



## Briefing Note: Transitioning from the NAGs and the NEG

<b>To:</b>	Hon Chris Hipkins, Minister of Education		
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<b>Security Level:</b>	In Confidence	<b>METIS No:</b>	1144203
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### Purpose

This paper provides you with advice on:

- What happens to the National Education Goals (NEGs) and the National Administration Guidelines (NAGs) following their repeal; and
- How the government could be assured that a healthy eating policy was being implemented once NAG 5 is repealed.

### Summary

- The NAGs and the NEGs are set to be repealed on commencement of the new strategic planning and reporting framework.
- A significant portion of the NEGs and NAGs are now set out in the Education Act 1989, or will be included in the new strategic planning and reporting regulations.
- This paper provides you with a 'map' of what happens to the NAGs and the NEGs once they have been repealed, and advice on how government could be assured that a healthy eating policy was being implemented following repeal of NAG 5.

## Proactive Release

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**Agree** that this briefing will be proactively released.

☒ Agree / ☐ Disagree



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16/8/18



Hon Chris Hipkins  
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2/9/18

## Background

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1. The National Administration Guidelines (NAGs) and the National Education Goals (NEGs) are due to be repealed on commencement of the new strategic planning and reporting framework.
2. The NEGs set out the direction of the education system, and the NAGs set out some of the key requirements for board administration.
3. In 2015, the Taskforce on Regulations Affecting School Performance (the Taskforce) identified a number of issues relating to how strategic direction is set in the education system and how schools are accountable for implementing this direction.
4. In particular, the Taskforce found that the Education Act 1989 (the Act) does not provide a clear and visible purpose statement that articulates the goals of New Zealand's schooling system. For example, the NEGs are third-tier legislation, and schools also receive messaging about strategic direction from the curricula, and non-statutory documents such as Ka Hikitia and the Pasifika Education Plan. The Taskforce also identified that the responsibilities of boards are unclear in the Act.
5. The Taskforce noted that this creates uncertainty about what it is boards should, and can legally, do. Their roles and responsibilities are scattered over different sections of the Act, as well as the NAGs. In some cases, they are not explicitly stated and must be inferred.
6. The Education (Update) Amendment Act 2017 (the Update Act) introduced changes to the strategic framework for the education system to address these issues. This included:
  - a. introducing a number of high-level and enduring objectives for the education and learning system;
  - b. establishing a mechanism for government to set out its medium-term priorities for early childhood education and schooling through a statement of National Education and Learning Priorities, or a NELP;
  - c. clarifying the roles and responsibilities of boards of trustees by grouping them together in new Schedule 6; and
  - d. establishing a new strategic planning and reporting framework for schools to ensure schools are giving effect to the strategic direction.
7. The NELP must reflect the objectives for education, and boards are required to have regard to the NELP.
8. Under the new strategic planning and reporting framework, a board's strategic plan must set out its strategy for achieving its objectives as set out in Schedule 6, clause 5 which states that:
  - (1) A board's primary objective in governing the school is to ensure that every student at the school is able to attain his or her highest possible standard in educational achievement.
  - (2) To meet the primary objective, the board must—
    - (a) ensure that the school—
      - i. is a physically and emotionally safe place for all students and staff; and
      - ii. is inclusive of and caters for students with differing needs; and

- (b) have particular regard to any statement of National Education and Learning Priorities issued under section 1A; and
  - (c) comply with its obligations under sections 60A (in relation to curriculum statements and national performance measures), 61 (in relation to teaching and learning programmes), and 62 (in relation to monitoring of student performance); and
  - (d) if the school is a member of a community of learning that has a community of learning agreement under section 72, comply with its obligations under that agreement as a member of that community; and
  - (e) comply with all of its other obligations under this or any other Act.
9. This means that boards will be required to set out in their strategic plans how they will give effect to their objectives under Schedule 6, the NELP, as well as any obligations under section 60A. Similarly, annual reports will be required to show how schools are achieving this.
10. The key components of the new planning and reporting framework are a strategic plan, an annual implementation plan and an annual report. New section 118A of the Act allows regulations to be made which set out the detail of the form and content of these plans and reports.
11. This suite of changes in the Update Act, once fully implemented, will replace the current requirements and guidelines that boards use to guide their strategic planning and reporting and the administration of their schools.

### What happens to the NEG and NAGs following their repeal?

#### *National Education Goals*

12. The NEG have largely been lifted up into the primary legislation. Some of the wording has been updated through this process. Annex 1 maps out where each of the NEG have moved.
13. Most of the NEG are now expressed in the new objectives for education in Part 1AA, or in Schedule 6, which sets out boards' roles and responsibilities. This means that the vision for the education system set out in the NEG is largely already reflected in the Act.
14. However, neither NEG 4, which requires a sound foundation for education in the early years, nor NEG 5, which requires a broad education covering essential learning areas, have been incorporated into primary legislation.
15. As the NELP is a vehicle for setting out the Government of the day's key priorities, it is possible that these, or similar goals, could be picked up in the NELP. No decisions have been made on what the priorities in the NELP will be, and public engagement has not yet started.

#### *National Administration Guidelines*

16. Following commencement of the new strategic planning and reporting framework, a number of key legal requirements in the NAGs will be in the primary legislation. For example, the requirement to develop a strategic plan and a requirement to provide a safe physical and emotional environment for students.

17. We anticipate that much of the other detailed requirements set out in the NAGs will now be moved to the new planning and reporting regulations.
18. A number of the NAGs will not be moved into primary legislation or other instruments as they repeat requirements already in the Act. Annex 2 maps out where the current requirements will be located following repeal of the NAGs. As with the NEG, some of the wording of the NAGs has changed through the Update Act.
19. The detail set out in NAG 1, which sets out requirements and priorities for teaching, learning, and evaluation, has not been incorporated into the Act. Planning and reporting regulations will be developed later this year, following the enactment of the Education Amendment Bill. These will focus on the new strategic planning and reporting requirements. We will provide advice on the potential content of these in November.

#### How could government require the implementation of healthy eating policies in schools?

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20. NAG 5b requires schools to promote healthy food and nutrition for all students. NAG 5b has not been carried over into the primary legislation. There is currently no explicit requirement for schools to have a healthy food policy.
21. Aspects of student wellbeing are likely to be considered as the development of the NELP progresses. As schools must only have "particular regard" to the NELP, the NELP cannot be used to require schools to have a healthy food policy.
22. However section 118A does enable us to list matters that schools must include in their annual reports. We could investigate requiring schools to report on any healthy foods policy that they may have voluntarily adopted.
23. If you wished to ensure that a healthy eating policy was being implemented, you could develop regulations under section 78 of the Act, which allows the Governor-General to make regulations relating to the control, management, organisation, conduct and administration of schools. This regulation making power is not currently used for any regulations.
24. Alternatively, a power to set national performance measures (NPMs) was introduced in the Update Act. Section 60A sets out the empowering provision for NPMs and defines them as targets against which the performance of boards can be measured.
25. Schedule 6, clause 5 requires boards to comply with any obligations under sections 60A. Boards would also need to set out how it will achieve its objectives under clause 5 of Schedule 6. This would require planning and reporting on any NPMs in effect.
26. We could explore how the NPMs could be used to require schools to implement healthy eating policies, or related policies. This would require setting a qualitative target and would need further work

#### Annexes

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Annex 1: National Education Goals in the updated Education Act 1989

Annex 2: National Administration Guidelines in the updated Education Act 1989

## Annex 1: National Education Goals in the updated Education Act 1989

<b>National Education Goal:</b>	<b>Where is the requirement now:</b>
<p>1. The highest standards of achievement, through programmes which enable all students to realise their full potential as individuals, and to develop the values needed to become full members of New Zealand's society.</p>	<p><b>Section 1A (3)(a) and (b):</b></p> <p>(3) The objectives of the system for education and learning that is provided for in the specified Parts (that is, early childhood and compulsory education) are—</p> <p>(a) to focus on helping each child and young person to attain educational achievement to the best of his or her potential; and</p> <p>(b) to promote the development, in each child and young person, of the following abilities and attributes:</p> <p>(i) resilience, determination, confidence, and creative and critical thinking;</p> <p>(ii) good social skills and the ability to form good relationships;</p> <p>(iii) participation in community life and fulfilment of civic and social responsibilities;</p> <p>(iv) preparedness for work;</p> <p><b>Schedule 6, clause 5(1):</b></p> <p>(1) A board's primary objective in governing the school is to ensure that every student at the school is able to attain his or her highest possible standard in educational achievement.</p>
<p>2. Equality of educational opportunity for all New Zealanders, by identifying and removing barriers to achievement.</p>	<p><b>Schedule 6, clause 5(2)(a)(ii):</b></p> <p>(2) To meet the primary objective, the board must—</p> <p>(a) ensure that the school—</p> <p>(ii) is inclusive of and caters for students with differing needs;</p>
<p>3. Development of the knowledge, understanding and skills needed by New Zealanders to compete successfully in the modern, ever-changing world.</p>	<p><b>Section 1A (3)(b):</b></p> <p>(3) The objectives of the system for education and learning that is provided for in the specified Parts (that is, early childhood and compulsory education) are—</p> <p>(b) to promote the development, in each child and young person, of the following abilities and attributes:</p> <p>(i) resilience, determination, confidence, and creative and critical thinking;</p> <p>(ii) good social skills and the ability to form good relationships;</p> <p>(iii) participation in community life and fulfilment of civic and social responsibilities;</p> <p>(iv) preparedness for work;</p>
<p>4. A sound foundation in the early years for future learning and achievement through programmes which include support for parents in their vital role as their children's first teachers.</p>	<p><i>Has not been replaced in the Education Act 1989</i></p>
<p>5. A broad education through a balanced curriculum covering essential learning areas. Priority should be given to the development of high levels of competence (knowledge and skills) in literacy and numeracy.</p>	<p><i>Has not been replaced in the Education Act 1989</i></p>

science and technology and physical activity.	
6. Excellence achieved through the establishment of clear learning objectives, monitoring student performance against those objectives, and programmes to meet individual need.	<p><b><i>New section 62 (comes into force on commencement of the new planning and reporting framework), with detail set out in the planning and reporting regulations:</i></b></p> <p><b>61 Teaching and learning programmes</b>  The board of a school must ensure that the school's principal and staff develop and implement teaching and learning programmes that—</p> <ul style="list-style-type: none"> <li>(a) give effect to any foundation curriculum policy statements and national curriculum statements in force under section 60A;</li> <li>(b) give effect to any national standards in force under section 60A; and</li> <li>(c) give the school's students access to a nationally and internationally recognised qualifications system.</li> </ul> <p><b>62 Monitoring of and reporting on student performance</b>  (1) The board of a school must ensure that the school's principal and staff monitor and evaluate the performance of the school's students.  (2) Monitoring and evaluating must include, but is not limited to, monitoring and evaluating the performance of the students in relation to—  <ul style="list-style-type: none"> <li>(a) any national standards in force under section 60A; and</li> <li>(b) any qualification systems referred to in section 61(c) that are offered at the school.</li> </ul> (3) The board must ensure 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.  (4) The board must report to the Secretary, to its school community, and to parents on the performance of the school's students in accordance with any regulations made under section 118A.</p>
7. Success in their learning for those with special needs by ensuring that they are identified and receive appropriate support.	<p><b><i>Schedule 6, clause 5(2)(a)(ii):</i></b></p> <ul style="list-style-type: none"> <li>(2) To meet the primary objective, the board must—  <ul style="list-style-type: none"> <li>(a) ensure that the school—  <ul style="list-style-type: none"> <li>(ii) is inclusive of and caters for students with differing needs;</li> </ul> </li> </ul> </li> </ul>
8. Access for students to a nationally and internationally recognised qualifications system to encourage a high level of participation in post-school education in New Zealand.	<p><b><i>New sections 61(c) &amp; 62(2)(b):</i></b></p> <p><b>61 Teaching and learning programmes</b>  The board of a school must ensure that the school's principal and staff develop and implement teaching and learning programmes that—</p> <ul style="list-style-type: none"> <li>(c) give the school's students access to a nationally and internationally recognised qualifications system;</li> </ul> <p><b>62 Monitoring of and reporting on student performance</b>  (1) The board of a school must ensure that the school's principal and staff monitor and evaluate the performance of the school's students.  (2) Monitoring and evaluating must include, but is not limited to, monitoring and evaluating the performance of the students in relation to—  <ul style="list-style-type: none"> <li>(b) any qualification systems referred to in section 61(c) that are offered at the school.</li> </ul> </p>
9. Increased participation and success by Māori through the advancement of Māori education initiatives, including education in Te Reo Māori, consistent with the principles of the Treaty of Waitangi.	<p><b><i>Schedule 6, clause 16(2):</i></b></p> <ul style="list-style-type: none"> <li>(2) In performing its functions and exercising its powers, a board must take all reasonable steps to act in a manner that is consistent with the principles of the Treaty of Waitangi.</li> </ul>

<p>10. Respect for the diverse ethnic and cultural heritage of New Zealand people, with acknowledgment of the unique place of Māori, and New Zealand's role in the Pacific and as a member of the international community of nations.</p>	<p><b>Section 1A(3)(c):</b></p> <p>(3) The objectives of the system for education and learning that is provided for in the specified Parts (that is, early childhood and compulsory education) are—</p> <p>(c) to instil in each child and young person an appreciation of the importance of the following:</p> <ul style="list-style-type: none"> <li>(i) the inclusion within society of different groups and persons with different personal characteristics:</li> <li>(ii) the diversity of society:</li> <li>(iii) cultural knowledge, identity, and the different official languages:</li> <li>(iv) the Treaty of Waitangi and te reo Māori.</li> </ul> <p><b>Schedule 6, clause 16(1)</b></p> <p>(1) A board must take all reasonable steps to ensure that the policies and practices for its school reflect New Zealand's cultural diversity and the unique position of the Māori culture.</p>
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## Annex 2: National Administration Guidelines in the updated Education Act 1989

NAG	What the National Administration Guidelines requires:	Where is the requirement now:
1	<p>Each board, through the principal and staff, is required to:</p> <p>a. develop and implement teaching and learning programmes:</p>	<p><b>New section 61, with further detail to be set out in the planning and reporting regulations:</b></p> <p><b>61 Teaching and learning programmes</b></p> <p>The board of a school must ensure that the school's principal and staff develop and implement teaching and learning programmes that—</p> <ul style="list-style-type: none"> <li>(a) give effect to any foundation curriculum policy statements and national curriculum statements in force under section 60A;</li> <li>(b) give effect to any national standards in force under section 60A; and</li> <li>(c) give the school's students access to a nationally and internationally recognised qualifications system.</li> </ul>
	<ul style="list-style-type: none"> <li>i. to provide all students in years 1-10 with opportunities to achieve for success in all areas of the National Curriculum;</li> <li>ii. giving priority to student achievement in literacy and numeracy, especially in years 1-8;</li> <li>iii. giving priority to regular quality physical activity that develops movement skills for all students, especially in years 1-6.</li> </ul>	<p><b><i>This detail has not been replaced in the Education Act 1989. However section 118A enables regulations to be made as follows:</i></b></p> <ul style="list-style-type: none"> <li>(1) The Governor-General may, by Order in Council, make regulations that make provision for 1 or more of the following: <ul style="list-style-type: none"> <li>(a) the development of school strategic plans and annual implementation plans under clauses 7 to 10 of Schedule 6; and</li> <li>(b) the monitoring of and reporting of a board's performance under clause 11 of Schedule 6; and</li> <li>(c) the monitoring of and reporting on the performance of a school's students under section 62; and</li> <li>(d) the preparation and delivery of statements of variance and annual reports under section 87.</li> </ul> </li> <li>(2) Without limiting subsection (1), the regulations may make provision in relation to 1 or more of the following: <ul style="list-style-type: none"> <li>(a) the form of plans;</li> <li>(b) matters that must be dealt with in plans;</li> <li>(c) when plans must be prepared, submitted, or updated;</li> <li>(d) requirements for consultation in the development and implementation of plans;</li> </ul> </li> </ul>

NAG	What the National Administration Guidelines requires:	Where is the requirement now:
		<ul style="list-style-type: none"> <li>(e) the information that must be included in a statement of variance under section 87(1)(a);</li> <li>(f) the form of statements of variance;</li> <li>(g) the information that must be included in an annual report under section 87(2)(a);</li> <li>(h) the form of annual reports;</li> <li>(i) the form of reports on the performance of a school's students;</li> <li>(j) the information that must be included in reports on the performance of a school's students;</li> <li>(k) any other matters contemplated by, or necessary for giving full effect to, any of the following provisions:               <ul style="list-style-type: none"> <li>(i) section 60A(1)(c);</li> <li>(ii) section 62;</li> <li>(iii) sections 87 to 87AB;</li> <li>(iv) clauses 7 to 11 of Schedule 6.</li> </ul> </li> </ul>

NAG	What the National Administration Guidelines requires:	Where is the requirement now:
	<ul style="list-style-type: none"> <li>b. through the analysis of good quality assessment information, evaluate the progress and achievement of students, giving priority first to:               <ul style="list-style-type: none"> <li>i. student progress and achievement in literacy and numeracy and/or te reo matatini and pāngarau, especially in years 1-8; and then to</li> <li>ii. breadth and depth of learning related to the needs, abilities and interests of students, the nature of the school's curriculum, and the scope of The National Curriculum as expressed in The New Zealand Curriculum 2007 or Te Marautanga o Aotearoa.</li> </ul> </li> <li>c. through the analysis of good quality assessment information, identify students and groups of students:               <ul style="list-style-type: none"> <li>i. who are not progressing and/or achieving;</li> <li>ii. who are at risk of not progressing and/or achieving;</li> <li>iii. who have special needs (including gifted and talented students); and</li> <li>iv. aspects of the curriculum which require particular attention;</li> </ul> </li> <li>d. develop and implement teaching and learning strategies to address the needs of students and aspects of the curriculum identified in (c) above;</li> <li>e. in consultation with the school's Māori community, develop and make known to the school's community policies, plans and targets for improving the achievement of Māori students; and</li> </ul>	<p><b><i>New section 62, with detail to be set out in the planning and reporting regulations:</i></b></p> <p><b>62 Monitoring of and reporting on student performance</b></p> <ul style="list-style-type: none"> <li>(1) The board of a school must ensure that the school's principal and staff monitor and evaluate the performance of the school's students.</li> <li>(2) Monitoring and evaluating must include, but is not limited to, monitoring and evaluating the performance of the students in relation to—               <ul style="list-style-type: none"> <li>(a) any national standards in force under section 60A; and</li> <li>(b) qualification systems referred to in section 61(c) that are offered at the school.</li> </ul> </li> <li>(3) The board must ensure 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.</li> <li>(4) The board must report to the Secretary, to its school community, and to parents on the performance of the school's students in accordance with any regulations made under section 118A.</li> </ul>

NAG	What the National Administration Guidelines requires:	Where is the requirement now:
	<p>f. provide appropriate career education and guidance for all students in year 7 and above, with a particular emphasis on specific career guidance for those students who have been identified by the school as being at risk of leaving school unprepared for the transition to the workplace or further education/training</p>	<p><b>New section 77(ab):</b></p> <p><b>77 Guidance and counselling</b> The principal of a state school shall take all reasonable steps to ensure that—</p> <p>(ab) students in form 1 and above are provided with appropriate career education and guidance that is designed to prepare them to join the workforce or undertake further education or training when they leave school;</p>
2	<p>Each board of trustees, with the principal and teaching staff, is required to:</p> <p>a. develop a strategic plan which documents how they are giving effect to the National Education Guidelines through their policies, plans and programmes, including those for curriculum, aromatawai and/or assessment, and staff professional development;</p> <p>b. maintain an on-going programme of self-review in relation to the above policies, plans and programmes, including evaluation of good quality assessment information on student progress and achievement; and</p>	<p><b>New Schedule 6, clauses 7-12, with further detail to be set out in regulations:</b></p> <p><b>7 School strategic plan and annual implementation plan</b> (1) A board must have the following strategic planning documents for its school:</p> <p>(a) a strategic plan for each 4-year period that sets out the board's strategy for achieving (or making progress towards achieving) its objectives (as set out in clause 5) during that period; and</p>
	<p>c. on the basis of good quality assessment information report to students and their parents on the progress and achievement of individual students:</p> <p>i. in plain language, in writing, and at least twice a year; and</p> <p>ii. Across The National Curriculum, as expressed in The New Zealand Curriculum 2007 or Te Marautanga o Aotearoa, including in mathematics and literacy, and/or te reo matatini and pāngarau;</p> <p>d. on the basis of good quality assessment information report to the school's community on the progress and achievement of students as a whole and of groups (identified through NAG 1(c) above) including the</p>	<p><b>New section 62, with further detail to be set out in regulations:</b></p> <p><b>62 Monitoring of and reporting on student performance</b> (1) The board of a school must ensure that the school's principal and staff monitor and evaluate the performance of the school's students. (2) Monitoring and evaluating must include, but is not limited to, monitoring and evaluating the performance of the students in relation to—</p> <p>(a) any national standards in force under section 60A; and</p> <p>(b) any qualification systems referred to in section 61(c) that are offered at the school.</p>

NAG	What the National Administration Guidelines requires:	Where is the requirement now:
	achievement of Māori students against the plans and targets referred to in 1(e) above.	<p>(3) The board must ensure 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.</p> <p>(4) The board must report to the Secretary, to its school community, and to parents on the performance of the school's students in accordance with any regulations made under section 118A.</p>
3	<p>According to the legislation on employment and personnel matters, each board of trustees is required in particular to:</p> <ul style="list-style-type: none"> <li>a. develop and implement personnel and industrial policies, within policy and procedural frameworks set by the Government from time to time, which promote high levels of staff performance, use educational resources effectively and recognise the needs of students; and</li> <li>b. be a good employer as defined in the State Sector Act 1988 and comply with the conditions contained in employment contracts applying to teaching and non-teaching staff.</li> </ul>	<p><b><i>Schedule 6, clause 6 and the remainder deleted as it says boards must obey existing law:</i></b></p> <p><b>6 Staff</b> Subject to Parts 8A and 31, a board may, in accordance with the State Sector Act 1988, appoint, suspend, or dismiss school staff.</p>
4	<p>According to the legislation on financial and property matters, each board of trustees is also required in particular to:</p> <ul style="list-style-type: none"> <li>a. allocate funds to reflect the school's priorities as stated in the charter</li> <li>b. monitor and control school expenditure and ensure that annual accounts are prepared and audited as required by the Public Finance Act 1989 and the Education Act 1989</li> <li>c. comply with the negotiated conditions of any current asset management agreement and implement a maintenance programme to ensure that the school's buildings and facilities provide a safe, healthy learning environment for students</li> </ul>	<p><b><i>Deleted as it says boards must obey existing law.</i></b></p>
5	<p>Each board of trustees is also required to:</p> <ul style="list-style-type: none"> <li>a. provide a safe physical and emotional environment for students;</li> </ul>	<p><b><i>Schedule 6, clause 5:</i></b></p> <p>(2) To meet the primary objective, the board must—</p> <ul style="list-style-type: none"> <li>(a) ensure that the school— <ul style="list-style-type: none"> <li>i. is a physically and emotionally safe place for all students and staff;</li> </ul> </li> </ul>

NAG	What the National Administration Guidelines requires:	Where is the requirement now:
	b. promote healthy food and nutrition for all students; and	<i>Has not been replaced in the Education Act 1989</i>
	c. comply in full with any legislation currently in force or that may be developed to ensure the safety of students and employees	<i>Deleted as it says boards must obey existing law.</i>
6	Each board of trustees is also expected to comply with all general legislation concerning requirements such as attendance, the length of the school day, and the length of the school year.	<i>Deleted as it says boards must obey existing law.</i>
7	Each board of trustees is required to complete an annual update of the school charter for each school it administers, and provide the Secretary for Education with a copy of the updated school charter before 1 March of the relevant year.	<b><i>New clause 7 of Schedule 6, with further detail set out in regulations:</i></b> (1) A board must have the following strategic planning documents for its school: (b) an annual implementation plan for each year that sets out how the board intends to implement that strategy during the year.
8	Each board of trustees is required to provide a statement providing an analysis of any variance between the school's performance and the relevant aims, objectives, directions, priorities, or targets set out in the school charter at the same time as the updated school charter provided to the Secretary for Education under NAG 7.	<b><i>New section 87, with further detail set out in regulations:</i></b> (1) A board must give the Secretary— (a) a statement of variance by a date fixed by the Secretary each year; and