



Briefing Note: RSS direct access pathway and criteria, engagement on draft proposals for change

To:	Hon Jan Tinetti, Associate Minister of Education		
Date:	2 March 2022	Priority:	Medium
Security Level:	In Confidence	METIS No:	1281938
Drafter:	Rebecca Kidson	DDI:	(04) 463 7984
Key Contact:	David Wales	DDI:	(04) 463 7669
Messaging seen by Communications team:	No	Round Robin:	No

Purpose of paper

The purpose of this paper is for you to:

Note that targeted engagement is the next stage of the work on the changes to the Residential Specialist Schools direct access pathway [METIS 1281277 refers] and is due to begin from 7 March.

Summary

- In late 2021 you agreed to changes to the Residential Specialist Schools (RSS) direct access pathway [METIS 1276987 refers].
- The next stage of this work is targeted engagement with stakeholders, which will begin from 7 March. The engagement will focus on a draft proposals for change to the RSS access pathway and criteria, see Annex 1.
- The proposed changes are based on the review of international literature on RSS, our analysis of the current state and initial engagement with key stakeholders. The next phase of engagement aims to gather further feedback from a targeted group of stakeholders.
- As part of implementation and monitoring, we will complete an analysis of the redesigned pathway against Te Tiriti o Waitangi and Ka Hikitia – Ka Hāpaitia.

Proactive Release

- a **Agree** that this briefing is not published until decisions have been made on the changes to the RSS direct access pathway

☒ **Agree** ☐ **Disagree**



Sean Teddy
Hautū | Deputy Secretary
Te Pae Aronui

02 /03/ 2022



Hon Jan Tinetti
Associate Minister of Education

06 /03/2022

Proactively Released

Background

1. This briefing follows an Information Update on 18 February 2022 [METIS 1281277] updating you on the work to improve access to Residential Specialist Schools (RSS) through a redesign of the direct access pathway.
2. In late 2021 [METIS 1276987 refers], you agreed:
 - to move decision-making about RSS enrolments closer to the child, in line with the Learning Support Delivery Model, which would include discontinuing the existing enrolment groups
 - to a new overarching principle that RSS, whānau, and Ministry of Education specialist staff involved in decision-making agree that there are clear benefits to the child that outweigh the risks and that the risks can be well managed
 - that the Ministry will consult with sector stakeholders on how best to go about making these changes to the RSS only pathway in Term 1, 2022.
3. In the context of this work, improving access means:
 - access to the right support, at the right time
 - only when needed and for only as long as needed
 - greater flexibility and a more holistic assessment of need
 - increased child and whānau voice in decision making
 - centred on the best interests of the child
 - current safeguards are retained and strengthened where necessary.
4. We have developed draft proposals for changes to the direct access pathway to achieve these objectives. The next stage of the work is to meet with a select group of stakeholders with the draft proposals for change. This targeted engagement will begin from 7 March.

Overview of the draft proposals

5. The draft proposals for sector engagement can be found in Annex 1. At a high level, the key proposals are as follows:
 - **Updating the enrolment criteria** and supporting a more holistic assessment of benefits and risks, based on the specific learning objectives for enrolment.
 - **Redesigning the application form** to be simpler and more streamlined.
 - **Developing an information pack for young people and their whānau** to provide access to clear, reliable information.
 - **Introducing a pre-application tool** to help whānau and education professionals fully explore the direct access pathway alongside other options before making an application.
 - **Considering applications and making recommendations for RSS direct access enrolments in each region** with participation from the young person who

is the subject of the application, their whānau or someone acting on their behalf, the principals of the RSS and education professionals who know the child the best.

- **Establishing a framework for monitoring and reporting** on the RSS direct access pathway.
6. The draft proposals for change have been developed using the review of international literature on RSS¹, our analysis of the current state, and initial engagement with key stakeholders to inform the design. They are framed around the outcomes we want to see for young people and their whānau.
 7. The implementation of this suite of draft proposals, including the development of new information and guidance to support the effective operation of the pathway as intended, will be significant. Completing this work at pace will require focused effort and resource. We therefore expect that implementation will be phased. Proposals which require capability building or external input, such as the use of independent child advocates, will be brought in through implementation whereas other proposals, such as the updated application form and criteria, will be in place from day one.

Approach to the targeted engagement

8. The aim of this next phase of engagement is to gather targeted sector feedback on the draft proposals for change.
9. Our engagement to date on the RSS direct access pathway has continued to highlight the concerns of some of our stakeholders about the appropriateness of segregated settings in an inclusive education system, as well as the use of restraint in some RSS.
10. The engagement meetings and materials are being designed to focus on the direct access pathway with particular attention on how changes will improve access for the young people and their whānau that would benefit from a period of enrolment, and appropriate safeguards. We recognise however we will need to acknowledge and respond to other concerns raised around RSS more generally.
11. Subject to your preference, there is an opportunity for you to make an announcement at the commencement of the targeted engagement and/or pre-record an opening message to support these engagements. We can work with your office on this, ready for the first engagements from 7 March 2022, if you choose to do this.
12. We will advise you of the outcome of engagement, and the final change proposals in April 2022.

Considerations regarding ākonga Māori

13. As well as the need to meet our specific obligations under Te Tiriti o Waitangi, the success of the redesigned pathway will be contingent on our ability to deliver for ākonga Māori and their whānau. Ākonga Māori are overrepresented in both the number of applications and enrolments to RSS.
14. We will complete a specific analysis of the redesigned pathway and implementation plan against Te Tiriti o Waitangi and Ka Hikitia – Ka Hāpaitia. This analysis will be reviewed periodically as part of the implementation approach.

¹ Jain, N. R., Morton, M., Webber, M. (2021) *International Literature Review on Residential Specialist Schools for Learning and Behaviour*. University of Auckland Faculty of Education and Social Work. Prepared for the Ministry of Education.

Next Steps

15. We will being targeted engagement in early March, as per the Phase 2 Engagement & Communications Plan [METIS 1281277 refers].
16. The outcomes of this targeted engagement will contribute to the ongoing development of the change proposals. We will seek your agreement on these proposed changes at the end of April.
17. We will continue to update you regularly on this work through the Education Weekly Update and Information Updates.

Annexes

Annex 1: Improving access to RSS: Draft proposals for change

Annex 2: Current enrolment criteria

Annex 1: Improving access to RSS: Draft proposals for change

Key to icons:



Access to the right support at the right time



Only when needed and for as long as needed



Greater flexibility and a more holistic assessment of need



Increased child and whānau voice in decision making



Centred on the best interests of the child



Current safeguards are retained and strengthened where necessary

Outcome statement 1: My whānau and I have access to clear, reliable information on RSS direct access pathway including the benefits, risks and the process for enrolment

To achieve this the Ministry will:

- develop an online and widely accessible information pack for young people and their whānau** that includes:
 - a statement setting out the range of learning outcomes each school is able to support and the range of benefits that could be expected from enrolment
 - a set of standards for whānau and young people going through the enrolment process so they understand what they can expect and what is expected of them before, during and after the enrolment.

Why:

Giving young people and their whānau ready access to information on RSS will help them determine whether an RSS enrolment could offer **access to the right support, at the right time** and would be **centred on the best interests of the child**, based on their current circumstances.



Outcome statement 2: I can fully explore the option of an RSS direct access enrolment, alongside other options for support within my community, with education professionals whom I trust before making an application

To achieve this the Ministry will:

- introduce a short pre-application tool** (i.e. checklist with prompts) for whānau and referrers to use together to help determine whether the young person and their whānau want to progress an application, and any considerations as part of the process (including the LSDM, the He Pikorua practice framework and Ka Hikitia – Ka Hāpaitia).
- provide information and support** to potential referrers working with young people who may be considering this as an option.

Why:

The pre-application tool will help whānau and education professionals explore options for support and identify whether an RSS enrolment will provide **access to the right support, at the right time** before going through the full application process.

Alongside the information and support, the tool will help referrers develop the application with the young person and their whānau, with the aim of reducing the number of applications that do not result in enrolment.



Outcome statement 3: If I want to enrol in an RSS through the direct access pathway, the application process is straightforward, timely and overall a positive experience

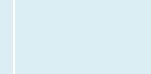
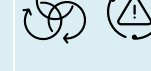
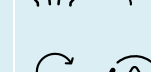
To achieve this the Ministry will:

- redesign the application form** to be simpler and more streamlined, with a stronger emphasis on benefits and risks to inform decision making and show how the RSS enrolment fits within the young person's wider support plan
- specify within the application specific learning objectives** for the enrolment, based on the young person's Individual Education Plan (IEP)
- ensure risk assessments are completed** with specialist input and are robust
- accept applications from the principal** of the young person's current school, in addition to the current referrers (Resource Teacher Learning and Behaviour (RTLb), a Ministry specialist, or a day specialist or fund-holder school)
- accept applications at any time** and consider these according to the timelines in agreed service standards.

Why:

The changes to the application form and process will reduce the barriers to applying for young people for whom RSS can provide **access to the right support, at the right time**. There will be no deadlines for submitting applications. Young people and their whānau can work with the principal of their home school, if that is the best person to make their application.

The greater emphasis on young person's IEP and learning objectives for enrolment will support a strengths-based approach that is mana enhancing. Alongside the risk assessment, this will enable **greater flexibility and a more holistic assessment of need**, which is **centred on the best interests of the child**. The emphasis on the risks, as identified in the Risk Assessment will ensure **current safeguards are retained and strengthened where necessary**.



Outcomes statement 4: The decision to enrol me in an RSS through the direct access pathway will be made if there are clear benefits to me that outweigh the risks and the risks can be well managed		
<p>To achieve this the Ministry will:</p> <ol style="list-style-type: none"> support a holistic assessment of the benefits and risks of enrolment, based on the specific learning objectives for enrolment and the risk assessment update the criteria to: <ul style="list-style-type: none"> retain criterion 1 (ages 8-15 years) retain current enrolment requirements outlined in the RSS service specification for the young person to require significant adaptation of almost all curriculum content in comparison to age group and enrolment being unlikely to be detrimental to the safety of the student or others remove criteria 2, 3 and 4 and incorporate these explicitly as considerations to support the assessment of benefits and risks include explicit consideration of transition, both in and out of RSS, as part of the holistic assessment include explicit consideration around the length of enrolment, cultural needs and distance/ease of access to home. 	<p>Why: Removing three of the four current criteria will provide for greater flexibility and a more holistic assessment of need in informing RSS direct access enrolments. In order that current safeguards are retained and strengthened where necessary, these three criteria will instead form explicit considerations of benefits and risks.</p> <p>Good transition in and out of RSS is recognised to be important for successful RSS enrolment. To be centred on the best interests of the child, transition needs specific consideration as part of enrolment decisions. The length of enrolment required to achieve the learning objectives, as well as cultural needs and distance/ease of access to home also need explicit consideration so that current safeguards are retained and strengthened where necessary.</p> <p>Enrolment requirements related to adaptation of curriculum content and the safety of the student and others, currently in the RSS service specification, will be included as criteria to reflect their importance and make enrolments requirements more transparent.</p>	 
Outcomes statement 5: Decisions made about me are made with me, by people who know me, and consider my individual needs and circumstances		
<p>To achieve this, the Ministry will:</p> <ol style="list-style-type: none"> consider applications and make recommendations for RSS direct access enrolments in each region using nationally consistent Terms of Reference and including the principals of the RSS and education professionals who know the child the best provide the opportunity for whānau and the young person who is the subject of the application, or someone acting on their behalf (for example a member of the Iwi), to participate in discussions and recommendations on enrolment, alongside the education professionals working with them capture the voice of the young person in the recommendations, using an independent child advocate where appropriate, in order to do this where the recommendation is to enrol, include within the documented recommendation: <ul style="list-style-type: none"> the purpose and length of enrolment responsibilities for transition (i.e. how the local school, RSS and whānau will regularly connect on progress and plan for successful return to the young person's home, community and school) formal review dates of the enrolment devolve decisions about Special Education Agreements (SEAs) for the RSS direct access pathway to regional Directors and Hautū (under the current delegations) 	<p>Why: Supporting the young person who is the subject of the application and their whānau or their representatives to participate discussions and recommendations for enrolment within their region will bring decisions relating to an enrolment closer to the child, with an increased child and whānau voice in decision making, centred on the best interests of the child.</p> <p>Where it is recommended a young person enrol, including the length of enrolment as part of the recommendation will ensure enrolment is only when needed and for only as long as needed, based on the specific needs and circumstances of the young person.</p> <p>To ensure a plan for transition is developed early, with key stakeholders and reviewed regularly, the recommendations will also set out responsibilities around transition and review. In this way, current safeguards are retained and strengthened where necessary.</p>	   
Outcome statement 6: The enrolment process for the RSS direct access pathway is fair, equitable and transparent		
<p>To achieve this the Ministry will:</p> <ol style="list-style-type: none"> establish a clear link between recommendations and the SEA, with a documented process should the delegated authority not agree with recommendations introduce reporting on individual learning outcomes for all enrolled learners including progress reporting against their IEP establish a framework to provide regular monitoring and reporting on the RSS direct access pathway, including national oversight of decisions, learning outcomes and analysis against Te Tiriti and Ka Hikitia – Ka Hāpaitia establish formal 'check-points' for the redesigned pathway as part of the implementation approach, including after the findings of the High Needs Review and Phase 2 RSS Evaluation to ensure any relevant findings are able to be factored into the RSS direct access pathway, process and criteria. 	<p>Why: Processes will provide for national oversight of regional decision making and ensure consistency in making Special Education Agreements under section 37 of the Education and Training Act 2020. This will support the objective that current safeguards are retained and strengthened where necessary.</p> <p>Regular monitoring and reporting on the RSS direct access pathway will help inform future decision making which is centred on the best interests of the child. It will also support us to meet our obligations under Te Tiriti and realise the outcomes domains of Ka Hikitia – Ka Hāpaitia.</p> <p>The RSS direct access pathway, process and criteria will remain relevant and fit for purpose.</p>	 

Annex 2: The existing criteria for the RSS direct pathway

The direct access criteria for enrolment in an RSS are:

1. The young person is aged 8 to 15 years old (Year 3–10).
2. The young person has behaviour, social and/or learning needs that are highly complex and challenging (and may have associated intellectual difficulty) and requires support at school.
3. Local learning support services have been considered or tried. However, RSS intervention is believed to be the best way of meeting the child/young person's needs.
4. The young person does not need an intervention in the home or community (the child/young person does not need intensive services such as Te Kahu Tōi - Intensive Wraparound Service, Oranga Tamariki or High and Complex Needs).