

Public Availability of School Annual Reports

Education Act Compliance by New Zealand State Schools

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Executive Summary

The Education (Update) Amendment Act 2017¹ was a significant piece of legislation widely described as the education sector's biggest revamp in 30 years².

The amendments included a requirement for all school Boards of Trustees to put their annual reports online in order to increase transparency to parents, caregivers, and their wider communities.

Section 87AB, which came into effect on 19 May 2017, states:

A board must ensure that its annual report is available to the public on an Internet site maintained by or on behalf of the board.

This research found that 1,759 (72%) state and state-integrated schools in New Zealand had not made their latest annual report online.

Of the hundreds of schools that the Education Review Office (ERO) has reviewed since the Education (Update) Amendment Act 2017 came into effect, only four have been identified as not being compliant with section 87AB.

There also appears to be a significant issue in the self-assurance checklists and compliance attestations made by school Boards of Trustees to ERO which seem to be accepted as true without independent verification by ERO.

The Auditor General audits the annual reports of school boards, but did not check for compliance with section 87AB, and did not know the compliance rate in their 2017 audits.

Annual report compliance failures were found to be both systemic and widespread across New Zealand. All parents and caregivers should be concerned and be asking questions of their schools and the Ministry of Education. Further investigations by state agencies are warranted.

¹ <http://www.legislation.govt.nz/bill/government/2016/0160/latest/DLM6928611.html>

²

<https://www.stuff.co.nz/national/education/84589834/a-number-of-changes-to-the-education-system-will-impact-on-children-and-parents>

Introduction

Objectives

1. To determine the number of schools that are not satisfying their obligations outlined under Section 87AB of the Education Act 1989.
2. To determine the number of schools that had been reviewed by ERO since 19 May 2017 and found to not be in compliance.

Rationale

During an investigation by this author, it was discovered that the school at which two of his children attended, Helensville Primary School, had not published their annual report on their website as mandated by the Education Act.

In November 2018, the author requested the annual report from the school's Board of Trustees under the Official Information Act. The request was refused by the Board on 1 February 2019 and a complaint is with the Ombudsman.

The author hypothesised that the situation at Helensville Primary School was not an isolated case and that the compliance failures could be both systemic and widespread across New Zealand.

The Auditor General noted in his 2017 school audit report³ that it was not clear how many schools had met the requirement to put their annual report on their website. This research addresses that gap and is extremely important in providing transparency and knowledge to all parents, caregivers and state agencies for the first time.

³ <https://www.oag.govt.nz/2018/school-audits/part-3>

Background

In 2016, the Education (Update) Amendment Bill was introduced to Parliament and went on to become one of the biggest revamps of the Education Act in nearly 30 years. The Bill introduced a number of new provisions, including those relating to seclusion and restraint, along with changes to the roles and responsibilities of school boards and to ministerial powers, and introduced new planning and reporting processes for schools with the aim of strengthening efficiency, accountability, and collaboration within the schooling network.⁴

On 15 May 2017, the Bill received royal assent with section 87AB coming into effect on 19 May 2017.

Section 87AB states:

A board must ensure that its annual report is available to the public on an Internet site maintained by or on behalf of the board.

An annual report is required to include⁵:

1. **Analysis of Variance:** a discussion of the outcomes achieved, compared to the outcomes planned, in areas of priority for the year. An appraisal of the school's performance based on its aims, objectives, directions, priorities or targets as set out in the annual section of the school charter. It will provide pointers to the Board's on-going strategy.
2. **List of Board of Trustees members** (if a Board member has acted for part of the year, the date that they ceased office)
3. **Statement on Kiwisport funding**
4. **Financial statements:** including income and expenditure, showing whether the school has managed to operate within the funding received, changes in net equity/assets, financial position, all cash received and all cash paid, significant accounting policies, contingencies and commitments.
5. **Statement of Responsibility**
6. **Independent Auditor Report**

In September 2018, the author released a report *Vulnerable Children Act 2014 Compliance Within New Zealand Primary and Secondary Schools*⁶. That research was in response to a

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<https://www.parliament.nz/en/pb/bills-and-laws/bills-digests/document/51PLLaw24641/education-update-amendment-bill-2016-2017-no-160-2>

⁵ <https://www.education.govt.nz/our-work/publications/education-circulars/latest-circulars/circular-201804/#App2>

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<http://improbable.co.nz/wp-content/uploads/2018/10/Vulnerable-Children-Act-2014-Compliance-within-New-Zealand-Primary-and-Secondary-Schools.pdf>

belief by the author that Helensville Primary School did not meet their obligations to provide emotional safety for his son.

During that investigation, further compliance issues were discovered by the author and complaints were laid with the Ministry of Education. Those included the most recent annual report not being available on the school's website.

In November 2018, the author requested the three most recent annual reports under the Official Information Act. The Board did not provide the information requested within the statutory 20 working days. The author then complained to the Ombudsman.

On 1 February 2019, the Board refused the request.

The Auditor General released the results of the 2017 school audits in December 2018⁷, which included:

In our report last year, we referred to the new requirement for schools to make their annual reports available on their websites and the difficulties that auditors had getting full copies of the Annual Report. The Education Act 1989 and the Ministry specifies a school must include in its Annual Report an analysis of variance, a list of trustees, financial statements (including the statement of responsibility), and a statement of Kiwisport funding.

Our auditors found that many schools were not aware of the requirement to publish their Annual Reports, even though the Ministry has provided guidance on this several times. Our auditors reminded schools of this requirement in their management letters to school boards.

It is not clear how many schools have met the requirement to put their Annual Report on their website. If it comes to our attention during the following year's audit that the school has not published its Annual Report, we will report it to the board. However, this does not promote timely accountability.

The Auditor General recommended that the Ministry of Education:

reinforce its guidance to schools on preparing and publishing their annual report, and consider how it can confirm that schools are reporting to their communities by publishing their annual reports online, in a timely manner.

⁷ <https://www.oag.govt.nz/2018/school-audits/>

Method

The Ministry of Education's New Zealand Schools Directory⁸ was used to provide an initial list of all state, partnership, and private schools in New Zealand. 2,456 schools that were classified as State or State Integrated and currently operating were included in this research.

The data was migrated to a Google Document spreadsheet⁹ and various fields that were not required for this research were removed.

For each school in the spreadsheet, their website was visited between 12–19 February 2019 to determine whether the latest annual report had been made publicly available online.

This was a laborious process. Annual reports were often difficult to locate with little consistency across websites. For those schools that did have the latest annual report on their website, it was typically found on a Board of Trustees page. In some cases, the annual reports could be found under School Information, or Information for Parents type pages. In a small number of cases, there was a direct link to the annual report from the school's homepage.

Eight schools¹⁰ provided their annual reports for the year ended 31 December 2017 to the Ministry of Education to host on their behalf as the school did not maintain its own website.

For the purpose of this research, a school was defined as having an annual report online if the audited financial accounts for the year ended 31 December 2017 were publicly accessible. Some schools only provided their analysis of variance on their website. For those schools, it was deemed the school had not provided their annual report online.

Spreadsheet Fields

School Name	Name of the school
School Website	URL of the school's website
2017 Annual Report	Annual report provided on school's website or provided to the Ministry of Education to host on their behalf
URL	Link to the school's annual report

⁸ www.educationcounts.govt.nz/data-services/directories/list-of-nz-schools (1 February 2019 edition)

⁹ <https://docs.google.com/spreadsheets/d/1Rg1n15XrWD4u7mig02pGdxe8n6DHrLkbEIKARSa3KvE/edit?usp=sharing>

¹⁰ <https://www.educationcounts.govt.nz/topics/financial-reports-of-nz-schools>

Results

2017 Annual Reports

Publically Available Online	Number	Percentage
Yes	697	28.4%
No	1,759	71.6%
Total	2,456	100.0%

ERO Reviews

In 2018, ERO reviewed hundreds of schools across New Zealand. Of those, only two were identified as not being in compliance with section 87AB of the Education Act.

Since the Education (Update) Amendment Act 2017 came into effect, ERO has only found four schools that are not in compliance with section 87AB. Of those four schools, only one has addressed the issue and published their annual report online.

Discussion

Significant Findings

The hypothesis that Helensville Primary School was not an isolated case of having its annual report publically unavailable online and that the compliance failures could be both systemic and widespread across New Zealand was supported by the data.

As of 18 February 2019, 72% of schools did not have their latest annual report online, almost two years after the Education (Update) Amendment Act came into effect and eight months after being required to file their 2017 annual reports with the Ministry of Education.

The Act was a significant piece of legislation designed to increase transparency to parents, caregivers, and the wider community. The legislation was widely discussed in the media and by the public. The Ministry of Education created resources and documents to advise schools on how to respond to the new legislation requirements. The New Zealand School Trustees Association (NZSTA) provided training, resources, and announcements to school boards to support their governance responsibilities.

Despite all of this information and support, only 697 schools out of 2,456 were found to have made their annual reports available online.

New Zealand taxpayers provided approximately 6.1 billion dollars in operational, salary, and capital expenditure on property funding for public school Boards of Trustees in 2017¹¹. Schools also ask parents and caregivers to make financial contributions in the form of school donations.

There are public expectations along with legal requirements that all public money expenditure is publically available for scrutiny. Secrecy around how public money is being spent raises suspicions of corruption.

The results of this investigation are sobering. Despite all the efforts made by lawmakers to do what they can to increase transparency, too many Boards of Trustees have failed their communities by not making their annual reports available online.

ERO

In preparation for an ERO review, a school Board of Trustees completes, signs and submits a board assurance statement and self-audit checklists to ERO. This includes answering whether

¹¹ <https://www.educationcounts.govt.nz/statistics/schooling/resourcing/47696>

they “ensured that the annual report is available to the public on an Internet site maintained by or on behalf of the Board”¹².

There appears to be a significant issue in the self-assurance checklists and compliance attestations made by Boards of Trustees to ERO. It would appear that their provided answers are taken to be true without independent verification, despite this being what most people would understand ERO to be doing.

In previous research by the author¹³, ERO was found to have failed to identify non-compliance with the Vulnerable Children Act at 94% of schools that were known to not have a Child Protection Policy.

ERO identified only two schools in 2017 and two in 2018 that were not in compliance with section 87AB of the Education Act. Of those four schools, only one has since made its annual account available online.

Of the estimated 800 schools that ERO reviews each year, this would amount to a failure to detect the issue for over 99% of schools visited.

ERO has failed to identify non-compliance with section 87AB. This is the second instance where widespread and systemic failure by ERO has been identified by the author. Parents and caregivers should now consider how trustworthy ERO’s reviews are and what else is not picked up on if their checks are cursory.

The Ministry of Education

Boards are required to submit their annual reports to the Ministry of Education by the 31st of May each year¹⁴. When the Ministry of Education is informed via a formal complaint that a school does not publish their annual report publically on their website, they will inform NZSTA to contact the school board about their legal requirements. However, this appears to be the extent of the response by the Ministry of Education.

The Auditor General

The Auditor General audits the annual reports of school boards, but did not check for compliance with section 87AB, and did not know the compliance rate. In future, the Auditor General plans to report it to the board if it comes to their attention during the audit of the 2018 annual reports. No further consequences other than a report are noted.

¹² www.ero.govt.nz/assets/Uploads/Board-Assurance-Statement-January-2018.docx

¹³

<http://improbable.co.nz/wp-content/uploads/2018/10/Vulnerable-Children-Act-2014-Compliance-within-New-Zealand-Primary-and-Secondary-Schools.pdf>

¹⁴ <https://www.education.govt.nz/our-work/publications/education-circulars/latest-circulars/circular-201804/#App2>

Tomorrow's Schools Independent Taskforce Report

In December 2018, the Tomorrow's Schools Independent Taskforce released their report¹⁵ identifying eight key issues and recommendations.

The first key issue that the Taskforce found was that the Board of Trustees self-governing model is not working consistently well across the country and many boards do not have the capacity and capabilities to do what is required of them.

The Taskforce recommendations included:

- The role of boards should be re-oriented so that their core responsibilities are the School Strategic and Annual Plan, student success and wellbeing, localised curriculum and assessment.
- Education Hubs would assume all the legal responsibilities and liabilities currently held by school boards with automatic 'delegation back' to principals regarding control of operational grants, among other things.

Education Hubs would replace current Ministry of Education regional offices and assume many of the 'business' governance responsibilities currently held by school boards, while also providing specialist educational support to build good teaching and learning for all their students.

This research into annual report compliance support the findings and recommendations of the Tomorrow's Schools Independent Taskforce.

Study Limitations

A small number of schools' websites did not load when they were visited, or displayed an error message. Some schools' website addresses had also changed from the Ministry of Education's database. Multiple attempts were made to access these websites or locate the new address where possible.

For those schools who have made their annual accounts online, it is unknown what date they were made publically available.

For corrections, amendments and updates, please contact the author.

¹⁵ <https://conversation.education.govt.nz/assets/TSR/Tomorrows-Schools-Intro-and-Summary-ENGLISH.pdf>

Conclusion

This research has uncovered a systemic nationwide failure of transparency involving school Boards of Trustees, ERO and the Ministry of Education in relation to section 87AB of the Education Act 1989.

All parents and caregivers should be asking their schools to provide their annual reports on their website publically so that they can see how their donations and taxpayer dollars are being spent, and how well the school is meeting their educational objectives.

Further Research

Additional investigations by state agencies are warranted:

- How many schools will publish their annual report online on, or shortly after 31 May 2019?
- What other attestations have been made by Boards of Trustees to ERO about taking all reasonable steps to meet its legal obligations be in compliance with legislation are not true?
- What else is ERO misleading parents and caregivers about in their reviews?

Recommendations

To the Minister of Education Hon Chris Hipkins

In light of these findings, the author requests a formal inquiry into New Zealand schools' compliance with the Education Act 1989, the Education Review Office processes, and Board Assurance Statements made by Boards of Trustees.

What actions will you take for Boards of Trustees that are not taking all reasonable steps to meet their legal requirements around transparency and reporting to parents and caregivers?

What assurances can you provide to parents and caregivers that this issue of non-compliance in relation to the Education Act 1989, and the Vulnerable Children Act 2014, is not an indication of systemic failures and non-compliance by school Boards of Trustees in other areas?

What assurances can you provide to parents and caregivers that this latest failure by ERO to detect this issue of non-compliance in relation to the Education Act 1989 is not an indication of systemic failure by ERO in other areas?

To all Parents and Caregivers

In light of the findings of this research, the author requests that all concerned parents and caregivers contact their school and request to see their annual report. Ask your school to make their annual report publically available online as required by law.

About the Author

Regan Cunliffe is a father of four children and lives with his wife and children near Kaukapakapa on a small farm. He is a freelance journalist and media commentator with an extensive background in digital media. Formerly, Regan was the founder and editor of *Throng*, a television community website.

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