

Regulatory Impact Statement 2:

Establishing a mechanism for government to set out its medium-term priorities for early childhood education and schooling

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Ministry of Education (the Ministry). It provides an analysis of options to develop an appropriate mechanism for establishing government's medium-term priorities to guide early childhood services and schools in setting their own objectives.

This RIS forms part of a group of four RISs that recommend linked regulatory changes to set the strategic direction for the education system by letting early childhood services and schools know what New Zealand's enduring objectives and medium-term priorities are, and how they contribute to, and are accountable for them. The group of four RIS include:

- Establishing enduring goals or objectives for education for children and young people aged 0 to 18
- Establishing a mechanism for government to set out its medium-term priorities for early childhood education and schooling (this RIS)
- Clarifying Boards of Trustees' roles and responsibilities
- Improving accountability (planning and reporting) for schools.

This group of four RISs form part of a suite of RISs on amendments to update the Education Act 1989 (the Act). The analysis and resulting policy proposals focus on meeting the needs of schooling and early childhood education now and into the future.

The Ministry undertook a public consultation on the policy proposals for updating the Act between 2 November and 14 December 2015 and received over 1800 submissions. A report on the submissions is available on the Ministry's website.

The Ministry considers this document to be a fair representation of available options.



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Setting the Strategic Direction for the Education System

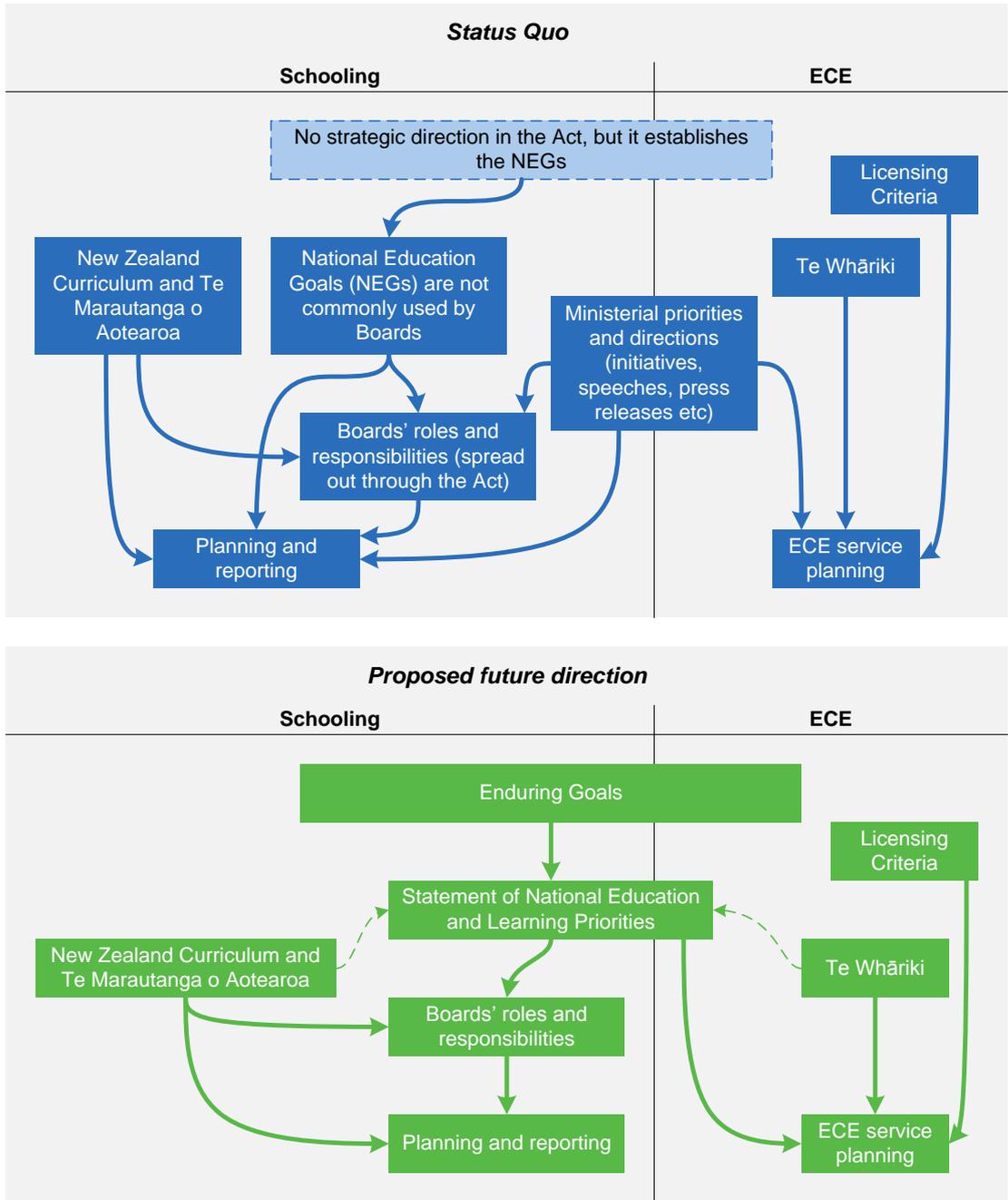
Overview

1. This suite of Regulatory Impact Statements (RIS) has been prepared by the Ministry. It comprises the following RISs:
 - Establishing enduring goals or objectives for education for children and young people aged 0 to 18
 - Establishing a mechanism for government to set out its medium-term priorities for early childhood education and schooling
 - Clarifying Boards of Trustees' roles and responsibilities
 - Improving accountability (planning and reporting) for schools
2. Together the RISs recommend linked regulatory changes to set the strategic direction for the education system by letting early childhood services and schools know what New Zealand's education objectives and medium-term priorities are, and how they contribute to, and are accountable for them.
3. The Government has a clear vision for an education system that meets the educational achievement challenge for every child and young person. This requires that system policy settings, including regulation, are fit for purpose and support early childhood services and schools to improve practice and decision making on the ground.
4. Currently, early childhood education and schooling do not have a shared set of objectives and medium-term priorities to guide their actions. Statements of objectives are in third-tier legislation and spread across a number of guiding documents which apply inconsistently to early childhood education and schooling. There is no appropriate mechanism for government to set out its priorities for the education of children and young people aged 0 to 18.
5. Legislation should support the education system to perform well by letting early childhood services and schools know what New Zealand's education system aims to achieve. It should allow them to prioritise between competing priorities, and focus on raising achievement and learning for every child and young person.
6. The strategic direction set by the objectives and government's medium-term priorities can be given effect through the roles and responsibilities of school boards of trustees, and the planning and reporting requirements for schools as Crown entities. Early childhood services have their own regulatory regime, and would need to take government's priorities into account when setting their strategic direction, and reporting to parents, whānau and government agencies.
7. These regulatory changes support the increasing collaboration that is taking place through Communities of Learning, where groups of early learning providers, schools, and tertiary providers have come together across the learning pathway to raise achievement for children and young people.
8. The changes align with the Taskforce on Regulations Affecting School Performance¹ recommendation that the Education Act 1989 should provide a clear and enduring statement of purpose (objectives) for education for 0 to 18 year olds, from which medium-term priorities and planning and reporting requirements can flow.

¹ The Taskforce was established by the government in November 2013 to consider how improved legislation and regulation could contribute to the goal of raising the achievement of all students, but particularly the most vulnerable.

9. The diagram below shows the status quo and the system with the new strategic direction in place.

How strategic direction flows through the Education system



Status Quo

10. Tomorrow's Schools stated that:

“Each institution will set its own objectives, within the overall national guidelines set by the state . . . These will be the means of setting, maintaining and developing national standards of achievement in education and will be an expression of matters of national interest . . . The national guidelines will include:

- *an expression of the principles of equity as the underpinning of education administration*
- *national curriculum objectives*
- *a code of conduct for boards of trustees*
- *a code of conduct for principals.”*

11. The resulting National Education Guidelines² include:

- national education goals** - statements of desirable achievements by the school system, or by an element of the school system, and statements of government policy objectives for the school system
- foundation curriculum policy statements**
- national curriculum statements**
- national standards**
- national administration guidelines** - which are guidelines relating to school administration and may include government’s policy objectives.

12. There are currently ten National Education Goals (NEGs). The content of the NEGs is very broad including, for example, equality of educational opportunity for all New Zealanders, development of knowledge and skills to compete successfully in the modern world, excellence achieved through the establishment of clear learning objectives, and respect for the diverse ethnic and cultural heritage of New Zealand people. The NEGs were last amended in 2004 when physical activity was added to NEG5.³

13. Some of the National Administration Guidelines (NAGs) also contain government policy objectives. For example, NAG5 requires schools to promote healthy food and nutrition for all students.

14. The early childhood sector has separate legislative and regulatory requirements from the schooling sector. There is currently no mechanism for government to set out medium-term priorities for early childhood services.

Problem definition

Lack of clear strategic direction for schools and early childhood services

15. The Government invests substantially in education and has a significant interest in what and how education is provided, and accountability for what is being achieved. As a way of conveying government’s priorities, the NEGs have not worked well and are not very visible.

16. The Taskforce on Regulations Affecting School Performance (the Taskforce) reported general agreement with the idea that the NEGs are very seldom considered by school boards of trustees (boards) or principals. This may be because the NEGs cover a broad range of areas, and are therefore not sharply focused on government priorities. Alternatively, it may be because the Gazette notice format does not lend itself to the provision of contextual and explanatory material that assists schools to give effect to them.

² These are found in section 60A of the Education Act 1989.

³ NEG5: A broad education through a balanced curriculum covering essential learning areas. Priority should be given to the development of high levels of competence (knowledge and skills) in literacy and numeracy, science and technology and physical activity.

17. The inclusion of government policy statements in some of the NAGs adds to the lack of clarity. Moreover, the legal status of the strategy documents that are issued from time to time has not been clear to schools. Taken together, it is difficult for schools to know what is important to the government and therefore what is expected of them.
18. Increasingly collaboration is taking place through Communities of Learning. The priority-setting mechanisms established in the Education Act 1989 (the Act) are not fit for purpose for the government to set its priorities for learners aged 0 to 18, as the mechanisms do not encompass early childhood education as well as schooling.

Ensuring the government's educational priorities are taken into account by schools

19. The government of the day needs a way to ensure that its priorities are taken into account when school boards are implementing their functions and duties, and are given effect through schools' planning and reporting activities.
20. The status and makeup of school boards means that the government cannot set out its priorities for schools using the same levers that are used with other Crown entities. For example, as boards are elected, the government cannot use the appointment of members to influence the direction and activities of schools.
21. Input into the planning and reporting cycle is another lever for government priorities to be given effect. However, the current situation where education priorities for schooling sit in different documents makes it difficult to link the government's education priorities to schools' planning and reporting requirements. The result is a weak set of mechanisms for specifying the overall direction for schools.

Objective

22. The objective is to establish a mechanism by which the government can set out its priorities to give strategic direction to early childhood education and schooling.
23. The following criteria were used to assess how well options to meet the objective:
 - raises the profile of government priorities and makes them visible, accessible and easy to act upon
 - enables stakeholders to have a say on the content
 - enables responsiveness to changing government priorities, but also acts as a constraint against frequent change
 - works as part of an accountability framework for schools, so that schools can give effect to the priorities through the planning and reporting regime.

Options

24. Three options were considered:
 - **Option A:** Setting out priorities in the Act itself.
 - **Option B:** Setting out requirements by the Gazette process (status quo).
 - **Option C:** Development of a Statement of National Education and Learning Priorities, similar to the strategy document in the Tertiary Education Strategy.
25. Other options that were considered but rejected are described on page 7.

Impact analysis

Option A: Set out government's priorities in the Education Act 1989

26. This option would see education priorities put into the Act, where they would be visible and accessible. It would achieve the objective by giving strategic direction to early childhood education and schooling.
27. Putting government priorities directly into the Act is a very inflexible instrument, as priorities would change with time and successive governments. The priorities would be subject to legal drafting, removing the opportunity for explanatory information which would help early childhood providers and schools understand how to act on them. While guidance could be published and made available separately, it may not always be immediately obvious that it exists, or correlates with that section of the legislation.
28. Legislative change can be a long process and its timing is dependent on other legislation being progressed through Parliament. This would act as a constraint against frequent change. Under this option, stakeholders could have a say on the priorities through Parliamentary Select Committee processes.
29. The priorities could be linked to the accountability framework through the Act by establishing a link between the priorities and the planning and reporting regime. This would create a mechanism for making schools accountable for the priorities by showing how schools propose to meet them (in their planning) and how they have been met (in their reporting).

Option B: Set out government's priorities through a Gazette notice (status quo)

30. This option is a version of the status quo and is the current mechanism the government has available for setting out education priorities for schools. This could be extended to give direction to early childhood services.
31. A Gazette notice is not particularly visible, although it could be made more available through other publications as well as the Gazette. The notice does not lend itself to text of any length, which means there is limited ability to put much context on the priorities. This could mean that early childhood services and different parts of the schooling sector have to interpret how the priorities apply to them, making the priorities less easy to act upon.
32. A Gazette notice is flexible as it can be easily changed – though it is worth noting that the NEGs and NAGs have only had a few incremental changes over the past 26 years. The Gazette notice format is susceptible to piecemeal amendment. A NEG or NAG change is often suggested as a fix to high level problems rather than as part of a carefully considered strategic approach to schooling priorities. There is currently no statutory requirement for consultation on the NEGs, although one could be added.
33. Under section 61 of the Act, a school's charter must establish how the school will give effect to the National Education Guidelines, including the NEGs. This is the link between the government's priorities and the accountability framework for schools that the Taskforce found is not working well.

Option C: Develop a Statement of National Education and Learning Priorities, similar to the strategy document in the Tertiary Education Strategy

34. The Act requires the Minister responsible for Tertiary Education to issue a Tertiary Education Strategy that sets out the government's long term strategic direction and current and medium-term priorities for tertiary education. The Act states that the Minister must consult stakeholders and provide public notice when it is issued. Similar provisions could be put in place for a strategy document for the government's priorities for early childhood education and schooling.
35. A statement of National Education and Learning Priorities (the statement), which is set out as a strategy document, would give direction to both early childhood education and schooling. It would explain the context and reasons for the selected priorities. Any such statement would be easily accessible through the Ministry of Education's website and be given a high profile.

It would need to be flexible enough to respond to change but allow reasonable certainty that it would not be changed piecemeal or frequently.

36. The statement could include indicators of success, reflect the objectives for education and be linked to regulations setting out planning and reporting requirements for schools. It could be explicit about how early childhood services are expected to take it into account. This would help early childhood services and schools understand what the priorities mean for them and how to put them into action.

Summary of analysis of options

37. The table below shows how effective each option is at meeting the above objectives and other criteria.

Objective/Criteria	Option A: Education Act	Option B: Gazette notice	Option C: Statement of Priorities
<i>Raises the profile of government priorities and makes them visible, accessible and easy to act upon</i>	Does not meet	Somewhat meets	Meets
<i>Enables stakeholders to have a say on the content</i>	Meets	Meets	Meets
<i>Enables responsiveness to changing government priorities, but also acts as a constraint against frequent change</i>	Somewhat meets	Somewhat meets	Meets
<i>Works as part of an accountability framework for schools, so that schools can give effect to the priorities through the planning and reporting regime</i>	Somewhat meets	Somewhat meets	Meets

Other options considered

38. Other options initially considered as mechanisms to set out government’s priorities but rejected early in the process include:
- *Letter of expectations*: This model is suitable for individual Crown entities, many of which have staff or board members with expertise in planning. A letter is not suitable for 2500 boards and the model requires review and comment on individual Statements of Intent which would be impractical.
 - *Regulations*: The discursive content of a strategy document would not lend itself to the precise nature of legal drafting.
 - *Contract*: This would be an impractical model for 2500 schools.
 - *National Management Strategy*: This model would have the advantage of being able to be very specific about the key areas of education but, unless there is a desire to be more prescriptive, it has few advantages over the status quo.

Consultation

39. Cabinet agreed to publicly consult on establishing a process in the Act for the government to develop and promulgate a statement of (education and learning) priorities for the early childhood and schooling sectors [CAB-15-Min-0170 refers].
40. The public consultation on the update of the Act asked:
“What process should be used for setting a National Priorities Statement for early learning and schooling?”

41. The majority of people who answered this question (42 percent of submitters) provided positive suggestions for how a statement of National Education and Learning Priorities (statement) should be developed. There was strong support for some form of consultation to develop the statement, particularly for consultation with the sector. Forty-seven percent of submitters who answered this question also supported consultation with the public.
42. Many submitters suggested principles that could be used to develop priorities, such as:
 - taking a strengths-based, holistic approach
 - making children, young people and their learning a first priority
 - recognising the unique learning needs of disabled children
 - incorporating principles of the Treaty of Waitangi into the priorities.

Conclusions and recommendations

43. The policy proposal is to develop an appropriate mechanism for government's medium-term priorities to guide early childhood services and schools. The preferred option is to establish a statement of National Education and Learning Priorities (the statement), modelled on the Tertiary Education Strategy's strategy document.
44. The mechanism would be set out in the Act, and would include a requirement for consultation with the education sector in the development of the statement. There should be a mechanism allowing the Minister of Education to amend the statement, in consultation with those stakeholders the Minister considers should be consulted.
45. The statement would reflect the objectives and give strategic direction to both early childhood education and schooling. It would be linked to the roles and responsibilities of boards.
46. The statement should be given effect through early childhood education licensing criteria, and boards' planning and reporting requirements. It should not apply to home schooling where parents have made the deliberate choice to step outside the general education system.

Implementation plan

47. The mechanism for establishing a statement would follow the process currently used to establish the Tertiary Education Strategy. Under the Act, the Minister for Tertiary Education, Skills and Employment is required to issue a tertiary education strategy.
48. Establishing a statement for early childhood education and schooling would follow this model, with the Minister of Education issuing the statement. Education sector stakeholders would be consulted as part of the development of the statement.
49. There will need to be careful sequencing for the effective implementation of the strategic direction as set out in the overview section of this document. Once the proposed objectives are enacted, consultation on a statement would begin. At the same time, the Ministry will work with the sector on new regulations for planning and reporting. This will set the timeframe for the introduction of the new planning and reporting provisions.
50. The timeframe for the introduction of the statement is dependent on the enactments of the objectives for education. The intention is that the new system will be fully operational by the beginning on 2019.
51. Statements would be issued by public notice and communicated to stakeholders and schools through notices in bulletins, on websites and briefings.

Monitoring, evaluation and review

52. As is the case with the Tertiary Education Strategy, the statement would be issued from time to time, for periods of up to five years. This would provide opportunities to ensure that the statement remains fit for purpose. The statement will also be monitored for its effectiveness through the Ministry's ongoing engagement with early childhood services and schools.
53. The Ministry will monitor the effectiveness of the statement by assessing how well the priorities within them are given effect through the implementation of new planning and reporting requirements for schools. The Education Review Office will evaluate the effectiveness and impact of school's strategic and annual planning in relation to achieving equity and excellence for all students.
54. The combined impact of the proposals to set the strategic direction will be monitored through the alignment of teaching and learning outcomes to the strategic direction. Analysis of school and early childhood performance that occur at regular intervals can be used to evaluate the efficacy of the policy.