

Education Report – Establishing the Charter School Development and Implementation Working Group

Executive summary

This Report provides you with advice on establishing the Charter School Development and Implementation Working Group (the Group). This is one of the commitments contained in the Confidence and Supply Agreement between the National Party and the ACT Party.

The Ministry recommends that the Group provides advice and recommendations on design and implementation decisions to Ministers; monitors and reports on progress against an agreed timetable; oversees the establishment of research and evaluation into the impact and effectiveness of the Charter Schools pilot; and undertakes public engagement.

The establishment of the Group will need to be approved by Cabinet. A Cabinet Paper is attached to this Report for you to consider and forward to the Social Policy Committee (SOC).

The appointment of members also needs Cabinet approval. The Appointments and Honours Committee (APH) will consider your nominations. The Ministry estimates that these appointments could be confirmed by Cabinet on 26 March 2012, allowing the Group to meet in late March-early April.

A draft of the terms of reference is attached to this Report for your comment. These will need to be agreed by Ministers with the Chair once appointed. Treasury has requested that the Minister of Finance be involved in agreeing the terms of reference, and this is reflected in the attached Cabinet paper.


The Ministry of Education will support the Group through a secretariat. We will provide any information and briefings the Group requests to carry out its functions. Treasury has offered to provide additional analytical support.

The Report also recommends identifying an alternative name to Charter Schools as 'charter' is already defined in education legislation and all state schools are, in one sense of the term, charter schools. You may wish to ask the Group to provide early advice on an alternative name.

Recommendations

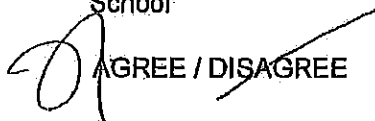
We recommend that the Minister and Associate Minister of Education:

- a. agree that the attached paper seeking agreement in principle to the Charter School Development and Implementation Working Group is forwarded to Cabinet Social Policy Committee (SOC)

 AGREE / DISAGREE

AGREE / DISAGREE

- b. note that the Ministry of Education will prepare an annex outlining your nominees for the Group that you may wish to attach to the attached paper at a later stage
- c. forward the attached paper to the Cabinet Office by 10am on Thursday 1 March 2012
- d. note the attached draft terms of reference for the Group
- e. note that you will need to agree the terms of reference with the Chair of the Group once appointed
- f. Indicate any changes you wish to make to the terms of reference
- g. note that 'charter' is already defined in education legislation and all state schools are, in one sense of the term, charter schools
- h. agree to ask the Group to provide early advice on an alternative name to 'Charter School'

 AGREE / DISAGREE

AGREE / DISAGREE

Frances Kelly

Frances Kelly
Group Manager
Schooling Policy

NOTED / APPROVED



Hon Hekia Parata

Minister of Education

29.2.12

NOTED / APPROVED

Hon John Banks

Associate Minister of Education

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Education Report: Establishing the Charter School Development and Implementation Working Group

Purpose of report

1. This report provides you with a paper seeking agreement in principle to the Charter School Development and Implementation Working Group (the Group) to go to the Cabinet Social Policy Committee (SOC), and a draft of the terms of reference. You are asked to:
 - a) forward the attached paper to Cabinet Social Policy Committee (SOC)
 - b) indicate any changes to the draft terms of reference attached to this paper
 - c) involve the Group in developing an alternative name to 'Charter School'.

Background

2. You have recently received a paper outlining the limitations of trying to implement Charter Schools under existing legislation and proposing amendments to legislation as a way forward (Metls 642984 refers).
3. The Confidence and Supply Agreement (the Agreement) between the National Party and the ACT Party includes a commitment to establish a Working Group to develop and implement the Charter School proposals. The Agreement states the Group will have 'private sector, business, iwi and community representatives along with government officials'.
4. On Tuesday 31 January 2012, Associate Minister Banks announced his intention to nominate Catherine Isaac as Chair of the Group. On Friday 3 February 2012, officials from the Ministry of Education (the Ministry) met with Ms Isaac to discuss the establishment and purpose of the Group.

Scope of Charter School Development and Implementation Working Group

5. Establishing a clear scope for the Group will allow it to focus on achieving a defined purpose, and avoid the members being distracted by issues that are not central to the development and implementation of Charter Schools.
6. Associate Minister Banks has indicated that the primary purpose of the Group should be to oversee the establishment of the first Charter Schools. Based on this, the Ministry has identified five functions that we recommend define the scope of the Group:
 - a) *Advice on decisions* – developing the thinking and providing Ministers with advice and recommendations on decisions about Charter School policy, in particular the outcomes that should be expected of Charter Schools and the design of the model, for instance funding and accountability arrangements

- b) *Inform the timetable* – contribute to the development of the timetable for the first two Charter Schools to open during the parliamentary term
 - c) *Monitor implementation* – providing Ministers with regular reports on the progress of implementation and with advice on how to resolve delays or blockages that threaten the timetable
 - d) *Research and evaluation* – overseeing the establishment of research and evaluation into the impact and effectiveness of the pilot Charter Schools
 - e) *Public engagement* – engaging the education sector and encouraging potential high-quality sponsors to come forward with proposals
7. With this scope, the Group would focus on monitoring progress, advising Ministers, and engaging with the public on Charter Schools.

Term of appointment for the Group

8. The role of the Group will be most important during the initial policy design period. By the end of 2012, legislation will have been developed and key policy decisions made. At this point, the Group will become less active as it monitors progress towards establishing the first two Charter Schools. Retaining the Group until 2014 will allow it to see the policy through to implementation, and oversee the establishment of research and evaluation into the impact and effectiveness of the pilot Charter Schools. The Group will be wound-up by the end of this parliamentary term.

Membership of Charter School Development and Implementation Working Group

9. The decision has already been made to nominate Catherine Isaac as the Chair of the Group. This fulfils the statement in the Agreement that the Group will have a private sector chair.
10. There are a range of skills that it would be desirable to have on the Group. The Ministry recommends ensuring the Group has the following skills and experience among the members:
- a) Experience of educational leadership to inform the design of suitable model for Charter Schools
 - b) Successful delivery of programmes in either private or public sectors to be able to effectively monitor the progress of implementation
 - c) Credibility with the public and education professionals to underpin public advocacy
 - d) Understanding of public policy making process to maximise the effectiveness of the way the Group provides advice to Ministers.
11. The Government has a commitment to increase the diversity of membership of Government bodies [Circular CO (02) 16]. In the context of the Group, we recommend trying to identify a suitable representative of Māori interests. There

could potentially be members from the Pasifika and disability communities. Consideration should also be given to the gender and geographical balance of the Group, with a focus on including representatives of Auckland and Christchurch communities.

12. Your offices are developing a short list of potential nominees. Once this has been developed, the Ministry will prepare an annex that you may wish to attach to the attached paper.
13. Before APH committee, your offices will need to contact each nominee to confirm their availability and interest. Some may be too busy to participate in the Group. Enquiries will need to be carried out for each nominee to ensure there are no conflicts of interest. For instance, if they are part of a group or organisation interested in proposing a Charter School that person could be a member of the Group only if their group or organisation agreed not to pursue a proposal for one of the two Charter Schools to be established in this parliamentary term.

Size of the Group

14. Ministers have indicated that the Group should not be large. We recommend the Group has six members in addition to Catherine Isaac.

Appointments process and timetable

15. Cabinet approval should be sought first for the establishment of the Group in principle and then for the nominees. SOC is the appropriate route to Cabinet for in principle approval.
16. A short Cabinet Paper seeking in principle approval for the Group is attached to this Education Report. The Paper has been drafted as a joint paper for you to take to Cabinet.
17. SOC meets on Wednesday 7 March 2012. This will be followed by consideration at Cabinet on Monday 19 March. The attached paper will need to be lodged with the Cabinet Office by 10am on Thursday 1 March.
18. The nominations for members of the Group will need to be approved by Cabinet via the Appointments and Honours Committee (APH). The Ministry will prepare a Cabinet Paper for this purpose while the Paper to SOC is under consideration. The earliest opportunity for the APH to consider a paper after the 'in principle' paper has been approved is on Tuesday 20 March. This will be followed by Cabinet approval of the nominations on Monday 26 March. This timeline should allow the Group to meet for the first time in late March-early April.
19. The Cabinet Paper to APH will need to be submitted by 10am on Thursday 15 March. To give time to prepare the paper and associated CVs of nominees, your offices will need to confirm the final list of candidates at the start of the week commencing 12 March.

Fees for Charter School Development and Implementation Working Group members

20. Fees to be paid to the members of the Group will be determined by the Fees framework for members appointed to bodies in which the Crown has an interest, as agreed by Cabinet in 2009 [APH Min (09) 9/1 and CAB Min (09) 23/3]. The Group would be considered a Group 4 body under the framework. This category covers bodies from advisory committees, to technical review committees, to professional regulatory bodies.
21. Under the Framework, the level of fees to be paid to members is determined by "scoring" the body according to the:
 - a) skill, knowledge and experience required
 - b) function, level and scope of authority
 - c) complexity of the issue
 - d) public interest and profile around the issue.
22. The Ministry has "scored" the role of the Group based on our understanding of the role of the Group. Our advice is that the fees to be paid to members fall under Level 2 (out of 5, with 1 being the highest). The range of daily rates for members of the Group is therefore \$270-\$415, and the range for the Chair is \$360-\$655. Members may decide to waive these payments.
23. Any members who are already public servants would not receive this fee if they participate in the Group as part of their paid employment and would only be paid expenses.
24. There will be associated costs such as travel expenses for the members to attend meetings of the Group.

Ways of working

25. The members of the Group, under the leadership of the Chair, will determine the details of how they work. There are aspects of the working arrangements that should be specified in the terms of reference. These are that:
 - a) the Group will formally meet on a periodic basis to prepare advice and progress reports for Ministers
 - b) the Group should remain focussed on Charter Schools and not be drawn into analysing or commenting on wider educational matters
 - c) the Chair should have regular meetings with both the Minister of Education and the Associate Minister with responsibility for Charter Schools
 - d) all statements to the media will be made by the Chair

- e) any public engagement activity by the Group needs to be agreed in advance by Ministers.
26. We expect to provide briefings to the Group outlining the significant policy and operational questions along with the options available. Recommendations from the Group would then be provided to you both to help inform your decisions. The Chair of the Group would also provide advice directly through regular meetings with each of you.

Developing a terms of reference for the Group

27. Your offices have provided input into the development of the draft terms of reference.
28. All of the ways of working have been reflected in the draft terms of reference provided in Annex 1. You are invited to comment on the draft, which you will need to agree with the Chair once the Group is appointed.
29. Treasury has indicated that the Minister of Finance wishes to be involved in the Group. The attached paper includes reference to his involvement in agreeing the terms of reference. We understand your offices will be having further discussions before the paper is finalised. DPMC has indicated that the Prime Minister will also take an interest in the progress of the Group.
30. The Ministry is seeking clarity around the term 'specific governance principles' in the section on the missions of Charter Schools. We are aware that the Confidence and Supply Agreement provides an example of this as Te Aho Matua. However, Te Aho Matua is a philosophy rather than governance principle, and only relates to schools set up under section 155 of the Education Act 1989.
31. The reference to capital funding for school property in the funding section needs to be considered within the current fiscal environment, and the wider context of the Ministry's capital intentions programme.

Support for the Charter School Development and Implementation Working Group

32. The Ministry will provide a secretariat function for the Group. The primary function will be to provide papers for the Group to consider when providing advice to Ministers. Frances Kelly, the Group Manager for Schooling Policy, will be the lead Ministry adviser and contact for the Group.
33. Treasury has offered to provide additional analytical support. Ministry officials will continue to work with them on this.
34. The precise approach to providing papers and information to the Group will need to be agreed with the Chair. It is anticipated that it will cover the following four areas:
- a) background information as requested, including international and New Zealand research papers

- b) briefings on the key decisions that Ministers will need to take with options and analysis to assist the Group to develop their advice for Ministers
 - c) progress reports on the Initiative to allow the Group to effectively monitor implementation
 - d) carry out analysis of data.
35. The secretariat will also provide organisational support to the Chair, arranging meetings and maintaining records of these meetings. The secretariat will manage the links between the Group and the Ministry, and will ensure the Chair has regular meetings with both Ministers.

Alternative name to 'Charter School'

36.

Withheld under section 9(2)(h) to maintain legal professional privilege

37. There is also a perception issue, with the term suggesting that an overseas model will be imported wholesale. An alternative name would emphasise that a model is being developed for the New Zealand context, drawing on international evidence and experience.
38. We recommend signalling to Cabinet in the attached paper that Charter Schools is not a permanent name, and you will ask the Group to provide you with advice on a suitable name.

Financial Implications

39. The Ministry estimates the fees and costs directly associated with the members of the Group to be up to a maximum of \$230,000 (\$57,020 in 2011/12, \$136,860 in 2012/13, \$50,430 in 2013/14). These costs will be met within existing Ministry of Education departmental baselines.
40. The costs of providing secretariat support to the Group will also be met from within existing Ministry of Education departmental baselines.
41. Further potential costs relating to the activity of the group, such as running public engagement events, have not yet been estimated. If these costs prove significant, then the Ministry may need to make prioritisation decisions to fund these costs.

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ANNEX 1

Terms of reference – Charter School Development and Implementation Working Group

Background

The Government is concerned that some New Zealand children are not being served well by the current education system, and are leaving school ill-equipped to enter the workforce and with limited choices for their future. Underachievement in education often compounds the disadvantages already faced by children in vulnerable, at-risk communities, and can contribute to intergenerational disadvantage, poor health, poverty, joblessness, welfare dependence, criminal offending and social dysfunction. It contributes to New Zealand's high rate of youth unemployment.

The Government has a number of initiatives in place to address educational underachievement. These include the decision, as part of the National-ACT Confidence and Supply Agreement 2011, to pilot a Charter School model serving low socio-economic communities where the risk of educational underachievement is the greatest. The pilot will begin with two Charter Schools in low socio-economic communities in areas such as South Auckland and Christchurch.

The Charter School model is designed to provide a class of state school that has greater flexibility and stronger accountability than other schools. Charter Schools design will provide for more flexibility in governance, teaching practice and management. This will include the ability to attract top quality teachers; to prepare and inspire children to achieve their potential; and to better meet the particular needs of local communities. At the same time Charter Schools will be accountable for their performance to their sponsors, who will in turn be accountable to the Crown (principally its agents the Ministry of Education and Education Review Office).

Outline of the concept

The following is a broad outline of the Charter School concept to be piloted. It recognises that the Charter School Development and Implementation Working Group will need to carefully consider and develop detailed recommendations for Ministers to consider regarding matters such as authorisation, governance, accountability, curriculum, funding, and evaluation. It is anticipated that amendments to the Education Act 1989 or other legislation will be required to enable the establishment of Charter Schools.

Missions

The missions of Charter Schools would be ambitious and clearly defined. They would likely differ from school to school, but would typically be designed to serve students from the Government's priority groups, and could include one or more of the following:

- to adopt a rigorous academic focus
- to be faith based
- to apply specific governance principles
- to focus on a particular language, vocational training or other area of specialisation.

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Charter operators

It is envisaged that groups proposing to operate charter schools may be non-profit or for profit entities. They could include community organisations such as Māori and Pasifika groups, iwi, faith-based educational organisations, universities, private firms or management groups.

Charter operators would be granted an operating licence by an authorised body, if the required criteria were satisfied. It is envisaged that operating licences would run for a fixed period, and may be renewed or revoked according to performance in a variety of areas. Schools could operate as individual entities or as a network. It is possible that existing schools, who are struggling to best meet the needs of their students under current funding and operating conditions, could apply to become a Charter School.

It is expected that charter operators would appoint a governing body such as a board of trustees to be responsible for all aspects of school operations. It is possible that they could operate the school themselves, or contract out management to not-for-profit or for-profit education providers. Subject to criteria to be set by the authorising body, boards would be free to determine their own teaching practice, and policies regarding student behaviour, expectations of parents, and length of the school day and year. The board would also be able to raise their own revenues (from the private, philanthropic and not-for-profit sectors), and have pay and employment conditions suited to their individual operating environment.

Schools could co-locate with social service providers and/or early childhood providers.

For the purposes of this pilot, two operating licences would initially be allocated in low socio-economic communities in areas such as South Auckland and Christchurch.

Accountability

Charter School operators and their governing boards would be externally accountable to their sponsors, the Ministry of Education, and the Education Review Office for meeting student achievement goals set out in their operating licence, as well as financial and operational standards. It is expected Charter Schools that fail to meet their achievement goals and other standards, including demand for places, would be subject to sanction, including closure.

Funding

It is expected that public funding would be on a per-child basis by way of normal operational grant funding. It is possible this could include funding top-ups, which may be adjusted according to equity considerations, for example, targeted at disadvantaged groups, similar to decile funding. It is possible that Charter Schools could also be eligible for capital funding for school property. Schools may choose to rent, rather than own school buildings, and could instead receive funding for rental costs.

Fees

As at other state schools, tuition fees would not be charged.

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Enrolment policy

It is expected that Charter Schools will be required to accept all students who apply for entrance (until they have reached capacity), irrespective of background or academic ability. However, they could set geographical boundaries as long as these are not designed to deny opportunities to students from the Government's priority groups. Where demand exceeds supply, Charter Schools could choose to conduct entrance on a ballot basis.

Curriculum

It is envisaged that Charter Schools would be free not to use *The New Zealand Curriculum*, but their proposed curriculum would need to be approved by the authorising authority, according to clear criteria.

Purpose of the Charter School Development and Implementation Working Group

An Independent Charter School Development and Implementation Working Group (the Group) has been established to provide advice and recommendations to the Minister of Education, the Associate Minister of Education (Hon John Banks), and the Minister of Finance about developing and implementing two pilot Charter Schools within this parliamentary term. This is to help ensure the successful delivery of this initiative.

Members

The Chair of the Group will be Catherine Isaacs.

Six other members have been selected to provide the appropriate range of skills, experience and perspectives to carry out their functions.

[Awaiting a decision - use of an international expert/peer reviewer]

Scope

The Group will identify and examine the policy and operational issues related to developing and implementing the Charter School pilot, and shape the thinking and make recommendations to Ministers on:

1. a detailed blueprint for developing and implementing two pilot Charter Schools in New Zealand. This would include:
 - a. authorising and accountability arrangements, such as processes relating to charters (e.g. granting and revoking), and processes for setting outcome targets and ensuring these are met
 - b. the freedoms that should be granted to Charter Schools around governance, funding, staffing, curriculum, enrolment, and property and facilities
 - c. the content of potential provisions in legislation

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- d. all other matters relevant to establishing and operating a Charter School in New Zealand
2. processes for providing information and advice to parties interested in establishing a Charter School
3. providing advice, monitoring and reporting to Ministers on the timetable for successfully establishing two pilot Charter Schools within this parliamentary term
4. overseeing the establishment of research and evaluation into the impact and effectiveness of the two pilot Charter Schools

Out of Scope

The Group should not evaluate existing Government policies or get involved in the detail of wider educational issues (such as workforce reform).

The Group should not duplicate work already underway within government or under investigation by other advisory groups and forums (such as the governance taskforce).

Process

The Group will develop a model of Charter Schools suitable for the New Zealand context by:

1. drawing on local and international expertise, research and experience
2. considering evidence from experts and interested parties
3. consulting with representatives from the education and other sectors, and undertake fact-finding activities

The Group will report to, and provide advice and recommendations to the Minister of Education, the Associate Minister of Education (Hon John Banks), and the Minister of Finance.

Resources

The Chair will be supported by a Ministry of Education Secretariat. The Secretariat will provide briefings and reports to the Group and offer organisational support. The Secretariat will also analyse and gather new evidence as agreed with the Group.

External advisory support may be provided to the Group with the agreement of the Secretary for Education.

Treasury has offered to provide additional analytical support.

Ministers will meet regularly with the Group Chair as work progresses. It is not intended that Ministers attend regular meetings of the Group. They will provide input via the Secretariat or the Chair where necessary.

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Confidentiality and Official Information

Advice provided by members of the Group will be treated in confidence. Members will not disclose any confidential information or material provided to the Group by officials. The Official Information Act 1982 will apply to the activities of the Group.

Public engagement

All media statements from the Group will be made by the Chair.

The Group may carry out public engagement activities or otherwise engage with stakeholders on aspects of the Charter School Initiative. All plans for such engagement need to be agreed with Ministers in advance.

Timeframe

The Group will meet between 2012 and 2014 to develop advice and discuss progress in implementation. The frequency of meetings will be agreed between the Chair and Ministers. The schedule of meetings will be confirmed at the first meeting.

Good faith

Members of the Group are expected to act in good faith and on a 'no surprises' basis,

Members are expected to declare any potential conflicts of interest. A conflict register will be maintained and updated regularly. The Chair will be responsible for deciding how to manage any conflict (in the case of conflicts involving the Chair, Ministers will have responsibility for these decisions).

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