

Impact Summary: Board role in enrolment schemes

Section 1: General information

Purpose

The Ministry of Education is solely responsible for the analysis and advice set out in this Regulatory Impact Summary, except as otherwise explicitly indicated. The analysis and advice has been produced for the purpose of informing in-principle decisions to be taken by Cabinet relating to developing and consulting on enrolment schemes.

If policy proposals are approved by Cabinet, broad enabling provisions will be incorporated into the Education and Training Bill (the Bill). The Bill will repeal and replace the Education Acts 1989 and 1964, and the Industry Training and Apprenticeships Act 1992, with new education and training legislation.

Key Limitations or Constraints on Analysis

The Secretary for Education is responsible for approving enrolment schemes that boards have developed and consulted on. As part of the approval process, the Ministry has rejected some enrolment schemes because they do not reflect the objectives of an enrolment zone (to avoid overcrowding, to be fair when selecting students and to enable the Secretary to make the best use of existing networks). The Ministry does not collect statistics on how many enrolment schemes are rejected, or on how long it takes boards to consult and develop, or re-work, enrolment schemes.

Responsible Manager (signature and date):

Dr Andrea Schöllmann



Deputy Secretary

Education System Policy

Ministry of Education

11 / 10 / 2019

Section 2: Problem definition and objectives

2.1 What is the policy problem or opportunity?

School boards are responsible for both developing and consulting on enrolment schemes. Schools can potentially manipulate the zone based on areas they may wish to take students from; for example, schools that include high socio-economic neighbourhoods and excluding closer, yet more disadvantaged, neighbourhoods. This can detrimentally affect students that are already at a disadvantage. They have less choice to attend their closest school.

Under section 11H of the Education Act 1989 (the Act) the Secretary for Education (the Secretary) can provide a written notice to a school that is, or is likely to be, overcrowded, and the board of that school must develop an enrolment scheme for the school. The board is responsible for both developing and consulting on the enrolment scheme, but under section 11I of the Act the Secretary must approve the scheme. The Act sets out specific consultation requirements that boards must comply with.

The Taskforce, in its final report, recommended that boards should no longer have the major role of developing and consulting on enrolment schemes. Evidence to support its recommendation was gathered from public consultation meetings, targeted meetings with education experts, surveys and a formal submission process.

The Taskforce found that under the Tomorrow's Schools model, competition was intended to improve access to good quality schools through parents exercising choice. Instead competition has made it harder to share good practice across schools and has led to spending on things other than teaching and learning, such as marketing.

The Taskforce heard that it was difficult to ensure there was good school network planning and efficient use of resources. The Ministry is aware of instances of schools proposing an enrolment scheme that does not take a regional/network approach, or is focused on resolving the immediate overcrowding issue rather than being future focused. In some cases, the approved enrolment scheme is a compromise between the school and the Ministry, which may mean that the enrolment scheme is not the best outcome.

Developing and consulting on establishing a new enrolment scheme, or modifying an existing scheme, is a significant workload for a group of people who are almost all volunteers (members of the board). They can also be subject to intensive community lobbying and come under huge pressure to make changes to suit particular interest groups.

The Taskforce found that enrolment schemes can be biased against disadvantaged students, noting the concentration of disadvantaged students in some schools, which reduces the students' likelihood of success. The Taskforce found that analysis of enrolment schemes has shown that some schools have deliberately formed enrolment schemes that avoided low-income areas in their locality.¹

These findings are supported by Ministry data showing that state schools with low levels of disadvantage are more likely to have an enrolment scheme. Around 42% of all state schools

¹ Lubienski, C., Lee, J., & Gordon, L. (2013). *Self-managing schools and access for disadvantaged students: Organizational behaviour and school admissions*. *New Zealand Journal of Educational Studies* 48(1), 82-98; and Thomson, K.S. (2015). *Educational Choice and Educational Space*. Unpublished PhD thesis, Graduate School of Arts and Sciences, Columbia University.

have an enrolment scheme, but for those with a low level of disadvantage, the number rises to 74%.

The Taskforce also found that many schools with enrolment schemes took large numbers of students from outside their home zone. They considered data showing that one in three schools that currently have enrolment schemes took 20% or more of their students from outside their zone. The Taskforce said that these figures reflect issues with how school zone boundaries are set and administered on an on-going basis.

The objectives of enrolment schemes, as set out in the Act, are to avoid overcrowding, to ensure the selection of applicants for enrolment at the school is carried out in a fair and transparent manner, and to enable the Secretary to make the best use of existing networks of state schools. The evidence collected by the Taskforce suggests that boards do not give equal weight to these objectives, particularly the last two.

Overall there is a significant opportunity presented should enrolment schemes be developed and consulted on at a 'whole of area' level. By planning across the local network, opportunities for parental choice, resource sharing, equitable access and efficient investment can be maximised.

The Ministry estimates that approximately 150 – 180 new or amended enrolment schemes will be required in 2019/20. This figure is provisional only, as the numbers and timing of planned enrolment schemes are subject to change as planning assumptions and enrolment patterns change.

2.2 Who is affected and how?

This proposal will affect students. Allowing the Ministry to establish enrolment schemes, taking a network view, will reduce inequities for students, particularly those from disadvantaged areas, and better enable students to interact with others from a range of socio-economic circumstances during their schooling. Students will also benefit from boards re-focusing on governing the school, rather than running consultation processes.

While 42% of schools currently have enrolment schemes, potentially all boards will be affected by this proposal. Boards will be relieved of a compliance burden because they will no longer have major responsibility for developing their enrolment scheme, with consequent reductions in board and principal workload.

The Ministry would also be affected as it would be required to develop and consult on each of the enrolment schemes which will require additional resources.

2.3 Are there any constraints on the scope for decision making?

There are no constraints on the scope for decision making.

The Taskforce made a number of other recommendations relating to refocusing the role of boards on the things that matter to students. Some of these recommendations, for example implementing a national code of conduct for boards of trustees, are also being progressed in the Education and Training Bill.

Section 3: Options identification

3.1 What options have been considered?

The key objective of this proposal is to enhance the right to education by ensuring fairer provision for students in the way schools are zoned, which will reduce inequities for disadvantaged students.

Secondary objectives are:

- to ensure a network view is taken into account when making decisions around enrolment schemes; and
- to ensure role clarity between the Ministry and boards –i.e. there is no uncertainty about which agency fulfils which function, agencies are able to focus on core responsibilities, the agency best placed to carry out a function is responsible for carrying out that function, the best use is made of available resources and there is no double up of work/effort.

Three options have been considered in line with these objectives.

Option One – the status quo

Under this option, boards would continue to have responsibility for designing and consulting on and reviewing enrolment schemes, and the Secretary would approve the enrolment schemes.

The advantage of this option is that boards know their school community best, including commuter behaviour. However, this option does not address the problems we have identified, nor does it meet the objectives. Boards will continue to be able to design enrolment schemes and unfairly disadvantage students and their whānau. Boards will continue to shoulder an administrative burden that takes their focus away from governing the school.

Option Two – the Regional option

Under this option the Ministry (at a regional level) would have major responsibility for designing, consulting on and reviewing enrolment schemes, as well as reviewing existing schemes. This is based on the Taskforce recommendation that Boards no longer have a major responsibility for designing and consulting on enrolment schemes, and that a separate agency with a regional presence undertake these functions. Boards would have a role to contribute their views and those of their community as part of the design process. Schools would also be consulted on the enrolment scheme, along with other interested parties. The details of boards' involvement in development of enrolment schemes would be provided for in regulations.

Moving this responsibility to the Ministry would provide more transparency and consistency for the system, and mitigates the risk of enrolment schemes being used to serve the perceived best interests of individual schools in a way that causes detriment to other schools and students. A centralised approach would support the realisation of the right to education as it will ensure that students are treated fairly. It would also enable the development of a more effective national schooling network, avoiding potential polarisation based on ethnicity and socio-economic status, while allowing a holistic view of population trends and capacity in the system.

The contribution of local views to the design process would ensure a greater understanding of population growth and transport issues in the surrounding area, contribute to an enduring and robust enrolment scheme, as well as greater buy-in from schools and communities. Giving the Ministry the main responsibility for developing, consulting on and amending

enrolment schemes has the potential to reduce competition between schools, reducing incentives to spend money on advertising instead of improving the quality of education, and increasing fairness for affected students.

Shifting this role to the Ministry would have resource implications. Resourcing would be required to deliver the consultation, design and planning of enrolment zones. It is also possible that the process to design and implement a new scheme will take longer as consultation may be broader and more likely to involve multiple schools.

However, making this change would reduce the compliance burden for boards that are currently asked to develop or modify enrolment schemes, with consequent reductions in board and principal workload.

Option Three – the National option

This option is the same as option 2, except that under this option the Ministry at a national level would have major responsibility for designing, consulting and reviewing enrolment schemes. The role of the boards remains the same as for option two. This option has the same advantages and disadvantages of option 2 except that:

- National oversight would provide more consistency for the system than option 2;
- However, it would provide less connection to the local school community than option 2, and may lead to enrolment schemes that do not take sufficient account of local variances. This has the potential to reduce buy-in from schools and communities. This option would make community engagement and consultation more costly, and a lack of intelligence about the local community would mean enrolment scheme design is less likely to be optimal.

The resource implications would be similar to option 2.

3.2 Which of these options is the proposed approach?

Based on the above, option 2 – the Regional option – is our preferred option. This option will allow a holistic and network view of enrolment schemes that is informed by local input, and would develop an effective network that is in the best interests of all students, including ensuring schemes are future proofed and fair for all.

This option provides a more streamlined process as it reduces the potential for the Secretary to reject enrolment schemes developed by boards, with a corresponding requirement for re-work. Boards would be relieved of an administrative burden and would be able to focus on their core goal of governing schools.

The role of the Ministry and boards are clear under this option in relation to enrolment schemes, and as described above, it would allow boards to focus on their key governance function.

There are no areas of incompatibility with the Government's 'Expectations for the design of regulatory systems'.

Section 4: Impact Analysis (Proposed approach)

4.1 Summary table of costs and benefits

Affected parties (identify)	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	Impact \$m present value, for monetised impacts; high, medium or low for non-monetised impacts
--------------------------------	--	---

Additional costs of proposed approach, compared to taking no action

Regulated parties	No additional costs on boards or students	N/A
Regulators	There will be a cost to the Ministry to design and consult on enrolment schemes. A budget bid seeking additional funding will be developed for Budget 2020.	s 9(2)(f)(iv)
Wider government	N/A	N/A
Other parties	N/A	N/A
Total Monetised Cost		s 9(2)(f)(iv)
Non-monetised costs	N/A	N/A

Expected benefits of proposed approach, compared to taking no action

Regulated parties	An administrative burden will be taken off boards, allowing them to focus on governing their school. There will also be a reduction in costs for boards. Developing enrolment schemes based on the network view from the Ministry will lead to fairer decisions for all students	Medium
Regulators	Increased ability to ensure a network view of enrolment schemes	Low
Wider government	N/A	N/A
Other parties	N/A	N/A
Total Monetised Benefit	N/A	
Non-monetised benefits		Medium

4.2 What other impacts is this approach likely to have?

None

Section 5: Stakeholder views

5.1 What do stakeholders think about the problem and the proposed solution?

The Taskforce has consulted extensively over the past 18 months. This included:

- a Cross Sector Advisory Panel;
- public surveys;
- public meetings (over 200 in 20 towns and cities across New Zealand);
- a formal submission process;
- social media; and
- targeted meetings with education sector stakeholders.

In addition, evidence was obtained from Pacific fono and wānanga held as part of the wider education work programme engagement.

The Taskforce issued an initial recommendation that sought to locate the responsibility for school network planning at a regional level, called an Education Hub, rather than at a school level. The Taskforce received limited feedback on this recommendation. Those who did provide feedback questioned the need for a governing middle layer or any intervention regarding school networks at all.

Five submissions were received from Kaupapa Māori education providers and iwi groups on this initial recommendation, with three in favour and one against.

The Taskforce amended its recommendation in its final report by removing the reference to Education Hubs, but continued to view school network planning at a regional level as an effective way to address the issues of inequity in our schooling system.

As discussed above, this proposal forms part of a package of proposals included in the Bill aimed at reorienting the role of boards so that their core responsibilities were the things that mattered to students. These proposals are based on Taskforce recommendations. Submitters supported the Taskforce's recommendations relating to the role of boards, acknowledging there was a need for increased support for boards.

We will consult on the Cabinet paper with key government departments.

Section 6: Implementation and operation

6.1 How will the new arrangements be given effect?

Legislative vehicle

This proposal is included in the Education and Training Bill.

Communications

There will be a communications strategy for publicly announcing the commencement of the Bill. This will likely include communicating to all schools through the School Bulletin and informing relevant peak bodies. The Ministry of Education's social media platforms will also publicise the law change.

Transitional arrangements

Transitional arrangements will be included in the Bill. If any enrolment schemes are in the process of being developed at the time the Bill comes into force, boards will continue to have the responsibility to complete the development of those enrolment schemes.

The implications of the transition to the new arrangements could be managed operationally, for example it may be that the Secretary defers writing to boards to begin the enrolment scheme process if the Bill will shortly be coming into effect.

Responsibility for operational arrangements

The Ministry will have responsibility for establishing new enrolment schemes. Boards, through their enrolment policies, will be responsible for ensuring that students are entitled to be enrolled at their school (either because they live within the enrolment scheme boundaries or were accepted as an out of zone student).

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

The Ministry of Education uses a range of monitoring, evaluating and reviewing mechanisms to find out about the impact of regulatory changes on education providers. These mechanisms occur in the context of regular and ongoing relationships between education providers and the Ministry of Education. Additionally, there are regular meetings with a range of advisory groups and peak bodies, which are both topic and sector specific, which are used to collect feedback on the impacts of regulatory change.

7.2 When and how will the new arrangements be reviewed?

If, as a result of monitoring and feedback, it becomes apparent that the prohibition has unintended or unexpected consequences, the new arrangements would be reviewed. Stakeholders will continue to be able to provide feedback and bring up any concerns with the new prohibition in the context of regular and ongoing relationships that the Ministry has with education providers

Proactively Released