

Cabinet Paper material

Proactive release

Minister & portfolio	Hon Chris Hipkins, Minister of Education
Name of package	Education and Training (Grants – Budget Measures) Amendment Bill – Policy Approvals
Date considered	5 May 2021
Date of release	5 July 2021

These documents have been proactively released:

Cabinet Paper: Education and Training (Grants – Budget Measures) Amendment Bill – Policy Approvals
5 May 2021
Ministry of Education

Cabinet Minute: CAB-21-MIN-0149
3 May 2021
Cabinet Office

CAB-21-MIN-0153 Report of the Cabinet Social Wellbeing Committee Minute
10 May 2021
Cabinet Office

SWC-21-MIN-0058 Cabinet Social Wellbeing Committee Minute of Decision
10 May 2021
Cabinet Office

Material redacted

Some deletions have been made from the documents as the information withheld does not fall within scope of the Minister's portfolio responsibilities, and is not relevant to the proactive release of this material.

You can read the Official Information Act 1982 here:

<http://legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html>

Budget Sensitive

Office of the Minister of Education

Cabinet Social Wellbeing Committee

Education and Training (Grants—Budget Measures) Amendment Bill – policy approvals

Proposal

1. As part of Budget 2021, Cabinet agreed to the initiative *Moving towards pay parity for teachers in education and care services* [CAB-21-MIN-0116.10 refers, initiative 13363]. I am now seeking agreement to a legislative change to implement this initiative, and approval to issue drafting instructions. The Bill is proposed for introduction and first reading on Budget Day, and will amend the Education and Training Act 2020 (the Act).

Relation to government priorities

2. This Cabinet paper relates to the wider government work programme to improve the wellbeing of New Zealanders and their families. Specifically, the proposal in this paper supports the government's priority to make New Zealand the best place in the world to be a child by helping to better support the quality of education and care.

Background

3. The majority (69%) of children attending early learning services attend an education and care service. Education and care services are centres staffed predominantly by registered teachers. The qualified teachers in these services on average earn significantly less than their counterparts in kindergartens, who have pay parity with primary teachers. A recent salary survey indicated the average salary for a qualified teacher in an education and care service is \$56,000, whereas in kindergartens it was \$73,000.
4. Kindergartens are also centres staffed predominantly by registered teachers. The key difference is that teachers within kindergartens are public service employees, and the Secretary for Education negotiates their terms and conditions on behalf of their employers.
5. The gap in salaries began in 2011, when the previous Government stopped mirroring increases to kindergarten subsidy rates in education and care service rates. The increases paid for the cost of variations to the Kindergarten Teachers, Head Teachers and Senior Teachers' Collective Agreement (KTCA).
6. This government is committed to closing this pay gap. In Budget 2020, we provided \$151.124 million over four years to increase education and care funding rates. At the same time, we raised the minimum salary that education and care services must attest they are paying their certificated and qualified teachers. This was the first step towards enabling pay parity between certificated teachers in education and care services and their equivalents in kindergartens.

7. Our 2020 Election Manifesto also outlined a commitment to move towards pay parity between certificated teachers working in the two service types, and allowed \$600 million over this term of government to work towards this goal.

Budget 2021 initiative *Moving towards pay parity for teachers in education and care services*

8. The Budget 2021 initiative provides \$170 million to improve the salaries for certificated teachers in education and care services. It has two main components:
 - **An increase to the minimum salary for all education and care services.** All education and care service funding rates will increase to enable the minimum salary to increase. Accessing funding rates above the bottom funding band is conditional on services increasing the minimum salary paid to certificated teachers. This would apply from 1 July 2021, and means the minimum salary keeps pace with the minimum in kindergartens.
 - **Opt-in funding rates enabling the first six steps of the KTCA.** An extra set of higher, premium rates would be available for education and care services to opt into, if they agree to pay certificated teachers with the requisite experience six of the eleven pay steps in the KTCA. This would be available from 1 January 2022.
9. The initiative also includes funding to improve pay rates for kaiako and kaimahi in kōhanga reo, with the implementation details to be worked through by officials and Te Kōhanga Reo National Trust (the Trust).
10. The Budget initiative sets conditions on the bulk funding that government provides to education and care services. This is because Government does not directly pay teachers in early childhood services, which operate independently and are responsible for employing and paying their teachers.

Proposed change to the Education and Training Act 2020

11. Section 548 of the Act sets out the legislative framework for funding early childhood services. It requires the Government to pay grants to all licensed services, and it allows the Minister of Education to determine the amount of the grants and to set conditions on the grants.
12. The power to set conditions on the grants paid to early childhood services is broad, but conditions must be consistent with the purpose of the Act as a whole (as set out in section 4). The funding condition that services must attest to paying all certificated teachers at or above a minimum salary is consistent with assuring the quality of education – it ensures a minimum level of recognition for qualified teachers, which is an important component of quality education in these services.
13. The primary purpose of the opt in funding rates enabling the first six steps of the KTCA is fairness in the pay between qualified teachers in different service types. I consider improving teacher pay an important contributor to assuring the quality of education provided, as it supports recruitment and retention of qualified teachers. However, it could be argued that the opt in funding rate condition has primarily an industrial relations purpose and is therefore inconsistent with the purpose of the Act.

14. I therefore seek an amendment to the Act to clarify that conditions on funding to early childhood services can extend to matters of employment conditions. This will remove any legal doubt on the ability to require as a condition of funding that salary steps be paid to certificated teachers at specified experience levels.

Legislative implications

15. This proposal will be progressed in the Education and Training (Grants – Budget Measures) Amendment Bill, which is proposed for introduction and first reading on Budget Day and with a priority of category 2: must be passed in the year. The Bill needs to be passed before the opt in funding rates come into effect on 1 January 2022. The Bill will bind the Crown.

Financial implications

16. The proposal has no financial implications. It is related to the Budget 2021 initiative *Moving towards pay parity for teachers in education and care services* [CAB-21-MIN-0116.10 refers, initiative 13363].

Impact Analysis

Regulatory Impact Statement

17. Cabinet's impact analysis requirements apply to the legislative change clarifying that conditions on funding to early learning services can extend to employment conditions, but there is no accompanying Regulatory Impact Statement and the Treasury has not exempted the proposal from the impact analysis requirements.
18. On behalf of respective Ministers, the Ministry of Education and Treasury's Regulatory Impact Analysis team have agreed that a Supplementary Analysis Report will be developed and provided when approval is sought to introduce the Bill.

Population Implications

19. The proposed change in this paper benefits the teaching workforce in education and care services, who are predominantly women (97%).

Human rights

20. There are no human rights implications arising from the proposal outlined in this Cabinet paper.

Consultation

21. The Treasury, the Department of Prime Minister and Cabinet and Parliamentary Counsel Office have been informed of this paper.

Communication

22. Information relating to the Bill will be posted on the Ministry of Education's website and included in Ministry publications once the Bill has been introduced. No prior public consultation on this proposal is planned due to budget confidentiality.

Recommendations

23. The Minister of Education recommends that Cabinet:

1. **note** that as part of Budget 2021, Cabinet agreed to the initiative *Moving towards pay parity for teachers in education and care services*, which reflects this Government's commitment to improving teacher pay in the early learning sector [CAB-21-MIN-0116.10 refers, initiative 13363];
2. **note** that the initiative increases the minimum salary education and care services must attest they are paying certificated teachers, and it also provides a set of higher funding rates that services may opt into if they agree to pay these teachers defined pay steps based on the kindergarten teachers' collective agreement;
3. **note** that while the Education and Training Act 2020 gives the Minister of Education a broad power to set conditions on funding to early learning services, it is not clear that this power extends to requiring services to pay certain salaries or to meet certain employment conditions;
4. **agree** to amend the Education and Training Act 2020 to clarify that conditions on funding for early childhood services can extend to matters of employment conditions;
5. **invite** the Minister of Education to issue drafting instructions for legislation to give effect to this proposal;
6. **note** that the recommendations are subject to Parliamentary Counsel's discretion as to how best to express these in legislation;
7. **authorise** the Minister of Education to make decisions on any matters 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.

Authorised for lodgement

Hon Chris Hipkins

Minister of Education



Cabinet

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.

Additional Item: Power to Act for SWC on 5 May 2021

Portfolio Education

On 3 May 2021, Cabinet:

- 1 **noted** that at its meeting on 5 May 2021, the Cabinet Social Wellbeing Committee (SWC) will be considering a paper on *Education and Training (Grants-Budget Measures) Amendment Bill: Policy Approvals* [SWC-21-SUB-0058];
- 2 **authorised** SWC to have Power to Act at its meeting on 5 May 2021 to take decisions on the submission.

Michael Webster
Secretary of the Cabinet



Cabinet

Minute of Decision

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Report of the Cabinet Social Wellbeing Committee: Period Ended 7 May 2021

On 10 May 2021, Cabinet made the following decisions on the work of the Cabinet Social Wellbeing Committee for the period ended 7 May 2021:

Out of scope

SWC-21-MIN-0058

Education and Training (Grants–Budget Measures) Amendment Bill: Policy Approvals
Portfolio: Education

CONFIRMED

Out of scope

Michael Webster
Secretary of the Cabinet



Cabinet Social Wellbeing Committee

Minute of Decision

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Education and Training (Grants—Budget Measures) Amendment Bill: Policy Approvals

Portfolio **Education**

On 5 May 2021, the Cabinet Social Wellbeing Committee, having been authorised by Cabinet to have Power to Act [CAB-21-MIN-0149]:

- 1 **noted** that in Budget 2021, Cabinet agreed to the initiative *Moving towards pay parity for teachers in education and care services*, which reflects this Government's commitment to improving teacher pay in the early learning sector [CAB-21-MIN-0116.10, Initiative 13363];
- 2 **noted** that the above initiative increases the minimum salary education and care services must attest they are paying certificated teachers, and it also provides a set of higher funding rates that services may opt into if they agree to pay these teachers defined pay steps based on the kindergarten teachers' collective agreement;
- 3 **noted** that while the Education and Training Act 2020 gives the Minister of Education a broad power to set conditions on funding to early learning services, it is not clear that this power extends to requiring services to pay certain salaries or to meet certain employment conditions;
- 4 **agreed** to amend the Education and Training Act 2020 to clarify that conditions on funding for early childhood services can extend to matters of employment conditions;
- 5 **invited** the Minister of Education to issue drafting instructions to the Parliamentary Counsel Office for legislation to give effect to the above proposal, subject to Parliamentary Counsel's discretion as to how best to express this in legislation ;
- 6 **authorised** the Minister of Education to make decisions on any matters 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.

Rachel Clarke
Committee Secretary

Present: (see over)

Present:

Rt Hon Jacinda Ardern
Hon Grant Robertson
Hon Kelvin Davis
Hon Chris Hipkins
Hon Carmel Sepuloni (Chair)
Hon Andrew Little
Hon Kris Faafoi
Hon Aupito William Sio
Hon Priyanca Radhakrishnan

Officials present from:

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