



Education Report: Education and Training Bill – first tranche of Cabinet policy approvals

To:	Hon Chris Hipkins, Minister of Education		
Date:	22 February 2019	Priority:	Medium
Security Level:	In Confidence	METIS No:	1175118
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Messaging seen by Communications team:	No		

Purpose of report

This paper asks you to approve the attached draft Cabinet paper *Education and Training Bill – first tranche of Cabinet policy approvals* for departmental consultation. It also proposes timing and a process for obtaining the Cabinet policy approvals required to draft the Education and Training Bill.

Summary

1. A draft Cabinet paper seeking approval for the first tranche of drafting instructions for the Education and Training Bill is attached. If you agree, we will release this paper for departmental consultation.
2. We propose to provide you with a revised draft Cabinet paper by 15 March for consultation with other Ministers. We are aiming to have a final paper ready for you to lodge for consideration at Cabinet Committee on 3 April 2019.
3. We will provide further advice on matters for the E&T bill on which we recommend public consultation. We propose that you take a Cabinet paper seeking approval to consult on these matters to SWC on 10 April.

Recommended Actions

The Ministry of Education recommends you:

- a. **note** the proposed timing and process for obtaining the Cabinet policy approvals for the Education and Training Bill

Noted

- b. **agree** that the Ministry can release the attached draft Cabinet paper on the first tranche of drafting instructions for departmental consultation

Agree / Disagree

Proactive Release Recommendation

- c. **agree** that this Education Report is not proactively released at this time because final decisions are still to be made on what should be included in the Education and Training Bill.

Agree / Disagree



Dr Andrea Schöllmann
Deputy Secretary
Education System Policy

22/2/19



Hon Chris Hipkins
Minister of Education

25/2/19

Background

1. We are working on progressive Cabinet policy approvals to issue drafting instructions for the Education and Training Bill. The three intended tranches of Cabinet decisions are as follows:
 - a. Tranche 1 – SWC on 3 April confirmed by Cabinet on 8 April
 - b. Tranche 2 – SWC on 26 June confirmed by Cabinet on 1 July
 - c. Tranche 3 – SWC and Cabinet in late July.

First tranche of proposals

Draft Cabinet paper

2. We have prepared the attached draft Cabinet paper for the first tranche of matters to be included in the Education and Training Bill.
3. The paper notes that the Bill will replace the Education Acts 1989 and 1964 with an Education and Training Act that will consolidate and update the legislation and implement reforms identified through the education work programme, including the review undertaken by the Tomorrow's Schools Independent Taskforce.
4. The paper seeks approval for all the content of the 1989 Act (and what's left of the 1964 Act) to be included in the new Act, subject to updating and minor technical amendments, except where specific policy changes are proposed in this Cabinet paper or in the next 2 tranches of policy proposals.
5. We have confirmed with PCO that these recommendations give them the mandate needed to restructure and update the existing provisions, which will then be consolidated into a single Act.
6. The paper also seeks approval to specific, technical policy proposals as follows:
 - a. Replacing references to forms, standards and classes with references to year levels except in relation to sections 5, 6, 9 and 22 of the 1989 Act where the year level work tests should be replaced with tests related to curriculum level progress;
 - b. Removing redundant continuing education provisions and giving boards of trustees express authority to be Adult and Continuing Education providers and to charge related fees;
 - c. Repealing spent and redundant provisions including those relating to bulk funding of early childhood education institutions, regulation making power for composite schools and the requirement for teachers to take an oath of allegiance.
7. The paper also confirms drafting instructions for the home-based early childhood education and care proposals. These proposals clarify the purpose and scope of the new power of entry for the Education Review Office, and the change to existing Police vetting requirements, approved by CBC on 29 January (CBC-15-MIN-0002 confirmed by CAB-19-MIN-0016).
8. The current paper provides additional detail needed for drafting. We have discussed these proposals with the Ministry of Justice. As mentioned in the Cabinet paper, the proposals potentially raise Bill of Rights Act 1990 issues that we are keen to work

through with the Ministry of Justice to avoid problems when the Bill is vetted for compliance with the Bill of Rights Act.

9. The paper also mentions your intention to introduce a Vocational Education Legislation Bill later this year to implement policies reforming New Zealand's vocational education and training regime, and states that the resulting amendments to the Education Act 1989 will be incorporated within the Education and Training Bill.
10. Finally, the paper explains that you intend to seek at least two more tranches of policy approvals (as outlined in paragraph 1 of this paper) and that these proposals will relate to more significant policy changes e.g. the legislative response to the final report from the Tomorrow's Schools Independent Taskforce.

Next steps

11. Timing for Tranche 1 next steps is set out below:

Deliverable	Date
Minister provides comments on attached paper	5 March
Departmental consultation	6-13 March
Ministerial consultation	15-22 March
Revised paper to Minister	26 March
Paper lodged	28 March
SWC	3 April
Cabinet	8 April

Second tranche of proposals

Public consultation material and related Cabinet paper

12. We are preparing draft consultation material and a Cabinet paper seeking approval to consult on the proposals outlined below. We consider that these proposals should undergo consultation, because they are more significant than the tranche 1 proposals and they have not been part of the earlier engagement with the public on the various sector reforms. The proposals relate to the following issues:
 - a. An enforceable right to education – in line with NZ's international commitments, we are developing options for amendments that would make it easier for students and parents to realise existing rights to access education.
 - b. Donations scheme – the proposed amendments will enable the recovery of funds paid to schools that do not comply with the scheme's rules.
 - c. Establishment and disestablishment of special services, schools and clinics – the existing provisions are no longer fit for purpose and require updating e.g. the disestablishment locality test doesn't work for regional and national special schools.
13. The report back to Cabinet in June can also be used to seek any other policy approvals required for the Bill that don't require public consultation. For example, the Ministry of Social Development administers Part 25 of the 1989 Act (Student allowances and administration of student loans) and they have indicated that they might be seeking changes to clarify some aspects of those provisions. If the changes do more than minor updating, we may need to include related proposals in the second tranche.

Next steps

14. Timing for Tranche 2 next steps is set out below:

Deliverable	Date
Draft consultation material and Cabinet paper to Minister	4 March
Minister provides feedback	11 March
Departmental consultation	11-15 March
Ministerial consultation	18 - 22 March
Revised paper to Minister	1 April
Lodgement	4 April
SWC	10 April
Cabinet	15 April
Public consultation	16 April – 14 May
Draft Cabinet paper and RIS to Minister	21 May
Minister provides feedback	28 May
Departmental consultation	28 May – 6 June
Ministerial consultation	11 – 14 June
Finalised paper to Minister	18 June
Lodgement	20 June
SWC	26 June
Cabinet	1 July

Third tranche of proposals

15. Tranche 3 is the vehicle for getting policy approvals to support the legislative response to the final report from the Tomorrow's School's Independent Taskforce. It will include any changes to school governance arrangements and to institutional arrangements for schools and other sector entities. The key milestones are final policy approvals from SWC and Cabinet in late July.
16. Tranche 3 will also include proposals for other amendments which may be affected by the response to the Taskforce report. For example, some aspects of the regulatory settings for online education.

Related work

Schooling system removals and complaints

17. We have been progressing work on improving the framework for when students should be removed from school for behavioural issues, and to establish an effective independent disputes mechanism. We are currently considering how to progress these issues in light of the Tomorrow's Schools Independent Taskforce's report, which makes recommendations concerning who should have roles in removal decisions, and how complaints and disputes are dealt with.

Religion in schools and physical restraint

18. We are working on advice on options for changing the regulatory settings for religious instruction in schools and changing the regulatory settings relating to physical restraint. We will provide this advice by mid-March.