



Briefing report

Education Review Office (ERO): Adding the Education Review Office as an authorised user of the National Student Number (NSN) under the Education Act 1989

Date	19 September 2018
Security Level	N/A
ERO Priority	Medium
ERO Reference	M18-48
Date requested	ERO initiated
Date due	ERO initiated
Proactive release	Recommended

Addressee Action sought Deadline

**Minister of
Education**

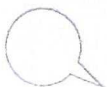
It is recommended that you:

- a) **agree** to make the Education Review Office an authorised user of National Student Numbers following consultation with the agencies.
- b) **agree** to lodge the paper for consideration at the Cabinet Social Wellbeing Committee on 31 October 2018.



Attachments:

***Education Review Office (ERO):
Adding the Education Review
Office as an authorised user of the
National Student Number (NSN)
under the Education Act 1989***



Comments:

Minister's Office to complete

Noted

Seen

Approved

Referred to:

Date signed by Minister:

Our Ref: MM18-48

19 September 2018

Hon Chris Hipkins
Minister of Education

Adding the Education Review Office as an authorised user of the National Student Number (NSN) under the Education Act 1989

Purpose

1. To seek Cabinet's agreement that new regulations be made under section 347 of the Education Act 1989 (the Act) to add the Education Review Office as an authorised user of the National Student Number (NSN).

Background

2. At our meeting on 26 June 2018 you agreed that ERO and the Ministry of Education (the Ministry) should progress work to make ERO an authorised user of the NSN.
3. Access to the NSN will provide us with high-quality information on individual and particular groups of learners. This will support our research activities and strengthen our ability to provide education evaluation.
4. The Ministry has informed us that adding an authorised user to the NSN can be achieved through regulations made under section 347 of the Act.
5. We have prepared a draft Cabinet paper that seeks approval to issue drafting instructions for regulations to be made, that would add ERO as an authorised user of the NSN. The draft Cabinet paper is attached for your review.
6. As per the requirements of section 347 of the Act, the Privacy Commissioner has been consulted and supports the proposal.
7. The Treasury has also been consulted and advised that we do not need to complete a Regulatory Impact Statement, as the regulations will only have minor impacts.
8. We have worked closely with the Ministry of Education on the attached Cabinet paper. The Ministry supports the approach.
9. We are seeking your approval to consult with Departments highlighted in paragraph 42 of the draft Cabinet paper.
10. Following Departmental consultation, we will forward to your office a revised draft of the paper for you to discuss with your colleagues.
11. If you agree, the paper could be lodged for consideration at the Cabinet Social Wellbeing Committee on 31 October 2018. The proposed draft timeline is attached. [Annex One].

Recommendation

12. It is recommended that you:

- a) **agree** to make the Education Review Office an authorised user of National Student Numbers following consultation with the agencies. **agree/disagree**
- b) **agree** to lodge the paper for consideration at the Cabinet Social Wellbeing Committee on 31 October 2018. **agree/disagree**



Nicholas Pole
Chief Review Officer

NOTED / **APPROVED**



Hon Chris Hipkins
Minister of Education

25, 9, 18

Annex One: Draft timeline

Date		Actions Completed	Time provided
	Now – 19/9	<ul style="list-style-type: none"> Draft Cabinet Paper + Proposed Timelines sent to Minister's Office ERO meets with Minister – Minister agrees to Annex One timeline 	< 2 weeks
Minister on leave 18/9 – 15/10	19/9 – 3/10	<ul style="list-style-type: none"> ERO consults departments on draft Cabinet paper Revised draft Cabinet Paper sent to Minister's Office following consultation feedback 	2 weeks
	3/10 – 17/10	<ul style="list-style-type: none"> Ministerial Consultation 	2 weeks
	24/10	<ul style="list-style-type: none"> Cabinet Paper finalised with Minister's Office 	1 week
	31/10	<ul style="list-style-type: none"> Paper lodged with SWC – approval for regulation development 	3 days
	5/11	<ul style="list-style-type: none"> SWC approves drafting of regulations 	-
	8/11	<ul style="list-style-type: none"> Cabinet to confirm SWC decisions directing PCO to draft regulations 	-
	9/11 – 10/12	<ul style="list-style-type: none"> Drafting instructions issued by ERO PCO Drafting Period and Quality Assurance 	4 weeks
	7/1/19	<ul style="list-style-type: none"> Paper lodged with LEG - Advice for regulation approval 	1 week
	14/1/19	<ul style="list-style-type: none"> Cabinet Legislation Committee approves regulations 	-
	18/1/19	<ul style="list-style-type: none"> Cabinet confirmation of LEG decisions 	-
	21/1/19	<ul style="list-style-type: none"> ERO to report to Minister enclosing advice sheet for Governor General to make regulations 	-
	January 2019	<ul style="list-style-type: none"> Governor General signs regulations 	-
	January 2019	<ul style="list-style-type: none"> PCO arranges Gazette Notification 	-
	Early 2019	<ul style="list-style-type: none"> 28-day stand-down period (7.96 and 7.97 Cabinet Office Manual) 	-
		<ul style="list-style-type: none"> Secretary issues Gazette Notice, authorising EROs use of the NSN (section 344) 	-
		<ul style="list-style-type: none"> ERO added as authorised user of the NSN 	-

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In Confidence

Office of the Minister of Education

Chair, Cabinet Social Wellbeing Cabinet Committee

Adding the Education Review Office as an authorised user of the National Student Number (NSN) under the Education Act 1989

Proposal

1. I seek Cabinet's agreement that new regulations be made under section 347 of the Education Act 1989 (the Act) to add the Education Review Office (ERO) as an authorised user of the National Student Number (NSN).

Executive Summary

2. A National Student Number (NSN) is a unique identifier assigned to every student in the education system that allows national data collection of information about learners from early childhood through to tertiary study.
3. The Act authorises the use of the NSN by schools, early childhood education services (ECEs) and a number of education agencies. NSN data may only be used for the purposes set out in the Act.
4. ERO is the government agency that evaluates and reports on the education and care of students in schools and early childhood services. Under section 325 of the Act, ERO is responsible for evaluating and reporting on the performance of education providers.
5. At present, ERO has limited access to high-quality information about learners which constrains its research and evaluation activities. For example, ERO does not have good information on the number of children, or the characteristics of particular groups of children (e.g. Māori/Pacific) that participate in schools and ECEs.
6. Giving ERO access to the NSN will provide it with high-quality information on individual and particular groups of learners. This will support its research activities and strengthen its ability to evaluate specific education programmes and services.
7. Under section 347 of the Act organisations can be added as authorised users of the NSN through regulations made by the Governor-General by Order in Council. Users can only be added following consultation with the Privacy Commissioner.
8. The Privacy Commissioner has been consulted and supports the proposal for ERO to become an authorised user of the NSN.

Background

What is a National Student Number?

9. A NSN is a unique identifier assigned to every student in the New Zealand educational system. The NSN allows national data collection of information about students from early childhood through to tertiary study.
10. The Education Amendment Act 2006 (Part 30) authorised the use of the NSN throughout the education system in order to facilitate the accurate use and transfer of information relating to individual students throughout their life time.
11. A student is assigned a NSN when they first enrol in a school or ECE in New Zealand and will continue to use that NSN throughout their school and tertiary education.
12. Section 342 of the Act sets out the authorised users of the NSN as:
 - registered schools;
 - early childhood education services;
 - tertiary organisations;
 - the Ministry of Education;
 - the New Zealand Qualifications Authority;
 - the Tertiary Education Commission.
13. Two agencies are authorised users of the NSN through regulations made under section 347 of the Act:
 - Studylink (Business unit of the Ministry of Social Development);
 - Statistics New Zealand.

How is the NSN used?

14. NSN data can be linked to personally identifiable information and therefore may only be used for specific purposes as defined by legislation. The Act enables the sharing of student information within the sector, but restricts the possibility of NSNs being used indiscriminately.
15. The Act states that NSNs can only be used by education agencies and education providers to share student information for:
 - monitoring and ensuring student enrolment and attendance;
 - encouraging attendance at early childhood services;
 - ensuring education providers and students receive appropriate resourcing;
 - statistical purposes;
 - research purposes;
 - ensuring that students' education records are accurately maintained;
 - establishing and maintaining student identities to support students' participation in; online learning.

ERO is responsible for external evaluation of the education system

16. ERO is the government agency responsible for external education evaluation. Section 325 of the Act 1989 sets out that ERO's Chief Review Officer is responsible for reviewing the performance of education providers.
17. ERO's evaluations integrate with and strengthen the internal evaluation activities of schools and ECEs. ERO also undertakes national evaluations of education sector performance, with respect to applicable organisations, from time to time as the Minister of Education requires. ERO is developing the resources and capability to ensure that its extensive knowledge and expertise has an increasingly positive impact, particularly on the quality of ECEs and schools to raise achievement for all learners.
18. ERO carries out several different types of reviews and evaluations including education reviews, home-school reviews, cluster reviews of education institutions and services, contract evaluations and national evaluations on education topics.
19. ERO evaluates and reports on the education and care of students in schools and ECEs. ERO's evaluations inform parents and families about the quality of educational provision in their communities.
20. ERO also researches and publishes national studies on specific education topics (or National Evaluation Topics) using evidence from its reviews.
21. ERO provides research and evaluation for education system stakeholders on what works for children and young people. For example, the Ministry uses ERO's findings to support its formulation of policy advice for the Minister of Education.

ERO's evaluation activities are constrained by existing collection processes

22. ERO's data collection processes currently rely on school and ECE-based information and general student information that is published on websites such as the Ministry of Education's "Education Counts" website.
23. These collection processes provide ERO with limited information on individual or particular groups of students engaged with specific programmes. For example, in evaluating the performance of education providers, ERO does not have good information for particular groups of children (e.g. Māori/Pacific) that participate in ECEs and attend schools, nor does it have good information on their levels of achievement.
24. It is a key priority for ERO to monitor and assess the level of participation of particular groups of children and identify the performance of education providers relating to these children's outcomes. ERO is particularly focused on Māori, Pacific and children from low-socio economic areas because it sees the education system not performing well for these groups.
25. It is possible to track education achievement of individual students using Statistics New Zealand's Integrated Data Infrastructure (IDI). However, the IDI does not make it possible to identify the education institutions where individual students are enrolled or the nature of any intervention programme which the student may have participated in.

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26. As ERO reviews take place on average once every three years and in extremely tight timeframes, there are challenges to gathering sufficient student information for evaluation purposes.
27. Further, education providers must often provide the same information to ERO that they have already provided to the Ministry of Education. This places unnecessary compliance costs on both education providers and ERO.

Access to the NSN will provide ERO with high-quality student information to support its evaluation activities

28. Access to the NSN would enable ERO to have full, accurate, and timely information on students. This would enable it to understand more about the relationships between student participation, enrolment, attendance, and teaching at schools and ECEs and subsequent levels of achievement.
29. NSN data would also enable ERO to undertake long-term tracking of individual students through the education system. This would support its ability to evaluate the performance of specific programmes, interventions or education providers in the system, while maintaining student privacy.
30. For example, NSN data would enable ERO to:
 - 30.1 evaluate whether a policy implemented in an ECE centre to improve attendance has had an impact on the children's attendance and achievement at primary school and;
 - 30.2 investigate the impact of activities within an intermediate school to support children to transition into secondary schools.
31. The examples above would require the use of NSN numbers to link a child's data (e.g. attendance records) from different education institutions. Such individual learner based data also helps evaluate effectiveness of particular interventions implemented in schools.
32. Access to the NSN would further reduce the cost of collecting information for ERO evaluations and research. NSN data would reduce the amount of information ERO has to collect from education providers. It would also reduce the burden placed on providers who often have to provide the same information to the Ministry and ERO.
33. NSN data would provide ERO with high-quality student information and support its ability to evaluate the performance of education providers.

Regulations are needed to add authorised users of the NSN

34. Under section 347 of the Act, other organisations can be added as authorised users of NSNs, through regulations made by the Governor-General by Order in Council, following agreement by Cabinet. Under the Act, regulations can only be made if the Privacy Commissioner has been consulted.

Privacy Impact Assessment

35. ERO has consulted with the Privacy Commissioner and completed a Privacy Impact Assessment. The assessment ensures that the twelve information privacy principles that govern the way in which agencies collect, store, use, and disclose personal information, are being met.
36. The Privacy Impact Assessment sets out the protocols that would govern the management of the NSN data held by ERO. In compliance with the Public Records Act 2005, the Education Review Office has a Retention and Disposal Policy and Procedure (June 2015) and a Schedule (July 2008). The retention and disposal of ERO records are an important part of its Information Management programme.
37. Further, the Chief Review Officer designates suitably qualified persons as review officers who have powers of entry and inspection of schools and early childhood services under section 327 of the Act.
38. Only relevant staff in ERO will be using NSNs. This is so that the NSNs can then be used without identification to enable ERO to have full, accurate, and timely information about enrolment, attendance, and teaching at schools and ECE services.
39. ERO will continue to ensure that only relevant staff have access to NSNs, and are aware of their obligations under ERO's Code of Conduct, and require staff to comply with the Privacy Act guidelines.
40. In addition to the requirement of ERO staff to commit to its Code of Conduct, staff professional development and training leans on ERO's "Capabilities for High Quality Education Evaluation in Aotearoa New Zealand" and its Principles of Practice. The latter of these underscore "Capable and Ethical Evaluation Practice", page 19 of External Education Evaluation in Aotearoa New Zealand."
41. ERO's proposed use of the NSN for statistical and research purposes is provided for under sections 344(2)(c) and 344((2)(d) of the Education Act 1989.
42. The Privacy Commissioner has been consulted and supports the proposal for ERO to become an authorised user of the NSN under section 347 of the Act.

Consultation

43. The Education Review Office has consulted on this proposal with the Ministry of Education, and the Treasury through the Ministry of Education, the Office of the Privacy Commissioner, Office of Disability issues, the Ministry for Pacific People, Te Puni Kokiri, Ministry for Women and Statistics New Zealand. [ERO intends to consult with highlighted agencies].

Financial Implications

44. There are no financial implications in this paper.

Human Rights

45. There are no human rights implications in this proposal.

Legislative Implications

46. If Cabinet agrees to this proposal, the Ministry of Education will issue drafting instructions for regulations designating ERO as an authorised user of the NSN, under section 347 of the Act. Draft regulations will be prepared for consideration by the Cabinet Legislation Committee.

Regulatory Impact Analysis

47. The Treasury has advised that a RIS is not required as the proposal is exempt on the grounds of minor impacts on business, individuals and not-for-profits

Gender Implications

48. There are no gender implications in this proposal.

Disability Perspective

49. There are no implications in this proposal for people with disabilities.

Publicity

50. No publicity is planned for the decisions in this paper. I propose to comment on the proposals once regulations are considered by the Cabinet Legislation Committee and published in the New Zealand Gazette.

Recommendations

51. The Minister of Education recommends that the Committee:
 1. **note** that a National Student Number (NSN) is a unique identifier assigned to every student in the education system that allows national data collection of information about learners from early childhood through to tertiary study;
 2. **note** that making ERO an authorised user of the NSN will provide it with high-quality information on individual or particular groups of learners and strengthen its ability to provide insights into aspects of education provision in New Zealand education evaluations;
 3. **note** that new regulations need to be made under section 347 of the Education Act 1989 for ERO to become an authorised user of the NSN;
 4. **note** that ERO's proposed use of the NSN for statistical and research purposes is provided for under section 344(2)(c) and section 344(2)(d) of the Education Act 1989;
 5. **note** that ERO will use the National Student Number for the information matches it undertakes, specifically in order to:
 - 5.1. perform evaluations of the education system at both a programme, individual school and ECE service level and at a national level;

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6. **agree** that new regulations be made under section 347 of the Education Act 1989 that would add ERO as an authorised user of the National Student Number (NSN) for the purposes of section 344(2)(c) and section 344(2)(d) of the Education Act;
7. **note** that the Privacy Commissioner has been consulted and supports the proposal for ERO to become an authorised user of the NSN.
8. **invite** the Minister of Education to issue drafting instructions to the Parliamentary Counsel Office to draft new regulations under section 347 of the Education Act 1989 giving effect to recommendation 4 above for the approval of the Cabinet Legislation Committee.

Authorised for lodgement
Hon Chris Hipkins
Minister of Education