



Education Report: Draft Cabinet paper - Supporting overseas children stranded in New Zealand due to COVID-19 to access education

To:	Hon Chris Hipkins, Minister of Education		
Date:	6 August 2020	Priority:	High
Security Level:	In Confidence	METIS No:	1236821
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Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

This paper responds to your request to develop a Cabinet paper seeking approval to treat costs arising from granting children on visitor visas domestic student status as forecast changes to upcoming 2020/21 Baseline Updates.

This paper provides two options for the Gazette notice and associated Cabinet paper, and seeks your decision on which option should be progressed.

Summary


- On Monday 4 August you discussed options with officials for providing temporary access to education for school-aged children stranded in New Zealand due to COVID-19. You asked us to prepare a Cabinet paper to seek approval to meet the cost associated with the proposed Gazette Notice change as a forecast change through the next baseline update.
- Part of the agreed approach to the Cabinet paper was to emphasise that many of the young people affected were likely to be from the Pacific islands. Since our discussion with you we have received more fulsome immigration data from MBIE. This indicates that only around 22% of the young people affected come from the Pacific Islands. With this in mind this paper provides two options for the Gazette notice:
 - Option 1:** Enabling all children on visitor visas to enrol as domestic students (**recommended**)
 - Option 2:** Enabling only children from the Pacific Islands to enrol as domestic students
- Our recommended option is Option 1 that would provide temporary education access to all children stranded in New Zealand as a result of COVID 19. This would be the simplest option to implement; meet New Zealand's international treaty obligations; and

avoid the potential Bill of Rights concerns associated with a more targeted approach. Neither of the options presents a significant fiscal cost to the Crown and both could be easily managed through the proposed forecast change process.


Recommended Actions

The Ministry of Education recommends you:


- a. **indicate** which option you wish to seek Cabinet agreement on:
- i. **Option 1:** provide domestic student status to all overseas children in New Zealand on visitor visas regardless of country of origin (**recommended**)
 - ii. **Option 2:** provide domestic student status to only Pacific Island children in New Zealand on visitor visas (*not recommended*)
- ☒ Option 1 ☐ Option 2
- b. **note** that the relevant Cabinet paper which aligns with your preferred option as noted in (a) above will be progressed for Ministerial consultation, subject to any further feedback or proposed changes
- ☒ Agree ☐ Disagree
- c. **note** submission of the agreed Cabinet paper is currently aimed for Cabinet Business Committee on 24 August 2020
- Noted**
- d. **agree** this Education Report and the final version of the Cabinet paper are not proactively released at this time because the proposed Gazette notice has funding implications. They should instead be released following the publication of the notice. Any information which may need to be withheld at this time will be done so in line with the provisions of the Official Information Act 1982.
- ☒ Agree ☐ Disagree


John Brooker
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06/08/2020


Andy Jackson
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Graduate Achievement,
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___/___/___


Hon Chris Hipkins
Minister of Education

08/08/2020

Background

- 1 We have previously provided you with advice regarding overseas school-aged children that are currently stranded in New Zealand and unable to return home due to COVID-19 [METIS 1235951 and 1236821 refers]. This report builds on that earlier advice.
- 2 Under section 10 of the Education and Training Act 2020¹, the Minister of Education has the power, by notice in the Gazette, to require a person or a class of persons to be treated as if they are not international students.
- 3 We proposed using a Gazette notice to grant children and young people in New Zealand on visitor visas domestic student status until the end of the 2020 school year. As we previously advised, making this change has fiscal implications and you have directed the Ministry to seek Cabinet approval to treat the associated increase in enrolments as forecast changes in future Baseline Updates.

Updated data on children in New Zealand on visitor visas

- 4 Based on initial information we received from Regional Offices, we had expected that majority significant proportion of the children would be from the Pacific Islands based on the enquiries they had received. Immigration New Zealand has now provided more fulsome information regarding children in New Zealand on visitor visas (see Table 1 below). The number of children from the Pacific islands is not as large as we had initially understood.
- 5 Of the 1,500 children in New Zealand on visitor visas, only 329 (22%) are from the Pacific Islands, mainly Samoa, Tonga, Fiji and Tuvalu. The rest are from a range of countries with large numbers predominantly from Other Asia, China and India.

Table 1: high-level breakdown of children and young people aged 5 to 18 in New Zealand on temporary visas

Region of origin	Number of children and young people on temporary visas currently in New Zealand	As a percentage of the total
Pacific Islands	329	22%
Other Asia	277	18%
China	209	14%
India	178	12%
Africa	149	10%
Europe	78	5%
North America	76	5%
South America	39	3%
Middle East	18	1%
Unknown*	147	10%
TOTAL	1,500	100%

**The total provided is accurate as of 3 June 2020. For the category listed as "Unknown", these cannot be attributed to specific countries as Immigration New Zealand data suppresses counts under five.*

¹ Previously under Section 2 of the Education Act 1989

Options for the Gazette notice

- 6 As noted previously, granting overseas children in New Zealand domestic student status may require additional funding to accommodate increased enrolment in schools for Terms 3 and 4, 2020.
- 7 We have identified two options which allow for either universal or a more targeted approach for the application of the Gazette notice. Both options are limited to 2020 and all exclude any children who are currently enrolled as international students.
- a. **Option 1** - provide domestic student status to all overseas children in New Zealand on visitor visas regardless of country of origin (**recommended**)
 - b. **Option 2** – provide domestic student status to only Pacific Island children in New Zealand on visitor visas (*not recommended*)
- 8 The benefits and risks of each option are outlined below:

Option 1 - provide domestic student status to all overseas children in New Zealand on visitor visas regardless of country of origin (Recommended)

Benefits

- 9 This option provides universal support to all overseas children in New Zealand on visitor visas regardless of country of origin. This option is the simplest to administer for both schools and the Ministry of Education.
- 10 This universal approach also aligns with New Zealand commitments to a range of international treaties that enshrine all children's right to education. These treaties include the United Nations Convention on the Rights of the Child (Articles 28 and 29) and the International Covenant on Economic, Social and Cultural Rights (Articles 13 and 14).

Risks

- 11 There is a small risk that this approach may incentivise some children/families to stay in New Zealand longer in order to access free education as a result of the proposed change. However, as noted in paragraph 7 above, the proposed change is time-limited to Terms 3 and 4 this year.

Option 2 - provide domestic student status to only Pacific Island children in New Zealand on visitor visas (*not recommended*)

Benefits

- 12 This option provides a more targeted approach to granting overseas children domestic student status, specifically supporting children from the Pacific Islands. This supports New Zealand's special relationship and particular obligations to supporting our Pacific Island neighbours.

Risks

- 13 This option has specific Bill of Rights 1990 implications as it may be perceived as discriminatory based on country of origin as children from non-Pacific regions will not be able to access education based on this approach. Advice from the Ministry of Justice would be required to ensure this option aligns with the Bill of Rights Act 1990.
- 14 Additionally, this approach would also be difficult to justify as there are some flights still operating to Pacific countries, whereas some non-Pacific countries have closed borders and are not receiving any flights at all. This would mean some children from non-Pacific countries would not be eligible to access education despite being genuinely 'stranded' in New Zealand due to no fault of their own.
- 15 There are also other complexities and risks associated with this option including:
 - a. Difficulties defining which Pacific countries would be included (e.g. would this include French Polynesia or Micronesia?)
 - b. This option increases administrative burden for both schools and the Ministry.
 - c. Communications with Regional Offices and schools would need to be very precise in order to respond to potential push back from the public.

Alternative option considered

- 16 We also considered an option to only grant domestic student status to children whose country of origin have closed their borders completely or have limited flight availability to return home.
- 17 Following discussions with the Ministry of Foreign Affairs and Trade, this option was not deemed feasible as border closures and air routes being extremely variable. This means some traveller's status may change on a day-to-day basis. This would make administration of eligibility extremely difficult for both schools and the Ministry.

Next steps

- 18 We have provided two Cabinet papers which relate to both options discussed above.
- 19 Please indicate your preferred option. We will incorporate any feedback or recommended changes on the related draft Cabinet paper as required. Submission of the agreed Cabinet paper is currently aimed for Cabinet Business Committee on 24 August 2020.

Annexes

Annex 1: Draft Cabinet paper for Option 1

Annex 2: Draft Cabinet Paper for Option 2

See final cabinet paper here <https://www.education.govt.nz/assets/Uploads/R-Supporting-Overseas-children-in-NZ-due-to-COVID-19-Cab-Pack.pdf>