

**Senate Standing Committee on Education Employment and Workplace
Relations**

**QUESTIONS ON NOTICE
Additional Estimates 2009-2010**

Outcome 2 - Schools

DEEWR Question No.EW1026_10

Senator Mason asked on 11/02/2010, Hansard page 93.

Question

SIMILAR AGREEMENT WITH BLOCK GRANT AUTHORITIES IN EACH STATE

Senator MASON—This will not take long—these are quick. Thank you, officers. At the October estimates, I asked whether there were any sanctions or punishments for the failure to abide by timetables and other requirements of the program. The question was taken on notice. Essentially, the answer states that the Commonwealth has the power to withhold or suspend payments to a state or territory if it has not fulfilled its obligation under the bilateral agreement regarding the programs. Is that right, Ms Wall?

Ms Wall—That is correct.

Senator MASON—Does this refer only to state and territory authorities, or is there a similar agreement with block grant authorities in each state?

Ms Wall—There are similar agreements with block grant authorities.

Senator MASON—How similar? Identical?

Ms Wall—No, not identical, but from recollection these sanctions are quite similar.

Senator MASON—Is it possible for the committee to have that information?

Ms Wall—Certainly.

Senator MASON—On notice will be fine.

Ms Wall—Yes.

Senator MASON—The difference, in effect, between the requirements in relation to states and territories on the one hand and block grant authorities on the other. Is that all right, Ms Wall?

Ms Wall—Yes.

Ms Paul—Sure.

Answer

In relation to the Commonwealth's power to withhold or suspend payments there is no difference in the effect between the two types of agreements with the state and territory education authorities or Block Grant Authorities.

Whilst the wording in the Bilateral Agreements and the Funding Agreements (for Block Grant Authorities) varies slightly, the effect is the same.

The **Bilateral Agreement** states in Clause 5.1 – Funding, Section 3(a) :
Without limiting the Commonwealth's rights, the Commonwealth may withhold or suspend any payment in whole or in part if:

(a) You have not performed Your obligations under this Agreement;.....

The **Funding Agreement for Block Grant Authority** states in Clause 3 - Funding – Section 3.2:

Without limiting our rights, We may withhold or suspend any payment of Funding in whole or in part until You have performed Your obligations under this agreement, or the Guidelines.

Note that for BGAs there is a further power where the BGA fails to comply with a requirement of the agreement outline in Clause 10.

10. Failure to Meet Conditions of the Agreement

- 10.1 *If You do not comply with a requirement set out in this agreement (in this clause 10.1 "the Relevant Requirement") within the period required by or under this agreement or guidelines or within such further period as We allow, any or all of the following consequences apply:*
- a. *You must, if We require, pay to Us such amount as We specify (not being more than the total of the Funding paid by the State to You);*
 - b. *We may require that any other amount or amounts of Funding paid to the State for You and the Schools are to be reduced by an amount or amounts totalling:*
 - (i) *Any amount We require You to pay to Us under 10.1.a;*
or
 - (ii) *in any other case the total amount of the Funding paid by the State to You;*
 - c. *We may delay the making of any further payment (or a part of a further payment) to the State for You or for a School until You comply with the Relevant Requirement.*