

Workforce Development Councils – Order in Council and establishment timeline

To:	Hon Chris Hipkins, Minister of Education		
Date:	24 November 2020	Priority:	High
Security Level:	In Confidence	METIS No:	1245502
		TEC Tracker:	B-20-00754
Key Contact:	Katrina Sutich Gillian Dudgeon	DDI:	s 9(2)(a)
Messaging seen by Communications team:	No	Round Robin:	No

Purpose

1. This paper aims to:
 - a. Set out a modified timeline for establishing Workforce Development Councils (WDCs) by late April 2021, which allows for an extended consultation period.

Recommended Actions

The Ministry of Education (MoE) and the Tertiary Education Commission (TEC) recommend that you:

- a. **agree** to a modified timeframe for establishing WDCs by late April that enables:
 - i. the TEC, on behalf of the Minister, to conduct a formal, 7-week consultation process on the six Order in Council proposals from 16 December 2020 until 5 February 2021;
 - ii. the legislative process to establish WDCs (including drafting the Orders in Council by PCO) to be conducted from late February to late April.

AGREE **DISAGREE**

- b. **note** that officials intend to communicate the Order in Council consultation dates to stakeholders and Māori and iwi partners once you have agreed to the modified timeframes.
- c. **note** that officials propose the formation of a WDC Establishment Unit to carry out a range of establishment activities on behalf of the interim Establishment Boards (iEBs) and the incoming WDC Boards, in order to maintain momentum.

- d. **note** that an amended iEB and WDC funding delegation letter will be shared with you to allow the WDC Establishment Unit to access funding set aside for WDC establishment activities.
- e. **agree** to proactively release this paper in accordance with the provisions of the Official Information Act (1982).

AGREE ~~DISAGREE~~

Katrina Sutich

Group Manager – Tertiary, Graduate
Achievement, Vocations and Careers
Ministry of Education

24/11/2020



Gillian Dudgeon

Deputy Chief Executive – Delivery
Tertiary Education Commission

24/11/2020



Hon Chris Hipkins
Minister of Education

28/11/2020

Background

2. In April, you agreed to accelerate aspects of the Reform of Vocational Education (RoVE) to support the government's response and recovery from COVID-19 [METIS: 1226204].
3. As part of this acceleration, you agree to a process of accelerating WDCs by appointing six WDC interim Establishment Boards (iEBs) that would engage with industry and develop the proposed content of each WDC's Order in Council.
4. At the Education Agencies meeting on Monday 7 September you indicated that by the end of the first quarter in 2021 (31 March 2021):
 - a. the Order in Councils process should be completed;
 - b. Workforce Development Councils should be established; and
 - c. leadership appointments should be made/in place.
5. On Tuesday 22 September, we provided you with an aide memoire that outlined a timeline for achieving this following the 2020 General election [METIS: 1241627]. The paper:
 - a. presented a timeline that would have consultation start ASAP after the general election, and by 11 December 2020 at the latest (in order to achieve a 31 March establishment date); and
 - b. outlined several activities that the iEBs could achieve by the end of March 2021, by starting these activities early and in parallel with the Order in Council process.
6. In accordance with section 159F(1)(e) of the Education Act 1989, you signed a funding delegation letter dated 17 June 2020 for iEBs and WDCs. The letter stipulates how the TEC will be able to use funding from the Tertiary Sector/Industry Collaboration Projects appropriation within Vote Tertiary Education to fund initial establishment activities for WDCs in 2020/2021.

Proposed timeline to allow more time for consultation

7. On Friday 20 November 2020, we presented you with an update on the Order in Council process [METIS: 1245276]. The paper outlined that, while iEBs and officials are still on track with the previously advised Order in Council timeline, there are risks associated with the current timeframes:

9(2)(g)(i)

8. The content of this paper was subsequently discussed at the Education Agencies meeting on 23 November 2020, and you requested advice on implications of extending the consultation period by 2-3 weeks.

9. An extended timeline would mitigate some of the risks identified:

9(2)(g)(i)

10. Following engagement with Te Arawhiti officials propose a start date for consultation of Wednesday 16 December, instead of Friday 11 December. This option would allow time for a joined conversation with stakeholders, and Māori and iwi partners about next steps.

11. An updated draft timeline for establishing WDCs is presented in the table below.

Table 1: Updated timeline for establishing WDCs

As the sitting calendar dates for 2021 have not yet been announced, this timeline is tentative and may need to be adjusted

	Current timeline	Proposed timeline
September		
October	Developing OiC proposals & engagement with industry	Developing OiC proposals & engagement with industry
November		
December		
January	Consultation 11 Dec – 17 Jan (5 weeks)	Consultation 16 Dec – 5 Feb (7 weeks)
	Summary of submissions (1 week)	
February	Minister & Cabinet policy approval (2 weeks)	Summary of submissions (2 weeks)
	PCO drafting OiCs (4 weeks)	Minister & Cabinet policy approval (2 weeks)
March	Cabinet Legislation process and Governor General (2 weeks)	PCO drafting OiCs (4 weeks)
April		Cabinet Legislation process and Governor General (2 weeks)
May		Finalise Board appointments (3 weeks)

Order in Council process completed

12. **Annex one** provides further detail on the updated timeline.
13. Commencing in the second half of January senior officials will carry out broad sector engagement on the overall RoVE reforms. While engagement on RoVE and WDCs Order in Council consultation would be clearly separated, extending the consultation period will allow senior officials to discuss the wider context around RoVE in parallel with the end of the Order in Council consultation.

Applying for a waiver for the 28 day rule

14. As per the previous timeline [METIS: 1241627], this timeline would have the Minister seek a waiver to the 28 day rule on the basis that the OICs will have little or no effect on the public, or will confer only benefits on the public. Officials consider that the establishment of six WDCs will not result in any unreasonable cost, restriction on rights or additional obligations that would otherwise warrant the 28 day wait.
15. A waiver could also be sought on the basis that the Orders in Council are a response to an emergency. In particular, the establishment of WDCs has been brought forward to accelerate the Reform of Vocational Education reforms as part of the Government's COVID-19 response. There is a need to prioritise retraining in trades and vocational skills as a response to potential significant job losses. The 28 day waiver reflects the urgency of embedding the reforms as soon as practicable, including the establishment of WDCs.

Administrative convenience (which both 14 and 15 imply) is not a sufficient ground for waiver of the 28 day rule.

Appointments to the incoming WDC Boards

16. This timeline allows for 3 weeks post-establishment of the WDCs to finalise appointments for the incoming WDC Boards. The appointment processes will be started as soon as practicable, and will run in parallel with the Order in Council process.

Impacts of the proposed timeline on other aspects of the reforms

17. Extending the consultation period implies that the Order in Council process and the formal WDC establishment will be delayed until end of April or early May.
18. WDCs are part of the wider system reforms of Vocational Education, and will be the recipient of the standard setting functions as TITO transition to other providers.
19. While WDCs need to be established to be able to take on the standard setting functions, a delay to their establishment by OICs may not mean a delay in operationalising their standard setting role if WDCs can be ready for day one.
20. Officials propose setting up an Establishment Unit to carry on a range of establishment related activities (see below), in part to mitigate the delay of formal establishment of the WDCs.
21. Officials can continue to work with Transitional ITOs to ensure staff associated with the standards setting function and other roles relevant to the WDCs are supported through the change process. We will also continue to support Transitional ITOs that wish to transition earlier than others (i.e. early movers), and work through options with them.

The formation of a WDC Establishment Unit will mitigate a delay in formal establishment of the WDCs, and support the WDCs to get up and operational as quickly as possible

22. To support WDCs to become operational as quickly as possible, as well as to mitigate the potential implications of a delay in the formal establishment of the WDCs, officials have discussed the formation of a WDC Establishment Unit. This proposal is endorsed by the RoVE Programme Board and the Chairs of the six interim Establishment Boards.

23. Officials are currently preparing amendments to the iEB and WDC funding delegation letter dated 17 June 2020. The amended letter of delegation will propose that TEC can use funding previously appropriated to fund "one-off establishment costs" once the WDCs are established, to fund the WDC Establishment Unit. The funding will allow the WDCs Establishment Unit to carry out establishment activities on behalf of the iEBs / WDCs, prior to the formal constitution of the six organisations.
24. The funding will be clearly ring-fenced, and will be used to carry out activities that are in line with the purpose for which the funding was originally appropriated.

Annex one: Detailed timeline for establishing WDCs

Step	Timeline
Consultation opens	16 December
Consultation closes	5 February
Summary of submissions paper to the Minister seeking any changes to the OIC proposals	18 February
Draft Cabinet paper to Minister	18 February
Minister provides feedback	22 February
Departmental/Ministerial consultation <i>Allows for 2 days of Ministerial consultation</i>	23 February
MO lodges the Cabinet paper	25 February
SWC Cabinet committee meeting	3 March
Cabinet meeting	8 March
PCO starts drafting OICs	8 March
PCO completes drafting	5 April
Draft Cabinet paper to Minister	5 April
Departmental/Ministerial consultation	5 April
MO lodges the LEG Cabinet paper	8 April
LEG Cabinet Committee meeting	13 April
Cabinet meeting	19 April
Executive Council and Governor-General approves regulations	19 April
28 day rule	(waived)
Order in Council process completed	20 April
Board appointments finalised *	10 May

* Ministerial appointments are dependent on the APH process and meeting necessary legal requirements.