

## Cabinet Paper material

### Proactive release

Minister & portfolio	Hon Jan Tinetti, Associate Minister of Education
Name of package	Highest Needs Review: Scope and Terms of Reference
Date considered	6 September 2021
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#### These documents have been proactively released:

**Cabinet Paper: Highest Needs Review - Scope and Terms of Reference**

Date considered: 6 September 2021

Author: Associate Minister of Education

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**Associated material: 1268661 Briefing Note: Highest Needs Review, speaking points for Minister to introduce Cabinet Paper**

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**1268660 Briefing Note: Highest Needs Review, final Cabinet Paper**

18 August 2021

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**1266951 Briefing Note: Highest Needs Review – Draft Cabinet paper on Scope and Terms of Reference**

23 July 2021

Ministry of Education

### **Material redacted**

Some deletions have been made from the documents in line with withholding grounds under the Official Information Act 1982. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

The applicable withholding grounds under the Act are as follows:

Section 9(2)(a) to protect the privacy of natural persons

Section 9(2)(f)(iv) to protect the confidentiality of advice tendered by Ministers of the Crown and officials

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You can read the Official Information Act 1982 here:

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

## In Confidence

Office of the Associate Minister of Education

Social Wellbeing Committee

## Highest Needs Review: Scope and Terms of Reference

### Proposal

- 1 This paper seeks Cabinet's agreement to the Scope of the Review of Interventions for Students with the Highest Level of Learning Support Needs.

### Relation to government priorities

- 2 The Review relates to pre-election commitments signalled in the Labour Party's Education Policy for the 2020 election. It seeks to further the achievement of the Government's five objectives for education, and also supports the achievement of the Government's Child and Youth Wellbeing Strategy.

### Executive Summary

- 3 The Government is committed to upholding the right of all children and young people to receive an education with the support they need to learn and succeed on an equal basis with others. There is extensive work underway in the education sector to work towards this commitment.
- 4 The terms 'children' and 'young people' have been used intentionally in this paper to be inclusive of tamariki and rangatahi Māori as well as children and young people of other ethnicities and backgrounds.
- 5 The majority of children and young people can and do achieve education success from relatively small supports and adaptations within their classroom and schools. The definition of success will vary depending on the goals, aspirations, and interests of each child or young person. However, some children and young people experience greater barriers to accessing the curriculum on an equal basis with others and require additional targeted or individualised supports to overcome these.
- 6 The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) Article 24 and the Committee's General Comment on the right to education and the Committee's definition of inclusive education will guide the Ministry's vision of an inclusive education system. The New Zealand Disability Strategy guides the Government agency-wide response to the UNCRPD, including outcome one for education.
- 7 The *Learning Support Action Plan 2019-2025* (The Action Plan) is in the Programme of Action for the Child and Youth Wellbeing Strategy which states the Government's vision for an inclusive education system is "*where every child feels a sense of belonging, is present, makes progress, where their wellbeing is safeguarded and promoted, where learning is a lifelong journey, and where children and young people with learning support needs get the right support at the right time. It is important that*

*children and young people and their families and whānau have confidence that this will be achieved at whichever early childhood education service me ngā kōhanga reo, school or kura their child attends.”*

- 8 There are still systemic issues relating to the access and delivery of targeted and individualised supports. Priority four of the Action Plan commits the Government to *“Review supports for children and young people with the highest levels of need, including the Ongoing Resourcing Scheme, to ensure they are meeting needs of children and young people, and delivering the intended outcome”* (the Review).
- 9 I recommend the Scope of the Review:
  - 9.1 Takes a whole child approach and does not define children and young people by specific diagnosis, disability, disorder or learning difference but instead is focused on what support children and young people require and how they can access the support. This includes those who:
    - 9.1.1 currently receive individualised support
    - 9.1.2 have an unmet need for individualised support
    - 9.1.3 are in settings that have inequitable access to these supports
  - 9.2 Focuses on the child and young person’s journey through the education system, from early learning through to supporting the transition from secondary school.
  - 9.3 Includes how children and young people can access supports regardless of where they are learning.
  - 9.4 Considers the need for fluid boundaries between education settings to encourage and enable stronger working relationships where all schools can better access the expertise held in specialist settings.
  - 9.5 Includes how supports and services are accessed. This would include reviewing current rigid and deficit focused criteria and application processes to determine which children and young people can access supports, the level of support required, and the length of time support is provided.
  - 9.6 Maps the current funding and resourcing arrangements against up-to-date prevalence and forecast data for individualised support to inform options and solutions to move away from the current siloed model of support.
  - 9.7 Evaluates the responsiveness of supports to child/whānau needs and how supports can help children and young people define and achieve successes.
  - 9.8 Includes the need to align services and supports across government agencies for children, young people, and their families/whānau, including the need for culturally appropriate supports.
  - 9.9 Builds knowledge, understanding and capability of people to address and reduce barriers children and young people are experiencing at all levels of the network;

centre and classroom level, management level, governance level, resource teacher and specialist level and Ministry level.

## Background

- 10 The Government made a commitment to the *Learning Support Action Plan 2019 – 2025* (the Action Plan). The Action Plan sets out the improvements we aim to make to learning support and includes six key priority areas [CAB-19-MIN-0139 refers].
- 11 I acknowledge recent work that has already been achieved within the priority areas to strengthen current services and supports. This includes reduced wait times for Early Intervention, Communication and Behaviour Services, and the Ongoing Resourcing Scheme and additional fully funded places for children and young people supported by Intensive Wraparound Support and the Attendance Service.
- 12 Priority four within the Action Plan includes a commitment to: “*Review supports for children and young people with the highest levels of need, including the Ongoing Resourcing Scheme, to ensure they are meeting needs of children and young people, and delivering the intended outcome.*”
- 13 The Action Plan outlines an explicit commitment to working with Māori to ensure the system better supports equitable education outcomes because the need for learning support does not fall equally across the population. Māori are more likely than non-Māori to experience some barriers to learning (hearing loss for example) and may also face obstacles to accessing support for their learning including cultural bias and discrimination.
- 14 The Review will receive significant interest and raise expectations from stakeholders from across the education, health and disability sectors, iwi, hapū, ethnic communities and those in rural and isolated communities. Due to these interests and expectations, I am seeking Cabinet’s agreement to the Scope and Terms of Reference for the Review.

## Key Issues with individualised supports and services

- 15 The key issues relating to individualised learning supports and services are well known. The Ministry of Education (the Ministry) has drawn on the rich information it already holds from previous consultations and engagements with the education and disability sectors. This includes the Learning Support Update 2015, Kōrero Mātauranga Education Conversation 2018 and the Learning Support Action Plan 2019-2025.
- 16 The key issues identified with individualised learning supports and services from this information includes:
  - 16.1 specialist supports have been developed independently from each other and do not provide a strategic, planned system response;

- 16.2 specialist services are not flexible or responsive in design and therefore do not align with the vision of the Learning Support Delivery Model (LSDM)<sup>1</sup>;
  - 16.3 specialist services are providing variable outcomes for children and young people and their effectiveness in supporting diverse learners has not been reviewed in all cases;
  - 16.4 parents | whānau, educators and stakeholders have ongoing concerns about the adequacy of specialist services and about access to them, how they are funded and provided, and how long the support is provided for; and
  - 16.5 the current framework of services and support does not fully meet our obligations under the UNCRRPD to ensure access to education for children and young people with disabilities.
- 17 The Ministry undertook a six-week engagement with stakeholders as a part of defining the Scope of the Review. The engagement confirmed the key concerns of stakeholders and clarified the Scope of the Review. A summary of engagement feedback is outlined in paragraphs 35-38 and a detailed summary is attached as Appendix One.

### **Vision for the Review**

- 18 The purpose of the Review is to ensure that children and young people with the highest needs for learning support achieve their full potential through positive education outcomes and that they receive the right support, when they need it, and for as long as they need it.

### **Objectives for the Review**

- 19 The objectives for the Review include:
- 19.1 Align cross agency work so it is better connected and co-ordinated to ensure children and young people and their family/whānau have access to broader Government supports.
  - 19.2 Identify how best to support children and their families/whānau including how support services are structured and delivered through the LSDM.
  - 19.3 Develop a strategic, planned system response for specialist services. This strategic framework will identify what the network of provision should look like, the place of each support or service within the network and how they integrate within the wider learning support context.
  - 19.4 Provide a proposed sequenced set of improvements within a short-term, medium-term and longer-term investment plan.
  - 19.5 Use the LSDM as the mechanism for delivering possible options and solutions.

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<sup>1</sup> LSDM organises learning support around what best meets the needs of local tamariki and rangatahi. The LSDM takes an inquiry approach to identify local needs and resources, and plans support based on what communities know works. Support is more flexible, joined-up and tailored.

## Context for the Review

- 20 Every child and young person in New Zealand has the right to education with the support they need to learn and succeed. New Zealand has international human rights obligations as a signatory to the United Nations Convention on the Rights of the Child (The Children's Convention).
- 21 The Children's Convention Articles 28 and 29 state that all children have the right to free education with equal opportunities that are aligned with the child's personality, talents and mental and physical abilities. In addition to this, Article 24 of the UNCPRD gives people with disabilities the right to access an inclusive, quality education on an equal basis with others.
- 22 This is reflected in the Education and Training Act 2020 which states *"people who have special education needs (whether because of disability or otherwise) have the same rights to enrol, attend and receive education at state schools as people who do not."* This right includes the entitlement to attend the school at which the student is enrolled during all the hours that the school is open for instruction.
- 23 Learning support is conceptualised as a tiered model of support, with supports that may be universal, targeted, or individualised. Supports change depending on the needs of children and young people, their individual circumstances and the barriers to education they face. Refer Figure 1 below.

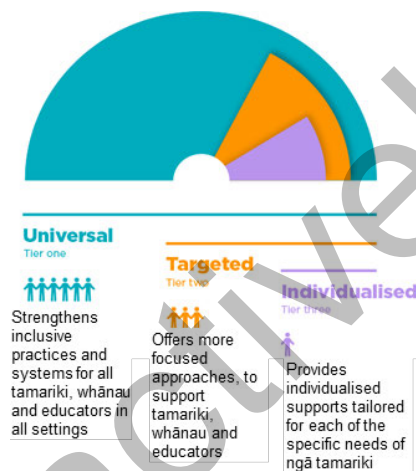


Figure 1: Tiered Model of Support

- 24 This Government is committed to ensuring the education system delivers excellent and equitable outcomes for all children and young people. The Education Work Programme 2021 [SWC-21-Min-0015] highlights the extensive work underway to work towards this commitment and includes:

- 24.1 Establishment of a National Curriculum Centre and curriculum work programme
- 24.2 NCEA Change Programme

- 24.3 Establishment of Te Mahau, an organisational change toward providing locally responsive, accessible and integrated services to the education sector.
- 24.4 Learning Support Action Plan
- 24.5 Reviewing the way Teacher Aides are funded
- 24.6 Reviewing the Special Education Grant
- 24.7 Redesign of Alternative Education
- 24.8 Establishment of an independent mechanism for raising and resolving complaints (dispute resolution panels for school Board decisions)
- 24.9 Attendance Action Plan
- 24.10 Other work to advance the LSDM and the network of supports
- 25 The work highlighted in paragraph 24 demonstrates that there is already a lot underway in the education system to make system improvements at the universal level. However, more needs to be done to address the issues identified in paragraph 16.

## Learning Support

- 26 I see this Review as part of a step change to ensure that systemic change occurs from both ends of the tiered model of support. The Review will focus on tier three of the tiered model of support and consider targeted supports within tier two (Figure 1: Tiered Model of Support). It recognises individualised supports benefit both the individual children or young people receiving support and all learners in the classroom. The Review provides the opportunity to begin to redefine learning support as mana enhancing and strengths based.
- 27 The aim of a mana enhancing approach to learning support is to enable children and young people who have disabilities, are disadvantaged, have learning differences or face other difficulties to gain the most they can from education and lead lives that are as fulfilling and independent as possible. This means the Government needs to provide or enable support that helps them overcome the barriers they face.
- 28 A strengths-based approach to learning support means we recognise all children and young people have inherent strengths. We need to empower learners and their family/whānau and give them more agency, choice and control.
- 29 I know this shift will require a significant change in the mindsets of many in the education and health sector, including government agencies, Ministry staff, specialists, early learning centres, kura and schools.

## Overarching Principles of the Review

- 30 The Ministry was told by stakeholders how it is important to them that the Review works within the Enabling Good Lives (EGL) Principles and the UNCRPD. It is important the Review is aligned with work in other agencies, including the Disability Support Services Transformation outlined in paragraph 43.4.



- 31 Options and solutions presented in October 2022 will be supported by the eight EGL principles: self-determination, beginning early, person centred, ordinary life outcomes, mainstream first, mana enhancing, easy to use and relationship building.

### ***Methodology of the Review***

- 32 The methodology of the Review will be guided by the Ministry's principle-based practice framework for learning support, He Pikorua, which is based on the understanding that the needs of learners sit at the heart of and drive practice.
- 33 It is the practice framework for all Ministry specialist practitioners and Resource Teachers: Learning and Behaviour and enacts the LSDM. The seven principles require practice to be: mokopuna and whānau centred, collaborative, strengths-based, culturally affirming and responsive, inclusive, ecological and evidence informed.
- 34 The Review's options and solutions will be deliverable through the LSDM. Connecting EGL, He Pikorua, and the LSDM will support policy and practice alignment and contribute to the Ministry's commitment to uphold the UNCPRD and the Children's Convention principles throughout the Review.

### **Summary of Engagement Feedback**

- 35 The Ministry undertook a six-week engagement phase to understand the range of stakeholder perspectives on who should be in-scope of the Review and to ensure the key issues were captured. I have been informed that as of 14 July 2020, the Ministry received 68 responses in total. This included 47 email submissions, 19 conversations over Teams and two meetings in person. The stakeholders represented a wide range of views, perspectives, and groups including young people, parents and whānau, Disabled People's Organisations, primary and secondary education sector, some specialist schools and some non-government organisations in the education and disability sector.
- 36 Overall stakeholders indicated that systemic change is needed. Specifically, shifting from a deficit-based system of accessing supports, to a strengths-based mana enhancing one. This indicates that the Review needs to be wider than a single service, support or setting and needs to place the whole child and their family and whānau at the centre of all options for solutions.
- 37 It also means all people (family, whānau, teachers, teacher aides, school leadership, school boards, resource teachers, specialists, and Ministry staff) in the system have a role to play to effect the change that is needed.
- 38 A detailed summary of the engagement feedback is attached in Appendix One.

### **Scope of the Review**

- 39 The recommended Scope of the Review is summarised in paragraph 9 with more information provided below. Once Cabinet has agreed the Terms of Reference, I intend to release them to the sector. Terms of Reference are attached as Appendix Two.

***Children, young people and their family/whānau who are included in the Review***

- 40 Children and young people cannot be separated into distinct cohorts or populations when individual circumstances and complex and overlapping needs are considered. The Review will consider the needs of children and young people who we know are experiencing barriers to their education because they:
- 40.1 currently receive individualised support;
  - 40.2 have an unmet need for individualised support, including those who have multiple or complex needs and/or children and young people who have a short or long-term disability, disorder, or learning difference that is a significant barrier to them accessing the curriculum and to achieving meaningful emotional, social, and education outcomes, on an equal basis with others;
  - 40.3 are in settings that have inequitable access to these supports and services because they are not able to be fully accessed and utilised. This might be due to:
    - 40.3.1 the deficit-based application process and a lack of culturally aligned supports being a barrier to kura accessing individualised level supports;
    - 40.3.2 rural and remote schools that do not have consistent access due to geographic distance between them and the service available;
    - 40.3.3 early learning settings that do not have the same range of supports available as the compulsory school system; and
    - 40.3.4 some school settings, like Te Kura and alternative education, that are not able to access the full range of learning supports available.

***What education settings are included in the Review***

- 41 The Review will include looking at how children and young people access supports, regardless of where they are learning, by including the journey children and young people take through the education system, from early learning through to leaving secondary school. This will allow us to address those key tension points being experienced by children and young people and their family and whānau as they move through and across settings. This includes transitions throughout a child's learning journey and transition across different education settings or schools.
- 42 I am proposing that the Review also considers the need for fluid boundaries between education settings to help encourage and strengthen positive working relationships where all schools can better access the expertise held in specialist settings. This includes the need to better share knowledge and expertise

***What will be reviewed for the children and young people identified, in the education settings they are in***

43 I propose that the Review will consider:

- 43.1 **How supports and services are accessed.** This includes reviewing the current rigid and deficit focused criteria and application processes for identifying when children and young people experience significant barriers to accessing the curriculum on an equal basis with others, the level of support required, and the length of time support is provided for.
- 43.2 **Maps the current funding and resourcing arrangements** against up-to-date prevalence and forecast data for individualised support to inform options and solutions to move away from the current siloed model of support. I know this will be an extensive exercise for the Ministry to undertake but it will provide valuable information to support the Review's options. Appendix One outlines stakeholders concerns and negative experiences with accessing and receiving bespoke fragmented and siloed supports. The Ministry does not have a comprehensive understanding about the children and young people the Review will focus on. The mapping exercise intends to work across agencies to fill this gap in knowledge.
- 43.3 **Responsiveness of supports to child/whānau needs** to ensure the system is delivering the right support to address the barriers being experienced. The current system is still too focused on the delivery of services and continues to measure the service input. Instead, we need to measure the outcomes and how the delivery of supports can help children and young people define and achieve successes.
- 43.4 **Alignment across government services and supports.** I note that the Minister of Health and Minister for Disability Issues are due to report to Cabinet in October 2021 with advice on machinery of government arrangements for the disability system with an initial focus on Disability Support Services. It will also include an implementation plan for the national expansion of the EGL approach to Disability System Transformation. I am also aware the Accelerating Accessibility work will present a final policy proposal in October 2021. I see the Review as an opportunity for increased collaboration, connectedness and cohesion across services and supports funded by different agencies.
- 43.5 **Building knowledge, understanding and capability.** People at all levels of the network need ongoing support to build knowledge, understanding, and capability to identify and respond at the earliest opportunity when a higher level of support is needed. This means children and young people, family/whānau, educators, school leaders, school boards, resource teachers and specialists working together to share expertise, make plans that include strengths, aspirations, and learning goals and navigate pathways for additional help together if needed. I propose the provision of professional learning development about specific needs is included in scope of the Review.

***Out of scope of this review***

- 44 Stakeholders expressed concerns about wider system issues affecting children and young people. These included:
- 44.1 Initial teacher education and centrally funded professional learning and development enabling teachers to support all learners;
  - 44.2 How teacher aides are used to support learners;
  - 44.3 How schools might use their Special Education Grant funding to support learners and;
  - 44.4 The barriers some learners face that affect full-time attendance and engagement in their education journey.
- 45 While the above issues will be considered within the Scope of the Review, they will be substantially addressed by significant other pieces of work that look at other aspects of the system, such as:
- 45.1 Improving schools use of Universal Design for Learning
  - 45.2 How schools are funded for Teacher Aides, and their career pathways are supported
  - 45.3 The review of the Special Education Grant funding
  - 45.4 Disengagement and non-attendance of children and young people, including the review of Alternative Education.
- 46 I have tasked the Ministry with ensuring that its many work programmes, including the Review, are aligned and working collaboratively to achieve equitable and inclusive outcomes for children and young people.

**Implementation**

- 47 The Ministry estimates the number of children and young people with the highest needs receiving current services and supports to be less than 5% of all learners. The Ministry does not have a comprehensive understanding about the number of children and young people with unmet need for individualised supports. Identifying unmet need for individualised support will result in an increase to the estimated the number of children and young people with the highest needs receiving current services and supports.
- 48 This Review is a large work programme. The Ministry will complete the Review in phases. The first phase included developing the draft Terms of Reference for Cabinet to approve in consultation with stakeholders to identify what should be in-scope.
- 49 The second phase of the Review will run from September to December 2021. The second phase will gather additional information and evidence from engagements, feedback, and submissions from a wide range of stakeholders, including children and young people, parents and whānau, Māori and Pacific communities, the education sector, and Government agencies. This phase will also include the data scoping exercise

outlined in paragraph 43.2 and a literature and evidence review to build on existing knowledge in international and New Zealand literature of best practice.

- 50 The final phase of the Review from January to September 2022 will develop options and solutions to better support the children and young people identified as in scope of the Review. At the end of October 2022, I will report back to Cabinet with the final report and recommendations.
- 51 The Review will work with the Youth Advisory Group and a Review Advisory Group throughout these phases. The two groups will be used as touchstones to test ideas and to help develop options and solutions. A cross agency group will also be established to progress work to achieve more seamless and transparent pathways across agencies.

### Financial Implications

- 52 There are no financial implications for this Cabinet paper; it is seeking agreement to the Scope of the Review and Terms of Reference, which will enable the next phase of the Review to be initiated.

53 9(2)(f)(iv)



### Legislative Implications

- 54 There are no legislative implications arising from this paper. However, the development of recommendations arising from the Review may have legislative implications. For example, the need to consider fluid boundaries between education settings is not currently enabled through the Education and Training Act 2020.

### Population Implications

- 55 It is my expectation that the Review will contribute towards reducing the inequities within the education system.
- 56 This includes disabled children and young people, learners who identify as Māori and Pacific, ethnic communities, and rural communities. The recommendations of the Review will aim to promote culturally appropriate supports that also consider the impact of gender and other intersecting identities.
- 57 Appendix Three provides an indication of the population breakdown of children and young people accessing current individualised services. However, this data does not provide a full picture of the services for Learning Support or the unmet needs for individualised supports.
- 58 There is a risk the proposed changes will create uncertainty for some families and whānau who may fear they will lose the supports they are currently receiving. Current

services and supports will remain in place until Review recommendations have been agreed and implemented. Depending on any recommendations for change, grandparenting arrangements may be necessary for children and young people receiving support.

## Human Rights

- 59 The proposals in this paper are consistent with our obligations under the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

## Consultation

- 60 In drafting this paper, the following agencies were consulted: Te Puni Kōkiri; the Ministry for Pacific Peoples; the Ministry for Ethnic Communities; the Ministry of Health; Oranga Tamariki–Ministry for Children; the Ministry of Social Development; Office for Disability Issues; Office for Seniors; the Tertiary Education Commission; Department of the Prime Minister and Cabinet; Child Wellbeing Poverty Reduction Group; Ministry for Women, Ministry for Youth Development, the New Zealand Police, the Disability Commissioner, the Children’s Commissioner and Treasury.

## Communications

- 61 I intend to announce the Scope of the Review through a press release after Cabinet’s agreement.

## Proactive Release

- 62 I intend to release the Cabinet paper proactively in whole within 30 business days of decisions being confirmed by Cabinet.

## Recommendations

The Associate Minister of Education recommends that the Committee:

- 1 **Note** that, in July 2018, Cabinet agreed to the Learning Support Action 2019 – 2025 (the Action Plan) to make improvements to learning support [CAB-19-MIN-0139 refers].
- 2 **Note** that Priority four of the Action Plan committed to “*review supports for children and young people with the highest levels of need, including the Ongoing Resourcing Scheme, to ensure they are meeting needs of children and young people, and delivering the intended outcome.*”
- 3 **Agree** that the Scope of the Review:
  - 3.1 Takes a whole child approach and does not define children and young people by specific diagnosis, disability, disorder or learning difference but, instead is focused on what support children and young people require and how they can access the support. This includes those who:
    - 3.1.1 currently receive individualised support

- 3.1.2 have an unmet need for individualised support
- 3.1.3 are in settings that have inequitable access to these supports
- 3.2 Focuses on the child and young person's journey through the education system, from early learning through to supporting the transition from secondary school.
- 3.3 Includes how children and young people can access supports regardless of where they are learning.
- 3.4 Considers the need for fluid boundaries between education settings to encourage and enable stronger working relationships where all schools can better access the expertise held in specialist settings.
- 3.5 Includes how supports and services are accessed.
- 3.6 Maps the current funding and resourcing arrangements against up-to-date prevalence and forecast data for individualised support to inform options and solutions to move away from the current siloed model of support.
- 3.7 Evaluates the responsiveness of supports to child/whānau needs and how supports can help children and young people define and achieve successes on an equal basis with others.
- 3.8 Includes the need to align services and supports across government agencies for children/young people, and their families/whānau.
- 3.9 Builds knowledge, understanding and capability of people to address and reduce barriers children and young people are experiencing at all levels of the network; centre and classroom level, management level, governance level, resource teacher and specialist level and Ministry level.
- 4 **Agree** to the Terms of Reference for the Review attached as Appendix Two.
- 5 **Note** I intend to publish the Terms of Reference for the sector and stakeholders.
- 6 **Agree** I will report back to Cabinet in October 2022 with recommendations for options and solutions to ensure children and young people are receiving individualised supports and services when they need them and for as long as they are needed.

Authorised for lodgement

Hon Jan Tinetti

Associate Minister of Education

## **Appendices**

Appendix One: Summary of Engagement for the Phase One of the Highest Needs Review.

Appendix Two: Terms of Reference.

Appendix Three: Stocktake of Learning Supports

Proactively Released





## Appendix One: Summary of Engagement for Phase One of the Highest Needs Review

### Introduction and summary of feedback

The purpose of the first engagement phase of the Highest Needs review was to co-design the Scope and Terms of Reference.

This initial engagement period ran for six weeks between 27 May 2021 to 9 July 2021. The feedback received was to build on what we already know from previous reviews including:

- The Learning Support Action Plan (2018)
- The Education Summit and the Education Conversation | Kōrero Mātauranga (2018)
- Insights and integration across the Education Portfolio Work Programme proposal (2018)
- Education and Science Committee: Inquiry into the identification and support for students with the significant challenges of dyslexia, dyspraxia and autism spectrum disorders in primary and secondary schools (Ministry of Education Departmental Report, 2016)
- Engagement forums feedback: Special Education Update (2015).

We contacted approximately 80 stakeholders from the sector, including the Ministerial Youth Advisory Group (YAG). The engagement was centred around three questions to inform the proposed scope.

As at 14 July 2021, we had 68 responses in total, including 47 email submissions, 19 online engagements over Teams, and 2 face to face meetings in Wellington.

We have told stakeholders we will keep them informed and connected to the Review through future engagement with them and regular communication.

### Question 1: Who are the tamariki and rangatahi we are looking to better support or support differently through this review?

**It depends on each tamariki and rangatahi, their individual circumstances, what they need and when they need it**

These initial engagements confirmed that determining who is in-scope of this Review is not straightforward. We heard of an extensive number of groups who need better or different support from both the education and health systems.

The scope of the review, therefore, needs to be wider than single services currently defined as high needs. A cross-sector, cross-agency and all of government approach is needed for tamariki and rangatahi who:

- currently receive individualised support
- have an unmet need for individualised support, and

- are in settings that have inequitable access to these supports

The list below represents the children and young people in those groups. This is not an exhaustive list. It is important to note that often tamariki and rangatahi will not fit into a single category and may have membership of multiple groups. This highlights the complexity of identifying who needs better or different support as needs may change over time. We also heard how important it is not to define tamariki and rangatahi by their condition, disorder, diagnosis or learning difference.

**Engagement feedback told us that individuals within these groups of tamariki and rangatahi need better or different supports and should be included in the scope of this review:**

- Are receiving existing education or health supports
- Engage in behaviour that is a barrier to them accessing the curriculum, including both internalising and externalising behaviours
- Have degenerative vision and/or hearing loss
- Are gifted and/or twice exceptional
- Have dyslexia or dyslexic like traits
- Are in Māori medium settings
- Have experienced trauma
- Have mild to moderate needs
- Are in early childhood settings
- Are transitioning to primary school, to secondary school, and to post-secondary settings
- Are experiencing mental health challenges, including anxiety, eating disorders, depression
- Are enrolled Te Aho o Te Kura Pounamu Correspondence School
- Are neurodiverse or neurodivergent
- Living with Downs Syndrome
- Have multiple needs and/or complex needs, e.g. intellectual and physical
- Congenital birth defects
- Are home schooled
- Have cancer or are recovering from cancer treatments
- Are suspended, stood down, or excluded
- Are attending school part time
- Are experiencing kiwi suspensions
- Have brain tumours or brain injuries
- Have rare disorders
- Have a physical disability

- Are in the care of Oranga Tamariki
- Are in a Youth Justice or Care and Protection residence
- Have a Specific Learning Disorder
- Have Fetal Alcohol Spectrum Disorder
- Have had pre-natal drug exposure such as methamphetamine
- Live with epilepsy
- Live in remote or rural communities
- Have transferred between education regions
- Are refugees or from a refugee family
- Have English as an additional language or have a family who has English as an additional language
- Are from a cultural or religious minority group
- Experience poverty
- Require assistive technology
- Have sensory issues and communication difficulties
- Are living in emergency housing

**Question 2: To better support the tamariki and rangatahi you have identified, what are the non-negotiable things that should be considered within the scope of the review?**

***Tamariki and rangatahi and their families/whānau need to remain at the centre of the review***

Stakeholders would like to participate in a review that looks at the whole child and their family/whānau and does not define them by services or interventions they receive. They want a strengths-based approach when understanding the needs of tamariki, rangatahi and families/whānau.

The scope needs to focus on equitable access to supports for all tamariki and rangatahi and the evaluation of supports based on outcomes.

***The review needs to be underpinned by a rights-based framework***

There was a strong call for this review to take an explicit rights-based approach with conscious consideration of the conventions listed:

- United Nations Convention on the Rights of the Child (UNCROC)
- Convention on the Rights of Persons with Disabilities (CRPD)
- United Nations 1951 Convention Relating to the Status of Refugees
- United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP)

The review needs to align with work across agencies that are working from a rights approach, such as the principles of Enabling Good Lives.

### ***The review needs to focus on people and systems at all levels of the learning support network***

Whilst recognising the good work of the many adults supporting children and young people, stakeholders strongly believed that this review will not affect meaningful change unless the scope considers people at all levels within the wider system in the context of this review: classroom level, management level, governance level, resource teacher and specialist level and agency level.

Some described the current system as being fundamentally flawed that did not consistently enable collaborative, timely, or sufficiently flexible supports. Acknowledgement of the Learning Support Delivery Model's intent and potential was made by some.

Meaningful emotional, social, and education outcomes for all tamariki and rangatahi should be our collective goal and collective responsibility.

### ***This review needs to link with other reviews occurring in education and across government***

Stakeholders want supports that are seamless and connected across Health, Ministry of Social Development, Oranga Tamariki, and Education. We heard frustration at the needs of tamariki and rangatahi being viewed in siloes or through fragmented funding buckets; having to make multiple applications; navigate multiple processes; or manage multiple supports. Stakeholders want clearer, streamlined pathways to identify, access and receive support.

The scope needs to have a whole-of-government approach and make meaningful links to reviews and strategies such as the Disability Strategy 2016-2026, the Disability Support System transformation, and The Child and Youth Wellbeing Strategy. It also needs to link with work underway in education including the Special Education Grant Review and the review of how teacher aides are funded.

### ***The review needs to result in practical recommendations and equitable access to supports***

There is ongoing frustration at the number of policies, initiatives, and reviews occurring inside education. Stakeholders feel many problems have already been identified and they would like the review to take a solutions-focused approach resulting in tangible changes. To do this, the scope needs to include a literature review of New Zealand and international research and literature in this area. In addition, the scope must include an examination of potential barriers to implementation, for example in rural and remote communities, so practical recommendations to identified problems are proposed.

## **Question 3: Anything else?**

### ***Stakeholders confirmed existing tension points for providing support to tamariki and rangatahi***

The engagements emphasised that the system at all levels is stressed. It was clear the review needs to have a wider scope than tamariki and rangatahi currently receiving services targeted at the highest level of need. Many questioned why the highest needs had to be defined and to what end.

**Criteria for support:** Stakeholders confirmed that the current use of criteria to identify level of need creates a gap between those who qualify for supports and those who need support but are not deemed eligible. Stakeholders found the pathways to accessing the supports complex because there are multiple, stand-alone criteria linked to different funding streams. There was frustration that tamariki and rangatahi with multiple needs could not access supports because their needs did not fit into any specific box or criteria set. Stakeholders described having to choose which application process was most likely to be successful enabling access to meaningful help. We also

heard that success in receiving funding, like ORS, did not necessarily mean that expertise and specialist supports were easily available.

Stakeholders were also concerned that some tamariki and rangatahi with mild to moderate needs were not able to access supports when needed; of particular concern were those children and young people living with autism. If supports weren't enabled early, some of these children and young people may become 'highest needs' learners.

**Supporting earlier:** As identified in previous reviews, receiving support early is a critical consideration from a child development perspective. Stakeholders were also very clear that early identification does not always require specialist assessment. We heard that teachers have the knowledge, expertise and competence in teaching; stakeholders asked how we could better support our teachers so they can teach all our children.

**Transitions:** The already identified gap in supports for children transitioning from early childhood services to school was raised by stakeholders, along with the lack of support for children who remain in early childhood services until they are six. Other significant transition points identified by stakeholders were primary-to-secondary school and support for integrated seamless transitions to post-secondary settings. We were also told that the transition process does not finish at the point of transition and maintenance of supports is needed for some time afterwards.

**Capped funding system for specialist supports:** We heard that stakeholders remain concerned that limitations placed on funding or time allocation for supports will make schools compete for supports. Some parents shared their concern about the 'toxic culture' where families question why some children are successful at getting support and when their child is not. Applying and receiving supports was described as a competitive process by schools and families.

Anxiety remains about supports being taken away and many stakeholders told us in the existing system they are not able to access the right supports for long enough due to the fixed length of some support programmes, such as the Resource Teacher: Learning and Behaviour (RTLb) time limit.

**Wait times and access:** We heard some schools will not apply for support because of wait times, the inconsistency of accessing supports available, the current system does not provide the right supports or the process is not mana enhancing or dignified due to children and young people being portrayed through deficit thinking. Frustration remains that tamariki and rangatahi are waiting for long periods at all stages of the process; having their needs identified, making applications, supports being made available, and then receiving supports.

Stakeholders remain concerned about equity of access for rural and remote communities where qualified support people may not be available or may have limited availability because they have to travel significant distances. Stakeholders identified groups that have specific support needs but who are currently experiencing inconsistent access for example tamariki and rangatahi who are deaf or hard of hearing and require access to adults with a high proficiency in New Zealand Sign Language for language acquisition.

**Initial teacher education and on-going Professional Development:** Stakeholders identified there is a lack of consistency in initial teacher education about understanding and enabling diverse learners to access the curriculum. Schools also need to have access to funds and time for ongoing professional development so they can respond and make accommodations as needed.

**Teacher and teacher aide relationships:** Stakeholders acknowledged the good work on the ground of people working to support children, but they understood the roles and responsibilities were not always clear between teachers and teacher aides.

**Individual Education Plans (IEPs):** We heard about variable experiences with the IEP process depending on which school children and young people were attending and sometimes individuals within the school. Some parents shared they had not felt listened to and that the IEP process does not always lead to meaningful learning goals and life aspirations being discussed and planned.

**Workforce strategy:** We heard that even when applications for support were successful, there was not consistent access to the right people. Stakeholders identified that specialist staff were not always able to be attracted and retained into key roles. We also heard when children and young people accessed supports from Health and education there could sometimes be situations where the support is doubled up, for example receiving speech language therapist support for school and another for health-related issues.



## Appendix Two: Highest Needs Review Terms of Reference

### Background

The Ministry of Education is doing a “review of supports for children and young people with the highest level of need, including the Ongoing Resourcing Scheme, to ensure they are meeting needs of children and young people, and delivering the intended outcome” under the Learning Support Action Plan Priority 4.

### Vision for the Review

The purpose of the Review is to ensure that children and young people with the highest needs for learning support achieve their full potential through positive education outcomes and that they receive the right support, when they need it, and for as long as they need it.

### Objectives for the Review

Children and young people and their families/whānau are at the centre of this review. We will take a rights, strengths-based, and mana enhancing approach throughout the review.

Following the first phase of engagement from 27 May to 9 July 2021, the objectives for the review were refined as outlined below:

- Align cross agency work so it is better connected and co-ordinated to ensure children and young people and their family and whānau have access to broader Government supports.
- Identify how best to support children and their families and whānau including how support services are structured and delivered through the Learning Support Delivery Model.
- Develop a strategic, planned system response for specialist services. This strategic framework will identify what the network of provision should look like, the place of each support or service within the network and how they integrate within the wider learning support context.
- Provide a proposed sequenced set of improvements within a short-term, medium-term and longer-term investment plan.
- Use the Learning Support Delivery Model as the mechanism for delivering possible options and solutions.

### Overarching Principles of the Review

The Review will be guided by the principles of the Convention on the Rights of Persons with Disabilities (CRPD) and the United Nations Convention on the Rights of the Child and align with the eight Enabling Good Lives (EGL) Principles: self-determination, beginning early, person centred, ordinary life outcomes, mainstream first, mana enhancing, easy to use, and relationship building.

## Scope of Review

We propose that the Scope of the Review:

- Take a whole child approach and does not define children and young people by specific diagnosis, disability, disorder or learning difference but instead is focused on what support children and young people require and how they can access the support. This includes those who:
  - currently receive individualised support
  - have an unmet need for individualised support
  - are in settings that have inequitable access to these supports
- Focuses on the children and young people's journey through the education system, from early learning through to supporting the transition from secondary school.
- Includes how children and young people can access supports regardless of where they are learning. This will allow us to address those key tension points being experienced by children, young people and their family and whānau as they move through and across settings.
- Considers the need for fluid boundaries between education settings to encourage and enable stronger working relationships where all schools can better access the expertise held in specialist settings.
- Includes how supports and services are accessed. This would include reviewing current rigid and deficit focused criteria and application processes to determine which children and young people can access supports, the level of support required, and the length of time support is provided.
- Maps the current funding and resourcing arrangements against up-to-date prevalence and forecast data for individualised support to inform options and solutions to move away from the current siloed model of support.
- Evaluates the responsiveness of supports to child/whānau needs and how supports can help children and young people define and achieve successes.
- Includes the need to align services and supports across government agencies for children, young people, and their families/whānau, including the need for culturally appropriate supports.
- Builds knowledge, understanding and capability of people to address and reduce barriers children and young people are experiencing at all levels of the network; centre and classroom level, management level, governance level, resource teacher and specialist level and agency level.

### The following is out-of-scope of this review

There are several reviews and pieces of work already underway that are looking to better support a crossover population of children and young people identified as in-scope of this Review. This includes:

- Improving schools use of Universal Design for Learning
- How schools are funded for teacher aides, and career pathways supported
- The review of the Special Education Grant funding
- Disengagement and non-attendance of children and young people, including the review of Alternative Education



While the above issues will be considered within the Scope of the Review, they will be substantially addressed by significant other pieces of work that look at other aspects of the system.

## **Implications**

Recommendations from the Review may have an impact on how services and supports are provided children and young people. They may also have significant policy implications for the Government.

## **Process and Timing**

Phase two of the review will run from September to December 2021. The second phase is to gather information and evidence from engagements, feedback and submissions from a wide range of stakeholders. We will work with the Youth Advisory Group and a Review Advisory Group throughout this phase. We will provide a briefing to Associate Education Minister Hon. Jan Tinetti with a summary from this phase in December 2021. The final phase of the Review from January to September 2022 will develop options and solutions to better support the children and young people identified as in scope of the Review. At the end of October 2022, the Review will report back to Cabinet with recommendations.

## Appendix Three: Current Services Stocktake

### Ministry of Education Provided Services and Supports for Children and Young People with Highest Level of Need

Service or Intervention	Description	Number of students / Size of cohort	Cost \$m	Year	Māori %	Pacific %
Early Intervention services	Early Intervention Service provides specialist support for children who have an identified need, from birth until they start school	15,831 students in 2019/20	67.894	2019/20	28%	11%
Communication service	Supports children from school entry with oral language and literacy skills. Targeted at early primary school years (ages 5-8).	7,792 children supported	23.115	2019/20	32%	12%
Behaviour Service	Supports behaviour issues, focusing on building positive relationships and inclusive learning environments	4,877 children supported	46.807	2019/20	43%	9%
Ongoing Resourcing Scheme (ORS)	Services and supports for the 1.2% of the school population with the highest ongoing levels of disability and need for specialist learning support. Available for ages 5-21.	10,291 children (May 2021) 7,742 ākonga with High Needs 2,549 ākonga with Very High Needs	149.740	2019/20	26%	12%
Te Kahu Toi- Intensive Wraparound Service (IWS)	Provides a comprehensive, youth and family/whānau centred response for children and young people with highly complex learning, social and behavioural difficulties.	399 ākonga supported in 2020	17.544	2019/20	44%	5%
School High Health Needs funding	SHHNF provides schools with short term funding for teacher's aide support to help students with health needs develop independence in managing their health condition	1,431 ākonga supported	14.743	2019/20	20%	7%

### School Provided Supports and Services for Children and Young People with Highest Level of Need

Service or Intervention	Description	Number of students / Size of cohort	Cost \$m	Year	Māori %	Pacific %
Residential specialist schools	<i>Sensory schools</i> <b>BLENNZ</b> is a state specialist school providing a residential option for ākonga who are blind, deafblind or have low vision. Funded for a notional roll of 40 residential ākonga	8 ākonga in residential 47 ākonga enrolled in BLENNZ 1,536 ākonga enrolled in local school, with BLENNZ support	1.185	2019/20	17%	35%
	<b>Ko Taku Reo</b> is a state specialist school that provides residential options for ākonga who are deaf or hard of hearing. Funded for a notional roll of 43 residential ākonga	27 ākonga in residential 84 ākonga enrolled in Ko Taku Reo 2,612 ākonga enrolled in local school, with Ko Taku Reo support	7.357	2019/20	30%	27%
	<i>Other residential schools</i> <b>Westbridge, Halswell and Salisbury</b> are state specialist schools that provide a short-term residential option for ākonga with needs related to socialisation, behaviour and learning and who may have an intellectual disability. Funded for a notional roll of 84 residential ākonga.	20 residential in total	6.798	2019/20	40%	0%

**NOTE:** These services do not represent the full range of services and supports covered by the Ministry of Education Learning Support. The services in these tables are individualised supports and have been included to give an initial indication of the scale of current supports and the populations that may be impacted by the Review.



# 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.*

### Report of the Cabinet Business Committee: Period Ended 3 September 2021

On 6 September 2021, Cabinet made the following decisions on the work of the Cabinet Business Committee for the period ended 3 September 2021:

Out of scope

CBC-21-SUB-0082

**Highest Needs Review: Scope and Terms of Reference**

CONFIRMED

Portfolio: Associate Education (Hon Jan Tinetti)

Out of scope

Michael Webster  
Secretary of the Cabinet



# Cabinet Business Committee

## 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.*

### Highest Needs Review: Scope and Terms of Reference

**Portfolio** Associate Education (Hon Jan Tinetti)

On 1 September 2021, the Cabinet Business Committee:

- 1 **noted** that in April 2019, the Cabinet Social Wellbeing Committee agreed to the Learning Support Action Plan 2019 – 2025 (the Action Plan), and agreed to progress implementation subject to funding in Budget 2019 and future Budgets [SWC-19-MIN-0032];
- 2 **noted** that Priority Four of the Action Plan committed to ‘review supports for children and young people with the highest levels of need, including the Ongoing Resourcing Scheme, to ensure they are meeting needs of children and young people, and delivering the intended outcome’;
- 3 **agreed** that the Scope of the Highest Needs Review (the Review):
  - 3.1 takes a whole child approach and does not define children and young people by specific diagnosis, disability, disorder or learning difference but instead is focused on what support children and young people require and how they can access the support, including those who:
    - 3.1.1 currently receive individualised support;
    - 3.1.2 have an unmet need for individualised support;
    - 3.1.3 are in settings that have inequitable access to these supports;
  - 3.2 focuses on the child and young person’s journey through the education system, from early learning through to supporting the transition from secondary school;
  - 3.3 includes how children and young people can access supports regardless of where they are learning;
  - 3.4 considers the need for fluid boundaries between education settings to encourage and enable stronger working relationships where all schools can better access the expertise held in specialist settings;
  - 3.5 includes how supports and services are accessed;
  - 3.6 maps the current funding and resourcing arrangements against up-to-date prevalence and forecast data for individualised support to inform options and solutions to move away from the current siloed model of support;

- 3.7 evaluates the responsiveness of supports to child/whānau needs and how supports can help children and young people define and achieve successes on an equal basis with others;
- 3.8 includes the need to align services and supports across government agencies for children/young people, and their families/whānau;
- 3.9 builds knowledge, understanding, and capability of people to address and reduce barriers that children and young people are experiencing at all levels of the network, centre and classroom level, management level, governance level, resource teacher and specialist level and Ministry level;
- 4 **agreed** to the Terms of Reference for the Review attached to the paper under CBC-21-SUB-0082;
- 5 **noted** that the Associate Minister of Education (Hon Jan Tinetti) intends to publish the Terms of Reference for the sector and stakeholders;
- 6 **invited** the Associate Minister of Education (Hon Jan Tinetti) to report back to the Cabinet Social Wellbeing Committee in October 2022 with recommendations on options and solutions to ensure children and young people are receiving individualised supports and services when they need them and for as long as they are needed.

Jenny Vickers  
Committee Secretary

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**Present:**

Rt Hon Jacinda Ardern (Chair)  
Hon Grant Robertson  
Hon Kelvin Davis  
Hon Dr Megan Woods  
Hon Carmel Sepuloni  
Hon Andrew Little  
Hon David Parker  
Hon Nanaia Mahuta  
Hon Poto Williams  
Hon Damien O'Connor  
Hon Stuart Nash  
Hon Kris Faafoi  
Hon Dr David Clark  
Hon Jan Tinetti  
Hon Aupito William Sio

**Officials present from:**

Office of the Prime Minister  
Department of the Prime Minister and Cabinet