

Impact Summary: Repealing the legislation allowing for partnership schools kura hourua (PSKH)

Section 1: General information

Purpose

1. The Ministry of Education is solely responsible for the analysis and advice set out in this Regulatory Impact Summary, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions to proceed with a policy change to be taken by Cabinet.

Key Limitations or Constraints on Analysis

2. This intervention proposes to repeal the legislation allowing for partnership schools kura hourua (PSKH). The parties involved in Government signalled their intention to remove the PSKH model during the 2017 election campaign. The number of options considered were constrained by this commitment.
3. This analysis is based upon the assumption that the contracts for existing PSKH will be terminated or will expire and no new PSKH contracts will be entered into.
4. There are limitations relating to the problem definition, including the fact that there is limited information on the long term performance of schools in the PSKH model.
5. Despite the removal of the legislation allowing for PSKH, the contracts for existing PSKH will remain in place until they are terminated or expire.
6. There will be costs associated with ending contracts with the sponsors of PSKH. However, we will not know if there are savings or costs to the Crown until negotiations with sponsors and the exit arrangements under the contracts have been completed.
7. There has been no public consultation and testing of the proposal to repeal the legislation allowing for PSKH. However, removing the PSKH model from the education system was proposed by all three parties involved in Government during the election campaign.

Responsible Manager (signature and date):



16/1/18

Andrea Schöllmann, Deputy Secretary

Education System Policy

Ministry of Education

Section 2: Problem definition and objectives

2.1 What is the policy problem or opportunity?

8. This intervention proposes to implement the Government's commitments to repeal the legislative provisions for PSKH in the Education Act 1989 (the Act). The aim of this intervention, as signalled by all three parties involved in Government, is to ensure a "quality, comprehensive, public education system".
9. PSKH were designed to bring together education, the business sector and community groups, and were based on the charter school model. PSKH were intended to focus on students whom the education system had not always served well: Māori students, Pasifika students, students with additional learning needs and students from low socio-economic backgrounds i.e. priority learners.
10. There are currently ten PSKH, with about 1,200 students enrolled. Two schools have contracts to open in 2018 and four schools have contracts to open in 2019.
11. The PSKH model intended to provide greater freedom and flexibility to allow schools to innovate and engage with students in return for stronger accountability for improving education outcomes. PSKH also have a special character which sets them apart from other schools.
12. PSKH have largely focused on enrolling priority students. However, the evidence is unclear about whether students are doing better at the PSKH than they would in the state system.
13. There is limited information of the long term performance of schools in the partnership schools model. There is also limited evidence of the model bringing together education, the business sector and community groups. In addition, despite the intention of the PSKH model to enable innovation, there has been little evidence to date of significant innovation beyond what is already possible in the state system.
14. Other registered schools can use a wide range of approaches to learning; but there are also a range of safeguards in place to ensure high quality education for every child and young person. The PSKH model involves exemptions from some of these safeguards. For example, PSKH do not have to teach to *The New Zealand Curriculum* or *Te Marautanga o Aotearoa* and are currently able to employ some non-registered teachers, whereas all teachers in other areas of the schooling system must be registered.
15. New PSKH would require new funding and the Government does not intend to do this. If no action to repeal the legislation is taken, this will result in redundant legislation being present in the Act and would not be consistent with the Government's commitment.
16. Under the current legislation, an advisory group appointed by the Minister is required to provide advice on the approval of new PSKH and monitor the performance of existing PSKH. If the legislation is not repealed an advisory group would need to remain in place. This would be an unnecessary cost to the Crown.

17. Not taking action to repeal the legislation allowing for partnership schools will also result in a failure to meet the Government's commitment.

2.2 Who is affected and how?

18. Sponsors and students attending PSKH will be affected by this change.

19. Once the current contracts expire or are terminated, sponsors will no longer be able to provide education under the PSKH model. If sponsors and parents wish the schools to continue in some form, they will need to apply to the Minister of Education to establish a school of another kind. However, they will need to work within the existing legislative framework set for those schools in the Act.

20. Once the PSKH closes, students and their families may need to find alternative schooling arrangements. The Minister has signalled that ensuring students have as smooth a transition as possible is a priority.

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

21. This is a Government commitment.

Section 3: Options identification

3.1 What options have been considered?

22. Two options have been considered in line with the objective to meet the Government's commitment to repeal the legislation allowing for PSKH:
- **Option A:** repeal the legislation allowing for PSKH and include transitional provisions in the legislation to ensure that the provisions relating to PSKH continue to apply to schools operating until the contracts with sponsors are terminated or expire; or
 - **Option B:** repeal the legislation allowing for PSKH and include transitional provisions in the legislation to ensure that the provisions relating to PSKH continue to apply to schools operating until the contracts with sponsors are terminated or expire; and legislate for an improved administrative process when an alternative constitution is desirable for a newly established school.
23. The following criteria were used to assess the two options:
- Will the option fulfil the Government's commitment of repealing the legislation allowing for PSKH?
 - To what extent will the option support the ability of new schools to be established with a similar character to the PSKH in order to support continued educational outcomes for children and young people currently attending PSKH?
24. As the contracts for PSKH remain in force until they are terminated or expire, transitional provisions will be required to ensure that the legislation continues to apply to those PSKH that are operating until such a time as the contract is terminated or expires. These transitional provisions will be required under both options.
25. Option A would effectively remove the legislation allowing for PSKH and ensure that the legislation continues to apply to PSKH currently operating until their contracts are terminated or expire. This option does not provide for scope to allow for improved administrative processes when an alternative constitution is desirable for a newly established school. As a result, Option A does not provide the option for the Minister to give sponsors a role in the governance of a new state school upon establishment should one be established following the closure of a PSKH.
26. Option B would also remove the legislation allowing for PSKH, and ensure that the legislation continues to apply to PSKH currently operating until their contracts are terminated or expire. This would preserve the position of the school while it is still operating thereby assisting a smooth transition process.
27. If the sponsors and parents of a PSKH choose to, following closure of the PSKH, they could apply to establish a new school within the state system (the decision of whether this can happen will be the Minister's to make for each school). The Ministry's assessment of fit, and early discussion with some of the PSKH sponsors, indicates that there is an interest in exploring alternative schooling options for PSKH which will close. Initial discussions have indicated that sponsors would seek greater flexibility in the governance model should they apply to establish a different schooling arrangement. One way to achieve this within the state system is to use an alternative constitution for the Boards of Trustees.

28. The use of an alternative constitution could be used to provide more flexibility around the governance structure of a school. It provides the Minister with the option to give sponsors a role in the governance of a new state school. The use of an alternative constitution allows for a school community's particular character or identity to be recognised in its governance arrangements. An alternative constitution could allow for the appointment of the sponsor's representatives to the Board of Trustees.
29. When a new state school is established, an Establishment Board of Trustees (EBOT) is put in place. The Minister chooses whether to appoint the EBOT or have it elected by parents of prospective students. Among other tasks, the EBOT is responsible for developing policies, appointing staff, keeping the community informed and taking enrolments. The EBOT remains in place until the school is ready to move to an elected board (usually about 9-12 months after the school opens).
30. Any state school can have an alternative constitution. An alternative constitution can only be adopted if the board requests it, or 20% or more of the parent community request it or if ERO recommends it. The Minister can only approve an alternative constitution if he or she believes it is in the school's best interest.
31. Under the current legislation, there would be a delay between the school opening and the approval of an alternative constitution. The EBOT could request an alternative constitution once it has the school ready to move to an elected board. Alternatively, if the school were to wait until the support of 20% of the parents can be obtained, the school may need to be open for 6-9 months before an alternative constitution could be put in place.
32. Under Option B, there would be provision to allow the Minister to approve an alternative constitution when establishing a school. This provision means that any newly established school may have an alternative constitution from establishment if the Minister agrees to it. This would improve the administrative process when an alternative constitution is desirable for a newly established school and mitigate the delay in establishing an alternative constitution. In turn, this may help to ensure a smooth establishment of a new state school should the sponsor be granted permission from the Minister.
33. The aim of allowing schools to have an alternative constitution from establishment would be to allow schools to preserve their special character should sponsors apply to establish another school. Allowing a school to have an alternative constitution from establishment will contribute to administrative ease. In turn, this may help to smooth the transition for students should they and their parents wish them to keep being educated at a school with a similar special character as the PSKH.

3.2 Which of these options is the proposed approach?

34. Officials consider that both options satisfy the policy intent to repeal the legislation allowing for partnership schools. However Option A does not provide scope to allow for improved administrative processes when an alternative constitution is desirable for a newly established school. Therefore Option B is the proposed approach.
35. Option B would repeal the legislation allowing for partnership schools and legislate for

transition arrangements to be put in place to ensure that the legislation relating to partnership schools will still apply to partnership schools until they are closed and their contract is terminated. The provision to allow the Minister to approve an alternative constitution when establishing a school would allow for improved administrative processes which in turn may help to ensure a smooth transition should the Minister decide to establish a new school.

Section 4: Impact Analysis (Proposed approach)

4.1 Summary table of costs and benefits

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

Additional costs of proposed approach, compared to taking no action		
Regulated parties:	None	N/A
Regulators:	None	N/A
Other parties:	None	N/A
Total Monetised Cost		
Non-monetised costs		

Expected benefits of proposed approach, compared to taking no action		
Students and their families	Option B may result in less disruption to students learning should the sponsor choose to apply to establish a state school (and permission is granted by the Minister), as the ability to have an alternative constitution from establishment of the school may enable students to be educated in a school with a similar special character as their former PSKH.	High
Sponsors	This change will increase the flexibility available to manage any approved transition to establish a new state school. This may reduce their cost and time pressure that they may otherwise have incurred closing down the school.	Medium
Regulators: The Crown	Under the current legislation an advisory group appointed by the Minister is required to provide advice on the approval of new PSKH and monitor the performance of existing PSKH. The advisory group receives remuneration for services, travel and expenses from the Crown. Once the legislation is repealed,	Medium

	this group will no longer be required and there will be a saving to the Crown.	
Total Monetised Benefit		
Non-monetised benefits		<i>Medium</i>

4.2 What other impacts is this approach likely to have?

36. Not applicable.

Section 5: Stakeholder views

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

37. No systematic stakeholder analysis or consultation has been undertaken at this time. However this proposal was proposed by all three parties involved in the Government during the election campaign.
38. Various sector groups within education, such as the New Zealand Educational Institute (NZEI Te Riu Roa) and the New Zealand Post Primary Teachers' Association Te Wehengarua (PPTA) have been publically vocal about their desire to remove the PSKH model since it was introduced in 2013. However, some students and parents of students support the schools.
39. Sponsors of PSKH have indicated that they oppose repealing the legislation allowing for PSKH and closing the schools.

Section 6: Implementation and operation

6.1 How will the new arrangements be given effect?

40. Legislation will be required to repeal the PSKH sections of the Education Act 1989 and legislate for transition arrangements.
41. Discussions with sponsors of existing schools will be required in order to end contracts. Changes to the Act will ensure that the existing PSKH will be covered by the existing provisions of the current Act until the contract is terminated or expires.

Section 7: Monitoring, evaluation and review

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

42. There are a range of ways the Ministry of Education gathers information to understand how well our education system and individual schools and kura are performing. This includes schools' annual reports to the Ministry, as well as national and international studies which help us understand student achievement across the curriculum.

43. In the case that a PSKH closes and the sponsor applies to establish a state school, regular monitoring and review will be undertaken by the Education Review Office as with any other state school. The Ministry will continue to collect enrolment data, as we do for other state schools.

7.2 When and how will the new arrangements be reviewed?

44. The new arrangements will be reviewed as part of normal practice and in conjunction with regular monitoring processes, as outlined above.