

Cabinet Paper material

Proactive release

Minister & portfolio Hon Chris Hipkins, Minister of Education
Name of package Education and Training Bill: additional policy proposals
Date considered 23 March 2020
Date of release 10 June 2020

These documents have been proactively released:

**Cabinet Paper: Education and Training Bill: policy approvals for
Supplementary Order Papers**
23 March 2020
Ministry of Education

Minute: SWC-20-MIN-0015
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Cabinet Office

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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.

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In Confidence

Office of the Minister of Education

Chair, Cabinet Social Wellbeing Committee

Education and Training Bill: additional policy proposals

Proposal

- 1 This paper seeks agreement to additional policy proposals for the Education and Training Bill (the Bill), to be included in the departmental report, and to the issuing of related drafting instructions.

Executive Summary

- 2 The Bill, currently before the Education and Workforce Select Committee, replaces the current education and training legislation with a new modernised Act.
- 3 The Bill implements a number of policy changes. These include the introduction of a scheme to resolve serious disputes in the compulsory schooling sector, changes to strengthen the licensing regime and related oversight and assurance for early learning services, and the introduction of an information request power for the Education Review Office. I am proposing amendments in relation to each of these aspects of the Bill.
- 4 The proposed dispute resolution scheme amendments will enable regulations to be made covering dispute resolution information requirements. They also add another remedy to those currently provided for in the Bill and allow the chief referee to filter out complaints that are trivial or vexatious or more easily resolved by another complaint or dispute resolution body.
- 5 The Bill introduces a two stage licensing process for early learning services. The first stage is new. It requires potential service providers to apply to the Minister for a preliminary approval to establish an early childhood education service.
- 6 The proposed early childhood services licensing amendments provide for fit and proper person criteria for stage one of the licensing process and make minor changes to the list of other matters that the Minister is required to take into account during stage one. They also provide for a new regulation making power, a fixed term duration period (to be reviewed within five years) for a stage one application approval, and delayed commencement of the new two stage licensing process until two years after enactment of the Bill (or sooner by Order in Council).
- 7 Finally, the proposed amendments will clarify that ERO's functions in relation to parent entities under the Bill are limited to parent entities of licensed early learning services and will extend the application of the information request power to all of the functions of the Chief Review Officer under the Bill.

- 8 If approved by Cabinet, the proposed amendments will be recommended to the Education and Workforce Select Committee through the Ministry's departmental report on the Bill.

Background

- 9 The Education and Training Bill was introduced on 2 December 2019. The Bill received its first reading, and was referred to the Education and Workforce Select Committee, on 5 December 2019. It is due to be reported back to the House by 4 May 2020.
- 10 The Bill replaces the current education and training legislation with a new Education and Training Act, which will be simpler, more modern and less prescriptive than the current legislation. The Bill also implements policy changes that have resulted from the Education work programme and undertakes the amendments required to support the Government's response to the final report of the Tomorrow's Schools Review Independent Taskforce.
- 11 The Bill includes provisions that:
- 11.1 establish a new dispute resolution scheme for primary and secondary school students and their whānau;
 - 11.2 strengthen the licensing regime and related oversight and assurance, for early learning services.
- 12 I am proposing amendments to both of these aspects of the Bill.

Dispute resolution

- 13 The Bill introduces a new dispute resolution scheme to the compulsory schooling system to resolve serious disputes that primary and secondary school students and their whānau may have with their school. It enables the establishment of local complaints and dispute resolution panels, appointed and overseen by a Chief Referee, that can be easily accessed by students and their whānau who have not been able to resolve disputes with their school.
- 14 Panels will be primarily focussed on resolving disputes through mediation, where settlement is arrived at by mutual agreement between the parties with the help of a mediator.
- 15 Some disputes will not, however, be resolvable by mediation, so panels will also be able to determine the dispute by making non-binding recommendations and, with prior approval of both parties, binding decisions.
- 16 In order for panels and the Chief Referee to carry out their functions, they must be able to receive, obtain and use information. This should happen in a way that protects the interests of those affected in relation to matters including but not limited to information disclosure between the parties, personal privacy, security of information, the purposes for which information is used and the impact on proceedings if information is not provided.

- 17 Provisions of this type are not included in the Bill. I propose that they be provided for in regulations and that the Bill be amended to include a regulation making power specifically for this purpose. Regulations allow the flexibility to respond in a timely manner to technological and other changes that can affect the collection and use of information.
- 18 This is consistent with the approach taken in relation to the International Student Contract Dispute Resolution Scheme Rules 2016 made under the Education Act 1989 (the 1989 Act). Those Rules provide for matters including how information may be obtained and used for adjudicated proceedings, and the potential consequences where parties to the dispute do not provide information requested by the dispute resolution scheme operator.
- 19 There are two other matters not provided for in the Bill that should be dealt with in primary legislation. I propose to amend the Bill to provide for the matters outlined below.
- 20 First, in addition to the existing remedies provided for in the Bill, panels should be able to make recommendations that the school take any other action *recommended* by the panel to remedy the matter in dispute. In relation to determinative proceedings, where panels can make binding decisions with the prior agreement of both parties, panels should be able to make orders that the school take any other action *directed* by the panel to remedy the matter in dispute.
- 21 The Bill currently provides for an exhaustive list of remedies, which limits the potential for panels to tailor solutions to particular circumstances. A general 'catch all' provision provides greater flexibility for the panel to best meet the needs of both parties on a case by case basis. This approach is consistent with that which applies to other dispute resolution schemes, including the International Student Contract Dispute Resolution Scheme established under the 1989 Act (rule 18 of the International Student Contract Dispute Resolution Scheme Rules 2016 refers).
- 22 This would give panels greater flexibility to tailor solutions to the problems giving rise to disputes and is a feature of other dispute resolution schemes.
- 23 Second, it is usual for dispute resolution schemes to filter out complaints that are trivial or vexatious or otherwise unsuited to the scheme. This enables complaints with merit that are appropriately dealt with by the scheme, to be dealt with more efficiently and helps to keep costs down.
- 24 The Bill should allow the Chief Referee to filter out complaints that are trivial or vexatious or otherwise unsuited to the scheme. For example, a complaint that can be more easily resolved by another complaint or dispute resolution body such as the Office of the Privacy Commissioner.

Licensing of early learning services

- 25 The Bill introduces a two stage licensing process for early learning services. The first stage is a new network planning stage. It requires potential service providers to apply to the Minister for a preliminary approval to establish an early childhood service. The Minister will assess the need for a new service

from a network perspective, as well as the suitability of the applicant and their organisation.

- 26 At the second stage of the licensing process, applicants will go through the licensing process as set out in regulations. This will continue to be undertaken by the Ministry.

Matters the Minister must take into account when considering applications to apply for a license

- 27 Clause 17(2)(d) requires the Minister to take into account “the licensing history of any other services previously or currently owned, operated, managed by, or otherwise connected with, the applicant”. An amendment to clause 17(2)(d) is required to:

- 27.1 clarify that the “services” referred to are early childhood services;
- 27.2 include the licensing history of the governing members of the proposed service, as well as the applicant, to align with the fit and proper assessment, which applies to the applicant and governing members (see below).

Fit and proper person criteria

- 28 Both stages of the licensing process require a fit and proper person assessment. The first stage of the licensing process includes a requirement for the Minister to determine whether the applicant and the governing members are fit and proper persons. The fit and proper assessment in the second stage is determined by the Secretary of Education under regulation 8 of the Education (Early Childhood Services) Regulations 2008. Because of the time lag between the first and second stages, it is important to retain a fit and proper assessment at the second stage of the licensing process to capture any changes that would affect the determination of whether the applicant or governing member is a fit and proper person.

- 29 The Bill does not specify any criteria to be used by the Minister in making the fit and proper person determination in the first stage. I propose that the Bill provide for the Minister to have regard to the following types of matters when determining whether the applicant and each member is a fit and proper person:

- 29.1 any convictions for offences involving harm to children, violence, or fraud;
- 29.2 any property order or personal order under the Protection of Personal and Property Rights Act 1988 that the applicant has been subject to;
- 29.3 any relevant history of health conditions;
- 29.4 any sum of money that is or has previously been owed to the Crown;
- 29.5 any adjudication of bankruptcy;

- 29.6 any prohibition issued on acting as a company director or on being involved in the management of an incorporated or unincorporated body;
 - 29.7 any role as a governing member of an entity or organisation that became insolvent, including being placed in liquidation, receivership or voluntary administration;
 - 29.8 any prohibition issued on acting as an employer or an officer of an employer under the Employment Relations Act 2000;
 - 29.9 any previous involvement in an early learning service that had an application for a licence refused or a licence suspended or cancelled;
 - 29.10 any other relevant matter.
- 30 These criteria are based on the fit and proper persons test provided for in Regulation 8 of the Education (Early Childhood Services) Regulations 2008 and comparable tests of suitability for governance roles, including the test for governing members of private training establishments under the 1989 Act.

Fixed term duration for stage one approval to apply

- 31 I propose that the preliminary approval given by the Minister in stage one of the licensing process should expire after two years, which can be extended prior to expiry if the Minister thinks fit. A two year time limit will minimise risks to services and communities from the licensing process being drawn out unreasonably. This will in turn limit potential negative effects on early learning participation. Allowing the approval to remain valid indefinitely when the applicant has not made reasonable efforts to apply to the Ministry for a license at stage two, or is not yet able to meet the stage two licensing requirements, could put other potential market entrants at a competitive disadvantage.
- 32 There is also a risk that a significant amount of time could elapse before new services open following the approval to apply for a licence, resulting in some high growth areas having a lack of capacity within the network. This could impact educational outcomes for children and the labour market participation of parents, whānau and caregivers.
- 33 The term of duration for the stage one preliminary approval should be reviewed by the Ministry within five years of the commencement of the provisions requiring Ministerial approval for early childhood services licensing applications.

Regulation making power for stage one approval to apply

- 34 Regulations are required to operationalise stage one of the licensing scheme. I propose that the Bill be amended to enable regulations to be made to provide for the following matters:
- 34.1 application approval processes and procedures for stage one approvals;

- 34.2 authority to set related fees and charges;
- 34.3 conditions on which the application is approved.

Delayed commencement

- 35 As currently drafted the new early childhood education licensing provisions will come into force on enactment of the Bill. However, this is a new process for the sector and will need some time to implement, including changes to the Education (Early Childhood Services) Regulations 2008. The Ministry has indicated to me that this work is likely to take until mid-2021 to complete. This is also a new process for the sector with a likely impact on existing and planned capital investment decisions that will need an appropriate lead in time to implement.
- 36 The full implementation of this new step in the licensing process will also likely require additional funding for the Ministry to undertake the assessment of the applications and provide advice to the Minister. Any additional funding required will be sought through budget processes and considered alongside other Government priorities. There is the risk that without additional funding the Ministry may not be able to develop the data or hire the expertise required to fully support the Minister of Education in making their decision on applications received.
- 37 Therefore I propose delaying the commencement of the provisions requiring Ministerial approval for early childhood services licensing applications for a maximum of two years post the Bill's enactment, with provision to be made for an earlier commencement date to be specified by Order in Council. This allows for the possibility that the necessary work for a smooth implementation of the new licensing process can be completed earlier than expected.
- 38 There is some risk that by delaying the commencement of the network planning provisions there may be an increase in the number of applications immediately preceding the new regime coming into effect. However, the risk is small due to the lead in time required to be in a position to apply for a licence, such as acquiring, renovating or building the service and hiring sufficient staff to run the service.

Education Review Office – oversight powers

- 39 Two changes are required to the Bill's provisions regarding the oversight powers of the Education Review Office (ERO).
- 40 On 2 December 2019, following reference from the Cabinet Business Committee, Cabinet:
 - 40.1 noted that “the Education Review Office has been asking for information from applicable organisations and services prior to or between on-site reviews”;
 - 40.2 agreed that “the Chief Review Officer” may request in writing from an applicable organisation or service, or early childhood education and

care service provider, information that is reasonable necessary or desirable for the conduct of on-site reviews”.

- 41 I propose to broaden the scope of this information request power to cover information required for the purposes of performing the Chief Review Officer’s functions under the Bill.
- 42 Under the 1989 Act, ERO can only request information once they are on-site. This does not reflect modern practice of using emails and other technology to request and obtain information for scoping reviews, determining which providers ERO might work with as part of an onsite process, undertaking surveys into particular aspects of practice across a representative sample of services and undertaking desk analysis prior to or in between on-site reviews or as part of a wider or ongoing investigation.
- 43 Clause 437(2) of the Bill gives effect to the above Cabinet decision by enabling ERO to request information before on-site visits. This will help with planning and undertaking on-site reviews but it does not cover the other situations outlined above which are consistent with ERO’s functions under the Bill.
- 44 My second proposal relates only to ERO’s oversight of licensed early services. On 23 October 2019, the Cabinet Social Wellbeing Committee:
 - 44.1 noted that “the Education Review Office does not currently have the power to obtain governance and management information from parent entities where it relates to early learning services under their control”;
 - 44.2 agreed that “the Bill include provisions to amend the interpretation of applicable organisation in section 323 of the current Education Act to include parent entities”.
- 45 The provisions are only intended to apply to parent entities of the early learning services for which ERO has oversight responsibilities under the 1989 Act. The recommendation referred to in paragraph 44.2 and the related provisions in the Bill have wider application beyond the early childhood sector.
- 46 I propose to amend the Bill to restrict the applicability of ERO’s proposed power regarding parent entities, to parent entities of early learning services for which ERO has oversight responsibilities under the 1989 Act.

Consultation

- 47 The Treasury, Ministry of Justice, Ministry of Social Development, Office of Disability Issues, Ministry for Women, Te Puni Kōkiri, Ministry for Pacific Peoples, Oranga Tamariki - Ministry for Children, Government Dispute Resolution Centre and the Education Review Office were consulted on this paper. The State Services Commission and the Department of the Prime Minister and Cabinet were informed.

Financial Implications

- 48 There are no financial implications resulting from these proposals, but implementation and delivery of the two-stage licensing process may require additional funding in future Budgets.

Human Rights

- 49 All of the proposals appear to be consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative Implications

- 50 Amendments are required to the Bill which is currently before the Education and Workforce Committee. If approved by Cabinet, the proposed amendments will be recommended to the Committee through the Ministry's departmental report on the Bill.
- 51 There will not be an opportunity for public consultation as the Bill is due to be reported back to the House on 4 May 2020. The dispute resolution proposals have been informed by submissions (now publicly available) on the Bill. The early learning services proposals are broadly consistent with related earlier Cabinet decisions and have been informed by public consultation as part of the development of the Early Learning Action Plan.

Regulatory Impact Analysis

- 52 A Ministry of Education Quality Assurance Panel has reviewed the Regulatory Impact Analysis (RIA) Creating a pathway for teachers without recent teaching experience to return to teaching. The RIA is dated 16 September 2019. The Panel considers that the RIA meets the Quality Assurance criteria. The Panel considers that the RIA is concise and relates to the scale of the problem described. It describes the problem clearly, makes a clear case for the proposed change, and has involved sufficient stakeholder consultation leading into the legislative process.
- 53 The Treasury's Regulatory Quality Team has determined that the regulatory proposal to restrict ERO's power to obtain information from parent entities to only those connected to early childhood services is exempt from the requirement to provide a Regulatory Impact Assessment on the grounds that this was the intention of the original policy approvals [SWC-19-MIN-0157]. This proposal has already been addressed by existing impact analysis (refer <https://education.govt.nz/assets/Documents/Ministry/Legislation/ETB/Clarification-of-EROs-powers-in-respect-of-parent-entities.pdf>).
- 54 The Treasury's Regulatory Quality Team has determined that the impact analysis requirements apply to the proposal to extend the scope of ERO's information request power, however the Ministry of Education has not provided a Regulatory Impact Assessment.
- 55 The following regulatory proposals in this are exempt from the requirement to provide a Regulatory Impact Assessment on the basis that they have no or minor impacts on businesses, individuals or not for profit entities:

Early learning services

- 56 Two changes relating to early learning services - inserting a regulation making power and delayed commencement of the network planning provisions. Both are minor administrative provisions to enable the implementation of the new network planning provisions within the Bill.

Dispute resolution

- 57 The proposal relating to information requirements is an extension and clarification of an existing regulation making power. The Ministry of Education will prepare regulatory impact analysis at the time policy approval is sought for the regulations.
- 58 The proposal to add another remedy is a minor adjustment of the current remedies provided for in the Bill, and will provide greater flexibility for panels to tailor solutions to individual disputes.
- 59 The discretion to filter out applications that do meet the existing threshold in the Bill (i.e. complaints need to meet the definition of 'serious dispute' specified in the Bill) but are trivial or vexatious or otherwise unsuited to the scheme. This will align panels with the approach adopted in other dispute resolution schemes.

Climate Implications Policy Assessment

- 60 The Ministry for the Environment has been consulted and confirms that the Climate Implications Policy Assessment requirements do not apply to this proposal as the threshold for significance is not met.

Gender Implications

- 61 There are no gender implications in relation to these proposals.

Disability Perspective

- 62 The dispute resolution scheme proposals have no implications for disabled people beyond those identified in the Cabinet paper *Reform of the Tomorrow's Schools' system: paper 2 – legislative provisions* [insert CAB min refs] That paper stated that dispute resolution panels will provide disabled students and their whānau with an accessible means of seeking redress where the school has not allowed them to realise their rights, including the right to attend school fulltime.
- 63 The Ministry of Education will consult disabled students, their whānau and disability groups on the more detailed work, including the development of regulations, regarding the establishment and operation of the panels.

Publicity

- 64 No publicity is planned for these proposals.

Proactive Release

- 65 I intend to release this paper and related material online after the Bill is reported back to the House in May 2020, subject to any redactions that would be justified if the information was released under the Official Information Act 1982.

Recommendations

- 66 The Minister of Education recommends that the Committee:

- 1 **agree** to amend the Bill to:
 - 1.1. enable regulations to be made that provide for the Chief Referee and dispute resolution panels to receive, obtain and use information relevant to serious dispute resolution proceedings to carry out their functions
 - 1.2. allow dispute resolution panels to recommend or, in relation to determinative proceedings with prior agreement from both parties, direct that the school take any other action recommended or directed by the panel to remedy the matter in dispute
 - 1.3. allow the Chief Referee to filter out complaints that are trivial or vexatious or otherwise unsuited to the scheme
- 2 **note** that the Bill makes the licensing process for early learning services a two stage process by introducing a new first stage where applicants apply to the Minister for approval to apply to the Ministry for a license
- 3 **agree** to amend the requirement for the Minister to take into account “the licensing history of any other services previously or currently owned, operated, managed by, or otherwise connected with, the applicant” to:
 - 3.1 clarify that the “services” referred to are early childhood services limited to the licensing history of early childhood services
 - 3.2 include the licensing history of the governing members of the proposed service, as well as the applicant, to align with the fit and proper assessment, which applies to the applicant and governing members
- 4 **note** that the first stage of the licensing process includes a requirement for the Minister to determine whether the applicant and the governing members are fit and proper persons
- 5 **agree** that the Bill be amended to specify that the Minister have regard to the following types of matters when making the above determination:
 - 5.1. any conviction for any offences involving harm to children, violence, or fraud

- 5.2. any property order or personal order under the Protection of Personal and Property Rights Act 1988 that the person has been subject to
 - 5.3. any relevant history of health conditions
 - 5.4. any sum of money that is or has been owed by the person to the Crown
 - 5.5. any bankruptcy adjudications
 - 5.6. any prohibition issued on acting as a company director or on being involved in the management of an incorporated or unincorporated body
 - 5.7. any prohibition issued on acting as an employer or officer of an employer under the Employment Relations Act 2000
 - 5.8. any role as a governing member of an entity or organisation that became insolvent, including being placed in liquidation, receivership or voluntary administration
 - 5.9. any previous involvement in an early learning service that had an application for a licence refused or a licence suspended or cancelled
 - 5.10. any other relevant matter
- 6 **agree** that the Bill be amended to:
- 6.1. provide for the preliminary approval given by the Minister in stage one of the licensing process to expire after two years, which can be extended prior to expiry if the Minister sees fit
 - 6.2. provide for the Ministry to review the term of duration for stage one preliminary approvals within five years of the commencement of the provisions requiring Ministerial approval for early childhood services licensing
- 7 **agree** that the Bill be amended to enable regulations to be made to provide for the following matters in relation to stage one of the licensing process:
- 7.1. Application approval processes and procedures
 - 7.2. Authority to set related fees and charges
 - 7.3. Conditions on which the application is approved
- 8 **note** that the Bill provides for these provisions to come into force on enactment of the Bill; however, the work on implementation, including changes to the Education (Early Learning Services) Regulations 2008, will not be completed in time

- 9 **agree** that the Bill be amended to delay the commencement of the provisions requiring Ministerial approval for early childhood services licensing applications until two years following enactment of the Bill unless brought into effect earlier by Order in Council
- 10 **note** that there is a small risk that that by delaying the commencement of the network planning provisions there may be an increase in the number of applications immediately preceding the new regime coming into effect
- 11 **note** that on 23 October 2019, the Social Wellbeing Cabinet Committee agreed that the Bill include provisions to amend the interpretation of applicable organisations in section 323 of the 1989 Act to include parent entities
- 12 **agree** to limit the application of the above provisions to parent entities of licensed early learning services
- 13 **note** that on 2 December 2019, Cabinet agreed that “the Chief Review Officer may request in writing from an applicable organisation or service, or early childhood education and care service provider, information that is reasonably necessary or desirable for the conduct of on-site reviews”
- 14 **agree** to broaden the scope of the above information request power to cover information required for the purposes of performing the Chief Review Officer’s functions under the Bill
- 15 **invite** the Minister of Education to issue drafting instructions for legislative amendments, for inclusion in the departmental report, to give effect to these proposals
- 16 **authorise** the Minister of Education to make decisions on any issues 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
- 17 **note** that the recommendations with drafting implications are subject to Parliamentary Counsel’s discretion as to how best to express these in legislation.

Authorised for lodgement

Hon Chris Hipkins

Minister of Education



Cabinet Social Wellbeing 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.

Education and Training Bill: Additional Policy Proposals

Portfolio Education

On 18 March 2020, the Cabinet Social Wellbeing Committee:

- 1 **agreed** to amend the Education and Training Bill (the Bill) to:
 - 1.1 enable regulations to be made that provide for the Chief Referee and dispute resolution panels to receive, obtain and use information relevant to serious dispute resolution proceedings to carry out their functions;
 - 1.2 allow dispute resolution panels to recommend or, in relation to determinative proceedings with prior agreement from both parties, direct that the school take any other action recommended or directed by the panel to remedy the matter in dispute;
 - 1.3 allow the Chief Referee to filter out complaints that are trivial or vexatious or otherwise unsuited to the scheme;
- 2 **noted** that the Bill makes the licensing process for early learning services a two-stage process by introducing a new first stage where applicants apply to the Minister of Education (the Minister) for approval to apply to the Ministry of Education (the Ministry) for a license;
- 3 **agreed** to amend the requirement for the Minister to take into account “the licensing history of any other services previously or currently owned, operated, managed by, or otherwise connected with, the applicant” to:
 - 3.1 clarify that the “services” referred to are early childhood services limited to the licensing history of early childhood services;
 - 3.2 include the licensing history of the governing members of the proposed service, as well as the applicant, to align with the fit and proper assessment, which applies to the applicant and governing members;
- 4 **noted** that the first stage of the licensing process includes a requirement for the Minister to determine whether the applicant and the governing members are fit and proper persons;

- 5 **agreed** that the Bill be amended to specify that the Minister have regard to the following types of matters when making the above determination:
- 5.1 any conviction for any offences involving harm to children, violence, or fraud;
 - 5.2 any property order or personal order under the Protection of Personal and Property Rights Act 1988 that the person has been subject to;
 - 5.3 any relevant history of health conditions;
 - 5.4 any sum of money that is or has been owed by the person to the Crown;
 - 5.5 any bankruptcy adjudications;
 - 5.6 any prohibition issued on acting as a company director or on being involved in the management of an incorporated or unincorporated body;
 - 5.7 any prohibition issued on acting as an employer or officer of an employer under the Employment Relations Act 2000;
 - 5.8 any role as a governing member of an entity or organisation that became insolvent, including being placed in liquidation, receivership or voluntary administration;
 - 5.9 any previous involvement in an early learning service that had an application for a licence refused or a licence suspended or cancelled;
 - 5.10 any other relevant matter;
- 6 **noted** that strengthened guidelines and professional development will be developed on how to avoid using physical interventions in schools;
- 7 **agreed** that the Bill be amended to:
- 7.1 provide for the preliminary approval given by the Minister in stage one of the licensing process to expire after two years, which can be extended prior to expiry if the Minister sees fit;
 - 7.2 provide for the Ministry to review the term of duration for stage one preliminary approvals within five years of the commencement of the provisions requiring Ministerial approval for early childhood services licensing;
- 8 **agreed** that the Bill be amended to enable regulations to be made to provide for the following matters in relation to stage one of the licensing process:
- 8.1 application approval processes and procedures;
 - 8.2 authority to set related fees and charges;
 - 8.3 conditions on which the application is approved;
- 9 **noted** that the Bill provides for the above provisions to come into force on enactment of the Bill, however, the work on implementation, including changes to the Education (Early Learning Services) Regulations 2008, will not be completed in time;

- 10 **agreed** that the Bill be amended to delay the commencement of the provisions requiring Ministerial approval for early childhood services licensing applications until two years following enactment of the Bill unless brought into effect earlier by Order in Council;
- 11 **noted** that there is a small risk that by delaying the commencement of the network planning provisions, there may be an increase in the number of applications immediately preceding the new regime coming into effect;
- 12 **noted** that on 23 October 2019, the Cabinet Social Wellbeing Committee agreed that the Bill include provisions to amend the interpretation of applicable organisations in section 323 of the Education Act 1989 to include parent entities [SWC-19-MIN-0157];
- 13 **agreed** to limit the application of the above provisions to parent entities of licensed early learning services;
- 14 **noted** that in December 2019, the Cabinet Business Committee agreed that the Chief Review Officer may request in writing from an applicable organisation or service, or early childhood education and care service provider, information that is reasonably necessary or desirable for the conduct of on-site reviews [CBC-19-MIN-0046];
- 15 **agreed** to broaden the scope of the information request power, referred to in paragraph 14 above, to cover information required for the purposes of performing the Chief Review Officer's functions under the Bill;
- 16 **invited** the Minister to issue drafting instructions for legislative amendments, for inclusion in the departmental report, to give effect to these decisions;
- 17 **authorised** the Minister to make decisions on any issues 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 attached under SWC-20-MIN-0015.

Jenny Vickers
Committee Secretary

Present:

Hon Kelvin Davis
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Carmel Sepuloni (Chair)
Hon Jenny Salesa
Hon Willie Jackson (part of item)
Hon Aupito William Sio
Hon Poto Williams
Jan Logie, MP

Hard-copy distribution:

Minister of Education

Officials present from:

Office of the Prime Minister
Officials Committee for SWC



Cabinet

Minute of Decision

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Report of the Cabinet Social Wellbeing Committee: Period Ended 20 March 2020

On 23 March 2020, Cabinet made the following decisions on the work of the Cabinet Social Wellbeing Committee for the period ended 20 March 2020:

SWC-20-MIN-0017	Oral Item: Budget 2020 Update Portfolio: Finance	CONFIRMED
SWC-20-MIN-0015	Education and Training Bill: Additional Policy Proposals Portfolio: Education	CONFIRMED
SWC-20-MIN-0018	Sexual Violence Legislation Bill: Further Amendment to the Evidence Act 2006 Portfolio: Justice	CONFIRMED
SWC-20-MIN-0016	Action Plan for Pacific Education 2020-2030: Pacific Success through a Whole-of-System Approach Portfolio: Associate Education (Hon Jenny Salesa)	CONFIRMED [Deferred]

Michael Webster
Secretary of the Cabinet
