

Education Report: Principles of proactive release and how they apply to Crown entity monitoring

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| To: | Hon Chris Hipkins | | |
| Date: | 19 March 2018 | Priority: | Medium |
| Security Level: | In Confidence | METIS No: | 1111386 |
| Drafter: | Fiona O'Leary | DDI: | [REDACTED] |
| Key Contact: | Fiona O'Leary | DDI: | [REDACTED] |
| Messaging seen by Communications team: | No | Round Robin: | No s 9(2)(a) OIA |

Purpose of Report

This paper seeks further direction on the proactive release of monitoring advice.

Summary

1. You recently indicated that the Ministry:
 - proactively release the Quarter 2 2017/18 New Zealand Qualifications Authority (NZQA) financial and non-financial performance monitoring
 - not release Education Council financial monitoring for Quarter 2 2017/18.
2. Our view is that, in general, the monitoring advice over Statements of Intent, Statements of Performance Expectations, Letters of Expectations and Cabinet Appointments and Honours Committee (APH) papers can be proactively released.
3. We recommend that quarterly performance monitoring reports, advice on entities' Annual Reports and advice on board appointments leading up to APH decisions are not released. This is because the nature of the free and frank advice contained in these reports, and the potential impacts from releasing it, will inhibit the monitoring function.
4. These recommendations are based on a principle driven assessment of proactive release as set out in the relevant Cabinet paper [GOV-18-SUB-0001 refers].

Recommended Actions

We recommend that you:

- a. **agree** that performance related monitoring reports (quarterly performance monitoring reports and advice on Annual Reports) are not suitable for proactive release

Agree / Disagree

- b. **note** that, if you agree to recommendation (a), we will not release Quarter 2 performance monitoring reports on NZQA, ENZ and TEC


Noted

- c. **agree** that advice leading up to APH decisions is not suitable for proactive release

Agree / Disagree

- d. **agree** that this report not be proactively released as it refers to Cabinet decisions and advice that are still in progress

Agree / Disagree



Emily Fabling
Deputy Secretary
Strategy, Planning and Governance

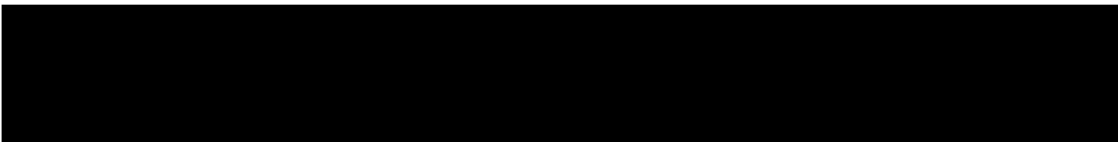
19/03/2018.



Hon Chris Hipkins
Minister of Education

1/4/18

Background

5. The Ministry performs statutory monitoring for education Crown entities, New Zealand Qualifications Authority (NZQA), Education New Zealand (ENZ) and Tertiary Education Commission (TEC) on your behalf. Monitoring is carried out in accordance with the Crown Entities Act 2004 and *It takes three: Operating Expectations for Statutory Crown Entities* framework. The Ministry also has a time-bound financial performance monitoring role with the Education Council, an independent statutory body.
6. You have recently indicated the following direction on proactive release of the performance monitoring reports for Quarter 2, 2017/18. Your decisions to date include:
 - to release the performance monitoring report for NZQA Quarter 2 [METIS 1101825 refers]
 - not to release the performance monitoring report for the Education Council Quarter 2 [METIS 1108758 refers].
7. The Ministry's Quarter 2 performance monitoring reports for ENZ and TEC are currently with your office [METIS 1098037 and 1111920 refer]. These reports recommend making a decision on release after you have read this report.
8. 
9. Monitoring reports on entity performance do not support Cabinet decisions. s 9(2)(f)(iv) OIA
10. We have consulted with Treasury and the Ministry of Business, Innovation and Employment (MBIE), which both have a statutory monitoring function, to understand their approach. They have indicated that they are not proactively releasing performance monitoring advice and would consider these to be outside the scope of the Cabinet direction.

Overview of monitoring reports

11. Monitoring reports from the Ministry can be broken down into the following areas:

| Report | Purpose |
|---|--|
| Advice on Statements of Intent, Statements of Performance Expectations | Advice on entities' forward-looking statutory accountability documents |
| Quarterly performance monitoring reports | Analysis over and advice on entities' quarterly performance and risks |
| Advice on Annual Reports | Analysis over and advice on entities' annual performance |
| Letters of Expectations and related advice | Advice to support setting Ministers' priorities |
| Appointments and Honours Committee (APH) papers and related Board appointments advice | Advice to support the Ministerial appointments process |

¹ The Cabinet paper proposes that the Cabinet Office would issue a Circular to the public service to explain how to implement the policy.

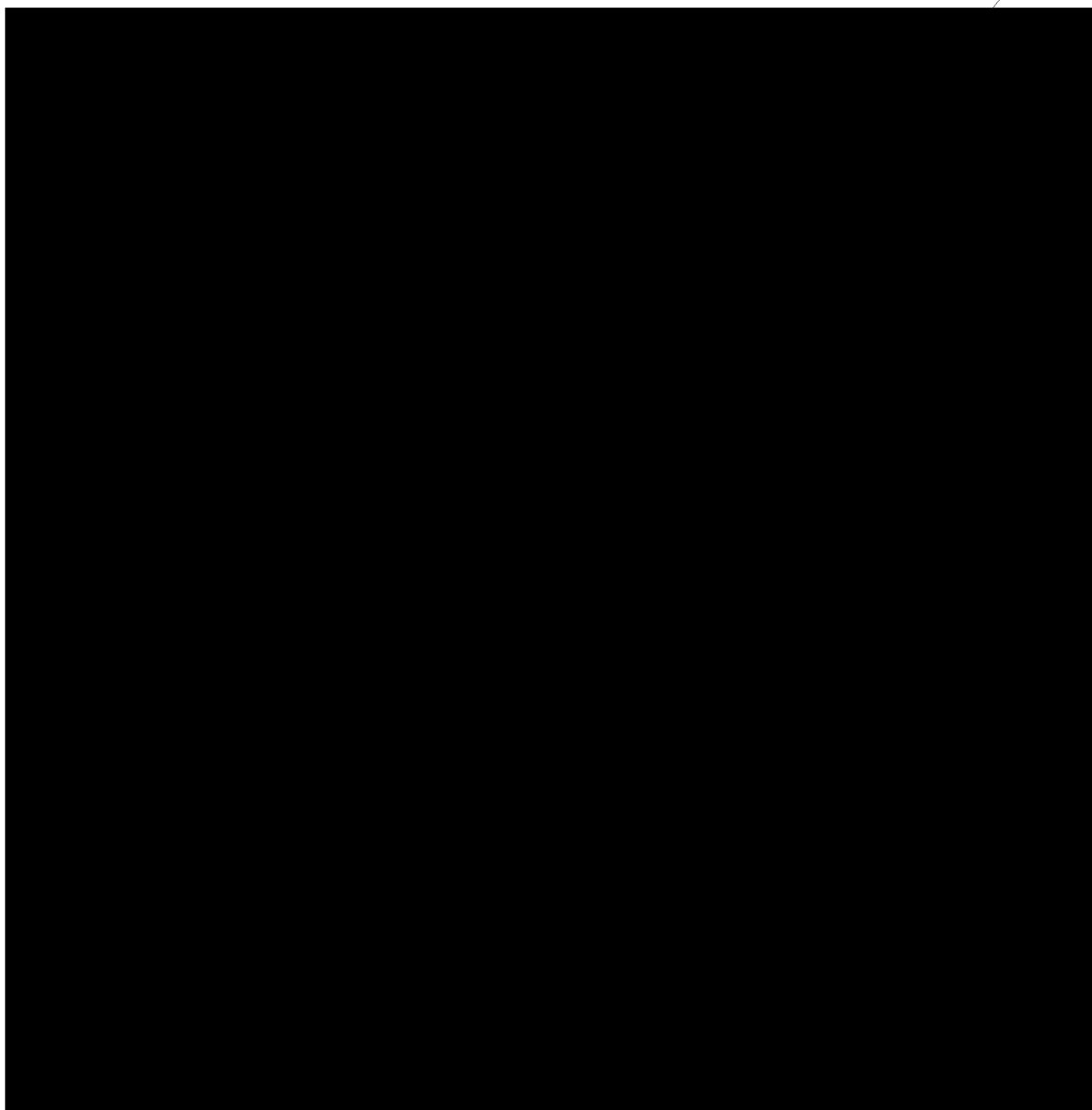
12. Our view is that, in general, the monitoring advice over Statements of Intent, Statements of Performance Expectations, Letters of Expectations and APH papers can be proactively released².

13. Reports that we believe should not be proactively released include the quarterly performance monitoring reports, advice on entities' Annual Reports and advice on board appointments leading up to APH decisions. [REDACTED]

14. Advice leading up to APH decisions should not be released to protect the privacy of individuals. In releasing APH papers, there will be sufficient transparency over decisions and the decision making process.

s 9(2)(g)(i) OIA

s 9(2)(g)(i) OIA



² Subject to redactions and exceptions, as appropriate.

Next steps

21. If you agree not to proceed with proactively releasing performance related reports then we will not release the NZQA, ENZ and TEC Quarter 2 monitoring reports.
22. If your preference is that we proceed with proactively releasing performance related reports, we would work with the entities on which elements we would redact. We would also work through what it would mean for our monitoring engagement model moving forward.

Proactive Release

23. We do not recommend that this Education Report be proactively released as it refers to Cabinet decisions and advice that are still in progress as well as free and frank advice on how best to serve the public interest that needs the context of the formal guidance on Crown entity monitoring and the Ombudsman's guidance.