

Office of the Minister of Education

Chair, Cabinet Social Wellbeing Committee

## **Education Bill: Approval for content and drafting**

### **Proposal**

- 1 This paper seeks the Committee's agreement to the content of an education bill and to the issuing of drafting instructions to Parliamentary Counsel.

### **Executive Summary**

- 2 An omnibus education bill, with a priority five, has been included on the 2018 Legislative Programme (referred to as the Education Legislation Bill (ELB)).
- 3 On 12 March 2018, the Cabinet Business Committee (CBC) noted that I intended to consult key education and other stakeholders on a range of issues that could be addressed through an education bill (CBC-18-MIN-0036 refers). In January 2018 CBC approved the Ministry of Education consulting on cohort entry for 5 year olds (CBC-18-MIN-0009 refers).
- 4 Consultation has now been undertaken with education peak bodies, early learning centres, schools, teachers' unions, tertiary education providers and other relevant stakeholders.
- 5 I seek the Committee's agreement to an education bill giving effect to the following matters:
  - 5.1 Ensuring the Education Council of Aotearoa New Zealand's decisions on matters relating to the teaching profession are made within the context of government policy;
  - 5.2 Including a new criterion for private schools' registration that they must provide a safe physical and emotional place for their students;
  - 5.3 Repealing provisions in the Education (Update) Amendment Act 2017 on communities of online learning;
  - 5.4 Reinstating industry training organisations' (ITOs') statutory skills leadership role, with a more robust framework; and
  - 5.5 Fixing a technical drafting matter through the State Sector Act 1988 on mergers and closures of State integrated schools.
- 6 I also intend that the education bill include provision for cohort entry for children five years and older. I will report to the Committee separately on this matter outside of the Budget moratorium period as the proposed amendments may have fiscal implications.
- 7 In my 12 March report to CBC, I noted my intention to consult on the requirement for Police vetting under the Education Act 1989. In particular I was interested in stakeholders' views on the potential to streamline processes for vetting tradespeople and other contractors who may have access to children, and to raise the standard of safety checking for people who live in premises where home-based ECE is provided. Both of these issues may be impacted by work currently being undertaken by New Zealand Police on the development of a legislative framework for the Police Vetting Service (which is likely to lead to efficiencies in the service provided by Police). The level of checking of people who live in home-based early childhood education facilities is closely linked to the broader review of home-based early childhood education. I am therefore not pursuing these issues through the proposed education bill.

- 8 I also reported to CBC that I would test the teaching profession's views on whether the College of Educational Leadership should sit within the Education Council and whether the Council's functions required legislative change as a result. Given that there are a range of views held by key stakeholders on where the College of Educational Leadership should sit, I consider that this issue needs further discussion in the context of the wider discussion with the sector on Tomorrow's Schools, and the future location of the proposed Education Advisory Service.

## **Background**

- 9 The Government has included an omnibus education bill in the 2018 Legislative Programme. The bill provides the opportunity to make other legislative improvements, such as requiring private schools to provide a safe physical and emotional place for students, and resolving a technical issue relating to integrated school mergers and closures.
- 10 On 12 March 2018, CBC noted that I intended to consult key education and other stakeholders on a range of issues that could be addressed through an education bill (CB -18 MIN-0036 refers). The Ministry of Education has carried out this consultation with peak education groups,<sup>1</sup> all early learning centres, all primary, secondary and private schools, teachers' unions, tertiary education providers, ITOs, and other education, training and business stakeholders. Emails with discussion material on the six issues being consulted on were sent to almost 300 organisations; and bulletins with internet links to consultation material were sent to all schools and early learning centres. Information was sent to 16 Māori organisations including wānanga, other Māori education providers, the Māori Principals Association, and Te Kōhanga Reo National Trust.
- 11 Ninety-nine submissions were received across the six issues on which consultation was conducted with many submitters commenting on more than one issue. Around 120 separate comments were made across the six issues. Submissions are discussed in the context of each of the issues below.

## **Consultation on the bill's content and proposed legislative changes**

### ***Protecting the public interest in the Education Council's decision-making***

- 12 The purpose of the Education Council of Aotearoa New Zealand (the Council) is to ensure safe and high quality leadership, teaching and learning for children and young people in early childhood, primary and secondary schooling. In order to achieve this purpose, the Council has a broad range of functions, including setting standards for initial teacher education programmes, establishing and maintaining criteria for teacher registration, setting standards for teacher practice and conduct, and monitoring adherence to them, and undertaking disciplinary and competence functions. These functions give the Council significant influence over the quality of education in New Zealand, the safety of children and young people in educational environment, the standards of the teaching profession and the supply of teachers.

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<sup>1</sup> Peak education groups consulted included: the Education Council of Aotearoa New Zealand; New Zealand School Trustees Association, NZEI Te Riu Roa, Post Primary Teachers Association, Early Childhood Council, NZ Kindergartens Incorporated, Playcentre Federation of New Zealand, Te Aho o Te Kura Pounamu; New Zealand Principals' Federation, New Zealand Institutes of Technology and Polytechnics and the Industry Training Federation.

- 13 The Council's functions in relation to setting standards for initial teacher education and establishing criteria for teacher registration also significantly influence how initial teacher education is organised. For example, if the Council were to decide to make postgraduate qualifications a requirement for entry to the teaching profession, this would have substantial fiscal implications as well as impacts on teacher supply and workforce diversity.
- 14 This degree of public interest means that there needs to be some ability for the Government to influence the work of the Council on behalf of all New Zealanders and, in particular, children and young people. At present, this influence is achieved through the ability of the Minister of Education to appoint all nine members of the Council's board. This is likely to change through the enactment of the Education (Teaching Council of Aotearoa) Amendment Bill, which will enable teachers to directly elect the majority of the board of their own professional body.
- 15 While the election of board members is an important step to strengthen the profession's ownership of the Council, it will reduce the Government's ability to influence the Council's work. I have previously signalled that alternative mechanisms might be needed to protect the public interest in the Council's work.

*Submissions on Education Council's decision-making*

- 16 The Ministry consulted on two proposals to balance the changes to the Council's governance arrangements, and to enable the Government to protect the public interest in the Council's work:
- 16.1 Introducing a requirement that the Council consult with Government when considering changes to training or registration requirements; and
- 16.2 Establishing a power for the Minister of Education to issue a Government Policy Statement (GPS) on matters relating to the teaching profession, to which the Council must have regard in discharging its functions. In issuing such a statement, the Minister would need to consult with the Council and other relevant stakeholders, in order to balance increased government influence while enabling the Council's views to be considered.
- 17 Twenty-two submissions were received. Ten submissions supported both proposals, with a further two supporting the first proposal only. Submitters felt that the proposals would help to increase the efficiency and effectiveness of the education system by ensuring alignment across the policies and processes that shape the teaching workforce, and reflected the high degree of public interest in the Council's work. The Education Council supported both proposals.
- 18 Four submitters opposed both proposals, and a further two opposed giving the Minister of Education a power to issue a GPS. These submitters expressed concern that the changes would compromise the Council's independence.
- 19 I have considered the responses carefully and assessed how best to balance the need to protect the public interest with the Council's status as an independent statutory body. I have also taken into account the advice of the Legislative Design Advisory Committee, who noted that the process involved in issuing a Government Policy Statement can be time-consuming, and could limit the government's ability to respond to an Education Council decision in a timely manner. I therefore propose to give the Minister a narrower power to issue a government policy relating to a specific function or functions of the Council to which the Council must have regard in exercising that function, rather than a power to direct the Council to have regard to a general Government Policy Statement relating to the teaching workforce.
- 20 As the policy would focus on matters relating to the Council's purpose and functions, and be directed explicitly to the Council, the requirement for government to consult before issuing a policy will be limited to a requirement to consult the Council. This will also ensure that the government is able to respond in a timely manner if necessary to protect the public interest.
- 21 To ensure transparency, I propose that the government policy should be issued by notice in the *Gazette*.

- 22 Neither of the proposed amendments will limit the Council's ultimate decision-making power over matters within its jurisdiction.

*Proposed amendments relating to Education Council's decision-making*

- 23 I propose to proceed with both proposals in the forthcoming education bill. The Bill would amend the Education Act 1989 to provide for:
- 23.1 A power for the Minister of Education to, by notice in the *Gazette*, issue a government policy relating to a specific function or functions of the Council;
  - 23.2 A requirement that the Council must have regard to the policy in discharging the function or functions to which the policy relates;
  - 23.3 A requirement that the Minister must consult with the Council prior to issuing the policy;
  - 23.4 A requirement that the Education Council consult the Minister of Education prior to proposing changes to teacher education programme requirements and teacher registration criteria.

***New registration criteria for private schools requiring provision of a safe place***

- 24 New Zealand has 89 private schools. They are privately owned and their owners have considerable freedom in their schools' operation. This includes decisions on the facilities they provide, how they develop and teach the curriculum, the days the school is operational, and the qualifications framework and assessment methods they use.
- 25 Private schools are subject to the Health and Safety at Work Act 2015 and, under the Education Act 1989, are required to have suitable premises and equipment, as approved by the Secretary for Education (Secretary). The Education Act 1989 alludes to the requirement that private schools provide a safe environment by the fact that the Secretary may, in certain circumstances, suspend a private school's registration if student welfare is at risk (section 35K). However, the registration criteria do not require private schools to provide a physically and emotionally safe environment for students, as is required of State schools and State integrated schools. It is a duty for State and State integrated school boards to make sure those schools provide a physically and emotionally safe place.
- 26 The absence of physical and emotional safety as a registration criterion means that:
- 26.1 Student physical and emotional safety cannot be considered when the Secretary considers registering a private school;
  - 26.2 The various actions that the Secretary can take to address issues at a private school, including cancellation of a private school's registration, cannot be used where he or she considers there is, or may be, a risk to the physical and emotional safety of students; and
  - 26.3 The Education Review Office (ERO) cannot review private schools' policies on how they are providing a safe place for students when undertaking a statutory review of a private school.
- 27 Hon Salesa, Associate Minister of Education, and I want to ensure that the minimum standards of safety for students required of State and State integrated schools also apply to private schools. In our view, it is particularly important the law be explicit about schools providing a physically and emotionally safe place, given the high levels of bullying and other forms of emotionally harmful behaviour in our schools and the lasting impacts this can have on students.

*Submissions on proposed change to private schools registration criteria*

- 28 Fifteen submissions were received on this issue. Most submissions noted the desirability of private schools providing a safe environment for students. Five submissions explicitly agreed to a change in the registration criteria. This included the Ombudsman's Office, the Independent Schools Association and New Zealand Educational Institute Te Riu Roa (NZEI).

- 29 Four submitters considered a change to private schools' registration criteria was unnecessary or undesirable. The key arguments were that private schools already provide a safe environment and parents are best placed to monitor student well-being. Concerns were also expressed about the State interfering in private education. Three submitters had concerns about the Government judging what constitutes emotional wellbeing, particularly where it might diverge from the views of religious education providers. Several submitters used the example that the State may have a different view to private schools on how transgender students should be treated.

*Proposal to change private schools registration criteria*

- 30 Hon Salesa and I propose that section 35C of the Education Act 1989 be amended to include a registration criterion that private schools be required to provide a physically and emotionally safe place for students.
- 31 Creating the new registration criterion will enable the Secretary to undertake one or more of the actions set out in section 35J of the Act when a private school is not meeting its obligation to provide a physically and emotionally safe place for students. This includes the action of suspending registration. As a consequence, section 35K, which enables the Secretary to suspend a school's registration if the welfare of students is at risk, is redundant and should be repealed.
- 32 I do not propose that the amendment be made retrospective. The registration status of existing private schools will, therefore, not be affected.

***Repeal of provisions on communities of online learning***

- 33 In 2017, the Education Act 1989 was amended to expand the provision of distance education through communities of online learning (COOL). In addition to schools and tertiary providers, the provisions enabled distance education to be provided by private providers, for both part-time and full-time tuition. Enabling distance education provision by private providers required an accreditation system in legislation to ensure that providers met minimum safety and quality standards. The new legislative provisions are currently set to come into force on 31 December 2019. At this time, Te Kura would automatically become a COOL.
- 34 The 2017 amendment establishing COOL was introduced without consultation. Concerns were expressed to the Select Committee that the provisions enabled private sector providers to be exempt from certain requirements in the State system, such as employing registered teachers and/or using the New Zealand curricula.
- 35 Because of the importance of distance learning, I wish to reconsider this matter in consultation with the sector in the context of the wide ranging strategic discussions for education, occurring this year, including the 30 year vision for education. What the public and the education sector want for digital education will be a theme in these discussions and the future of distance education will very likely be raised.

*Submissions on proposal to repeal communities of online learning*

- 36 Twenty-nine submissions were received on the proposal to repeal the 2017 COOL provisions. Fifteen submitters supported the repeal of COOL legislation and the decision to have a national conversation about distance learning in the context of my planned strategic discussions. Another five submissions did not take a position on the repeal of COOL, but expressed concerns with the current COOL framework. The New Zealand Principals' Federation, Post-Primary Teachers Association (PPTA), the Ombudsman, and Te Kura, among others, expressed concern that private provider COOL would not be required to teach the national curricula or employ registered teachers. Concerns were also expressed that COOL represented the privatisation of the schooling system.

*Proposal to repeal communities of online learning provisions*

- 37 I propose that the 2017 COOL provisions be repealed. This will mean that the legislation that currently applies to distance education will remain as it is now.

**Restoring skills leadership as an industry training organisation function**

- 38 ITOs are industry bodies recognised by Government to carry out functions of arranging workplace-based training (such as apprenticeships) and setting skill standards for an industry. From 2004 to 2014 they also had a legislated ‘skills leadership’ function – identifying skills needs, developing training plans to help industry meet these needs, and promoting training to meet those needs to employers and employees. Straddling industry and the education sector, ITOs are a natural choice to coordinate industry efforts to improve the match between skills supply and demand in the industries they cover.
- 39 This activity benefits a whole industry, but is likely to be undersupplied if left to individual employers or even individual bodies (given that industries can have multiple peak bodies with different functions and priorities). The need to improve skills leadership is indicated by ongoing employer concerns about their access to the skills they need, a poor match between workers’ qualifications and their jobs, and the persistence of youth unemployment<sup>2</sup> Looking ahead, leadership is needed to ensure that the skills system adapts to rapidly changing workforce needs.
- 40 Following a review of industry training in 2014, the skills leadership role was removed from the Industry Training and Apprenticeships Act 1992. The rationale was that ITO performance in the role had not met government expectations, and removing it from legislation would focus ITOs on their other functions and encourage skills leadership by other bodies.
- 41 ITOs have continued some skills leadership activities related to their other roles or directed by industry, but the quality of their performance has always been inconsistent, varying by industry and occupation and not changing significantly with the removal of the legislation. This indicates a fresh approach is needed. The variability in ITO performance in the role and the wide variations in industry size and structure suggest an approach tailored to and supported by each industry, where ITOs make specific commitments to action, is required.

*Submissions on industry training organisations skill leadership*

- 42 The Ministry of Education received 29 submissions on this issue. Of these, 21 supported the proposal, two were opposed, and the remaining submissions were open to ITOs exercising this role but wanted either more information or specific conditions to be placed on the role.
- 43 Some submitters, both opponents and supporters of the proposal, questioned ITOs’ capabilities to undertake the role and/or argued that extra funding was needed (the review of vocational education will consider whether current funding is adequate). Submitters wanted clear definitions, an emphasis on partnership, and recognition of the contributions of other stakeholders in industry and education.

*Proposal to reinstate ITOs’ statutory skills leadership role, with a more robust framework*

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**Technical changes to the State Sector Act 1988 on school closures and mergers**

- 49 The Education (Update) Amendment Act 2017 repealed the Private Schools Conditional Integration Act 1975. Relevant provisions from that Act were to be inserted into the Education Act 1989. It was intended that these changes include consequential amendments to the State Sector Act 1988 in relation to mergers and closures of State integrated schools. Two consequential amendments were overlooked:
  - 49.1 section 77HA which restricts compensation for technical redundancy arising from closure or merger of schools; and
  - 49.2 section 77HB which removes the application of the 'advertise and appoint on merit' provisions for a school closure or merger.
- 50 No consultation was undertaken on this issue because it was subject to consultation for the 2017 legislative amendments, and it is a technical amendment. The State Services Commission which administers the State Sector Act 1988, supports making these technical legislative changes.

*Proposed changes to State Sector Act 1988 in respect of school closures and mergers*

- 5 I propose that the State Sector Act 1988 be amended to ensure that it applies to mergers and closures of State integrated schools in the same manner as for State schools. This will mean that:
  - 51.1 An employee of a State school which is about to be, or has been, merged with another school or closed, is not entitled to compensation if they have been offered an equivalent position (whether or not they accept the position) or have been offered another position (which is not equivalent and they accept the position); and

51.2 The general requirement that positions be advertised and appointments be made on merit does not apply for staff appointments (other than the principal) when a State integrated school has been closed or merged with another school and the appointment is in connection with that closure or merger.

### ***Cohort entry for children 5 years old and older***

- 52 The Education (Update) Amendment Act 2017 permitted schools to adopt a cohort entry policy that would allow students to start on the first day of term closest to their fifth birthday. This means that currently, some children are able to start school while still four years old.
- 53 Cabinet agreed to consultation on a new approach to cohort entry, so that only five year old can start school in cohorts (CBC-18-MIN-0009).
- 54 The Ministry conducted consultation in February and March this year. Over 140 submissions were received. Submitters favour a change in the law relating to cohort entry to ensure children cannot start school before they turn 5 years old. An amendment of this nature is likely to have fiscal impacts and I therefore intend to report back to the Committee with proposals at the end of the Budget moratorium period.

### **Matters not to be included in an education bill**

- 55 The following matters were consulted on and I do not consider that they need to be included in an education bill at this time.

### ***Vetting requirements for people in education settings***

- 56 On 12 March 2018 I advised CBC of my intention to consult on the requirement for Police vetting under the Education Act 1989. Current approaches mean that:
- 56.1 Tradespeople working unsupervised in schools and early learning centres are required to be Police vetted each time they enter a new education setting. This duplicative process creates administrative costs for schools and early learning centres; and
- 56.2 People who live where home-based early learning is provided, such as spouses of children's workers, are subject to a Police vet only despite the potential for these people to be alone with children. On the other hand, the children's workers themselves are subject to a higher standard of checking under the Vulnerable Children Act 2014.
- 57 On the issue affecting tradespeople, school boards of trustees, early childhood education providers and sector groups indicated this is an administratively burdensome process. The Ministry received 23 submissions on this issue. Almost all submitters (21) supported the streamlining of vetting requirements for contractors and other tradespeople.
- 58 Submissions on vetting people living in home-based early learning facilities were more divided. Of the 20 submissions received, 11 favoured a higher standard of safety checking than is currently required, while nine were opposed. Many submitters agreed that vetting people who live in home-based early learning facilities should be considered within the wider review of home-based early childhood education.

### ***Proposed approach to addressing safety checking issues***

- 59 In March 2018, Police advised the Ministry of Education of its intention to publicly consult on a range of issues that could be addressed in legislation for the Police Vetting Service (currently, there is no legislative framework). Issues raised in a public consultation document include the purpose and functions of the Police Vetting Service, who can make a vetting request (at present only 'approved agencies' can), what information can be released in a Police vet, and potential efficiencies aimed at reducing the duplication of vetting requests.

- 60 Importantly, any legislation for the Police Vetting Service needs to be sufficiently broad to allow for possible future developments in vetting. This could include broader access to vetting, and maintaining the validity of Police vets through ongoing monitoring.
- 61 I propose that:
- 61.1 With respect to tradespeople and other contractors working in education premises, the potential for streamlining vetting requirements and processes should be considered within the context of any proposed new legislative framework for the Police Vetting Service (on which the Ministry of Education will provide a submission); and
- 61.2 Consideration of the appropriate level of safety checking for people living in premises where home-based early education is undertaken should be considered within the context of the wider review of home-based early childhood education, and in the context of any proposed new legislative framework for the Police Vetting Service.

### **Establishment of a College of Educational Leadership**

- 62 I have already indicated to Cabinet my intention to establish a College of Educational Leadership that will set minimum qualifications required of those applying for leadership positions and ensure that quality professional development programmes are available for all new and existing educational leaders (CBC-17-MIN-0042). On 12 March 2018, CBC noted that I intended consulting the teaching profession, among others, on the Education Council's role in educational leadership and whether the College should sit within the Council.

#### *Submissions on the College of Educational Leadership*

- 63 Twenty-six submissions were received on this matter, 18 of which expressed a view on whether the College should be part of the Education Council. Of those 18 submissions, 13 submissions explicitly expressed the view that the College should be included within the Council. This included COMET Auckland<sup>3</sup>, Victoria University Faculty of Education, Te Rito Maioha<sup>4</sup>, Barnardos and New Zealand Kindergartens, the New Zealand Principals' Federation and the Education Council. The Education Council considers the College should be established within the Council as education leadership is already a Council function.
- 64 The PPTA stated that the College and proposed Education Advisory Service should be connected. The PPTA believed that given the Tomorrow's Schools review it was too early to tell where a combined College and Service should sit. The PPTA did not however support placing a combined College and Service in the Council stating that the Council should not have responsibility for providing Professional Learning and Development to potentially all teachers in the country.
- 65 The NZEI stated that it was yet to develop a firm position on where the College should be established. It cautioned that much more consultation with teachers and leaders should occur before any final decision is made. NZEI, like the PPTA, also recommended that the College and the Service should be linked in some way.

#### *Proposal for the College of Educational Leadership*

- 66 Given that there are a range of views held by key stakeholders on where the College of Educational Leadership should sit, I consider that this issue needs further discussion in the context of the wider discussion with the sector on Tomorrow's Schools, and the future location of the proposed Education Advisory Service.

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<sup>3</sup> COMET is an independent charitable trust and Auckland council controlled organisation focused on education, skills and lifelong learning across Auckland

<sup>4</sup> Te Rito Maioha is a membership organisation representing early childhood education services and teachers.

## Consultation

- 67 The Treasury, State Services Commission, Ministry of Social Development, Office of Disability Issues, Ministry for Women, Ministry for Pacific Peoples, Oranga Tamariki - the Ministry for Children, Ministry of Justice, Te Puni Kokiri, Ministry of Business, Innovation and Employment, New Zealand Police, and the Department of the Prime Minister and Cabinet were consulted in the preparation of this paper. Agencies supported the recommendations in this paper.
- 68 The following Education agencies were consulted: the Education Council, Education Review Office, Tertiary Education Commission, and New Zealand Qualifications Authority. Those organisations also agreed with the recommendations in this paper.

## Financial Implications

- 69 There are no fiscal impacts arising from this paper.

## Human Rights, Disability, Gender and Treaty of Waitangi implications

- 70 No human rights, gender, disability or Treaty of Waitangi implications have been identified in the preparation of this paper.

## Legislative Implications

- 71 The proposals in this paper will require legislative amendment to have legal effect. Amendments will be required to the Education Act 1989, the Education (Update) Amendment Act 2017, and the State Sector Act 1988. I propose to include the necessary amendments in an omnibus education bill, for which a place has been obtained in the 2018 Legislation Programme. I am seeking authority to issue instructions to Parliamentary Counsel for the necessary amendments.
- 72 Over the course of the legislative drafting period, further decisions will need to be made regarding the detail of the amendments. I am therefore requesting that Cabinet authorise the Minister of Education to make decisions on any issues of detail that may arise during the drafting process without further reference to Cabinet, subject to the decisions being consistent with the policy decisions in this paper.
- 73 The proposed amendments will not bind the Crown. This is consistent with current provisions in the Education Act 1989, the Education (Update) Amendment Act 2017, and the State Sector Act 1988.

### *Legislative Priority for the Bill*

- 74 I propose to introduce the Education Legislation Bill in July this year and, subject to Parliament's consideration, for it to be enacted in December this year. The Education Legislation Bill has been assigned priority 5, to be referred to Select Committee in the year, on the 2018 Legislation Programme. I am therefore recommending a change to the priority of the Education Legislation Bill from priority 5 (to be referred to Select Committee in the year) to priority 2 (must be enacted in the year).

## Regulatory Impact Analysis

- 5 Regulatory Impact Statements on Education Council decision-making, COOL, restoring skills leadership as a function of ITOs, and private school registration criteria were prepared by Ministry and accompany this paper. The Regulatory Impact Analysis Panel considers the Regulatory Impact Statements meet the quality assurance criteria. A regulatory impact statement was not undertaken on proposed amendments to the State Sector Act 1988 relating to State integrated school mergers and closures because the amendments reflect changes that were intended to be made when the Education (Update) Amendment Act 2017 was enacted (and for which an assessment was undertaken).

## Publicity

76 Once decisions have been made on the proposals in this paper, I will release a media statement advising the education sector and the public of the matters to be included in an omnibus education bill.

## Recommendations

77 The Minister of Education recommends that the Committee:

- 1 **note** that an omnibus education bill (referred to as the Education Legislation Bill) has been included on the 2018 Legislative Programme
- 2 **note** that, on 12 March 2018, the Cabinet Business Committee (CBC) noted my intention to consult key education and other stakeholders on a range of issues that could be addressed through an education bill (CBC-18-MIN-0036 refers)
- 3 **note** that the Ministry of Education has completed consultation with the education sector, other key stakeholders, and the public, and that 99 submissions were received
- 4 **agree** to the following issues being included in an omnibus education bill:

*Amending the Education Act 1989 to protect the public interest in the Education Council's decision-making*

- 4.1 A power for the Minister of Education to, by notice in the *Gazette*, issue a government policy relating to a specific function or functions of the Council
- 4.2 A requirement that the Council must have regard to the policy in discharging the function or functions to which the policy relates
- 4.3 A requirement that the Minister must consult the Council prior to issuing the policy
- 4.4 A requirement that the Education Council consult the Minister of Education prior to proposing changes to teacher education programme requirements and teacher registration criteria

*Amending the Education Act 1989 to include a new private schools' registration criterion that they provide a safe environment for students*

- 4.5 Amend section 35C of the Education Act 1989 to include a new registration criterion that private schools are required to provide a physically and emotionally safe place for students

*Communities of online learning*

- 4.6 Repeal the new Part 3A of the Education Act 1989, as inserted by section 38 of the Education (Update) Amendment Act 2017 that established communities of online learning

*Amending industry training legislation to reinstate skills leadership as a statutory industry training organisation (ITO) function*

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*Closures and mergers of State integrated schools*

- 4.10 Amend sections 77HA(1) and 77HB(1) of the State Sector Act 1988 on mergers and closures of State integrated schools to:
- 4.10.1 Provide that an employee of a State integrated school which is about to be, or has been, merged with another school or closed, is not entitled to compensation if they have been offered an equivalent position or have been offered another position (which is not equivalent and they accept the position); and
- 4.10.2 Remove the requirement that positions be advertised and appointments be made on merit for staff appointments (other than the principal) when a State integrated school has been closed or merged with another school and the appointment is in connection with that closure or merger

*Cohort Entry*

- 5 **note** that I will seek a decision from the Cabinet Social Wellbeing Committee on proposed amendments to cohort entry legislation once the budget moratorium period has ended on 17 May 2018

*Matters not to be included in the omnibus education bill*

- 6 **note** that the Ministry of Education also consulted on the following issues but that I do not intend proceeding with legislative changes at this time:
- 6.1 Police vetting of tradespeople working in educational premises, and vetting of people who live where home-based early childhood education (ECE) is provided, pending work on the development of a new legislative framework for the Police Vetting Service and the review of home-based ECE; and
- 6.2 establishing the College of Educational Leadership which will be considered in the context of discussions on Tomorrow's Schools and the decisions on the establishment of the Education Advisory Service

*Legislative implications*

- 7 **note** that an Education Legislation Bill has been assigned priority five, to be referred to select committee in the year, on the 2018 Legislation Programme
- 8 **agree** that the priority for the Education Legislation Bill is changed from priority five to priority two, must be passed in the year, on the 2018 Legislation Programme
- 9 **invite** the Ministry of Education to issue drafting instructions to Parliamentary Counsel based on the decisions in respect of paragraph 4 above
- 10 **authorise** the Minister of Education to make decisions on any issues of detail that may arise during the drafting process without further reference to Cabinet, subject to the decisions being consistent with the policy decisions in this paper
- 11 **note** that the drafting recommendations will be subject to Parliamentary Counsel's directions on how best to express each recommendation in the legislation

*Publicity*

- 12 **note** that the Minister of Education intends to release a media statement advising the education sector and the public of the matters to be included in an omnibus education bill, and

*Proactive release*

- 13 **agree** that this paper be proactively released once the Education Legislation Bill is referred to a Select Committee.

Authorised for Lodgement

Hon Chris Hipkins

Minister of Education