



**Education Report: Request to Dissolve the Loburn School (3419) Board of Trustees and Direct the Secretary to Appoint a Commissioner**

<b>To:</b>	Hon Chris Hipkins, Minister of Education		
<b>Date:</b>	29 June 2020	<b>Priority:</b>	High
<b>Security Level:</b>	In Confidence	<b>METIS No:</b>	1231076
<b>Drafter:</b>	Kelly McMurtrie – National Office	<b>DDI:</b>	s 9(2)(a)
<b>Key Contact:</b>	Coralanne Child – Director of Education, Canterbury	<b>DDI:</b>	
<b>Messaging seen by Communications team:</b>	No	<b>Round Robin:</b>	No

**Purpose of Report**

The purpose of this paper is for you to:

- **Note** that Part 7A of the Education Act 1989 relates to interventions that may be used to address concerns about or risks to the operation of individual schools or to the welfare or educational performance of their students;
- **Note** that under section 78N(1) of the Act, you have the power to dissolve the board of a school by notice in the *New Zealand Gazette*;
- **Note** that you have not delegated this power under section 78N(1), in instances where the board has not requested this level of intervention;
- **Note** that Board members have individually contacted the Ministry of Education (the Ministry) with concerns, but have not requested an intervention as a whole Board;
- **Agree** to dissolve Loburn School (3419) Board of Trustees (the Board), under section 78N(1) of the Act, and direct the Secretary for Education to appoint a commissioner to replace the Board under section 78N(2) of the Act because of the risks to the operation of the school;
- **Sign** the attached *New Zealand Gazette* notice;
- **Agree** this Education Report is proactively released as part of the next publication.

## Summary

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1. If the Minister of Education has reasonable grounds to believe that there is risk to the operation of a school, or to the welfare or educational performance of its students then the Minister may apply an intervention. When applying an intervention the Minister must apply whichever intervention he or she considers is reasonable to deal with the risk without intervening more than necessary in the affairs of the school.
2. The New Zealand School Trustees Association (NZSTA), New Zealand Educational Institute (NZEI) and the Principal of Loburn School have expressed concern to the Ministry about the effectiveness of the Board, the increasing risk this is posing to the School, and the need for the Ministry to intervene.
3. On 26 May 2020, the Ministry met with the Board to discuss the concerns raised. Trustees have since made individual contact with the Ministry and all report to varying degrees a breakdown in the relationship within the Board that has impacted on its ability to make decisions.

## Recommended Actions

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The Ministry of Education recommends you:


- a. **agree** to dissolve Loburn School (3419) Board of Trustees, under section 78N(1) of the Education Act 1989 (the Act), and direct the Secretary for Education to appoint a commissioner to replace the Board under section 78N(2) of the Act because of the risks to the operation of the school;  

**Agree** Disagree
- b. **(if you agree) sign** the attached *New Zealand Gazette* notice; and
- c. **agree** this Education Report is proactively released as part of the next publication;
- d. **note** by proactively releasing this report may generate media attention which impacts the Board members and the community.  

**Proactively release** / Not release

  
Katrina Casey  
Deputy Secretary  
Sector Enablement and Support

29/6/20

  
Hon Chris Hipkins  
Minister of Education

11/7/2020



## Background

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- 1 Loburn School is a Decile Nine Full Primary (year 1-8), state school located in Rangiora, North Canterbury. The School currently has a roll of 158 students and this is predicted to increase to 190 in 2021.
- 2 On 4 September 2019, under section 78LA of the Education Act, the Board were required to attend a Case Conference. As a result of the Case Conference the Board agreed to undertake training to raise capabilities of the Board.
- 3 The Board Chair stood down in early 2020 and a new Board Chair was elected.
- 4 After many delays, the training took place in March 2020, however this has had limited effect. The training has not rectified the issues, and the breakdown in relationships within the Board, and between the Board and Principal, have resulted in some Trustees having no trust or confidence in each other.
- 5 NZSTA has shared its observations with the Ministry regarding issues and examples of poor governance practice with the Board including:
  - a. some of the Trustees refusing to accept what their role is, despite training and advice on governance and employment
  - b. instances of Trustees dealing directly with parents on concerns and complaints outside the Board's own policy
  - c. refusing to review, update or accept minutes of Board Meetings
  - d. not responding to the Principal's letter of concern
  - e. not accepting the role the Board has played in relation to the concerns raised by the Principal and the potential employment issues should they not address this
  - f. dysfunctional relationships between Board members
  - g. despite a new Chair being unanimously elected, two Trustees now no longer support the new Chair as they view him as being in support of the Principal
  - h. the comments and actions of some trustees point to a conflict of interest with the Principal as these Trustees view every action the Principal takes as a deliberate attempt to mislead the Board.
- 6 New Zealand Educational Institute (NZEI) and the Principal have written to the Board outlining that the Principal no longer has faith in the Board to act as a good employer and that this has become detrimental to both his well-being and that of the School.
- 7 NZSTA, NZEI and the Ministry have been working with the Board and Principal around matters of governance and employment. NZEI has specifically addressed the Board on matters of employment without success.
- 8 The Principal, with support from NZEI, has clearly stated he can no longer work with the Board.
- 9 The parent elected Trustees have expressed a lack of confidence in the Principal which is unlikely to change or be remedied by retaining the current Board.
- 10 The Board have not requested the intervention, however following the meeting held with the Board on 26 May 2020 members have since made individual contact with the Ministry and all report, to varying degrees, a breakdown in relationships between Board members which has impacted on the Board's ability to make decisions.

### Consideration of lower levels of interventions

- 11 The Ministry has considered lower levels of intervention, such as a Limited Statutory Manager (LSM). While a LSM could assume many of the powers of the Board, the level of breakdown of relationships within the Board means that the effectiveness of the LSM could be limited by the disparate and conflicting Board membership. This could both undermine the LSM and hinder their ability to focus on the key issues and effect change.
- 12 The appointment of a Limited Statutory Manager is unlikely to resolve the dysfunction in this Board. It is therefore recommended that the Board be dissolved and a commissioner appointed.

### Risks

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- 13 The Ministry has identified that negative media attention could be an issue if a commissioner is approved. To mitigate this issue, the commissioner will ensure a communications plan is in place and that the School community is well informed.

### Other Relevant Information

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- 14 If you agree to dissolve the Board under 78N(1) of the Act and direct the appointment of a commissioner to replace the Board, the appointed commissioner will scope the issues in greater depth and develop a scoping report within the first four to six weeks of appointment.
- 15 The Ministry will finalise the set of expected outcomes for this intervention based on the facts collated in the scoping report, and then the commissioner will develop a planned approach to achieve these outcomes. The commissioner will then continue to report monthly to the Ministry on progress towards achieving these outcomes.
- 16 The Secretary for Education (or delegate) will review the intervention within twelve months of the intervention taking effect. When the Secretary (or delegate) considers that the commissioner is no longer required, they will ask the commissioner to prepare for a new Board to take office.

### Financial Implications

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- 17 Loburn School financial results for 2018 showed a budget deficit of \$50,034 and working capital of \$71,903. For 2019, the School has a budget deficit of \$10,967 and a working capital of \$89,249 (a slight improvement from 2018).
- 18 It is likely that the costs of the intervention would be too great for the School to cover, and therefore that the School will require financial support.



## Consultation

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- 19 On 28 April 2020, NZSTA emailed the Ministry outlining a large number of concerns they had regarding the Board, and recommending a commissioner be appointed.
- 20 On 11 May 2020, NZEI emailed the Ministry regarding the ongoing issues at Loburn School and stated that s 9(2)(ba)(ii) Further, NZEI considers that the s 9(2)(ba)(ii) s 9(2)(ba)(ii) hence the sense of urgency from the professional agencies and the Ministry in working together to support the school in any ways it can".
- 21 On 26 May 2020, the Ministry met with the Board to discuss the concerns raised. Trustees have since made individual contact with the Ministry and all report, to varying degrees, a breakdown in the relationship within the Board that has adversely impacted its ability to make decisions. During the meeting, the Board was given the opportunity to develop an action plan, however not all trustees were willing to engage in creating a plan.
- 22 The Ministry again met with the Board on 4 June 2020, to discuss the reasons the Ministry are recommending that a commissioner be appointed. The Trustees were accepting of the reasons.

## Conclusion

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- 23 The risks to the operation of the School are significant, and the relationships within the Board and between the Board and Principal have deteriorated to a point where other interventions will not be effective. It is therefore recommended that the Board be dissolved and a commissioner is appointed.

## Proactive Release

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- 24 It is intended that this Education Report is proactively released as per your expectation that information be released as soon as possible. Any information which may need to be withheld will be done so in line with the provisions of the Official Information Act 1982.

## Annexes

### Annex

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1. Annex 1 New Zealand Gazette Notice - Commissioner

Proactively Released

Proactively Released

**Notice for New Zealand Gazette**

**Notice of Dissolution of the Loburn School (3419) Board of Trustees and Direction to Appoint a Commissioner**

Under section 78N(1) of the Education Act 1989 I hereby dissolve the **Loburn School (3419)** Board of Trustees and direct the Secretary for Education or delegate to appoint a commissioner to replace that Board.

This notice takes effect on date of publication

Dated at Wellington this            day of            2020.

HON CHRIS HIPKINS, Minister of Education