



Briefing Note: Meeting with Trish Grant of IHC, 5 March 2020

To:	Hon Chris Hipkins, Minister of Education		
Cc:	Hon Tracey Martin, Associate Minister of Education		
Date:	28 February 2020	Priority:	High
Security Level:	In Confidence	METIS No:	1220327
Drafter:	s 9(2)(a)	DDI:	s 9(2)(a)
Key Contact:	David Wales	DDI:	
Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

The purpose of this paper to:

- provide you with background information to support your meeting with Trish Grant, Director of Advocacy, IHC
- seek your agreement that this briefing will not be proactively released at this time because the matters discussed are under active consideration

☒ Agree ☐ Disagree

Summary

- You are meeting with Trish Grant on Thursday 5 March 2020 at 5.30pm.
- She wishes to discuss planned investment in segregated settings for learning support and how this investment will contribute to an inclusive education system.
- Background to the key questions and concerns she has raised is provided.



Dr David Wales
National Director Learning Support



Hon Chris Hipkins
Minister of Education

28/2/2020

5/3/20

Background

1. Trish Grant, Director of Advocacy for IHC, wrote to you in December 2019 seeking a meeting to discuss concerns about the government's investment in segregated settings for learning support.
2. Trish Grant leads the advocacy team at IHC and is IHC's key spokesperson about matters to do with education and disability. She is also a member of Education for All (a cross-sector group involving the Human Rights Disability Commissioner, union representatives, other education, disability and parent sector advocates) and of the Inclusive Education Action Group. The Ministry has involved representation from these groups in a range of projects and stakeholder meetings over time.
3. IHC was founded in 1949 by a small group of parents who wanted equal treatment from the education and health systems for their children with intellectual disabilities.
4. In 2012 IHC made a claim to the Human Rights Review Tribunal that successive governments and the Ministry have neglected the education of, and unlawfully discriminated against primary, intermediate and secondary aged children in mainstream State Schools who have disabilities and need accommodations to learn. The substantive claim is still to be heard.
5. In 2016, IHC and the Ministry had a series of facilitated conversations to work towards an agreement on how to progress.
6. A key outcome was that the Ministry would meet regularly at twice yearly stakeholder forums with IHC to share progress on provision for learning support. Our relationship with IHC is respectful and collaborative.
7. The Royal Commission into Abuse in Care is holding a Redress Hearing from 23 March to 2 April
8. Trish Grant is likely to be a witness at the Redress Hearing, specifically addressing concerns about a failure to achieve redress through the Human Rights Act and the Human Rights Review Tribunal in respect of IHC's claim against the Ministry of Education. Trish may raise these concerns during her meeting with you.

Current Learning Support Provision for learners funded through the Ongoing Resourcing Scheme

9. Nationally, 62% of learners supported through the Ongoing Resourcing Scheme (ORS) are enrolled in their local school and learn alongside their peers. Additional funding is provided within the school's capital funding to allow for any additional infrastructure needs of these learners and property modifications are provided for learners at the time of enrolment.
10. There are approximately one hundred and seventy four schools where Boards of Trustees have established specific facilities to meet the needs of learners supported through ORS.
11. One hundred and ninety three mainstream schools host satellite units of special schools where students learn mainly in the unit. This includes the new satellites announced in Budget 2019.

12. There are thirty seven special schools. Twenty seven of these are day special schools which operate within their local catchment. Some special schools also provide a Specialist Teacher Outreach Service where teachers employed by the special school support students funded through ORS who are enrolled in mainstream schools.
13. Other special schools provide services across the country including six residential schools, three regional health schools and Kingslea School which provides education for children and young people in the care of Oranga Tamariki.
14. We continue to support the existing state special schools. They bring particular skills and knowledge to the education network. The Ministry is interested in how to benefit from this expertise in ways that support progress towards an inclusive education system.
15. Some special schools are changing the way they work with an increasing focus on providing supports for learners in their local community rather than provision at a base school. The Deaf Education Centres, the Regional Health Schools and the Blind and Low Vision Network are examples of special schools that have changed their delivery model to support students who are enrolled in a mainstream school.
16. Learners are enrolled in special schools through an agreement process set out in Section 9 of the Education Act 1989. The Ministry of Education (MOE) works with parents to agree the most appropriate placement for the child or young person
17. The percentage of children supported through ORS who are enrolled in special schools varies widely across the country. In Auckland 59% are currently enrolled in special schools while 14% are currently in special schools in Wellington. There has been a slow increase over time in the national percentage of learners enrolled in special schools.
18. Some parents report schools are not welcoming to their children with learning support needs.
19. The Education and Training Bill (2019) proposes that the term special schools be updated to specialist schools.

IHC Survey

20. IHC recently commissioned a survey to find out whether the quality of life is improving for people with disabilities. Results of the survey were released on Wednesday 12 February 2020. A summary of the results is attached in Annexe 2.
21. The survey builds on an earlier survey carried out in 2014. While the current survey results show there is still significant work to be done, they do show promising progress since 2014.
22. The percentage of parents saying their children could not attend full-time due to a lack of teacher aide hours has dropped from 32% in 2014 to 23%.
23. The percentage saying their child's teacher did not have the right skills to work with disabled children dropped from 72% to 52%.
24. Among education professionals, 44% said teachers did not have the right skills, an improvement since 2014 when the figure was 64%.

Topics for discussion

25. Trish has provided a list of questions she wishes to discuss in her email to you (Annexe 1). The key themes of the questions are:
- investment in segregated settings such as special schools and satellites and the outcomes for children and young people in these settings
 - rights and inclusion
 - consultation with the disability sector
26. The sections below provide you with background on each of these areas.

Investment in special schools and satellites

National Education Network Planning

27. There is growth across the schooling network. Population growth is placing pressure on our school network in specific areas of the country.
28. The number of students supported through the ORS is also growing and this growth is forecast to continue.
29. We have developed a National Education Growth Plan (NEGP) that identifies what we know about the anticipated location and patterns of growth in school-aged children between now and 2030 and what the Government might need to consider to meet this growth.
30. In 2019 you announced funding for the NEGP of \$1.2 billion. The funding includes provision for 21 new special school satellite units (2 classrooms per unit).
31. The NEGP does not fully cover network planning for learning support. Therefore we are developing a comprehensive national network plan for learning support that is aligned with the Learning Support Action Plan (LSAP) and the Learning Support Delivery Model (LSDM) and takes into account the Tomorrow's Schools Review.
32. Network planning for learning support will consider needs across the school system, in mainstream as well as special school settings. It will identify and apply principles that will support a single inclusive education system that provides options and pathways for all learners.
33. While we continue to invest in special schools and satellites in response to population growth, we are seeking ways to include them in a single, flexible system that is more connected and continues to support access to the specialist skills and experience they provide. We will look for opportunities to increase inclusion both through existing facilities and new builds. We will also review what is needed to ensure mainstream settings are fully accessible and meet the needs of all learners.
34. The plan will also consider other cohorts of students with learning support needs. For example, the number of learners who are supported through the Regional Health Schools is growing and infrastructure requirements are changing.
35. Network planning for learning support also needs to consider the condition of existing facilities and to ensure these are fit for purpose.

36. We will provide you with initial advice on network planning for learning support in March 2020.

The Learning Support Action Plan

37. Network planning for Learning Support is guided by the LSAP and LSDM. The LSAP affirms the Government's vision for an inclusive education system where every child feels a sense of belonging, is present, makes progress and where their wellbeing is safeguarded and promoted.
38. The LSAP highlights the need for "Getting the Network Right". This involves taking a more strategic and planned approach to the overall network of education provision including learning support.
39. Clusters of schools, kura and early learning services will work together to identify needs, plan learner pathways and share resources across their cluster.
40. The network plan for learning support will draw on the needs identified by clusters and will ensure a range of options and settings are available in each area and region.
41. A number of special schools are working in the LSDM alongside their cluster schools.

Rights and inclusion

Guiding Frameworks

42. New Zealand has signed up to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The convention requires states to ensure students are not excluded from the general education system on the basis of disability and that they can access inclusive, quality and free education. Non-discrimination includes the right not to be segregated and to be provided with accessible learning environments and reasonable accommodation.
43. The New Zealand Disability Strategy outcome for education states: all local schools and education services (including early childhood, primary secondary, tertiary, kohanga reo and kura kaupapa Māori) are welcoming and provide a great inclusive education for us.
44. Feedback from the Kōrero Mātauranga told us that New Zealanders want an education system where all children and young people can take part in education and can learn and achieve, whatever their needs or differences.
45. The LSAP also includes an action on building the knowledge and understanding of all boards of trustees and school leaders on the rights of all children and young people to enrol in and receive an education from their local school.
46. Network planning for learning support will respond to these guiding frameworks by ensuring a range of learning environments are provided to meet the identified needs of children and young people, their parents and whanau.

Consultation with Disability groups

47. We report quarterly on our progress towards meeting the requirements of the UNCRPD to the Independent Monitoring Mechanism group which includes the Disability Commissioner and representatives of a range of disability organisations.
48. We have established mechanisms for consulting with the Disabled People's Organisation on issues related to learning support and the wider Education Work Programme and for co-designing where applicable. We also bring together disabled people's organisations, parents and education stakeholders twice a year, to share current work in learning support and to discuss future directions. The next forum will be held in March 2020.
49. The Disability Commissioner has also raised concerns with us about the planned investment in special school facilities. We are working with her to explore solutions that increase opportunities for inclusion.

Support for inclusion

50. We provide a range of tools for schools to support inclusive practice. The Inclusive Education website, <https://www.inclusive.tki.org.nz/>, provides 28 guides to support teachers to plan for and meet the learning and wellbeing needs of diverse learners. Learning Support Coordinator roles will serve to strengthen learning supports in all schools in line with the LDSM.

Key Risks and Benefits

51. There are strong views about what infrastructure should be provided to support students with learning needs. The Disability Commissioner and many disability organisations have expressed the view that we should not be investing in segregated settings. On the other hand, many parents and educators working in special schools advocate for expanding investment.
52. We will work with stakeholders as we develop the network plan for learning support. Engagement with all stakeholders will need to be carefully managed. This engagement has not begun yet.

Next Steps

53. We will provide you with initial advice on network planning for learning support in March 2020.

Proactive Release

54. We recommend that this Briefing is not released at this time as the matters discussed are under active consideration.

Annexes

Annex 1: Correspondence from Trish Grant, Director of Advocacy, IHC

Annex 2: IHC survey 2020 summary results and media release.

Annex one - Letter from Trish Grant, Director of Advocacy, IHC

4 December 2019

The Hon Chris Hipkins
Minister of Education
Parliament Buildings
WELLINGTON

Cc The Hon Tracey Martin
Associate Minister of Education

Ms Iona Holsted
Secretary of Education

Dear Minister

Education system reform and the rights of disabled students to education

IHC welcomes the Government's response to the Tomorrow's Schools Review. We acknowledge the potential the review created to significantly advance inclusive education leadership, policy and practice so that Maori, Pasifika and disabled students previously disadvantaged, have improved learning and social outcomes <https://ihc.org.nz/top-marks-tomorrows-schools-review>.

We look forward to working with you, the Associate Minister and the Ministry of Education in the implementation of the Tomorrow's Schools Review.

IHC strongly supports the Government's commitment to a world-class inclusive public education. However, we question whether the systemic and structural barriers identified in IHC's legal action under the Human Rights Act 1993 which result in unlawful discrimination of disabled students will remain. <https://ihc.org.nz/ihs-education-complaint>

To that end IHC has instigated an annual survey to monitor the extent to which the policy objectives of an inclusive public education are being experienced by disabled students, their families and education professionals at the local school level.

Thank you for your 12 August 2019 response to my email of 5 July that raised concerns about the planned investment in satellite units and special schools. Your response referenced the National Education Growth Plan (NEGP) and indicated that the Learning Support Action Plan (launched on 26 July 2019) and the new Delivery Model would determine what happen in those spaces.

The Tomorrow's Schools Review announcement was immediately followed by further announcements about government investment in residential special schools, special schools and satellite units. <https://www.stuff.co.nz/national/education/106496222/salisbury-school-tips-roll-increase-after-government-announces-wider-access>

Although IHC supports government plans to ensure school property responds to population growth and the need for strong networks of schools, we are concerned that the significant investment in segregated education settings for disabled students is inconsistent with the government's objective of a world class inclusive education system.

IHC requests an urgent meeting with you to discuss the questions and concerns set out below. We seek a better understanding of the government's investment in segregated education settings, and an explanation as to how that investment will contribute to a world class inclusive education system underpinned by the human rights principles of equity in education.

1. What is the current and forecasted total government spend on segregated learning settings, and on what evidence of successful outcomes for students with disabilities in those settings is that expenditure based on?
2. How does the investment in segregated settings impact on the government's commitment to local resourcing and supports for schools to support equity and inclusion?
3. To what extent have disability rights groups, disabled students and their families/whanau been involved in these decisions?
4. How will you address concerns that the recent education funding and building infrastructure decisions have an unintended consequence of providing incentives to segregate children and young people on the basis of disability?
5. How will you ensure that quality teaching is delivered in segregated classrooms? What evidence do you rely on to assess quality teaching in segregated settings?
6. How will Boards of Trustees in special schools meet their responsibilities to the new objectives around rights and inclusion?
7. What formal links exist between the NEGP planning teams and other education reform workstream teams, including the Tomorrows School's Review and the Learning Support Action Plan and Delivery Model?
8. Is there an explicit government policy decision to grow the special school network? Recent information on Ongoing Resourcing Funding (ORS) indicates higher numbers of new entrant students with ORS funding in special schools and roll growth in special schools generally.
9. What does government attribute the roll growth pressure in special schools to?
10. What is a 'unit' and what does that mean in terms of local school responsibility for children in their community who have disabilities?
11. What is the cost-benefit argument in building a new special school (and satellite units) particularly when outcomes for students are known to be poor, and it is children, young people, families and teachers in *local* schools who are asking for support to be inclusive? Has a cost benefit analysis of building specials schools instead of investing that money into local schools been completed? If so, will it be publicly available?
12. How do rural schools manage without this infrastructure of buildings (units, special schools), and what can be learned from them?
13. Satellite Units can be just as segregating as special schools - what guidance will school communities be given, and by whom, to build and use their new 'unit' in ways

that support inclusion, so that it is for everyone, not just for some students and teachers labelled "special"?

14. If Boards of Trustees will no longer have responsibility for property, what are the implications for school communities to have input into the way in which the new 'units' are located, designed and used?
15. If the units are 'satellites' of special schools, what role does the special school play in their design and use, and will that enhance inclusion or segregation?
16. How will the investment in residential special schools, special schools and satellite units impact on government's response to the Committee on Economic, Social and Cultural Rights' (CESCR, 2018) *Concluding Observations on the Fourth Periodic Report of New Zealand*?

The report noted the Committee's concern regarding *"The placement of children with disabilities in special education systems, notably owing to financial constraints"* and recommended that action be taken to *"...facilitate access by children with disabilities to inclusive education, including by strengthening the allocation of resources for the provision of reasonable accommodation and any additional support needed (p.9).*

17. How do the decisions to spend significant public money on residential special schools, special schools and satellite units align with government's obligations in respect of Article 24, UNCRPD and the need for inclusive education to be monitored and evaluated on a regular basis to ensure that segregation or integration is not happening either formally or informally?

I look forward to discussing IHC's concerns with you at your earliest opportunity.

Yours sincerely



Trish Grant
Director of Advocacy
IHC

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Hon Chris Hipkins

MP for Rimutaka

Minister of Education

Minister of State Services

Leader of the House

Minister Responsible for Ministerial Services



Trish Grant
Director of Advocacy
IHC New Zealand Incorporated

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Dear Trish

Thank you for your letter of 4 December 2019 with IHC's feedback on the Government's response to the Tomorrow's Schools Review.

I appreciate you taking the time to share your feedback. I agree, this is an exciting opportunity to shape an education system that delivers equity and excellence for all children and young people and their whānau. It is also great to know you are interested in being part of the implementation of this work going forward.

I note your concerns about the Government's investment in residential special schools, special schools and satellite units and how this will contribute to a world-class inclusive education system. I am keen to meet and discuss this with you. Unfortunately, the upcoming holiday break and my current work commitments mean I am unable to meet with you until February 2020. My office will be in contact to arrange a suitable time.

Thank you again for writing. I wish you well for the festive season, and look forward to catching up in the New Year.

Yours sincerely

Chris Hipkins
Minister of Education

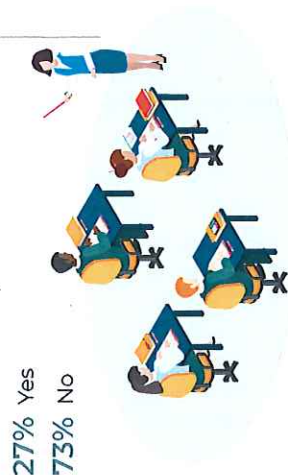
cc Hon Tracey Martin, Associate Minister of Education

ihc IN YOUR COMMUNITY Education Survey Results 2019

In an ideal world, where would you choose to enrol your child?



In the last five years, has your child been refused enrolment, or had conditions placed on their enrolment?



Does your school have difficulties accessing specialised support, e.g. speech language therapy, physiotherapy, occupational therapy or behaviour support?



For Parents

Do you think the level of support your child receives at school allows them to thrive?



Do you think your child's teacher has the capacity (knowledge, skills) about teaching students with disabilities?



Has your child experienced bullying or cyberbullying at school in the last five years?



For Educational Professionals

Do you think students with disabilities are included as much as they could be at your school?



Are you aware of students with disabilities who have been bullied in the last five years?



Have any students with disabilities experienced restraint at your school in the past five years?





[NEW ZEALAND \(/NEWS/NATIONAL\) /...](#)

Survey paints grim picture of schooling for children with disabilities

11:05 am on 12 February 2020

[John Gerritsen \(/authors/john-gerritsen\)](#), Reporter

[@RNZeducation](#) (<https://twitter.com/@RNZeducation>)

john.gerritsen@rnz.co.nz (<mailto:john.gerritsen@rnz.co.nz?subject=Survey%20paints%20grim%20picture%20of%20schooling%20for%20children%20with%20disabilities>)

Parents have told an IHC survey their disabled children are being bullied at school, many are not getting enough support, and some have been illegally blocked from enrolling altogether.

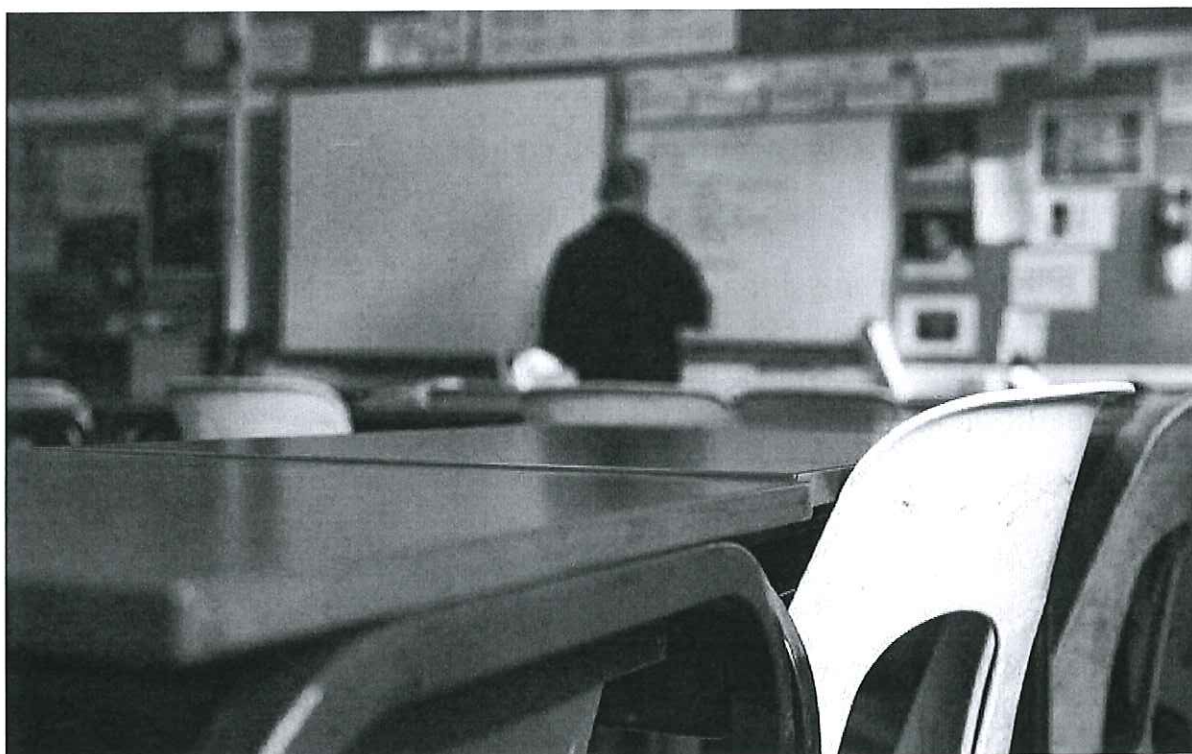


Photo: RNZ / Richard Tindiller

The organisation, which provides support and advocacy for children with disabilities, said the results were grim and showed that schools were struggling to get enough resources to work with children with special learning needs.

It said nearly 300 parents and 140 educators responded to the survey last year.

Seventy-three percent of the parents who responded said their child did not go to school full-time, and 27 percent said the past five years a school had refused to enrol their child or put conditions on their attendance.

Fifty-eight percent said their disabled child had been bullied in the past five years and only 43 percent believed their child received enough support to allow them to thrive at school.

However, the figures showed some improvements since the IHC ran a similar survey in 2014.

The percentage of parents saying their children could not attend full-time due to a lack of teacher aide hours had dropped from 32 percent in 2014 to 23 percent last year and the percentage saying their child's teacher did not have the right skills to work with disabled children dropped from 72 percent to 52 percent.

Among education professionals, 44 percent said teachers did not have the right skills, an improvement since 2014 when the figure was 64 percent.

The director of advocacy at IHC, Trish Grant, said that was encouraging but still not good enough.

"Actually you only get a 50 percent chance, according to our survey, of having a teacher who knows how to teach you. Now that's not good by anyone's standards," she said.

Overall, Grant said the survey results were not good.

"It still paints a very grim picture of what disabled children are experiencing, of what families are experiencing and what schools are experiencing. A lot of stress out there."

Grant said the survey showed schools did not have the resources they needed to provide learning support and she was especially worried that some were turning away disabled children.

"That's a very high indicator of a system under pressure," she said.

The president of the Principals' Federation, Perry Rush, said he was saddened that some schools were refusing to enrol children with special learning needs because inclusion was an important aspect of the school system.

However, he warned that there were limits to what schools could do.

"It's an indication of an inclusion policy that isn't sufficiently met by the appropriate resourcing," he said.

"What we're seeing here is principals doing their best to try and draw a line that works, and works as much as possible for the students in their care and also for the resourcing they're given to do their job."

Rush said teachers were better prepared to provide learning support but they needed more specialists who could work one-on-one with students with special needs including severe behavioural difficulties.

"I don't think that we have sufficiently explored the impact of the policy of inclusion on schooling. I know from my conversations with colleagues that there's a good deal of concern around the need to see greater resourcing to meet the needs of every student in our care."

Rush said funding for learning support had increased in recent years, including the creation of new learning support coordinator positions, but schools were struggling to see the benefits of those improvements.