

Cabinet Paper material Proactive release

Minister & portfolio Hon Chris Hipkins, Minister of Education
Name of package Reform of the Tomorrow's Schools system: Paper 2 – legislative provisions
Date considered 16 October 2019
Date of release 12 November 2019

These documents have been proactively released:

Cabinet Paper: Reform of the Tomorrow's Schools system:
Paper 2 – legislative provisions
Date considered: 16 October 2019
Author: Ministry of Education

Social Wellbeing Committee Minute – SWC-19-MIN-0154
Date considered: 16 October 2019
Author: Cabinet Office

Cabinet Minute – CAB 19-MIN-0539
Date considered: 21 October 2019
Author: Cabinet Office

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Office of the Minister of Education

Chair, Cabinet Social Wellbeing Committee

Reform of the Tomorrow's Schools system: Paper two - legislative provisions

Proposal

- 1 This paper seeks the policy approvals for the Education and Training Bill (the Bill) in relation to the reform of the Tomorrow's Schools system and approval to issue related drafting instructions.
- 2 A companion paper entitled *Reform of the Tomorrow's Schools system: Paper one - proposed Government position* sets out a wider range of areas for change and further work.

Executive Summary

- 3 The Education and Training Bill (scheduled for introduction later this year) will, in conjunction with the Education (Vocational Education and Training Reform) Amendment Bill, repeal and replace the Education Act 1989, the Education Act 1964 and the Industry Training and Apprenticeships Act 1992, with a new Education and Training Act.
- 4 These proposals form part of the Government position on the reform of the Tomorrow's Schools system.
- 5 Two proposals are aimed at strengthening governance and improving transparency and accountability in relation to school boards of trustees (boards):
 - 5.1 the establishment of a mandatory Code of Conduct for boards (backed up with sanctions for non-compliance) will make boards more accountable, foster collaboration between boards and encourage good school governance practice;
 - 5.2 changes to boards' objectives will refocus them on a wider range of objectives, not just educational achievement, in recognition of the important role that boards play in developing all aspects of our future generations.
- 6 The proposed changes to board objectives are also intended to ensure that boards are giving effect to their obligations under Te Tiriti o Waitangi.
- 7 I also propose two legislative amendments to give better effect to Te Tiriti o Waitangi (Te Tiriti) across the education system. First, I recommend that the Bill include a Tiriti clause to reference each provision in the Bill that specifies functions, duties and powers relating to Te Tiriti.

- 8 Second, I propose that a new provision be included in the Bill that would enable the Ministers of Education and Māori Crown Relations: Te Arawhiti, after consultation with Māori, to jointly issue and publish a statement to specify what education agencies must do to give effect to the Public Service Bill Treaty of Waitangi expectations, with the objective of providing equitable education outcomes for all students.
- 9 The establishment of minimum eligibility criteria for appointing principals will help to strengthen leadership in the schooling system.
- 10 Finally, I propose to enable the establishment of independent, local complaint and dispute resolution panels to help students and their whānau who have not been able to resolve complaints and disputes with the school. The panels will deal with rights-based complaints and disputes. They will provide mediation, make recommendations, make binding decisions (with the prior approval of both parties) and award remedies.

Background

- 11 This is the companion paper to the Cabinet paper *Reform of the Tomorrow's Schools system: Paper one - proposed Government position* which is also before the Committee today. It is also the fourth tranche of policy proposals for the Education and Training Bill (the Bill) The Social Wellbeing Cabinet Committee (SWC) approved the first, second and third tranches of policy proposals on 3 April 2019, 28 August 2019 and 25 September 2019 respectively [SWC-19-MIN-0029, SWC-19-MIN-0107, SWC-19-MIN-0132]. This Bill holds a priority four on the 2019 Legislative Programme.

Comment

- 12 As noted in the companion paper *Reform of the Tomorrow's Schools system: Paper one - proposed Government position*, these proposals form part of the Government position on the reform of the Tomorrow's Schools system.
- 13 The table below maps each proposal to the relevant education work programme objective agreed to by SWC on 11 September 2019 [SWC-19-MIN-0120]

Proposal	Government priority area
Code of Conduct for School Boards of Trustees	Quality teaching and leadership. <i>Quality teaching and leadership make the difference for learners and their whānau</i>
Refocusing the role of School Boards of Trustees	
Giving effect to Te Tiriti	
Eligibility criteria for principals	

Enrolment scheme development and consultation	Barrier free access. <i>Great education and outcomes are within reach for every learner.</i>
Complaint and dispute resolution panels	

Code of Conduct for School Boards of Trustees

- 14 Periodically issues have arisen regarding the behaviour of individual members of school boards of trustees. During its consultation phase, the Tomorrow's Schools Independent Taskforce (the Taskforce) was informed of a number of concerns, in particular members seeking to progress their own interests rather than those of the board. In the absence of any statutory based individual or collective duties, the only guidance as to the responsibilities of board members is the New Zealand School Trustees Association's voluntary Code of Behaviour.
- 15 The Taskforce has recommended the creation of a mandatory national Code of Conduct for school boards of trustees. Such a Code would give board members a common basis to work from, encourage the development of good practice over time, and provide for more transparent accountability.
- 16 I agree with the Taskforce that there is a need to specify individual and collective duties for board members, and to make compliance mandatory.
- 17 In the education sector, school boards of trustees are the only Crown entity governing body for which the individual and collective duties of members are not set out in either the Education Act 1989 or the Crown Entities Act 2004. In the case of school boards, the application of generic statutory duties designed to provide the same level of accountability as would be expected of professional board directors would be complex. School boards have a unique range of members with differing levels of experience and skills, and a strong emphasis on voluntary, representative members (such as student and parent representatives).
- 18 A Code of Conduct provides greater flexibility to set out commonly held expectations as to the minimum standards of conduct expected of board members, which can then be tailored as appropriate for particular types of members, such as the student representative. By setting out the minimum standards, individual school boards can then decide to expand upon these to reflect local expectations, provided these are consistent with those in the Code of Conduct.
- 19 For a mandatory Code of Conduct to be effective, there should be remedies available for addressing significant and/or persistent breaches of the Code. Both examples of statutory based Codes of Conduct for members¹ provide for remedies in the event of Code breaches comprising misconduct on the part of a member.

¹ Local authority Codes of Conduct and the Code of Conduct for the Reserve Bank's Monetary Policy Committee.

- 20 I propose that:
- 20.1 the Minister of Education have the power to issue, by *Gazette* notice, a mandatory Code of Conduct setting out the minimum standards of conduct expected of members of school boards of trustees;
 - 20.2 the Minister of Education be required to consult with the national bodies representing the interests of governing bodies of schools, and any other stakeholders that he or she considers ought to be consulted;
 - 20.3 the Code of Conduct be a disallowable instrument; and
 - 20.4 individual school boards be able to specify additional standards, by way of resolution, provided these are consistent with the Education Act 1989 and the standards set out in the Code of Conduct
- 21 Given that I am also proposing that there should be appropriate remedies for breaches of the Code of Conduct, making the Code of Conduct a disallowable instrument would enable external scrutiny by the Regulations Review Committee. Such an approach is consistent with that adopted for the mandatory Code of Conduct for the teaching profession.
- 22 Any remedies need to take account of the autonomous position of school boards of trustees. I propose in the first instance that school boards should have the ability to censure a member, except where that member is a school principal, for significant and/or repeated breaches of the Code of Conduct. Where the breaches are of the minimum standards of conduct and the board believes that a member's failure to comply with the Code of Conduct may justify the member's removal from the board, the Minister, acting on written notice from the board, should, if satisfied that there is just cause to do so, be able to remove the member
- 23 The process for removal of a member of a school board of trustees is similar to that provided for in the case of a member of a tertiary education institution council, which have a similar status to school boards of trustees under the Crown Entities Act 2004.
- 24 It is not appropriate for the sanctions to apply to school principals. Under section 94 of the Education Act 1989, State school principals are required to sit on school boards. 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 any professional conduct matters relating to the principal should such issues arise. The proposal will however cover any staff or student representatives.
- 25 Alongside the Code of Conduct, I will also be progressing policy work considering whether board of trustees' members should also be required to undertake governance training.

Refocusing the role of School Boards of Trustees

- 26 I support the view that school governance must be underpinned by Te Tiriti o Waitangi and the rights of students².
- 27 Clause 5 of the sixth schedule to the Education Act 1989 sets out the board's objectives in governing the school. The primary objective is to ensure that every student at its school is able to attain their highest possible standard of educational achievement. The clause also provides for a number of secondary objectives.
- 28 I propose to remove the distinction between the existing primary and secondary objectives because I consider other objectives to be equally as important as the existing primary objective, the substance of which will be retained. I am proposing that the legislation provide for four objectives that give as much weight to, for example, the board's obligations in relation to pastoral care and giving effect to Te Tiriti, as to the board's obligations in relation to academic achievement. I propose to include an objective to give effect to Te Tiriti (Objective 4) and student rights³ (as a part of Objective 2).
- 29 I propose that school boards' primary objectives in governing schools are:
- 29.1 Objective 1: To ensure that every student at the school is able to attain their highest possible educational standard.
 - 29.2 Objective 2: To ensure that the school is a physically and emotionally safe place for all students and staff and that the school gives effect to relevant student rights and takes all reasonable steps to eliminate racism, stigma, bullying and discrimination within the school
 - 29.3 Objective 3: To ensure that the school is inclusive of and caters for students with differing needs
 - 29.4 Objective 4: To ensure that the school gives effect to Te Tiriti including through:
 - 29.4.1 working to ensure that its plans, policies and local curriculum reflect local tikanga, mātauranga Māori and te ao Māori;
 - 29.4.2 taking all reasonable steps to make available instruction in tikanga Māori and te reo Māori;
 - 29.4.3 achieving equitable outcomes for Māori students.
- 30 In meeting these objectives, the board must:
- 30.1 have particular regard to the statement of National Education and Learning Priorities;

² For the purposes of the Bill, student rights means relevant student rights set out in the Bill of Rights Act 1990, the Human Rights Act 1993 and the new Education and Training Act.

- 30.2 give effect to its obligations in relation to the foundation curriculum statements, the national curriculum statements, and national performance measures (if any);
- 30.3 give effect to its obligations in relation to teaching and learning programmes;
- 30.4 give effect to its obligations in relation to monitoring and reporting of student's progress;
- 30.5 perform its functions and exercise its powers in a way that is financially responsible;
- 30.6 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;
- 30.7 comply with all of its obligations under the (new) Education and Training Act or any other Act.

Treaty of Waitangi/ Te Tiriti o Waitangi

- 31 My proposed changes to board objectives are also the primary means of providing in legislation for boards to give better effect to meeting their obligations in Te Tiriti. The revised objectives will require boards to give greater priority to their existing obligations under Te Tiriti.

Objective 4: Giving effect to Te Tiriti

- 32 This objective requires boards to give effect to Te Tiriti and explains what they have to do to meet this requirement.

Boards working to ensure that their plans, policies and local curriculum reflect local tikanga, mātauranga Māori and te ao Māori

- 33 In my view, requiring boards to work to ensure that their plans, policies and local curriculum reflect local tikanga, mātauranga Māori and te ao Māori, will ensure these concepts are integral to how schools work and their teaching and learning practices.
- 34 In practice I expect boards to form and maintain ongoing relationships with local Māori communities, in order to ensure that their policies, plans and local curriculum reflect local tikanga, mātauranga and te ao Māori.
- 35 A requirement that plans, policies and practices reflect 'local tikanga' rather than 'the unique position of the Māori culture', as is currently required in the Education Act 1989, emphasises the importance of local history and practices, rather than a generalised view of Māori culture.

Making available instruction in Te Reo and Tikanga Māori

- 36 Currently boards are required to take all reasonable steps to provide instruction in tikanga and te reo Māori for full-time students whose parents ask for it. Proposed objective 4 – giving effect to Te Tiriti, will:
- 36.1 remove the current requirement that its availability is for full-time students only – under the new provision it would be available to any student;
 - 36.2 remove the requirement that parents must first request instruction in tikanga and te reo Māori; and
 - 36.3 strengthen the expectation that students will learn tikanga Māori and te reo Māori at school.
- 37 There are currently insufficient numbers of te reo Māori teachers to ensure that every child can learn te reo Māori at school. Also, current funding is insufficient to support all Māori educational institutions to meet potential demand. However, the objective of my proposal is to challenge boards to improve these aspects of education for their learners/ākonga. The new provision would give boards the flexibility to work with other providers and schools to provide this service, such as virtual learning networks, their cluster or Kāhui Ako or Te Aho o Te Kura Pounamu (the correspondence school).
- 38 I am aware that there is more to be done, particularly through implementation of the Workforce Strategy and the Tomorrow's Schools Review, to achieve a system that truly reflects Māori Crown relationships under Te Tiriti. The Ministry has existing programmes, and other supports under development, to grow a culturally competent workforce and the number of teachers competent in te reo Māori. These supports will need to be developed further.
- 39 Given the status of te reo Māori as a taonga and one of our three national languages, it is incumbent on the Crown to ensure that education legislation provides impetus for system transformation. It will also contribute to meeting the Crown's duty to actively protect tino rangatiratanga rights and will also make a significant contribution to achieving the Crown's *Strategy for Māori Language Revitalisation 2018 – 2023 – Maihi Karauna*

Achieving equitable outcomes for Māori students

- 40 It is crucial to address the inequitable outcomes Māori experience in the schooling system. Requiring boards to achieve equitable outcomes for Māori students is a concrete way of giving effect to Te Tiriti at the individual school level.

Giving better effect to Te Tiriti o Waitangi/The Treaty of Waitangi at a national level

- 41 The Crown has a duty to actively promote and protect Te Tiriti rights and to develop education system settings in a way that reflects Māori Crown relationships. To support the education system to deliver on these rights, I am proposing a number of additional legislative changes aimed at

strengthening and clarifying Te Tiriti requirements for education sector government agencies under the 1989 Act.

- 42 Furthermore, I have commissioned the Ministry of Education to provide advice on management of the national curriculum and local curriculum settings to reflect Māori-Crown relationships. I will report to Cabinet once I have received this advice. I have also commissioned the Ministry to undertake further work with Māori, over the next two years, to assess education legislation (including regulations) from a Tiriti perspective.

Form of a Tiriti clause in the Bill

- 43 Currently there is no Tiriti clause in the Education Act 1989. I propose that such a clause be included in the Bill in the form of a specific clause which sets out in one place all of the provisions in the Bill which relate to Tiriti related functions, duties and powers. This has been Parliamentary Counsel's preferred approach to developing Tiriti clauses in recent years.

Ministerial expectations on how education agencies will give effect to Te Tiriti

- 44 There is currently a legislative gap relating to the duties of education agencies' compliance with Te Tiriti. For example, there is no statutory specificity on how the Ministry of Education, New Zealand Qualifications Authority, the Education Review Office or the Tertiary Education Commission must give effect to Te Tiriti, and there is no specification as to what 'giving effect' might look like. This is likely to change when the proposed Public Service Bill, being developed by the State Services Commission, is enacted. Cabinet has agreed that the Public Service Bill will include a prominent clause that affirms the role of the public service in supporting Māori-Crown relationships, with reference to Te Tiriti. The Public Service Bill will also include a number of expectations of the public service leadership to ensure that the public service is well positioned to fulfil this role effectively. (CAB-19-MIN-0250 refers).
- 45 It is the role of the public service to support the Crown to fulfil its obligations under Te Tiriti. I therefore propose that the Bill include a provision to enable the Ministers of Education and Māori Crown Relations: Te Arawhiti, after consultation with Māori, to jointly issue and publish a statement made and gazetted under the new Education and Training Act to specify what education agencies must do to give effect to the Public Service Bill expectations, with the objective of providing equitable education outcomes for all students. The intention is to provide a formal and publicly accessible statement that provides greater specificity around what those agencies must do to be Tiriti compliant.
- 46 Such a provision would ensure that education agencies' approach to Te Tiriti are aligned with the rest of the public sector. It would also provide a clear statement to Māori, and the rest of New Zealand about how education agencies will give effect to their Tiriti responsibilities.

Establishing criteria for appointment as a school principal

- 47 The principal role is demanding and complex and critical to the success of a school and the educational outcomes of the learners/ākonga within that school. Currently the only legal requirement for appointment as a principal is being a registered teacher who holds a current practising certificate.
- 48 At present, our education system relies heavily on the ability of Boards of Trustees to identify, attract and employ principals. While boards are supported by NZSTA and the Ministry with guidelines and templates, and other external sources, it is ultimately left to each board to set the criteria they use to appoint a principal. Some boards also draw on a range of other supports for appointment according to their own needs and networks, such as hiring consultant advisers, undertaking consultation with their communities and staff about what they want from a principal, and asking other boards what they look for in a principal.
- 49 There is no mandatory requirement for any particular skills, knowledge, attitudes, or experience to be included in those criteria to ensure the appointment of an effective principal. This results in a high level of variability in the quality of principal appointments across the system.
- 50 I propose the establishment of eligibility criteria for appointments to school principal roles so schools are led by leaders with the appropriate skills and expertise. The criteria will take the form of minimum national standards that apply to all principal appointments. Boards will also be able to set additional school-specific criteria.
- 51 I consider that the responsibility for establishing the criteria should sit with the Minister of Education with the ability to delegate the authority to, for example, the Teaching Council, in the future. I propose that provisions be included in the Bill requiring the Minister of Education to issue specific criteria that must be met for a principal to be appointed. The Minister should also be required to consult the Teaching Council and other professional bodies on the proposed criteria. Establishment of such criteria would:
- 51.1 create system-wide consistency about the skills, competencies, knowledge and expertise candidates for principal roles need to demonstrate;
 - 51.2 support better understanding of the background and experience necessary for school leadership, amongst people aspiring to a principal role as part of their future career;
 - 51.3 provide confidence for boards that they are making the right appointments;
 - 51.4 signal that the role of principal is of importance to the system more broadly than as a leader of one school.
- 52 This proposal could potentially compound workforce supply issues by raising barriers to recruiting a principal, particularly in rural or isolated areas. It may also discourage existing principals from seeking a new principal position (depending on what the criteria are). However, given the criticality of the role in the success (or failure) of a school I consider that we cannot strengthen and

improve our current system without lifting the bar on the requirements for principalship. Additional support is already available for the recruitment of principals in 'hard to staff' areas, such as rural and isolated communities. If additional pre-requisite requirements exacerbate recruitment challenges, existing solutions could be expanded as required."

- 53 These are "appointment" criteria and as such, would only apply to people seeking appointment to a principal role after the eligibility criteria have been issued and come into force⁴. I propose that the enabling provision comes into force on the commencement of the Education and Training Act and that there be a minimum six month transitional period to allow sufficient time for the criteria to be developed and socialised with the sector.
- 54 Principals employed under the existing legislation who do not currently meet the new criteria may not have had the same professional development opportunities being offered to new principals. Over time we would look to ensure they have ongoing opportunities to upskill and develop to meet the same criteria as those appointed as principals under the new legislation. This will be considered as part of the longer-term Leadership work foreshadowed in the companion paper.

Board rules

- 55 Boards have the ability under the 1989 Act to make rules. These rules are given the status of law. In contrast to other entities with the power to make rules, boards are not required to undertake prior consultation. I propose amending the Bill to require a board to undertake consultation with its students, staff, and school community, on its rules. This would be another means of reflecting the Taskforce's broader intentions regarding greater student, staff and community engagement in their schools.

Developing and consulting on enrolment schemes

- 56 Enrolment schemes established under the 1989 Act are the main tool the Ministry has to manage over-crowding in schools. Enrolment schemes reduce the need for expensive property solutions for over-crowded schools.
- 57 Under the 1989 Act, the Secretary for Education (Secretary) can provide a written notice to a school that is, or is likely to be, overcrowded, and the board of that school must develop an enrolment scheme for the school. The board is responsible for both developing and consulting on enrolment schemes. The 1989 Act sets out specific consultation requirements that boards must comply with. The scheme must then be approved by the Ministry of Education.
- 58 Under the current framework, schools can manipulate the zone based on areas they most wish to take students from; for example, making zones that include high socio-economic neighbourhoods and exclude closer, more disadvantaged, neighbourhoods. This can detrimentally affect students that are already at a disadvantage.

⁴ As well as those applying as first time principals, this includes incumbent principals who apply for new roles after the new legislation commences.

- 59 Developing and consulting on establishing a new enrolment scheme, or modifying an existing scheme, is a significant workload for a group of people who are almost all volunteers. They can also be subject to intensive community lobbying and come under huge pressure to make changes to suit particular interest groups. I do not believe this is a fair position to place Board members in.
- 60 In light of the issues with this framework, I propose that boards should no longer have the role of developing enrolment schemes. Instead, responsibility for developing and consulting should be undertaken at a regional level so that the best interests of all learners/ākonga and their whānau are taken into account.
- 61 I believe the Ministry of Education, at the regional level, is best placed to have this role (in effect this is likely to mean the new Education Service Agency within the Ministry, as discussed in Paper 1). The Ministry would work closely with the relevant schools to ensure their view and those of their community were taken into account as part of the design process. Schools would also be consulted on the enrolment scheme, along with other interested parties.
- 62 This change will provide more transparency and consistency for the system, mitigate the risk of enrolment zones being used to serve the interests of individual schools in a way that causes detriment to other schools and students, and instead focus on what is best for all learners and schools in the area. It will enable a more cohesive approach to managing the provision of quality education for all learners within a community, their whānau, and the regional schooling network.
- 63 I propose to amend the Education Act 1989 to shift the responsibility for developing and consulting on enrolment schemes from boards of trustees to the Ministry of Education and to provide for boards of trustees to have input to the development of enrolment schemes. The detail of how boards will have input will ultimately be provided for in regulations.
- 64 The Bill will need to include transitional provisions to manage the change in responsibilities for developing and consulting on enrolment schemes. I propose that any schemes that are in development at the time the Bill comes into force will continue to be developed in accordance with the current provisions in the 1989 Act. Any enrolment schemes required to manage overcrowding in schools post the Bill coming into force will be developed and consulted in accordance with the new provisions.
- 65 I also want to take this opportunity to make a minor updating change to another aspect of the requirements relating to enrolment schemes. Under the 1989 Act, a school must give notice of the fact that it has adopted, or made minor amendments to, an enrolment scheme. The definition of 'give notice' in section 11B of the Act requires the notice to be published in a local newspaper. This is outdated and not reflective of modern communication modes. I propose that this definition is updated so that the various notices given during operation of a scheme can be made through means including, but not limited to, publishing in local newspapers.

Complaints and disputes resolution

- 66 There is a need for an independent body to address the complaints and disputes that students and their whānau have not been able to resolve with the school.
- 67 Currently, if a student or their whānau in the compulsory schooling system is unhappy with a board decision, they can seek a review by the Ombudsmen or a judicial review in the High Court. These pathways can be intimidating and expensive, do not always provide a speedy remedy, and do not provide a certain outcome (the Ombudsmen only make recommendations, and the most common judicial review remedy is requiring the original decision maker to make the decision again, using a better process). In the education sector, unresolved issues, or issues that are not resolved in a timely manner, may lead to increased alienation from education and a failure to support the right to education.
- 68 Early childhood education, international students and tertiary students all have their own specific dispute resolution processes. In the compulsory schooling sector students and their whānau do not have the same voice to raise concerns about decisions that affect them.
- 69 I am particularly concerned about the gap that exists currently for students who are prevented by their school from realising their rights to education as provided for under the 1989 Act. Public consultation on my proposal to strengthen the right to education highlighted the need for an accessible, independent complaints and dispute resolution scheme so that enrolled students could enforce their right to attend school fulltime.

Local complaints and dispute resolution panels

- 70 To address these issues and concerns, I propose to establish complaints and dispute resolution panels that can be easily accessed by students and their whānau who have not been able to resolve complaints and disputes with their school.
- 71 There will be no fees for accessing any of the services provided by the panels. While some dispute resolution mechanisms do have an application (or filing) fee, I have decided against this because imposing an application fee will create an additional barrier for students and their whānau wishing to resolve a complaint or dispute.
- 72 Panels will only be able to consider 'serious disputes', which would be defined in primary legislation as:
- disputes relating to stand-downs, suspensions, exclusions and expulsions, learning support, racism and discrimination, physical and emotional safety, physical restraint, enrolment and attendance, and the rights to education.*
- 73 This will ensure panels can provide timely consideration of more serious matters, while also recognising that schools are best placed to make some decisions.

- 74 There is a need for local input to the resolution of complaints and disputes and I expect that in order to ensure adequate coverage and timely access to panels, there will need to be at least one panel in each Ministry of Education region.
- 75 More work, including detailed costings, is required on the design, establishment and operation of the panels. This will inform a business case, related budget bid and more detailed proposals for regulations. I am therefore proposing enabling legislation to establish the panels, which will locate the key components of the complaints and dispute resolution scheme in primary legislation and enable detailed requirements and processes to be set later in regulations.
- 76 Local input provides for localised knowledge and potentially more accessible and culturally appropriate processes. However, limiting panel membership to local people may not provide panels with the skills that are required, or diversity of panel members. It will also make it harder for panels to make consistent decisions and contribute to best practice.
- 77 To get the right balance of community representation, knowledge and skills, panels will be made up of local community members and members from a central pool of experts. This will also ensure a consistent and systemic view is taken to the resolution of complaints across the country.
- 78 The panels will be overseen by a Chief Referee appointed by the Minister of Education. The Chief Referee will be responsible for administration of panels and operational matters, including appointing members to the central pool of experts and to individual local panels. The Minister will also appoint Deputy Chief Referees if required. The appointment and removal criteria for both positions will be set in regulations and will be consistent with that which applies to similar positions in relation to other complaint and dispute resolution schemes.
- 79 Panel members will be required, as is usual for dispute resolution schemes, to act independently and to declare conflicts of interest. They will be protected against personal liability for acts or omissions where these occur when carrying out panel functions under the Bill, provided the member is acting in good faith.

Mediation, recommendation and decision making functions

- 80 I am keen to ensure that we seek wherever possible to support students, parents and schools to resolve complaints and disputes at the lowest possible level and in a way that is mindful of the ongoing relationship the parties will need to have.
- 81 I am also mindful of the power imbalance that exists in disputes between students, their parents and boards. The proposals outlined below are intended to address this imbalance.
- 82 The primary focus of panels will be to resolve disputes through mediation. Mediation helps parties agree on a constructive solution agreeable to both parties with the help of an independent third party (a mediator). The mediator

will be a panel member. If agreement is reached, the parties agree to be bound by this agreement and there is no further escalation of the complaint. This will enable some matters to be resolved in a more timely manner, without recourse to existing external review pathways and, for such matters, will provide a certain outcome that is binding on both parties. Mediation under this model includes facilitation, where the panel works with both parties to help them resolve the dispute without the need for a mediated agreement.

- 83 Some disputes will, however, not be able to be resolved by mediation so panels will also have the ability to make recommendations and, with prior approval of both parties, binding decisions. In relation to the latter, the parties can agree at any stage during the dispute resolution process to allow the panel to make a final decision and to be bound by that decision. In general, these functions will only be used as a last resort, where mediation has been unsuccessful or is not appropriate. It is expected that in most cases, mediation will be appropriate.
- 84 This process requires the panel to have consensual (agreement of both parties) and determinative (third party decides) functions. There will be no right of appeal but panel decisions can be reviewed by the Ombudsman and through the High Court judicial review process
- 85 Students and parents can require a board to participate in mediation and other panel proceedings. Boards can request, but not require, students and parents to participate in such proceedings.
- 86 I considered whether panels should be able to make binding decisions without the approval of both parties, including over-turning board decisions. I have decided against this. The Ministry of Justice advised that if the panel did have these powers, there should be a right of appeal. Adding an additional appeal layer would make the process significantly more complex and moves us further away from the aim of having an accessible, low-level dispute resolution scheme that is able to resolve issues in a timely manner.
- 87 Recommendations will not be enforceable. Schools that do not follow recommendations may suffer reputational damage but, aside from the existing Ombudsman and High Court judicial review avenues, no action can be taken against them.
- 88 I consider that mediated agreements, and binding decisions, should be enforceable by either party through the existing courts system. Mediated agreements can be enforced as contracts at common law. However a new legislative mechanism is required to enable the enforcement of binding decisions. I therefore propose that the Bill provides that schools that do not comply with binding decisions can have action taken against them by students and their parents through the courts. Matters covered in dispute resolution will be confidential and must not be disclosed to another person or admitted in civil proceedings unless the disclosure is required by law.
- 89 Any powers necessary to support these functions will be provided for in regulations.

Remedies

- 90 I propose that panels have the ability to order an apology, refer parties to mediation (if they have not already been to mediation), uphold, and, with the agreement of both parties, over-turn or modify the original decision in relation to an individual student.
- 91 I also want Panels to provide a check on the decisions and rules that boards make. I propose that panels have the ability to recommend that boards reconsider their rules/bylaws or policies if they are inconsistent with student rights and make declarations (for example, that a school board's rule breaches student rights). These remedies are consistent with best practice guidelines issued by the Ministry of Justice.

Accessible, inclusive dispute resolution processes

- 92 To ensure accessibility and inclusion, panel processes and procedures will be culturally appropriate, accessible to disabled students, and will respect the diversity of the local student population. Where appropriate, such as removals disputes, panel processes and procedures will also draw on restorative practices, which place positive and respectful relationships at the centre of school life and prioritise whānau involvement and learner wellbeing when trying to address students' behavioural issues. The enabling legislation will provide flexibility for processes and procedures to be tailored to the needs of the community.
- 93 To keep mediation and determination proceedings relatively informal and accessible, parties will not be allowed to be legally represented during any interactions with the panel. Allowing legal representation would substantially increase the cost and complexity of processes and procedures, and would disadvantage the party least able to afford representation. This is consistent with similar dispute resolution schemes. For example, the parties at Disputes Tribunal hearings are not allowed to be represented by lawyers. Students will, however, be able to have their parent or other advocate to support them at the hearing.
- 94 Improving our domestic complaints procedures will in time mean that New Zealand is better placed to sign and ratify the third optional protocol to the United Nations Convention on the Rights of the Child.

Consultation

- 95 The Treasury, Ministry of Social Development, Office of Disability Issues, Ministry for Women, Te Puni Kōkiri, Ministry for Pacific Peoples, Oranga Tamariki - Ministry for Children, Ministry of Business, Innovation and Employment, Education Review Office, and New Zealand Qualifications Authority were consulted on this paper. The State Services Commission and the Department of the Prime Minister and Cabinet were informed.
- 96 The Ministry of Justice was consulted on the proposals related to disputes resolution.

Financial Implications

97 The proposals related to enrolment schemes and dispute resolution panels will have financial implications.

98 s 9(2)(f)(iv)

99 As noted earlier, more detailed work on the design, establishment and operation of the proposed dispute resolution panels will be undertaken to estimate the cost of this proposal.

100 I will be seeking related funding for both proposals in future Budget bids.

Human Rights

101 All of the proposals appear to be consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. A final determination as to the consistency of these proposals with the New Zealand Bill of Rights Act will only be possible when the Bill has been drafted.

Legislative Implications

102 I intend to progress these proposals through the Education and Training Bill, which holds a category four priority (refer to a select committee in the year) in the 2019 Legislation Programme. I intend to introduce the Bill later this year.

Regulatory Impact Analysis

103 A Ministry of Education Quality Assurance Panel has reviewed the following RIAs and considers that each RIA **meets** the Quality Assurance criteria: *Code of Conduct for School Boards of Trustees*, *Refocusing the role of School Boards of Trustees* and *Principal Eligibility Criteria*. The Panel considered that for each RIA, the summary statement described the problem clearly, made a clear case for the proposed change and involved sufficient and appropriate stakeholder consultation leading into the legislation process.

104 A Ministry of Education Quality Assurance Panel has reviewed the RIA *Board role in enrolment schemes* and considers that it **partially meets** the Quality Assurance criteria. The panel considers that although the RIA is complex, it is relatively concise. However the problem definition is not compelling which does not support the case for change and the stated benefits of the proposed change.

105 A Ministry of Education Quality Assurance Panel has reviewed the RIA *Establishing Dispute Resolution Panels* and considers that it **partially meets** the Quality Assurance criteria. The panel considers that although the RIA is complex, it is relatively concise. There is a clear problem definition and compelling case for change. While there are potentially significant benefits, there are also high costs during the transition period. However, the panel does not find the RIA fully convincing and complete at this stage because the

detailed design and implementation work on the preferred package is yet to be done.

- 106 A Ministry of Education Quality Assurance Panel has reviewed the RIA *Education and Training Bill – Giving Better Effect to Te Tiriti o Waitangi* and considers that it **partially meets** the Quality Assurance criteria. The panel considers that, although the RIA is complex, the problem is clearly set out. However, the proposed changes have not been consulted with the impacted parties, including Māori and the Boards of Trustees, and the direct impact on these groups, including implementation costs, are uncertain.

Gender Implications

- 107 There are no gender implications in relation to these proposals.

Disability Perspective

- 108 The dispute resolution panels will provide disabled students and their whanau with an accessible means of seeking redress where the school has not allowed them to realise their rights, including the right to attend school fulltime. The Ministry of Education will consult disabled students, their whanau and disability groups on the more detailed work around the establishment and operation of the panels

Proactive Release

- 109 I intend to proactively release this Cabinet paper after Introduction of the Bill, subject to redaction as appropriate under the Official Information Act 1982.

Publicity

- 110 I intend to announce these proposals after Cabinet approves the introduction of the Education and Training Bill.

Recommendations

- 111 The Minister of Education recommends that the Committee:

Code of Conduct for School Boards of Trustees

- 1 **agree** that the Minister of Education may issue a mandatory Code of Conduct, by *Gazette* notice, setting out the minimum standards of conduct expected of members of school boards of trustees (school boards)
- 2 **agree** that before issuing the Code of Conduct, the Minister of Education must consult with national bodies representing the interests of governing bodies of schools, and any other stakeholders that the Minister considers ought to be consulted
- 3 **agree** that all members of school boards must comply with the Code of Conduct
- 4 **agree** that the Code of Conduct be a disallowable instrument

- 5 **agree** that:
- 5.1. school boards may, by way of resolution, censure a member for significant and/or repeated breaches of the Code of Conduct, except where that member is also a school principal
 - 5.2. where a member of a school board, who is not also a school principal, breaches one or more of the minimum standards of conduct and the board believes that the member's failure to comply with the minimum standards of conduct may justify their removal from the board, the Minister, acting on written notice from the board, should, if satisfied there is just cause to do so, be able to remove the member

Refocusing the role of school boards

- 6 **agree** to amend the objectives of school boards (as outlined in recommendation 7) so that boards must give effect to Te Tiriti o Waitangi/Treaty of Waitangi, and to relevant student rights set out in the New Zealand Bill of Rights Act 1990, the Human Rights Act 1993, and the (new) Education and Training Act

- 7 **agree** to amend the objectives of school boards as provided for in the Education Act 1989 by replacing the existing objectives with the following objectives and preamble:

- 7.1. School boards' primary objectives in governing schools, are:

7.1.1. to ensure that every student at the school is able to attain their highest possible educational standard

7.1.2. to ensure that the school is a physically and emotionally safe place for all students and staff, and that the school gives effect to relevant student rights and takes all reasonable steps to eliminate racism, stigma, bullying and discrimination within the school

7.1.3. to ensure that the school is inclusive of and caters for students with differing needs

7.1.4. to ensure that the school gives effect to Te Tiriti, including through:

7.1.4.1. working to ensure that its plans, policies and local curriculum reflect local tikanga, mātauranga Māori and te ao Māori

7.1.4.2. taking all reasonable steps to provide instruction in tikanga Māori and te reo Māori

7.1.4.3. achieving equitable outcomes for Māori students

- 8 **agree** that in meeting these objectives, a school board must:

- 8.1. have particular regard to the statement of National Education and Learning Priorities
- 8.2. give effect to its obligations in relation to the foundation curriculum statements, the national curriculum statements, and national performance measures (if any)
- 8.3. give effect to its obligations in relation to teaching and learning programmes
- 8.4. give effect to its obligations in relation to monitoring and reporting of students' progress
- 8.5. perform its functions and exercise its powers in a way that is financially responsible
- 8.6. if the school is a member of a community of learning that has a community of learning agreement under section 72 of the Education Act 1989, comply with its obligations under that agreement as a member of that community
- 8.7. comply with all of its other obligations under the (new) Education and Training Act or any other Act

Te Tiriti o Waitangi / Treaty of Waitangi

- 9 **agree** to include a Tiriti clause in the Education and Training Bill which lists in one clause the specific measures otherwise provided throughout the Bill which relate to Te Tiriti o Waitangi / Treaty of Waitangi functions, duties and powers
- 10 **agree** to enable the Ministers of Education and Māori Crown Relations: Te Arawhiti to, after consultation with Māori, jointly issue and publish a statement made and gazetted under the new Education and Training Act to specify what education agencies must do to give effect to the Public Service Bill expectations, with the objective of providing equitable education outcomes for students

Establishing criteria for appointment as a school principal

- 11 **agree** to include enabling provisions in the Education and Training Bill to:
 - 11.1. require the Minister of Education, with the power to delegate to, for example, the Teaching Council, to require specific criteria be met before a principal can be appointed
 - 11.2. provide for the criteria to take the form of minimum national standards, that apply to all principal appointments, with the ability for boards to set additional school-specific criteria
 - 11.3. require that the Minister of Education consult the Teaching Council and other professional bodies on the proposed criteria

- 12 **agree** that the enabling provisions come into force on the commencement of the Education and Training Act and there be a minimum six month transitional period to allow sufficient time for the criteria to be developed and socialised with the sector

School board rules

- 13 **agree** that a school board be required to consult with its students (as appropriate), staff and school community as part of the rule making process

Developing and consulting on enrolment schemes

- 14 **agree** to shift the responsibility for developing and consulting on enrolment schemes from school boards to the Ministry of Education

- 15 **agree** that the Ministry of Education be required to obtain input from school boards on the development of enrolment schemes

- 16 **agree** that the detail of how school boards are to have input in the development of enrolment schemes ultimately be set in regulations

- 17 **agree** that the transition in change of responsibilities for developing and consulting on enrolment schemes be managed as follows:

17.1. any enrolment scheme that is in development at the time the new legislation commences will continue to be developed in accordance with the current provisions in the Education Act 1989

17.2. any enrolment schemes required to manage overcrowding in schools post the commencement of the new legislation will be developed and consulted on in accordance with the new provisions

- 18 **agree** to update the definition of “give notice” in section 11B of the Education Act 1989 so that the various notices given during the operation of a scheme can be given through any means including, but not limited to, publication in local newspapers

Disputes resolution

Composition, jurisdiction and administration of local dispute resolution panels

- 19 **agree** to establish local panels to manage serious disputes between students, their parents and schools

- 20 **agree** that “serious disputes” be defined to include disputes about stand-downs, suspensions, exclusions and expulsions, learning support, physical restraint, racism and discrimination, physical and emotional safety, enrolment and attendance, and the rights to education

- 21 **agree** that the purpose of the panels be to provide timely, flexible procedures for the resolution of serious disputes between students, their parents and schools

- 22 **agree** that the panels be made up of local members and members from a central pool of experts that will be maintained by the Chief Referee, and that the membership of the panels will be appointed by the Chief Referee
- 23 **agree** that panel members be required to act independently and declare conflicts of interest
- 24 **agree** that panel members be protected against liability for any acts done or omitted while performing any of their functions under the Bill unless they have acted in bad faith
- 25 **agree** that the panel and central pool membership numbers, appointment criteria, appointment processes, appointment terms and removal processes, be set in regulations
- 26 **agree** to enable the Minister of Education to appoint a Chief Referee (and Deputy Chief Referees if required)
- 27 **agree** that the Chief Referee (with power to delegate to a Deputy Chief Referee) be responsible for:
- 27.1. appointment, management and removal of panel and central pool members
 - 27.2. administration of panels
- 28 **agree** that the term of appointment, and appointment and removal criteria and processes, for the Chief Referee and Deputy Chief Referees, be set in regulations

Panel functions, powers and remedies

- 29 **agree** that panels have the functions and powers, and are able to award the remedies set out below:
- 29.1. a mediation function – where the panel may refer the parties to mediation (at their request or on the panel's own initiative), where a panel member will act as mediator to assist them to find a constructive solution agreeable to both parties
 - 29.2. a recommendation-making function – where a dispute has not been referred to mediation (or mediation has been unsuccessful), the panel will be able to consider the matter and make non-binding recommendations, in relation to an individual student
 - 29.3. a decision-making function – where the parties, at any stage during the dispute resolution process, agree to allow the panel to consider the matter and make a final decision, and be bound by that decision, in relation to an individual student
 - 29.4. the ability to consider the merits and process of a school board decision

- 29.5. the ability to order an apology, refer parties to mediation (if they have not already been to mediation), uphold the original decision, and, with the agreement of both parties, over-turn or modify the original decision, in relation to an individual student
- 29.6. the ability to make a declaration about school board rules, bylaws or policies, if they are inconsistent with student rights
- 29.7. the ability to make non-binding recommendations that school boards reconsider their rules, by-laws or policies if they are inconsistent with student rights

Reviewing and enforcing mediated agreements and binding decisions

- 30 **agree** that mediated agreements and binding decisions will be enforceable by the parties through the existing courts system
- 31 **note** that mediated agreements can be enforced as contracts at common law but that a mechanism will be required in regulations made under the new Education and Training Act to enable the parties to enforce binding decisions
- 32 **note** that panel decisions can be externally reviewed by the Ombudsman and through the High Court judicial review process
- 33 **agree** that there will be no right of appeal additional to the existing external review processes

Panel processes and procedures

- 34 **agree** that:
- 34.1. there will be no fees to access the panel or participate in any panel proceedings
- 34.2. students and parents can require a school to participate in mediation and other panel proceedings but the participation of students and parents is voluntary
- 34.3. parties cannot be represented by lawyers in panel proceedings but students can be supported by a parent or other advocate
- 34.4. matters covered in dispute resolution are confidential and must not be disclosed to another person or admitted in civil proceedings unless the disclosure is required by law
- 34.5. panel processes and procedures will be culturally appropriate, accessible to disabled students and will respect the diversity of the local student population
- 34.6. detailed panel processes and procedures will be set in regulations

Next steps

- 35 **invite** the Minister of Education to issue drafting instructions for enabling legislation to give effect to these legislative amendments
- 36 **agree** that except where otherwise specified in the above recommendations, the Bill will enable the detailed measures required to give effect to the recommendations, to be set in regulations
- 37 **authorise** the Minister of Education to make decisions on any issues of detail that may arise during the drafting process without further reference to Cabinet, subject to the decisions being consistent with the decisions in the paper
- 38 **note** that the recommendations with drafting implications are subject to Parliament Counsel's direction as to how best to express these in legislation

Authorised for lodgement

Hon Chris Hipkins

Minister of Education



Cabinet Social Wellbeing Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Reform of the Tomorrow's Schools System: Paper Two - Legislative Provisions

Portfolio Education

On 16 October 2019, the Cabinet Social Wellbeing Committee:

Code of Conduct for School Boards of Trustees

- 1 **agreed** that the Minister of Education may issue a mandatory Code of Conduct, by Gazette notice, setting out the minimum standards of conduct expected of members of school boards of trustees (school boards);
- 2 **agreed** that before issuing the Code of Conduct, the Minister of Education must consult with national bodies representing the interests of governing bodies of schools, and any other stakeholders that the Minister considers ought to be consulted;
- 3 **agreed** that all members of school boards must comply with the Code of Conduct;
- 4 **agreed** that the Code of Conduct be a disallowable instrument;
- 5 **agreed** that:
 - 5.1 school boards may, by way of resolution, censure a member for significant and/or repeated breaches of the Code of Conduct, except where that member is also a school principal;
 - 5.2 where a member of a school board, who is not also a school principal, breaches one or more of the minimum standards of conduct and the board believes that the member's failure to comply with the minimum standards of conduct may justify their removal from the board, the Minister of Education, acting on written notice from the board, should, if satisfied there is just cause to do so, be able to remove the member;

Refocusing the role of school boards

- 6 **agreed** to amend the objectives of school boards (as outlined in paragraph 7 below) so that boards must give effect to Te Tiriti o Waitangi/Treaty of Waitangi, and to relevant student rights set out in the New Zealand Bill of Rights Act 1990, the Human Rights Act 1993, and the (new) Education and Training Act;

7 **agreed** to amend the objectives of school boards as provided for in the Education Act 1989 by replacing the existing objectives with the following objectives and preamble:

7.1 school boards' primary objectives in governing schools, are:

7.1.1 to ensure that every student at the school is able to attain their highest possible educational standard;

7.1.2 to ensure that the school is a physically and emotionally safe place for all students and staff, and that the school gives effect to relevant student rights and takes all reasonable steps to eliminate racism, stigma, bullying and discrimination within the school;

7.1.3 to ensure that the school is inclusive of and caters for students with differing needs;

7.1.4 to ensure that the school gives effect to Te Tiriti, including through:

7.1.4.1 working to ensure that its plans, policies and local curriculum reflect local tikanga, mātauranga Māori and te ao Māori;

7.1.4.2 taking all reasonable steps to provide instruction in tikanga Māori and te reo Māori;

7.1.4.3 achieving equitable outcomes for Māori students;

8 **agreed** that in meeting these objectives, a school board must:

8.1 have particular regard to the statement of National Education and Learning Priorities;

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8.3 give effect to its obligations in relation to teaching and learning programmes;

8.4 give effect to its obligations in relation to monitoring and reporting of students' progress;

8.5 perform its functions and exercise its powers in a way that is financially responsible;

8.6 if the school is a member of a community of learning that has a community of learning agreement under section 72 of the Education Act 1989, comply with its obligations under that agreement as a member of that community;

8.7 comply with all of its other obligations under the (new) Education and Training Act or any other Act;

Te Tiriti o Waitangi / Treaty of Waitangi

9 **agreed** to include a Tiriti clause in the Education and Training Bill which lists in one clause the specific measures otherwise provided throughout the Bill which relate to Te Tiriti o Waitangi / Treaty of Waitangi functions, duties and powers;

- 10 **agreed** to enable the Ministers of Education and Māori Crown Relations: Te Arawhiti to, after consultation with Māori, jointly issue and publish a statement made and gazetted under the new Education and Training Act to specify what education agencies must do to give effect to the Public Service Bill expectations, with the objective of providing equitable education outcomes for students;

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 - 11.2 provide for the criteria to take the form of minimum national standards that apply to all principal appointments with the ability for boards to set additional school-specific criteria;
 - 11.3 require that the Minister of Education consult the Teaching Council and other professional bodies on the proposed criteria;
- 12 **agreed** that the enabling provisions come into force on the commencement of the Education and Training Act and there be a minimum six month transitional period to allow sufficient time for the criteria to be developed and socialised with the sector;

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- 22 **agreed** that the panels be made up of local members and members from a central pool of experts that will be maintained by the Chief Referee, and that the membership of the panels will be appointed by the Chief Referee;
- 23 **agreed** that panel members be required to act independently and declare conflicts of interest;
- 24 **agreed** that panel members be protected against liability for any acts done or omitted while performing any of their functions under the Bill unless they have acted in bad faith;
- 25 **agreed** that the panel and central pool membership numbers, appointment criteria, appointment processes, appointment terms and removal processes, be set in regulations;
- 26 **agreed** to enable the Minister of Education to appoint a Chief Referee (and Deputy Chief Referees if required);
- 27 **agreed** that the Chief Referee (with power to delegate to a Deputy Chief Referee) be responsible for:
- 27.1 appointment, management and removal of panel and central pool members;
- 27.2 administration of panels;
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- 29.2 a recommendation-making function – where a dispute has not been referred to mediation (or mediation has been unsuccessful), the panel will be able to consider the matter and make non-binding recommendations, in relation to an individual student;

- 29.3 a decision-making function – where the parties, at any stage during the dispute resolution process, agree to allow the panel to consider the matter and make a final decision, and be bound by that decision, in relation to an individual student;
- 29.4 the ability to consider the merits and process of a school board decision;
- 29.5 the ability to order an apology, refer parties to mediation (if they have not already been to mediation), uphold the original decision, and, with the agreement of both parties, over-turn or modify the original decision, in relation to an individual student;
- 29.6 the ability to make a declaration about school board rules, bylaws or policies, if they are inconsistent with student rights;
- 29.7 the ability to make non-binding recommendations that school boards reconsider their rules, by-laws or policies if they are inconsistent with student rights;

Reviewing and enforcing mediated agreements and binding decisions

- 30 **agreed** that mediated agreements and binding decisions will be enforceable by the parties through the existing courts system;
- 31 **noted** that mediated agreements can be enforced as contracts at common law but that a mechanism will be required in regulations made under the new Education and Training Act to enable the parties to enforce binding decisions;
- 32 **noted** that panel decisions can be externally reviewed by the Ombudsman and through the High Court judicial review process;
- 33 **agreed** that there will be no right of appeal additional to the existing external review processes;

Panel processes and procedures

- 34 **agreed** that:
 - 34.1 there will be no fees to access the panel or participate in any panel proceedings;
 - 34.2 students and parents can require a school to participate in mediation and other panel proceedings but the participation of students and parents is voluntary;
 - 34.3 parties cannot be represented by lawyers in panel proceedings but students can be supported by a parent or other advocate;
 - 34.4 matters covered in dispute resolution are confidential and must not be disclosed to another person or admitted in civil proceedings unless the disclosure is required by law;
 - 34.5 panel processes and procedures will be culturally appropriate, accessible to disabled students and will respect the diversity of the local student population;
 - 34.6 detailed panel processes and procedures will be set in regulations;

Next steps

- 35 **invited** the Minister of Education to issue drafting instructions for enabling legislation to give effect to these legislative amendments;

- 36 **noted** that the Education and Training Bill holds a category four priority on the 2019 Legislation Programme (to be referred to a select committee in 2019);
- 37 **agreed** that except where otherwise specified in the above paragraphs, the Bill will enable the detailed measures required to give effect to the above decisions, to be set in regulations;
- 38 **authorised** the Minister of Education to make decisions on any issues of detail that may arise during the drafting process without further reference to Cabinet, subject to the decisions being consistent with the decisions in the paper under SWC-19-SUB-0154;
- 39 **noted** that the decisions with drafting implications are subject to Parliament Counsel's direction as to how best to express these in legislation.

Vivien Meek
Committee Secretary

Present:

Rt Hon Jacinda Ardern
Rt Hon Winston Peters
Hon Kelvin Davis
Hon Chris Hipkins
Hon Andrew Little
Hon Carmel Sepuloni (Chair)
Hon Dr David Clark
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Kris Faafoi
Hon Willie Jackson
Hon Aupito William Sio
Hon Julie Anne Genter
Jan Logie, MP

Officials present from:

Office of the Prime Minister
Officials Committee for SWC
Office of the Chair

Hard-copy distribution:

Minister of Education



Cabinet

Minute of Decision

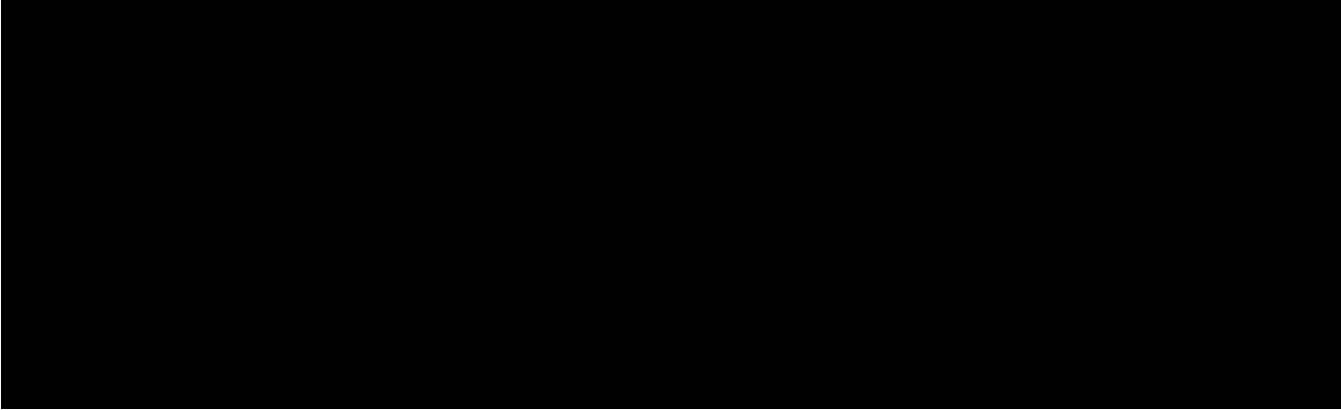
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Redactions made as out of scope of Minister's portfolio responsibility

Report of the Cabinet Social Wellbeing Committee: Period Ended 18 October 2019

On 21 October 2019, Cabinet made the following decisions on the work of the Cabinet Social Wellbeing Committee for the period ended 18 October 2019:

SWC-19-MIN-0153	Reform of the Tomorrow's Schools System: Paper One – Proposed Government Position Portfolio: Education	CONFIRMED
SWC-19-MIN-0154	Reform of the Tomorrow's Schools System: Paper Two – Legislative Provisions Portfolio: Education	CONFIRMED



n

Michael Webster
Secretary of the Cabinet

Hard-copy distribution:
Cabinet Social Wellbeing Committee

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