

Cabinet Paper material

Proactive release

Minister & portfolio Hon Chris Hipkins, Minister of Education
Name of package Policy Approvals for an Education (School Donations) Amendment Bill
Date considered 1 May 2019

These documents have been proactively released:

Policy Approvals for an Education (School Donations) Amendment Bill

Date considered: 1 May 2019, Social Wellbeing Committee

Author: Ministry of Education

Social Wellbeing Committee Minute – SWC-19-MIN 0043

Date considered: 1 May 2019

Author: Cabinet Office

Cabinet Minute – CAB-19-MIN-0203

Date considered: 6 May 2019

Author: Cabinet Office

Material redacted

Some deletions have been made from the documents in line with withholding grounds under the Official Information Act 1982. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

The applicable withholding grounds under the Act are as follows:

Section 9(2)(f)(iv) to protect the confidentiality of advice tendered by Ministers of the Crown and officials

Some deletions have been made from the documents as the information withheld does not fall within scope of the Minister's portfolio responsibilities, and is not relevant to the proactive release of this material.

You can read the Official Information Act 1982 here:

<http://legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html>

Budget Sensitive

Office of the Minister of Education

Chair, Social Wellbeing Committee

Policy Approvals for an Education (School Donations) Amendment Bill

Proposal

- 1 This paper seeks approval to issue drafting instructions for an Education (School Donations) Amendment Bill.

Executive summary

- 2 A legislative amendment is required to the Education Act 1989 (the Act) to enable the recovery of funding from schools that do not comply with the conditions of the school donations scheme.
- 3 The 'school donations scheme' refers to the Government's commitment to pay State and State-integrated school boards of trustees \$150 per student if they agree not to ask parents for donations. This scheme is an important element in removing financial barriers to accessing education in New Zealand. Funding for the scheme has been received through Budget 2019. The policy of recovering donations scheme funding from schools that opt in to the scheme but fail to comply with its conditions will support compliance.
- 4 Under the donation scheme, grants of \$150 per student will be made to decile 1-7 schools whose boards choose to opt in to the scheme. Boards that opt in to the scheme must agree to stop seeking donations from parents as a condition of the scheme.
- 5 To support the school donations scheme, I propose to amend the Act to enable money provided to schools under the scheme to be recovered if conditions of the grant (including the requirement to not request donations from parents of students) are breached.
- 6 I am proposing that this amendment is implemented in a new Bill to be included in the 2019 Legislation Programme with s 9(2)(f)(iv) The Bill will be introduced on 30 May.

Background

- 7 Section 3 of the Act entitles domestic students aged 5 to 19 to free enrolment and free education at any State school (including State integrated school) except as otherwise provided in the Act. This means that boards of trustees cannot charge or compel any payments associated with enrolment or with delivering the curriculum.
- 8 Many State and State integrated school boards request a general donation and specific donations relating to curriculum activities, such as field trips and camps. While requesting donations is lawful, school boards vary in how clearly they communicate to parents that they are optional. This means that some parents may incorrectly think that they are obliged to pay the money requested. Further, even if parents understand that boards cannot compel any payments from them, they may still feel pressure to contribute

financially to the school when they are asked to. This can place additional stress on household budgets.

The Government has made a commitment to provide additional funding for schools in lieu of parental donations

- 9 This Government is committed to reducing or removing barriers to accessing education. We affirmed this in the Speech from the Throne on 8 November 2017. When State and State-integrated school boards request donations from parents, this can place pressure on household budgets and be a barrier to accessing education.
- 10 I have reduced this barrier by implementing an opt-in donations scheme, under which participating boards of trustees would receive annual funding of \$150 per student, when they agree not to request donations from parents. I am proposing to make this voluntary scheme available to all decile 1-7 State and State-integrated schools to join. Restricting eligibility to decile 1-7 schools means the scheme is targeted to those schools that are less able to raise funds from their local communities.
- 11 It is intended that eligible schools will be able to opt in to the scheme for payments to begin at the start of the 2020 school year.

Legislative change is required to implement the donations scheme

Current legislative powers

- 12 The Act currently provides that boards of trustees must be paid grants and supplementary grants of such amounts as the Minister of Education may determine. Supplementary grants are subject to the condition that this funding is used for the purposes set out in the grant.
- 13 The \$150 per student payments would be made under the Minister of Education's existing power to determine the amounts of grants and supplementary grants to boards. In order to qualify for this funding a board would be required to agree to not seek either general or specific donations from parents. The Minister of Education will determine any other conditions of participation in the scheme and boards would be required to make a declaration of their compliance with these conditions. These conditions are still to be finalised, but are likely to include a requirement that boards attest their compliance with their existing obligation to provide free education and enrolment.
- 14 The monitoring of compliance by boards of trustees with the conditions of the donations scheme would rely on a combination of parental complaints and monitoring by the Ministry of Education. Funding for this scheme received through Budget 2019 includes departmental resourcing that enables the Ministry of Education to undertake risk-based monitoring of participating schools' compliance with the scheme.
- 15 My intention is that funding is recovered from boards that do not comply with the conditions of the scheme. The risk of funds being recovered is intended to deter non-compliance, by giving boards a strong incentive to ensure they understand and comply with the scheme rules once they opt in to the scheme.

Changes to enable conditional grants and recovery of funds are needed to implement the scheme and support compliance

- 16 I am proposing a legislative amendment to implement the donations scheme and support compliance. The Act does not explicitly authorise recovery of funds that are paid to boards subject to particular conditions. Supplementary grants can be paid to boards subject to the condition that this funding is used only for the purposes set out in the grant. However, this requirement that the funding be used only for the purpose of replacing parental donations is far less explicit compared to setting a *condition* on the grant that boards who opt to receive it are banned from seeking parental donations.
- 17 I propose to amend the Act to make it clear that the Minister of Education may set conditions for the payment of supplementary grants, and would have an ability to recover the grant from a board that did not comply with the conditions of the grant.
- 18 This would give the Minister clear statutory authority to recover funding paid to a board as part of the donations scheme where the board then requested general or specific donations from parents, or if it otherwise failed to comply with the conditions of the scheme.

Consultation

- 19 The Treasury, Inland Revenue, Ministry of Social Development, Office of Disability Issues, Ministry for Women, Te Puni Kōkiri, Ministry for Pacific Peoples, Department of Internal Affairs, and Oranga Tamariki were consulted on this paper.
- 20 The Department of the Prime Minister and Cabinet were informed.

Financial Implications

- 21 Funding of \$265.573 million over four years has been received through Budget 2019 to allow decile 1-7 schools to join the scheme.

Legislative Implications

- 22 The proposal in this paper requires amendment to the Act to have legal effect. I propose to include the necessary amendment in a specific amendment Bill, which will be introduced on 30 May 2019.
- 23 I am seeking approval for this Bill to be added to the 2019 Legislation programme with s 9(2)(f)(iv)
- 24 I am also seeking approval to issue drafting instructions to the Parliamentary Counsel Office as soon as this proposal is approved by Cabinet.
- 25 I am intending to seek a truncated select committee stage during the first reading debate on the Bill. This is necessary to ensure the school donations scheme and its compliance arrangements are in place by 1 January 2020, when the first payments are planned for those schools that opt in to the scheme.
- 26 The Bill will not be binding on the Crown, as the sections of the principal Act (the Education Act 1989) requiring amendment are not binding on the Crown.

Impact Analysis

- 27 The Regulatory Quality Team at the Treasury has determined that the regulatory decisions sought in this Cabinet paper are exempt from the requirement to provide a Regulatory Impact Assessment as they have no or minor impacts on businesses, individuals or not for profit entities.

Human Rights

- 28 The proposals in this paper have no known human rights implications.

Gender Implications

- 29 The proposals in this paper have no known gender implications.

Disability Perspective

- 30 There are no known disability issues arising from the proposals in this paper.

Publicity

- 31 I intend to make a public announcement on Budget Day 2019 that the donations scheme will open for all decile 1-7 State and State-integrated schools to opt in for payments commencing in the 2020 school year. Details of the scheme and its conditions will be made available soon after, on the Ministry of Education website and through various other communication channels.

Proactive Release

- 32 I intend to proactively release this Cabinet paper (subject to any redactions appropriate under the Official Information Act 1982) after Budget Day.

Recommendations

- 33 The Minister of Education recommends that the Social Wellbeing Committee:

- 1 **note** that I intend to introduce a school donations scheme from the 2020 school year, where the boards of all decile 1-7 state and state-integrated schools will be eligible to opt in for a \$150 per student payment in exchange for their agreement to certain conditions, including their agreement to not ask parents for general or specific donations
- 2 **note** that \$265.573m over 4 years has been received through Budget 2019
- 3 **note** that the Education Act 1989 does not explicitly authorise placing conditions upon the payment of grants to boards and recovery of funds that are paid to boards subject to particular conditions. This means that currently the Minister lacks clear statutory authority to recover funding paid to a board as part of the donations scheme where the board has failed to comply with the conditions of the scheme
- 4 **agree** that any donations scheme funding that has been paid to a board that does not comply with the conditions of the scheme can be recovered. The risk of funds being recovered is intended to give boards a strong incentive to ensure they understand and comply with the scheme rules once they opt in to the scheme

- 5 **agree** that an Education (School Donations) Amendment Bill be added to the 2019 Legislative Programme, with a **s 9(2)(f)(iv)**
- 6 **agree** that the Education (School Donations) Amendment Bill is progressed to support the schools donation scheme
- 7 **invite** the Minister of Education to issue drafting instructions to the Parliamentary Counsel Office to provide for conditional grants to boards and enable any donations scheme funding that has been paid to a school that does not comply with the scheme's rules to be recovered
- 8 **note** that the drafting of the Bill will be subject to the discretion of the Parliamentary Counsel Office concerning how to best express the policy in legislation
- 9 **authorise** the Minister of Education to make decisions on any issues of detail that may arise during drafting without further reference to cabinet subject to the decisions being consistent with recommendation 4
- 10 **note** that the Bill will be introduced to the House on 30 May and passed by the end of the year
- 11 **note** that I intend to seek a truncated select committee period of two months during the first reading debate, to enable the Bill to be enacted before the end of the year.

Authorised for lodgement

Hon Chris Hipkins

Minister of Education



Cabinet Social Wellbeing Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Policy Approvals for an Education (School Donations) Amendment Bill

Portfolio Education

On 1 May 2019, the Cabinet Social Wellbeing Committee:

- 1 **noted** that the Minister of Education (the Minister) intends to introduce a school donations scheme from the 2020 school year, where the boards of all decile 1-7 state and state-integrated schools will be eligible to opt in for a \$150 per student payment in exchange for their agreement to certain conditions, including their agreement to not ask parents for general or specific donations;
- 2 **noted** that \$265.573 million over 4 years has been approved through Budget 2019 for the school donations scheme [CAB-19-MIN-0714.13];
- 3 **noted** that the Education Act 1989 does not explicitly authorise placing conditions upon the payment of grants to boards and recovery of funds that are paid to boards subject to particular conditions, which means that currently the Minister lacks clear statutory authority to recover funding paid to a board as part of the donations scheme where the board has failed to comply with the conditions of the scheme;
- 4 **noted** that the risk of funds being recovered is intended to give boards a strong incentive to ensure they understand and comply with the scheme rules once they opt in to the scheme;
- 5 **agreed** that any donations scheme funding that has been paid to a board which does not comply with the conditions of the scheme can be recovered;
- 6 **agreed** that an Education (School Donations) Amendment Bill (the Bill) be added to the 2019 Legislation Programme, with a **s 9(2)(f)(iv)**
- 7 **agreed** that the Bill is progressed to support the schools donation scheme;
- 8 **invited** the Minister of Education to issue drafting instructions to the Parliamentary Counsel Office to provide for conditional grants to boards and enable any donations scheme funding that has been paid to a school that does not comply with the scheme's rules to be recovered;
- 9 **noted** that the drafting of the Bill will be subject to the discretion of the Parliamentary Counsel Office concerning how to best express the policy in legislation;
- 10 **authorised** the Minister of Education to make decisions on any issues of detail that may arise during drafting without further reference to Cabinet, subject to the decisions being consistent with the decision in paragraph 5;

- 11 **noted** that the Bill will be introduced to the House on 30 May 2019 and passed by the end of the year;
- 12 **noted** that the Minister intends to seek a truncated select committee period of two months during the first reading debate, to enable the Bill to be enacted before the end of 2019.

Gerrard Carter
Committee Secretary

Present:

Rt Hon Jacinda Ardern
Rt Hon Winston Peters
Hon Kelvin Davis
Hon Grant Robertson
Hon Phil Twyford
Hon Chris Hipkins
Hon Andrew Little
Hon Carmel Sepuloni (Chair)
Hon Dr David Clark
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Jenny Salesa
Hon Tracey Martin
Hon Aupito William Sio
Hon Julie Anne Genter

Hard-copy distribution:

Minister of Education

Officials present from:

Office of the Prime Minister
Office of the Chair
Officials Committee for SWC



Cabinet

Minute of Decision

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Report of the Cabinet Social Wellbeing Committee: Period Ended 3 May 2019

On 6 May 2019, Cabinet made the following decisions on the work of the Cabinet Social Wellbeing Committee for the period ended 3 May 2019:

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Redactions made as content outside scope of Minister's portfolio responsibility



Redactions made as content outside scope of Minister's portfolio responsibility

Michael Webster
Secretary of the Cabinet

Hard-copy distribution:
Cabinet Social Wellbeing Committee

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