



11 March 2021



Tēnā koe 

Thank you for your email of 20 January 2021 to the Ministry of Education requesting the following information:

1. *Complaints relating to the Te Kōhanga Reo trust with the last two years*
2. *Communications and documentation relating to the Trust's involvement in employment/whanau mediation in the last two years.*
3. *Any information related to mismanagement of funds by the Trust and its subsidiaries in the last two years*
4. *Personal grievances laid against the Trust and its kōhanga reo in the last two years.*
5. *Information that relate to the 2019/2020 budget bids\*
6. *Information that confirms plans to spend the 2019/2020 budget bid.*
7. *A breakdown of where last year's budget was allocated and spent.*
8. *An audit of last year's financials.*

Your request has been considered under the Official Information Act 1982 (the Act).

All early learning service providers operate independently of the Ministry, either as commercial businesses or one of various types of not-for-profit organisations. This independence means the service providers are responsible for operational and employment decisions, including staff employment agreements and personal grievances.

This independence also means that service providers are free to structure their organisations as they see appropriate. With respect to the Kōhanga Reo National Trust, the operation and administration of individual kōhanga reo is the responsibility of kōhanga whānau, in accordance with kaupapa (policies), under the stewardship of the Trust Board. We have no oversight or governance responsibility for the Trust itself.

Our response to your individual questions has been outlined below:

#### **Question one: Complaints relating to the Trust**

We do not manage or investigate complaints about the Trust. As such, this part of your request has been refused under 18(g) of the Act as the requested information is not held by the Ministry.

#### **Question two and three, six and seven: Mediation and Financial information**

As noted above, we have no oversight or governance responsibility for the Trust, so there is no role for the Ministry in employment matters.

The Trust is accountable for Government provided education subsidies, enrolment, and attendance information. The Ministry does not have a role in the management of Trust

finances. As such, these parts of your request have been refused under Section 18(g) of the Act as the requested information is not held by the Ministry.

#### **Question four: Personal grievances**

We do not have a role in employment matters of the Trusts, so no record of any personal grievances made against the Trust and its kōhanga reo are recorded on any of our record keeping databases. As such, this part of your request has been refused under Section 18(g) of the Act as the requested information does not exist

#### **Question five: Information that relate to the 2019/2020 budget bids**

We have identified a large number of documents in scope of this request with the majority of these being proactively released on our website at the following links:

##### **2019**

[Budget 2019 Information Release – Education in New Zealand](#)

[Budget 2019 – Education in New Zealand](#)

[Te Kōhanga Reo Contingency Fund - Budget 2019 – Education in New Zealand](#)

##### **2020**

[Budget 2020 Information Release – Education in New Zealand](#)

[Budget 2020 – Education in New Zealand](#)

[Supporting Māori learners, Kōhanga Reo, and revitalising te reo Māori – Education in New Zealand](#)

In addition to this we have identified one document in scope of your request, and this has been provided as **Appendix A**.

Date	Document	Decision on our release
31 May 2019	Education Report: Approval for draw down of contingency for kōhanga	Release in part. Some information withheld under sections 9(2)(a), 9(2)(b)(ii) and 9(2)(j)(i) of the Act.

#### **Question eight: Financial audits**

We work with the Trust to select and audit funding claims/maramataka for individual kōhanga in various region. Based on these findings the Trust then submits action plans to us about how they mitigate issues across those regions.

The Trust are exempt from our audited financial reporting process. However, you may be interested to know that annual returns and financial information is provided to the Charities Services. If you click on, or follow the link below, the Trust's financial statements are available for public view:

<https://register.charities.govt.nz/CharitiesRegister/ViewCharity?accountId=cc7e0d48-008a-dc11-98a0-0015c5f3da29&searchId=1a7c7aa6-33eb-4c01-885c-756e709751c1>

As such your request for last year's financial audit has been refused under Section 18(g) of the Act as the requested information is not held by the Ministry.

Please note, the Ministry now proactively publishes OIA responses on our website. As such, we may publish this response on our website after five working days. Your name and contact details will be removed.

Thank you again for your email. You have the right to ask an Ombudsman to review this decision. You can do this by writing to [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz) or Office of the Ombudsman, PO Box 10152, Wellington 6143.

Nāku noa, nā



**Katrina Casey**  
**Deputy Secretary**  
**Sector Enablement and Support**

# Appendix A



## Education Report: Approval for draw down of contingency for kōhanga reo

<b>To:</b>	Hon Kelvin Davis, Minister for Māori Crown Relations: Te Arawhiti / Associate Minister of Education Hon Chris Hipkins, Minister of Education		
<b>Date:</b>	31 May 2019	<b>Priority:</b>	High
<b>Security Level:</b>	Commercially sensitive: In Confidence	<b>METIS No:</b>	1191541
<b>Key contact and number:</b>	Damian Edwards	<b>DDI:</b>	(04) 438 5365 s 9(2)(a) OIA
<b>Drafter:</b>	Graham Bussell	<b>Round robin:</b>	Yes
<b>Messaging seen by Communications team:</b>	N/A		

### Purpose of report

This paper seeks your agreement to the draw down of a tagged Budget 2019 contingency to meet pressing costs in kōhanga reo. It also asks you to forward the report to the Minister of Finance for his approval to the draw down.

### Summary

1. The Crown has been actively engaged with Te Kōhanga Reo National Trust since 2017 to resolve issues arising from the Trust's 2011 Treaty claim against the Crown (Wai 2336). This year, the Crown has worked proactively with the Trust to develop solutions to kōhanga reo' immediate funding pressures.
2. The funding pressures include the cost of ICT upgrades and need for improvements to the property portfolio. Joint Ministers have recently agreed \$2.497 million for the ICT upgrades while a formal building assessment is in the process of being commissioned to quantify likely costs.
3. The paper seeks draw down of the full tagged Budget 2019 contingency of \$30 million set aside to support kaupapa Māori education providers. The majority of this amount (\$21.383 million in 2019/20) would be disbursed to kōhanga reo to enable them to pay staff adequately.
4. This funding increase would enable kōhanga reo to:
  - increase existing pay rates for kaiako and kaimahi to Government's stated 2021 minimum wage rate from 1 July 2019;
  - maintain a level of existing relative pay rates for kaiako and kaimahi already above the minimum wage; and

- pay kaiako and kaimahi currently working in a volunteer capacity due to lack of funding.
5. We note that it is highly likely that further government funding will be needed to enable improved wage rates to continue being paid. Without this progress on the claim would likely stop while kōhanga reo dealt with the ramifications of paying staff after funding has ceased.
  6. The paper also seeks draw down of the remainder of the contingency as a provision for the likely significant costs associated with remedying issues with kōhanga reo buildings.
  7. The overall funding would significantly bolster kōhanga reo immediate sustainability as well as provide a strong signal of the Crown's commitment to resolving elements of the claim. The funding is also strongly consistent with the Crown's active protection obligations towards te reo Māori.

## Recommended Actions

---

The Ministry of Education recommends you:

- a. **Out of scope**
- b. **note** that discussions with Te Kōhanga Reo National Trust have indicated a shortfall of funding for immediate staffing pressures is likely to be impacting on quality of immersion provision;
- c. **forward** a copy of this report to the Minister of Finance for his approval to draw down \$30 million from the Budget 2019 *Supporting Kaupapa Māori Education Providers to Generate Improved Outcomes for Ākonga* operating contingency;
- d. **agree** that this Education Report is not proactively released at this time because the material in the report is part of ongoing commercially sensitive negotiations and release at this time would likely prejudice these negotiations;

**Noted**

**Forwarded**

**Agree / Disagree**

**The Minister of Education and the Minister for Māori Crown Relations: Te Arawhiti / Associate Minister of Education recommend that the Minister of Finance:**

- e. **approve** the following changes to appropriations to provide funding for kōhanga reo staff and other, mainly property-related, costs, with a corresponding impact on the operating balance:

	\$m – increase/(decrease)			
<b>Vote Education Minister of Education</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>	<b>2022/23 &amp; Outyears</b>
Non-departmental Output Expense: Early Childhood Education	30.000	-	-	-

**Approve / Not Approve**

f. **agree** the proposed changes to appropriations for 2019/20 above be included in the 2019/20 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;

Agree /  Disagree

g. **agree** that the increased appropriations for 2019/20 above be a charge against the *Supporting Kaupapa Māori Education Providers to Generate Improved Outcomes for Ākonga* operating contingency, established as part of Budget 2019 [CAB-19 MIN-0174.13];

Agree /  Disagree

h. **agree** that the passing on of information about the increase in funding entitlement to each kōhanga reo be included as a condition of funding;

Agree /  Disagree

i. **note** that new funding in outyears will likely be required to meet the ongoing cost of higher kōhanga reo staff costs, without which progress on the Wai 2336 claim will likely stall due to kōhanga reo being unable to meet ongoing wage liabilities.

Noted



Damian Edwards  
Associate Deputy Secretary  
Education System Policy  
Ministry of Education

31/5/19



Hon Chris Hipkins  
Minister of Education

31/5/19

Hon Grant Robertson  
Minister of Finance

  /  /  

Hon Kelvin Davis  
Minister for Māori Crown  
Relations: Te Arawhiti  
Associate Minister of Education

  /  /  

RELEASED UNDER THE OFFICIAL INFORMATION ACT

## Background

---

### The Kōhanga Reo movement

1. Kōhanga Reo were established in the 1980s as a Māori development initiative aimed at building and strengthening te reo Māori and tikanga Māori. In kōhanga reo, tamariki from 0-5 years are immersed in te reo Māori and Māori culture. Whānau are encouraged to learn te reo Māori with them. Kōhanga reo provide whānau with support and whānau involvement enables them to develop other skills, for example, governance and management.

### The Wai 2336 claim

2. In 2011, the Trust lodged an urgent claim with the Waitangi Tribunal on the basis that the kōhanga reo kaupapa had been adversely impacted since the Crown integrated kōhanga reo into the Ministry's ECE framework in 1990. Among other things, the Trust considered that government funding policies had deliberately underfunded kōhanga reo over time.
3. In 2013, the Tribunal gave its findings in the report *Matua Rautia: the Report on the Kōhanga Reo Claim*. The Tribunal generally found in favour of the Trust. It concluded that the health of the Māori language was fragile, and that vigorous action by the Crown was required to actively protect and promote te reo Māori. The Tribunal made five recommendations, which covered a mix of substantive and process based elements. One of these included developing a supportive funding regime for kōhanga reo and the Trust to ensure their ongoing sustainability.

### Engagement with the Trust

s 9(2)(j) OIA

RELEASED UNDER THE OFFICIAL INFORMATION ACT

## Agreement to a joint work plan

### 7. **Out of scope**

- *Short and long-term funding to ensure the sustainability of Kōhanga Reo.* This work includes the development of a long-term funding model to ensure sustainability of different areas of Trust and kōhanga reo operations.

# Out of scope

8.

## Funding for immediate priorities

### **Staffing needs**

9. The most pressing need is to ensure individual kōhanga reo can pay staff appropriately. This pressure appears to stem from three factors:
- *Significant regulated increases to the minimum wage rate.* This Government provided the ECE sector with a 1.6% universal increase to funding rates from 1 January 2019, the first in almost ten years. However, this only partially meets kōhanga reo costs, in part because they tend to employ a greater proportion of kaimahi on or near the minimum wage than other early learning service types, such as kindergartens.
  - *The flow-on impact of minimum wage increases on other remuneration rates.* kōhanga reo consider themselves responsible employers and feel bound to adjust wages of staff paid above minimum wage as they are 'caught up' to by those receiving minimum wage increases.
  - *Kaiako/kaimahi currently working in an unpaid capacity when, if funding were available, they would be paid for their roles.* The ECE funding system has not adjusted to reflect that kōhanga reo are unable to rely as much on whānau volunteers as was formerly the case. This has necessitated greater reliance on paid kaiako.

10. We note that limited funding for staff pay across the kōhanga reo network is likely to significantly impact on the quality of provision. Also, paying people markedly different rates for the same work is not conducive to a positive working environment or retaining staff.
11. The Trust tells us they regularly lose their most skilled whanau and kaiako as their strong te reo, organisational experience and [teaching] qualifications makes them sought after by kura or qualified to undertake higher paid mahi, for example, performing translation services. This has the effect of compromising the quality of reo; something the Trust has indicated is currently of concern.

12.

s 9(2)(b)(ii) OIA

#### ***Information and communication technology needs***

13. Another key need is the requirement for urgent improvements to Trust and kōhanga reo ICT. Joint Ministers recently helped address this by providing \$2.497 million drawn down from a tagged Budget 2018 contingency. There is likely to be a small amount of additional government funding required in order to complete the upgrade to be met from the balance of the contingency.

#### ***Property needs***

14. The condition of some kōhanga reo properties is also a concern, with the extent of these problems to be informed via an independent building assessment. This is now being arranged to be carried out by an external consultant by the Ministry in conjunction with the Trust. We anticipate that remediation costs may be in the region of several million dollars.

#### ***Agreement to draw down funding from contingency***

15. We seek joint Ministers' approval to draw down the one year tagged \$30 million contingency recently agreed to in Budget 2019 [CAB-19-MIN-0174.13]. Of this \$21.484 million would cover one year of urgent staff costs.
16. The additional funding for staffing would enable them to be paid from this year at the minimum wage target for 2021 set by the Government. It would also provide for parallel increases in pay for staff already above minimum wage and cover the cost of appropriately remunerating volunteers.
17. We consider the funding would contribute significantly towards a mutually satisfactory resolution of the claim by providing a strong signal of the Crown's commitment. The funding is also consistent with the Crown's active protection obligations towards te reo Māori and supports the Government's aim of revitalising te reo Māori, as set out in the Maihi Karauna; the Crown's Strategy for Maori Language Revitalisation. The fact that there are currently very few early learning immersion services for the 0-5 year age group outside of kōhanga reo make strengthening this part of the early learning network an imperative.
18. The quantum of funding is significant, given that the Trust received \$61.718 million in the two core ECE funding subsidies in 2017/18. This would raise kōhanga reo' (subsidy)

quality funding rates closer but not level with those received by education and care services employing 80% or more qualified and registered teachers.

19. We consider that it would be timely to get ministers' agreement now to draw down the remainder of the tagged contingency for kōhanga reo. This is desirable to maintain momentum on the claim. The balance of the funding would be drawn down into appropriation primarily to meet urgent property remediation needs, as identified by the building assessment referred to earlier.

#### *Disbursement of staff-focused funding to kōhanga reo*

20. Officials have indicated to the Trust that funding for staffing costs would be best provided by adjusting hourly funding rates paid for total hours of tamariki attendance. The amount of additional funding paid each year will also vary according to changes in the mix and amount of child hours (in accordance with all ECE subsidy funding, which is demand driven).
21. Funding would be paid starting with the November 2019 funding round. This is one of three regular payments made each year to all early learning services. Funding for kōhanga reo is made on the basis of retrospective child attendance. This means that the November payment would apply the new funding rates to tamariki' attendance from 1 July 2019.
22. It is important that whānau governing kōhanga reo have a clear understanding of the additional funding provided by the Crown. Accordingly, we seek your agreement that information about the increase in entitlements for each kōhanga reo be included as a condition of funding. Because ECE Subsidy funding is paid to the Trust directly, we would provide the Trust with before and after data to assist with this.

#### Risks

23. Despite the positive message the new funding should send to kōhanga reo whanau and those with an interest in revitalising te reo Māori and knowledge of tikanga, there is likely to be some external comment on the amount of funding kōhanga reo are to receive.
24. In our view, the declining kōhanga reo enrolments and the importance of ensuring a strong network of kōhanga demands firm action to foster the revitalisation of the Māori language, which is a precious taonga. Even with the funding boost, kōhanga reo rates will still lag behind those of teacher-led services – a situation the Trust has consistently raised as inequitable and not in keeping with the Treaty.
25. As indicated in the financial implications section below, agreement to the draw down carries a risk for baseline funding that will need to be managed carefully, especially since we have had to assure the Trust that funding is not just a one-off payment. Without this assurance, progress is likely to stall particularly as kōhanga reo would be unable to meet future wage liabilities.
26. We also note that the ECE Subsidy payment approach does not precisely allocate funding for increased payroll needs at individual kōhanga level. As a result, the Trust may need to work with kōhanga reo to smooth under and over payment. This is similar to what kindergarten associations do when managing extra funding from government to meet revised collective agreement costs.

## Financial implications

---

27. The main financial implication from this paper is the full draw down of \$30 million from the tagged contingency *Supporting Kaupapa Māori Education Providers to Generate Improved Outcomes for Ākonga* for the 2019/20 financial year. This includes \$21.484 million for staff costs.
28. The funding from the contingency will only pay for one year of additional staff expenses (in 2019/20). Because the funding is for ongoing expenses ie, the payment of higher staff pay rates over time, additional funding will be needed to increase the baseline kohanga reo subsidy funding from 2020/21.
29. We recommend that you present a proposal to Cabinet immediately following the Budget moratorium to achieve certainty of outyear funding. This would charge the amount as a pre-commitment against the Budget 2020 operating allowance. The cost of the pre-commitment would be \$67.116 million over three years (2020/21 to 2022/23). This and the contingency amount are shown in the following table.

	2019/20	2020/21	2021/22	2022/23 & Outyears
Funding sought (19/20 from contingency, other years unfunded)	30.000	22.066	22.393	22.658

30. An alternative would be to consider the outyear funding later this year as part of proposals for an enduring funding model for kōhanga reo and as part of the Budget cycle. However, we note that this approach simply delays consideration of the fiscal risk rather than mitigating it.

## Next steps

---

31. Pending agreement to the draw down, we understand announcement of the funding will be made on 4 June. We will work with ministers' offices on the communications required, as needed.
32. Crown officials and the Trust are continuing with other aspects of the work plan. This includes working on a longer-term kōhanga reo funding model, which will necessitate further funding. It is likely that the scale of the funding draw down will lessen the longer-term fiscal implications of such a model. The work plan includes a report back to Cabinet in November 2019, in which we will seek agreement to the long term funding model.