

11 August 2015

Education Report: Partnership Schools | Kura Hourua Draft Agreement

Recommendations

We recommend that you

1. ~~agree to~~ the proposed draft Partnership Schools | Kura Hourua Agreement
AGREE / DISAGREE
2. **note** that this Agreement will be included with the Request for Application documents when released.



Graham Stoop
Deputy Secretary Student Achievement

NOTED / APPROVED



Hon Hekia Parata
Minister of Education

12/8/15

NOTED

David Seymour
Under Secretary to the Minister of Education

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Education Report: Partnership Schools | Kura Hourua Draft Agreement

Background


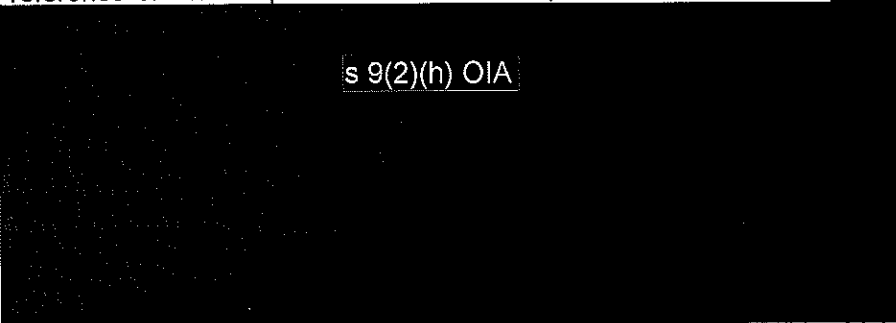
1. On 15 June 2015 we provided you with a briefing note to the Under-Secretary to the Minister of Education on the options of dealing with known issues with the Partnership Schools | Kura Hourua [METIS 933830]. This included proposed changes to the template Agreement.
2. You submitted Cabinet Paper [METIS 938478] Partnership Schools | Kura Hourua: Monitoring and evaluation, proposing new funding model, operational review and further application round to Cabinet on Monday 3 August 2015.

Changes signalled in the Cabinet Paper

3. Some of the proposals within the Cabinet Paper have arisen as requirements to enhance the operational framework following learning's from the first 18 months since the opening of the first round of Partnership Schools. The Cabinet Paper sought decisions on the template Agreement including the following:
 - (a) **Strengthening the introductory section**

The introductory section has been enhanced to ensure that both parties are mindful of the purpose that Partnership Schools have been established to achieve:

 - Improve student achievement
 - Reinforce the partnership concept
 - A high flexibility/high accountability model.
 - (b) **Measuring and reporting on student progress and achievement**
 - (i) Partnership Schools now must use a specified assessment instrument for measuring improvement in Student achievement for Students in all Class Levels for which the school provides instruction. If the school fails to agree on the assessment tool the Minister may decide on the appropriate tool to be used.
 - (ii) Student achievement measurement now includes progression from Term One baseline testing using an assessment tool and quarterly measurement at the end of each term.
 - (c) **Modifying the guaranteed minimum roll**
 - (i) The Guaranteed Minimum Roll is no longer used as the basis for quarterly operational payments.
 - (ii) The Sponsor is now required to maintain enrolments at a number that is at or above the Minimum Roll.
 - (iii) For the first quarter of the first school year the funding will be calculated using the agreed number of students. Thereafter funding is payable based on the school's actual roll. This is to incentivise the schools to actively seek enrolments.

- (d) **Options for identifying and responding to performance concerns**
- (i) Enhanced failure and breach provisions have been introduced to flag minor breaches and allow quick remedies to address unacceptable behaviour. This does not prevent the Minister going straight to issuing a performance notice should any serious situation arise.
 - (ii) When required, the Sponsor must produce evidence on compliance with the Minimum Requirements within a timeframe particular to the circumstances. The Minister can apply the intervention clause within the Agreement if the evidence has not been provided.
- (e) **Time between a performance event and termination**
- (i) If the Minister becomes aware of an event or events that could lead to the right to terminate (and where intervention measures have not resolved the issues) the Minister can terminate the Agreement.
 - (ii) The maximum time period of three months between a performance event and termination has been removed.
- (f) **Recovering funding in the event of closure**
- (i) A number of enhancements to the termination clauses have been introduced, including a financial pay back clause where termination occurs within the initial three year term of the Agreement. The recovery value is lesser of the market value of school assets or the set-up component of the Establishment Payment. s 9(2)(h) OIA
 - (ii) 
 - (iii) Definitions of 'Market Value' and 'School's Assets' are included in Clause 35.1 Definitions and Interpretation.
 - (iv) The definition of market value sets out a process by which this will be determined (and sets out a basis for determining this, ultimately with reference to an independent valuer if the parties cannot agree). s 9(2)(h) OIA

 - (v) To give better effect to this provision, an additional clause 28(b) which requires the Sponsor to own the assets in its own name for the first three years of the Agreement, and not to grant security over such assets during that same period, in each case without the prior written consent of the Minister. This covers the situation where the Sponsor has used the money to buy assets which it has then transferred to another entity (with a lease back arrangement), or where security is granted to a third party.
- (g) **Funding Model Changes**
- (i) Changes have been made to the formula for the establishment payment, to a fixed contribution to the school's set-up costs of \$250,000 for primary schools and \$400,000 for secondary schools. New schools will receive six months of property funding, calculated on the new property per-student rate for the number of students agreed in the contract to be

the minimum number of students to be enrolled in the school's first year of operation (as opposed to the maximum roll, which is applied in the current model) and six months of a principal's allowance.

- (ii) The new establishment rate reduces the amount of establishment funding for new schools and increases sponsors' incentives to secure third-party funding if they want to spend more than the establishment rate, along with providing schools certainty over the level of establishment funding they will receive.
- (iii) The new funding model provides two teaching and operating per-student rates: a higher rate for the first 50 primary students and 100 secondary students, followed by lower marginal rates for each subsequent student.

Additional Changes Made

4. The following changes have also been made to the Agreement:

(a) **Reporting to parents**

- (i) The Sponsor is to provide a representative sample of student reports that are being provided to parents.

(b) **Child protection policy**

- (i) The Agreement includes Sponsors' obligations under the Vulnerable Children Act 2014. It is noted that the current Partnership Schools are required to comply with this Act as they are included in the definition of a school in that Act.

(c) **Annual report to the public**

- (i) The Sponsor is to notify Ministry the location of its annual reporting information as soon as they publish it.

(d) **Minister's audit rights.**

- (i) We have removed the limitation of no more than a six month frequency for the Minister's ability to conduct an audit.
- (ii) The costs of the audit are to be shared between the Minister and Sponsor.

(d) **Interventions**

- (i) The Agreement now enables the Minister to reject a proposed Remedial Plan outright, rather than having to seek amendments even if the Remedial Plan is incapable of reaching an acceptable standard.
- (ii) Inclusion of a sub clause on intervention when there is a failure to prepare or make satisfactory amendments or the Minister does not accept a Sponsor's Remedial Plan.

(e) **Appointment of specialist adviser**

- (i) A new clause has been introduced whereby the Sponsor can be required by the Minister to appoint an independent adviser, with appropriate skills, to improve performance in a particular area.
- (ii) The Sponsor is solely responsible for the costs incurred through this engagement of a specialist adviser.

Changes as a result of other feedback

5. In reviewing the current Partnership school Agreement the Ministry consulted and received feedback from the Authorisation Board and current sponsors.

Attachments

6. A full list of changes that have been made to the Partnership Schools | Kura Hourua Agreement is attached as Annex One.
7. This report includes the draft Partnership Schools | Kura Hourua Agreement for your approval as Annex Two.

Applicability to current sponsors

8. The changes to the Agreement will apply to new Partnership Schools from Round 3. However, some changes to the contract may be brought into the current Agreements by mutual agreement.

Annex One: PSKH agreement changes

Issue	Clause change within agreement
Minor grammatical changes	Throughout document
Introduction of key values incorporated	Introduction - clause F
Introduction of Minimum Roll	Clause 7.1
Reporting to parents – sponsor to provide representative sample of students reports to parents	Clause 7.8 (b) and 16.1(r)
Introduction of Child protection policy (Vulnerable Children Act)	Clause 7.10 – child protection policy
'Registered Teachers' changed to 'Person holding a Practising Certificate'	Clauses 12, 13, 16.1(m), 16.1(n)
Curriculum equipment requirements include access to or necessary for delivery	Clause 14.2
Introduction of requirement to maintain enrolments at or above Minimum Roll	Clause 16.1(d)
Included Legislative requirements relating to standing down, suspending, excluding or expelling	Clause 16.1(i)
Included Minimum Requirements in record keeping	Clause 16.1(v)
Introduction of evidence required that minimum requirement is met	Clause 16.3 – Evidence required on minimum requirements
Included the Minister can request supplementary reports if not satisfied with the level of detail of records and reporting	Clause 18.2(c)
Included that the Sponsor must notify the Ministry where information on annual reporting to the public is located as it is published	Clause 18.4(b)
Included Audited accounts to be Generally Accepted Accounting Practice (GAAP) if the Sponsor meets the criteria	Clause 18.5(b)
Included Minister's audit rights to undertake an inspection and audit Sponsor's operation	Clause 19.3
Included measuring performance against Performance Standard – assessment tool to be used for measuring improvement in student achievement for Students in all Class Levels that is provided by the Sponsor	Clause 20.3
Included identifying and responding to performance concerns including Sponsors requirement to provide evidence that minimum requirement is met	Part 4 – Substantial changes includes where Sponsor has failed to carry out or it becomes apparent of a breach Clause 16.3 – Evidence required on minimum requirements

Increased the ability to intervene – Minister increased flexibility to act should they chose	Clause 22
Strengthen requirements of Remedial Plan	Clause 24.3(c) and 24.3(e)
Included the Appointment of specialist adviser	Clause 24.7
Included recovering funding in the event of closure and time between performance event and termination	Changes to Clause 25 (Termination) including new repayment provisions
Definitions and Interpretation updated to reflect: <ul style="list-style-type: none"> • Legislative changes • Alignment with other clauses within the agreement • Religious Instruction (administrative definition insertion only) 	Clause 35
Included reference to Curriculum Policy and Curriculum Handbook includes Operative Document	Schedule 2 Clause 5
Included Performance Standards includes progression from Term One baseline testing	Schedule 6 Clause 2.1 and Schedule 6 Annex B require progression testing at the end of each Term
Included Rounding with formula on Performance Standards and Student engagement	Schedule 6 Annex C
Change to Funding changes	Schedule 7 re-written to align with cabinet approval
Updated Education Circulars	Update Education Circulars – schedule 9.4

