

Regulatory Impact Statement

Establishing a regulatory framework for online learning

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Ministry of Education. It provides an analysis of options to create a modern regulatory framework for online learning that would enable more providers to offer online learning, and enable students to more readily participate in online learning as well as, or instead of, participating in face-to-face schooling.

The options are based on the assumption that additional providers would enter the market if regulatory settings were adjusted as proposed.

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

The proposals in this RIS respond to the evolution of online learning since the passing of the Education Act 1989, which has led to gaps in the legislation that hamper the management of education provision.

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Executive summary

Primary and secondary correspondence education is established in the Education Act 1989 (the Act) as a complement to face-to-face schooling. The default position is that school-aged students should attend a face-to-face school if they can, and enrol in a correspondence school if they cannot. The Act enables the Minister to designate a school as a correspondence school. Under s152 of the Act, only a State school can be designated, and the Act does not allow a school to be designated simultaneously as a face-to-face school and a correspondence school.

However, correspondence education and face-to-face education are converging. Digital technology is changing the way schools teach. It is now easier for schools to connect with each other through the internet, and as a result, collaborate and share resources. Physical locality is becoming less of a barrier to accessing a broad range of subjects and teaching expertise.

These changes mean distance is becoming a less important factor in educational delivery, as both correspondence and face-to-face schools adopt characteristics of the other in a 'blended learning' approach. Evidence shows that blended learning can deliver a range of benefits, including improving educational outcomes because students have more flexibility and control over their learning while remaining supported and guided by teachers.¹

The framework of the current Act does not recognise this shift, and continuing the arbitrary legislative distinction between correspondence education and face-to-face education may be constraining further development of online learning.

This regulatory impact statement assesses options that will modernise the Act to:

- enable a range of provider types, including registered schools, tertiary education providers and other bodies corporate, to offer online learning. Increasing the number of providers will give students more choice and greater access to a range of expertise
- enable students to be able to more readily participate in online learning as an alternative to participating in face-to-face education ('open access'), or to participate in blended learning.

These options are set out in Part 1. Online learning has the potential to offer students more personalised, flexible learning programmes. The more personalised a learning programme, the greater the likelihood that students will be interested in their learning and therefore stay engaged in education.

Providers who wish to offer online learning under the new regulatory framework will need to meet criteria to be 'accredited' by the Minister of Education as a Community of Online Learning (COOL).

The Minister of Education will also have the ability to set additional conditions for COOLs, collectively or individually. Additional conditions could include describing who can be enrolled in the COOL. COOLs will be required to report against agreed student achievement outcomes, will be subject to an interventions regime that will enable timely action to address

¹ Zhonggen, 2014. Blended Learning Over Two Decades. *International Journal of Information and Communication Technology Education*

underperformance, will be subject to a planning and reporting regime, and will be subject to a new monitoring and evaluation function.

These components of the new regulatory regime seek to balance out the benefits of online learning in the twenty-first century, as well as managing the risks for students.

Te Aho o Te Kura Pounamu (Te Kura) is currently the only correspondence school, and will become a COOL when the Act comes into force. The existing provisions related to the correspondence school will be updated to reflect the new settings for online learning.

Part 2 of this regulatory impact statement introduces a new regulatory regime regarding fees chargeable for access to COOLs, and recommends the Act be amended to:

- remove the existing provisions related to fee-charging by correspondence schools and establish that fees chargeable for access to COOLs, including the types of students who may be charged fees, are provided for in new regulations, and
- remove the requirement that COOLs need the approval of the Minister of Education to set fee schedules.

This proposal also recommends the Act be amended to:

- provide certainty that home-schooled students can participate in online learning, for a fee, without losing their home-schooling exemption, and
- remove the requirement that the principal of Te Kura must be a registered teacher.

Status quo

Correspondence schooling complements the face-to-face network

1. Primary and secondary correspondence education is established in the Education Act 1989 (the Act) as a complement to face-to-face schooling. The default policy position ('the scheme of the Act') is that school-aged students should attend a face-to-face school if they can, and enrol in a correspondence school if they cannot. In this way, correspondence schools act as a 'safety net' and the system is able to provide an education for every child.
2. The Act restricts access to correspondence education by enabling the Minister of Education to fix enrolment criteria, set out in an enrolment policy administered by the Ministry of Education.
3. The Act enables the Minister to designate a school as a correspondence school. Under s152 of the Act, only a State school can be designated, and the Act does not allow a school to be designated simultaneously as a face-to-face school and a correspondence school. While the Act envisages more than one correspondence school in the New Zealand education system, these provisions mean that there is currently only one: Te Aho o Te Kura Pounamu (Te Kura).

Te Kura's role has expanded significantly since its establishment in 1922

4. When it was established in 1922, Te Kura catered for fewer than 100 primary school students who were geographically isolated, itinerant or in poor health. However, its role

in the education network has evolved as schooling has changed. Over time, eligibility has broadened, and, in 2015, the school enrolled over 22,500 students, including:

- 800 early childhood education students
 - 3,000 full-time students, including traditionally isolated students and students who have been 'socially distanced' from school due to exclusion or alienation
 - 7,400 young adult students (age 16+) or adult learners (age 20+), who can enrol on a full-time or part-time basis
 - 11,000 students who are enrolled in face-to-face schools and receive supplementary tuition ('dual tuition') through Te Kura because their home school does not have the capacity or capability to provide that course or subject.
5. Students access Te Kura through one of 38 gateways prescribed in the Te Kura Enrolment Policy. Some of these enable a student to enrol by choice (for example, if they are geographically isolated or aged over 16). Other gateways enable the Ministry of Education, Child Youth and Family, the Department of Corrections, or other agencies to refer students to Te Kura.
 6. Te Kura receives approximately \$45 million in government funding every year, including funding for dual tuition. Dual tuition is funded over and above the usual school funding rates; that is, schools do not need to transfer resourcing to Te Kura to access dual tuition for their students.
 7. In cases where government-funded access is not available, the Act and the Te Kura Enrolment Policy enable Te Kura to charge fees to students or their home schools (for dual tuition). Current categories of students include those aged above the school leaving age,² those enrolled at private schools, and those with long-term exemptions from schooling (i.e., home education students). Fee schedules are set by correspondence schools with the approval of the Minister of Education. As Te Kura is the only correspondence school, it is the only State school that can charge for tuition. It currently enrolls a small number of fee-paying students – only 180 in 2015.

At the same time, correspondence education and face-to-face education are converging

8. Te Kura has recognised the importance of face-to-face contact between its students and teachers in order to be able to offer a more personalised, responsive and engaging learning experience. It has increased opportunities for face-to-face student-teacher interaction through 'learning advisories'.
9. At the same time, digital technology has also changed the way schools teach. It is now easier for schools to connect with each other and collaborate. Across the country, groups of schools have joined together to form virtual learning networks, largely developed out of a need for smaller and rural schools to be in a position to offer breadth and depth in the curriculum at senior secondary level. Ten virtual learning networks currently exist, connecting an estimated 3,000 students to courses.

² In practice, however, the fee prescribed for students aged 16 to 19 is nil.

10. Currently, schools self-fund virtual learning networks. Each school contributes a small portion of its operations grant and staffing entitlement to the network. As a result, the sustainability of the networks is reliant on goodwill and reciprocity.
11. Virtual learning network participation has generally been positively received. Some secondary schools that have participated in virtual learning networks have reported increased collaboration among schools, and increased viability of their schools, because of their involvement in the network.
12. These changes mean distance is becoming a less important factor in educational delivery, as both correspondence and face-to-face schools adopt characteristics of the other in a 'blended learning' approach. Evidence shows that blended learning can deliver a range of benefits, including improving educational outcomes because students have increased flexibility and control over their learning while remaining supported and guided by teachers.³

PART 1: Increasing Contestability of Provision and Student Access to Online Learning

Problem definition

The Act does not reflect modern educational delivery

13. The scheme of the Act establishes correspondence education as a complement to face-to-face schooling, rather than as an option that can be blended with, or be an alternative to, face-to-face provision.
14. However, as discussed above, the convergence of correspondence and face-to-face education means that maintaining the legislative distinction between the two does not reflect the current situation. Correspondence education is increasingly becoming a mode of delivery that can be delivered by any institution as 'online learning'.
15. The framework of the Act does not recognise this shift, and the arbitrary legislative distinction between correspondence education and face-to-face education may be constraining further development of online learning.

The Act restricts student choice

16. Under the current scheme of the Act, students of compulsory schooling age must enrol in a face-to-face school if they are able to do so. However, evidence suggests that, where students have increased agency over their learning, including choice about where to enrol, this can increase their engagement. In turn, increasing engagement has been linked with improved achievement.
17. There is an increasing recognition in the education system that students achieve their best outcomes when their educational programme is tailored to their needs. For some students, online learning may provide the best learning environment. Conversely, face-to-face schooling is not necessarily the first, best option for all students. The Act does not reflect this.

³ Zhonggen, 2014. Blended Learning Over Two Decades. *International Journal of Information and Communication Technology Education*

The Act discourages other providers from entering the market

18. The Act restricts which organisations can become a correspondence school. Limiting designation to State schools offering correspondence education means that other organisations which may have the capability and capacity to offer this education model cannot be designated. This includes all types of face-to-face schools and non-school providers (such as tertiary providers or private providers).
19. As a result of these restrictive provisions, Te Kura is the only correspondence school in the New Zealand education system. This means that correspondence education students have no choice as to where they enrol.
20. It also means that the correspondence school has become very large (over 22,000 students) and diverse. Conversely, other jurisdictions generally have multiple smaller providers who are each able to develop areas of particular expertise.

Policy objectives

21. This proposal aims to increase student choice in education provision and improve the quality of online learning through competition.
22. Options will be desirable if they:
 - provide students with diverse options to ensure choice
 - provide a legislative framework for online education that reflects the ongoing convergence of education delivery models
 - support better educational outcomes for all students
 - ensure that online education students have good pastoral support
 - put safeguards in place to ensure that providers are appropriately qualified.

Options

23. Three options have been identified:
 - *Option 1A*: introducing contestability in the provision of online learning by enabling any body corporate, including registered schools, tertiary education providers and private providers, to become accredited as a 'community of online learning' (COOL), and enabling all students to enrol at a COOL
 - *Option 1B*: enabling all students to enrol in correspondence education at a correspondence school
 - *Option 1C*: maintaining the status quo.

Analysis of options

Option 1A: introducing contestability and enabling choice

24. The Act could be amended to enable a range of provider types to offer online learning. Increasing the number of providers will give students more choice and could drive improvements in school performance.

25. At the same time, the Act could be amended to enable students to be able to more readily participate in online learning as an alternative to participating in face-to-face education ('open access'), or to participate in blended learning.

Enabling different types of providers to offer online learning

26. Under this proposal, the Act would be amended to enable corporate entities to be accredited as COOLs. Entities seeking COOL status would first have to satisfy criteria to gain accreditation from the Minister of Education.
27. A new, robust accreditation process for COOLs will include the following criteria:
- a learning environment and processes that are safe and secure for students
 - an appropriate curriculum for teaching, learning and assessment and a tuition standard suitable to the age range and level of its students
 - the capacity to meet pastoral care and student wellbeing responsibilities
 - a system for ensuring that information about a student's performance is given to the student's parents in a timely manner and in a form that is readily understandable
 - equipment that is suitable for the curriculum being delivered or to be delivered, and the mode of online education delivery
 - directors or managers who are fit and proper persons
 - sound financial practices.
28. The Minister will also be able to set additional conditions on COOL operations, which may include:
- employing registered teachers
 - enrolling students of specific nature (e.g., enrolment criteria and/or roll cap)
 - reporting on outcomes including National Standards and against any National Priority Indicators
 - meeting specified outcomes (e.g., for student progress and achievement)
 - complying with interventions.
29. COOLs will also be subject to a robust accountability regime that will provide for safeguards around student safety and achievement outcomes. COOLs will be subject to robust student achievement and financial reporting requirements. They will need to be accredited by the New Zealand Qualifications Authority (NZQA) in order to deliver subjects on the New Zealand Qualifications Framework (NZQF). They will also be subject to review by the Education Review Office (ERO).
30. The accreditation process will include the ability for the Minister to set, vary and revoke conditions relating to a COOL, and to cancel COOL accreditation where necessary. COOLs will be subject to an interventions regime.
31. Te Kura, as the current correspondence school established under the Act, would be deemed to be a COOL from the date that the Education (Update) Amendment Bill comes

into effect. Te Kura's functions, including the types of students that can access tuition, would remain the same over a transition period. This would ensure that the education of current students is not disrupted.

Enabling 'open access' to online learning

32. This proposal would remove the restrictions on student participation in online learning and allow students to enrol in the type of education delivery that meets their needs – either face-to-face schooling, online learning, or a blend of the two. Students would therefore have open access to both full-time and supplementary online learning.
33. Students would be required to be enrolled in either a school or an accredited COOL. This provider would become these students' 'base' (or enrolling) school or COOL. Enrolling schools or COOLs would have overall responsibility for enrolled students' learning programmes, pastoral care and achievement outcomes.
34. Because of the current Review of schooling Funding Systems, an interim funding model developed for COOLs would determine under what circumstances, and the degree to which, tuition would be government-funded.
35. COOL attendance requirements will be developed and set out in regulations. COOLs would be responsible for determining when (or if) their students are required to physically attend. This would provide flexibility to manage attendance for blended learning courses.

Assessment against criteria

Provides students with diverse options to ensure choice

36. This option meets this criterion. Students and whānau would be able to choose online learning instead of, or in combination with, face-to-face provision, and they would be able to choose their online learning provider (rather than enrolling, by default, in the only correspondence school). Choice in the delivery model will help students to find a type of schooling provision which suits their needs.
37. Increased access to supplementary tuition would also help schools solve timetabling issues and could give students access to more specialist teachers and more subjects.
38. Enabling tertiary and other providers to seek COOL accreditation widens further the range of providers a student could enrol with and gives students more opportunities to explore pathways for further education or training.
39. The provision of choice is contingent on additional providers seeking COOL accreditation. The demand for online learning is projected to be greater than the current demand for correspondence schooling. Increased demand may incentivise schools and other providers to seek COOL accreditation, ensuring diversity of provision.

Provides a legislative framework that reflects the ongoing convergence of education delivery models

40. This option meets this criterion. It creates a regulatory framework for online learning that recognises the role that digitally-mediated instruction plays in twenty-first century teaching and learning, including the way that digital technology has influenced, and will continue to influence, face-to-face instruction. Given that there may one day be little distinction between online learning and face-to-face instruction, this proposal future

proofs the education system for continued change. For example, enabling schools and tertiary providers to be COOLs affirms that the ability of an institution to provide online learning is not dependent on institutional form (i.e., a dedicated correspondence school).

41. Establishing a formal mechanism for schools to contract supplementary tuition to and from other schools and other COOLs increases the ways that schools can collaborate with each other, extends the informal virtual learning networks and takes steps toward the long-term sustainability of online teaching practice.

Supports better educational outcomes for all students

42. Research on open-access online learning suggests that full-time online learning has certain advantages. Because it is more flexible than its face-to-face equivalent, students can study in a manner that suits their other commitments or personal preferences. It can also provide students with increased exposure to self-directed learning and technology that they may not have experienced in face-to-face schooling. Increased flexibility and agency over their learning may increase the likelihood of students' ongoing educational engagement and, in turn, achievement.
43. However, student outcomes in this setting are variable^{4,5} and while "online learning may allow for educational improvements... it certainly [does] not guarantee any of these potential benefits."⁶ Blended learning programmes may be more successful,⁷ which indicates that there is potential for students in school-based COOLs to do well.
44. Historically, academic achievement for New Zealand correspondence school students is lower than that of students in face-to-face education. Engagement can also be low. This is likely to be due to correspondence education being established in the system as a complement to face-to-face schooling. Installing new accountability measures and allowing students to be spread more broadly across a network of COOLs may improve outcomes for students. The power to remove COOL accreditation will provide some control. Assigning full accountability for all learning outcomes to the enrolling COOL will incentivise providers to make good decisions that support positive student outcomes.
45. International evidence suggests that open access to online learning increases student movement between providers. Transition points have previously been linked to disengagement from education and increasing the number of transitions a student has may harm student achievement.
46. If a provider consistently achieves poor outcomes for its students, it can lose its accreditation. The regime will also have a set of interventions that can be applied if there are concerns over student achievement or wellbeing outcomes.

⁴ Miron, G. & Gulsino, C. (2016). Virtual Schools Report 2016: Directory and Performance Review. Boulder, CO: National Education Policy Center. Retrieved 7 June 2016 from <http://nepc.colorado.edu/publication/virtual-schools-annual-2016>.

⁵ National Education Policy Center. (2013). Virtual Schools in the U.S. 2013: Politics, Performance, Policy and Research Evidence. Boulder: University of Colorado Boulder.

⁶ Barbour, M. K., & Reeves, T. C. (2009). "The reality of virtual schools: A review of the literature." *Computers and Education*, 52 (2), 402–416.

⁷ Means, B., et al. (2010). "Evaluation of Evidence-Based Practices in Online Learning: A Meta-Analysis and Review of Online Learning Studies." U.S. Department of Education.

Ensures that online learning students have good pastoral supports

47. This option partly meets this criterion. In general, online learning reduces visibility of students and may mask wellbeing concerns such as illness, abuse and neglect. COOLs operated by schools and tertiary providers will be able to provide a higher level of pastoral support for students compared to correspondence education alone. This makes good pastoral supports more likely for supplementary and full-time students accessing online learning from a school or tertiary provider.
48. Schools could use open access as a way to 'move on' their troublesome students. Te Kura already has a high number of disengaged and at-risk students on its roll. International research indicates that online learning alone is not a suitable delivery medium for at-risk students.
49. These risks to student welfare and engagement could be managed by the accreditation process and accountability regime that includes providing evidence of the COOL's capacity to provide pastoral care and meet students' wellbeing needs.

Puts safeguards in place to ensure that providers are appropriately qualified

50. This option meets this criterion. The accreditation regime will include clear accountability for student outcomes, the delivery of an education fit for the New Zealand context, pastoral care, and monitoring and reporting.
51. Accreditation criteria will include the approval of a curriculum, and teaching and assessment systems which are appropriate. The Minister will be able to stipulate the proportion of registered teachers required in COOLs that are not schools, and in partnership school COOLs.

Option 1B: enabling students to choose to enrol in correspondence education

52. The Act could be amended to enable students to more readily enrol in a correspondence school as an alternative to face-to-face learning. Unlike Option 1A, this option does not envisage the creation of a new type of online learning provider. Instead, online provision would be delivered through the existing model – through correspondence schools.
53. As is the case with Option 1A, this option would provide diversity and increase student choice. This option would not diversify the types of providers that may deliver online education. It is unlikely that an existing State school would convert to a correspondence school and, therefore, a new State correspondence school (or schools) would be required to be established to handle the increased student population. Establishing new correspondence schools would require significant investment.
54. This option does not respond to the converging modes of education delivery and would not adequately prepare the education system for continued improvements due to technological change. It does not accommodate the way that digital technology has influenced face-to-face education. It does not acknowledge the ability of face-to-face schools to offer teaching and learning to students who are not present in the classroom.
55. Like Option 1A, offering students choice in the delivery model may increase engagement and, in turn, achievement. However, the lack of involvement of face-to-face schools means that blended learning opportunities are less likely.

56. This option may not provide good pastoral supports for students. Although Te Kura is already offering increased face-to-face contact for its students, an increased number of correspondence school students may stretch its capacity and capability. It is not clear how correspondence schools could offer the same degree of pastoral care that is already available at face-to-face schools.

Option 1C: status quo

57. Keeping the status quo would ensure stability in the online learning network. However, the education system may be less well equipped to make the significant shift that is necessary to keep up with the changing pace of technology growth and teaching practice. As the convergence of online and face-to-face education continues, current legislation will become more anomalous. Students who may benefit from increased access to online learning or blended learning but do not currently have access will not be able to receive these benefits.

58. There will continue to be one correspondence school. It might be possible to artificially deflate Te Kura's roll by narrowing the entry criteria of some gateways, such as the 'young adult' gateway that enables over-16s to choose Te Kura as their school of choice.

59. Virtual learning networks will continue to operate in the short term but will need to adjust their business model if they are to survive in the long term: relying on goodwill is unsustainable. Other providers who may be able to offer suitable programmes will not emerge due to a lack of incentives.

Table of options

60. Table 1 assesses the degree to which each option meets the criteria.

Table 1

Criteria	Option 1A	Option 1B	Option 1C
Provides students with diverse options to ensure choice	Fully meets	Partly meets	Does not meet
Provides a legislative framework for online learning that reflects the ongoing convergence of education delivery models	Fully meets	Does not meet	Does not meet
Supports increased educational outcomes for students	May meet	Does not meet	Does not meet
Ensures that online learning students have good pastoral support	Partly meets	May meet	Does not meet
Puts safeguards in place to ensure that providers are appropriately qualified	Fully meets	Fully meets	Fully meets

PART 2: Removing regulatory burden and clarifying fee-paying correspondence schooling provision

Problem definition

Some students fall into 'grey areas' and have discontinuous access to correspondence schooling

61. New Zealand citizens and permanent residents living overseas do not have reliable access to correspondence education. While some overseas students have unlimited access,⁸ others can only participate for five years. After this time is up, and they have turned 16, they are able to pay fees for continued access. However, students aged below 16 who have exceeded their five years cannot have access, even for a fee. The gap in their schooling, while they wait to turn 16, results in an inconsistent education that may affect their work or further study options when they return to New Zealand.
62. It is unclear in the Act whether international students in New Zealand can be charged fees by correspondence schools for accessing supplementary tuition. Correspondence schools are able to charge a student's enrolling school, but schools may only pass on this cost to international students in the up-front fees charged at the start of the student's enrolment at their home school. This is not always possible, as supplementary tuition is not always anticipated. Schools are either subsidising international students' enrolments or passing on the cost of supplementary tuition to students when there is no basis for doing so.

Contradictions in the Act make it unclear whether some students can or cannot participate

63. The Act is contradictory about access to correspondence schooling for home education students. Section 7A enables home education students to participate in a "course, class or programme" at a correspondence school for a fee, while section 21(8A) does not envisage participation in schools (including correspondence schools) by holders of long-term exemption certificates (i.e., home education students). This creates uncertainty about the ability home education students to participate in correspondence schooling.
64. About 20% of home education students transfer to the Te Kura roll when they turn 16. This confusion may discourage home education students from participating in correspondence schooling part time at an earlier age.

Correspondence schooling regulation is administratively burdensome, particularly given the school's unique characteristics

65. Correspondence school fee schedules must be approved by the Minister of Education. This is an unnecessary regulatory burden, particularly when the Government already regulates the types of students that can be charged; and these students make up a very small percentage of Te Kura's roll (about 0.8% in 2015).
66. The chief executive of Te Kura is required to be a registered teacher. However, given its size, diversity of students and bulk funding arrangements, Te Kura does not operate like

⁸ For example, the children of diplomats, military personnel, university staff and teachers.

a standard State school. As a result, the current principal (chief executive) role has more of a strategic management role than a teaching role. Requiring its chief executive to be a registered teacher makes it more difficult for the Te Kura board to appoint a chief executive with the diverse skills and experience to lead the organisation.

Proposal and objectives

67. This proposal aims to ensure certainty of access to correspondence education for some students and to reduce the administrative burden on correspondence schools.

68. Options in this proposal will be successful if they meet the following criteria:

- enables overseas New Zealand citizens and permanent residents to have certainty of access to online learning
- enables international students enrolled in State schools in New Zealand to have certainty of access to supplementary tuition through online learning
- enables home education students to have certainty of access to online learning without losing their home-schooling exemption
- reduces regulatory and/or administrative burden on correspondence schools
- makes efficient use of Crown resources.

Options and analysis

69. Three options have been identified:

- *Option 2A*: legislative amendment to enable broader fee-paying access to correspondence schools and reduce regulatory burden
- *Option 2B*: non-legislative amendment to correspondence schools' enrolment policies to enable increased government-funded access
- *Option 2C*: status quo.

Analysis of options

Option 2A: legislative amendment

70. This option would remove existing fee-charging provisions from legislation and establish regulations that provide for the charging of fees by correspondence schools. Included in this regulation would be additional provisions that permit correspondence schools to charge fees to overseas New Zealand citizens and permanent residents and international students enrolled in State schools in New Zealand seeking supplementary tuition.

71. This option would also clarify in legislation that home education students can enrol in correspondence schools for a fee without losing their exemption from schooling, remove the requirement that the Minister must approve fee schedules, and remove the requirement that the principal of Te Kura must be a registered teacher.

72. This is a low-risk option that enables the framework for correspondence schooling to better reflect the current context.

Changes to fee-charging provisions

73. Having enrolment and fee-charging provisions spread across the Act and enrolment policies can cause confusion, because of contradictions and grey areas. Putting these provisions in one place, in regulation, will make these provisions clearer and easier to update.
74. Additionally, two types of students have been identified to be added to the existing schedule of students who can be charged fees by correspondence schools: New Zealand citizens and permanent residents who have been living overseas for more than five years and who do not qualify for other government-funded gateways, and international students enrolling in dual tuition courses.
75. Enabling correspondence schools to charge fees to New Zealand citizens and permanent residents living overseas would ensure that students have continuity of education at any age, so that they will be better prepared for their eventual return to New Zealand at no cost to the Crown. Although allowing students aged under 16 to be charged fees may be viewed as conflicting with the right to free education, these students have lived outside of New Zealand for a considerable period of time and, like home education students (who can also be charged fees), could be considered to have given up their right to a free New Zealand education.
76. Enabling correspondence schools to charge fees to international students for dual tuition directly, rather than charging the student's home school, would provide clarity for schools and students, and provide certainty of access to supplementary tuition for international students.

Clarification for home education students

77. We consider that a home education student receiving tuition from a correspondence school is analogous to a student in a face-to-face school receiving supplementary tuition from a correspondence school. This change gives certainty to both home education students and to correspondence schools, at no cost to the Crown, and ensures home education students have broader access to education. This may also help them transition into full-time correspondence schooling when they turn 16.

Reducing regulatory burden

78. Requiring correspondence school fee schedules to be approved by the Minister of Education is an unnecessary regulatory burden, particularly when the Government regulates the type of students who can be charged, and for what. Although there is a risk that, without Ministerial oversight, fees may become too high for students to participate in online education, this is unlikely because if fees become excessive, students will look for alternative providers, especially if COOLs are established (under Option 1A).
79. Given the unique characteristics of Te Kura, requiring its principal to be a registered teacher is unnecessarily limiting. Removing this requirement would give Te Kura the flexibility to seek a principal with a managerial background and the skills required for leading a school of its unique size, diversity and funding levels. Requiring the principal to delegate the role of pedagogical leader to a deputy principal or other senior leadership team member means that this leadership is not lost.

80. There is a risk that this could create a precedent, and that other schools, particularly large or diverse schools, could seek to have the same requirement removed. As things stand, Te Kura is so much larger than any other school that there is a strong case for it to be treated differently.
81. If Option 1A proceeds then the provisions in Option 2A would also apply to COOLs. In this case, “correspondence schools” should instead be read as “COOLs”.

Option 2B: non-legislative amendment to enrolment policies

82. Government-funded access could be extended to cover New Zealand citizens and permanent residents overseas, and international students in New Zealand. However, this would be costly. Using current demand levels as an estimate, annual costs to the Crown could reach \$400,000 (excl. GST). However, demand would likely increase if additional government-funded access were available. Increasing government-funded access to correspondence schooling for selected student groups might also lead to other types of students seeking government-funded access in the future (for example, home education students).
83. The Act would still appear contradictory about home education students’ access to tuition for a fee, correspondence schools would still need to apply to the Minister to amend fee schedules, and the principal of Te Kura would still need to be a registered teacher. Te Kura may be able to hire desired management skills into non-principal positions or use professional development resourcing to up-skill their principals as required.
84. If Option 1A proceeds then the provisions in Option 2B would also apply to COOLs. In this case, “correspondence schools” should instead be read as “COOLs”.

Option 2C: status quo

85. Keeping the status quo would mean some students will still fall between the cracks and have limited, inconsistent, or ambiguous access to correspondence schooling.
86. New Zealand students overseas for more than five years will have inconsistent access to education, which will negatively impact their future study or work when they return to New Zealand.
87. International students in New Zealand would not be able to access a full range of courses unless their school is prepared to pay for access (or passes on the cost to the student).
88. The Act would still appear contradictory about home education students’ access to tuition for a fee, correspondence school fee schedules would still need to be approved by the Minister, and the principal of Te Kura would still need to be a registered teacher.

Table of options

89. Table 2 assesses the degree to which each option meets the criteria.

Table 2

Criteria	Option 2A	Option 2B	Option 2C
Certainty of access for overseas New Zealand citizens and permanent residents	Fully meets	Fully meets	Does not meet
Certainty of access for international students in New Zealand	Fully meets	Fully meets	Does not meet
Certainty of access for home education students	Fully meets	Does not meet	Does not meet
Reduces regulatory/administrative burden on correspondence schools	Fully meets	Does not meet	Does not meet
Efficient use of Crown resources	Fully meets	Does not meet	Fully meets

PART 3: Conclusions, Implementation and Monitoring

Consultation

90. Te Kura has previously written to the Minister and had discussions with the Ministry about open access to correspondence education. Further consultation with other parties will occur during the select committee process.

Conclusions and recommendations

Part 1: Increasing contestability of provision and student access to online learning

91. Option 1C, the status quo, does not meet the objectives of increasing student choice in education provision and improving the quality of online learning through competition. It also fails to respond to the ongoing convergence of education delivery models or reflect the way that digital technology can enhance face-to-face teaching.
92. Option 1B, enabling open access to correspondence schooling, goes some way to meeting the objectives. Students would have more diverse education options, but would be limited in their choice of education provider. It also does not respond to the convergence of education delivery models.
93. The preferred option for Part 1 is Option 1A: introducing contestability and enabling open access to online learning. Enabling a wide range of entities to be accredited as COOLs, and enabling any student to enrol at a COOL, broadens considerably the range of provision. The accreditation process and additional components of the regulatory regime will be developed in such a way to promote positive educational and wellbeing outcomes.

Part 2: Removing regulatory burden and clarifying fee-paying correspondence schooling provision

- 94. Option 2C, the status quo, does not meet the objectives of ensuring certainty of access and reducing the administrative burden on correspondence schools.
- 95. Option 2B, non-legislative change, fully meets some criteria and goes part way to meeting some objectives. However, it does not meet the criteria for home education student access or reduced administrative burden. It is also the most expensive option.
- 96. The preferred option for Part 2 is Option 2A: legislative amendment to enable broader fee-paying access to correspondence schools and reduce regulatory burden. This option fully meets all the criteria and meets both objectives.

Implementation plan

- 97. The administering agency will be the Ministry of Education.
- 98. Further policy work on the regulations will be done by the Ministry of Education.
- 99. The Ministry of Education will develop an accreditation regime for organisations seeking COOL status. The Minister of Education will grant accreditation in line with this regime, which will be set out in the Act and in regulations. The Ministry of Education will provide advice on applicants' proposals, and will administer the accreditation regime.
- 100. A funding model for COOLs will be developed. The funding model will determine under what circumstances, and the degree to which, full-time and supplementary tuition will be government-funded, to manage the fiscal risk of the proposals. Over time, this funding model may be updated as a result of the education systems funding review.
- 101. The Ministry will need to align its payment systems and processes to accommodate the COOL funding model, and carry out work to make its IT systems compatible. The Ministry will establish a register that will contain information about accredited COOLs.
- 102. Te Kura would be deemed to become a COOL from the date that the Education (Update) Amendment Bill comes into effect. The Ministry of Education will work with Te Kura to manage its transition into COOL status to ensure that current students continue to have access and that Te Kura continues to be funded.

Monitoring, evaluation and review

- 103. The COOL accreditation process and new providers will initially be monitored by the Ministry of Education. Evaluation of COOLs will include how well providers are performing in relation to student wellbeing and achievement. The Ministry will also monitor the impact of COOLs on the schooling network.
- 104. ERO and NZQA will establish their own systems and processes for the independent review and monitoring of COOLs.

