



Education Report: Advisory Group on Charter Schools' Review of 2017 performance assessment decisions for four charter schools

To:	Hon Chris Hipkins, Minister of Education		
Date:	6 December 2018	Priority:	High
Security Level:	In Confidence	METIS No:	1170889
Drafter:	Simon Laube	DDI:	[REDACTED] s 9(2)(a) OIA
Key Contact:	Jackie Talbot	DDI:	
Messaging seen by Communications team:	N/A	Round Robin:	No

Purpose of Report

The purpose of this paper is for you to:

Note that three partnership school kura hourua (charter school) sponsors have requested a formal review of 2017 performance assessments relating to their school(s). The four schools are: Te Kura Māori o Waatea, South Auckland Middle School, Middle School West Auckland, and Vanguard Military School;

Note that the Advisory Group on Charter Schools has considered the requests on a case-by-case basis and has decided that no revised assessments are justified based on the performance standards that must apply in accordance with the contracts;

Consider the advice of the Advisory Group on Charter Schools outlined in a letter to you from Bruce Adin, Chair of the Advisory Group on Charter Schools (Annex 1).

Summary

- On 30 October 2018 charter school sponsors were informed of your assessment decisions regarding the performance of ten charter schools against their contracted performance standards for 2017. Three sponsors of four charter schools have expressed their dissatisfaction with assessments of their schools, and have requested a formal review.
- The schools are: Te Kura Māori o Waatea (Manukau Urban Māori Authority), South Auckland Middle School and Middle School West Auckland (Villa Education Trust), and Vanguard Military School (Advance Training Group Limited).
- The Advisory Group on Charter Schools (the Advisory Group) has considered each request on a case-by-case basis. After careful consideration, they have concluded that no revised assessments are justified based on the performance standards that must apply in accordance with the contracts, and therefore recommend you uphold the assessment decisions for all four schools.

- 4 A letter from the Chair of the Advisory Group to you, explaining each request and the outcome of the review is attached (Annex 1).
- 5 Should you agree with the advice of the Advisory Group, the Chair will communicate the outcome of the review to each sponsor. Draft letters are attached (Annex 2, 3 and 4).

Recommended Actions

The Ministry of Education recommends you:

- a. **note** that three sponsors of the following four partnership schools kura hourua (charter schools) have requested a formal review of the assessment decisions regarding their schools' 2017 performance against their contracted performance standards:
 - i. Te Kura Māori o Waatea: overall assessment – 'almost satisfactory'
 - student achievement - 'almost satisfactory'
 - financial performance – 'not satisfactory'
 - ii. South Auckland Middle School: overall assessment – 'almost satisfactory'
 - student achievement - 'not satisfactory'
 - iii. Middle School West Auckland: overall assessment – 'not satisfactory'
 - student achievement - 'not satisfactory'
 - iv. Vanguard Military School: overall assessment – 'almost satisfactory'
 - financial performance – 'not satisfactory';

Noted
- b. **note** that the Advisory Group on Charter Schools has considered these requests on a case-by-case basis and conducted a formal review of the relevant assessments;

Noted
- c. **note** the attached letter to you from the Chair of the Advisory Group on Charter Schools advising you of the outcome of the reviews (Annex 1);

Noted
- d. **agree** that, based on the performance standards that apply in accordance with the contracts, no revised assessments are justified and therefore the original assessments should be upheld for all four schools;

Agree / Disagree

- e. **note**, if you agree to (d) that the Chair of the Advisory Group on Charter Schools will inform the relevant sponsors of the outcome of the review (draft letters are enclosed in Annex 2, 3 and 4);

Noted

- f. **note** that the Chair of the Advisory Group on Charter Schools was consulted in the preparation of this Education Report;

Noted

- g. **proactively release** this Education Report with the next scheduled release of charter school information in 2019, which will include the *Advisory Group on Charter Schools' Report to the Minister of Education on Charter School's 2017 Performance* and the Education Report confirming your original assessment decisions (METIS 1149288).

Release / Not release


Ellen MacGregor-Reid
Deputy Secretary
Early Learning and Student Achievement


Hon Chris Hipkins
Minister of Education

7/12/18

19/12/18

Background

1. Under partnership school kura hourua (charter school) contracts you are required to assess the performance of charter schools each year, against their contracted performance standards. Where a school's overall performance is assessed as 'satisfactory', you can agree to release the 1% payment, which is operational funding retained by the Ministry over the prior year.
2. The role of the Advisory Group on Charter Schools (Advisory Group) is to provide you with advice on the performance of charter schools.
3. In September 2018 the Advisory Group submitted its report to you on the 2017 charter school performance. You agreed with their assessments that the performance of five schools against their performance standards was 'satisfactory'; four was almost satisfactory; and one school was 'not satisfactory' (METIS 1149288 refers).
4. As a result of these assessments, you agreed to the Ministry releasing 1% payments to the five sponsors whose schools were assessed as having 'satisfactory' performance. You decided not to agree the recommendation of 0.5% discretionary payments to two sponsors whose schools (Vanguard Military School and South Auckland Middle School) were assessed as having 'almost satisfactory' overall performance, as it was considered more appropriate to apply the performance regime as set out in the contracts and consistent with established practice.
5. Sponsors were informed of the final decisions on 30 October 2018. Each sponsor was provided with a copy of the relevant sections from the Education Report (*Report from the Advisory Group on Charter Schools on Charter Schools' 2017 Performance* METIS 1149288 refers) and the sections from the Advisory Group's report that related to their school.
6. Three sponsors have expressed their dissatisfaction with the assessment decisions, and have subsequently requested a formal review of the assessments relating to their school(s). The schools, the sponsors and the specific performance standard result under review are:
 - i. Te Kura Māori o Waatea (Manukau Urban Māori Authority (MUMA)): overall assessment – 'almost satisfactory'
 - student achievement - 'almost satisfactory'
 - financial performance – 'not satisfactory'
 - no release of the 1% payment or a 0.5% discretionary payment
 - ii. South Auckland Middle School (Villa Education Trust): overall assessment – 'almost satisfactory'
 - student achievement - 'not satisfactory'
 - no release of the 1% payment or a 0.5% discretionary payment
 - iii. Middle School West Auckland (Villa Education Trust): overall assessment – 'not satisfactory'
 - student achievement – 'not satisfactory'
 - no release of the 1% payment

- iv. Vanguard Military School (Advance Training Group Limited): overall assessment – 'almost satisfactory'

- financial performance – 'not satisfactory'
- no release of the 1% payment or a 0.5% discretionary payment.

Review Process

7. Sponsors are able to request a formal review of the assessment decision. Under the review process, sponsors have the opportunity to outline the reasons why a review should be considered and are able to provide additional information to support their case.
8. You have asked the Advisory Group to consider any assessment reviews requested. As with the performance assessment process, the parameters of review are limited to considering whether a school has met its contracted performance standards for student achievement, student engagement, enrolment of priority learners, and financial performance.
9. Matters regarding the appropriateness of the performance standards are out of scope. A review may result in advice that a re-assessment should be considered, for example if the Ministry provided inaccurate information or there was a failure in the assessment process.
10. A successful re-assessment might include a recommendation to approve the 1% payment to an applicable school. No such case exists presently. Alternatively the original assessment decision may be upheld.

Review Advice

11. The Advisory Group met on 28 November 2018 to consider the sponsors' requests on a case-by-case basis. This process has included:
 - consideration of the sponsors reasons for why they have requested a review;
 - consideration of any additional information provided by the sponsor;
 - re-examination of the school results against the contractual performance standards;
 - commissioning of additional financial analysis and advice relating to MUMA and Advance Training Group Limited's requests for a review of their schools' financial performance assessment, and the consideration of that advice by the Advisory Group;
 - a meeting between Bruce Adin (Chair of the Advisory Group), Simon Laube (Ministry of Education) and Alwyn Poole, (for Villa Education Trust), at the request of the sponsor, to discuss his reasons for a review of the performance assessment decisions for South Auckland Middle School and Middle School West Auckland.
12. The Ministry, as secretariat to the Advisory Group, has provided support to assist with the reviews. PwC was commissioned to provide analysis and advice on the additional information provided by sponsors of Te Kura Māori o Waatea and Vanguard Military School, relating to the schools' financial performance standards.

Recommended Outcome

13. The Chair of the Advisory Group, Bruce Adin wrote to you on 6 December 2018 (Annex 1), outlining the Advisory Group's advice you. His letter summarises the sponsors' reasons for requesting reviews and the outcome of the Advisory Group's deliberations.

14. The Advisory Group concludes that, based on the performance standards that apply in accordance with the contracts, no revised assessments are justified and therefore the original assessment decisions should be upheld for all four schools.
15. Should you agree with the Advisory Group's advice, the Chair will send a letter to each sponsor explaining the decision, and noting that you have agreed with the Advisory Group's recommendation. Draft letters have been prepared and are attached (Annex 2, 3 and 4).
16. We will prepare a draft response letter, to Bruce Adin, for your signature, once you have considered this Education Report, the advice of the Advisory Group, and have made your decisions.

Proposed acknowledgment of the limitations of the performance management system

17. The sponsors of the Villa Education Trust and the MUMA schools expressed their frustration about the limitations of the performance management system, and the one-dimensionality of the student achievement standards in particular.
18. The Advisory Group agreed that the absence of student achievement standards for Year 9 and 10 students for middle schools in particular, means that performance assessments present an incomplete picture of how a school is performing across all its student year groups.
19. The scope of the performance assessment and review process, however, is limited to the performance management system and standards in the contracts.
20. To acknowledge these limitations, particularly as it relates to the two middle schools, (South Auckland Middle School and Middle School West Auckland), the Advisory Group has proposed that the following paragraph is appended when the Advisory Group's 2017 assessment report is publicly released on the Ministry website:

"The charter school performance standards for student achievement were developed by the Ministry of Education in 2012. They provided the basis for student achievement performance to be measured in charter schools, however, they are limited and not necessarily indicative of the sum total of student achievement performance at the schools. Nor did the performance standards recognise progress in student achievement. For middle schools in particular, performance was measured based on National Standards at Years 7 and 8, and no standards were in place for Years 9 and 10. This incomplete approach has meant that the performance standards in place exclude the measurement of students in Years 9 and 10. For a middle school this can mean performance is determined by measuring the results of only half of the total school population."

21. The draft letter from Chair of the Advisory Group to Alwyn Poole, sponsor of Villa Education Trust (Annex 3), refers to this proposed text.

Ministry Comment

22. We are satisfied that the approach the Advisory Group has taken to review the performance assessment decisions of the four schools has been fair, appropriate, and in line with the performance management regime set out in charter school contracts. The Advisory Group reviewed each request on a case-by-case basis.

Risks

23. If you agree with the Advisory Group's advice and agree there will be no change to the assessment decisions, it is possible that a sponsor may be dissatisfied with the outcome. Under their charter school contracts they have the right to activate the dispute resolution process (clause 34.7 of charter school contracts).
24. With the impending termination of these sponsors' charter school contracts, under mutually agreed terms, it could be interpreted that this option will be extinguished, as the Mutual Termination Agreement provides for both parties, the full and final settlement of all claims between the parties.
25. Sponsors, however, may assert that the provisions in their Mutual Termination Agreements relating to full and final settlement of claims does not apply to this issue, and they may seek to pursue a dispute.
26. Having commenced this review process and in the interests of allowing the review process to reach a reasonable conclusion, you do have the option of allowing a dispute resolution process (for current issues, not new ones) to proceed.
27. If a sponsor indicates that they intend to lodge a dispute, we will provide you with further advice, and seek your preferred course of action.

Financial Implications

28. There are no financial implications arising from this paper.

Next steps and Communications

29. If you agree with the advice of the Advisory Group we recommend that the three sponsors are advised of the outcome of the review as soon as possible, by way of letter from the Chair of the Advisory Group.
30. In light of the termination of charter school contracts we recommend that the outcome of this review and the 2017 assessment process is made public through the next scheduled proactive release of charter school information. Reactive messaging will be prepared to respond to any media enquiries, should this information become public prior to the proactive release.

Proactive Release

31. We recommend that this Education Report is proactively released as part of the next scheduled charter school information release. The next proactive release is expected in 2019. This would include the release of the Advisory Group's report on 2017 charter school performance and the associated Education Report (METIS 1149288 refers), which was held back pending the outcome of this review process. Any information which may need to be withheld will be done so in line with the provisions of the Official Information Act 1982.

ADVISORY GROUP ON CHARTER SCHOOLS

6 December 2018

Tēnā koe Minister

Review of 2017 performance assessment decisions for four charter school schools

The Advisory Group on Charter Schools has considered the requests from three sponsors for a review of the 2017 performance assessment decisions relating to their school(s). The schools are:

- Te Kura Māori o Waatea - (Manukau Urban Māori Authority (MUMA))
- South Auckland Middle School – (Villa Education Trust)
- Middle School West Auckland – (Villa Education Trust)
- Vanguard Military School – (Advance Training Group Limited)

Our role is to provide you with advice on the performance of charter schools. It is therefore appropriate that we consider the sponsors' requests for a review, and any relevant information they provide. Upon receiving our advice you may decide to revise the assessment decision or to confirm that the original decision stands.

We have summarised each request for a review and our recommendations.

Te Kura Māori o Waatea

The sponsor for Te Kura Māori o Waatea requested a review of the performance assessment relating to two performance areas: student achievement, which was assessed as 'almost satisfactory' and financial performance, which was assessed as 'not satisfactory' overall. Considering the results across the four performance areas, the overall performance of Te Kura Māori o Waatea, against its contracted performance standards was assessed as 'almost satisfactory'.

On the basis of this result, the school did not receive the 1% retention payment (approximately \$9,700), and you decided against making a 0.5% discretionary payment.

We have considered the sponsor's reasons as to why the assessment decisions should be reconsidered, along with the analysis of the additional financial information the sponsor provided, which we received from PwC.

Student achievement

The sponsor outlined their frustration with the 85% National Standards performance standard; that they would have preferred an assessment model based on progressions; and that their school performed ahead of average students in the Mangere – Otahuhu area.

In my draft letter to the sponsor, I acknowledge their concerns regarding the limitations of the charter school performance management system, but confirm that our role is to assess the performance of charter schools against the school's contracted performance standards.

We reconsidered the school's student achievement results, and we decided that the original assessment of 'almost satisfactory' stands.

Financial performance

The sponsor also asked the 'not satisfactory' assessment of the school's financial performance in 2017 be reconsidered. The sponsor outlined that in their view the financial analysis by PwC failed to recognise the benefits of MUMA having combined Te Kura Maori o Waatea with two other operations (an early childhood service and the unopened charter school, Waatea High) into one subsidiary. The sponsor also asserted that the financial performance standards (operating surplus or net margin and the debt to equity ratio) were particularly unrealistic for newly established charter schools.

The Ministry asked PwC to consider the additional financial information the sponsor provided and we considered their response. PwC's analysis of the additional information confirms that the school still did not meet the financial performance standards.

Having considered PwC's analysis and advice, we are unable to justify revising the financial performance assessment of 'not satisfactory' for Te Kura Māori o Waatea.

On this basis we have decided, based on the performance standards that apply in accordance with the contracts, no revised assessments are justified and therefore the original assessments should be upheld.

South Auckland Middle School and Middle School West Auckland

The sponsor for the two Villa Education Trust charter schools, South Auckland Middle School (SAMS) and Middle School West Auckland (MSWA) requested a review of the assessment decisions for the student achievement and overall performance results for both schools. I understand he also expressed his dissatisfaction with these results in an email letter to you.

For SAMS, the student achievement performance was assessed as 'not satisfactory', and the overall performance was 'almost satisfactory'. On this basis the 1% payment (approximately \$23,000) was withheld and you decided against making a 0.5% discretionary payment.

For MSWA, student achievement performance was assessed as 'not satisfactory', and the overall performance as 'not satisfactory'. As such, the 1% payment (approximately \$25,000) was withheld.

On 23 November 2018, at the sponsors request, I met Alwyn Poole, supported by the Ministry, to discuss his reasons for a review of the assessment decision. He explained that he considered his schools were performing well educationally, but that the schools results against the National Standards measure did not reasonably reflect the sum total of performance.

He also outlined that because there were no student achievement performance standards in the contracts for students in Years 9 and 10, that, for middle schools in particular, the assessment provides a very limited view of educational performance being achieved at these schools.

While we acknowledge the limitations of the performance management system, we are very clear that the scope of our role is focused on assessing the performance of the charter schools

against the schools' contracted performance standards. These parameters also apply to any review of a performance assessment decision.

As such, we have decided, based on the performance standards that apply in accordance with the contracts, no revised assessments are justified and therefore the original assessments should be upheld.

We have, however, agreed that it would be reasonable to include a comment referring to the limitations of the student achievement performance standards, particularly as it relates to middle schools. We have proposed that the following is provided as context when the Advisory Group's full 2017 assessment report is publicly released on the Ministry's website:

"The charter school performance standards for student achievement were developed by the Ministry of Education in 2012. They provided the basis for student achievement performance to be measured in charter schools, however, they are limited and not necessarily indicative of the sum total of student achievement performance at the schools. Nor did the performance standards recognise progress in student achievement. For middle schools in particular, performance was measured based on National Standards at Years 7 and 8, and no standards were in place for Years 9 and 10. This incomplete approach has meant that the performance standards in place exclude the measurement of students in Years 9 and 10. For a middle school this can mean performance is determined by measuring the results of only half of the total school population."

Vanguard Military School

We received a request from the sponsor of Vanguard Military School to review the assessment decision relating to financial performance which was assessed as 'not satisfactory', the overall assessment of 'almost satisfactory' and the decision to not make a payment of either 1% (approximately \$30,000) or the 0.5% discretionary grant. We noted that the sponsor did not request a review of the assessment for the enrolment of priority learner standard that was also assessed as 'not satisfactory'.

The sponsor's reasons for why a reconsideration of the assessment decision is warranted relates to the financial analysis undertaken by PwC; concerns about the process to make the assessment decisions; why concerns weren't raised earlier; and that the previous Authorisation Board had raised no concerns in prior assessments.

We have considered these matters closely, including the further advice from PwC responding to the specific technicalities of the financial results. We stand by our earlier assessments and advice and conclude, that based on the performance standards that apply in accordance with the contracts, no revised assessment is justified and therefore the original assessments should be upheld.

The sponsor's request for the 0.5% discretionary payment is declined on the basis of your preference not to depart from the standard performance management regime outlined in the contract. We have drafted a letter to the sponsor that confirms this decision.

Summary

In summary, having reviewed the performance assessment decisions of these four schools and the reasons outlined by the sponsors, the Advisory Group on Charter Schools recommends that no revised assessments would be justified and therefore that the original assessments should be upheld for all four schools.

If you accept our recommendations, I will write to each of the sponsors (draft letters are appended) to inform them of the outcome of their reviews.

If you require any further advice or clarification on these matters, I am happy to make myself available or provide further advice.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Bruce Adin', with a stylized, cursive script.

Bruce Adin
Chair
Advisory Group on Charter Schools

Attachments:

Draft letter to Wyn Osborne, Manukau Urban Māori Authority

Draft letter to Alyn Poole, Villa Education Trust

Draft letter to Nick Hyde, Advance Military School