



Education Report: Government response to the final report of the Tomorrow's Schools Review Independent Taskforce – *Update on draft Cabinet papers and consultation feedback*

To:	Hon Chris Hipkins, Minister of Education		
Date:	8 October 2019	Priority:	High
Security Level:	Sensitive	METIS No:	1208178
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Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

- Provides you with the next version of the draft Cabinet paper *Reform of the Tomorrow's Schools system: Paper one - proposed Government position*, the next draft of the companion Cabinet paper (legislative provisions), and their appendices for discussion at your next agency meeting on Thursday, 11 October;
- Summarises the feedback received from Ministerial and agency consultation and our recommended response to that feedback; and
- Recommends that you seek late lodgement of these Cabinet papers in order for them to be considered by SWC on Wednesday, 16 October.

Recommended actions

The Ministry of Education recommends that you:

- agree** to forward this Education Report and its annexes to your Associate Ministers of Education for discussion at your agency meeting on Thursday, 10 October

Agree / Disagree

- agree** to seek late lodgement of these Cabinet papers in order for them to be considered at SWC on Wednesday, 16 October

Agree / Disagree

Proactive release recommendation

- c. **agree** that this Education Report will **not** be proactively released until after the Education and Training Bill is introduced.

Agree / Disagree



Dr Andrea Schöllmann
Deputy Secretary
Education System Policy
08/10/2019

Hon Chris Hipkins
Minister of Education

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Update on draft Cabinet paper one (proposed Government position)

1. This version of the draft Cabinet paper *Reform of the Tomorrow's Schools system: Paper one - proposed Government position* (attached as Annex 1) and its appendices incorporates additional revisions discussed with your office for your review and feedback.
2. The table below sets out the most significant changes to the draft Cabinet paper. These have been highlighted yellow in the paper. We seek your feedback on the changes that have been made.

Section/s	Change
Monitoring and Evaluation	<p>Removed paragraphs 62 and 68 referring to SSC and ERO monitoring of the changes, and added a new paragraph 67 with an initial report back to you in November 2019 on how to best monitor progress and the reforms progress.</p> <p>This change was the result of feedback that the previous paras both SSC and ERO monitoring or providing advice on monitoring the programme was confusing and their different roles unclear.</p>
Leadership College or Centre and Leadership Advisors	<p>As these sections are closely connected they are now co-located together in the paper in paras 72-81.</p> <p>Previously the paper was unresolved on the location of the Leadership Centre or College. In this version it is located in the new Education Ministry. This provides for Leadership Advisors to be located in the ESA, close to principals and other leaders and supported by the enabling functions of the redesigned Ministry.</p> <p>This approach reflects the fundamental linkages between pedagogical leadership, curriculum and professional, learning and development and also how principals are a key point of connection to almost all support that schools will receive from the ESA.</p> <p>The Leadership Centre or College will need to be closely connected to the independent Teaching Council which sets the leadership strategy as part of its role in leading the teaching profession. The Leadership Centre or College will give effect to the leadership strategy.</p>
Principal eligibility criteria	<p>We have removed previous paragraph 84 that referred to the principal eligibility criteria potentially being used to establish a pre-approved 'pool' of people eligible to be principals.</p> <p>Concerns were raised about how this paragraph could be interpreted (ie. as giving the Ministry the power to arbitrarily choose who could be a principal and who couldn't). Consideration of whether some kind of pre-approval process is desirable will form part of the development of the eligibility criteria and the</p>

	mechanisms needed to support the implementation of this criteria. Advice on this will be included in the report back due to you on the eligibility criteria in March 2020.
Responsibilities for property	We have added new paragraphs 90-95 to further clarify the nature and rationale for the proposed changes.
Disability and Learning Support	Para 113 now includes specific reference to the role of the ESA in providing better support for learners/ākonga with disabilities and/or learning support needs. Paragraph 145 has also been strengthened to make specific reference to the Government's <i>World Class Inclusive Education</i> objective for the education system and that this includes providing an inclusive education system for children and young people with disabilities.
Mandatory Board of Trustees Training	We have added a new para 125 that explicitly states that you are also seeking advice on whether there should be mandatory training for Boards of Trustees members. This has also been added to the indicative timeline in Appendix Four.

Update on companion Cabinet paper two (legislative provisions)

- We have also received feedback from your office specific to the draft Cabinet paper *Reform of the Tomorrow's Schools system: Paper two – legislative decisions*. This feedback is reflected in the attached revised draft (Annex 2).
- The table below sets out the most significant changes to the draft Cabinet paper. These have been highlighted yellow in the draft Cabinet paper.

Section	Change
Te Tiriti objective for Boards	<ul style="list-style-type: none"> Removed specific reference to mana whenua, instead this objective now requires school boards to work to ensure that their plans, policies and local curriculum reflect local tikanga, mātauranga Māori and te ao Māori; Clarified that schools need to take all reasonable steps to <i>make available</i> instruction in tikanga Māori and te reo Māori

- As requested, we have also removed all te Tiriti components from the Tranche 5 legislation Cabinet paper and included them in this paper. Changes include removing the partnership aspects and replacing them with the proposal to enable Ministers of Education and Crown-Māori Relations, after consultation with Māori, to jointly issue a statement to specify what education agencies must do to give effect to the Public Service Bill expectations of complying with Treaty obligations.

Update on Agency consultation

- On 24 September, you agreed to the Ministry commencing agency consultation on the draft Cabinet papers *Reform of the Tomorrow's Schools system: Paper one - proposed Government position* and *Reform of the Tomorrow's Schools system: Paper two – legislative decisions* [METIS 1206660 refers]. Consultation closed on Friday, 4 October.

7. The following agencies received the paper for consultation:

- State Services Commission (SSC)
- Treasury
- Department of Prime Minister and Cabinet (PAG)
- New Zealand Qualifications Authority (NZQA)
- Education Review Office (ERO)
- Te Arawhiti
- Ministry of Justice
- Ministry of Youth Development
- Ministry for Women
- Ministry for Pacific Peoples
- Te Puni Kōkiri
- Ministry of Business, Innovation and Employment
- Ministry of Social Development
- Office of the Children’s Commissioner
- Office of the Disability Commissioner
- Parliamentary Council Office
- Oranga Tamariki – Ministry for Children

8. Ministerial and agency consultation closed on Friday, 4 October.

9. We received formal feedback from Treasury, NZQA, the Ministry of Social Development, Te Puni Kōkiri, Oranga Tamariki, Office of the Children’s Commissioner, Disability Rights Commissioner, the Office for Disability Issues, and the Ministry of Business, Innovation and Employment. Your office also received feedback from the office of the Minister of Justice and DPMC (PAG). Overall agencies were supportive of the paper.

10. NZQA and the Office of the Children’s Commissioner were very supportive of the paper and had no substantive feedback on the papers themselves.

11. Where agencies have made minor suggestions we have incorporated that feedback where we have judged that it is consistent with the spirit of the paper. Other more substantive feedback along with our response is set out below.

Minister/ Agency	Key Feedback
<p>Office of Hon Andrew Little, Minister of Justice</p>	<p>Question Do we have in place any express code of conduct or statutory statement of duties (say, analogously with company directors), that Board members’ primary duty is to act in the overall best interests of the school for which they are responsible? If not, is that under consideration, as part of this process?</p> <p>Ministry Response There is no express code of conduct or statutory statement of duties of this type. However, section 24 of the Education Act 1989 protects school board trustees from personal liability for board actions/omissions only if the trustee acted in good faith in carrying out or intending to carry out board functions. This is a powerful incentive to act in good faith in the best interests of the school. We don’t think it necessary to impose additional duties in this regard.</p>

	<p>Question It has been suggested that Codes of Conduct tend to fail when the complaint is about a member's conduct towards another or others. It puts all Board members in a position of having to pick sides and/or make determinations in relation to someone who has been a colleague (and for those looking in from the outside, there may be a feeling that everyone has a conflict of interest). For some matters, it might be necessary to have access to an external process.</p> <p>Ministry Response Removal by the Minister is an external process. Adding another external process could introduce unnecessary cost and complexity but it is something that could be considered later if the proposed approach is not working.</p> <p>Question In relation to criteria for appointing a school principal, would it help to be clear that any statutory or centrally-directed criteria are not exclusive so that schools appointing at a time of crisis can include criteria relevant to the specific needs of the school at that point in time? Or is this not advisable?</p> <p>Ministry Response The eligibility criteria are envisaged as being a set of minimum standards that someone applying to be a principal needs to meet. Boards of Trustees will also have the ability to impose their own standards above, or in addition to, the eligibility criteria prescribed. We have clarified this in the legislative provisions Cabinet paper.</p>
<p>DPMC (PAG)</p>	<p>Supportive of the proposal that Board objectives include taking all reasonable steps to provide instruction in tikanga Māori and te reo Māori and taking all reasonable steps to reduce inequitable outcomes for Māori students with more weight being given to the latter.</p> <p>Expressed concern regarding the requirement that schools work in partnership with mana whenua to ensure that its plans, policies and directions reflect local tikanga, mātauranga Māori and te ao Māori and whether this was reasonable or doable given the large catchments of some schools and practical difficulties determining who the mana whenua is. The Treaty relationship is with the Crown – not individual schools.</p> <p>Recommended that this objective is modified to require that Boards work, to the extent reasonable, to ensure that its plans, policies and directions reflect local tikanga, mātauranga Māori and te ao Māori.</p> <p>Ministry response As per para 4, we have revised the wording in both papers to refer more broadly to the Crown and Māori/iwi relationship.</p>

<p>Treasury</p>	<p>Overall, the framing around equity presented in the case for change does not thread through into the proposed responses. The three key proposals presented upfront do not describe how they will work to reduce these disparities.</p> <p>We recommend that a small number of high impact measures designed specifically to address equity should be brought forward to be implemented in either Budget 2020, or 2021, alongside and complementary to the structural changes.</p> <p><i>Addressing the needs and aspirations of Māori and Pacific Learners</i></p> <p>Aside from developing and strengthening the Māori medium pathway, there is little mention of policies and measures to directly target the 90% of Māori and Pacific Learners across the system currently attending non Māori Medium Education institutions. The proposals need to go further in order to achieve the transformational change required to address the issues identified.</p> <p>In addition to a greater focus on interventions targeted towards improving outcomes for underserved learners, we recommend embedding the logic of improving equity throughout all initiatives.</p> <p><i>Equity index</i></p> <p>We would recommend making a stronger case for prioritising this in Budget 2020 alongside your structural proposals.</p> <p><i>Monitoring and evaluation</i></p> <p>As part of the detailed design of the three key parts, the Treasury also expects to see a clear plan for monitoring and evaluating the success of the work programme, with particular regard to the impact on addressing the issues outlined in the Case for Change.</p> <p>Ministry response</p> <p>We have made minor changes throughout the paper to provide a more explicit connection between the changes proposed and more equitable outcomes for the learners/ākonga the system currently underserves.</p> <p>We have also added in a new paragraph 73 that reflects the need to grow Māori and Pacific leadership within the system.</p>
<p>Ministry of Social Development</p>	<p>We recommend the Ministry also engage with the Children’s Convention Monitoring Group (CMG), when consulting disabled students, whānau and disability groups on the more detailed work of establishing and operationalising the community-based dispute resolution panels.</p> <p>Ministry response</p> <p>We have noted the recommendation and will consult with the CMG when consulting on more detailed design of the dispute resolution panels.</p>

<p>Te Puni Kōkiri</p>	<p>The paper currently appears distant from how the voice of those most underserved by the system has influenced these papers.</p> <p>The proposed increase of centralised control and diffused responsibilities for learner outcomes risks decreasing direct accountability. How will the proposal for a new, networked and supported system be more responsive to learners and their whānau when a key issue now is the increasing numbers of Māori who distrust the education system?</p> <p><i>Education Service Agency</i></p> <p>The Education Service Agency proposed to be established needs to consider not only Mana Whenua (this is crucial) but how other Māori will be represented. There are a significant number of whānau and children that reside outside of their rohe, and we are concerned with how the voice of Māori will be represented at this level.</p> <p>Ministry response</p> <p>We recommend further detail on how the new, networked and supported system be more responsive to learners and their whānau be included in the November report back on the ESA.</p> <p>As per para 4, we have revised the wording in both papers to refer more broadly to the Crown and Māori/iwi relationship.</p> <p>We have added in a new paragraph 73 that reflects the need to grow Māori and Pacific leadership within the system.</p>
<p>Oranga Tamariki</p>	<p>We suggest there is more detail about what full-service sites are. This seems like a significant development that may require more than guidelines.</p> <p><i>Education Service Agency</i></p> <p>We are supportive of shifting appropriate functions to a regional level. We suggest you consider giving the Education Service Agency specific responsibilities to ensure no children are “falling between the cracks”.</p> <p>We also suggest the Education Service Agency have a responsibility to ensure that appropriate processes and links are in place to support enrolment and attendance at school for children and young people in care.</p> <p>Ministry response</p> <p>We note that the work around full-service sites is allocated as Priority C (progress in the next 4+ years). Scoping of what full-service sites would consist of should be included in this work when it progresses.</p> <p>We recommend that the feedback around the ESA is included in scope of the November 2019 report back on the design and functions of the ESA.</p>
<p>Office for Disability Issues</p>	<p>There needs to be a mechanism to strengthen the purpose of the ESA, e.g. a “quasi” governance board or advisory board, representative of local stakeholders, for each ESA, to ensure that the balance between local and national accountability is maintained.</p>

	<p>One of the principles of redesign should be “evidence informed” encompassing the use of data, research evidence and contextual/cultural knowledge.</p> <p>The explanation of the “Code of Conduct for School Boards of Trustees” is unclear on how it would apply to principals who, although not elected to a board, are members of the board. Consideration should be given as to how the Code of Conduct for Boards covers the unique role of the principal as a member of the Board.</p> <p>Ministry response</p> <p>We recommend that further detail on mechanisms to strengthen the purpose of the ESA be included in the November 2019 report back.</p> <p>We have added a reference to changes being evidence informed.</p> <p>The code of conduct will apply to all Board members regardless of whether their membership is via election or non-election (in the case where there are not enough nominees to require an election), co-option, or by virtue of holding the role of school principal. However, the sanctions will not apply to school principals. Removing a principal from the board would prevent that principal from meeting their employment obligations. The Board is the principal’s employer and as such, already has the ability to deal with problematic behaviour. We have clarified this in the legislative provisions paper.</p>
<p>Disability Rights Commissioner</p>	<p>We suggest other actions could be committed to in the short to mid-term to assist the current generation of learners. We believe an explicit commitment to address critical and urgent needs for disabled students needs to be referenced in the papers.</p> <p>The papers do not refer explicitly to what changes will be made that will affect all aspects of education reform in order to create inclusion. We cannot see where the transformation to create a “world class public education system” will occur, particularly for disabled students. We recommend strongly that commitments to the United Nations Convention on the Rights of Persons with Disabilities are built into all new legislation arising from these papers.</p> <p>Ministry response</p> <p>As noted in the table in paragraph 2, this version of the Cabinet paper includes further strengthening of the wording around the rights of children and young people with disabilities and/or learning support needs.</p>

Ministry of Business, Innovation and Employment	<p>We would see value in discussing further how the Tomorrows Schools reforms support post-school transitions, and amplifying the discussion about the related reforms that support transitions.</p> <p>Ministry response</p> <p>We recommend that this be included in the November 2019 report back that will provide more detailed advice on the design of the ESA.</p>
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Annexes

- Annex 1: DRAFT Cabinet paper: “Reform of the Tomorrow’s Schools system: Paper one – proposed Government position” including:
- Appendix One: *Taskforce’s final report* (previously provided)
 - Appendix Two: *Table reconciling the Government position with Taskforce recommendations and actions*
 - Appendix Three: *Concept design for new Education Ministry* (provided separately via hardcopy)
 - Appendix Four: *A3 DRAFT Indicative Timeline for key components of the Tomorrow’s Schools reform*
 - Appendix Five: *DRAFT Government position document*
- Annex 2: DRAFT Cabinet paper: “Reform of the Tomorrow’s Schools system: Paper 2 - legislative provisions”