

Regulatory Impact Statement 1:

Establishing enduring goals or objectives for education for children and young people aged 0 to 18

Agency Disclosure Statement

This Regulatory Impact Statement (RIS) has been prepared by the Ministry of Education (the Ministry). This RIS provides an analysis of options for establishing an enduring strategic direction for early childhood services and schools.

It 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 education objectives and medium-term priorities are, and how they contribute to, and are accountable for them. The group of four RIS include:

1. Establishing enduring goals or objectives for education for children and young people aged 0 to 18 years (this RIS)
2. Establishing a mechanism for government to set out its medium-term priorities for early childhood education and schooling
3. Clarifying Boards of Trustees' roles and responsibilities
4. 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

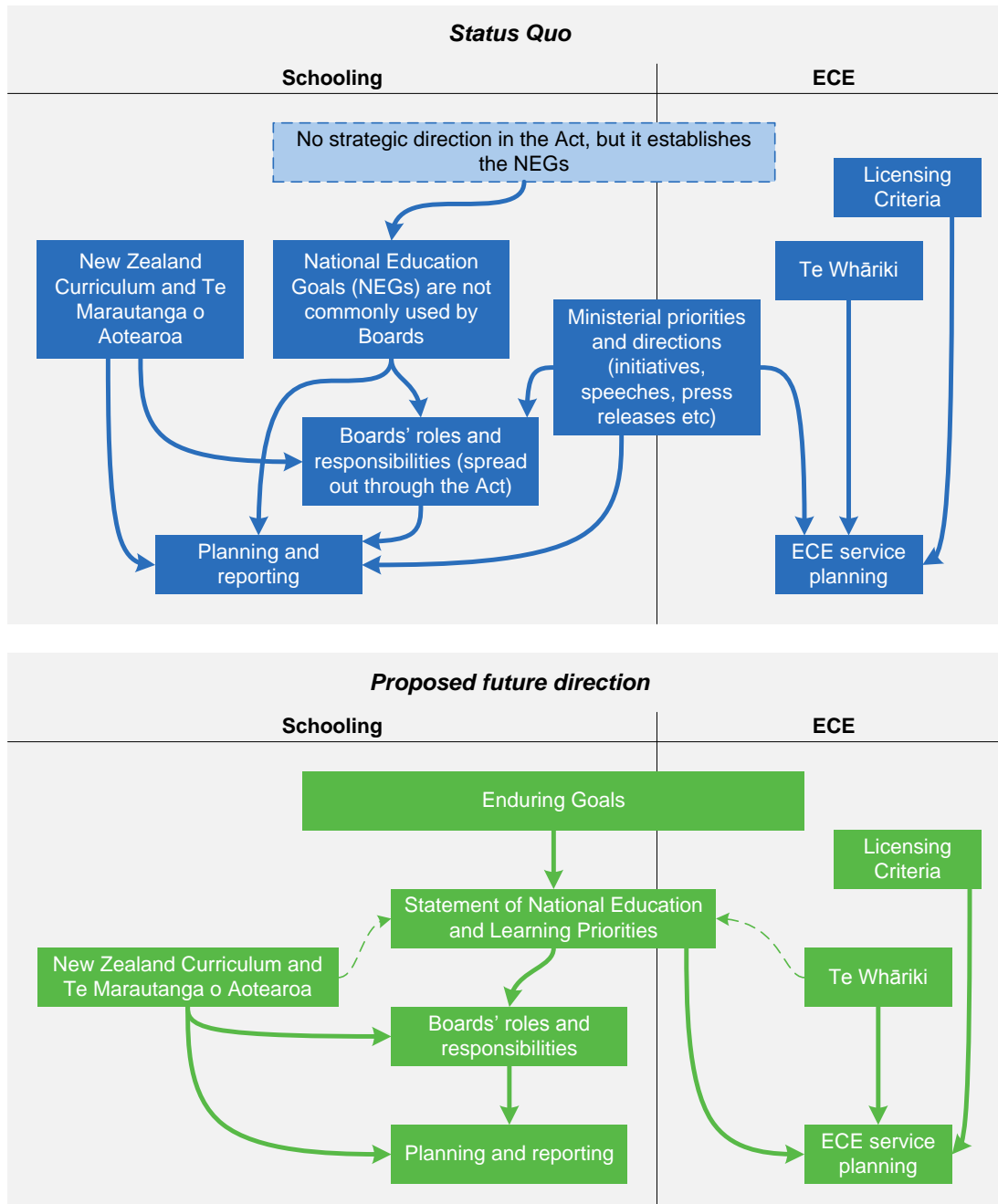
1. This group of Regulatory Impact Statements (RIS) has been prepared by the Ministry of Education (the Ministry). It comprises the following RISs:
 - Establishing enduring goals or objectives for education for children and young people aged 0 to 18 years
 - Establishing a mechanism for government to 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 years.
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 needs to 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 the 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 across the learning pathway have come together to raise achievement for children and young people.
8. The changes align with the Taskforce on Regulations Affecting School Performance¹ (the Taskforce) recommendation that the Education Act 1989 (the Act) should provide a

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.

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.

- 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 and problem definition

- The Act does not include a clear and visible statement of the objectives and desired outcomes for children and young people aged 0 to 18 years that provides strategic direction for the New Zealand education system.
- The Taskforce found that this contrasts with other more recently drafted New Zealand statutes which include a purpose or outcomes statement that frames the intent of the

legislation. For example, the Health and Disabilities Act 2000 sets out the purpose of the act in order to pursue a number of objectives, including the improvement, promotion and protection of New Zealanders' health.

12. The Taskforce also reported that the schools they consulted were clear about their own desired objectives and outcomes, but agreed that the Act does not provide an easily identifiable statement of objectives and outcomes for the education system. This makes it difficult for schools and early childhood services to act on the strategic direction and incorporate it into their practices.
13. In addition, early childhood services and schools receive a variety of messaging from government about priorities, objectives and outcomes for education from Te Whāriki (the early childhood curriculum), the New Zealand Curriculum, Te Marautanga o Aotearoa, and the National Education Goals (NEGs), which are all in third-tier regulation. Non-statutory strategy documents such as Ka Hikitia and the Pasifika Education Plan apply inconsistently to early childhood education and schooling.²
14. The regulatory framework for early childhood education and schooling therefore does not establish a clear hierarchy of objectives to guide the actions, decision making and accountabilities of early childhood services and schools. As a result, early childhood services and schools may be uncertain about what they are expected to achieve.
15. The lack of clarity means that boards may not take account of system level objectives and expectations, which could contribute to inconsistency in the outcomes that are prioritised for children and young people across the schooling system.
16. The lack of clarity of system level objectives is reflected in the current accountability arrangements for schools. Boards are required to prepare a school charter that establishes how the school will give effect to the NEGs.³ The breadth of this requirement results in a lack of focus on the most important objectives in schools' planning and reporting processes.
17. There is some risk associated with establishing clear objectives for education, as this could result in increased legal challenges to the Crown. This risk is considered in the assessment of policy options.

Objectives

18. The objective is to provide high level strategic direction for early childhood services and schools through an enduring and visible statement of what education aims to achieve for children and young people aged 0 to 18.
19. The objectives for learners should be linked to the mechanism for government's medium-term priorities, so that early childhood services take them into account in their reporting and flow through to the accountability and governance arrangements of

² For example, Ka Hikitia applies to schooling through tertiary education, while the Pasifika Education Plan applies to early learning through tertiary education.

³ The National Education Guidelines (s 60A of the Act) include

- a) national education goals
- b) foundation curriculum policy statements
- c) national curriculum statements
- d) national standards
- e) national administration guidelines.

schools. This will put learners and their needs at the centre of the strategic direction of education.

20. The following five criteria were used to analyse the options:

- *Strategic direction is clear, visible and easy to understand and apply* – the strategic direction should be clearly articulated in a visible location in language that is easy to understand and apply.
- *Strategic direction explicitly applies to both early childhood education and schooling* – the strategic direction should clearly apply to early childhood services and schooling, even though these sectors will give effect to them in different ways.
- *Strategic direction is enduring, high level and enables prioritisation* – the strategic direction should set out the most important objectives to provide long term direction. It should make priorities clear and be broad enough to encompass lower level objectives that are already in the system.
- *Strategic direction can flow through to government’s medium-term priorities and accountability arrangements for schools* – the strategic direction should establish objectives to guide the development of government priorities and accountability in boards of trustees’ planning and reporting framework.
- *Risk to the Crown is minimised* – the direction should not create unnecessary risk to the Crown.

Options and impact analysis

21. The Ministry considered three options to meet the policy objective:

- **Option A:** Retain the status quo, where objectives for education are in third-tier regulation and strategy documents
- **Option B:** Convey the strategic direction through a comprehensive sector and public engagement programme
- **Option C:** Establish a small number of objectives in the Act

Option A: Status Quo

22. Under this option, the NEGs would remain alongside the objectives in multiple, other third-tier legislation and non-statutory strategy documents.

23. Maintaining the status quo would not provide clear and visible direction as there is uncertainty about which objectives are the most important. This makes it more difficult to understand and apply the direction. The public will remain unclear about what the objectives for education are and how these are meant to be applied. There will continue to be an absence of strategic direction that explicitly applies to both early childhood services and schools. Schools and early childhood services’ behaviour would not meet expectations.

24. Under the status quo, the NEGs or objectives in any of the other third-tier and non-statutory documents could be updated and/or rationalised. This could result in fewer, more consistent objectives. However, it would not necessarily enable the remaining objectives to be prioritised, because there is no hierarchy across the third-tier instruments of NEGs, National Administration Guidelines, and curricula. The objectives would also not necessarily be enduring, as third-tier instruments are relatively easy to change.

25. The status quo does not provide a strategic direction that can flow through to the government's medium-term priorities. Under the Act, the NEGs are the mechanism to express government priorities, but there are no more permanent objectives to guide the development of these priorities.
26. Accountability arrangements would remain the same. If the NEGs and other third-tier documents were updated, the accountability mechanism for schools still requires schools to plan and report on the National Education Guidelines rather than a small number of important objectives. Potentially this could be changed to focus only on the NEGs, but that would necessitate wider changes to other accountability arrangements in the Act. The suite of strategic direction regulatory changes would not be effective at impacting on school and early childhood service behaviour under this option.
27. This option minimises risk to the Crown as legal action relating to the status quo has not been an issue to date. The status quo would also result in no implementation cost and existing compliance costs would be maintained.

Option B: Convey the current strategic direction through a comprehensive sector and public engagement programme

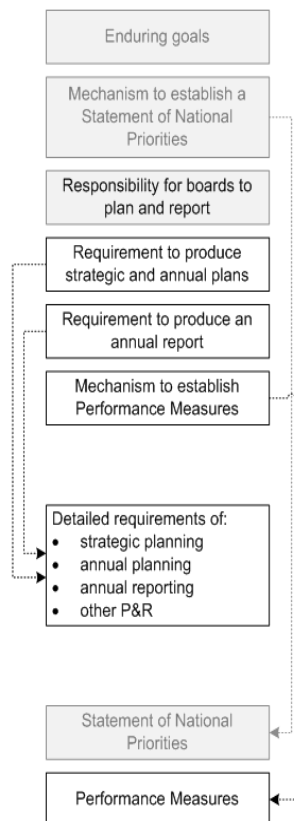
28. The current strategic direction for education (the NEGs and objectives across multiple documents) could be conveyed through a sector and public engagement programme that is communicated through the Ministry website, a social media campaign and speeches at sector and public engagements.
29. This option would give the strategic direction increased public visibility. Direction could be presented in a clear way using a variety of online and face to face channels that make it easy for early childhood services, schools, and communities to understand. However, it may not be apparent to audiences how the strategic direction is meant to be applied in different contexts or what the legal responsibilities of individual education providers are. The option is unlikely to set clear expectations for school and early childhood services.
30. While the engagement programme could be targeted to both early childhood services and schools, reaching the large number of schools and early childhood services would be difficult. This could introduce variability and uncertainty into the system, where some early childhood services and schools understand and give effect to the strategic direction, and others do not. Early childhood services and schools in rural areas could be at a disadvantage as they could be less likely to participate in face to face engagements that set out the strategic direction.
31. A sector and public engagement programme would not provide enduring guidance as the messaging would be likely to evolve and change regularly depending on the setting and the communication channel. It would not provide the level of permanence needed for long term direction and would not aid prioritisation.
32. This option does not change current accountability mechanisms. The engagement programme could highlight how the direction links to schools' accountability frameworks. This could result in confusion between statutory requirements and non-statutory guidance on planning and reporting requirements. The suite of strategic direction regulatory changes would not be as effective under this option, because the direction would not be fully aligned to the other changes.
33. A public engagement programme would involve minimal risk to the Crown as the direction would not be included in legislation or regulation.

34. This option would incur ongoing operational costs.

Option C: Establish a small number of objectives in the Act (preferred option)

35. This option would see the development of a small number of high level objectives for children and young people aged 0 to 18 years for inclusion in the Act to provide strategic direction for early childhood services and schools. It would involve public consultation through a Parliamentary Select Committee process on proposed objectives set out in an amendment bill. The objectives would be high level enough to reflect aspirations for all children and young people, and broad enough to encompass lower level objectives already in the system.
36. This option would be accompanied by a sector and public engagement programme as part of the suite of regulatory changes on setting the strategic direction.
37. This option would provide a visible strategic direction for both early childhood education and schooling. By placing objectives in first-tier legislation, there would be no doubt of their importance and enable prioritisation within the education system. While there would be some loss of flexibility as an Act is difficult and time consuming to change, this would be offset by the benefits of an enduring strategic direction for the system.
38. Including objectives within the Act would create a mechanism for accountability to flow from, by establishing what is required of schools and boards of trustees at a high level. This would inform the proposed Statement of National Education and Learning Priorities,⁴ which would be used to inform planning and reporting requirements for school and boards of trustees. The proposed relationship between the objectives, Statement of National Education and Learning Priorities, and boards of trustees' planning and reporting requirements is shown below:

⁴ See Regulatory Impact Statement 2: Establishing a mechanism for government to set out its medium-term priorities for early childhood education and schooling.



39. The objectives would create a clear pathway by which the strategic direction can be communicated to and implemented by schools. Including objectives provides a clear purpose for education that sets the direction and expectation of school behaviour.
40. Option C enables the suite of regulatory changes to have a strategic and targeted impact on school behaviour. The proposed establishment of a statement of National Education and Learning Priorities will align the content of the objectives with the government's priorities for education. As the statement will set out requirements for schools and early childhood services to meet, the objectives will have an indirect effect on school behaviour.
41. The NEGs would be repealed as a consequence of Option C. This aligns with the suite of regulatory changes on setting the strategic direction, as the NEG mechanism will no longer be necessary.
42. There is a risk that the objectives do not reflect the interests all sector groups. This may disengage sector groups and create feelings of lack of ownership of the strategic direction. To mitigate this risk, the objectives will be drafted to reflect the consistent feedback provided through the engagement process on the update of the Act. There was a great deal of consistency from the feedback on eight specific themes. The public will have further opportunities to comment on draft objectives through a Parliamentary Select Committee process.
43. There is potential for an increase in litigation if people feel the objectives are not being achieved by schools or the Crown. If objectives are included in legislation, the judicial system can use these when determining cases. This may increase legal challenges to actions undertaken by the Minister of Education or boards of trustees.
44. This risk can be mitigated to some extent through the drafting and positioning of objectives within the Act, by limiting the scope of any challenges. For example, describing the objectives as aspirational for setting the direction for early childhood and

schooling education could limit the potential challenges. Other existing statutes will be examined to provide guidance on how to incorporate objectives into legislation.

45. There is a risk that the public will be concerned about the consequential repeal of the NEG's. This can be mitigated by communicating to the public that the content of the NEG's will be transferred to the objectives, or the other parts of the Act, if necessary.

Assessment of policy options by criteria

46. A summary of the options as assessed by the above criteria is included below.

Criteria	Option A: Status quo	Option B: Public engagement programme	Option C: A section of objectives in the Act
Direction is clear, visible and easy to understand and apply	Does not meet	Meets	Meets
Direction applies to both early learning services and schools	Does not meet	Does not meet	Meets
Strategic direction is enduring, high level and enables prioritisation	Somewhat meets	Somewhat meets	Meets
Strategic direction can flow through to government's medium-term priorities and accountability arrangements for schools	Does not meet	Does not meet	Meets
Minimises risk to the Crown	Meets	Meets	Somewhat meets

Consultation

47. Consultation took place from 2 November to 14 December 2015 as part of the consultation on the update of the Act.
48. The public discussion document on the update of the Act asked:
- “What should the goals for education be?”*
49. Over 1600 submissions responded to the question. This proposal was supported by submitters, who had the opportunity to comment on their support for, or opposition to, including goals for education in the Act. The majority of submitters commented that they support including goals within the Act. There was little opposition to including goals. There were few concerns raised on the content of the goals. Many submitters expected goal statements to be developed after further sector consultation.
50. The New Zealand Principals' Federation, the New Zealand Post Primary Teachers' Association, the Secondary Principals' Association of New Zealand Inc, the Early Childhood Council, Barnados and the New Zealand School Trustees Association all supported having some form of purpose statement for education within the Act.
51. The main theme emerging from the submissions was that the objectives of education should go beyond narrow measures of academic achievement and should result in well rounded individuals. This reflects the importance New Zealanders place on education

providing better personal, economic and civic outcomes. The following themes were the most commonly mentioned by submitters:

- student achievement and success and educational success
- preparation for work and future life
- connection to others and good citizenship
- resilience, determination, confidence, creativity and critical thinking
- inclusiveness of students with differing needs
- valuing cultural knowledge and identity, recognition of the Treaty of Waitangi and te reo Māori
- social skills and the ability to form good relationships.

52. The public will have an opportunity to comment on including objectives within the Act through the Parliamentary Select Committee process that will occur later.

Conclusions and recommendations

53. The preferred option is to establish a enduring and visible strategic direction for children and young people aged 0 to 18 years in the Act, in the form of objectives relating to the early learning and compulsory schooling parts of the Act. This option provides the best means for articulating the strategic direction of education and achieving the policy objective.

54. This option should be introduced alongside a suite of regulatory changes to provide strategic direction for early childhood services and schools: the establishment of a mechanism for government to set out its medium-term priorities for early childhood education and schooling; the clarification of boards of trustees' roles and responsibilities; and improved accountability (planning and reporting) arrangements for schools.

Implementation

55. The changes would come into effect after passage of the Bill including Royal Assent and would then apply to schools and kura.

56. The objectives would be formulated through a Parliamentary Select Committee process that provides an opportunity for public feedback. The objectives would be incorporated into an Act through an amendment Bill, and come into force following Royal Assent.

57. The Ministry will implement and administer the changes.

58. Once the objectives are enacted, consultation on a Statement of National Education and Learning Priorities will take place, with the intention that the first statement is in place by mid 2017. The statement would implement the strategic direction included in the objectives. This will set the timeframe for the introduction of new planning and reporting provisions for schools that further set the strategic direction. The intention is that the new system is fully operational by the beginning of 2019.

59. A transitional arrangement will be formalised while the NEGs are repealed. The Ministry will tell the sector when the changes will occur and what will occur during the transition.

60. The Ministry is working to prepare advice and guidance for early childhood services and schools, and plan for the operational changes that will be required in the schooling sector. Communication materials will be released to the sector through a Gazette notice

and the Ministry of Education's website. An education campaign will inform the sector and ensure the changes are reflected in behaviour.

61. It is unlikely that any groups will face barriers to implementing these changes.
62. There is a risk that there will be an increase in litigation against schools or the Crown if the objectives are included in legislation. Implementation methods may affect the risk of litigation. For example, how the objectives are described and how providers are expected to engage with objectives will affect the risk of litigation.
63. The proposal has no fiscal implications.

Monitoring, evaluation and review

64. The objectives are expected to be monitored as part of the suite of changes on setting the strategic direction. Because of the structure of these changes, the objectives are expected to be monitored through schools' use of the new planning and reporting requirements, and boards' roles and responsibilities. Assessment of the visibility of the objectives can be conducted through discussions with the sector. The implementation of the new strategic direction for early childhood education and schooling will need to be monitored to ensure that it is achieving the desired results. This would be accompanied by assessment of how well early childhood services and schools understand and give effect to the new requirements. The effectiveness of the objectives is expected to be assessed by school and student performance and achievement.
65. Proposed planning and reporting measures, such as school annual reports or strategic plans, could be used to assess the efficacy of objectives and the statement of National Education and Learning Priorities in providing strategic direction for prioritisation and decision making at the individual school level. These plans or reports could be assessed on how well they reflect the strategic direction for education. Other current school and student performance measures could be used to assess how well providers are meeting the strategic direction of education. A regular timeframe for evaluation will be established.
66. 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.