



Queensland non-state schools accreditation framework review

Final Report

Cheryl Vardon AO DUniv

Independent Reviewer
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The Review acknowledges Aboriginal and Torres Strait Islander peoples as the Traditional Custodians across the land, seas and skies where we walk, live and work.

We pay our respects to the Elders past, present and emerging, for they hold the memories, the traditions, the culture and hope of Aboriginal and Torres Strait Islander people across the state.

A better understanding and respect for Aboriginal and Torres Strait Islander cultures develops an enriched appreciation of Australia's cultural heritage and can lead to reconciliation. This is essential to the maturity of Australia as a nation and fundamental to the development of an Australian identity.

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The Review Team, led by Ms Michelle Dixon, Director Non-State Schools Accreditation Framework Review, has been instrumental in developing a report that accurately captures the perspectives of stakeholders and articulates a clear path forward. I would like to thank all members of this team, especially:

- **Ms Tracey Jarrett,**
Principal Policy Officer and subject matter expert on secondment from the NSSAB Secretariat
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Researcher and lead editor
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Senior Policy Officer

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Finally, I am grateful to the many stakeholders, including governing bodies, principals, parents and other peak bodies, who participated in roundtable discussions and provided submissions to the Review. I deeply appreciate the generous contributions from Professor Lee-Anne Perry AM and other external experts.



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Queensland Non-State Schools
Accreditation Framework Review

Foreword

I am pleased to present the report of the Review of the Non-State Schools Accreditation Framework.

Non-state schools in Queensland have been accredited since 1989 under various legislation, with minor reviews and changes occurring in 2001, 2016 and 2017.

This Review is comprehensive and collaborative, considering both evolving approaches to education and the increasing public focus on the safety and wellbeing of all students.

The Review also sets out the changes required to bring the Framework and associated governance mechanisms into harmony to create a contemporary, independent regulatory entity for Queensland's non-state schools.

There is positive momentum for change and trust too that stakeholders will continue to be involved.

I wish to thank the many parents, school leaders and members of governing bodies for their readiness to participate in the Review. They spoke frankly and openly about the challenges that non-state schools face in their commitment to delivering education that is both sensitive to community needs, values and expectations and rigorous in its compliance with relevant legislation and regulations.

I also acknowledge the invaluable work of the Non-State Schools Accreditation Board in assisting schools to uphold high education standards, foster educational choice and maintain public confidence in the non-state schooling sector. For many years, the NASSAB Secretariat – located within the Queensland Department of Education – has provided exceptional administrative and operational support to the Board even as its workload has increased and intensified.

In 2022, non-state schools comprised around 30 per cent of schools in Queensland, representing a broad array of faiths, philosophies and educational approaches. The sector provides learning to almost 300,000 children and young people, from small schools in remote locations to large city schools, crossing boundaries of faith, specialisation and assistance to students with particular needs. Enrolments have increased substantially in recent years, in tandem with a heightened focus on quality, accessibility, equity and child safety and wellbeing.

I note the significant potential for stronger support and engagement of non-state schools with high enrolments of First Nations students. This report does not touch on these opportunities. However, there is emerging national advocacy, including from Queensland schools, for an education system prioritising Indigenous language and culture where possible in partnership with local state schools. There are some examples of these partnerships in action in Queensland.

It is my hope that the findings and recommendations of this report will spark meaningful discussions, catalyse immediate positive change, and pave the way for a future where Queensland's non-state schooling sector leads best practice in accreditation and regulation.



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Executive summary

In March 2023, Ms Cheryl Vardon AO was appointed to lead the Queensland Non-State Schools Accreditation Framework Review (the Review).

The purpose of the Review was to make sure the Non-State Schools Accreditation Framework (the Accreditation Framework) is fit for purpose, supports the provision of quality education and maintains public confidence in Queensland's non-state schools.

Under the Terms of Reference, the Review set out to consider the powers and functions needed to support high standards of education; flexible, risk-based and responsive approaches to monitoring and regulation; options to minimise regulatory burden on the sector and non-state schools; and enhanced models of governance and decision-making.

The Review undertook extensive desktop research of regulatory frameworks for non-state schools in other jurisdictions. This research was complemented by a comprehensive consultation process that sought the views of key sector stakeholders, including parents' expectations of non-state schools and the standards to which they should be held. Together, this work informed the recommendations of the Independent Reviewer, with this report documenting the outcomes of the Review.

Celebrating successes and supporting choice

Queensland's education system is supported by twin pillars: free, high-quality education provided by the state, and a system of non-state schools providing education from a wide array of secular and non-secular perspectives. Parents' right to choose from among these educational environments, and to select one that best

The Non-State Schools Accreditation Framework

The Accreditation Framework refers to:

- the legislative framework for regulating non-state schools
 - *Education (Accreditation of Non-State Schools) Act 2017 (Qld)*
 - Education (Accreditation of Non-State Schools) Regulation 2017 (Qld)
- the associated architecture giving effect to the legislative requirements
 - the Non-State Schools Accreditation Board
 - the Non-State Schools Accreditation Board Secretariat.

NSSAB is an independent statutory body supported by a Secretariat situated within the Department of Education.

meets their child's needs and their personal beliefs and values, is fundamental to the education sector in Queensland.

The non-state schooling sector has much to celebrate in terms of the diversity and freedom of choice it offers parents to select a school that reflects their personal values. However, it is imperative that all schools meet minimum common standards. All students must have access to the same basic education and a safe learning environment, no matter which school they attend.

This is the role of the Non-State Schools Accreditation Board (NSSAB), supported by its Secretariat – and the legislation it administers (the *Education (Accreditation of Non-State Schools) Act 2017* and Regulation) – which together form the Queensland Non-State Schools Accreditation Framework (NSSAF).

Since 2001, NSSAB has provided oversight of the non-state schooling sector in Queensland and guided it through an expansion in both the number of non-state schools and the complexity of the educational sector and the regulatory environment. It is to be commended for its leadership of the sector and the great work it continues to undertake, despite its increasing workloads. The Review recognises the commitment and dedication of Board members to make sure all schools uphold accreditation criteria, to deliver a vibrant and high-quality non-state school sector. The Review also acknowledges NSSAB's desire to move towards a more proactive, risk-based approach to compliance monitoring, which has not been possible under current administrative and funding arrangements.

All regulatory frameworks require periodic review. The most recent review of the Accreditation Framework occurred in 2017. Much has changed since this time, both within the policy landscape and society more broadly, and the current Review is therefore timely.

This Review does not create additional regulatory burden for a sector already operating at capacity, nor does it impinge upon parental choice. It aims to introduce a contemporary, streamlined model of accreditation and compliance monitoring that rises to community expectations while reducing the administrative burden on schools. It is designed to better meet the needs of government, non-state schools, and parents and children themselves.

A contemporary model of accreditation for non-state schools

This report outlines the Independent Reviewer's vision for a contemporary regulatory framework that is fit for purpose, supports high-quality education and maintains public confidence in the non-state schooling system. Informed by research and the views of stakeholders, the Independent Reviewer's recommendations set a clear direction for reform.

This report sets out the features of a contemporary, risk-based regulatory framework supported by a new independent statutory authority. A full remake of the legislation – rather than simply amending the current legislation – is suggested to provide a cohesive approach to reform and to make sure it aligns with contemporary legislative drafting practices. The changes set out in this report will take time to implement and will require a phased approach. To facilitate this process, it is recommended that an Implementation Team is established within the Department of Education, supported by a panel of experts and informed by feedback from stakeholders.

Several of the Review's recommendations, particularly those not contingent on legislative change, should be enacted in the immediate future to better support non-state schools to achieve and maintain compliance and, most importantly, safeguard students and promote their wellbeing.

Priorities reflected in the recommendations for immediate action include:

- **Safeguarding students and promoting wellbeing (Recommendations R1.2 and R1.3)** – pastoral care and student wellbeing is a cornerstone of the ethos and values of many non-state schools. Formalising this emphasis within the Accreditation Framework brings Queensland into alignment

with other jurisdictions and provides an opportunity to incorporate reforms occurring at a state and national level. The report recommends the current ‘Student welfare’ accreditation criterion is replaced with a new, contemporary standard of ‘Student wellbeing’. This standard should include, first and foremost, a positive duty to eliminate discrimination, in line with recommended changes to Queensland’s anti-discrimination legislation. Other elements include implementation of the National Principles for Child Safe Organisations; requirement for students and families to be involved in decisions affecting them (participation duty); an obligation for schools to have procedurally fair and transparent processes in place regarding student disciplinary action; and a new standard for boarding schools. Introducing this new standard will require legislative change and guidelines to be developed in consultation with the sector. Work on how this can be implemented and embedded within the standards under the Act should commence immediately. This work should include seeking advice on the extent to which aspects of the new wellbeing standard can be implemented more quickly – for example, through regulatory amendments and/or guidelines – while new legislation or legislative amendments are developed over the longer term.

- **Cultural shifts (Recommendation R.2.1)** – a move towards a more proactive, educative and supportive role for NSSAB, its Secretariat and its authorised persons that aims to help schools achieve and maintain compliance with accreditation criteria is recommended, rather than taking a reactive enforcement approach. This

recommendation can be implemented immediately, without legislative change. In the longer term, however, this approach should be embedded within legislation as both an object of the Act and as a function of NSSAB. While work to establish and transition NSSAB to a new statutory authority is underway (see below), the Secretariat should be provided with additional, appropriately qualified senior staff. These additional staff will allow the Secretariat to provide additional and proactive advice and support to the sector to achieve and maintain compliance, alleviate workload pressures and increase the responsiveness of NSSAB.

- **Risk-based monitoring (Recommendations R.2.4.1 and R.2.4.2)** – in alignment with approaches to monitoring compliance in other jurisdictions, it is recommended that a risk-based approach replaces the current five-yearly compliance review. This approach will target areas of concern and be informed by proposed school risk profiles. Aligned with the proposed new object of the Act to provide support to the sector, the new Authority will provide clear, timely, consistent information together with guidance and support to assist schools and governing bodies to achieve and maintain compliance. This is a cornerstone of a contemporary risk-based regulatory framework and is consistent with *The Queensland Government Guide to Better Regulation* (Model Practice 3). Embedding a risk-based approach, underpinned by the proposed new education and support function, would also satisfy the Queensland Audit Office 2021 recommendation that all Queensland public sector regulators self-assess their practices against a number of better

practice guides, including the *Guide to Better Regulation*, and implement necessary changes to performance.¹

In the longer term, the Implementation Team will coordinate the planning and implementation of the remaining recommendations, which address:

- **Strengthened accreditation ‘standards’** – a change in language from accreditation ‘criteria’ to ‘standards’ is recommended, thus removing ambiguity within the legislation and providing clarity to schools and the community on the standards to which schools and governing bodies are held. Strengthening the standards will include ongoing work to embed the new ‘Student wellbeing’ standard; incorporation of suitability requirements for governing bodies into the accreditation standards; introduction of specific standards for boarding schools; and alignment of ‘Educational program’ criterion requirements with other legislation.

Both NSSAB and the Queensland Curriculum Assessment Authority (QCAA) have shared responsibility when it comes to supporting non-state schools’ delivery of quality educational programs, including the Australian Curriculum. The report recommends a strengthened relationship between NSSAB and the QCAA to make sure consistent advice is provided about educational program and curriculum issues. NSSAB invests considerable time and resources in responding to and investigating concerns regarding schools’ compliance with the ‘Educational program’ accreditation criterion. The complexity of maintaining compliance with this criterion was raised

by stakeholders as a point of frustration and confusion. To address these concerns, which are fundamental and core to the delivery of quality education, QCAA and NSSAB should begin work to co-author new education program guidelines. These guidelines must offer greater clarity and consistency of advice to support schools in fulfilling the requirements of the Australian Curriculum. Further work is also required to make sure there are consistent legislative and policy educational program requirements between non-state schools, state schools and the Australian Curriculum.

- **Proportional exercise of powers** – the introduction of a suite of compliance tools is recommended. These tools will balance the need for swift action where student safety and wellbeing is at risk, with more proportional compliance approaches. They will be complemented by a new function to provide education, guidance and support to the sector to achieve and maintain compliance. These tools will also be supported by improved information sharing with relevant agencies to facilitate joint action where required.
- **Improved complaints processes** – development of new and streamlined policy and processes for responding to compliance concerns in partnership with the Department of Education and relevant experts, including the Queensland Ombudsman, is recommended. A new approach must provide greater clarity for and improved communication with schools, governing bodies and complainants. A more effective complaints policy will reduce workload and pressures on NSSAB

1 Queensland Audit Office, [Regulating Animal Welfare Services](#), State of Queensland, Brisbane, 2021, Rec 5, pp. 30–31.

and enable more timely resolution of compliance concerns, which in turn reduces risk. The new policy and processes should uphold a ‘no wrong door’ approach, which supports students and families to access the appropriate avenue for their concerns to be heard.

- **Increased independence** – the creation of a new, independent statutory authority, the Non-State Schools Standards Authority (NSSSA), is recommended to provide operational support to the Board under the direction of a Chief Executive Officer. The recommended approach will provide greater independence from the Department of Education and foster a closer partnership with QCAA.
- **Board composition, powers and remuneration** – over time, the composition of the Board should transition to one that is both skills-based and representative of the sector. This approach is recommended to better reflect the high degree of risk and complexity involved in regulating the non-state schooling sector. It will require development of a tailored skills-based matrix to make sure the Board is equipped with expertise across all contemporary issues relevant to the regulation of non-state schools. The remuneration of Board members will need to be increased accordingly. The Board must also be provided with powers to create and delegate functions to committees, which will better allow it to receive expert advice on specialist matters as well as reduce workload and increase efficiencies.

Out-of-scope observations

The Review observed the following matters that fell outside the scope of its Terms of Reference.

Student hostels – the level of risk inherent in boarding school environments is also evident in student hostels (providing off-campus accommodation for students from remote areas to attend school). However, these hostels lie beyond the scope of the Non-state Schools Accreditation Framework and this Review. The Review urges the Queensland Government to consider a review of the regulatory mechanisms and provisions for student hostels to address this regulatory gap.

Queensland Civil and Administrative Tribunal (QCAT) – schools seeking a review of a QCAT decision to cancel accreditation may continue to operate until the QCAT review has been finalised. The current timeframes for QCAT matters to be finalised create an unacceptable risk that students may not be receiving quality education and, at worst, may be placed at risk of harm. QCAT’s review of NSSAB decisions to cancel accreditation should be undertaken with more urgency to make sure children’s educational outcomes and wellbeing are not placed at risk. The Review considers merit in exploring opportunities for greater efficiencies in this process, including looking at how Civil and Administrative Tribunals in other jurisdictions review decisions relating to non-state school registration or accreditation.

Monitoring of student movements between schools and across sectors – student attendance and engagement in learning are vital for students to thrive. Monitoring attendance is likewise a critical mechanism for safeguarding students. While all jurisdictions have some provision for monitoring student attendance, the Australian Capital Territory and Western Australia have requirements for non-state schools to report movements of students between schools and schooling sectors to the state education department.² In the ACT, the Department must make reasonable efforts to contact students and parents/ carers if students have not re-enrolled in education within 14 days or where multiple school movements have occurred within a short period, given this is an indicator of risk.³ The Queensland *Education (General Provisions) Act 2006*, outlines parent’s obligations to ensure their children are enrolled in, and attend, school during the compulsory years of schooling. It also sets out the Department’s powers to take action where this is not occurring, which is operationalised at a regional level.⁴

The Review notes that in December 2022, all Education Ministers agreed on a model to roll out the Unique Student Identifier (USI) to all school students. A baseline function of the USI is to contribute to an existing information exchange scheme operating across Australian jurisdictions related to the safety and wellbeing of children. The USI constitutes a key pillar in the response by all governments to the recommendations made by the 2017 Royal Commission into Institutional Responses to Child Sexual Abuse.⁵

While the Review welcomes this commitment, it considers there is an opportunity for Queensland to move more swiftly and leverage existing state-based mechanisms to provide for centralised monitoring of student movements between Queensland schools and school sectors – state, non-state and home education. Creating this system within Queensland would strengthen the protection and safeguarding of children and young people and help make sure students do not disengage from schooling once their enrolment in a school ceases. It would also provide a mechanism for follow-up if there is no evidence of re-enrolment, and prevent students from ‘falling through the cracks’.

2 Department of Education WA, [Guide to the Registration Standards and Other Requirements for Non-Government Schools](#), Government of Western Australia, Perth, 2022, p. 32; *Education Act 2004* (ACT), s. 10AA, s. 10AB; ACT Education Directorate, [Interim Guidelines: Registration Standards](#), ACT Government, Canberra, 2022, p. 29.

3 *Education and Early Childhood Services (Registration and Standards) Act 2011* (SA), s. 71(8); Education Standards Board, ‘[Board](#)’, Education Standards Board [website], accessed 14 May 2023.

4 *Education (General Provisions) Act 2006* (Qld), ss. 176, 178, 180, 239 and 241.

5 Department of Education, [Education Ministers Meeting Communique - 15 December 2022](#), Australian Government [website], accessed 18 August 2023.

Recommendations

The Review has made a total of 24 recommendations for change across multiple areas. Each of these recommendations is aimed at addressing areas for improvement identified through research and consultation with stakeholders and is related to the following reform themes:

- **Culture, collaboration and communication** – the role of NSSAB and its Secretariat is to provide stewardship of the non-state schooling sector. This function should be achieved through a collaborative culture aiming to educate and support schools and governing bodies to achieve and maintain compliance and clear, open communication.
- **Clarity and consistency** – schools and governing bodies must have clear guidance about what is required of them under the legislation. This advice – and decisions arising from it – must be consistent, both internally and with the advice provided by other regulators in the education sector.
- **Compliance** – achieving and maintaining compliance with legislative obligations is critical to upholding the standards the community expects of non-state schools. However, opportunities exist to improve how compliance monitoring is undertaken to streamline this process and reduce the burden it places on schools, governing bodies and NSSAB itself.
- **Community confidence** – upholding community confidence in non-state schools, and their regulation, is paramount and will occur by strengthening the regulatory focus on student wellbeing and on the governance processes of both NSSAB and school governing bodies, including addressing actual or perceived conflicts of interest.

Chapter 1: Strengthening Standards

No.	Recommendation	Theme
Accreditation standards		
R.1.1.1	It is recommended that reference to ‘accreditation criteria’ in the <i>Education (Accreditation of Non-State Schools) Act 2017</i> (Qld) is replaced with ‘accreditation standards’.	Culture, collaboration & communication
R.1.1.2	It is recommended that the <i>Education (Accreditation of Non-State Schools) Act 2017</i> (Qld) includes principles to guide its interpretation, specifically in relation to accreditation standards. These principles should build upon those guiding this Review, in particular: <ul style="list-style-type: none"> • students and families are at the centre of decision-making • quality, safe and supportive educational environments are essential for students to learn and thrive. 	Community confidence Clarity & consistency
Student wellbeing and safety		
R.1.2	It is recommended that the existing ‘Student welfare’ criterion is replaced with a new ‘Student wellbeing’ accreditation standard. This contemporary standard should reflect: <ul style="list-style-type: none"> • a rights-based approach to student wellbeing encapsulating students’ social, academic, physical, emotional and cultural safety and best interests • the importance of student voice, embedding a participation duty to make sure schools actively involve students and families in matters affecting their school experience • a requirement for schools to have and implement clear and procedurally fair policies regarding student disciplinary actions, noting all students and staff have a right to a safe learning and working environment • the recommendations of the Royal Commission with respect to record-keeping standards and the National Principles for Child Safe Organisations • the incoming reforms to Queensland’s anti-discrimination legislation, which introduce a positive duty for organisations to eliminate discrimination • contemporary approaches in other jurisdictions. 	Culture, collaboration & communication Community confidence Clarity & consistency Compliance

Chapter 1: Strengthening Standards

No.	Recommendation	Theme
Boarding schools		
R.1.3	It is recommended that an additional standard for boarding schools is created. This standard should adequately reflect the higher risk and vulnerability of students being educated while living away from their families. Associated guidelines should also be developed to assist schools to achieve and maintain compliance with the new standard.	<p>Culture, collaboration & communication</p> <p>Community confidence</p> <p>Clarity & consistency</p> <p>Compliance</p>
Governance and administration		
R.1.4	<p>It is recommended that the 'Administration and governance' accreditation standard is amended to incorporate suitability requirements for governing bodies. Existing suitability requirements should be expanded to include provisions to make sure:</p> <ul style="list-style-type: none"> • governing body directors: <ul style="list-style-type: none"> - are fit and proper persons - collectively hold the necessary skills and experience to govern a non-state school and carry out their fiduciary responsibilities - undertake mandatory professional development relating to school governance (such as finance, compliance or risk management), to be delivered by an approved provider • greater clarity is provided on managing conflicts of interest • provision is made to support schools facing difficulty in meeting the new requirements for the suitability of governing bodies. 	<p>Culture, collaboration & communication</p> <p>Community confidence</p> <p>Clarity & consistency</p> <p>Compliance</p>
Educational program		
R.1.5.1	<p>It is recommended that the 'Educational program' accreditation standard is amended to better align with requirements for state schools and the Australian Curriculum. These amendments include:</p> <ul style="list-style-type: none"> • removing, at a minimum, the requirement for schools to deliver a 'breadth' of learning • guaranteeing that the integrity of the curriculum and learning outcomes for students are upheld. 	<p>Culture, collaboration & communication</p> <p>Community confidence</p> <p>Clarity & consistency</p> <p>Compliance</p>
R.1.5.2	It is recommended that NSSAB and QCAA, in consultation with the Stakeholder Reference Group (SRG), co-author a revised educational program guideline that reflects the changes to the 'Educational program' accreditation standard and is approved by both the NSSAB and QCAA boards.	

Reason: Reframing accreditation criteria as ‘standards’ serves to reduce ambiguity within the *Education (Accreditation of Non-State Schools) Act 2017* (Qld), which currently refers to, but does not define, standards of education for non-state schools. Developing principles to be embedded within the Act will help to support achievement of the Act’s objectives, including to uphold these standards.

The existing accreditation criteria (standards) should be further strengthened by an explicit emphasis on requiring schools to provide a welcoming, inclusive and safe environment supporting all aspects of student wellbeing, as well as their physical safety and protection from harm. This emphasis is in line with standards in other jurisdictions and provides opportunity to implement the National Principles for Child Safe Organisations, as recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse. Promoting student wellbeing also extends to making sure that all students of compulsory schooling age remain engaged in education. Requiring schools to implement procedurally fair and transparent policies regarding student disciplinary absences is necessary to ensure students, particularly those from vulnerable or at-risk cohorts, are not disproportionately affected by their use and that the best interests of students are kept at the forefront of decision-making. This will also bring Queensland into line with contemporary practices in other jurisdictions.

In addition, the high-risk nature of boarding schools, and the vulnerability of students attending them, must be recognised. Specific standards reflecting this elevated risk are needed for boarding schools.

Stakeholder feedback provided to the Review highlighted an inconsistency in the requirements of the educational programming standard for non-state schools and the intended flexibility of the Australian Curriculum. An adjustment to this standard is required.

There is also opportunity to further strengthen the suitability requirements for school governing bodies and to embed these within the accreditation standards. Of the 35 compliance notices issued between January 2018 and June 2022, 16 related to the suitability of the governing body and 12 related to administration and governance. Of the 24 show cause notices proposing to cancel a school’s accreditation for a type of education during this same period, 14 were on the grounds the governing body was deemed unsuitable.⁶ This context clearly demonstrates a need for greater clarity in the legislation regarding the skills and expectations of governing body directors, coupled with improved communication, education and support for directors in executing their duties. Embedding requirements of governing bodies within the accreditation standards will provide greater clarity to the sector and to the community about the standards that governing bodies should uphold.

⁶ Non-State Schools Accreditation Board, [Annual Report 2021–22](#), Non-State Schools Accreditation Board, Brisbane, 2022, p. 67.

Chapter 2: A New Accreditation Framework

No.	Recommendation	Theme
Education, research and advisory functions		
R.2.1	<p>It is recommended that NSSAB’s functions are expanded to include a focus on supporting the non-state schooling sector to achieve and maintain compliance, which in turn will provide quality, safe and supportive educational environment for students to learn and thrive.</p> <p>This will require:</p> <ul style="list-style-type: none"> • introducing a new object of the Act reflecting NSSAB’s purpose of providing stewardship of the non-state schooling sector, including by delivering education, advice and support to schools and governing bodies • including a new education, research and advisory function under the Act designed to: <ul style="list-style-type: none"> - develop resources supporting schools in achieving and maintaining compliance with the accreditation standards - underpin regulatory activities with contemporary research on education and governance - inform a new risk-based approach to compliance monitoring and responses to trends in compliance data - establish professional networks to build NSSAB’s knowledge base on contemporary education research to inform the performance of its functions • establishing and appropriately staffing a new team within the Authority to carry out this new function, supported by the ability to share information with relevant entities • renaming ‘authorised persons’ as ‘accreditation and education officers’ and expanding their role to include providing the following throughout the school year: <ul style="list-style-type: none"> - advice to schools/governing bodies on achieving and maintaining compliance as informed by the new education, research and advisory function - support and, where necessary, case management of schools requiring additional support and guidance in achieving and maintaining compliance • making sure accreditation and education officers collectively possess expertise that reflects knowledge of the diversity of non-state schools, including an understanding of small schools, regional schools, schools catering predominantly for First Nations students, boarding schools, special assistance schools and special schools • making sure accreditation and education officers undertake ongoing professional development, consistent with contemporary regulatory best practice. 	<p>Culture, collaboration & communication</p> <p>Clarity & consistency</p>

Chapter 2: A New Accreditation Framework

No.	Recommendation	Theme
Supporting new schools		
R.2.2	It is recommended that a case-management approach is implemented to provide new schools with ongoing support and monitoring during their first year of operation (or longer, if required). The level of support provided will be informed by the school's risk profile (Recommendation R.2.4.1).	Clarity & consistency Compliance
Accrediting changes in school attributes		
R.2.3	It is recommended that a more targeted and risk-based process for changes to the accreditation attributes of a school (e.g. adding boarding facilities) is developed and reflected in the Act. This process should make sure aspects of a school's operations unrelated to the change of attribute are not captured in the accreditation process.	Clarity & consistency Compliance
Risk-based monitoring framework		
R.2.4.1	<p>It is recommended that a new risk-based approach to ongoing compliance monitoring is developed that:</p> <ul style="list-style-type: none"> exemplifies principles of a contemporary regulatory framework as set out in <i>The Queensland Government Guide to Better Regulation</i> aligns with contemporary approaches in other states and territories prioritises student safety and wellbeing and the delivery of quality educational programs. <p>A risk-based approach will involve:</p> <ul style="list-style-type: none"> developing risk profiles for schools and governing bodies that consider a range of factors, including complaints/concerns received and any history of non-compliance replacing the current compliance review program with a targeted model informed by the risk profile of the school and governing body and emerging areas of risk requiring schools to integrate the findings of compliance reviews into their school improvement plans reducing administrative burden and increasing the consistency of compliance review outcomes through: <ul style="list-style-type: none"> accrediting policies, procedures and guidelines that are common to multiple schools only once (e.g. where developed by peak or governing bodies) moderating compliance review assessments and reports improving engagement and communication with schools and governing bodies through a stronger focus on supporting the non-state schooling sector (as described Recommendation R.2.1) 	Culture, collaboration & communication Clarity & consistency Compliance

Chapter 2: A New Accreditation Framework

No.	Recommendation	Theme
R.2.4.2	<p>It is recommended that the new risk-based approach to compliance monitoring is supported by new functions and powers enabling NSSAB to:</p> <ul style="list-style-type: none">• immediately access a school where there are significant concerns for student safety and wellbeing• undertake short-notice visits to schools to investigate non-compliance or to provide advice, education and support• access a range of enforcement measures facilitating a more proportionate approach to addressing non-compliance• share information with relevant entities, such as the QHRC, QCAA and QCT, to enable joint compliance reviews or investigations to be undertaken where necessary.	

Reason: Stakeholder feedback called for greater clarity, collaboration and a flexible approach to regulation. The Review has identified a number of changes that may assist in achieving these aims, which also align with The *Queensland Government Guide to Better Regulation*.

In the first instance, expanding the role of authorised persons to include the provision of advice and support – particularly to new schools – is intended to foster a new way of working with the sector. The role of the officers should be supported by contemporary research evidence relating to educational practices and good governance. This expanded role is intended to emphasise collaboration and a culture of compliance.

Clear, timely, consistent information, guidance and support to assist schools and governing bodies to achieve and maintain compliance is a cornerstone of a contemporary risk-based regulatory framework and identified as a model practice under the *Guide to Better Regulation*. Embedding a risk-based approach, underpinned by a new education and support function, also aligns with the:

- Queensland Audit Office (QAO) 2021 recommendation that all Queensland public sector regulators and oversight bodies self-assess their practices against a number of better practice guides (including the *Guide to Better Regulation*) and implement changes to enhance their regulatory performance.⁷ The Review notes NSSAB has already commenced preliminary work to implement this QAO recommendation.
- Queensland Productivity Commission’s 2021 *Improving Regulation* research paper, which highlights that good regulatory administration and enforcement focuses on using evidence, including drawing information from other regulators to identify problems, determine priorities and target resources to areas of the highest risk.⁸

Where existing schools are seeking to change an attribute of their accreditation, a risk-based approach should be employed to make sure assessments are relevant to the change being sought. For example, expansion to introduce boarding facilities is unlikely to require a review of the school’s educational program, while delivery of special assistance should.

Risk-based approaches should also be applied to compliance monitoring, as they are in many other jurisdictions. Rather than all schools undertaking a full review of all accreditation standards every five years, a sampling approach based on a school’s risk profile should be used, verifying compliance with targeted standards. Student safety and wellbeing, educational programming and governance would be prioritised. This approach – in combination with a number of other recommended measures – would assist in reducing the regulatory burden on schools, governing bodies and the regulator itself.

⁷ QAO, *Regulating Animal Welfare Services*, Rec 5, pp. 30–31.

⁸ Queensland Productivity Commission, *Improving Regulation [PDF]*, QPC, Brisbane, 2021, p. 29.

Chapter 3: Managing Complaints And Compliance Concerns

No.	Recommendation	Theme
R.3.1	It is recommended that NSSAB establishes a time-limited expert working group to guide the development of a contemporary complaints and compliance concerns policy and procedure, and associated training. The working group should have specialist expertise, which could, for example, draw from the Queensland Ombudsman, Office of the Information Commissioner, Crime and Corruption Commission, Integrity Commissioner and the Queensland Human Rights Commission (QHRC). The Department of Education should also be a member of the working group, given the volume of non-state school enquiries and concerns received by the Department.	<p>Culture, collaboration & communication</p> <p>Clarity & consistency</p> <p>Compliance</p>
R.3.2	<p>It is recommended that the legislative and/or administrative basis for, and policies and procedures supporting, the management of complaints and compliance concerns is enhanced to:</p> <ul style="list-style-type: none"> • more clearly define matters falling within scope • clearly communicate pathways for out-of-scope matters to be considered, including exploration of the ability for matters to be referred to the relevant agency on behalf of the complainant • develop and communicate processes for assessing the merit of in-scope matters to identify spurious or vexatious compliance concerns • embed a right of reply for schools and governing bodies, affording them opportunity to respond to the concerns in the first instance, unless the matter involves risk of harm to a student • enable NSSAB to determine where release of confidential information is in the public interest • develop and publish a new confidentiality policy and procedure that allows: <ul style="list-style-type: none"> - sufficient detail to be provided to the school and governing body so they may exercise their right of reply - ongoing communication with complainants and the provision of relevant information about the status and outcome of the matter they have raised • develop a process through which complainants may seek internal review where dissatisfied with an outcome of an investigation arising from a complaint or compliance concern • improve the quality of data collected and reported about the nature of, and response to, complaints and compliance concerns, which will increase transparency and public confidence. It will also inform the new education and research function (Recommendation R.2.1) and risk-based compliance monitoring (Recommendations R.2.4.1 and R.3.4.2). 	<p>Culture, collaboration & communication</p> <p>Clarity & consistency</p> <p>Compliance</p>

Reason: The complaints journey – and the way people are treated during it – can be just as important for complainants as the outcome of their matter. Stakeholder feedback indicated a disconnect between the principles of fair treatment, transparency and procedural fairness embedded in NSSAB’s complaints policy and procedure and the experience of the process in practice. Opportunity exists to increase public confidence in the system through a revision of these policies and procedures.

This revision process should extend to reviewing the application of the confidentiality provisions in the Act to provide a better balance between confidentiality, protection of commercial interests and the principles of transparency, responsiveness and public interest. Increasing the flow of information between the regulator and both complainants and schools/ governing bodies will assist in increasing public confidence.

These changes should introduce a mechanism by which parties to a compliance concern can seek an internal review of the regulator’s decisions, prior to seeking an external review by the Queensland Civil and Administrative Tribunal (QCAT), where relevant.

Chapter 4: A New Governance Framework

No.	Recommendation	Theme
Independence and autonomy		
R.4.1.1	<p>It is recommended that the current Board and its Secretariat are reconstituted as a new governance statutory body, to be renamed the Non-State Schools Standards Authority (the Authority) and Non-State Schools Standards Authority Board (the Board). The Board will report to the Minister for Education and provide strategic direction for the new Authority.</p> <p>The Board's overarching purpose should be to provide stewardship of, and advice to, the non-state schooling sector to make sure it upholds the accreditation standards and delivers quality, safe and supportive educational environments in which students can learn and thrive.</p>	Community confidence
R.4.1.2	<p>It is recommended that the new Authority is led by a dedicated Chief Executive Officer, appointed by and reporting to the Board Chair, with responsibility for:</p> <ul style="list-style-type: none"> • implementing the strategic directions set by the Board • administering funding and budgets • managing the Authority • managing Board committees • carrying out delegated functions on behalf of the Board. 	Community confidence
R.4.1.3	<p>It is recommended that the new Authority has greater independence from the Department of Education. This autonomy should be achieved through co-location with QCAA, with relevant service-level agreements and information-sharing provisions in place to facilitate the provision of shared services and greater collaboration and strategic engagement between the two agencies.</p>	Community confidence
Powers of delegation and formation of committees		
R.4.2	<p>It is recommended that the new Board is provided with legislative power to establish committees and to delegate its functions to these committees – and to the Chief Executive of the Authority – as required. This will require development of:</p> <ul style="list-style-type: none"> • a contemporary delegation model, noting that decisions regarding new schools, significant changes to existing schools and compliance actions should rest with the Board • a contemporary committee structure, noting that the Review recommends committees relating to finance and performance; audit and risk; management of compliance concerns; curriculum matters; accreditation and monitoring; and an Executive Committee comprising committee Chairs • committee membership that provides the appropriate combination of skills, experience and expertise • reporting arrangements and escalation pathways to the Board, making sure there is appropriate oversight and good governance in place. 	Community confidence

Chapter 4: A New Governance Framework

No.	Recommendation	Theme
Board remuneration		
R.4.3	It is recommended that remuneration of Board members is increased to reflect the high level of risk and complexity involved in regulating the non-state schooling sector, as well as the new level of statutory and financial independence of the new Authority.	Community confidence
Board composition		
R.4.4.1	It is recommended that the current NSSAB members form the inaugural Non-State Schools Standards Authority Board.	Community confidence
R.4.4.2	<p>It is recommended that the Board transitions from a representative board to one that is both skills-based and representative. This transition will require progressive implementation of a revised Board composition and skills matrix, as current members' terms of appointment expire.</p> <ul style="list-style-type: none"> • The revised Board membership should include: <ul style="list-style-type: none"> - one additional member, nominated by the Minister in consultation with Independent Schools Queensland (ISQ), the Queensland Catholic Education Commission (QCEC), Independent Education Union – Queensland Northern Territory Branch (IEU-QNT), to provide a First Nations voice or perspective - permanent membership of the IEU-QNT, to make sure the perspectives of teachers continue to be represented - a requirement that future ISQ and QCEC nominees must not be currently employed by these organisations (or other organisations advocating on behalf of non-state schools) to reduce actual and perceived conflicts of interest • A skills matrix for Board membership, embedded in the Act, that requires skills and expertise in: <ul style="list-style-type: none"> - best practice regulation - curriculum - contemporary education research and/or practice - finance, audit and risk, and governance - specialist education practices (e.g. delivering education to at-risk children and young people, students at risk of disengaging from education, neurodiverse students, students with disability, students in regional and remote areas, and vocational education and alternative pathways). 	Community confidence

Chapter 4: A New Governance Framework

No.	Recommendation	Theme
Board mandatory training and professional development		
R.4.5	It is recommended that mandatory training and professional development requirements for Board members are developed and embedded in the Board's operations. In the interim, existing NSSAB members, Secretariat staff and authorised persons should undertake training aligning with and supporting implementation of the recommendations contained in this report.	Community confidence

Reason: The current governance arrangements for NSSAB do not adequately reflect the complexity of the work it undertakes or the consequences for students if non-state schools fail to uphold the standards of education. A new, independent statutory body – led by a Chief Executive – would better reflect this complexity. The statutory body would serve to increase the independence of the Board and allow it to directly appoint staff and manage its own budget. The ability to create committees and to delegate functions to these (and to the Chief Executive) will create efficiencies and reduce workload, freeing the capacity of the Board to provide strategic direction and stewardship to the sector. The remuneration of Board members should be updated to reflect the requirements of the role.

As Board members' terms expire, the composition of the Board should progressively transition to a membership that is both skills-based and representative, balancing the need to represent sector views with the need for specialist expertise. This composition would reflect contemporary approaches in other jurisdictions.

A change to Board composition would be complemented by mandatory training and professional development requirements for members on a range of relevant matters, including, for example, to education practice, governance and regulation. The *Queensland Government Guide to Better Regulation* emphasises the importance of regulators committing to a culture of continuous improvement, which includes making sure staff have the necessary training and support to effectively, efficiently and consistently perform their duties (Model Practice 4).⁹ The Review considers the Board should lead by example through a commitment to ongoing professional development.

Mandatory training would embed and build upon the Department of Premier and Cabinet's *Welcome Aboard: A guide for members of Queensland Government Boards, committees and statutory authorities*. This guide requires new members to have access to a training program relevant to their responsibilities, noting specialised training such as that offered by the Australian Institute of Company Directors.¹⁰ Building on this foundation, ongoing professional development (including, for example, refresher training upon re-appointment of a second term) would set a framework to support Board members in remaining at the forefront of contemporary practice.

⁹ Queensland Treasury, *The Queensland Government Guide to Better Regulation*.

¹⁰ Department of the Premier and Cabinet, *Welcome Aboard: A Guide for Members of Queensland Government Boards, Committees and Statutory Authorities [PDF]*, Queensland Government, Brisbane, 2010, 4th ed.

Chapter 5: Approach To Implementation

No.	Recommendation	Theme
R.5.1	<p>It is recommended that the Department of Education establishes a Non-State Schools Accreditation Framework Review Implementation Team (Implementation Team) to progressively implement the recommendations of the Review.</p> <p>The Implementation Team should be supported by:</p> <ul style="list-style-type: none"> • a Technical Expert Advisory Committee (TEAC) with skills and expertise to guide implementation activities. This expertise includes: <ul style="list-style-type: none"> - legislative development - best practice regulation - public sector/statutory entity governance - information privacy - complaints management - financial modelling - the non-state schooling sector - The TEAC should also have access to legal advice and expertise. • a Stakeholder Reference Group (SRG) comprising representatives of ISQ, QCEC, IEU-QNT, teachers and principals, and parents' associations. The SRG should meet periodically, as required. <p>Consistent with the Review's guiding principles, consultation and collaboration should underpin the work of the Implementation Team.</p>	<p>Community confidence</p> <p>Culture, collaboration & communication</p> <p>Clarity & consistency</p>
R.5.2	<p>It is recommended that the <i>Education (Accreditation of Non-State Schools) Act 2017</i> (Qld) is remade in line with contemporary drafting practice. This process should consider any additional amendments required to give effect to the recommendations. Consideration should also be given to any further amendments required to improve the operation of the Act, consistent with the overarching areas for improvement.</p>	

Introduction

Celebrating success and supporting choice

All children have a right to education. As a signatory to the United Nations Convention on the Rights of the Child, Australia is committed to upholding this right. A child's right to education in Queensland is also enshrined in the Human Rights Act 2019 (Qld), and Queensland is a signatory to the 2019 Alice Springs (Mparntwe) Education Declaration, which commits to improving educational outcomes for all young Australians.¹¹

In Queensland, the state government is responsible for providing free, high-quality education to all children and young people,¹² and for registering and regulating all schools.¹³ Parents are responsible for choosing the best educational environment for their child, whether this be in the state school system, among Queensland's many non-state schools, or through home education.¹⁴ Parental choice is one of the foundational principles of the Education (General Provisions) Act 2006 (Qld).¹⁵

Non-state schools make up around 30 per cent of all schools in Queensland. These schools provide a wide array of learning environments reflecting a rich diversity of guiding beliefs and/or religious teachings. Parents have freedom to choose a school for their children that aligns with their values and beliefs. Enrolments in Catholic and secular and non-secular independent schools have increased substantially in recent years, as shown in Figure 1 below. The non-state schooling sector also provides an increasing number of special assistance schools for students who have disengaged, or are at risk of disengaging, from education. In the six years between 2017 and 2022, enrolments in these schools have more than doubled.¹⁶

11 UNICEF, *Convention on the Rights of the Child*, United Nations, 1990, accessed 5 April 2023; Council of Australian Governments Education Council, *Alice Springs (Mparntwe) Education Declaration*, Education Services Australia, Carlton South, VIC, 2019.

12 *Education (General Provision) Act 2006* (Qld), s. 50.

13 Australian Government Department of Education, *Commonwealth and State Responsibilities for School Funding*, Australian Government Department of Education, Canberra, 2017; *Education (Accreditation of Non-State Schools) Act 2017* (Qld); *Education (Accreditation of Non-State Schools) Regulation 2017* (Qld).

14 *Education (General Provisions) Act 2006* (Qld), ss. 7, 176, 199.

15 *Education (General Provision) Act 2006* (Qld), s. 7.

16 Information provided by the Non-State Schools Accreditation Board Secretariat, 7 February 2023.

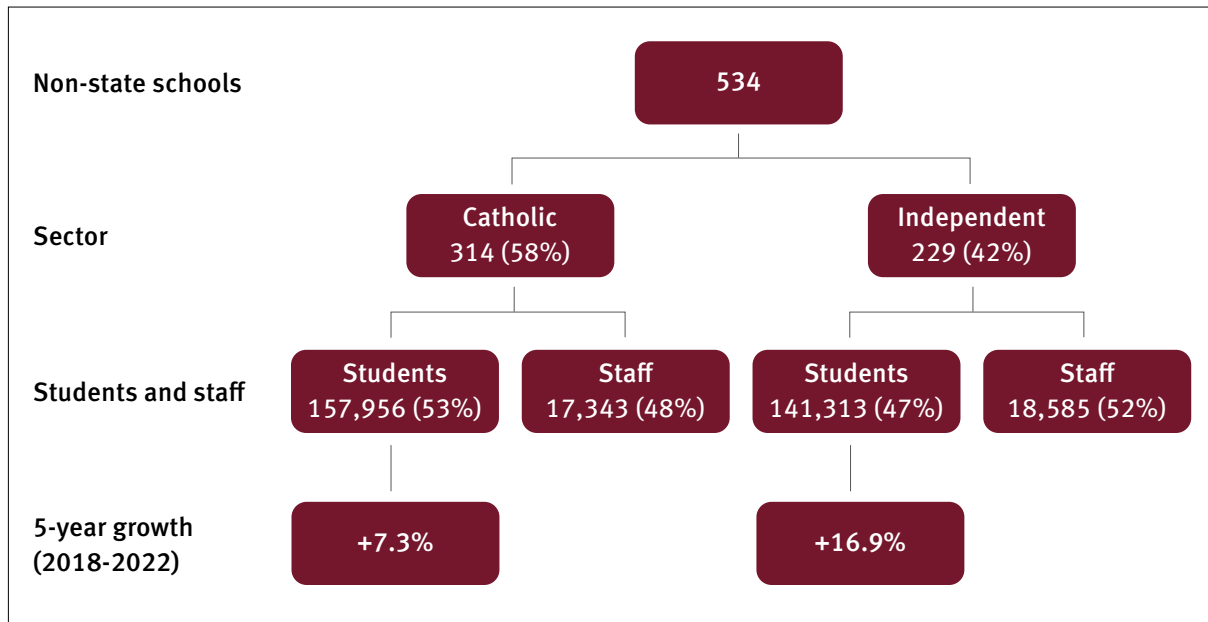


Figure 1: Non-state schools in Queensland, 2022¹⁷

Each non-state school is governed by a corporation (governing body) that provides strategic direction and accountability for its schools. At the time of writing, 185 governing bodies were responsible for non-state schools in Queensland. Of these, 23 represented Catholic schools and 162 were responsible for independent schools.¹⁸ Peak bodies for the Catholic and independent school sectors – the Queensland Catholic Education Commission (QCEC) and Independent Schools Queensland (ISQ) – advocate for their members on policy and funding matters at a state and national level.

Regulating non-state schools

It is imperative that all children have access to a quality education and a safe learning environment, no matter which school they attend. Within the non-state schooling sector, the Non-State Schools Accreditation Board (NSSAB) is responsible for making sure all non-state schools meet minimum accreditation criteria.

NSSAB is an independent statutory body provided with administrative support by a Secretariat located within the Queensland Department of Education. It operates under the *Education (Accreditation of Non-State Schools) Act 2017* (Qld) and the *Education (Accreditation of Non-State Schools) Regulation 2017* (Qld) to accredit and monitor non-state schools.

Together, NSSAB, its Secretariat and the legislation it administers form the Non-State Schools Accreditation Framework (the Accreditation Framework), as shown in Figure 2.

17 Australian Bureau of Statistics, 'Table 35b: Number of all schools by states and territories, affiliation and school type, 2022', Schools 2022, Australian Bureau of Statistics, Canberra, accessed 4 April 2023. Data provided by the Non-State Schools Accreditation Board Secretariat as at 20 July 2023 shows the current number of non-state schools in Queensland is 547.

18 Information provided by the Non-State Schools Accreditation Board Secretariat, 20 July 2023.

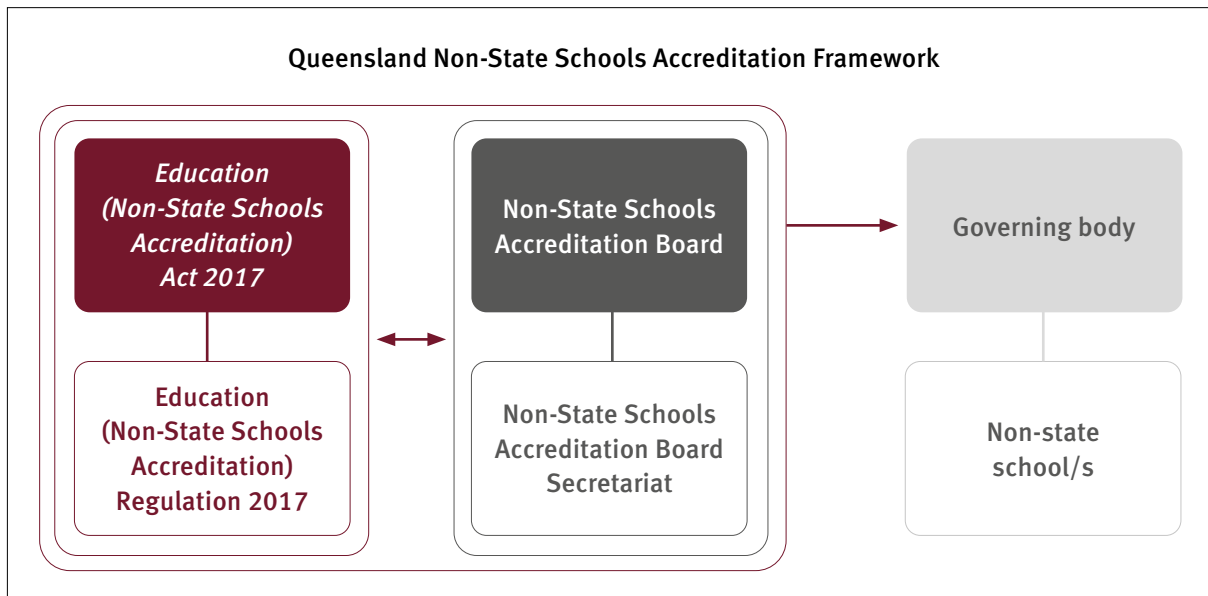


Figure 2: Queensland's Non-State School Accreditation Framework

The non-state schooling sector exists within a broader legislative and policy context at a state and national level. A number of recent reviews and reforms have taken place – some of which are still underway – that have had, or are likely to have, a direct and potentially significant impact on non-state schools. These include:

- the Alice Springs (Mparntwe) Education Declaration, which establishes education goals for all Australian children across both state and non-state schools
- the requirements of the *Australian Education Act 2013* (Cth) and the National Schools Reform Agreement, compliance with which Commonwealth funding for both state and non-state schools is tied
- the ongoing Australian Law Reform Commission's Religious Institutions Inquiry, considering protections for staff of these institutions from discrimination
- the recommendations arising from the Royal Commission into Institutional Responses to Child Sexual Abuse, affecting non-state schools that have been accepted, but not yet implemented, by the Queensland Government
- the requirements placed on non-state schools by the *Education (General Provisions) Act 2006* (Qld), the Queensland Curriculum Assessment Authority and the Queensland College of Teachers
- incoming changes to *Queensland's Anti-Discrimination Act 1991* (Qld), introducing a positive duty for organisations to take reasonable measures to eliminate discrimination.

For this reason, regulating the non-state schooling sector is complex, given its wide variety of stakeholders and the multifaceted policy and legislative environment in which it exists. It is therefore timely to review these systems and processes to ensure they continue to represent contemporary, best-practice regulation.

The Non-State Schools Accreditation Framework Review

In October 2022, the Queensland Government announced an independent review (the Review) of the Queensland Non-State Schools Accreditation Framework. Ms Cheryl Vardon AO was appointed by the Minister for Education in March 2023

to undertake this review. The purpose of the Review was to make sure the powers of NSSAB continue to be fit for purpose, support the provision of quality education and maintain public confidence in Queensland's non-state schools.

Scope

The Review was asked to consider a range of matters, outlined in its [Terms of Reference](#) (ToR). These are available in full in Appendix A. Broadly, the scope of the Review was intended to:

- compare Queensland's Accreditation Framework with those in other jurisdictions (ToR A and C)
- consider how the Accreditation Framework intersects with relevant legislation and policy (ToR B and F)
- consider how findings and recommendations from other key reviews may inform enhancements to the Accreditation Framework (ToR D)
- understand stakeholder perspectives on how the Accreditation Framework can support a quality, contemporary non-state schooling sector (ToR E)
- identify the powers and functions necessary to support quality education and maintain public confidence in non-state schools (ToR G)
- identify accreditation criteria that reflect community and stakeholder expectations for the standard of non-state schools (ToR H)
- consider alternative governance models that may enhance the effectiveness of the Accreditation Framework and its resourcing implications (ToR J and K)
- make sure regulatory and administrative burden on the sector is minimised, while maintaining the expected standards for non-state schools (ToR I).

The ToR specifically excluded some matters from the scope of the Review. The Review was not intended to consider how NSSAB exercises its functions and powers, or the decisions it has made. It also did not set out to investigate or make findings about state schools, home education, government funding of non-state schools, or frameworks for regulation or standards in other fields.

The Review did identify three out-of-scope matters, which it suggests the Queensland Government consider. These relate to the inherent risks associated with: student hostel accommodation; the protracted timeframes for QCAT to review a decision by NSSAB to cancel a schools accreditation, during which time the school can continue to operate; and the absence of central oversight of student movements between schools and schooling sectors – state, non-state and home education.

Review principles

The Review was respectful of the fact that the non-state schooling sector – and parental choice – is integral to Queensland's education system. Even more fundamentally, schools exist to meet the needs of children, young people and their families and, as such, they must remain the primary stakeholders in this process. By acknowledging this context, the Review was guided by the following principles:

- Students and their families are at the centre of the Review.
- A quality, safe and supportive educational environment is essential for students to learn and thrive.
- Choice of schools for families is an important part of the Queensland education system.
- Consultation and collaboration will underpin findings for a contemporary regulatory environment.

Methodology

The Independent Reviewer was supported by a dedicated team within the Department of Education. The Review employed a number of approaches to gain a comprehensive understanding of the issues at stake.

In particular, the Review Team undertook extensive desktop research to explore how Queensland's regulatory framework for non-state schools operates, how regulatory frameworks function in other Australian states and territories, and how these compare with Queensland's approach.

This work revealed a rich diversity of approaches to regulating non-state schools. Examples include permitting the accreditation of 'systems of schools' that undertake some degree of self-monitoring; an array of governance models, both within and independent of government; the ability of regulators to delegate various functions to committees or registrars; and using risk-based models for monitoring compliance.

Complementing this analysis, the Independent Reviewer led a comprehensive consultation process engaging key stakeholders from the non-state schooling sector. The consultation process was designed to support stakeholders to actively participate in the Review; make sure stakeholder perspectives informed the Review findings and recommendations; and ensure these findings and recommendations appropriately reflected community expectations of the non-state schooling sector.

A six-week consultation period commenced on 3 April 2023.

A wide range of stakeholders were invited to participate in the Review by providing a written submission or participating in a roundtable discussion or interview.

A [Submission Guide](#) was developed to

assist stakeholders to address the matters outlined in the ToR and made available on the Review's [webpage](#).

The Review received 39 written submissions, a number of which were provided to the Review in confidence. The Independent Reviewer held roundtable discussions and discussions with around 170 people from various stakeholder groups. Stakeholders included members of NSSAB, peak bodies for the non-state schooling sector, relevant government agencies, other regulatory bodies for the education system, principals and parents.

To complement the written submissions and roundtable discussions, independent research was also commissioned to explore parents' expectations of non-state schools, through a 15-minute online survey. The survey was completed by 797 parents and carers of children enrolled in a non-state school (either currently or within the last three years). While the survey provided robust data, the Review recognises that the findings are not statistically representative of the non-state school community. However, the Review observed a high level of alignment and consistency between survey findings and feedback provided to the Review through written submissions and roundtable discussions.

Consultation findings

Nine key themes were identified from the consultation process:

- **Choice** – the importance of parental choice in selecting a school that meets their child's needs and reflects their values and beliefs
- **Flexibility** – the need for greater flexibility in the Accreditation Framework, including with respect to the mode of education delivery, curriculum and compliance-monitoring processes

- **Clarity, consistency, certainty and transparency** – calls for greater clarity with respect to requirements of schools, consistency in decision-making and improved communication from NSSAB
- **Culture, collaboration and capability** – a desire among stakeholders for a more collaborative relationship with NSSAB, fostering a culture of capability-building rather than enforcement
- **Accreditation criteria (standards)** – the need for greater focus on student wellbeing, in addition to existing requirements for physical safety and reporting of harm; specific requirements for boarding schools; greater flexibility within the educational program criteria; and incorporation of suitability requirements for governing bodies
- **Complaints management** – current processes are slow and complex; they lack transparency and are perceived by stakeholders to be conducted in a ‘heavy-handed’ manner
- **Workload and costs** – reducing workloads and costs associated with accreditation and compliance monitoring was important for all stakeholders, including NSSAB itself
- **Best practice governance for regulators** – suggested changes to the composition of NSSAB to reduce potential conflicts of interest, increase skills and expertise and improve relationships with stakeholders
- **Proportional exercise of powers** – the need for powers of immediate entry where a risk of harm to children is identified, as well as for NSSAB to delegate its functions to reduce workload.

A contemporary model of accreditation for non-state schools

Together, the processes outlined above informed the Independent Reviewer’s views on changes necessary to make sure Queensland’s Non-State Schools Accreditation Framework remains fit for purpose, supports high-quality education and maintains public confidence in the non-state schooling system.

The consultation process in particular revealed a remarkable alignment of views from those within and connected to the non-state schooling sector, identifying a strong case for change in some areas. In others, stakeholders were concerned that any amendments introduced by the Review must not result in increased regulatory burden or encroach upon schools’ freedom to deliver education in line with the values and beliefs of their school community.

Across the research and consultation processes, clear themes emerged that have guided the Independent Reviewer’s recommendations for changes to the existing Accreditation Framework that could be addressed. Each of the changes the Review has suggested is designed to improve one or more of these areas and to ultimately improve outcomes for children and young people.

- **Culture, collaboration and communication** – the role of NSSAB is to provide stewardship of the non-state schooling sector. This should be achieved through a collaborative culture aiming to educate and support schools and governing bodies to achieve and maintain compliance through clear and open communication.

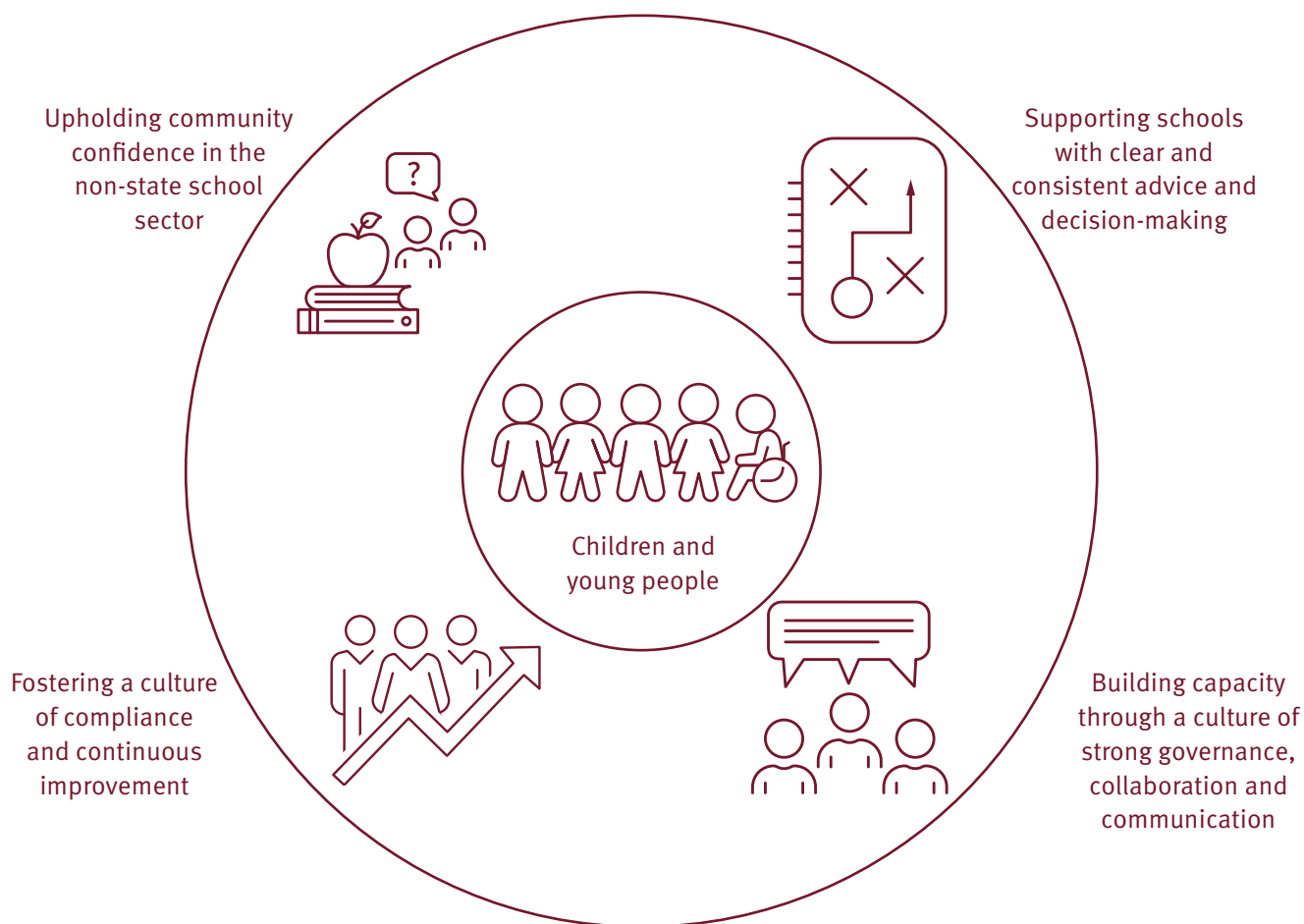


Figure 3: A contemporary model of accreditation for non-state schools

- Clarity and consistency** – schools and governing bodies must have clear guidance about what is required of them under the legislation. This advice – and decisions arising from it – must be consistent, both internally and with the advice provided by other regulators in the education sector.
- Community confidence** – upholding community confidence in non-state schools, and their regulation, is paramount. Confidence results from strengthening the regulatory focus on student wellbeing and from the governance processes of both the NSSAB and school governing bodies.
- Compliance** – achieving and maintaining compliance with legislative obligations is critical to upholding the standards that the community expects of non-state schools. However, opportunities exist to improve how compliance monitoring is undertaken to streamline this process and reduce the burden it places on schools, governing bodies and NSSAB itself.

This is a report about celebrating successes and supporting choice. The Review has undertaken a comprehensive assessment of current systems, alternate options, stakeholder views and, most importantly, the needs of children and families. It puts forward a contemporary model of accreditation of non-state schools in Queensland that attempts to balance:

- the needs of government in fulfilling its responsibilities to regulate non-state schools
- the sector's need for independence and reduced regulatory burden
- support for schools and governing bodies to help them achieve and maintain compliance with their obligations
- parents' right to choose a school whose philosophies, values and belief systems align with theirs
- the rights of students to a safe school environment that promotes the best possible educational and developmental outcomes.

This report represents the expert opinion of the Independent Reviewer and does not necessarily reflect the views of the Department of Education or NSSAB. The Independent Reviewer has considered all available evidence, including the views of stakeholders, in forming the recommendations outlined in this report.

Outline of this report

This report delivers on the Terms of Reference for the Review, presented across the following chapters:

Chapter 1 considers how the existing accreditation criteria could be further strengthened to support student safety and wellbeing (including within boarding schools), reflect contemporary requirements for governing bodies and introduce the required level of flexibility to support schools to deliver educational programs that meet their students' needs.

Chapter 2 outlines a new approach to accreditation of non-state schools, with an increased focus on supporting schools and governing bodies to achieve and maintain compliance with their legislative obligations. It also introduces a risk-based approach to monitoring compliance in an effort to reduce regulatory burden while prioritising student safety.

Chapter 3 introduces improvements to the way that complaints and compliance concerns are assessed and investigated.

Chapter 4 makes recommendations for changes to the structure and composition of NSSAB and its Secretariat to reduce workloads, increase independence and autonomy, and adequately reflect the risk and complexity of the regulatory environment in which it is operating.

Chapter 5 provides an overview of the recommended approach to implementing the recommendations of the Review. This approach includes creating an Implementation Team, supported by an Expert Advisory Group and Stakeholder Reference Group, to develop a phased implementation plan.

Chapter 1: Strengthening standards

Under the *Education (Accreditation of Non-State Schools) Act 2017* (Qld), to be accredited, non-state schools must demonstrate both the suitability of the school's governing body and achievement against accreditation criteria. The six criteria against which non-state schools are assessed are further defined in the Regulation: administration and governance; financial viability; educational program; student welfare processes; school resources; and improvement processes¹⁹. All Australian jurisdictions prescribe minimum requirements for non-state schools, but Queensland is the only state to refer to these as accreditation 'criteria'. In all other jurisdictions, these are known as 'standards'.

This chapter will describe how Queensland's accreditation criteria for non-state schools should be updated to better reflect contemporary approaches to regulation, align with community expectations, and respond to stakeholder feedback. It proposes a change in the language we use to describe these criteria, an increased emphasis on student safety and wellbeing, and additional requirements for boarding schools and governing bodies.

Standards of accreditation

Queensland is the only state that refers to accreditation criteria, rather than standards. While the object of the *Education (Accreditation of Non-State Schools) Act 2017* (the Act) is to uphold the standards of education, this term is not defined or referenced further in either the Act or the Accreditation Framework. Similarly, the Review's Terms of Reference required

consideration of community expectations of standards for non-state schools, without defining them further. In consulting with stakeholders, the Review clarified that the term 'standards' appears to be used interchangeably with the accreditation criteria specified in the Act and its Regulation. This is an ambiguity requiring clarification.

The Act also does not provide principles supporting the accreditation criteria. Principles help guide decision-making under the Act and support achievement of the Act's objectives. For example, under the *Education (General Provisions) Act 2006* (Qld), the principles supporting the achievement of the best possible educational outcomes for children include parents' responsibility for choosing a suitable educational environment, positive learning experiences that recognise student needs, involvement of children in decisions affecting them, and collaboration between the state, parents, teachers, school communities and non-government entities²⁰.

The use of legislative principles to underpin non-state school regulation is also evident in other jurisdictions. For example, Victoria takes a rights-based approach, requiring all state and non-state schools to promote principles and practices of Australian democracy, including the rule of law; equal rights; freedom of religion, speech and association; and the values of openness and tolerance²¹. South Australia recognises parental choice and the importance of student voice and requires the best interests of students to be the primary consideration in the regulator's decision about non-state schools²².

19 *Education (Accreditation of Non-State Schools) Act 2017* (Qld), s. 11; *Education (Accreditation of Non-State Schools) Regulation 2017* (Qld), Pt 2.

20 *Education (General Provisions) Act 2006* (Qld), s. 7.

21 *Education and Training Reform Act 2006* (Vic), s. 1.2.1.

22 *Education and Early Childhood Services (Registration and Standards) Act 2011* (SA), s. 2.

Recommendation 1.1: Standards of accreditation**Clarity & consistency**

R.1.1.1 It is recommended that reference to ‘accreditation criteria’ in the *Education (Accreditation of Non-State Schools) Act 2017* (Qld) is replaced with ‘accreditation standards’.

R.1.1.2 It is recommended that the *Education (Accreditation of Non-State Schools) Act 2017* (Qld) includes principles to guide its interpretation, specifically in relation to accreditation standards. These principles should build upon those guiding this Review, in particular:

- students and families are at the centre of decision-making
- quality, safe and supportive educational environments are essential for students to learn and thrive.

Student safety and wellbeing

Our current state

Under the *Education (Accreditation of Non-State Schools) Regulation 2017* (Qld), for a non-state school to be accredited, it must provide a safe and secure environment to maintain staff and student welfare by complying with the *Work Health and Safety Act 2011* (Qld) and the *Working with Children (Risk Management and Screening) Act 2000* (Qld). However, a non-state school is not required to demonstrate how compliance is being achieved.

Processes must be in place for reporting allegations of student harm or improper staff conduct to the appropriate authority²³.

No specific requirement exists within the current accreditation criteria that schools must comply with the *Anti-Discrimination Act 1991* (Qld), except with respect to educational programs for students with disability²⁴. This gap means that NSSAB does not have power under its legislation to take action against a school for failing to comply with Queensland’s anti-discrimination laws outside of this specific context.

How we compare

A broad level of consistency can be observed across jurisdictions with respect to providing for students’ physical health and safety, staff working with children clearances, risk management of high-risk activities and events, and reporting suspected abuse. There is less consistency, however, with respect to:

- requirements to support students’ social and emotional wellbeing
- implementing the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, including record-keeping requirements, reportable conduct schemes and Child Safe Standards (as reflected in the National Principles for Child Safe Organisations)
- how student attendance is monitored, including movements between state and non-state schools
- the use of student disciplinary absences within behaviour-management policies.

²³ Education (Accreditation of Non-State Schools) Regulation 2017 (Qld), ss. 15–16.

²⁴ Education (Accreditation of Non-State Schools) Regulation 2017 (Qld), s. 11(b)(ii).

Queensland and the Northern Territory are the only jurisdictions that do not explicitly reference wellbeing within their standards, although this has been proposed in the Northern Territory. While ‘wellbeing’ is not consistently defined across jurisdictions, it is broadly considered to encapsulate a safe and supportive learning experience. The broad definition used by New South Wales is instructive, relating to an environment that fosters the social, academic, physical and emotional development of students, and considers students’ mental wellbeing²⁵.

With respect to Child Safe Standards and reportable conduct schemes, the Queensland Government has yet to announce its approach to implementing the recommendations of the Royal Commission. Some other jurisdictions (Victoria, Western Australia, Tasmania and the ACT) have explicitly embedded a requirement to comply with the Child Safe Standards or National Principles for Child Safe Organisations within their standards for non-state schools. In Queensland, state schools have already implemented these standards through the Department of Education’s *Aware. Protective. Safe strategy*.

Standards in the Australian Capital Territory have been recently amended to require all reasonable alternatives to be exhausted before implementing student disciplinary action, and for such decisions to be in the best interests of the individual student, other students and staff of the school. This amendment is consistent with the overarching legislative principle that every child has a right to receive a high-quality education²⁶. In Queensland, the application of student disciplinary absences is at the discretion of each individual school.

What our stakeholders told us

While some stakeholders felt the current focus on physical safety and reporting of harm was sufficient, others identified that a greater emphasis on student wellbeing was needed and considered its omission in the Accreditation Framework to be a significant gap.

Student wellbeing was repeatedly raised as an issue non-state schools should be required to proactively address. Examples of student wellbeing raised by stakeholders included mental health, nutrition and physical activity, healthy relationships, cultural safety and the prevention of bullying.

“Schools must be encouraged to prioritise student health and wellbeing as integral components of their educational success. They build the foundations of the future generations and must see it as a core function.”

—Submission 18,
Australian Industry Trade College

Inclusivity is another element central to student wellbeing. Some non-state school stakeholders expressed their view that inclusivity on the basis of sexuality, gender identity, disability or other needs was central to their faith, values and ethos.

Others identified that inclusivity must also include the protection of religious belief and expression. Although non-state schools are not bound by Queensland’s *Human Rights Act 2019*, they are bound by the *Anti-Discrimination Act 1991* (Qld), with some religious exemptions. Some stakeholders

25 *Education Act 1990* (NSW), s. 47; NSW Education Standards Authority, [Registered and Accredited Individual Non-government Schools \(NSW\) Manual \[PDF\]](#), NSW Education Standards Authority, Sydney, 2022, p. 34; and NSW Education Standards Authority, [Registration Systems and Member Non-government Schools \(NSW\) Manual](#), NSW Education Standards Authority, Sydney, 2022, p. 57.

26 Australian Human Rights Commission, *National Principles for Child Safe Organisations [PDF]*, Australian Human Rights Commission, Sydney, 2019.

“... all students go through challenges in life with parental issues, challenges around sexuality, mental health, and identity. As Christians we promote that each of our students is unique and loved for who they are. We do not seek to judge but to guide and support students through their education and life journey while enrolled with us and under our care ...”

—Submission 20,
Suncoast Christian College Board

considered that adopting a rights-based approach would help to refocus the Accreditation Framework on preventing, rather than responding to, harm.

Student voice was also considered by some stakeholders as vital to wellbeing. For peak bodies and government stakeholders, this emphasis was tied to the implementation of the National Principles for Child Safe Organisations, which require children to be informed of their rights and supported to participate in decisions affecting them²⁷. Some submissions indicated schools have already begun to adapt their procedures to reflect the National Principles.

In addition, several stakeholders – including the Queensland Human Rights Commission (QHRC), the Queensland Family and Child Commission (QFCC) and the Independent Education Union – Queensland and Northern Territory Branch (IEU-QNT) – identified inconsistencies between state and non-state schools regarding regulation of student disciplinary absences. Some stakeholders raised concerns that students with disability and Aboriginal and Torres Strait Islander students were disproportionately subject to disciplinary absences, as well as the

impacts of exclusion on vulnerable and at-risk students. The QFCC noted that when a child is suspended or excluded from school, not only is their access to education limited, but they may also lose what might otherwise be their only accessible support network. Some stakeholders also identified a lack of transparency and monitoring of the use of these practices in non-state schools compared with state schools, and highlighted the provisions relating to student disciplinary absences in effect in the ACT.

To complement the written submissions and roundtable discussions, independent research was commissioned to explore parents’ expectations of non-state schools. Student wellbeing clearly and consistently emerged as the most important priority for parents and carers in terms of their child/children’s experience at a non-state school. Other priorities included student safety, making sure the individual needs of students are met, behaviour management, and the educational programs offered.

“Accrediting schools on their implementation of existing human rights and anti-discrimination standards and legislation would help ensure that the wellbeing of all young people is better protected and that schools are actively promoting school cultures that emphasise students’ human rights and personal and collective responsibility that all members of the school community have for upholding them. We believe that schools that embrace this approach reduce the chances of harm occurring in the first place.”

—Submission 33,
Board of Directors of Community Learning Ltd

27 Australian Human Rights Commission, [National Principles for Child Safe Organisations \[PDF\]](#), Australian Human Rights Commission, Sydney, 2019.

Around one in three survey participants believed the approach to wellbeing, meeting the individual needs of students, and the approach to inclusion and diversity would become much more important in the future. Consistent with these priorities, the overwhelming majority of participants believed it is important that accreditation criteria focus on the approach to safety, wellbeing and meeting the needs of individual students.

The case for change

Queensland's accreditation criteria for non-state schools have remained largely unchanged since 2001. The education sector has faced many changes and challenges since this time that have brought student wellbeing – over and above physical safety – into acute focus. These include navigating the COVID-19 pandemic; national agreement to the Alice Springs (Mparntwe) Education Declaration; the introduction of the *Human Rights Act 2019* (Qld); the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse; and the ongoing Disability Royal Commission, which is currently still underway. This context points to both a need and an opportunity to implement a contemporary wellbeing standard for non-state schools.

Key stakeholders, including schools and parents and carers, expressed strong support for increasing the focus on student wellbeing within the accreditation criteria. Supporting student wellbeing requires schools to provide a welcoming, inclusive and safe environment (encapsulating physical, emotional and cultural safety) that is grounded in upholding students' essential human rights. While many schools report that student wellbeing is already at the heart of everything they do, formalising

this requirement within the Accreditation Framework will reinforce its importance to the community and make sure minimum standards of wellbeing are implemented in *all* schools.

An expanded welfare standard that focuses on wellbeing should allow for flexible implementation, with schools able to align their policies and procedures with the values of their school community. It should require demonstration of compliance with the *Anti-Discrimination Act 1991* (Qld) and embed a positive duty to eliminate discrimination. It should also retain its existing focus on physical safety – applying the requirements of the *Work Health and Safety Act 2011* (Qld) – and screening of staff under the *Working with Children (Risk Management and Screening) Act 2000* (Qld).

Many states have already implemented the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. The Queensland Government has accepted the majority of the Royal Commission's recommendations, but the implementation approach is still being considered. An opportunity exists for Queensland's non-state schools to align with the Department of Education's initiative to implement the National Principles for Child Safe Organisations within state schools. This move would also align with the standards set in other states and territories. Requirements to align with record-keeping requirements for state schools should also be introduced.

This focus on children's safety and wellbeing should also be reflected in clearer legislative requirements regarding the management of student disciplinary absences, which should balance the rights of all children to have access to high-quality education and for students

and teachers to have a safe learning and working environment. This focus extends to complying with obligations under the new *Managing the Risk of Psychosocial Hazards at Work Code of Practice 2022*. Requiring schools to implement procedurally fair and transparent policies regarding student disciplinary absences is necessary to

ensure students, particularly those from vulnerable or at-risk cohorts, are not disproportionately affected by their use and that the best interests of students are kept at the forefront of decision-making. This requirement will also bring Queensland into line with contemporary practices in other jurisdictions.

Recommendation 1.2:
Student safety and wellbeing

Culture, collaboration & communication
Clarity & consistency
Compliance

- R.1.2** It is recommended that the existing ‘Student welfare’ criterion is replaced with a new ‘Student wellbeing’ accreditation standard. This contemporary standard should reflect:
- a rights-based approach to student wellbeing encapsulating students’ social, academic, physical, emotional and cultural safety and best interests
 - the importance of student voice, embedding a participation duty to make sure schools actively involve students and families in matters affecting their school experience
 - a requirement for schools to have and implement clear and procedurally fair policies regarding student disciplinary actions, noting all students and staff have a right to a safe learning and working environment
 - the recommendations of the Royal Commission with respect to record-keeping standards and the National Principles for Child Safe Organisations
 - the incoming reforms to Queensland’s anti-discrimination legislation, which introduce a positive duty for organisations to eliminate discrimination
 - contemporary approaches in other jurisdictions.

Standards for boarding schools

Our current state

Currently, only limited criteria relate specifically to boarding schools within the Accreditation Framework. In addition to complying with all other accreditation criteria, non-state schools providing boarding facilities must have the following, to provide for the health, safety and welfare of boarders:

- sufficient number and appropriate types of staff
- the necessary accommodation and facilities²⁸.

Queensland currently has 50 non-state schools accredited to offer boarding facilities. NSSAB does not regulate community or other non-state residential services such as student hostels providing accommodation to support geographically isolated students to attend schools in rural areas²⁹.

²⁸ Education (Accreditation of Non-State Schools) Regulation 2017 (Qld), s. 17–18.

²⁹ Department of Education, ‘[Student Hostels Assistance](#)’, Queensland Government Department of Education, Brisbane, 2022, accessed 4 July 2023.

How we compare

While most jurisdictions' regulatory frameworks for non-state schools address boarding schools in some capacity, New South Wales, Victoria, Western Australia and the Australian Capital Territory have specific standards for boarding schools. In general, these standards reflect the benchmarks set out in the *Australian Standards AS 5725:2015, Boarding Standard for Australian Schools and Residences*³⁰. These standards include provisions relating to governance, record-keeping and financial management; the qualifications, skills and probity of supervisory staff; the standards of the premises; communication and consultation with students and parents; disciplinary action; child protection and reportable conduct; student nutrition, physical activity and healthcare; student wellbeing, holistic development and supervision.

Many of the characteristics of boarding schools outlined in the Australian Standard and regulatory frameworks in other jurisdictions are covered under the accreditation criteria that apply to all non-state schools in Queensland. However, the current criteria do not provide for:

- the overall wellbeing of boarders
- their nutrition
- standards for supervision
- their personal development, pastoral care and support
- communication with families
- provisions for boarders with particular needs (e.g. disability, cultural considerations)
- facilities and programs to support boarders' physical health and activity
- managing boarders' access to health services
- specific management aspects relating to boarding staff.

What our stakeholders told us

Parents reported that choosing a school for their child was one of the biggest decisions they need to make, with those in remote areas likening choosing a boarding school to choosing a 'co-parent'. During the consultation process, one stakeholder raised concerns that current provisions for boarding schools are inadequate and recommended that there should be 'transparent minimum standards' developed for non-state schools offering boarding facilities in Queensland³¹. Another stakeholder suggested that existing standards outlined by the Australian Boarding Schools Association³² could be used as the basis for developing these standards.

The case for change

Educating children while they are living away from their home environment is challenging. Without direct parental support, children are more vulnerable and parents must place a high degree of trust in schools to meet all of their children's physical, emotional and developmental needs in their absence. A report provided to inform the Royal Commission into Institutional Responses to Child Sexual Abuse identified that boarding schools, like all residential institutions, represent a high situational risk with respect to

30 Standards Australia, *Australian Standards AS 5725:2015, Boarding Standard for Australian Schools and Residences*, Standards Australia website, 2015, accessed 5 July 2023.

31 Submission 1, name withheld.

32 Australian Boarding Schools Association, '*National Standards: Boarding Standard for Australian Schools and Residences*', Australian Boarding Schools Association website, 2019, accessed 3 July 2023.

both adult-to-child and child-to-child abuse.³³ This report identified that, as a ‘total institution’ – that is, one in which all aspects of a child’s life are largely governed by a single authority (at least during school terms) – a boarding school is susceptible to elevated risk in four ways: perpetrators of abuse have opportunity to be alone with children unobserved; children are under the authority of the adults in such settings; access to parents and external networks to whom abuse could be disclosed is limited; the closed nature of the institution isolates them from observation by broader society³⁴.

The vulnerability of children attending boarding schools requires increased vigilance and responsiveness to other forms of peer abuse such as bullying. This need is highlighted by the tragic suicide of 14-year-old Dolly Everett in 2018 after experiencing ongoing bullying while attending boarding school in Queensland.

There is more that Queensland can do from a regulatory perspective to make sure all boarding schools are held to the highest possible standards with respect to the health, safety and wellbeing of their students. These improvements will also bring Queensland into alignment with other states and territories.

It is worth noting that these risks are also evident in student hostels; however, student hostels lie beyond the scope of the Queensland Non-State Schools Accreditation Framework and of this Review. The Review urges the Queensland Government to consider a review of the regulatory mechanisms and provisions for these hostels to address this regulatory gap.

**Recommendation 1.3:
Boarding school standards**

Community confidence
Clarity & consistency
Compliance

- R.1.3** It is recommended that an additional standard for boarding schools is created. This standard should adequately reflect the higher risk and vulnerability of students being educated while living away from their families. Associated guidelines should also be developed to assist schools to achieve and maintain compliance with the new standard.

33 P Parkinson and J Cashmore, *Assessing the Different Dimensions and Degrees of Risk of Child Sexual Abuse*, Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney, 2017, pp. 92–93.

34 Parkinson and Cashmore, *Assessing the Different Dimensions and Degrees of Risk of Child Sexual Abuse*, p. 89.

Administration and governance

Our current state

The ‘Administration and governance’ accreditation criterion provides the transparency and accountability of the day-to-day management of the school, its complaints processes and the keeping of school survey data³⁵.

Suitability requirements for school governing bodies do not form part of the current accreditation criteria; however, a governing body and its directors must be initially assessed as, and remain, suitable for the school to achieve and maintain its accreditation. Suitability requirements for governing bodies are outlined in the *Education (Accreditation of Non-State Schools) Act 2017* (Qld)³⁶, separate to the accreditation criteria described in the Regulation. In determining the suitability of a governing body, NSSAB may consider the governing body’s:

- relationship with other entities
- policies and procedures for managing conflicts of interests
- conduct (or the conduct of its directors) in relation to the operation of the school.

It may also consider the nature and circumstances of any conviction (and criminal history reports) of the governing body, or its directors; a report prepared by an authorised person about the suitability of a governing body; or any other matter it considers relevant.³⁷

How we compare

Queensland aligns with most other states with respect to the requirement for schools to operate on a not-for-profit basis so as to be eligible for public funding; to demonstrate its financial viability; to have procedures in place for managing conflicts of interest; and for relevant staff (and/or governing body directors) to hold a working with children clearance.

Other than Western Australia, Queensland is the only jurisdiction that does not include the requirements for suitability and accountability of the governing body within the criteria/standards for registration/accreditation of a non-state school.

Most other jurisdictions require each director of the governing body to be considered ‘fit and proper’, with the majority requiring statutory declarations to this effect.³⁸ In Western Australia, the Chair of the governing body must also confirm their assessment that each board or management committee member is fit and proper.

Queensland and the Northern Territory are the only jurisdictions that do not require governing body directors to be ‘fit and proper’, although Queensland does allow NSSAB to consider directors’ criminal histories and to require them to hold a working with children clearance (blue card).

Some jurisdictions also require the regulator to consider the range of skills, experience and qualifications directors

35 Education (Accreditation of Non-State Schools) Regulation 2017 (Qld), ss. 5–7.

36 *Education (Accreditation of Non-State Schools) Act 2017* (Qld), ss. 26–29.

37 *Education (Accreditation of Non-State Schools) Act 2017* (Qld), s. 26.

38 NSW Education Standards Authority, [Registered and Accredited Individual Non-Government Schools \(NSW Manual\)](#), NSW Education Standards Authority, Sydney, 2022, p. 40; Victorian Registration & Qualifications Authority, [Guidelines to the Minimum Standards and Requirements for School Registration](#), Victorian Registration & Qualifications Authority, Melbourne, 2022, pp. 14–15; Department of Education WA, [Guide to the Registration Standards and Other Requirements for Non-Government Schools](#), Government of Western Australia, Perth, 2022, pp. 7–11; Education Standards Board SA, [Evidence Guide to using the Standards for Registration and Review of Registration of Schools in South Australia for Review of Registration](#), Education Standards Board, Adelaide, 2019, p. 2; Tasmanian Non-Government Schools Registration Board, [Non-Government Schools Registration Board Guidelines: Standards for Registration of a New Non-Government School](#), Office of the Education Registrar, Hobart, 2021, p. 2; ACT Education Directorate, [Interim Guidelines: Registration Standards](#), ACT Government, Canberra, 2022, p. 35.

bring to their governing body roles. For example, in New South Wales, each responsible person for a governing body must demonstrate a minimum of 12 hours of professional development in school governance by an approved training provider every three years. No such requirements exist in Queensland.

What our stakeholders told us

Stakeholders offered relatively little commentary about the ‘Administrative and governance’ criterion of the Accreditation Framework as it currently applies. There were, however, a small number of comments relating to the skills and expertise of governing body directors. Concerns were raised that those with limited educational experience may struggle with the complexities of running a school.

Some advocated for professional development requirements, similar to those in New South Wales, to be introduced and the potential need for directors of governing bodies to meet minimum requirements (for example, demonstrating expertise in governance, education or finance matters).

One stakeholder called for greater recognition that most governing bodies comprise volunteers and sought a more proactive and supportive approach to educating governing body directors, rather than a reactive and enforcement-oriented approach.

Other stakeholders explained that it can be difficult to recruit directors who do not hold actual or perceived conflicts of interests via their connection to the community or who hold expertise specific to the school or student cohorts. They called for greater flexibility in managing these conflicts of interest.

The case for change

NSSAB has reported that of the 35 compliance notices issues issued between January 2018 and June 2022, 16 related to the suitability of the governing body, 12 related to administration and governance and 3 to financial viability.³⁹ Of the 24 show cause notices proposing to cancel a school’s accreditation for a type of education over the same period, 14 were on the grounds that the governing body was deemed unsuitable. Failure to comply with accreditation criteria was noted in 12 cases, although the specific criteria were not reported.⁴⁰ This data clearly demonstrates a need for greater clarity in the legislation regarding the skills and expectations of governing body directors, coupled with improved communication, education and support for directors in executing their duties.

The suitability requirements for a schools’ governing body are currently located within the Act, separate to the requirements for the governance arrangements of the school. Amalgamating these provisions within the accreditation standards in the Regulation would provide greater clarity to the sector and community regarding the standards that should be upheld. There are also opportunities to strengthen the existing suitability requirements to make sure that all governing body directors are fit and proper persons and commit to building their skills and expertise in overseeing the running of non-state schools. Collectively, the governing body must have sufficient skills to oversee the operation of the school and execute its fiduciary duties. Increasing requirements for governing bodies should be complemented by increased education and proactive support to assist them in

39 NSSAB, [Annual Report 2021–22 \[PDF\]](#), p. 67.

40 NSSAB, [Annual Report 2021–22 \[PDF\]](#), p. 68.

meeting these requirements. This change will contribute to achieving the best outcomes for students and to reducing the number of compliance concerns received and enforcement actions taken.

Stronger provisions should also be introduced to not only manage, but also prevent, conflicts of interests within governing bodies and make sure directors are sufficiently independent from the day-to-day operation of the school. For example, nothing exists within the current Accreditation Framework to prevent school principals from also being a member or director of their school's governing body, creating the potential for actual and perceived conflicts of interest. Instead, the

legislation requires only that appropriate policies are in place to declare and manage such conflicts.⁴¹

This report does, however, recognise the volunteer nature of most governing body positions, and the difficulties some communities may face in recruiting people to these positions with the existing level of skills or experience, or who do not have ties to the school community that create actual or perceived conflicts of interest. The development of strengthened suitability requirements must make reasonable and pragmatic accommodations in such circumstances where these conflicts are unavoidable but can be effectively managed.

Recommendation 1.4:
Governance and administration

Community confidence
Clarity & consistency
Compliance

- R.1.4** It is recommended that the 'Administration and governance' accreditation standard is amended to incorporate suitability requirements for governing bodies. Existing suitability requirements should be expanded to include provisions to make sure:
- governing body directors:
 - are fit and proper persons
 - collectively hold the necessary skills and experience to govern a non-state school and carry out their fiduciary responsibilities
 - undertake mandatory professional development relating to school governance (such as finance, compliance or risk management), to be delivered by an approved provider
 - greater clarity is provided on managing conflicts of interest
 - provision is made to support schools facing difficulty in meeting the new requirements for the suitability of governing bodies.

⁴¹ *Education (Accreditation of Non-State Schools) Act 2017* (Qld), s. 26(2)(b).

Educational program

Our current state

Under the current framework, schools must provide a quality educational program, including delivery of an approved curriculum. Educational programs must:

- have regard to the ages, abilities, aptitudes and development of the school's students
- be responsive to student needs
- provide a breadth, depth and balance of learning appropriate to students' phases of development and across an appropriate range of learning areas
- promote continuity of students' learning experiences
- be consistent with the Alice Springs (Mparntwe) Education Declaration.⁴²

As part of the educational program criteria, all schools must have written processes for identifying students with disability and devising an educational program, specific to the educational needs of students with disability, that complies with the *Anti-Discrimination Act 1991* (Qld) and the *Disability Discrimination Act 1992* (Cth).

For students from Prep to Year 10, the educational program must deliver the Australian Curriculum or a curriculum recognised by the Australian Curriculum, Assessment and Reporting Authority (ACARA). The Australian Curriculum provides a degree of flexibility to respond to a school's priorities. It is designed so that its delivery should take no more than 80 per cent of teaching time. The remaining 20 per cent provides schools with flexibility to include other content or activities.⁴³

For senior secondary students, schools must implement programs, courses or syllabuses endorsed by the Queensland Curriculum and Assessment Authority (QCAA), or other approved programs such as the International Baccalaureate.

In addition to curriculum and syllabus requirements, schools may offer Vocational Education and Training (VET) courses, other subjects recognised by QCAA or other courses/programs decided by the school's governing body.⁴⁴

Educational programs are to be grounded in the school's written statement of philosophy and aims, which provides a guide for its educational and organisational practices. This philosophy must also be consistent with the Mparntwe Declaration.⁴⁵ A school's written educational programs should reflect the school community's values, beliefs and aspirations. Schools decide how to deliver the curriculum, and in developing an educational program, determine the pedagogical and other delivery considerations to account for students' needs and interests, as well as those of the school and its community.⁴⁶

How we compare

All jurisdictions emphasise educational program requirements for non-state schools within their standards. Most – including Queensland – prescribe the curriculum that schools are required to use at various phases of learning. Generally, the Australian Curriculum (or equivalent approved by ACARA) is used for the compulsory years of schooling. Delivering the Australian Curriculum is also a condition of receiving Australian Government school funding.⁴⁷

42 Education (Accreditation of Non-State Schools) Regulation 2017, s. 9.

43 Australian Curriculum, Assessment and Reporting Authority, *The Shape of the Australian Curriculum, Version 5.0*, ACARA, Sydney, 2020, p. 21.

44 Education (Accreditation of Non-State Schools) Regulation 2017, s. 9(5).

45 Education (Accreditation of Non-State Schools) Regulation 2017, s. 10.

46 ACARA, *The Shape of the Australian Curriculum, Version 5.0*, p. 10.

47 *Australian Education Act 2013* (Cth), s. 77(2)b.

“...implementing new practices and initiatives can be challenging as we often face barriers or blockage from our regulatory bodies who do not understand any educational landscape beyond that which is the traditional one.”

“The other challenge we face is the belief that our young people ... still seek the breadth of subjects stated by the traditional education policy ... The development of the ‘whole human’ rather than meeting regulatory standards is not valued. The ‘one-size-fits-all’ approach by the regulators impedes the opportunity.”

—Submission 18,
Australian Industry Trade College

Educational programs for senior secondary schooling are prescribed by state authorities. In Queensland, this is the QCAA. Like New South Wales, Victoria and Tasmania, Queensland non-state schools may provide a senior school educational program that includes VET components.

What our stakeholders told us

Schools, governing bodies and the QCAA raised concerns that NSSAB’s educational program requirements were more prescriptive than curriculum authorities intended, indicating a lack of alignment between curriculum authorities and the NSSAB legislative framework.

Stakeholders saw the requirement within the standards to provide a breadth of subjects as limiting a school’s ability to provide flexible approaches that cater to students’ needs and interests, which is a requirement under the Act.

ISQ reported some member schools had been required to provide documentation for subjects no student within their cohort

was likely to select, and this request did not match up with parents’ expectations, particularly for small schools. Schools catering to young people at risk of disengaging from education found this requirement for ‘breadth’ of learning to be particularly challenging. Some special assistance schools reported that learning multiple subjects concurrently is not necessarily in their students’ best interests and can contribute to a sense of failure for those who struggle to meet these benchmarks.

Multiple stakeholders sought flexibility in the application of the educational program standard, including:

- allowing senior schooling subjects and vocational education pathways to commence in Year 10
- permitting the delivery of subjects responsive to the needs and interests of students rather than being required to offer subjects students are unlikely to select
- addressing challenges faced in delivering an educational program that provides the ‘breadth, depth and balance of learning’⁴⁸ required by the current criteria while remaining responsive to the needs of students.

“Parents also expect schools to provide the subjects, resources and facilities that have contributed to their enrolment decision. They expect that their school offers a specific set of subjects corresponding to their student cohort and the school’s educational aims and philosophies. They do not expect that the small school they have chosen offers the same subject choice that a larger school could.”

—Submission 12,
Independent Schools Queensland

48 Education (Accreditation of Non-State Schools) Regulation 2017, s. 9(1)(c).

NSSAB has prepared guidelines for schools and governing bodies about the educational program requirements that recognise the need for flexibility. However, stakeholders reported there appears to be a gap between this acknowledgement and its application in practice. This disconnect appears to be due to the requirements of the educational program criterion (against which NSSAB must assess schools), which specifies that schools must provide a ‘breadth, depth and balance of learning’.⁴⁹ Stakeholders suggested that increased collaboration and information sharing between QCAA and NSSAB would ensure schools and governing bodies are provided with consistent advice and assessments regarding their educational programs.

The case for change

It is critical that each child, no matter the school they attend or the pedagogy it employs, has the benefit of an educational program that delivers the Australian Curriculum, senior secondary syllabus or other approved program. The Australian Curriculum itself is flexible, indicating that schools are best placed to decide how to deliver the curriculum and their pedagogical approach on the basis of student needs and interests.⁵⁰ However, this flexibility does not appear to be reflected in the way educational program requirements are currently being assessed. While it is important that the educational philosophies of individual schools guide the delivery of the educational program, it is imperative that they do not detract from the integrity of the curriculum and learning outcomes for students.

Stakeholder feedback provided to the Review indicates that greater consistency is required in the advice provided to schools and governing bodies with respect to how the educational program accreditation criterion is to be achieved. The curriculum is intended to be applied flexibly so it can respond to the diverse needs of students, and schools have independence to make decisions about how the curriculum is implemented to suit their specific school context. This is a degree of flexibility that schools report they are not experiencing during assessments or compliance reviews undertaken by NSSAB and its authorised persons. Greater alignment is clearly required between the educational program criteria against which NSSAB assesses schools and the curriculum advice that the QCAA provides.

These objectives could be achieved by several mechanisms. In the first instance, removal of the requirement for ‘breadth of learning’ from the educational program accreditation standard would bring the requirements further into alignment with those of the Australian Curriculum. While the curriculum recognises the value of breadth of study, its emphasis is on depth of learning rather than breadth.⁵¹ Improved guidelines are also required for schools that reflect this change to assist them in developing their educational programs. Additionally, opportunity exists for NSSAB to call upon the expertise of QCAA on curriculum-based decisions, whether it occurs through QCAA representation on NSSAB itself (noting the current and former Chair of QCAA are currently represented on NSSAB); referral of relevant matters to QCAA; or via a curriculum committee led by QCAA representatives (see Chapter 5, Governance).

49 Education (Accreditation of Non-State Schools) Regulation 2017, s. 9(1)(c).

50 ACARA, *The Shape of the Australian Curriculum, Version 5.0*, p. 10.

51 ACARA, *The Shape of the Australian Curriculum, Version 5.0*, p. 10, p. 20.

**Recommendation 1.5:
Educational program****Community confidence
Clarity & consistency
Compliance**

- R.1.5.1** It is recommended that the ‘Educational program’ accreditation standard is amended to better align with requirements for state schools and the Australian Curriculum. These amendments include:
- removing, at a minimum, the requirement for schools to deliver a ‘breadth’ of learning
 - guaranteeing that the integrity of the curriculum and learning outcomes for students are upheld.
-
- R.1.5.2** It is recommended that NSSAB and QCAA, in consultation with the SRG, co-author a revised educational program guideline that reflects the changes to the ‘Educational program’ accreditation standard and is approved by both the NSSAB and QCAA boards.
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Chapter 2:

A new model for accreditation

This chapter explores options for improving Queensland’s model for accreditation of non-state schools. Drawing on the feedback received from stakeholders, and the Review’s consideration of regulatory models in other jurisdictions, it suggests that a cultural shift is required to better support schools and governing bodies to achieve and maintain compliance, rather than focusing on enforcement. The Review has also identified opportunities to reduce regulatory burden on all stakeholders through employing more targeted, risk-based approaches to monitoring schools’ compliance over time.

Our current state

As the regulator for non-state schools in Queensland, NSSAB is responsible for:

- determining the suitability of a school’s governing body
- determining the governing body’s eligibility for government funding
- assessing applications for new schools (or amendments to existing schools) and issuing accreditation
- monitoring and enforcing the compliance of the school and its governing body with its legislative requirements (both proactively and in response to compliance concerns)
- conducting investigations where there is suspected non-compliance with the Act

- amending or cancelling a school’s accreditation, if required
- maintaining a register of accredited schools.⁵²

Accreditation is ongoing unless cancelled or surrendered. Accreditation may be cancelled or surrendered for the whole school or for specific attributes, such as sites, boarding provisions or year levels.⁵³

Compliance with accreditation requirements is assessed at various points in a school’s lifecycle. These points include when seeking to open a new school, to add a new type of education (e.g. expanding from primary to secondary education), or to change an attribute of accreditation (e.g. create a new site, add boarding facilities, add years of schooling).⁵⁴ Compliance is also assessed on a periodic basis (see below) and in response to compliance concerns (see Chapter 4, Complaints and concerns).

Once a new school, new school site or type of education (primary, secondary or special education) has been established, NSSAB must undertake an *initial assessment* of compliance with the accreditation criteria and the suitability of the governing body after the school has been in operation for between 60 days and 6 months. Where a school is progressively expanding to additional year levels, it must undertake further assessments of compliance with accreditation criteria during the school’s establishment phase, as it commences

⁵² *Education (Accreditation of Non-State Schools) Act 2017* (Qld), s. 100; Ch. 2, Pt. 6, Div. 2.

⁵³ *Education (Accreditation of Non-State Schools) Act 2017* (Qld), s. 46, s. 64–65.

⁵⁴ Non-State Schools Accreditation Board, ‘[Application Process](#)’, NSSAB website, 2018, accessed 29 March 2023; *Education (Accreditation of Non-State Schools) Act 2017* (Qld), s. 19(4).

delivering certain year levels. The Board must obtain a written report from an authorised person about the school's and/or governing body's compliance.

NSSAB's cyclical **compliance review program** means every school's ongoing compliance is reviewed every five years. Through this process, governing bodies provide an independently verified report to NSSAB demonstrating the school's compliance with the accreditation criteria, the suitability of the governing body and their continued eligibility for government funding. This process starts with the governing body providing a review plan, as well as outlining the timeline, approach and nominated external validator (among other things) to NSSAB for endorsement. If satisfied with the approach, NSSAB will invite the governing body to proceed with the review. While NSSAB may appoint representatives to participate in this process, it rarely does so.⁵⁵ Governing bodies are encouraged to incorporate the outcomes of the review into a broader school improvement process.

Schools must collect data about enrolments, attendance and their student cohort. This data is provided to NSSAB and shared with the Department of Education annually to assist with the allocation of government funding. After each **Census Day**, NSSAB uses risk-based purposive sampling to audit approximately 15 per cent of non-state schools to verify the data they submitted. Audits are undertaken by authorised persons, who may enter a school with one day's notice for this purpose.⁵⁶

Monitoring assessments are conducted by authorised persons appointed by NSSAB in response to compliance concerns and/or identified through compliance review processes and where the school or governing body has not been able to assure NSSAB of its compliance with the Act.⁵⁷ An authorised person may access a school with seven days' notice to undertake an assessment of the school and provide a report to NSSAB (see also Chapter 4, Complaints and concerns). In response to suspected non-compliance, NSSAB may issue:

- an **advice letter** providing a copy of the assessment report and seeking a response from the Board about any adverse findings or further information about evidence of compliance, requesting rectification of the compliance matter, or advising NSSAB that it is taking no further action.
- a **compliance notice** instructing the governing body to address the non-compliance and provide evidence of compliance. A compliance notice is issued where NSSAB considers the school or governing body reasonably capable of rectifying the issue, and where it is appropriate to do so – an authorised person may also conduct an assessment to validate compliance.
- a **show cause notice** outlining the grounds for amendment or cancellation of the school's accreditation and/or withdrawal of a governing body's eligibility for funding. Governing bodies are provided an opportunity to

55 Non-State Schools Accreditation Board, [Non-State Schools Accreditation Board's Review Program Guidelines for the Demonstration of Compliance with the Education \(Accreditation of Non-State Schools\) Act 2017 \[PDF\]](#), NSSAB, Brisbane, 2022.

56 NSSAB, [Annual Report 2021–22](#), p. 26; *Education (Accreditation of Non-State Schools) Act 2017* (Qld), s. 129(2)(a); *Education (Accreditation of Non-State Schools) Act 2017* (Qld), s. 138(2).

57 NSSAB, [Non-State Schools Accreditation Board's Review Program Guidelines for the Demonstration of Compliance with the Education \(Accreditation of Non-State Schools\) Act 2017](#).

demonstrate compliance, or advise its intended approach to rectifying the matter. NSSAB may issue a show cause notice without having first issued a compliance notice.⁵⁸ This approach is generally reserved for serious matters where NSSAB considers that issuing a compliance notice will be ineffective, or is not appropriate.

How we compare

As summarised in Table 1 below, approaches to registering/accrediting schools, approving changes to existing schools and monitoring their compliance with legislative requirements over time differ across jurisdictions. These differences include the use of provisional registration, the standards monitored, timing and frequency of assessments, and which schools are monitored.

Table 1: Models for accreditation/registration of non-state schools, by state and territory

Overview	Qld	NSW	Vic	SA	WA	Tas	ACT	NT
Ongoing accreditation	✓			✓		✓	✓	
New/changed schools								
Provisional accreditation/initial assessment for new schools (12–18 months)		✓		✓	✓	✓		*
Differential processes for minor vs significant changes	✓§	✓	✓	✓	✓		✓	
Approach to monitoring compliance								
Emphasis on education and support		✓	✓	✓				
Risk-based model of compliance monitoring	^	✓	✓	✓	✓	✓	✓	
Priority standards for monitoring (e.g. student safety, governance)		✓	✓	✓		✓		
Powers of entry without notice		✓		✓	✓	✓		✓
Frequency of compliance reviews/reaccreditation								
Annual accreditation review (random school sample)		✓		✓			✓	
Annual accreditation review (selected criteria)		✓	✓				✓	
Five-yearly compliance review	✓		✓	✓	#			✓

§ Assessments differ depending on attributes changed, but no distinction between minor and significant changes.

^ For school census data verification only.

* Recommended change arising from recent review of non-state school regulation.⁵⁹

Registration or renewal of registration may be granted for between one and five years.⁶⁰

58 *Education (Accreditation of Non-State Schools) Act 2017* (Qld), s. 67.

59 Department of Education NT, *Report: Review of Part 7 of the Education Act 2015*, 2022, Department of Education, Darwin.

60 Department of Education WA, *Guide to the Registration Standards and Other Requirements for Non-Government Schools*, p. 70.

Collaborative approaches

South Australia, New South Wales and Victoria all emphasise a collaborative and educative approach to regulating the non-state schooling sector. In South Australia, providing guidance and advice – particularly for new schools – is seen as a means of encouraging voluntary compliance, with collaboration seen to foster a deeper understanding of regulatory objectives and a shared responsibility for achieving regulatory outcomes.⁶¹ New South Wales commits to providing a forum for collaboration and works in partnership with students, parents, teachers, principals, school sectors and other stakeholders to attain high education standards.⁶² The Victorian regulator similarly highlights as strategic priorities the provision of clear education and support to the sector and improving stakeholders' understanding of their role.⁶³

New schools and changes to existing schools

Most jurisdictions carry out provisional accreditation or initial assessments for a new school, in recognition that compliance with some requirements cannot be demonstrated until the school begins operation. For example, South Australia's collaborative approach emphasises providing guidance and advice to new schools to assist them in understanding their requirements and responsibilities.⁶⁴

With respect to approving changes to existing schools, some jurisdictions make clear distinctions between significant and minor changes, with the latter requiring notification to the regulatory authority

rather than submission of a change application (Tas, ACT, SA). In Queensland, non-state schools must seek accreditation when adding an education type or changing an attribute of the school for which they have already been accredited. While it does not distinguish between significant and minor changes, reassessments of funding eligibility and governing body suitability occur only in specific circumstances.

Risk-based compliance monitoring

Most jurisdictions have implemented risk-based regulatory approaches that combine flexibility with proactive and targeted compliance monitoring. For some jurisdictions, these approaches include a risk-based approach to initial and renewal assessments (e.g. NSW, Tas) and/or monitoring compliance over time (NSW, Vic, SA, ACT, Tas).

For example, New South Wales and Victoria prioritise areas for compliance monitoring and use risk assessments and risk profiles to determine the level of regulatory oversight required. Victoria's compliance strategy is informed by the school's risk profile, which considers indicators of student welfare, student interests, governance, financial viability and attitude to compliance.

New South Wales, South Australia and the Australian Capital Territory randomly select schools for annual registration/accreditation review. In New South Wales, random reviews are undertaken at short notice (four days) focusing on a subset of registration requirements. South Australia's annual registration review (validation) also targets newly registered schools and schools with significant changes.

61 Education Standards Board SA, [Regulatory Practice Statement](#), Government of South Australia, Adelaide, December 2022, p. 8.

62 New South Wales Education Standards Authority, [Annual Report 2021-22](#), NSW Government, Sydney, 2022, p. 9; and NSW Standards Authority, [NSW Education Standards Authority Charter](#), NSW Government, Sydney, accessed 23 July 2023.

63 Victorian Registration and Qualifications Authority, [Strategic Plan 2022–25](#), Victorian Registration and Qualifications Authority, Melbourne, 2022.

64 Education Standards Board SA, [Regulatory Practice Statement](#), p. 8.

Tasmania takes a slightly different risk-based approach: in response to non-compliance, conditions are placed on a school's registration, with the number of conditions determining the length of registration.⁶⁵

What our stakeholders told us

Overwhelmingly, stakeholders called for a more flexible and positive relationship between schools, governing bodies, NSSAB and its Secretariat. Many called for a shift from a reactive, enforcement-based compliance approach to a proactive, risk-based approach underpinned by guidance and support to assist schools in achieving and maintaining compliance. There was also strong support for improved communication and clarity about schools' legislative obligations as well as increased transparency of NSSAB decisions.

Stakeholders also suggested:

- a legislated object of NSSAB to direct regulatory emphasis towards supporting the non-state schooling sector to meet regulatory obligations
- additional resourcing to allow NSSAB to assume an educative and research role
- more proactive stakeholder engagement, including information sessions for schools and governing bodies.

“NSSAB doesn't walk alongside schools ... the best way to get compliance is not with a big stick but [by] working with schools to understand their complexities and working with them.”

—Roundtable discussion,
Name withheld

The compliance review program received mixed feedback. Some reflected that it had positively contributed to their school improvement plans, while others noted the significant workload it created. The depth, breadth and degree of prescriptiveness in the review process was seen to have increased in recent years, and some stakeholders felt there was a 'one-size-fits all' approach that failed to account of the unique characteristics of their school.

A number of stakeholders commented on the difficulty they experienced in understanding NSSAB correspondence, with some needing to seek legal advice to respond. A strong sentiment emerged that a collaborative approach would be beneficial in assisting schools to remedy non-compliance (including informally, where possible, through conversation with authorised persons or the Secretariat).

“Parents are concerned by anecdotal reports of great stress experienced by school leadership staff and teaching staff who are caught up in long running and pedantic accreditation reviews, especially in the current climate of teacher workforce shortages.”

—Submission 8,
Queensland Independent Schools
Parents Network

65 NSW Education Standards Authority, *Registered and Accredited Individual Non-Government Schools (NSW) Manual*, p. 83; New South Wales Education Standards Authority, *Schools Selected Randomly for Inspection*, New South Wales Government, n.d., accessed 2 August 2023; Victorian Registration and Qualifications Authority, *Provider Risk Framework*, VRQA website, 22 December 2022; Victorian Registration and Qualifications Authority, *School Compliance Framework [DOCX]*, VRQA, Melbourne, June 2019; Education Standards Board SA, *Review of Registration*, Government of South Australia website, n.d., accessed 2 August 2023.; ACT Government, *Education Act 2004 (SA)*, Pt. 4.4 s. 109; Tasmanian Non-Government Schools Registration Board, *Length of Registration Periods* Version 1, NGRB, Hobart, 11 December 2021.

Some stakeholders observed an inconsistency in review outcomes between schools, where approaches approved for one school were rejected for another. Others suggested that where schools are adopting policies/procedures issued by their governing body or wider system (e.g. Catholic schools), these documents should be assessed only once at a system level, rather than for each individual school. This approach was seen to minimise workloads and duplication and improve consistency in outcomes. They also suggested reducing duplication of compliance reviews across multiple campuses of the same school.

Parents felt they had a considerable role to play in holding non-state schools accountable because they can ‘vote with their feet’ if the school fails to uphold standards or meet the needs of their children. While parents acknowledged the importance of a strong regulatory framework, they suggested it should not be so onerous as to adversely impact teacher workload or take away from the classroom.

The case for change

Building a culture of compliance across the non-state schooling sector that is based on collaboration, communication, education and support is key to making sure every child receives a quality education in a safe and supportive learning environment. This ethos must be at the heart of NSSAB’s operations and underpin the organisational culture of NSSAB, its Secretariat and its authorised persons.

In November 2021, the Queensland Audit Office (QAO) released a report, *Regulating Animal Welfare Services (Report 6: 2021-22)*. The report considers systemic

issues, insights and wider learnings for all regulators and entities responsible for overseeing the regulator performance.⁶⁶ The QAO observed that effectively implementing processes for enforcing legislation has been a common failing in most of its regulatory audits. It recommended that all public sector regulators and oversight bodies self-assess against better practice guides identified and/or developed by the QAO and, where necessary, implement changes to enhance their regulatory performance. The guides it identified included *The Queensland Government Guide to Better Regulation*⁶⁷ and the Productivity Commission’s 2021 research paper *Improving Regulation*,⁶⁸ among others

Stakeholder feedback calling for greater clarity, communication, collaboration and a flexible approach to regulation aligns strongly with *Guide to Better Regulation*. This guide outlines five model practices: proportionate regulatory activity that minimises unnecessary burden; meaningful stakeholder engagement; providing appropriate information and support to assist compliance; continuous improvement; and transparency and accountability. A new approach is needed that embodies these elements – including the following principles, which underpin these model practices:

- clear, timely and tailored guidance and support for stakeholders
- consistent advice, with decisions communicated in a way that makes clear what is needed to achieve compliance
- cooperative and collaborative relationships promoting trust
- improved efficiency and effectiveness of the regulatory framework

⁶⁶ QAO, *Regulating Animal Welfare Services*, foreword.

⁶⁷ Queensland Treasury, *The Queensland Government Guide to Better Regulation*, Queensland Government, Brisbane, 2019.

⁶⁸ QPC, *Improving Regulation*, p. 29.

- genuine understanding of schools' operating environment through meaningful engagement
- evidence-based risk assessment to inform updates to regulatory approaches
- training and support for staff to enable effective and efficient performance of duties.

The *Improving Regulation* paper synthesises multiple theories of what good regulatory practice looks like, identifying five comment elements:⁶⁹

- *Evidence-based and problem (risk)-focused* – using evidence, such as compliance history to make risk assessments and encourage compliance. This evidence could also include drawing from the information held by other regulators, to target the use of regulatory resources to the areas of highest risk and to inform development of regulatory strategies.
- *Use the best tool for the job* – drawing from a variety of regulatory and non-regulatory tools ranging from information provision to licence removal (i.e. cancellation of accreditation) should be considered to facilitate a risk-based and responsive approach to regulatory administration and enforcement.
- *Regulatory cooperation* – Regulators should work with other regulators, and with other non-government partners (such as industry associations) to understand and solve problems.
- *Supportive culture and skills* – There should be a clear and shared understanding of regulatory goals

and approaches by regulatory staff, supported ongoing training and support, noting regulators require a contemporary and increasingly diverse skill set (beyond legal and compliance expertise).

- *Strong feedback loops* – the importance of evaluating and reviewing the effectiveness of interventions to enable adjustments based on experience and changing circumstances cannot be understated.

While model practices, principles and elements of good regulatory administration will underpin the new approach to accreditation, monitoring and enforcing compliance, opportunity exists to develop a tailored set of regulatory principles, to be embedded within the Act, to guide NSSAB regulatory practice and culture. These should be developed in consultation with the sector and relevant experts.

A new education, research and advisory function

Providing advice, support and guidance to non-state schools in a collaborative way should be reflected in the objects of the Act, in NSSAB's legislated functions and powers, and in its practice. There is ample precedent for this, both in interstate regulatory models and in other relevant regulatory frameworks in Queensland. For example, the Australian Charities and Not-for-profits Commission (ACNC) and QCAA are required by their Acts to provide an educative and advisory approach.⁷⁰ The Queensland College of Teachers (QCT) similarly aims to promote compliance through proactive engagement with stakeholders.⁷¹ Stakeholders repeatedly

69 QPC, *Improving Regulation*, p. 29.

70 *Education (Queensland Curriculum and Assessment Authority) Act 2014* (Qld), s. 12; *Australian Charities Not-for-profits Commission Act 2012* (Cth), s. 15-5.

71 Queensland College of Teachers, '[Compliance](#)', QCT website, accessed 11 May 2023; Queensland College of Teachers, [Annual Report 2022 \[PDF\]](#), QCT, Toowong, QLD, 2022, p. 24.

identified the constructive and collaborative approach taken by QCAA, QCT and ACNC as a model that NSSAB could emulate. The proposed new research function aligns with the Productivity Commission's calls for an evidenced-based approach to regulation. In addition, the new educative and advisory function is consistent with the *Guide to Better Regulation* model practice to support and assist compliance.

Numerous changes would support the achievement of this objective.

The role of authorised persons should be expanded to reflect twin objectives: conducting proactive and reactive monitoring assessments on behalf of NSSAB, and educating schools and governing bodies on how to achieve and maintain compliance. These roles should be retitled 'accreditation and education officers' to remove any ambiguity about their function and foster a new way of working with the sector. The level of support provided by accreditation and education officers will vary on a case-by-case basis, but may include more intensive and ongoing case-management support where appropriate.

Consistent with the Productivity Commission's assessment that good regulation be evidence-based, accreditation and education officers should be supported in their role by contemporary evidence and research about educational practices, particularly regarding:

- vulnerable students or those at risk of disengaging from education
- best practice approaches to regulation
- emerging trends in compliance data
- areas for which the sector needs additional support and guidance to understand and fulfil their obligations.

These objectives will be achieved by appointing dedicated staff and informed by closer networks with research organisations and other regulators, considering intelligence gathered by accreditation and education officers, and monitoring trends in the complaints and compliance concerns received. This team would also be responsible for developing a new and regularly updated suite of easy-to-understand guidance materials and activities to foster a culture of compliance.

To assist them in performing these functions, NSSAB, the Secretariat and new accreditation and education officers should develop a deeper understanding of the rich diversity of schools, their student cohorts and needs, and their unique circumstances. Accreditation and education officers would undertake regular professional development and build experience and expertise in a diverse range of matters. Collectively, the team should have expertise in small schools, regional schools, schools catering predominantly for First Nations students, boarding schools, special assistance schools and special schools.

Recommendation 2.1:
Education, research and advisory functions

Culture, collaboration & communication
Clarity & consistency

R.2.1 It is recommended that NSSAB's functions are expanded to include a focus on supporting the non-state schooling sector to achieve and maintain compliance, which in turn will provide quality, safe and supportive educational environment for students to learn and thrive.

This will require:

- introducing a new object of the Act reflecting NSSAB's purpose of providing stewardship of the non-state schooling sector, including by delivering education, advice and support to schools and governing bodies
- including a new education, research and advisory function under the Act designed to:
 - develop resources supporting schools in achieving and maintaining compliance with the accreditation standards
 - underpin regulatory activities with contemporary research on education and governance
 - inform a new risk-based approach to compliance monitoring and responses to trends in compliance data
 - establish professional networks to build NSSAB's knowledge base on contemporary education research to inform the performance of its functions
- establishing and appropriately staffing a new team within the Authority to carry out this new function, supported by the ability to share information with relevant entities
- renaming 'authorised persons' as 'accreditation and education officers' and expanding their role to include providing the following throughout the school year:
 - advice to schools/governing bodies on achieving and maintaining compliance as informed by the new education, research and advisory function
 - support and, where necessary, case management of schools requiring additional support and guidance in achieving and maintaining compliance
- making sure accreditation and education officers collectively possess expertise that reflects knowledge of the diversity of non-state schools, including an understanding of small schools, regional schools, schools catering predominantly for First Nations students, boarding schools, special assistance schools and special schools
- Making sure accreditation and education officers undertake ongoing professional development, consistent with contemporary regulatory best practice.

Accreditation and support for new schools and changes to school attributes

Establishing a new school or expanding its operations is a significant and complex undertaking. While every non-state school should have clear documentation about how it will comply with accreditation criteria from its first day of operation, some processes take time to embed. Others must adapt and respond to the student cohort and their individual needs as these become apparent.

NSSAB's initial and additional establishment phase assessments should be complemented by a new risk-based, case-management approach in which ongoing support is provided during the first 12 months of a school's operation. This period may be extended if required.

A risk-based approach to accrediting changes of attributes of accredited schools is also required. Associated assessment should be targeted and proportional to the degree of change. For example, an accredited school seeking to provide boarding facilities, special assistance and distance education should undergo initial and establishment phase assessments, reflecting the higher risks associated with these types of schools and the additional needs of their students. However, these assessments should be relative to the change being made – that is, provision of boarding facilities should not trigger a review of a school's educational program, but expansion to deliver special assistance should.

These changes will reduce regulatory burden and address stakeholder feedback that assessments of changes of attributes for existing schools considered irrelevant criteria.

Recommendation 2.2: Supporting new schools

Culture, collaboration & communication
Clarity & consistency
Compliance

- R.2.2** It is recommended that a case-management approach is implemented to provide new schools with ongoing support and monitoring during their first year of operation (or longer, if required). The level of support provided will be informed by the school's risk profile (Recommendation R.3.4.1).

Recommendation 2.3: Accrediting changes in school attributes

Clarity & consistency
Compliance

- R.2.3** It is recommended that a more targeted and risk-based process for changes to the accreditation attributes of a school (e.g. adding boarding facilities) is developed and reflected in the Act. This process should make sure aspects of a school's operations unrelated to the change of attribute are not captured in the accreditation process.

Risk-based compliance monitoring

Introduction of a new, risk-based approach to monitoring compliance would bring NSSAB practices in line with contemporary approaches that non-state school regulators take in other jurisdictions. It would also align with the *Guide to Better Regulation* model practices and principles, and the Productivity Commission's identified elements of good regulatory administration.

In doing so, NSSAB could become more flexible, targeted and proportionate in its regulatory practices, moving away from a five-yearly review against all accreditation criteria to a random sampling approach. These reviews may also be conducted at short notice. As in other jurisdictions, reviews would focus on priority areas including safety and wellbeing, educational programming and governance. Additional priority areas could be identified in response to evidence and trends.

A risk profile for non-state schools and governing bodies would need to be developed to guide NSSAB in determining the level and frequency of monitoring. This risk profile should consider prior compliance history, approach and attitude to rectifying non-compliance, complaints received, outcomes of prior compliance reviews, and any other relevant information, including information provided by other regulatory agencies. Outcomes of reviews should be required to inform schools' continuous improvement plans, rather than simply being encouraged.

Avenues to streamline reviews to reduce administrative burden on schools have also been considered. These include:

- improving collaboration with other relevant authorities (e.g. QCAA, QCT) to take their findings into account during reviews and conduct joint investigations, where appropriate

- allowing policies and processes developed by a governing body, peak body or association adopted in multiple schools to be reviewed once, at a systems level, rather than for each individual school
- implementing a process to moderate outcomes of compliance reviews.

In addition to reducing regulatory burden, these changes would also improve consistency of advice provided by NSSAB and its officers, including with respect to the advice provided by other education authorities.

As outlined above, an educative, supportive and collaborative approach to working with the sector to drive compliance must provide the foundation of the risk-based model. However, like any risk-based approach, there are limits to the extent guidance and support can be provided before stronger compliance action is warranted. Tools currently available to NSSAB to ensure compliance are limited to advice letters, investigations, compliance and show cause notices, cancellation of accreditation, and withdrawal of eligibility for government funding. Governing bodies are advised of the grounds of the suspected legislative breach and must provide evidence to the contrary. Where governing bodies set out a pathway to achieve compliance, the spectre of accreditation withdrawal remains until full compliance is demonstrated.

As part of a risk-based approach, a more flexible and progressive means is required to encourage and enforce compliance. An educative, collaborative and risk-based approach to working with the non-state schooling sector would require additional tools and pathways. This approach would also enable NSSAB to provide support, in the first instance, and regulatory responses proportionate to the nature of the compliance concerns and the willingness

of the school/governing body to address them. In the face of persistent and wilful non-compliance, swift and strong regulatory action is needed to ensure risks to student safety, wellbeing, the integrity of the educational program, and suspected fraud are mitigated and minimised. This action would include new powers for immediate and/or short-notice entry.

This graduated and proportional approach to enforcement is currently undertaken by the ACNC and non-state school regulators in Victoria and the Northern Territory. These models may be instructive in developing a suitable approach for Queensland.

Recommendation 2.4:
Risk-based monitoring framework

Culture, collaboration & communication
Clarity & consistency
Compliance

R.3.4.1 It is recommended that a new risk-based approach to ongoing compliance monitoring is developed that:

- exemplifies principles of a contemporary regulatory framework as set out in *The Queensland Government Guide to Better Regulation*
- aligns with contemporary approaches in other states and territories
- prioritises student safety and wellbeing and the delivery of quality educational programs.

A risk-based approach will involve:

- developing risk profiles for schools and governing bodies that consider a range of factors, including complaints/concerns received and any history of non-compliance
- replacing the current compliance review program with a targeted model informed by the risk profile of the school and governing body and emerging areas of risk
- requiring schools to integrate the findings of compliance reviews into their school improvement plans
- reducing administrative burden and increasing the consistency of compliance review outcomes through:
 - accrediting policies, procedures and guidelines that are common to multiple schools only once (e.g. where developed by peak or governing bodies)
 - moderating compliance review assessments and reports
- improving engagement and communication with schools and governing bodies through a stronger focus on supporting the non-state schooling sector (as described Recommendation R.2.1).

R.3.4.2 It is recommended that the new risk-based approach to compliance monitoring is supported by new functions and powers enabling NSSAB to:

- immediately access a school where there are significant concerns for student safety and wellbeing
- undertake short-notice visits to schools to investigate non-compliance or to provide advice, education and support
- access a range of enforcement measures facilitating a more proportionate approach to addressing non-compliance
- share information with relevant entities, such as the QHRC, QCAA and QCT, to enable joint compliance reviews or investigations to be undertaken where necessary.

Chapter 3:

Complaints and concerns

Our current state

The *Education (Accreditation of Non-State Schools) Act 2017* requires schools to have written processes and procedures for dealing with complaints and to address allegations of non-compliance. However, the Act is silent on how NSSAB should address complaints and concerns it receives about non-state schools or its own actions. It has no jurisdiction to investigate complaints about the general operation or decisions of a school, or to review how a complaint has been handled by the school or governing body. In this way, NSSAB's role in managing complaints is limited to those indicating that the school or governing body may not be compliant with their obligations under the Act (compliance concerns).

Between 1 July 2019 and 30 April 2023, NSSAB received 410 complaints or concerns pertaining to 238 non-state schools. Around 18 per cent (75) of these were out-of-scope matters such as disputes over school fees.⁷² The Department of Education also receives a significant number of queries about non-state schools – around 860 throughout 2021 and 2022. Around 10 per cent of these were concerns the school was not complying with its legislated responsibilities.⁷³

NSSAB and the Department of Education both advise complainants to direct their concerns to the school or governing body in the first instance. For out-of-scope matters,

if they are dissatisfied with the outcome, they are directed to the Queensland Ombudsman or Queensland Human Rights Commission, if appropriate. In some instances, NSSAB may refer the complaint to the relevant government agency or regulatory authority such as the Queensland Police Service or the Crime and Corruption Commission.⁷⁴ It may also dismiss the matter if it is trivial, frivolous, vexatious, lacks substance, is not made in good faith, or if the matter has already been adequately addressed by NSSAB previously.⁷⁵

For in-scope matters it considers low-risk, NSSAB will outline the nature of the concern and in the interests of procedural fairness, seek a response from the school and governing body. This process provides the school and governing body a right of reply. If dissatisfied with the response, NSSAB may appoint an authorised person to investigate. In limited (high-risk) concerns, NSSAB may proceed immediately to appointing an authorised person to conduct an investigation or monitoring assessment. While this is the process employed in practice, neither the process nor the definition of high- or low-risk concerns is clearly articulated in NSSAB's policy and procedure documents.

Outcomes of investigations or monitoring assessments where a concern is substantiated may include voluntary rectification by the school/governing

72 Information received from the Non-State Schools Accreditation Board, 25 May 2023.

73 Information received from the Queensland Department of Education, 29 May 2023.

74 Non-State Schools Accreditation Board, *Raising a Compliance Concern about Non-State Schools, Governing Bodies, or Unaccredited Places [PDF]*, NSSAB, Brisbane, 2019, accessed 19 July 2023.

75 NSSAB, *Raising a Compliance Concern about Non-State Schools, Governing Bodies, or Unaccredited Places*.

body, compliance action, cancellation of accreditation, withdrawal of eligibility for government funding, or referral of the matter to another appropriate agency – or a combination of these.⁷⁶

Where a school/governing body is dissatisfied with certain decisions made by NSSAB, including to cancel or amend accreditation or withdraw eligibility for government funding – whether arising from a concern or other regulatory avenue – it may seek a review by the Queensland Civil and Administrative Tribunal (QCAT).

QCAT reviews are not concerned with the correctness of NSSAB’s process or decision at the time the decision was made. Rather, QCAT undertakes a full review of the evidence available at the time the matter is heard – which may be different from the evidence available to NSSAB at the time its original decision was made. It may send the matter back to NSSAB to reconsider, vary or set aside NSSAB’s decision and replace it with its own decision, or uphold NSSAB’s original decision. It may also make recommendations to NSSAB about its policies, practices and procedures to improve future decisions.⁷⁷

A governing body seeking a QCAT review may continue to operate until the matter has been finalised. QCAT reports that the average time for a review of a state government decision to be heard is currently 45 weeks.⁷⁸ This average means that schools NSSAB has determined should have their accreditation cancelled may

continue to operate for a significant period of time. Since 2018, nine applications for QCAT review of NSSAB decisions have been made. Two of these applications have been resolved and one withdrawn. The remaining six are pending an outcome; four of these concerns involve a NSSAB decision to cancel a school’s accreditation for a type of education, one to remove accreditation for years of schooling, and another (dating back to 2019) to cancel a school’s accreditation.

NSSAB does not disclose details of compliance concerns to the public, and it limits communication with the complainant and school community.⁷⁹ These measures are based on confidentiality provisions under the Act that aim to protect schools’ commercial interests and the identity of potentially affected children.⁸⁰ Information about matters before QCAT is also not disclosed until the Review process has been completed.

How we compare

Regulatory bodies of non-state schools in all jurisdictions undertake complaints management in some way, whether or not it is a legislated function. Victoria is unique insofar as it considers complaints management integral to its overall regulatory function due to its role in addressing risk of harm to students.⁸¹ This approach appears consistent with the Commonwealth Ombudsman’s *Better Practice Complaint Handling Guide*, a

76 NSSAB, *Raising a Compliance Concern about Non-State Schools, Governing Bodies, or Unaccredited Places*.

77 Queensland Civil and Administrative Tribunal, ‘[How will the decision be reviewed](#)’, Review of Government Agency Decisions, QCAT website, 2023, accessed 19 July 2023.

78 Queensland Civil and Administrative Tribunal, ‘[Average time to finalise an application](#)’, Timeframes, QCAT website, 2023, accessed 19 July 2023.

79 Non-State Schools Accreditation Board, *Policy for Managing Compliance Concerns Raised about Non-State Schools, Governing Bodies, or Unaccredited Places*, NSSAB, Brisbane, 2019.

80 *Education (Accreditation of Non-State Schools) Act 2017* (Qld), s. 176.

81 Victorian Registration and Qualification Authority, [Complaints Management Policy \[DOCX\]](#), Victoria State Government, Melbourne, August 2022.

key principle of which is that complaints handling should be treated as a core business activity.⁸²

As in Queensland, the complaints management functions of most regulators are focused on compliance concerns, with complainants encouraged to raise matters directly with the school or governing body in the first instance. Only Western Australia and the Australian Capital Territory are able to consider complaints about non-state schools that extend beyond compliance concerns.

For complainants who are dissatisfied with the outcome of their matter, in Victoria they may seek an internal review, while in other jurisdictions an external review by an ombudsman is used (Vic, Qld, NT). Where a governing body of a school is dissatisfied with a decision to refuse registration, impose conditions, or amend or cancel registration, internal review options are available in South Australia, New South Wales and the Australian Capital Territory. External review by a court or tribunal is available in all jurisdictions other than Western Australia and the Northern Territory.

What our stakeholders told us

In general, schools and governing bodies felt the current process for responding to compliance concerns was unclear, complex, legalistic and bureaucratic.

“Some school leaders are very familiar with statements such as ‘If you don’t give me [...], I will make a complaint to NSSAB that will keep you busy for months’ and ‘You can’t treat me like that, I am going to make your life hell with NSSAB’.”

—Submission 12,
Independent Schools Queensland

“Schools report to us that NSSAB takes an overly bureaucratic approach in their dealings, through communicating only in writing, and communicating several times in relation to the one matter of concern or complaint. They also have difficulty in speaking with a person at NSSAB in relation to concerns raised, and as a result, find themselves needing to respond on multiple occasions.”

—Submission 14,
Associated Christian Schools Queensland

Confusion about NSSAB’s mandate to respond to complaints and compliance concerns was raised by a number of stakeholders, with some stakeholders reporting excessive NSSAB involvement in matters that should be solved locally. While some suggested expanding and legislating a complaints function for NSSAB, others recommended a narrowing of scope.

Stakeholders reported that the existing process was unclear, difficult to navigate and lacking in procedural fairness. Common experiences included a lack of information, insufficient opportunity to respond to concerns, and protracted and complex investigations/assessments creating financial and administrative burden, stress and anxiety for schools. Many found the process impersonal and voiced a desire to discuss the matter with the Secretariat and receive advice on how to remedy the issue. The burden on schools was often seen as being disproportionate to the seriousness of the matter at hand.

ISQ reported that some complainants were using NSSAB’s processes as a threat against schools. Parents raised concerns about its impact on staff and the cost of responding to protracted processes. There were consistent

82 Commonwealth Ombudsman, *Better Practice Complaint Handling Guide*, Canberra, ACT, n.d., p. 14.

calls for greater screening of spurious or potentially vexatious complaints.

Most schools and governing bodies were firmly opposed to making information about compliance concerns public, citing a lack of procedural fairness and potential reputational damage. However, concerns were also raised that schools seeking external review of decisions via QCAT could continue to operate during this lengthy review process.

The survey of parents' expectations of non-state schools also sought to gauge their awareness of any entities that regulate non-state schools. Around two per cent of survey participants mentioned the NSSAB in some form, increasing to just over one in ten participants when prompted. While the majority of participants were unaware of any entity that regulated non-state schools, of those who did identify a regulatory authority, they presumed this was the role of the Department of Education, ISQ, QCEC, regional Dioceses, and/or Australian Government, among others.

The case for change

There is currently a lack of awareness of NSSAB's responsibility in regulating the non-state school sector, including in responding to compliance concerns. There is also confusion among stakeholders about NSSAB's role in addressing complaints/compliance concerns and frustration with the processes it employs. While NSSAB has published policies, procedures and factsheets about their role and process, opportunities still exist to clarify its remit and communicate this to stakeholders.

Legislative, policy and practice changes are needed to improve the transparency of the process for both the complainant and the affected schools/governing bodies. This clarity will, in turn, build public confidence in the process through an increased sense of impartiality and procedural fairness.

The changes proposed in this chapter are linked with those outlined in Chapter 3 (A new model of accreditation), which proposes a new education, research and advisory function for NSSAB. Working collaboratively with stakeholders to help them achieve and maintain compliance should reduce the number of concerns received and, ultimately, the need for external review by QCAT. Together, these changes should lessen the stress, burden and cost to all stakeholders, including NSSAB.

Updated policies and procedures

The Commonwealth Ombudsman's *Better Practice Complaint Handling Guide* notes that for many people, the complaints journey – and the way they are treated during it – can be just as important as the outcome. The complainant and their experience should be at the centre of the design and implementation of a complaints management system. Being responsive, providing timely information, and keeping people informed of who is handling a complaint, what to expect, reasons for delay and timeframes for decisions are key aspects of a good complaints management system.⁸³ This model should extend to both the complainant and the school or governing body concerned.

NSSAB's policy for managing compliance concerns⁸⁴ is underpinned by the

83 Commonwealth Ombudsman, *Better Practice Complaint Handling Guide*.

84 NSSAB, *Policy for Managing Compliance Concerns Raised about Non-State Schools, Governing Bodies or Unaccredited Places*.

85 *Education (Accreditation of Non-State Schools) Act 2017* (Qld), s. 176.

principles of fair treatment, confidentiality, transparent process, ease of lodgement and influencing business processes.

However, stakeholder feedback indicates a disconnect between the policy and their experience of the process. The Review has identified an opportunity to adopt a more contemporary, responsive, transparent and 'people first' approach to responding to compliance concerns.

Some aspects of NSSAB's current practice are not clear in its documentation. A perception also exists among stakeholders that some of these practices do not occur in all cases. An opportunity therefore emerges to reinforce NSSAB's commitment to transparency and procedural fairness, and increase public confidence, through:

- providing clear information not just about the process, but about its actions and reasons for its decisions
- providing schools and governing bodies with a right of reply to all concerns in the first instance, unless the matter is of such serious concern as to warrant immediate action by the regulator (e.g. risk of harm to a child)
- making sure matters proceeding to a monitoring assessment have undergone rigorous assessment to screen out those that may be spurious or vexatious
- establishing a process of internal review through which both complainants and schools/governing bodies could seek a review of decisions, before escalation to QCAT
- improving the flow of information between the regulator and all parties to a compliance concern
- developing service standards

outlining timeframes for communication with complainants and schools/governing bodies

- improving public reporting, in a de-identified format, about the nature of, and responses to, compliance concerns.

Managing confidentiality

The confidentiality provisions contained within the Act⁸⁵ are currently being interpreted as restricting NSSAB from sharing information with complainants. These confidentiality provisions prevent the disclosure of protected information if it would adversely affect a person's commercial interests, identify a child, or relate to the criminal history of a person. Further consideration is required to assess whether these provisions restrict release of relevant information to complaints. The Act does provide for release of confidential information if the Director-General of the Department of Education considers it to be in the public interest.

Better balance could be achieved between confidentiality, protection of commercial interests, and the principles of transparency, responsiveness and public interest. The Board should be empowered to determine what is in the public interest, on a case-by-case basis, and commercial interests should not be placed above the public interest or the rights of children to quality education and environments.

In addition, the outcomes of investigations and monitoring assessments could be used as a valuable learning tool for NSSAB and non-state schools. This approach is used by other government bodies such as the Queensland Crime and Corruption

85 *Education (Accreditation of Non-State Schools) Act 2017* (Qld), s. 176.

Commission.⁸⁶ Appropriate details of compliance concerns, outcomes of investigations and monitoring assessments, and trends in relevant data should inform the education, research and advice function of the new Authority and support a shift from a compliance to a prevention culture.

External review of NSSAB decisions

For matters being reviewed by QCAT, it is possible that by the time the matter is heard, the school may have amended its policies and practices and may no longer be non-compliant. This outcome represents an inefficient use of public resources that creates unnecessary stress and burden on all parties, and a resolution would be better achieved through working collaboratively with NSSAB in the first instance.

For those matters that do reach QCAT – where the school or governing body is wilfully non-compliant and does not intend to work with NSSAB to achieve compliance – this review process should not provide an opportunity for schools to continue to operate in a non-compliant manner for protracted periods. This approach is not in the public interest.

While beyond the scope of this Review, QCAT’s review of NSSAB decisions to cancel accreditation should be undertaken swiftly to help ensure children’s educational outcomes and wellbeing are not placed at risk. The community should also be made aware of such occurrences.

**Recommendation 3:
Managing complaints and compliance concerns**

**Culture, collaboration & communication
Clarity & consistency
Compliance**

R.3.1 It is recommended that NSSAB establishes a time-limited expert working group to guide the development of a contemporary complaints and compliance concerns policy and procedure, and associated training. The working group should have specialist expertise, which could, for example, draw from the Queensland Ombudsman, Office of the Information Commissioner, Crime and Corruption Commission, Integrity Commissioner and the Queensland Human Rights Commission. The Department of Education should also be a member of the working group, given the volume of non-state school enquiries and concerns received by the Department.

86 Crime and Corruption Commission Queensland, ‘Prevention in Focus: Case Studies’, QCCC website, 2019, accessed 26 July 2023.

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- R.3.2** It is recommended that the legislative and/or administrative basis for, and policies and procedures supporting, the management of complaints and compliance concerns is enhanced to:
- more clearly define matters falling within scope
 - clearly communicate pathways for out-of-scope matters to be considered, including exploration of the ability for matters to be referred to the relevant agency on behalf of the complainant
 - develop and communicate processes for assessing the merit of in-scope matters to identify spurious or vexatious compliance concerns
 - embed a right of reply for schools and governing bodies, affording them opportunity to respond to the concerns in the first instance, unless the matter involves risk of harm to a student
 - enable NSSAB to determine where release of confidential information is in the public interest
 - develop and publish a new confidentiality policy and procedure that allows:
 - sufficient detail to be provided to the school and governing body so they may exercise their right of reply
 - ongoing communication with complainants and the provision of relevant information about the status and outcome of the matter they have raised
 - develop a process through which complainants may seek internal review where dissatisfied with an outcome of an investigation arising from a complaint or compliance concern
 - improve the quality of data collected and reported about the nature of, and response to, complaints and compliance concerns, which will increase transparency and public confidence. It will also inform the new education and research function (Recommendation R.3.1) and risk-based compliance monitoring (Recommendations R.2.4.1 and R.2.4.2).
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Chapter 4:

Models of governance

This chapter explores how a new governance framework can support the changes to the regulatory environment for non-state schools in Queensland that have been put forward in this report. The proposed governance arrangements better reflect the level of risk and complexity involved in regulating the non-state schooling sector. It also supports the governance structure, degree of oversight, and the working relationships stakeholders are seeking and the community expects.

Our current state

NSSAB is an independent statutory authority, a representative board comprising nominees of the Department of Education, ISQ and QCEC, alongside three members and a Chair nominated by the Minister for Education.⁸⁷ Administrative support is provided by a Secretariat located within, and staffed by employees of, the Department of Education.

NSSAB has autonomy to decide on all applications for accreditation of new non-state schools in Queensland, variations to accreditation of existing schools, and whether schools are eligible for government funding. The Minister retains powers to require actions of NSSAB in certain circumstances, including referring a matter to it for examination, seeking reassessment of eligibility for government funding, requesting information, and giving

direction where it is in the public interest.⁸⁸ Neither the Minister for Education nor the Department of Education has powers to review or give directions about NSSAB decisions or a school's accreditation.

There are four categories of government bodies. NSSAB is currently classified as a Regulation, Administration and Advice statutory authority.⁸⁹ While the Act provides NSSAB with a number of powers to carry out its functions, such as entering into contracts, it does not have control over its own funds, the ability to employ its own CEO or staff, or the authority to delegate powers or functions to any individual or committee.

How we compare

Queensland and the Australian Capital Territory are the only jurisdictions in which an independent board is provided with administrative/operational support by the education department. Queensland is also the only state to have an independent board without a CEO or registrar to manage its day-to-day operations and with no powers of delegation or ability to create committees.

In terms of board composition, of the six jurisdictions with independent boards, the majority have a board that is both representative and skills-based (NSW, ACT, SA, Tas), while Victoria has a skills-based board. Queensland is the only jurisdiction with a representative board.

⁸⁷ *Education (Accreditation of Non-State Schools) Act 2017* (Qld), s. 102.

⁸⁸ *Education (Accreditation of Non-State Schools) Act 2017* (Qld), Ch. 4, Pt. 1, Div. 7.

⁸⁹ Queensland Government Department of Premier and Cabinet, '[Non-State Schools Accreditation Board](#)', QDPC website, 2019, accessed 13 July 2023; Queensland Government, '[Remuneration Procedures for Part-time Chairs and Members of Queensland Government Bodies](#)', Queensland Government, Brisbane, n.d.

Queensland is also unique in that it is an independent statutory authority with absolute decision-making power regarding both accreditation of non-state schools and determination of eligibility for government funding.

Other jurisdictions have varied shared decision-making arrangements. For example, Victoria's board delegates certain decisions to officers of its administrative body, and to the state Catholic Education Commission (for Catholic schools only). Tasmania, the Australian Capital Territory and New South Wales make recommendations about registration to their respective Ministers, either directly or via a registrar, while in Western Australia and Northern Territory, the CEO or registrar of the education department is the primary decision-maker. The South Australian model is most closely aligned with Queensland, although its board does not have decision-making authority with respect to eligibility for government funding.

Critical differences in the governance models across Australian states and territories are outlined in Table 2 below.

What our stakeholders told us

Stakeholders provided few comments about NSSAB's governance or administrative arrangements, but some stakeholders considered the arrangements to reflect a disconnect between NSSAB and the schools and governing bodies it regulates.

Some concern was raised about the composition of NSSAB, including potential conflicts of interests of members who hold other roles within the education system. These concerns, however, varied greatly. Some raised concern with ISQ and QCEC nominee members simultaneously serving as both members of the regulatory body and of the peak bodies of entities subject

to regulation, while others emphasised the importance of non-state school representation. Concerns were also raised about the potential for Department of Education nominees to demonstrate bias in favour of the state schooling sector, with state schools competing for enrolments with the non-state sector. NSSAB advised that clear procedures are in place to manage actual or perceived conflicts of interest, as well as confidentiality and code of conduct protocols.

Some stakeholders advocated for a shift to a skills-based (rather than representative) board to expand its expertise to align with the diverse contexts in which non-state schools operate. For example, some suggested membership should include recent former principals (or a current principal from interstate), as well as individuals identifying as Aboriginal or Torres Strait Islander or with significant experience working with First Nations communities. Other stakeholders, however, advocated for standing membership to be retained and for there to be ongoing representation of teachers and principals through legislated membership of the IEU-QNT.

It was also observed that despite the growth of the sector and the significant increase in NSSAB's workload over recent years, there has been no corresponding increase in NSSAB staffing and resourcing. A great degree of change has occurred within the sector and the regulatory environment, including demand for special assistance schools and remote learning; implementation of a revised Australian Curriculum; increased volume of compliance concerns and associated investigations; and the impacts of changes to the Act in 2017, including introduction of QCAT review of NSSAB decisions.

Table 2: Governance models by state and territory

Governance framework	Qld	NSW ⁹⁰	Vic ⁹¹	SA ⁹²	WA	Tas ⁹³	ACT ⁹⁴	NT ⁹⁵
Structure of regulator								
Board with independent administrative support		✓	✓	✓		✓		
Board with departmental administrative support	✓						✓	
Department of Education					✓			✓
CEO or Registrar		CEO	CEO	Registrar (CEO)		Registrar	Registrar	Registrar
Board composition								
Representative	✓				N/A			N/A
Skills-based			✓		N/A			N/A
Representative and skills-based		✓		✓	N/A	✓	✓	N/A
Decision-making								
Funding eligibility	Board	Minister	Minister	Minister	Minister	Minister	Minister	Chief Executive
Registration/accreditation	Board	Minister*	Authority/Delegate	Board/Registrar	DoE	Board Minister	Minister*	Registrar
Delegation Powers								
Delegation to Registrar/CEO		✓	✓	✓	✓	✓		
Delegation to Committees		✓	✓	✓	✓			

* On advice from Board

90 NSW Education Standards Authority, '[Organisational Chart](#)', NSW Education Standards Authority, viewed 19 July 2023; *Education Act 1990* (NSW), Pt. 7, Div. 2,3, s. 42; *Education Standards Authority Act 2013* (NSW), s. 12B.

91 Victorian Registration & Qualifications Authority, '[Organisational Chart](#)', Victorian Govt website, 2021, accessed 2 August 2023;; Victorian Registration & Qualifications Authority, '[Registration and Responsibilities](#)', VRQA website, 2021, accessed 19 July 2023.

92 Education Standards Board SA, '[Education Standards Board Terms of Reference \[PDF\]](#)', Government of South Australia, 17 June 2023, s. 7.1; *Education and Early Childhood Services (Registration and Standards) Act 2011* (SA), ss. 30, 32.

93 *Education Act 2016* (Tas). ss. 202–203, s. 223, s. 230.

94 *Education Act 2004* (ACT), ss. 75–77, 88.

95 *Education Act 2015* (NT). s. 140.

Providing NSSAB with the ability to delegate functions to qualified officers or committees was seen as way to expand the level of expertise, reduce the growing workload of NSSAB and enable it to focus on more strategic aspects of its mandate.

The case for change

The current classification of NSSAB as a Regulation, Administration and Advice body under the Public Interest Map, and the corresponding remuneration of Board members, does not adequately reflect the complexity of the work it undertakes or the consequences for students if non-state schools fail to uphold standards of education. The title of ‘Secretariat’ also fails to reflect its critical role, such as assessing applications and compliance concerns, making recommendations to NSSAB regarding accreditation and eligibility for government funding, and briefing and deploying authorised persons for assessments and investigations.

An opportunity exists to introduce changes to the Board’s governance framework to better align with the Queensland Government’s *Good Governance Framework* principles.⁹⁶ In line with these principles, the recommended changes outlined below will:

- provide greater *transparency* and *accountability* through clearer reporting lines, greater visibility of budgets, and the introduction of a delegation model
- resolve or mitigate *conflicts of interest* through the progressive implementation of a revised board composition and mandatory training
- increase the board’s capacity for *due diligence* and a more strategic focus – it will also create *efficiencies* and increase *effectiveness* through better resourcing; ability to recruit its own staff; delegation to committees and a CEO; and the move towards a skills-based and representative board composition
- balance cost and good governance through co-locating the new statutory body within QCAA to provide greater independence and *efficiencies* by allowing for shared facilities, greater collaboration and strengthened strategic engagement.

A new, independent statutory body

A new statutory body – to be named the Non-State School Standards Authority – led by a Chief Executive Officer appointed by, and reporting to, the Board Chair, would better reflect the importance, risk, complexity and scale of NSSAB’s activities. This new body would increase the independence of the Board, allow for the delegation of functions and the direct appointment of staff, and enable it to set and manage its own budgets. The new Authority’s budget must reflect the increasing workload and complexity of issues the Board regulates and be sufficient to implement the recommendations of this Review. Chief among these is a new proactive, risk-based approach to monitoring compliance, combined with a new education, research and advice function (see also Chapter 3, A new model of accreditation).

96 Queensland Government, ‘[Good Governance Framework](#)’, Public Interest Map Policy, Queensland Government, Brisbane, 2016, accessed 19 July 2023.

As a statutory body, the new Authority would have improved access to specialist expertise through being able to appoint its own staff, set its own organisational structure, and establish committees comprising experts across various regulatory issues. These powers would also improve responsiveness, quality and consistency of NSSAB advice and communications with the sector.

The new Authority could be established as a standalone entity, similar to the QCAA structure (Option 1). However, options to minimise costs are also available. The new Authority could continue to be co-located within the Department of Education facilities with new service-level agreements to maintain financial and operational independence (Option 2). Alternatively, the new authority could be co-located with the QCAA, again with service-level agreements to provide independence (Option 3). Both Options 1 and 3 would reduce the perception of conflicts of interest or undue influence by the Department of Education. However, Option 3 would facilitate greater strategic and operational engagement and alignment between the two authorities regarding the oversight and provision of advice to non-state schools. Both NSSAB and the QCAA have shared responsibility when it comes to supporting non-state schools' delivery of quality educational programs, including the Australian

Curriculum. NSSAB invests considerable time and resources in responding to and investigating concerns regarding schools' compliance with the 'Educational program' accreditation criterion. A strengthened relationship between the new Authority and the QCAA – including through co-location – would make sure consistent advice is provided to the sector about educational program and curriculum issues.

Creation of a new Authority would better align with sector and community expectations that NSSAB has a high degree of independence in executing its functions and is appropriately resourced to do so. With the ability to delegate functions to the CEO and to specialist committees, the new Authority would provide a clear distinction between the regulator and the Department of Education, reduce perceived (or actual) conflicts of interest, facilitate access to the necessary resources (e.g., skills, budget, facilities, etc.) and increase the power and autonomy of the board, enabling it to provide genuine stewardship of the non-state schooling sector.

Board members' remuneration should also be increased accordingly to align with the scale, complexity and risk associated with non-state school regulation, better reflect the skill and expertise of members, and recognise the increased responsibility of managing a new statutory body.

**Recommendation 4.1:
Independence and autonomy**

Community confidence

R.4.1.1 It is recommended that the current Board and its Secretariat are reconstituted as a new governance statutory body, to be renamed the *Non-State Schools Standards Authority* (the Authority) and *Non-State Schools Standards Authority Board* (the Board). The Board will report to the Minister for Education and provide strategic direction for the new Authority.

The Board's overarching purpose should be to provide stewardship of, and advice to, the non-state schooling sector to make sure it upholds the accreditation standards and delivers quality, safe and supportive educational environments in which students can learn and thrive.

R.4.1.2 It is recommended that the new Authority is led by a dedicated Chief Executive Officer, appointed by and reporting to the Board Chair, with responsibility for:

- implementing the strategic directions set by the Board
- administering funding and budgets
- managing the Authority
- managing Board committees
- carrying out delegated functions on behalf of the Board.

R.4.1.3 It is recommended that the new Authority has greater independence from the Department of Education. This autonomy should be achieved through co-location with QCAA, with relevant service-level agreements and information-sharing provisions in place to facilitate the provision of shared services and greater collaboration and strategic engagement between the two agencies.

**Recommendation 4.2:
Powers of delegation and formation of committees**

Community confidence

R.4.2 It is recommended that the new Board is provided with legislative power to establish committees and to delegate its functions to these committees – and to the Chief Executive of the Authority – as required. This will require development of:

- a contemporary delegation model, noting that decisions regarding new schools, significant changes to existing schools and compliance actions should rest with the Board
- a contemporary committee structure, noting that the Review recommends committees relating to finance and performance; audit and risk; management of compliance concerns; curriculum matters; accreditation and monitoring; and an Executive Committee comprising committee Chairs
- committee membership that provides the appropriate combination of skills, experience and expertise
- reporting arrangements and escalation pathways to the Board, making sure there is appropriate oversight and good governance in place.

Recommendation 4.3: Board remuneration

Community confidence

R.4.3 It is recommended that remuneration of Board members is increased to reflect the high level of risk and complexity involved in regulating the non-state schooling sector, as well as the new level of statutory and financial independence of the new Authority.

Board skills and composition

As Board members' terms expire, the composition of the Board should progressively transition from a representative membership to one that is both skills-based and representative. This composition will balance the need for sector views to be represented and the desire voiced by stakeholders for specialist expertise.

Mandatory training and professional development requirements should also be in place for Board members to make sure they develop and maintain contemporary knowledge of matters in line with contemporary governance practices. This training program could commence during the transition to the new governance structure and could incorporate a range of matters such as conflicts of interest, complaints management, workplace health and safety and education practice (including the new *Managing the Risk of Psychosocial Hazards at Work Code of Practice 2022*), and cultural capability.

The Queensland Government Guide to Better Regulation emphasises the importance of regulators committing to a culture of continuous improvement, which includes making sure staff have the necessary training and support to effectively, efficiently and consistently perform their duties (Model Practice 4).⁹⁷ The Review considers the Board should lead by example through a commitment to ongoing professional development.

Mandatory training would also embed and build upon the Department of Premier and Cabinet's *Welcome Aboard: A guide for members of Queensland Government Boards, committees and statutory authorities*. This guide requires new members to have access to a training program relevant to their responsibilities, noting specialised training such as that offered by the Australian Institute of Company Directors.⁹⁸ Building on this foundation, ongoing professional development (including, for example, refresher training upon re-appointment of a second term), would set a framework to support Board members in remaining at the forefront of contemporary practice.

⁹⁷ Queensland Treasury, *The Queensland Government Guide to Better Regulation*.

⁹⁸ DPC, *Welcome Aboard*.

Recommendation 4.4: Board composition**Community confidence**

R.4.4.1 It is recommended that the current NSSAB members form the inaugural Non-State Schools Standards Authority Board.

R.4.4.2 It is recommended that the Board transitions from a representative board to one that is both skills-based and representative. This transition will require progressive implementation of a revised Board composition and skills matrix, as current members' terms of appointment expire.

- The revised Board membership should include:
 - one additional member, nominated by the Minister in consultation with ISQ, QCEC and IEU-QNT, to provide a First Nations voice or perspective
 - permanent membership of the IEU-QNT, to make sure the perspectives of teachers continue to be represented
 - a requirement that future ISQ and QCEC nominees must not be currently employed by these organisations (or other organisations advocating on behalf of non-state schools) to reduce actual and perceived conflicts of interest
- A skills matrix for Board membership, embedded in the Act, that requires skills and expertise in:
 - best practice regulation
 - curriculum
 - contemporary education research and/or practice
 - finance, audit and risk, and governance
 - specialist education practices (e.g. delivering education to at-risk children and young people, students at risk of disengaging from education, neurodiverse students, students with disability, students in regional and remote areas, and vocational education and alternative pathways).

**Recommendation 4.5:
Board training and professional development****Community confidence**

R.4.5 It is recommended that mandatory training and professional development requirements for Board members are developed and embedded in the Board's operations.

In the interim, existing NSSAB members, Secretariat staff and authorised persons should undertake training aligning with and supporting implementation of the recommendations contained in this report.

Chapter 5:

Approach to implementation

The recommendations outlined in this report represent a substantial reform of the current regulatory environment for the non-state schooling sector in Queensland. On the basis of findings from research and consultation, the Review has made a total of 24 recommendations for change. These recommendations have been designed to foster a supportive culture centred on collaboration and communication; provide schools and governing bodies with clear advice and consistent decisions; develop a culture of compliance to uphold the standards the community expects of non-state schools; and build further confidence in the way the system is regulated.

The recommendations are broad-ranging and affect many aspects of the *Education (Accreditation of Non-State Schools) Act 2017* (Qld). A full remake of the legislation – rather than simply amending the current legislation – is needed to provide a cohesive approach to legislative reform in order to:

- implement the overarching areas for improvement
- improve culture, collaboration and communication with the sector
- provide clarity of requirements and consistency of decision-making and advice
- foster a culture of compliance
- uphold community confidence in the non-state schooling sector and its regulator.

Remaking the legislation provides an opportunity to consider any additional changes to improve the operation of the legislation beyond those specified in the

recommendations outlined in this report. This process will also make sure the legislation reflects contemporary legislative and drafting practices.

Changes to culture, custom and practice will take time to implement and embed. In most cases, however, achieving this transition does not require legislative change, and work can begin immediately.

Many of the recommended changes entail dedicated work to design and develop practical solutions to achieve their intent. Crucially, all such work must occur in consultation with both sector stakeholders and experts in a variety of fields.

Implementation model

The Review recommends that the Department of Education establishes the Non-State Schools Accreditation Framework Review Implementation Team (the Implementation Team) to develop the implementation approach and drive progressive reform.

Given the breadth and complexity of the recommendations, the Implementation Team will require access to a range of expertise. A Technical Expert Advisory Committee (TEAC) should be formed to support the Implementation Team, comprising experts in:

- law and legislative development
- best practice regulation
- public sector governance
- information privacy
- complaints management
- non-state school operations.

The TEAC should meet on a regular basis to provide advice on matters raised by the Implementation Team.

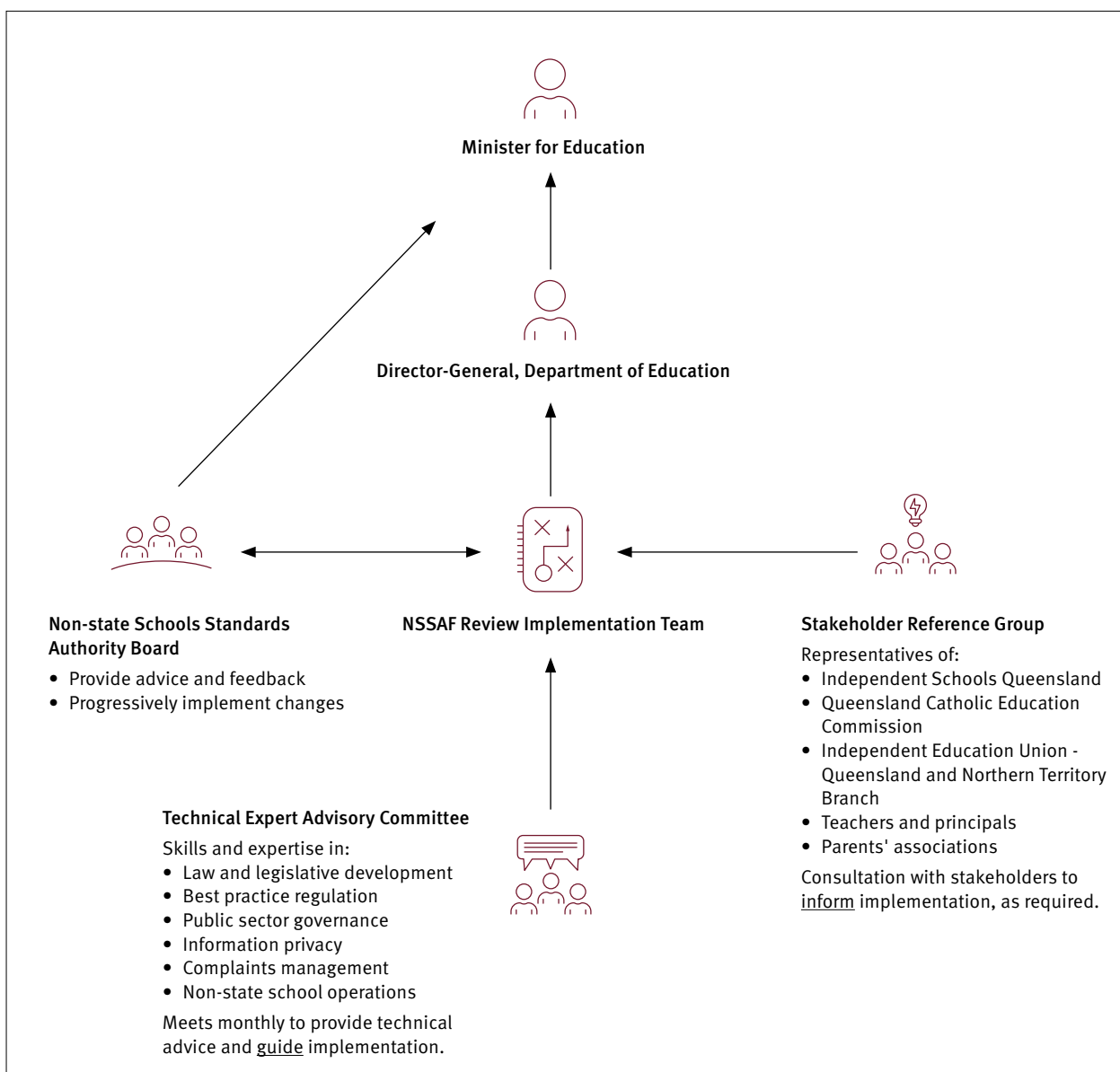
In addition, the views of sector stakeholders are essential to reform. A Stakeholder Reference Group (SRG), made up of representatives from a variety of organisations and associations involved in the non-state schooling sector, is recommended to inform the implementation approach. Access to stakeholder views on an ad hoc basis will allow the Implementation Team to readily test the

feasibility of ideas, obtain stakeholder support and determine the most appropriate implementation approaches.

Of course, NSSAB itself is a vital stakeholder, providing advice and feedback to the Implementation Team as well as being responsible for progressively implementing many of the recommendations, as determined by the Implementation Team.

The structure, responsibilities and reporting lines of this model are outlined in Figure 4 below.

Figure 4: Implementation model



Implementation approach

While the Implementation Team, supported within the model outlined above, will ultimately be responsible for determining the approach to implementation, the Review suggests that several critical areas of reform can, and should, be addressed in the immediate future. Where possible, these immediate priorities should be undertaken at the same time as longer-term reforms contingent on additional funding or a new legislative basis.

Immediate priorities that can inform legislative development and/or are not contingent on new legislation powers include:

- **Safeguarding students and promoting wellbeing (Recommendations R1.2 and R1.3)** – pastoral care and student wellbeing is a cornerstone of the ethos and values of many non-state schools. Formalising this emphasis within the Accreditation Framework brings Queensland into alignment with other jurisdictions and provides an opportunity to incorporate reforms occurring at a state and national level. The report recommends the current ‘Student welfare’ accreditation criterion is replaced with a new, contemporary standard of ‘Student wellbeing’. This standard should include, first and foremost, a positive duty to eliminate discrimination, in line with recommended changes to Queensland’s anti-discrimination legislation. Other elements include implementation of the National Principles for Child Safe Organisations; requirement for students and families to be involved in decisions affecting them (participation duty); an obligation for schools to have procedurally fair and transparent processes in place regarding student disciplinary action; and a new standard
- for boarding schools. Introducing this new standard will require legislative change and guidelines to be developed in consultation with the sector. Work on how this can be implemented and embedded within the standards under the Act should commence immediately. This work should include seeking advice on the extent to which aspects of the new wellbeing standard can be implemented more quickly – for example, through regulatory amendments and/or guidelines – while new legislation or legislative amendments are developed over the longer-term.
- **Cultural shifts (Recommendation R.2.1)** – a move towards a more proactive, educative and supportive role for NSSAB, its Secretariat and its authorised persons that aims to help schools achieve and maintain compliance with accreditation criteria is recommended, rather than taking a reactive enforcement approach. This recommendation can be implemented immediately, without legislative change. In the longer term, however, this approach should be embedded within legislation as both an object of the Act and as a function of NSSAB. While work to establish and transition NSSAB to a new statutory authority is underway (see below), the Secretariat should be provided with additional, appropriately qualified senior staff. These additional staff will assist it to alleviate workload pressures, increase the responsiveness of NSSAB, and allow the Secretariat to provide additional and proactive advice and support to the sector to achieve and maintain compliance.

- **Risk-based monitoring (Recommendations R.2.4.1 and R.2.4.2)** – in alignment with approaches to monitoring compliance in other jurisdictions, it is recommended that a risk-based approach replaces the current five-yearly compliance review. This approach will target areas of concern and be informed by proposed school risk profiles. Aligned with the proposed new object of the Act to provide support to the sector, the new Authority will provide clear, timely, consistent information together with guidance and support to assist schools and governing bodies to achieve and maintain compliance. This is a cornerstone of a contemporary risk-based regulatory framework and is consistent with *The Queensland Government Guide to Better Regulation* (Model Practice 3). Embedding a risk-based approach, underpinned by the proposed new education and support function, would also satisfy the Queensland Audit Office 2021 recommendation that all Queensland public sector regulators self-assess their practices against a number of better practice guides, including the *Guide to Better Regulation*, and implement necessary changes to performance.⁹⁹

The Implementation Team should coordinate the planning and implementation of the remaining recommendations over the longer term.

99 QAO, [Regulating Animal Welfare Services](#), Rec 5, pp. 30–31.

Recommendation 5: Implementation Team

Community confidence
Culture, collaboration & communication
Clarity & consistency

R.5.1 It is recommended that the Department of Education establishes a Non-State Schools Accreditation Framework Review Implementation Team (Implementation Team) to progressively implement the recommendations of the Review.

The Implementation Team should be supported by:

- a Technical Expert Advisory Committee (TEAC) with skills and expertise to guide implementation activities. This expertise includes:
 - legislative development
 - best practice regulation
 - public sector/statutory entity governance
 - information privacy
 - complaints management
 - the non-state schooling sector

The TEAC should also have access to legal advice and expertise.

- a Stakeholder Reference Group (SRG) comprising representatives of ISQ, QCEC, IEU-QNT, teachers and principals, and parents' associations. The SRG should meet periodically, as required.

Consistent with the Review's guiding principles, consultation and collaboration should underpin the work of the Implementation Team.

R.5.2 It is recommended that the *Education (Accreditation of Non-State Schools) Act 2017* (Qld) is remade in line with contemporary drafting practice. This process should consider any additional amendments required to give effect to the recommendations. Consideration should also be given to any further amendments required to improve the operation of the Act, consistent with the overarching areas for improvement.

Appendix A: Terms of reference

Terms of Reference

Review of the Accreditation Framework for Non-State Schools in Queensland

This review will examine the framework governing accreditation of non-state schools in Queensland, including the *Education (Accreditation of Non-State Schools) Act 2017* and *Education (Accreditation of Non-State Schools) Regulation 2017*.

The review will consider how the current framework operates and where appropriate inform development of amended or new legislation to ensure the non-state schools accreditation framework continues to reflect a contemporary regulatory environment.

The review will include:

Research

- a. comparative analysis of non-state school accreditation, monitoring and regulation functions of relevant regulatory bodies in other jurisdictions, including associated criteria and/or standards;
- b. consideration of other relevant accreditation, regulatory or standards frameworks as appropriate, including:
 - the legislative framework for state schools in Queensland, to the extent this may act as a point of reference for accreditation of non-state schools;
 - intersections with other relevant legislative provisions in Queensland such as matters related to staffing or unaccredited settings in the *Education (Queensland College of Teachers) Act 2005* or *Education (General Provisions) Act 2006*;

- c. comparative analysis of models of governance, decision-making and administrative support associated with regulation of non-state schools in other jurisdictions;
- d. consideration of findings and/or recommendations from other state or national reviews, reforms or initiatives that may inform enhancements to the Accreditation Framework for non-state schools in Queensland;
- e. consideration of non-state schooling stakeholder perspectives about how the Accreditation Framework can support a quality, contemporary non-state schooling sector in Queensland;
- f. consideration other legislation and/or government policies, for example, in relation to privacy and human rights that may inform elements of an Accreditation Framework.

Powers, functions and standards

- g. identification of the powers and functions needed to support high standards of education and maintain public confidence in the operation of non-state schools in Queensland, including consideration of whether these enable:
 - a flexible approach to adapt to community standards as required from time to time;
 - proactive and responsive approaches to monitoring and regulation;
 - a risk-based approach to regulation, providing for strong regulatory action when required;

- h. consideration of accreditation and eligibility criteria that reflect and meet government, community and stakeholder expectations of standards for non-state schools;

Regulatory burden

- i. consideration of how to minimise regulatory and administrative process for the sector and regulator, while maintaining standards;

Governance and funding

- j. identification of any enhanced model/s of governance, decision-making and administrative support associated with accreditation of non-state schools that are most appropriate to support the objectives, powers, functions and standards that make up an effective Accreditation Framework – noting that where relevant, the Queensland Government Public Interest Map should be considered when identifying any enhanced models of governance;
- k. consideration of potential resourcing impacts and efficiencies in relation to the sustainable delivery of functions and powers where appropriate.

Noting the independence of the Non-State Schools Accreditation Board (NSSAB) and associated confidentiality requirements, the review will not examine the way in which the NSSAB exercises its functions and powers, or decisions taken in doing so.

It is also not intended for the review to consider, investigate, or make findings or recommendations about: state schooling; home education; government funding of non-state schools; or regulatory or standards frameworks in other fields.

