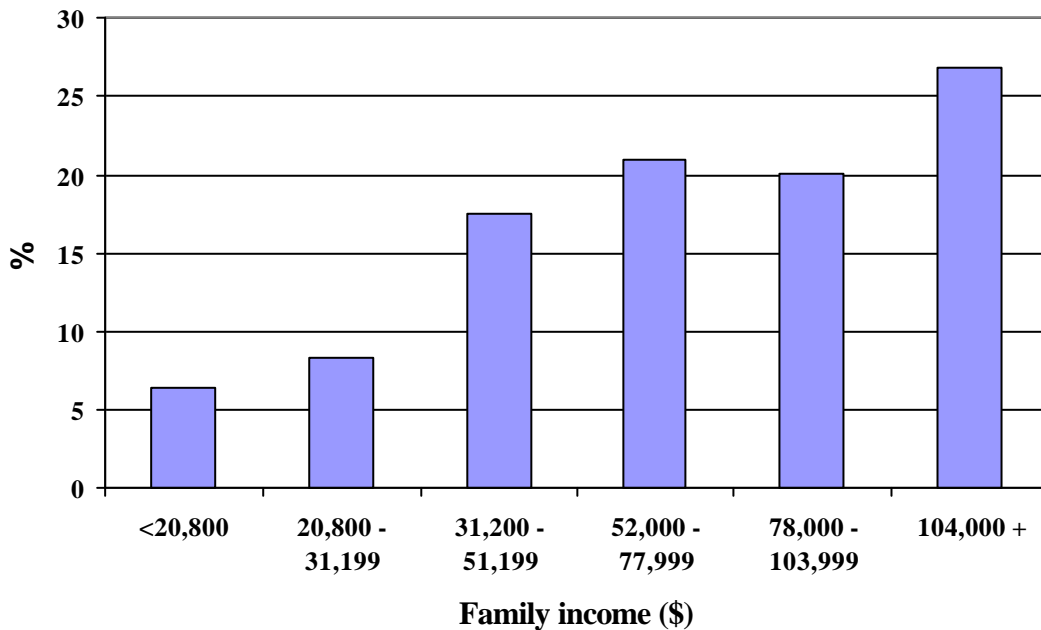
**Table 15 Percentage of students in primary and secondary schools with low, medium or high family incomes, 2001 (%)**

	Family income			
	Low (<\$800 per week)	Medium (\$801-\$1499)	High (>\$1500)	All income levels
Government	42	37	21	100
Catholic	27	39	34	100
Other non-government	23	30	47	100
All schools	37	36	26	100

Source: Preston 2003

Figure 5 shows that the proportion of families with children enrolled at independent schools rises strongly as income rises. Only six per cent of families earning less than \$20,800 per year sent their children to independent schools in 2001 compared to more than a quarter of families earning over \$104,000 per annum. Figure 5 shows that, while the Commonwealth Government emphasises the role of choice for parents, it is high-income families who receive the largest benefits from policies that increase funding for independent schools.

**Figure 5 Proportion of families with children enrolled in independent schools by family income, 2001 (%)**



Source: ICSEA 2004a

There is evidence to suggest that students from poorer families are leaving the Catholic school system because parents cannot afford to pay the fees (CECV 2004). This trend is contrary to the Vatican's vision for Catholic schools as places where all students of the Catholic faith, regardless of wealth, can be educated. On the other hand:

Catholic schools are in danger of becoming a cut-price alternative to the more expensive independent schools, with some Christian values thrown in. You can educate your child at one of Melbourne's Catholic secondary schools for an average \$2500 a year compared with the \$13,000-\$14,000 charged by elite independent schools (Yallop 2004).

While few elite private schools claim that they offer an education for students from different socioeconomic backgrounds, there are some that do.<sup>59</sup> According to St Andrew's Cathedral School in Sydney:

The School draws its students from throughout the Sydney metropolitan area from all socioeconomic groups representing Australia's multicultural society. The School's diverse enrolment includes students from many overseas countries in south-east Asia, the Middle East, Europe and the Americas.

This broad cross section of students engenders an openness and deeper understanding about learning and living together to build a more tolerant School community and ultimately a society where integrity, compassion and mutual respect are honoured and implemented. These values are critically important to develop within the School's culture as they add to the all-round quality of learning offered to all St Andrews students (St Andrew's Cathedral School 2004a).

However, since the fees at St Andrew's range from \$10,310 for a Year 3 student to \$14,620 for a Year 12 student (St Andrew's Cathedral School 2004b), sending a child to the school is out of reach of all but the wealthiest families. While St Andrew's offers a range of scholarships, hardship bursaries are 'normally awarded for a maximum of one year and are normally not available to a family unless they have been at the School for two years' (St Andrew's Cathedral School 2004c). Hence, it is unlikely that students whose parents are unable to afford the tuition fees will be offered a place at the school unless they qualify for one of the academic or music scholarships. The qualifier then is that St Andrew's, like most other elite private schools, provides an education only for particularly gifted and talented poor students.

The principal of St Andrew's Cathedral School, however, denies that St Andrew's is elitist. Heath writes:

Currently at St Andrew's there are 250 students (from a total enrolment of 1,036 pupils) who enjoy some form of fee discount. Such concessions are given for

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<sup>59</sup> The Cranbrook School, for example, says that it aims for a 'broad based school population'. However, this relates only to the fact that it is non-selective in terms of academic or sporting ability (Cranbrook 2004b).

academic and music scholarships, clergy bursaries, family hardship, choral scholarships and numerous other discounts (Heath 2004).<sup>60</sup>

St Andrew's appears to provide more scholarships than many other elite private schools but the above claim is open to question. Firstly, if the figure of 250 includes fee discounts provided to families with more than one child at the school, this cannot be construed as a mechanism to ensure low-income families can gain access to the school. Families will still be paying more than \$14,000 for the first child plus the discounted fee for any subsequent children. Secondly, hardship bursaries are normally awarded only to families that have either been able to afford entry into the school in the first place, or have gained entry through a scholarship. Thirdly, clergy bursaries are available only to full-time Anglican clergy (St Andrew's Cathedral School 2004c). Finally, it is unclear whether the term 'fee discount' means a reduction in tuition fees, or a waiver of fees for extra tuition. Music scholarships at the school, for example, may take the form of a reduction in academic tuition fees or instrument lessons (Lawrence 2004).

The cost of an expensive high school education for a range of different income groups is shown in Figure 6 which indicates the percentage of after-tax income that would need to be spent for a range of taxable incomes. The lowest income for which the analysis is presented is \$21,172, the average taxable income for Australia's lowest income suburb (ATO 2004). The average taxable income in Australia for 2001 (the latest year for which data are available) was \$32,593 while the highest average income for a suburb was \$128,701 (ATO 2004).

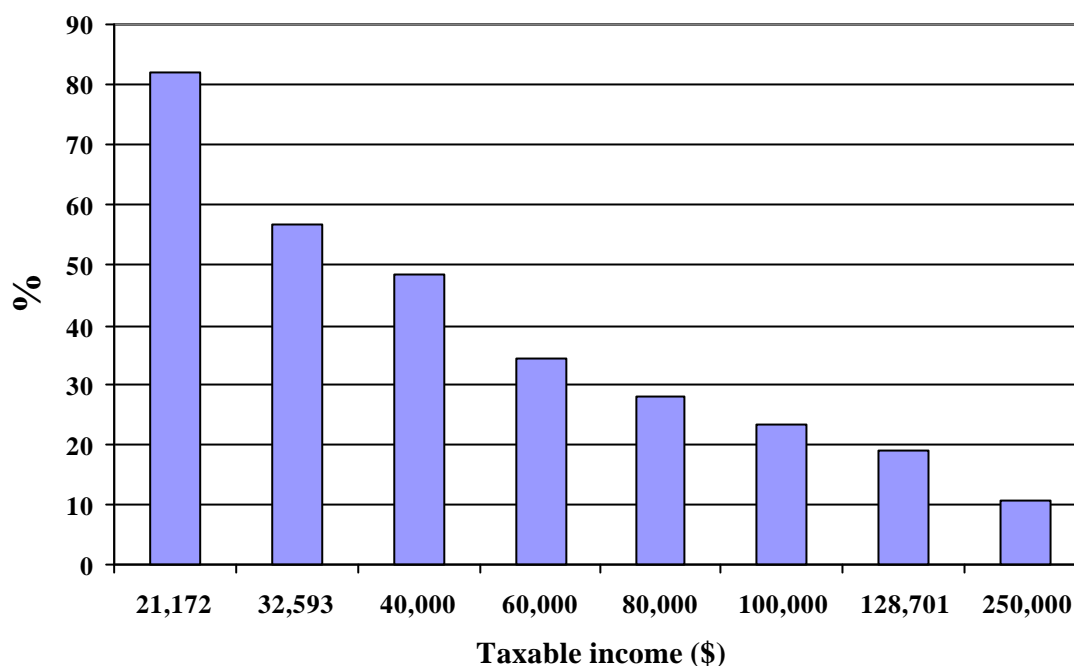
The Commonwealth Government has stated repeatedly that funding for private schools is based on a desire to facilitate parental choice (Nelson 2004c; ABC 1999). Figure 6 reveals that if a low-income earner wanted to send one child to a private school with annual fees of \$15,000 per year, they would need to allocate 82 per cent of after-tax income to pay the fees. In order to reduce school fees for just one child to below 30 per cent of disposable income, an individual would need to earn around \$80,000 per year. Despite the Federal Government's repeated claims about the importance of 'choice', it is apparent from Figure 6 that a large majority of the Australian population is unable to 'choose' to send their children to elite private schools and therefore receives no benefit from the redirection of funds to these schools.

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<sup>60</sup> The school does not provide any information on its website indicating the value of these scholarships.



**Figure 6 Percentage of after-tax income required to pay \$15,000 per year for school fees (%)**



Source: ATO (2004) and authors' estimates

#### 4.5 Conclusions

By design, some private schools are less willing and able to create a diverse student population than public schools; some may limit their enrolments to students of one religion while others may allow students from all religions to enrol and then seek to convert them. Schools may also limit the diversity of their student body through other mechanisms such as the charging of high fees. While some children from low-income families may gain entry to high-fee schools through scholarships or their parents' willingness to sell assets, as discussed in the following section, there is little doubt that school fees of \$15,000 or more per student per year serve to limit social diversity in some private schools.

The objective of this section is not to suggest that all private schools set out to limit the diversity of their student population. Rather, it seeks to highlight the fact that while the *National Goals for Schooling* advocate the desirability of diversity in schools there is no actual requirement on the part of private schools to strive for that objective. Given the substantial and growing funding provided to private schools, the principles of accountability suggest a need to align more closely the practices of the private school system with the agreed Goals.

## **5. The role of private schools in promoting equality of opportunity**

### **5.1 Introduction**

The previous section outlined some of the difficulties faced by some private schools in achieving the objectives of cultural diversity. This section focuses more specifically on the inherent tension between the public funding of elite private schools and the pursuit of equality of opportunity.

One of the goals specified in the *National Goals for Schooling* recommends that ‘all students have access to the high quality education necessary to enable the completion of school education to Year 12’ (MCEETYA 1999). Despite the widespread recognition of the pressures on both the public school system and some of the less well resourced schools in the private school system, as discussed in Section 1 the Commonwealth Government developed a new funding model for private schools in 2000 that delivered the largest percentage increase in school funding to the best resourced private schools.

### **5.2 Problems with the current private school funding model**

The main flaw in the new model is that the socioeconomic status (SES) of parents will often be different from the SES score for their neighbourhood which is used to determine funding allocations.<sup>61</sup> Thus, for example, some parents who send their child to a high-fee school may have a higher income than the average in their neighbourhood. As a result, the SES score for their neighbourhood will understate the SES of the parents. Similarly, if parents with incomes that are below the average in their neighbourhood send their children to a less expensive private school, the SES score of the school is based on the income of the neighbourhood and, as a result, funding for the low-fee school is reduced. The model therefore provides an inaccurate and distorted picture of the SES of the parents of private school children except in situations where all the residents of a suburb have the same incomes.<sup>62</sup>

The Government’s main justification for using the SES of neighbourhoods in which parents live rather than the actual income and SES characteristics of parents themselves appears to be that the collection of such information would be too intrusive. It is unclear, however, why the Commonwealth Government is willing to require applicants for a wide range of government services (such as family payments and youth allowance) to provide substantial amounts of personal information but believes that to ask the parents of private school students for similar information would be inappropriate.

The change from the old funding model, based on the resources available to a school, to the SES model caused a redistribution of private school funding. Figure 7 shows the percentage increase in government financing that resulted from the switch. The numbers on the horizontal axis refer to the categories that were previously used to allocate

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<sup>61</sup> For a full discussion of the flaws in the SES funding model see AEU (2004b).

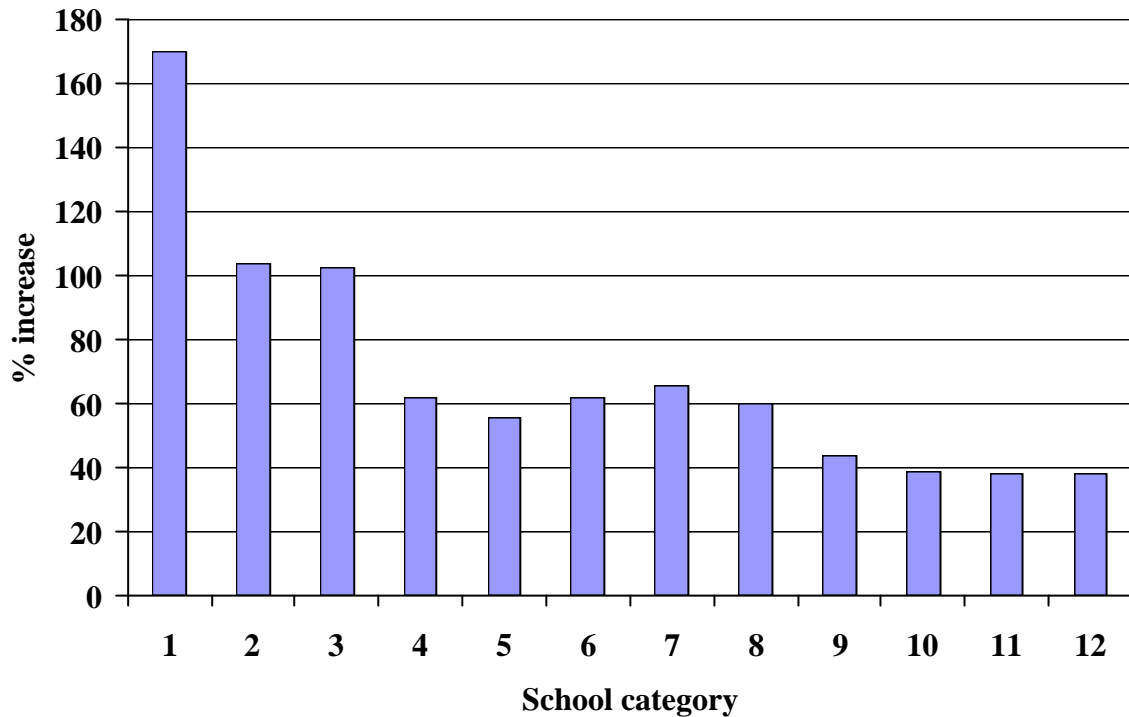
<sup>62</sup> The failure of the model to depict accurately the wealth of the school community is reflected in the fact that only three schools in Australia have an SES score of 130 or above for the 2005-08 funding quadrennium.

government funding, with Category 1 schools such as Shore and Geelong Grammar considered as having the most resources. It is evident that some Category 1 schools received funding increases of over 170 per cent as a result of the introduction of the SES system. Some individual schools received more. For example:

- Haileybury College, Victoria (292 per cent increase by 2004);
- Mentone Girls Grammar, Victoria (279 per cent increase by 2004);
- Trinity Grammar School, NSW (259 per cent increase by 2004); and
- Geelong Grammar, Victoria (252 per cent increase by 2004) (AEU 2004b).

Some of the former Category 1 schools that have benefited most from the switch to the new SES funding model charge amongst the highest fees in the country. The King's School in Parramatta, having received an increase in Federal funding of 205 per cent since 2001, is a pertinent example. This school charges parents fees of \$16,875 per year for Year 12 (up seven per cent since 2003), which makes it one of the most expensive schools in the country. However, its SES score for the 2005-08 funding quadrennium is 116, some 14 points below the highest SES score of 130. The King's School is therefore at a considerable funding advantage when compared with many other private schools, including (in terms of government funding) SCECGS Redlands which charges parents a fee similar to King's (\$16,975 for Year 12). SCECGS has a high and presumably accurate SES score of 129, even though the wealth of parents of students attending the school is likely to be similar to King's. King's has the lower SES score presumably because, as discussed above, parents of children who attend the school live in areas with more diverse incomes, including Western Sydney and country areas. Indeed, it would appear that the application of the SES model gives elite boarding schools a particular funding advantage, possibly because high-income parents from low to medium-income regions are sending their children away to school. For example, Frensham in Mittagong NSW (a boarding school for girls) charges parents \$18,006 in Year 12 but has an SES score of only 109. Under the SES model, this school has received a funding increase of 283 per cent over the 2001-2004 funding quadrennium (AEU 2004b).

**Figure 7 Average increase in Commonwealth Government funding for private schools by category after the introduction of the SES funding model**



Source: AEU 2004c

In response to concerns about the inherent unfairness of the current funding arrangements, the Commonwealth Government has sought to emphasize the amount of public funds that state governments provide to public schools. Table 16a below shows a funding comparison and is taken from a Federal Government publication entitled *School funding – the facts*. The Government’s argument is that because public schools receive more public funds than private schools, the SES funding model is equitable. But when other sources of private school income are added, a different picture emerges revealing the stark inequality of the system. As can be seen in Table 16b, in all cases the amount of funds available to these private schools (from grants and tuition fees alone), is far in excess of that available to the public school with a similar enrolment. It is important to note that Table 16b understates the revenue of private schools because they have additional sources of funds not included here, notably grants and donations from parents and others. These are discussed below.

**Table 16a Funding of schools – 2003 comparison (as provided by the Government)**

Higher Fee Non-government	Total Commonwealth and state grants	State government schools	Total Commonwealth and state grants
The King's School (NSW) (1350 students)	\$3.6 m	Fairvale High School (NSW) (1377 students)	\$15.9 m
Scotch College (Vic) (1823 students)	\$3.5 m	Balwyn High School (Vic) (1870 students)	\$19.8 m
Brisbane Girls Grammar (Qld) (1097 students)	\$3.9 m	Beerwah State High School (Qld) (1002 students)	\$10.8 m
Christ Church Grammar School (WA) (1204 students)	\$3.7 m	Shenton College (WA) (1200 students)	\$14.4 m
Scotch College (SA) (814 students)	\$2.2 m	Craigmore High School (SA) (809 students)	\$9.5 m
Launceston Grammar School (Tas) (674 students)	\$3.2 m	Prospect High School (Tas) (673 students)	\$7.4 m
Canberra Grammar School (ACT) (1492 students)	\$3.6 m	Lyneham High School (ACT) (917 students)	\$11.5 m

Source: Australian Government 2004.

**Table 16b Funding of schools – 2003 comparison with information on additional sources of funding**

Higher Fee Non-government	Total Commonwealth and State grants (excludes tax expenditures)	Estimated total income from tuition fees only (excludes donations, other fees etc) <sup>a</sup>	Total Commonwealth and State grants plus income from tuition fees
The King's School (NSW) (1350 students)	\$3.6 m	\$18.8 m	\$22.4 m
Scotch College (Vic) (1823 students)	\$3.5 m	\$25.6 m	\$29.1 m
Brisbane Girls Grammar (QLD) (1097 students)	\$3.9 m	\$10.8 m	\$14.7 m
Christ Church Grammar School (WA) (1204 students)	\$3.7 m	\$12.9 m	\$16.6 m
Scotch College (SA) (814 students)	\$2.2 m	\$11.0 m	\$13.2 m
Launceston Grammar School (Tas) (674 students)	\$3.2 m	\$5.7 m	\$8.9 m
Canberra Grammar School (ACT) (1492 students)	\$3.6 m	\$13.6 m	\$17.2 m

<sup>a</sup> An estimate of total income from fees was calculated by multiplying the number of enrolled students by the estimated average tuition fee charged at the school. This figure was calculated by taking the Year 12 fee rate given by the Federal Education Minister in his press release entitled 'Labor says it will cut funding to schools – but which schools?', 4 April 2004 and deducting \$750.00, which is the average difference between the fees for Years 7 and 12 at elite schools.

### 5.3 Parental contributions

In addition to public funding and school fees at some private schools, parental contributions begin well before a child is enrolled. Application fees may be as much as \$175 (The King's School 2004b), which can make applying for entry to numerous schools an expensive practice for some parents. In addition, parents are often required to pay a one-off enrolment fee which can be up to \$4075 (St Ignatius' College 2004). At Plenty Valley Montessori School in Diamond Creek, Victoria, parents pay an interest-free bond of \$1500 per family, of which only \$1000 is refundable (Plenty Valley Montessori School 2003). Further, the bond must be paid within 14 days of dispatch of the offer of enrolment.

Tuition fees are the largest costs for parents at private schools. According to ISCA, tuition fees at independent schools (not including Catholic systemic schools) range from \$1000 to \$17,000 per student per annum (Taylor-Steele 2003). However, there are some

private schools, principally primary schools, with fees of under \$500. A few charge over \$18,000.<sup>63</sup>

### *Fee discrimination*

In most schools fees vary according to the year in which a student is enrolled, with fees for Years 11 and 12 being the most expensive. Private schools typically offer parents who have more than one child attending the school discounted fees which can take the form of a set percentage discount for each subsequent child attending a school, a capped rate for two or more students, or a mixture of both.

Some private schools offer discounted fees for families who would otherwise be unable to afford them but such practices can create conflict within the school community. For example, principals in the Catholic education system have complained of the tension between offering an inclusive education for all Catholic families, regardless of their ability to pay fees, and the growing demands of middle-class parents who expect better resources and higher academic results. A recent report from the Catholic Education Commission of Victoria summarises this tension in the following way:

Fee concessions, when they result in revenue that is below the cost of providing education for a student, reduce revenue and subtract from the quality of education provided. Some parents are likely to believe that they are not getting value for money and withdraw their student or not enrol in the first place. This response could produce a downward spiral in enrolments and finances (CECV 2004, p. 4).

In other words, not all parents share the same equity concerns expressed by the principals of these schools, particularly where the enrolment of poorer students will reduce the quality and range of educational opportunities available to other children. Interestingly, the same criticisms do not appear to be levied against large wealthy families, which can also receive generous concessions because of the number of children enrolled at a school. Yet there is no reason to assume that the cost to the school of educating a child declines significantly as the number of siblings enrolled increases.

Scholarships for the students of parents who cannot afford to pay the full school fees have been suggested as a way of making fee concessions more palatable to full-fee paying parents (CECV 2004, p. 3). This is probably because scholarships carry the connotation of being earned rather than given. In most instances, however, scholarships do not operate in the same way as fee concessions since they have exacting conditions imposed upon them. In many otherwise non-selective elite private schools, partial or full fee scholarships are offered only to students who possess a high level of ability in relation to particular subjects, such as music, drama or sport. These schools are therefore non-selective only for the children of parents who can afford to pay full fees. Put simply, if you are from a poor family and you want to go to an elite private school, then your only hope is to be especially talented.

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<sup>63</sup> A list of tuition fees for elite private schools can be found in Benn (2004a).

The use of scholarships to promote equity is problematic since it deprives public or low-fee private schools of the most gifted students who may have an important role to play in encouraging other students towards excellence. It also helps ensure that elite private schools are associated with high achievement.

#### 5.4 Exclusivity and snobbery

At many elite private schools, the population is largely comprised of students from families of high socioeconomic status because only wealthy families can afford to send their children to these schools. Even where students from elite schools have an opportunity to mix with other children, it is typically with students from schools of a similar socioeconomic standing. Exclusive Greater Public Schools (GPS) in Sydney, for example, compete against one another in most sports and debating or against other elite Combined Associated Schools (CAS).<sup>64</sup> The concern is that not only will students at these exclusive schools fail to learn how ‘the other half’ lives but that, as a result of their social isolation, they may develop snobbish values and behaviours. Recent research with students from elite private girls’ schools in Melbourne has revealed that scholarship students consider others to be more naïve and not as likely to have an understanding of people who are less well-off (Pallota-Chiarolli 2004).

##### *Public attitudes to snobbery in expensive private schools*

Respondents to the Newspoll survey conducted for this study were asked whether they believe expensive private schools promote snobbery in society. The results are reported in Table 17. Fifty-eight per cent agree that expensive private schools promote snobbery in society. Respondents in Sydney were more likely to agree (61 per cent) than those living in Melbourne (53 per cent). It is interesting to note that the belief that expensive private schools promote snobbery falls steadily as exposure to private schools increases, with 45 per cent of respondents exposed (through their own or their children’s schooling) only to private schools agreeing and 64 per cent of those exposed only to public schools agreeing. Interestingly, nearly half of those exposed only to private schools agree nevertheless that expensive private schools promote snobbery. A former private school student made his views known in a letter to *The Australian* earlier this year.

I for one would like to agree with John Howard’s claims over the supposedly superior focus on ‘values’ that private school education provides. As a student of a boys-only Anglican Church Grammar School in Brisbane between 1982 and 1988 I remember vividly what some of these values were.

These were things like: snobbery and a sense of superiority over the less well off; installation of a ‘born-to-rule’ attitude; over-the-top individual competitiveness; rampant misogyny; bullying; the condoning and carrying out of

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<sup>64</sup> The GPS schools in Sydney are comprised of Sydney Church of England Grammar School (Shore); Sydney Grammar School; St Ignatius’ College, Riverview; The Scots College; Newington College; The King’s School; The Armidale School (the only country GPS school) and Sydney Boy’s High School, which is a selective public school.



homophobic violence; racism; the endurance of near psychotic behaviour by teachers; and the notion that you're not really quite a man unless you played rugby.

All of this was overlaid by the complete illusion that it was a school dedicated to Christian values (Dr Ben Reid 2004).

**Table 17 Percentage of respondents who agree that 'expensive private schools promote snobbery in society' (%)**

	Sydney	Melbourne	Exposed to private schools only	Some exposure to private schools	No exposure to private schools	Total
Strongly agree	31	29	20	24	40	32
Partly agree	31	25	25	30	25	26
<b>Total agree</b>	<b>61</b>	<b>53</b>	<b>45</b>	<b>54</b>	<b>64</b>	<b>58</b>
Partly disagree	18	23	16	21	20	20
Strongly disagree	16	20	35	22	11	18
<b>Total disagree</b>	<b>35</b>	<b>42</b>	<b>50</b>	<b>43</b>	<b>31</b>	<b>37</b>

Source: Newspoll. Figures may not add due to rounding.

## 5.5 Conclusions

This Section has shown that in recent years elite private schools have received a disproportionately high percentage of the Commonwealth Government's increase in funding to the private school sector. Given the widespread acceptance of the existence of shortcomings in some public schools, as well as in low-fee private schools, the funding model implemented in 2000 does not help to achieve the stated Goal of ensuring that all students have access to high quality education. Judith Wheeldon, the principal of one of Sydney's elite private schools, Abbotsleigh Girls School, has recently stated that:

We have let the two major groups of schools - the ones that are expensive and the ones that are not - get too far apart from each other. Now that's creating a divide that will last a lifetime and it's not right (Wheeldon cited in Maiden 2004a).

Furthermore, a substantial majority of Australians agree with the proposition that expensive private schools promote snobbery. Elite private schools, therefore, appear to be expanding, rather than reducing, both the educational and social divides in Australia.

## 6 Accountability issues in the financing of private schools

### 6.1 Tax expenditures on private schools

Private school fees are not tax deductible and nor are fees or levies paid to public schools. However, many private schools and some public schools operate building or library funds to which parents and ex-students are encouraged to make tax-deductible donations.<sup>65</sup> These tax concessions greatly assist some schools to raise funds from private sources. In relation to private schools, these donations can increase the funds available to the schools substantially and thereby either permit fees to be lower than they might otherwise be or the quality of services offered to be higher.

Fundraising activities undertaken by the schools directly or by foundations set up specifically to raise funds are another important source of revenue. The significance of these efforts is highlighted by the following quotation:

Shore is constantly in need of donations, gifts and bequests so that development can be continued and facilities improved. There is no end, no finality in the development of a School such as Shore. One can only hope that those associated with Shore now and in the future, will be as generous as those in the past (Taylor quoted in Shore 2004a).

Both public and private schools invest heavily in fundraising, but some schools demonstrate far more sophisticated efforts than others. A number of elite private schools have established separate and well-resourced foundations that are responsible for financing specific projects and raising capital for the school.<sup>66</sup> Bequests, appeals and memberships are the major sources of income for these foundations, and all are actively pursued. In relation to bequests, The Scots College in NSW, states that:

The Foundation encourages you to consider leaving a gift or bequest in your will. Basically, anything of value for which there is a market may be given as a gift. The Foundation is only too happy to work with you (and your advisors) to create a gift that meets your needs, and consider which of your assets might be appropriate for you to use as you make your gift.

The Foundation can even provide you and/or your solicitor with the appropriate wording and in fact the Foundation can suggest a number of solicitors who will help prepare your will (The Scots College 2004a).

The tax-deductibility of building and library funds arises from specific provisions of the income tax law (s.30-25 Item 2.1.10 *Income Tax Assessment Act 1997*) and may ultimately be traced to the principle that trusts for the advancement of education are one of the four categories of charitable purpose as defined in the common law. There is also a public policy aspect to the tax incentive which, to some extent, shields governments

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<sup>65</sup> Building funds operated by public schools are not considered in this report as the evidence suggests that the problems identified here are more prevalent in private schools.

<sup>66</sup> Private schools with foundations include Ravenswood (NSW), Scotch College (VIC), Shore (NSW), The King's School (NSW) and The Scots College (NSW).

from demands to fund school buildings. To qualify for tax-deductibility, donations must have the following characteristics:

- they must be made voluntarily, that is be freely given;
- they must not provide a material benefit for the donor, such as a reduction in school fees or receipt of a scholarship;
- they must essentially arise from a benefaction (that is be charitable in purpose), and be an act of detached and disinterested generosity; and
- they must be made to a public fund established and maintained solely to provide money for the acquisition, construction or maintenance of a building used or to be used by a school or college which is government or public, or run as a not-for-profit association ('private school').<sup>67</sup>

Income raised from donations can be substantial. For example, in just two years, the Scotch College Foundation raised \$7 million in support of the James Forbes Academy, a state-of-the-art centre for music and drama at the school (Scotch College 2004b). This money was raised through the Foundation's tax-deductible building and library fund, meaning that Australian taxpayers contributed around \$3.4 million towards the project.<sup>68</sup> To put this figure in perspective, in 2003 Scotch College received \$2.6 million from Commonwealth grants (DEST 2004c). At the Shore School, The Shore Foundation raised over \$1.4 million in 2002/03 and directed the funds to the Educational and Building Trusts to meet part of its commitment of \$2 million towards the cost of 'the New Library, Multi Media and Gymnasium Project (Shore 2004c).<sup>69</sup> In 2003, Shore received \$1.6 million from the Commonwealth (DEST 2004c).

Table 18 provides estimates of the potential cost to taxpayers arising from tax deductible donations to a selection of elite private schools. The SES score of each school is shown, along with its primary and secondary student enrolments and the 'recommended' building fund donation. The total revenue from building fund donations is calculated by taking 50 per cent of the recommended donation and multiplying it by the number of students enrolled at the school. This figure could be substantially higher but it has been conservatively estimated that only half of parents make the recommended donation.<sup>70</sup> The potential tax expenditure, that is the amount of tax revenue forgone by the Federal Government due to the tax-deductibility of these donations, is calculated by multiplying the total revenue by the top marginal tax rate (48.5 per cent).

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<sup>67</sup> The Australian Taxation Office provides detailed guidelines. See 'Making tax deductible donations' and 'School building funds and tax deductible gifts' on the ATO website, [www.ato.gov.au](http://www.ato.gov.au).

<sup>68</sup> This figure assumes that all donors were on the top marginal tax rate of 48.5 per cent and that all claimed a tax deduction for their donations.

<sup>69</sup> The Shore Foundation notes that as of 1 January 2003, there was \$400,000 outstanding.

<sup>70</sup> The Development Manager of St Andrew's Cathedral School has said that 57 per cent of St Andrew's Cathedral School families pay the nominated building fund donation (Benn 2004b)

As can be seen from Table 18, the potential tax expenditures that are provided to private school communities each year can be substantial. St Ignatius' College, for example, would receive donations of over \$815,000 per year if 50 per cent of the parents made the nominated payments. For that school, the potential tax expenditure associated with the tax-deductibility of building fund donations is equal to nearly 15 per cent of total Federal Government grants to the school in 2004.<sup>71</sup> As we have seen in the case of Scotch College and Shore, special appeals can increase the amounts raised substantially above the normal levels.

Transparency requires that the cost of these tax deductions to Australian taxpayers should be included in Federal Government statements about the level of assistance provided to elite private schools, and should be revealed in Treasury's annual Tax Expenditure Statement.

**Table 18 Estimated value of the tax expenditures associated with payments to tax-deductible 'building funds' at selected elite schools**

Name of school	SES score	Primary students 2004 (no.)	Secondary students 2004 (no.)	Recommended building fund donation (\$)	Estimated total revenue p.a. (\$) (if 50% of parents pay the nominated fees)	Estimated annual tax expenditure (\$)
Kincoppal - Rose Bay (NSW)	125	376	434	600	243,000	117,855
Kingswood College (VIC)	115	134	300	500	108,500	52,623
Loreto Mandeville Hall (VIC) <sup>a</sup>	123	270	637	700	317,450	153,963
Pymble Ladies' College (NSW)	127	114	57	600	51,300	24,881
Sacre Coeur (VIC) <sup>b</sup>	119	163	475	660	210,540	102,112
SCEGGS Redlands (NSW)	129	613	954	350	274,225	132,999
St Ignatius' College, Lane Cove (NSW) <sup>c</sup>	124	203	1350	1050	815,850	395,687

Key: <sup>a</sup> \$700 one girl, \$1000 two or more; <sup>b</sup> \$660 per family; <sup>c</sup> \$1050 one boy, \$2100 two or more

<sup>71</sup> In 2004, it is estimated that St Ignatius' College will receive \$2,781,067 in Commonwealth grants (DEST 2004c).

Note: These numbers are indicative only. As suggested above, some parents may not comply with requests and other parents may receive 'discounts' on their 'donation' if they have more than one child enrolled. In some cases, parents are asked to pay a fee for the whole family only. As there are no data available on the number of children from the same family attending a school, the figures have been calculated on the assumption that donations are received covering approximately 50 per cent of students at the school at the rate nominated for the first child where more than one rate is provided.

Sources: Kincoppal-Rose Bay, *pers. comm.* 3 May 2004; Kingswood College 2004; Loreto Mandeville Hall 2004a; Pymble Ladies' College, *pers. comm.* 3 May 2004; Sacre Coeur 2004; SCEGGS Redlands, *pers. comm.* 3 May 2004; St Ignatius' College 2004.

## 6.2 Is there a need for a public benefit test?

No distinction is made in the tax treatment of donations to public or private schools, nor in donations to wealthy schools as opposed to poor schools, based on the argument that there is a public benefit in the education of all persons, and that 'education provides the foundation skills, knowledge and experience which help develop in people, particularly the young, the capacity for a productive and fulfilling life and for their constructive participation in society' (Sheppard *et al.* p. 169).

It is obvious that a public benefit results from the education of all persons but it is arguable that at some point the benefit becomes more private than public, and that when it does donations should cease to be tax-deductible. One could question, for example, the degree of public benefit accruing from the improvement of buildings and sporting facilities at elite private schools, facilities that are often already of a higher standard than those at other private schools and public schools.

To illustrate, The Shore Foundation is now seeking to raise \$2 million for the redevelopment of the Northbridge Oval and associated sporting facilities (Shore 2004a, p. 2). Parents and friends are being encouraged to secure the naming rights to the pickets of a new fence, by purchasing each picket for \$500. The public cannot use the Northbridge facilities. Apart from a small number of enrolled students in the best sporting teams, only students from top sports teams of other Greater Public Schools (GPS) and sporting clubs involving Old Boys have access. Shore's Headmaster confirms that these are hallowed grounds:

Since the opening of the Northbridge grounds in 1919, countless boys from Shore and other schools have enjoyed participating in cricket, rugby, and athletics on the acclaimed 'A' ground. Being of dimensions similar to the SCG it has long been a favoured venue (Grant quoted in Shore 2004a, p. 2).

Since donations for the purchase of pickets are made to the Shore Foundation Building Trust, the Commonwealth is providing a benefit of up to \$242.50 for each picket bought. In other words, if a \$2 million target is achieved then it is likely that ordinary taxpayers will end up subsidising by almost a million dollars an extremely expensive playground reserved for students attending GPS schools.

Private school associations representing elite schools do not support distinguishing between the charitable status of private schools on the basis of their wealth. In the words of the NCISA:

It is appropriate and reasonable that, as is substantially the case with the current common law treatment, non-government schools are a class of institution deemed to be charitable, rather than requiring a specific evaluation of the circumstances of individual schools. To do otherwise would raise uncertainty and compliance costs within the school sector, together with the costs to the administering agency with a commensurate increase in community benefits.

An approach that differentiates between schools in terms of eligibility for charitable status risks being unresponsive to the changing nature of schools and creating arbitrary cut-off points with unintended inequities and anomalies. Ultimately this would detract from the capacity of independent schools to provide quality education and hence the social benefit they provide to the community (NCISA 2000, p. 10).

In its submission to the inquiry into the definition of charities and related organizations, NCISA stated that, generally speaking, donations represent a relatively small share of the annual income available to private schools. However, as has been shown above, this is certainly not the case for elite private schools, which in some instances (for example Scotch College) are able to raise through donations more than they receive from Commonwealth grants. Furthermore, the tax-deductibility of donations ensures that scarce government funds are directed towards the schools with the greatest capacity to attract donations rather than to schools that would benefit most from additional resources.

### **6.3 Tax minimization through private school fee structuring**

Structuring private school fees so that they include a ‘donation’ to school building funds both reduces the cost of private school education for parents and increases the cost of private schooling to the taxpayer. The Australian Taxation Office (ATO) has ruled that claims for deduction of gifts to school building funds are not allowed if the school has asked parents to make ‘donations’ as an alternative to an increase in school fees.<sup>72</sup> This puts current practices in a grey area as many schools emphasise to parents that they depend heavily on donations to building funds to sustain the level of education quality at the school. For example, The King’s School, which like other elite schools has established a separate foundation to administer its building fund, has stated that:

If all the money made available to the School over the last 20 years had been borrowed, instead of being given by the Foundation and some other endowments, then current tuition fees would need to be at least 13% higher (McGregor 2002).

At The King’s School, parents are reminded of the relationship donations bear to the quality of education received by their children and are asked to donate each term.

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<sup>72</sup> Such arrangements ‘do not have the true character of gifts for the purposes of section 78 [of the Income Tax Assessment Act]. ... The payments are not, all things considered, voluntary in nature nor is there a situation where the payers do not receive an advantage of a material character in return for making them’. Taxation Ruling No. IT 2071, Income Tax: School Building Funds, see <http://law.ato.gov.au/pdf/it2071.pdf>

Through termly giving with School fees parents contribute towards building maintenance and refurbishment programmes (McGregor 2002).

Apart from these considerations, there is evidence to suggest that donations to some private schools are not being given freely either because parents are unaware that the payment is voluntary or because they are pressured by the school to give. These pressures can include perceptions that their child may be disadvantaged if they fail to make a donation. In addition, there is anecdotal evidence that some donors to school building funds receive a benefit from the gift, namely the enrolment of their children ahead of others on the waiting list. In these cases, claiming a tax deduction for a donation to a school building fund may not be legitimate.

Details of some of the problems encountered with tax-deductible donations to private school building and library funds are discussed below.

#### *Donations associated with fee payments*

Donations are expected

Many schools request that parents make a tax-deductible donation to the school for building or library works at the time they pay their school fees and often suggest or request that specific amounts be donated. Calculation of amounts to be donated appears to be based on the schools' estimates of the need to fund all or part of the capital or recurrent costs for buildings at the school.

Pressure to make donations to building funds takes various forms. Often the language used by the school to request the donation belies the fact that the payments are, in fact, voluntary. At St Aloysius' College in NSW, for example, parents are told that:

While tuition fees cover a major portion of a boy's education at St Aloysius' College, fees do not and cannot provide all the funds we need to undertake building projects and new major capital works. The Foundation Building Fund is vital for the provision of new buildings and resources (St Aloysius' College 2004a).

The implication is that school fees alone are inadequate to provide a proper standard of education for pupils at the school. The school also tells parents:

The College Building Fund, *which appears as a voluntary contribution on School fees*, provides for the recurrent expenditure and maintenance (paint, carpet etc) of existing buildings only (St Aloysius' College 2004a, emphasis added).

The wording, 'which appears as a voluntary contribution on School fees', may have been chosen to suggest to parents that, while it *appears* to be voluntary, a contribution is in fact required. The pressure is intensified:

There is a mistaken perception in the community that St Aloysius' College has adequate funds on which to draw. The reality is that without strong and active support of the College Family, the College would not have the financial capacity

to complete many major projects that enhance the education of our boys (St Aloysius' College 2004a).

Finally, in relation to the St Aloysius' Building Fund, the expectation to donate is made explicit:

A Foundation exists at St Aloysius' College and parents are *expected to join* at a level in keeping with their personal circumstances (St Aloysius' College 2004b, emphasis added).

In order to prompt parents to give generously relative to their 'capacity to do so', the following table (Table 19) is provided. It is interesting to note the explicit assumption that all parents are in the top marginal tax bracket which, prior to 1 July 2004, meant that they had incomes in excess of \$62, 501.<sup>73</sup>

**Table 19 Indicative donations to St Aloysius' College Foundation Building Fund**

Total gift over five years	Gift per annum	After tax cost approx.
\$100,000	\$20,000	\$10,260
\$50,000	\$10,000	\$5,130
\$30,000	\$6,000	\$3,078
\$25,000	\$5,000	\$2,565
\$20,000	\$4,000	\$2,052
\$15,000	\$3,000	\$1,539
\$10,000	\$2,000	\$1,026
\$5,000	\$1,000	\$513

Source: St Aloysius' College 2004a

St Aloysius charges parents over \$8000 per year for Year 12 students and receives a further \$4089 per year per student from state and Federal governments (St Aloysius' College 2004b). From information on the school's website, it is clear that the extra money raised from the College Building Fund is required to cover day-to-day expenses - 'recurrent expenditure and maintenance (paint, carpet etc)' (St Aloysius' College 2004a). Examples of recurrent expenditure are not given. However, the tax concession is aimed largely at capital items - 'acquisition, construction or maintenance of a building'.

As a second example, parents with children at the Maranatha Christian School in Endeavour Hills, Melbourne, are asked to accept the necessity of contributing to the building fund.

The 'building fund' amount represents a contribution to school income for certain operating expenditures of the school which can be separately identified

<sup>73</sup> From 1 July 2004, the top marginal tax bracket is \$70,001. From 1 July 2005, it will be \$80,001.



for taxation purposes - these are maintenance and financing costs of eligible existing buildings in the school complex. It is not a contribution towards new buildings.

The School has nominated \$300 as the amount of the building fund donation. *We wish parents to recognise and accept the necessity of this contribution in meeting the School's operating budget.*

The donation is tax deductible.

The nominated amount will be indicated on the fees statements issued by the School (Maranatha Christian School 2004, emphasis added).

In addition to the statement that the contributions are a 'necessity' for the school, the inclusion of a specified amount on the fee statement implies that a parent must take an active decision to refuse to make a contribution to the school's building fund. Since there is clearly a strong expectation by the school that parents will pay, claiming a tax deduction for contributions to the Maranatha Christian School building fund may not be allowable.

Donations are assumed

In a few cases, school fee statements actually suggest or indicate that payments to building and library funds are compulsory *and* that the contributions are tax-deductible. For example, the fee statement on the website of Minaret College, Victoria, provides no indication to parents that building fund donations, which are said to be tax deductible, are optional, despite explicitly informing them that bus fees are optional. It also advises that the 'composite fee', like the tuition fee 'payable in advance each term', includes a Library Levy that is tax deductible (Minaret College 2003). A 'levy' is not usually seen as a donation.

Beaconhills College in Victoria goes even further, telling parents that payments to its building fund are an essential part of the cost of educating their child.

The Building Fund Contribution is \$450 per family per year and is a Tax Deductible Donation. Building Fund Contributions are an essential part of the income of the College in that they are the means by which we are able to finance some necessary Capital Works of the College.

The College regards Building Fund Contributions *as part of the cost to parents of providing an education* for the children in our care. In the same way as school fees are necessary to finance the day to day operation of the school, the *Building Fund Contributions are necessary to finance the Capital Development of the school*, i.e. new buildings.

Consequently, *parents should view their contributions to the Building Fund simply as part of the cost of educating their child or children, and add their Tax Deductible Contribution of \$450 per year or \$112.50 per term to the payment of fees* (Beaconhills College 2004, emphasis added).

The Christadelphian Heritage College Sydney simply presents its scale of fees on its website and then informs parents that:

\$300 per child (maximum \$1,200) of the above fees is to be made payable as a tax deductible donation to the building fund. The balance of the fees to be paid to the general fund (Christadelphian Heritage College Sydney 2004).

It would be difficult to maintain that ‘donations’ paid to these schools are voluntary. They are presented as an essential component of the school fees and anyone claiming them as a tax deduction would thus appear to contravene tax laws.

‘Donations’ are compulsory

Some schools have abandoned any pretence that parents have any choice at all in making donations to the building fund. The website for Kardinia International School in Victoria, for example, previously said of its building levy:

This is a *compulsory* Levy, which is charged annually to families that attend Kardinia International College, with students in Prep to Year 12.

Not Tax Deductible \$185.00

Tax Deductible \$250.00

(Kardinia International School 2004a, emphasis added)

Following the publication of an Australia Institute report in May this year, the Kardinia International School changed its policies so that if parents pay a tax deductible ‘donation’ of \$250, the compulsory (and non-tax deductible) levy of \$185 would be waived. This is arguably a breach of Part 4A of the *Income Tax Assessment Act 1936*. The following is an extract from the revised Kardinia website.

### **Building Levy**

This is a compulsory levy, which is charged annually to families that attend Kardinia International College

Not Tax Deductible \$185.00

### **Building Fund Donation**

If a donation of \$250 is made to the College, then this amount will be tax deductible and the Building Fund levy will be waived (Kardinia International School 2004b).

Non-compliance with library fund rules

Since donations to school library funds can be spent on a broader array of activities than school building funds (including, for example, operational expenditure), the ATO has imposed more stringent rules on the regulation of these funds. It has been suggested

that, among some schools, compliance with taxation rules regarding school library funds is a particular problem (Kelley *pers. comm.* 2004). Specifically, some schools appear not to be:

- operating the school library as a separate entity to the school;
- separating the school library from the school in both operation and appearance;
- keeping the accounts of the library separate from those of the school;
- ensuring that any gifts to the library are used only for the purposes of the library;
- ensuring that the management committee of the library is comprised of a majority of persons with appropriate qualifications;
- developing appropriate governing documents concerning the operation of the library in relation to its objectives, acquisition policies, ownership of assets, staffing etc (Kelley *pers. comm.* 2004).

#### Receiving a benefit

Another practice that raises questions about the legality of some claimed tax deductions relates to the returns that some parents receive for making donations. Places at elite private schools are often filled many years in advance, making it difficult even for very wealthy parents to enrol their children at the school of their choice. There is anecdotal evidence to suggest that some parents have ‘queue-jumped’ waiting lists by offering schools large sums of money in the form of ‘donations’ to building funds. The ATO has ruled that payments made to a building fund in return for the school’s accepting an application (or confirming an enrolment) are not tax deductible (ATO 1993). ‘A fee is not a gift’ because there is a benefit to the payer, although the more likely ground for denying deductibility is the lack of voluntariness. Depending upon the role that the school plays in these activities, they too could be encouraging illegitimate claims against the Commonwealth.

#### 6.4 Implications

Many, perhaps most, schools scrupulously adhere to the spirit and the letter of the law in relation to school building funds. However, there is evidence to suggest that some private schools are urging or facilitating parents to claim tax deductions for contributions to building funds to which they are not entitled. Other schools, perhaps with the benefit of advice from tax experts, do not make false claims but nevertheless apply intense pressure on parents to make ‘voluntary’ contributions. There is also evidence to suggest that schools are not complying with laws concerning the regulation of school library funds.

As a result of these practices, Australian tax-payers are funding additional payments to schools and some parents are taking advantage of tax breaks to which they are not entitled under law. It is therefore incumbent upon the Federal Government to enforce the tax laws more rigorously. At a minimum, the Federal Government should require all

schools with building funds to include on their fee accounts and solicitation material, including websites, a clear statement that all contributions to building funds that enjoy tax deductible status must be entirely voluntary. As indicated, there are over 2600 private schools in Australia. The examples cited in this section were collected with little investigative effort. The ATO should examine the practices of schools more closely and, where breaches are found, recover the tax underpaid. If schools respond that such action would force them to raise their fees, then this would provide further evidence of the extent of the tax currently being avoided.

## 7. Are more private schools good for Australia?

### 7.1 The debate about private schools

There has been superficial debate over the ‘values’ associated with private *versus* public education in Australia, together with an ongoing debate about funding private schools. But there has been little policy or public discussion of the more general issue – whether increased reliance on private school education is good for Australia. This section does not attempt to provide a definitive answer. Rather, it seeks to take public debate beyond ‘what school is best for my child’ and towards ‘what kind of education system is best for Australia?’

#### *Towards an equitable and efficient schools policy*

The Howard Government’s promotion of choice in educational services is based on the assumption that having more private schools is good for the nation. This, in turn, is based on the belief that private schools achieve better outcomes for children and their parents and, as a result, the broader community. However, there is a strong argument that diverting more public resources from public to private schools is detrimental to the long-term interests of the community.

Only a relatively small proportion of parents can afford to send their children to private schools, particularly the elite private schools. There is also a significant number of parents who have no desire to send their children to private schools. The reasons include the quality of the education available at private schools, the values taught at these schools, their accessibility and a philosophical commitment to public education. Consequently, increasing funding to private schools at the expense of public schools is contrary to the interests of this group of parents. It may also result in a duplication of educational services.

In addition, the proliferation of private schools may undermine the ability of the education sector to contribute to a cohesive and harmonious society by promoting elitist values and segregation along religious and class lines. Public schools with diverse student bodies are more likely to be effective in teaching tolerance and respect for difference. For this reason, investing in the public sector is liable to be a far more cost effective way of achieving social objectives.

It is understandable that parents might wish to send their children to private schools in order to give them what they perceive to be a ‘head start’. But when the social interest and individual interests are in conflict, government policy should be driven principally by what is best for the nation. This requires governments to determine the most efficient means of providing all Australian children with a high quality education – a requirement that is consistent with the *National Goals for Schooling*. It also requires governments to consider the most cost-effective way of ensuring that schools can contribute to the creation of a tolerant and harmonious society. To the extent that private schools receive less public funding than public schools, it may be more cost-effective to require private school to actively pursue the *National Goals for Schooling* than to change the funding formula to encourage a shift of students back to public schools. This reinforces the need to make private schools accountable to public values, and for public funding of private

schools to be contingent on meeting all of the national Goals. On the other hand, supporting elite private schools with public funds means that a minority of children have more resources available to them to improve their education and life chances, contrary to the goals of the schooling system. To promote equality of opportunity as a public goal, taxpayers' money would be better spent on ensuring that public schools and low-fee private schools are better resourced.

*Community attitudes towards the growing role of private education*

While more Australian parents are choosing to send their children to private schools, the majority does not believe that policies to encourage this trend benefit the nation. The Newspoll survey commissioned for this study reveals that the majority of respondents (57 per cent) disagree with the statement that 'policies to increase the number of children going to private school would be good for Australia' – see Table 20. A further ten per cent are unsure, leaving only 33 per cent supportive of the Federal Government's approach to school funding. While Table 20 shows that respondents who have children in private schools are more inclined to believe that such policies are worthwhile, of this group 42 per cent do not hold this view, with a quarter strongly disagreeing.

Those in the 18-24 year old age group are the most likely to disagree with the proposition that policies to increase the proportion of children going to private schools would be good for the nation – see Table 21. Those with no exposure to private schools (that is neither they nor their children have attended private schools) are the most likely to reject the Government's view that promoting private schools is good for the nation – Table 22.

**Table 20 Percentage of respondents who believe that 'policies to increase the number of children going to private schools would be good for Australia', by whether they have children in private schools (%)**

	Children in private schools		Total
	Yes	No	
Strongly agree	22	11	16
Partly agree	25	14	18
Total agree	47	25	33
Partly disagree	17	22	21
Strongly disagree	25	44	36
Total disagree	42	65	57
Neither/don't know	11	9	10

Source: Newspoll. Figures may not add due to rounding.

**Table 21 Percentage of respondents who believe that ‘policies to increase the number of children going to private schools would be good for Australia’, by age group (%)**

	18-24 year olds	25-34 year olds	35-49 year olds	50 plus year olds	Total
Strongly agree	12	16	16	17	16
Partly agree	20	23	17	15	18
Total agree	33	39	32	32	33
Partly disagree	28	24	18	19	21
Strongly disagree	34	31	41	36	36
Total disagree	62	55	59	55	57
Neither/don't know	5	6	9	13	10

Source: Newspoll. Figures may not add due to rounding.

**Table 22 Percentage of respondents who believe that ‘policies to increase the number of children going to private schools would be good for Australia’, by exposure to private schools (%)**

	Only exposed to private schools	Some exposure to private schools	No exposure to private schools	Total
Strongly agree	26	21	11	16
Partly agree	18	27	13	18
Total agree	44	47	23	33
Partly disagree	18	18	24	21
Strongly disagree	25	26	44	36
Total disagree	43	44	68	57
Neither/don't know	13	9	9	10

Source: Newspoll. Figures may not add due to rounding.

The survey did not explore the reasons for supporting or rejecting the expansion of private schools, but it is reasonable to assume that the explanation can be found in the responses to some of the other questions asked in the survey. We have seen that most respondents believe expensive private schools promote snobbery and a large majority believe that it is good for children of different ethnic and religious backgrounds to mix at school. Further, the overwhelming majority disagree that private schools should be able to expel students who are gay or girls who become pregnant.

## 7.2 Conclusions

The Australian Government has said that parents are deserting the public education system because the private sector teachers 'better values'. However, this paper raises serious questions about the performance of the private school sector in imparting at least some of the values that are important to the community, including tolerance, respect for difference and equality of opportunity. These values are vital to sustaining a socially cohesive society yet are unobtainable when high fees act as a barrier to large sections of the community and the right to discriminate against gay or pregnant students explicitly excludes some children. The existence of such practices is in sharp conflict with the *National Goals for Schooling*.

Private schools are exempt from a wide range of anti-discrimination laws and are therefore legally entitled to discriminate against staff and students on the grounds of religion, sexuality, pregnancy and gender in some circumstances. While it appears that few private schools are using these exemptions to exclude students, the fact remains that some do and this fosters an environment of intolerance.

By charging high tuition fees, some private schools exclude students from low-income families, other than the handful able to obtain scholarships. Elite private schools with tuition fees exceeding \$15,000 principally attract students from wealthy families. The overwhelming majority of Australian families simply cannot afford to spend such large amounts on educating a single child, let alone two or more.

Private schools are also more divided than public schools along religious lines. Unlike public schools that are secular institutions made up of students of different faiths, private schools are far more likely to be comprised of students of a similar religious background. In some religious schools, students of a single faith almost exclusively dominate the student body. While a significant number of religious schools welcome students of different faiths and encourage them to maintain their beliefs, there are others that actively seek to convert them. This situation, coupled with the fact that some private schools do not tolerate difference, particularly in relation to issues of sexuality, begs the public policy question of whether it is appropriate for government to support and foster religious values where those values are out of step with community attitudes. In order to ensure that public funds are being spent properly it is necessary to link public funding more closely to the willingness of private schools to enact policies that are entirely consistent with the *National Goals for Schooling*.

Schools that are dominated by staff and students of the same or similar socioeconomic and ethnic backgrounds find it more difficult to put the values of tolerance and mutual respect into practice than schools with more diverse populations. It is also likely that schools that do not see themselves as having to comply with the anti-discrimination standards applying to the rest of the community will be less effective in teaching the values that underlie anti-discrimination legislation.

Thus, the unconditional increase in Federal Government funding of the private school sector is actively undermining the values of schooling that have served Australia since colonial times. Instead of a secular education where students of different faiths can learn together, current policies allow some private schools to institutionalise intolerance and



fail to teach acceptance of difference. In addition, Commonwealth funding for elite schools promotes a higher-quality education available only to a small segment of the population. The Howard Government's policy of increasing subsidies to elite private schools is both inequitable and inefficient as a method of achieving the social and economic objectives of school education. If the Government's intention is to ensure that all Australian children have access to a quality education, it would be far more efficient to ensure that public schools are adequately resourced as an essential first step. Concentrating public funding on public schools is also a more cost-effective means of ensuring that schools are able to contribute effectively to the creation of an inclusive and tolerant society.

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