

Chair

Cabinet

Update of the Education Act 1989

Proposal

1. I am seeking Cabinet approval to the scope of an update of the Education Act 1989 (the Act) and to the release of the attached public discussion document.

Executive summary

2. The education system has evolved significantly since the Act was passed in 1989. The Act has not kept pace with modern teaching and learning practice; the collaboration and configuration of schooling; and the options of personalised pathways and the flexibilities necessary. Nor has it matched New Zealand's rapid social and cultural change, and demographic shift. It is no longer fit for purpose.
3. A more flexible and less prescriptive legislative framework that meets the needs of the schooling and early childhood education environment now and into the future will provide a sound platform and responsive levers for the years ahead. It also recognises that we know more than we ever have before about how well individual, and cohorts of children and young people are doing in education at all levels of our education system, as well as how they compare to the next school, and internationally. This is how we know that New Zealand, while it is doing well against other countries, still has an achievement challenge.
4. Our top students are doing as well as students anywhere in the world, but that group is smaller, and while we have made some gains the gap between our top performing students and those who are not doing so well remains. These students are disproportionately Māori and Pasifika, students from low socio-economic families, and those with special education needs. Research tells us that the quality of teaching and leadership are the two major in-school factors that affect and effect educational achievement.
5. In July 2014, I reported to Cabinet on the findings of the Taskforce on Regulations Affecting School Performance (the taskforce) [CAB Min (14) 23/5 refers]. The taskforce was set up to fulfil a requirement of the ACT/National Confidence and Supply agreement. It went through targeted consultation with 26 organisations, including six schools and sector associations such as the New Zealand School Trustees Association.
6. The taskforce recognised the important role good and purposeful legislation has to play in supporting student achievement. With that in mind, the taskforce concluded that the schooling components of the Act were out of date, no longer fit-for-purpose, and did not send clear signals that the purpose of education is to increase student achievement. It recommended that the Act contain a greater focus on purpose and student outcomes, more explicit roles and responsibilities, and improved usability and clarity.

7. On 26 November 2014, Cabinet approved my three-year work programme for education [Cab Min (14) 38/5 refers]. It also agreed to my recommendations for a targeted review of the Act in two parts. The first part would look at the strategic direction for education for learners aged 0-18 years, and the mechanisms needed to enable school boards of trustees (school boards) to respond to this through their planning and reporting processes. The second part would be a subsequent piece of legislation covering the operational implications of part one.
8. I no longer propose a two part update, instead I propose a single phase approach. This is because considerable progress has been made in the Ministry, and in socialising the challenges of the current Act with the sector as well as the opportunities for better supporting the changes in our system since 1989. I propose a simplified framework that sets out a cohesive strategic direction and provides key accountability levers. It will enable the public and the sector to see a complete picture of how the features of the system fit together. Once this strategic framework is set, less prescription and greater flexibilities will mean any future amendments to the act will become more straightforward and transparent.
9. The current Act adopts a one-size-fits-all approach to accountability and performance. More flexibility is needed in the updated Act to recognise the capability of individual schools to make local decisions, and conversely, less for those less able. The Education Review Office reports that nearly five hundred schools are on four to five year review cycles with an increased focus on self-assurance. Where schools can demonstrate ongoing high performance, they should have greater flexibilities. However, ERO reports also indicate that up to 20% of schools are struggling with their responsibilities; while at any one time the Ministry of Education reports about 70 schools subject to statutory interventions.
10. The update of the Act needs to recognise the vast improvement in educational achievement data. The range and granularity of data available now means more targeted, graduated, and nuanced responses are possible, and desirable, for schools that are doing well and better support for students' education when schools are not performing. The update also needs to support the increased diversity of our schooling system, continued parental choice and opportunities for participation in the education of their children.
11. Accordingly, I propose that the scope of the update:
 - establish enduring goals for schooling and early childhood education in the Act
 - determine the best way of setting out the Government's objectives
 - improve school boards' planning and reporting, enabling subordinate legislation to set out processes and national performance indicators for schools and Communities of Learning to report against
 - bring together and clarify the roles and responsibilities of school boards in the Act
 - empower schools to respond at a local level to the needs of their communities by providing increased flexibility such as the starting date for five year olds

- explore the need for legislative change to support alternative models of governance
 - expand the range of available responses when reporting shows that schools are not performing well
 - provide a process in the Act for area strategies that consider the provision of education across a particular area
 - make some relatively minor amendments to improve the administration of enrolment schemes.
12. I will be explicit about what is not in scope for the proposed update; it does not include self-managing schools/kura as the basis of our schooling system, nor recent government initiatives such as National Standards, Partnership Schools, and Investing in Educational Success. Enabling parental choice about education options will continue to be a cornerstone of our education system.
13. I propose releasing the attached discussion document as part of a widespread public engagement process that includes parents, students, employers and the general public, as well as the education sector. Engagement will occur through November to 14 December 2015, pending Cabinet approval – a period that schools have indicated they are open to consultation.
14. I have, for the past year, been discussing possible approaches to the update with sector representatives in my national and regional cross sector forums and I will continue to use this mechanism.
15. I will report to Cabinet on the results of the consultation, together with policy and legislative proposals, in early 2016.

Background

16. The two biggest challenges we face at a system level are: the atomised nature of our schools where it is literally every school for themselves; and the equity-excellence gap between those who do well and those who do not. Both of these challenges are exacerbated by our profession struggling to deal with the effect of socio-economic disadvantage.¹ We have pockets of outstanding practice, but so far have not been able to find a way to systemise these.
17. Our system incentives drive our best leadership capability to our biggest schools, whereas our biggest achievement challenges are consistently in our smaller and poorer schools. My ambition is to reset some of the incentives to focus reputation and reward on the size of the education challenge conquered and not simply on the roll size of the school. The operational strategy to achieve this is our Investing in Educational Success (IES) initiative.

¹International surveys by the OECD such as PISA classify New Zealand as a country that has higher performance and lower equity levels. This has been the case since we started in PISA 2000 and it is also clearly evident in other system level data such as Progress in International Reading Literacy Study (PIRLS) Year 5 results and the Trends in International Mathematics and Science Study (TIMSS) Year 5 and 9 results).

Communities of Learning

18. In 2014, the Government recognised this country's achievement challenge by investing \$359 million in Investing in Educational Success (IES). IES is a Government initiative set up to help lift student achievement. It is also intended to provide new career opportunities for teachers and principals. IES provides a process to get communities behind raising achievement for all children and young people through working together to identify and address common achievement challenges. Research shows that within schools, the quality of teaching has the biggest influence on whether students succeed. IES has been designed with this in mind, and is intended to help raise achievement by:
 - improving teaching practice across New Zealand
 - enabling teachers to work together and benefit from each other's knowledge and experience
 - helping all children benefit from the skills and knowledge of great teachers from across a group of schools
 - helping schools work together so it's easier for children to move through the education system.
19. Communities of Learning are groups of early learning providers, schools, kura, and tertiary providers that come together around the learning pathway to raise achievement for children and young people by:
 - sharing expertise in teaching and learning
 - supporting each other
 - forming around students' usual pathway from primary to secondary school.
20. It is intended to enable the most effective teachers and principals to share their knowledge and expertise across multiple schools and connecting education from early learning through to tertiary to everyone's benefit. It is aimed at making it easier for professionals, parents and communities to work together around a child's pathway through the education system to tackle educational challenges, and get the resources they need to do that.
21. There are now 42 Communities of Learning across the country. 333 schools and over 120,000 students make up these Communities of Learning. Further Communities of Learning will be approved before the end of 2015. These Communities set shared goals based on information about their students' educational needs and work together to achieve them. Communities in Blenheim and Mid-Bays (Auckland) have already signed off achievement challenges to lift their students' achievement in areas such as reading, writing and mathematics. A copy of the Blenheim achievement challenges is attached, for reference.
22. Ratification of the Joint Initiative with the NZEI on 22 September 2015 has meant a desirable expansion of the Community of Schools model to a Community of Learning, incorporating early learning services and stronger connections to tertiary education providers.

The education work programme

23. On 26 November 2014, Cabinet approved my three-year work programme 2015-2017 [SOC Min (14) 17/1 refers]:
 - implementing IES
 - improving continuity of learning, the all-important transitions between different parts of the education system and student-centred pathways
 - strengthening inclusion by updating the special education system
 - strengthening 21st century practice for quality teaching and learning
 - reviewing the Education Act 1989
 - reviewing the funding systems for early childhood education and for schools.
24. These work streams are underway. Following discussions both at Cabinet Strategy Committee and subsequently, they are more tightly knitted together and focused through our IES initiative and the foundation of Communities of Learning on improving and embedding collaboration as a key pivot of our education system. Separate report-backs on each of these work streams have been scheduled.
25. Centralising our education system's focus on the student and their whole learning pathway, from early learning through schooling to their tertiary education options, and systematically overcoming the traditional boundaries at the transition points between each of these sectors, is the most significant step in New Zealand education since the introduction of Tomorrow's Schools in 1989.
26. In July 2014, I reported to Cabinet on the findings of the Taskforce on Regulations Affecting School Performance (the taskforce) [CAB Min (14) 23/5 refers]. The underlying intent of Tomorrow's Schools, namely, schools' status as individual Crown entities governed by boards, was outside the scope of the taskforce. The taskforce consulted with 26 organisations, including six schools and sector associations such as the New Zealand School Trustees Association.
27. The taskforce recommended a greater focus on student outcomes in the Act, more explicit roles and responsibilities, and improved usability and clarity.
28. We have many small schools. Approximately 40% of schools have rolls of 180 or less. Leadership capability is also stretched across the 2,500 schools, and provisioning all these schools leads to some variability and poor outcomes.
29. Through IES, Communities of Learning are becoming the key mechanism for education providers to come together to deliver the best educational outcomes for children and young people. In light of that, and the taskforce recommendations, I intend to ensure that the Act is updated in a way that strengthens signals about the expectation of increased collaboration between providers for the benefit of children and young people, and positions the Act to support raised educational achievement. The Act must be updated to fit a 21st century education system that is more student-centred and outcomes-focused.

Future directions

30. We are making good progress improving educational outcomes for all young New Zealanders. For example, in 2014 81.2% of 18 year olds achieved NCEA level 2 or above. This is an increase of almost seven percentage points since 2011, and represents good progress towards the ambitious target we have set of having 85% of 18 year olds achieving NCEA level 2 or better by the end of 2017. We are also making good progress towards our goal that in 2016, 98% of children starting school will have participated in quality early childhood education.
31. Although Māori and Pasifika students have made progress of 4.4 percentage points and 3.65 percentage points respectively over the last year, their results (at 67.7% and 75% respectively) are still below the national average. Similar patterns occur in results for National Standards, where our goal for 2017 is 85% of students achieving at or above the standard in reading, maths and writing.²
32. Nonetheless, we have a way to go, and we must maintain momentum. I want to build on IES's collaborative approach, while ensuring that we can consolidate the gains that come from the existing initiatives. Our enhanced ability to measure student achievement outcomes means that the Act can be less prescriptive and more flexible.
33. Building on our progress and maintaining momentum is not only important for educational outcomes, but also for wider social sector outcomes as part of the Government's social investment approach. The social investment approach spends money on what works to secure better long-term results for the most vulnerable New Zealanders and reduce government costs in the future.
34. Good educational achievement provides the foundation for a better life for all New Zealanders. It puts children and young people on the path to becoming healthy, productive citizens, builds our economic performance, and reduces future costs overall. Higher educational achievement leads to higher employment rates and higher incomes.
35. A social investment approach to education requires the education system to put first, the needs of children and young people, and to identify when a student is going off track, and effectively respond to that challenge. It also requires smooth transitions through the education system and into tertiary education or employment.
36. We must also support and enable communities, parents, family and whānau to play a more significant role in education. Evidence is clear that parents have a significant impact on their children's educational outcomes. I intend to ensure parents, family and whānau have the knowledge and ability to successfully influence educational outcomes in New Zealand. Their high expectations of, and influence over, their children and their early learning providers and schools, will contribute to better outcomes.
37. Students will be confident in their identity, language, and culture. They will know that these are valued in their early, middle and later schooling. They will know that all education services they attend provide a safe and just environment.

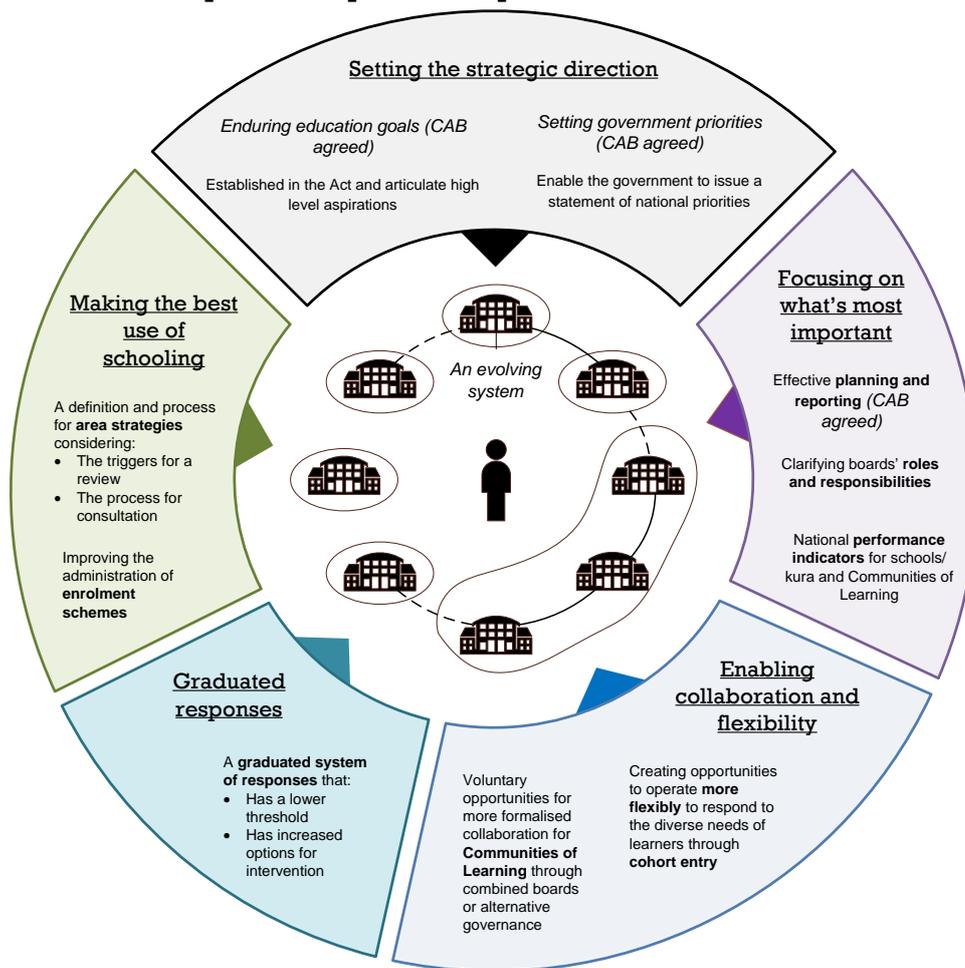
² In 2013-14 the national average was: 82.5% in reading; 75.8% in maths; and 79.2% in writing. For Māori students the results were: 68.6% in reading; 65% in maths; and 61.2% in writing. For Pasifika, the results were: 65.1% in reading; 62% in maths; and 59.6% in writing.

38. Transparent provision of data drives performance and enables good decision-making. Once clear goals are set out in the Act, I see a system where schools and Communities of Learning plan and report publicly against a few important nationally-determined indicators that are directly related to what we want to achieve.
39. This will allow a more graduated response to the needs of schools and Communities of Learning. Where improvement is needed, support will be provided. As schools and Communities of Learning move towards the excellent end of the continuum, they will be granted more autonomy and decision-making rights.
40. The updates of the Act, funding and special education provision, together with the transformation of professional learning and development, are all designed to create a modern environment focussed on children, young people and their educational success.

Proposed change to phasing and scope

41. This is the most substantive update of the Education Act since 1989. We need to make sure the update positions us for educational achievement for the next 25 years.
42. In November 2014, Cabinet agreed to a two-phase targeted review of the Act determining:
 - the purpose, goals and objectives for education for learners aged from 0-18
 - the best way of setting out the Government's objectives
 - the mechanisms that are needed to enable school boards to respond to the purpose, goals and objectives through their planning and reporting processes [Cab Min (14) 38/5 refers].
43. I no longer propose a two part update, instead I propose a single phase approach. This is because considerable progress has been made in the Ministry, and in socialising the challenges of the current Act with the sector as well as the opportunities for better supporting the changes in our system since 1989. I propose a simplified framework that sets out a cohesive strategic direction and provides key accountability levers. It will enable the public and the sector to see a complete picture of how the features of the system fit together. Once this strategic framework is set, less prescription and greater flexibilities will mean any future amendments to the act will become more straightforward and transparent.
44. The wider scope includes proposals that directly support parental choice and participation in education through improved and more transparent information, and greater system recognition of high performing schools and responsiveness to underperformance. Greater flexibility in entry and governance arrangements will give parents more choice in the best schooling options for their children.
45. I will be explicit about what is not in scope for the proposed update; it does not include self-managing schools/kura as the basis of our schooling system, nor recent government initiatives such as National Standards, Partnership Schools, and Investing in Educational Success. Enabling parental choice about education options will continue to be a cornerstone of our education system.
46. The diagram below sets out the proposed scope and five major themes:

Proposed Scope of the Update of the Education Act 1989



Setting the strategic direction

Enduring educational goals

47. Legislation should assist the education system to perform well by letting early childhood services and schools know what New Zealand's education goals are, and how they contribute to them. It should allow them to prioritise between competing priorities, and unify focus.
48. The taskforce found that the Act does not contain a clear and visible statement of the goals for education. These are buried in third tier legislation and spread across a number of key guiding documents. As a result, early childhood services and schools receive a range of messages from government, creating confusion or uncertainty about what they are supposed to achieve.
49. I envisage establishing a small number of enduring goals in primary legislation. I propose to consult on a set of goals drawn from existing strategy and curriculum documents, to stimulate public discussion on what the appropriate enduring educational goals might be. This process will enable consideration to be given to the role of parental choice in the system.

50. For example, the Education Review Office, “School Evaluation Indicators” (2015) Trial Document has distilled valued learner outcomes from existing curriculum frameworks, and other key policy documents. The vision is that, as an outcome of New Zealand teaching and learning, every child and young person:
- is a confident, connected, actively involved, lifelong learner
 - is confident in their identity, language and culture as citizens of Aotearoa New Zealand
 - is socially and emotionally competent, resilient and optimistic about the future
 - participates and contributes confidently in a range of contexts – linguistic, cultural, local, national and global.

Setting Government Priorities

51. The Government invests substantially in education, and has a significant interest in what education is provided, how it is provided, and what is being achieved. It needs to be able to clearly set out its priorities for education, so that education services are able to achieve them.
52. The Act currently contains one section that provides for five statements of priorities for the schooling system to be promulgated through third tier legislation such as *Gazette* notices. These are called the National Education Guidelines. They are:
- National Education Goals (referred to as the NEGs)
 - foundation curriculum policy statements
 - national curriculum statements
 - National Standards
 - National Administration Guidelines (referred to as the NAGs).
53. The NEGs and NAGs have not worked well as a visible expression of what the Government of the day sees as its priorities. They include a mix of high-level goals and administrative requirements. They have often been supplemented by strategy documents, such as Ka Hikitia and the Pasifika Education Plan. The legal status of such documents has not been clear to schools.
54. I propose to consult on establishing a process in the Act for the Government to develop and promulgate a statement of national priorities for the early childhood and schooling sectors. The purpose of this would be to make the Government’s priorities clear and more visible, and to gather them together in one place.
55. This statement would replace many of the existing requirements of the NEGs and the NAGS, with national curriculum statements and National Standards incorporated into other parts of the Act.
56. The Act would require consultation on the statement of national priorities, as is the case with the Tertiary Education Strategy. It could incorporate other key government

documents. The statement would sit below the enduring education goals and would give effect to them.

57. School boards and schools would then be required to respond to the goals and the statement of national priorities when carrying out their activities, such as planning and reporting. Early childhood services would need to take the goals and this statement into account when setting their strategic direction, and reporting to parents, whānau and government agencies. This is different for the early childhood sector because it has separate legislative and regulatory requirements from the schooling sector.
58. Early childhood education services may be concerned about being included under the statement of national priorities and what this might mean for privately-owned services. Extensive engagement with the early childhood education sector during development of the statement of national priorities is expected to allay these concerns.

Focusing on what is most important

59. The Act establishes a board of trustees for every State and State-integrated school. The board (and not the school) is a separate legal and Crown entity. It is ultimately responsible and accountable for the performance of its school. The focus of its role is raising student achievement.
60. The school board is responsible for setting the school's strategic direction, and ensuring that its school provides quality education and a safe environment for all of its students. It is also responsible for overseeing the management of curriculum, finance, employment, property and administration.
61. It is vital that school boards are focused on the things that matter in raising student achievement. The Act can help them do this in two key ways – by clearly defining their responsibilities, and establishing an effective planning and reporting framework.

Making the responsibilities of school boards clearer

62. The taskforce identified that the responsibilities of school boards are unclear in the Act, and this creates uncertainty about what it is boards should, and can legally, do. Their roles and responsibilities are scattered over different sections of the Act and the NEGs. In some cases, they are not explicitly stated and must be inferred.
63. I think it would be beneficial to clearly define and set out the roles and responsibilities of school boards in the Act. This would be consistent with other legislative examples and other Crown entities. It would provide clear guidance to boards, as well as legal certainty.
64. I envisage bringing together many of the existing roles and responsibilities, and signalling expectations of new ways of working such as greater collaboration with other education services and wider social service providers for the benefit of students. I also want to make it clear to school boards that they are required to address the strategic direction set out in the goals and the statement of national priorities.
65. This would continue the work I first began through the Education Amendment Act 2013 of establishing the primary purpose of a school board as being "...to ensure that every student at the school is able to attain his or her highest possible standard of educational achievement".

66. I propose to consult with school boards, parents and communities on the roles and responsibilities that should be included in the Act.
67. School boards may be concerned about changes to their roles and responsibilities. They will have the opportunity to have input into the roles and responsibilities through the consultation process. I will carefully consider their feedback before finalising proposals for change.

Improving the way school boards plan and report

68. Planning and reporting ensures the goals and the Government's priorities for education flow through to what happens in schools and in classrooms. It focuses school boards on what is important in promoting student achievement and engagement. It provides parents and whānau, communities and government with the information they need about how well a school is performing, so they can hold it to account.
69. I think it is time to look at the way school boards plan for the future and report on their performance. The taskforce identified an effective planning and reporting framework as a vital tool for raising achievement. However, it found systemic issues with the current framework that make it not fit for purpose.
70. Current planning and reporting requirements are broad and tend to focus on process and compliance. They do not reflect best practice strategic planning, self-review and continuous improvement. In particular, the timing does not fit well with school practices or the availability of data.
71. I propose to consult on improvements to the planning and reporting framework so that it better supports school boards to deliver high-quality education and raised levels of student achievement, and recognises increasing collaboration through Communities of Learning.
72. There are some reporting requirements that are standard for all Crown entities (for example, an audit by the Office of the Auditor-General), and I am not proposing to amend these. There are also data reporting requirements that need to take place annually (for example, National Standards reporting). Equally, I am mindful that we should avoid compliance burdens through unnecessary or duplicate reporting.

73. The broad direction that I wish to consult on is as follows:

Current framework	Future framework
School boards find it difficult to identify which of the range of goals, targets, priorities, projects, and outcomes in legislation and regulation are the most important.	School boards are aware of and work towards the goals for education and the national priorities statement.
School boards are required to plan and report against a wide range of areas with no direction on what is most important.	School boards' planning and reporting based on delivering the most important outcomes.
Requirements are set over multiple documents, are repetitive and difficult to change.	Requirements are in one place, easy to change, coherent, clear, and promote transparency.
Timing of requirements means that the Ministry is unable to provide substantive feedback to most schools.	Timing suits the processes of schools and is flexible for well performing schools.
Planning and reporting is all at the individual school level.	Some planning and reporting can take place at the level of Communities of Learning.

74. I want to streamline the planning process so it focuses school boards on working towards the things that matter in raising student achievement and engagement. This means looking at the purpose and requirements of planning and reporting to make sure they support best practice strategic planning. It also means working with the education sector to develop a planning process that fits better with school practice and data availability.
75. As part of a new reporting framework, schools and Communities of Learning will be required to report publicly against a small number of key indicators that are directly linked to the goals in the Act and reflected in the Government's national statement of priorities. These are likely to cover areas such as student achievement, student engagement, relationships with parents, family and whānau, and good leadership/stewardship, that are identified by the Education Review Offices' *School Evaluation Indicators* as most significant in improving outcomes for students.
76. Public reporting will also include the Education Review Office's reporting for the school, and the Public Achievement Information that we already gather about progress toward the Better Public Service targets.
77. Poorly performing schools will get support, and if this does not help them to improve, we will need to look at the interventions and area strategies that are outlined in paragraphs 96-117 below.
78. As schools and Communities of Learning move towards the excellent end of the continuum, I see that they could be granted more freedoms and extra decision-making rights that will help improve student achievement. These could include, for example, more flexible funding and property decisions; recognition as specialist centres that can

spread good practice across schools and communities; and greater reputational status. Communities of Learning may want to take more responsibility for property funding or a shared enrolment scheme.

79. I also want to look at giving high-performing schools more flexibility to determine the length of their planning cycle to meet their own internal processes.
80. I envisage that the Act will set out the obligation for school boards to do planning and reporting, with the requirements and indicators set out in second or third tier legislation. This will signal the importance of planning and reporting to school boards, while giving them greater flexibility in how they apply the requirements. It will also make it easier for requirements to keep pace with best practice and school management changes.
81. I intend to develop the details of the new framework in close consultation with the education sector. Sector engagement will emphasise the benefits that improved planning and reporting can bring for improved performance at the student, school and system level.

Enabling collaboration and flexibility

Alternative governance structures

82. The collaboration we have introduced through Communities of Schools and now Communities of Learning is new and changing. The model will evolve over time as early childhood services and schools become more comfortable working together. Communities of Learning will develop at different rates and address different needs, and it is important that they are able to do so.
83. I envisage that, as schools work more closely together, some may eventually want to share governance arrangements. I do not wish to prescribe particular governance models at this stage because no single model will be right for everyone. The Act currently allows for two or more schools to combine under one board of trustees, but the requirements are more suitable for smaller numbers of schools than those involved in a Community of Learning.³
84. I would like to enable this evolutionary process through the update of the Act by consulting on what interest currently exists in alternative models of governance and what these alternative models could look like. I will also consult on how the current legislative provision for combined boards is fit for purpose in light of this.
85. Schools should also be able to enter into purchase arrangements with early childhood education and tertiary education service providers, leaving in place the ownership and relevant obligations, but enabling more connected and complementary service provision.

Giving flexibility for cohort entry

86. The taskforce noted that the Act has tended to focus on 'one-size-fits-all' provisions, and that there are some areas where greater flexibility would allow schools to meet local needs or preferences.

³ For example, section 116 provides that each school under a combined board will have one parent representative on the board.

87. The Act provides that children can start school on their fifth birthday. New Zealand is unusual in doing this. Most other jurisdictions start groups of children at specific times during the school year.
88. Some schools are experimenting with starting children as a group at a single point in time, for example, at the beginning of a term (often referred to as cohort entry). This is made difficult by the legislative requirement to accept children's enrolments if they have turned five.
89. Some schools consider that cohort entry supports better transitions to school, minimises disruption for existing new entrant students, and supports more effective planning for teachers and schools. However, the practice of children starting school on their fifth birthday is a well established part of New Zealand life. There are different views in the education community about the merits of cohort entry. The Advisory Group on Early Learning, which recently reported, recommended that this approach be taken.
90. I am proposing to consult on two changes to the arrangements for children starting school. The first change is the possibility of allowing school boards to consult with the community to implement changes to school entry arrangements, so that children start school for the first time as a group at the beginning of each term.
91. Schools may see a risk that if one school allows cohort entry, but others do not, it will lead to uneven enrolment patterns within an area. For this reason, we would advise that they be required to consult with their wider community, not just their own school community.
92. The second change is the possibility of clarifying the Act to make attendance at school compulsory once a child has started school at five, even if he or she is under the age of six. Because children are not required to enrol until they are six years old, some parents believe that sporadic attendance between the ages of five and six is acceptable. This can establish early patterns of non-attendance that are detrimental to good learning.
93. Preliminary costing of cohort entry options indicates that the age at which a child starts school (in the term before or after they turn five) has an effect on the costs for parents and the Crown. Further analysis of fiscal implications will be undertaken before a paper on final decisions for inclusion in the Act is brought to Cabinet.
94. Depending on the specific design, cohort entry may also have implications for eligibility for child care subsidies (for school aged children receiving after-school care). The Ministry will work with the Ministry of Social Development to address any implications.
95. Parents and the general public may be concerned about cohort entry and the accompanying proposal to clarify that attendance is compulsory following enrolment between ages five and six. In response to this, the requirement for schools to consult with their communities will be emphasised.

Establishing a graduated range of responses

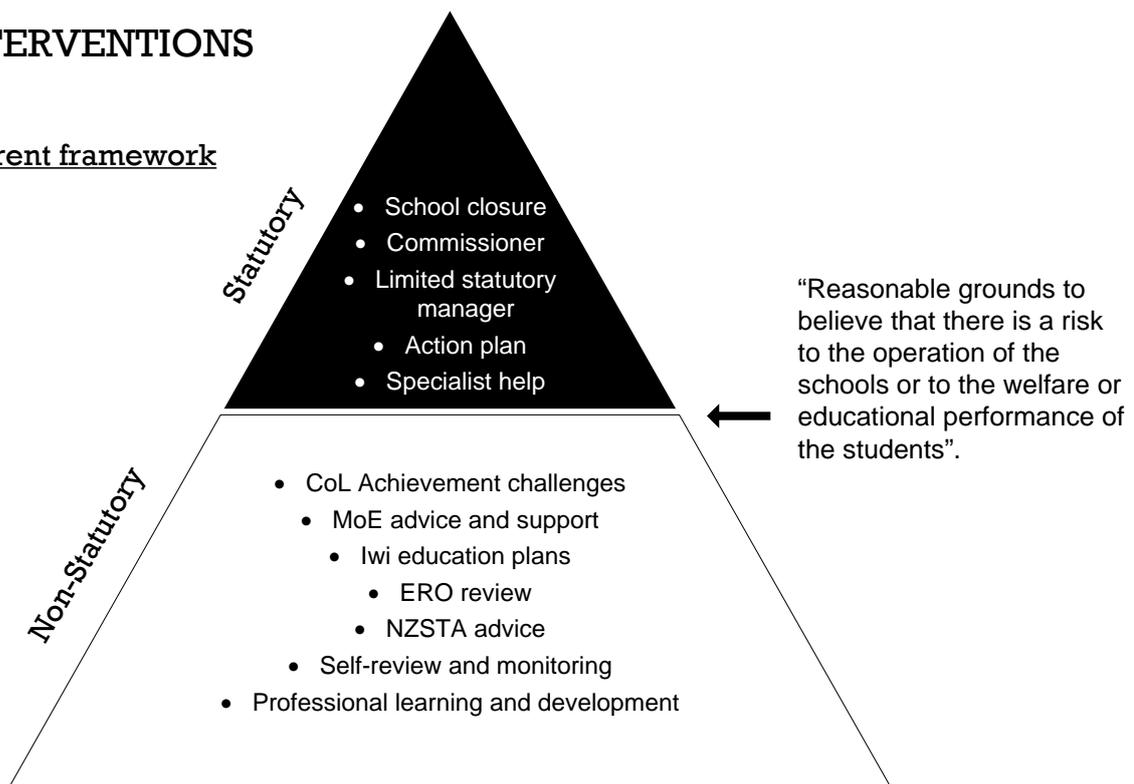
96. The Government invests a significant amount of money in education because it recognises that good educational outcomes result in a healthy and productive society. To provide all students with the education they deserve, every school has to be a

great school. A graduated range of responses is proposed to lift the performance of those schools that do not perform well.

97. Providing more flexibility through clear and enabling legislation has to be balanced with ensuring that there are the appropriate tools for support, and effective and efficient responses, when schools are not performing well. Parents need to be reassured that if this happens there is timely support to get their children’s education back on track.
98. The new enduring goals and statement of national priorities will make it clear what are the key things schools should be doing well. The accompanying indicators should provide a new way of identifying which schools are not doing well and are in need of support.
99. In 2013, a number of key sector groups raised concerns about the length and cost of statutory interventions. I asked the Secretary for Education to undertake a review of the interventions process occurring under the existing statutory provisions. The recommendations of this review are currently being implemented to make operational improvements. This work would be complemented by considering any improvements to the legislative framework that would make it more efficient and effective.

INTERVENTIONS

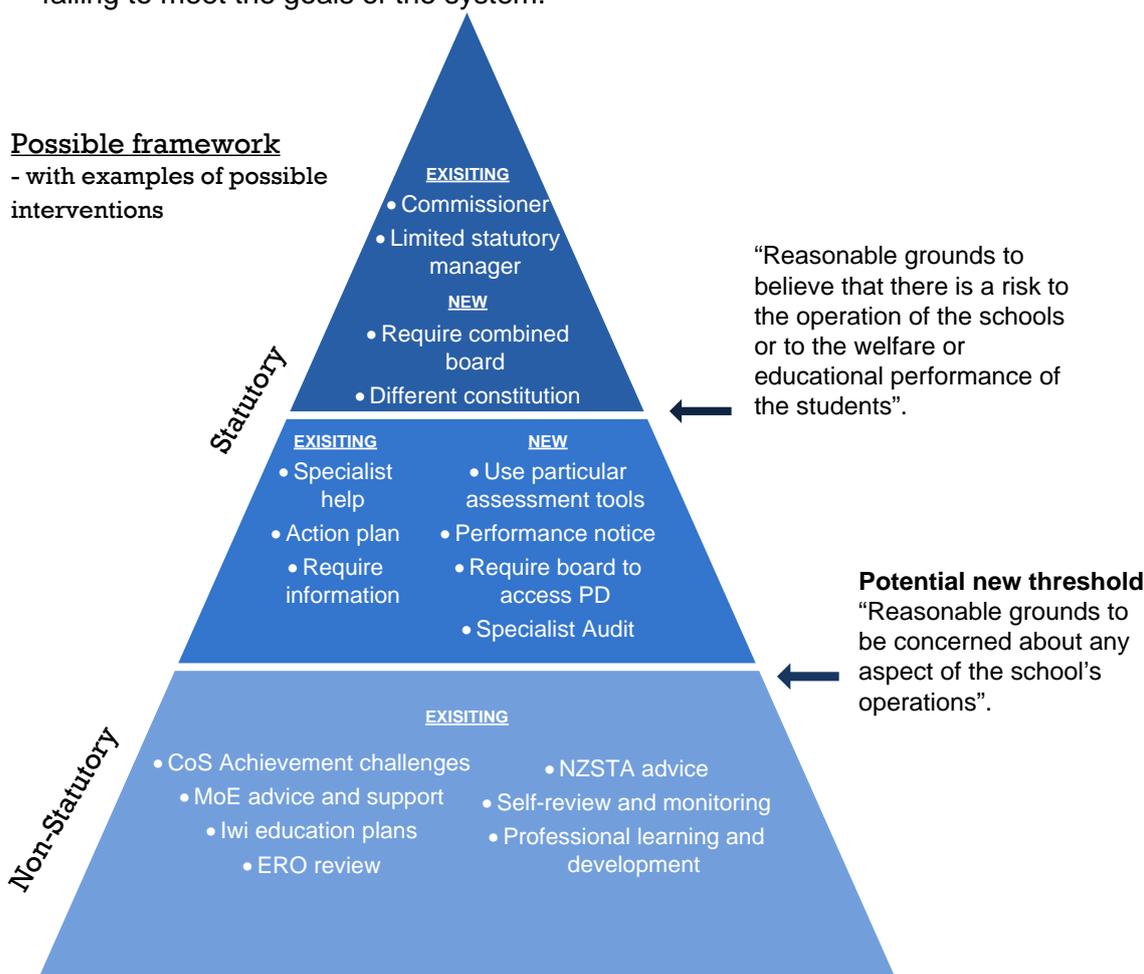
Current framework



100. The Act currently provides for a range of interventions (see above) to be used to address risk to the operation of individual schools or to the welfare or educational performance of students.⁴ Establishing clear grounds to intervene is difficult and the current threshold test for an intervention is set quite high. Delays in student achievement data and other performance information being made available can compound the issue.

⁴ Part 7A Interventions in Schools.

101. This means that the Secretary for Education and I are constrained in our ability to intervene in a timely fashion, before a school is in serious crisis. Moreover, the Act puts a limited range of tools at our disposal for assisting a school to get back on track.
102. In some schools, there has been persistent and long-term failure of teaching and leadership leading to underachievement. However, unless the other failures are present, it can be very difficult taking decisive action.
103. I will consult on creating a more graduated range of responses that will allow the right kind of action at the right time (possible framework in diagram below). The first tier will potentially have a lower threshold to trigger a lower-level response. It will also contain more tools that can be used to provide support and ensure compliance. For example, a specialist audit may be able to pin-point the root cause of a problem well before the current intervention threshold is reached.
104. There are some occasions where, despite considerable help and statutory interventions, individual schools or groups of schools continue to perform poorly. There may be short-term improvement but this is followed by more problems.
105. When more serious action needs to be taken, the Secretary and I have a limited range of interventions at our disposal. I would like to consult on whether there are other measures that the public and the sector think could be effective when schools are failing to meet the goals of the system.



106. I envisage that the lower threshold for intervening and a wider range of lower level interventions will mean that there will be less need to use the higher level interventions.
107. The proposal for a reduced threshold and graduated range of interventions could be interpreted as a signal that government intends to increase its involvement in the operations of individual schools. Communications will emphasise that increasing the range of responses will enable issues to be resolved early on to prevent more serious and costly measures in the future.

Making the best use of schooling

108. The infrastructure of the schooling system cannot remain static. The Crown needs mechanisms to respond efficiently to changes in demographics (both increasing and decreasing student numbers) and poor performance to ensure that students are not hindered in achieving their educational potential, or that the Crown is subject to unnecessary costs.

Area strategies

109. One such mechanism is an area strategy. The practice is that area strategies are initiated when the infrastructure requirements in a region or particular area need to be reconfigured to provide students with better education. This often occurs when demographic change means that there are falling rolls across a number of schools. In many cases some of the schools will also have performance, leadership or governance issues.
110. In an area strategy, the Ministry consults with the schools in a particular area about how best to cater for the needs of their students in the future. The consultation often results in proposals to close or merge particular schools.
111. The Act does not recognise the concept of area strategies. The Act is focused on individual schools and does not address the need for the Crown to consider the management and performance of its assets. The purpose and process of area strategies can be unclear to those participating. It is sometimes difficult, in the absence of a statutory trigger, to get schools engaged in early discussions when they are failing to meet the goals.
112. Schools would benefit from a more defined process for area strategies being included in the Act. This will allow those involved to see what the process is, understand it better, and know what they need to do.
113. Area strategies are not always supported by schools, even if some schools are performing poorly. There is often a strong desire to retain a neighbourhood school community where identity and meeting place concerns outweigh performance concerns. The proposal is, however, to set out the process in legislation so that everyone is clear how such processes will be undertaken.
114. In particular, I would like to consult on whether it would be helpful to establish a purpose clause at the beginning of Part 12 of the Act setting out the guiding principles for establishing, closing and merging schools, whether they occur as the result of an area strategy or for other reasons. This would provide greater clarity to schools and communities about the principles that would be taken into account when making decisions under this part of the Act.

115. Examples of such principles might be responsiveness to the needs of learners, making best use of schooling, and responsible stewardship of the education system.
116. Currently, a considerable amount of consultation may be carried out as part of an area strategy, but if the result is a proposal to close or merge schools, much of this consultation has to be repeated to meet the statutory consultation requirements around closure and mergers. This is frustrating for everyone concerned. When closure or merger is proposed as the outcome of an area strategy, repetition should be avoided.
117. I propose to consult on including a definition and process for conducting area strategies and a better link to decisions about closure and mergers in the Act.

Enrolment schemes

118. Enrolment schemes play an important role in making sure that all students have the option of attending their local school. They are put in place to prevent overcrowding at a school, and provide fair and transparent criteria and processes for selecting students for enrolment.
119. Enrolment schemes enable the Ministry to make the best use of schooling in an area. Sometimes a school may not be obviously overcrowded, but its growth is having a serious impact on neighbouring schools and creating unnecessary spending on infrastructure by the Crown.
120. When the Ministry believes there is, or is likely to be, overcrowding at a school, the Secretary for Education will notify the board of this in writing. The school board must then develop an enrolment scheme.
121. Each enrolment scheme must contain a home zone with clearly defined boundaries. Students who live in the home zone have an absolute right to enrol at the school. Out of zone students who apply for enrolment at the school must be accepted in a specific order of priority group.⁵ If there are more applicants than there are places available, selection within the priority group must be by ballot. No ballot will be necessary and all applicants will be enrolled if there are fewer out of zone applications than places available.
122. We amended the Act in 2010 to enable schools to give some priority to the children of school board members and former students when offering places to out of zone students via the ballot process.
123. In future, Communities of Learning may play a greater role in helping schools to manage enrolment issues by enabling every neighbourhood school to be seen as a desirable place for parents to enrol their children.

Proposed changes to improve the way enrolment schemes are managed

124. I do not propose making major policy changes to the enrolment schemes part of the Act. I consider that the current provisions correctly focus on students' right to attend their local school, rather than schools selecting students.

⁵ Order of selection of priority groups is as follows: students accepted for enrolment in a special programme run by the school; brothers and sisters of current students; brothers and sisters of former students; children of former students; children of board employees or children of board members; all other students.

125. However, I think it would be beneficial to make some changes to the enrolment schemes part of the Act to improve the way enrolment schemes are managed.
126. Recent issues have demonstrated the need to provide school boards with more clarity around what happens when a school board refuses to put an enrolment scheme in place.
127. School boards sometimes dispute whether or not there is or is likely to be overcrowding at their school. They may then refuse to implement an enrolment scheme. If they do, the only action the Ministry can take is to put in a Limited Statutory Manager to take over responsibility for enrolment. This is a heavy-handed response, and a specific power to address such situations would be better placed within the enrolment schemes part of the Act.
128. I propose to consult on allowing the Secretary for Education to develop and implement an enrolment scheme if a school board refuses or is slow to do so.
129. The Ministry can also direct a school with an enrolment scheme to enrol a child if there are special circumstances which might make it appropriate to override the scheme (a directed enrolment under section 11P).
130. The intention is for directed enrolments to only occur in exceptional cases. For instance, the Ministry has used it to direct enrolment at Whenuapai School in Auckland, which provides special support for students who have a parent serving overseas in the New Zealand Defence Force.
131. However, an increasing number of parents, especially in Auckland, are applying for directed enrolments because they do not like the particular school their child is zoned to attend.
132. I propose to consult on clarifying the circumstances when the Ministry will override an enrolment scheme and direct a school to enrol a student, and signalling that this discretion is very limited in its use. This would be coupled with better information for parents on when an application might be successful.
133. There is a risk that including these changes to the enrolment schemes part will attract a high level of debate. Some submitters may be concerned that they represent major changes. Others may advocate for more significant changes.
134. This risk can be managed by stressing that the amendments are designed to improve the way enrolment schemes are managed, and that change to the underlying principles is out of scope.

Consultation

135. I propose releasing the attached discussion document after Cabinet approval. I will actively engage with key stakeholders, including students, parents, local communities, employers, business groups, the education sector and the general public. Engagement will take place from late October/early November to 14 December 2015.
136. Some of the proposals in this paper have already been discussed with the education sector. The taskforce undertook targeted consultation on propositions relating to the goals, planning and reporting, the roles and responsibilities of school boards, and flexibility and collaboration. Discussions have occurred at my national and regional

Cross Sector Forums on the update and proposals around the goals for the system, the roles and responsibilities of boards, planning and reporting, and cohort entry.

137. I will take an intensive, multi-channel approach that enables a wide range of people and organisations to contribute to the consultation. This will enable us to gather meaningful information that can add value to the proposals for legislative change, and create a sense of ownership of the proposed changes to the Act.
138. Stakeholders will be able to offer their perspectives through face-to-face meetings, forums, workshops and hui across the country. The Ministry will undertake intensive consultation with the education and business sectors through formal meetings that give key stakeholder bodies an opportunity for structured input into the update. These bodies will also be encouraged to make written submissions, and distribute information to their members and staff. Engaging key stakeholder bodies in this way worked well for the taskforce.
139. In addition, there will be more tailored engagement with Māori, Pasifika, special education and early childhood education stakeholders to ensure participation in the consultation.
140. Online engagement will be an important part of the engagement process. Stakeholders will have the opportunity to visit a website, engage with the discussion document and a short video, and fill out an online submission form. Social media and targeted advertisements in print and online media will be used to reach a diverse audience, particularly young people and parents.
141. The Ministry is working with the Ministry of Youth Development to determine appropriate avenues to further engage with students and young people. Secondary schools will be invited to discuss the update of the Act with their students and encourage them to complete the online submission form.
142. Of course, all of this consultation is in addition to the Select Committee process for the Bill. I expect this process to take the full six months at which I would be hopeful of regional hearings to give maximum opportunity for participation.
143. In December 2014, I advised Cabinet of my intention to appoint a Ministerial Advisory Group to oversee and guide the consultation process [CAB Min (14) 23/5 refers]. I no longer consider that a Ministerial Advisory Group is necessary, given the significant use of national and regional forums that has occurred since November 2014. I therefore propose that Cabinet agree that no Ministerial Advisory Group is required.
144. The Treasury, the State Services Commission, the Education Review Office, the Ministry of Social Development, the Ministry of Pacific Island Affairs, Te Puni Kōkiri, the Office of the Auditor-General have been consulted on this paper. The Ministry of Justice and the Department of Prime Minister and Cabinet have been informed.

Financial implications

145. Financial implications for specific proposals will be included in the report back to Cabinet in early 2016.

Human rights

146. This paper has no human rights implications.

Legislative implications and regulatory impact analysis

147. This paper does not give rise to any specific legislative implications. These will be the subject of later Cabinet papers. No regulatory impact analysis is required.

Disability perspective and gender implications

148. This paper has no disability or gender implications.

Recommendations

149. I recommend that the Committee:

1. **note** that in November 2014, Cabinet agreed to a “ ..two-phase targeted review of the Act”, to consider:
 - a. determining the purpose, goals and the Government’s objectives for education for learners aged from 0-18
 - b. the best way of setting out the Government’s objectives
 - c. the mechanisms that are needed to enable boards of trustees to respond to the purpose, goals and objectives
 - d. through their planning and reporting processes” [CAB Min (14) 23/5 refers]
2. **agree** that the update of the Act sets the strategic direction and strengthens key accountability levers in a way that allows the public and sector to see how these features of the system fit together
3. **note** that the proposed scope of the update does not include fundamental changes to self-managing schools/kura as the basis of our schooling system, or to recent government initiatives such as National Standards, Partnership Schools, and Investing in Educational Success
4. **note** that with the ratification by the NZEI, Communities of Schools will be known as Communities of Learning, with stronger links to early and tertiary education
5. **agree** that the scope of the update be broadened to cover five major themes:
 - a. setting the strategic direction (existing scope approved by Cabinet as set out in recommendation 1 above)
 - b. focussing on what’s most important
 - c. enabling collaboration and flexibility
 - d. establishing a graduated range of responses
 - e. making the best use of schooling

6. **agree** that public consultation on the update should include the following proposals:
 - a. setting a relatively small number of enduring goals in the primary legislation
 - b. enabling the Government to promulgate a statement of national priorities for the early childhood and schooling sectors
 - c. setting out the roles and responsibilities of school boards of trustees in the primary legislation
 - d. improving the way schools and Communities of Learning plan and report so that they can be considered for extra support or for greater decision-making rights
 - e. enabling boards of trustees to determine the date on which groups of five year olds can start school when children start school
 - f. making it compulsory for five year olds who are enrolled at school to attend whenever the school is open
 - g. creating a graduated range of responses when improvement is needed
 - h. including a definition and process for conducting area strategies to make best use of the network and a better link to decisions about closure and mergers
 - i. establishing a purpose clause in the Act to establish guiding principles for establishing, closing and merging schools
 - j. allowing the Secretary for Education to develop and implement (or oversee the implementation of) an enrolment scheme when a board refuses to do so (or does not do so in a timely fashion)
 - k. ensuring that the Secretary's power to override an enrolment scheme to direct a school to enrol a student is only used in exceptional circumstances
7. **approve** the attached draft public discussion document for the update
8. **agree** to delegate to the Minister of Education the power to make editorial changes and enhancements to the discussion document in line with the scope approved by Cabinet
9. **agree** to rescind the previous Cabinet decisions regarding a two-phase review, scope, and the appointment of a Ministerial Advisory Group to oversee the consultation process [CAB Min (14) 23/5 refers]

10. **note** that I will report back to Cabinet on the results of the consultation, together with policy and legislative proposals, in early 2016.

Hon Hekia Parata
Minister of Education

_____/_____/_____