

## Education Report: Resourcing charter schools: appropriations and responding to demand

<b>To:</b>	Hon David Seymour, Associate Minister of Education Hon Nicola Willis, Minister of Finance		
<b>CC:</b>	Hon Erica Stanford, Minister of Education		
<b>Date:</b>	12 July 2024	<b>Priority:</b>	Medium
<b>Security Level:</b>	In-Confidence	<b>METIS No:</b>	1327993
<b>Drafter:</b>	Gerald Dreaver	<b>DDI:</b>	04 463 8860
<b>Deadline Date:</b>	19 July 2024		
<b>Key Contact and Hautū   Deputy Secretary:</b>	Simon Theeuwes	<b>DDI:</b>	9(2)(a) [REDACTED]
<b>Seen by the Communications Team:</b>	No	<b>Round Robin:</b>	No

### Purpose of Report

This report seeks your agreement to the establishment of a Charter Schools | Kura Hourua Multi-Category Appropriation (MCA); the partial draw-down of the Charter Schools | Kura Hourua (Charter Schools) tagged contingency to that appropriation; decisions on the approach to transferring funding between “State school” appropriations (other than those for property) and the proposed MCA; and related matters.

### Alignment with Government priorities

The establishment of charter schools is a commitment under the National-ACT coalition agreement.

### Summary

1. Te Kawa Maataho | Public Service Commission and the Treasury advise that the Charter Schools Agency (CSA) must administer an appropriation, or appropriations, in order to contract under its own name with charter schools. We recommend establishing a multi-category appropriation (MCA) to allow the CSA to manage the overall programme of work required through the Authorisation Board, support entity, and charter schools.
2. The Budget 2024 charter schools tagged contingency is for the establishment and transition costs of approximately 15 new charter schools and approximately 35 converted schools; the additional ongoing operating costs of these schools; the ongoing operating costs of the CSA; and for Education Review Office (ERO) confirmation assessments of new charter schools [CAB-24-MIN-0148.26 refers]. This contingency can be drawn down

once a suitable appropriation structure has been defined and there is a clear outline of the respective roles and responsibilities of the CSA and the Ministry of Education (the Ministry).

	2024/25	2025/26	2026/27	2027/28 & Outyears
Partnership Schools (Charter Schools   Kura Hourua) - Operating Contingency	25.223	57.018	35.478	35.371
Partnership Schools (Charter Schools   Kura Hourua) - Capital Contingency	0.120	0.080	-	-
<b>Total</b>	<b>25.343</b>	<b>57.098</b>	<b>35.478</b>	<b>35.371</b>

3. We recommend a draw-down from the tagged contingency to cover the departmental costs of the CSA, and the costs of the Authorisation Board. We provide information to meet the conditions Cabinet set for this.
4. When schools convert, or students move between State and charter schools, 'marginal' (per student) funding will move with them so that the CSA and the Ministry can meet their obligations and minimise the risk of an appropriation breach. Cabinet has agreed that changes in demand for charter school funding should be managed through fiscally neutral transfers between State school<sup>1</sup> and charter school appropriations [CAB-24-MIN-0217 refers]. Unpredictable rolls and other issues create a risk of an appropriation breach or cash shortfall. We recommend options to mitigate such risks.
5. We seek decisions on several matters relating to the charter schools funding model that will provide greater clarity on what funding will be paid, and when.

## Recommended Actions

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The Ministry of Education recommends you:

- a. **note** that in March 2024, Cabinet agreed to establish a departmental agency, hosted by the Ministry of Education, to support establishing and implementing the charter school model [SOU-24-MIN-0018 refers];

**Minister of Finance  
Noted**

**Assoc Min of Education  
Noted**

- b. **note** that, on 9 July 2024, joint Ministers (the Prime Minister, Minister of Finance, Minister of Education, and Associate Minister of Education) authorised the Associate Minister of Education and the Minister of Finance to decide on a new appropriation or appropriations from which charter schools will be funded, and on transfers of funding between appropriations;

**Minister of Finance  
Noted**

**Assoc Min of Education  
Noted**

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<sup>1</sup> For readability we refer in this report to the current baseline appropriations as "State school appropriations", although some have a wider scope than just State schools.

- c. **agree** that the Charter Schools | Kura Hourua multi-category appropriation (MCA) be established in Vote Education with the following purpose: “The single overarching purpose of this appropriation is to implement, support, monitor and fund Charter Schools | Kura Hourua for delivery of education to enrolled school students in Years 0 to 13.”

**Minister of Finance**  
Agree / Disagree

**Assoc Min of Education**  
Agree / Disagree

- d. **agree** that the categories for this MCA will be:

Title	Type	Scope
Resourcing and Oversight of Charter Schools	Departmental Output Expense	This category is limited to expenses incurred on operational policies and services relating to selecting and supporting the establishment of charter schools, managing their resourcing, monitoring their performance, and related administrative and oversight activities.
Charter Schools (Primary Education)	Non-departmental Output Expense	This category is limited to providing charter schools   kura hourua with roll-based operational funding and supplementary funding programmes to enable the delivery of education to students enrolled in Years 0 to 8.
Charter Schools (Secondary Education)	Non-departmental Output Expense	This category is limited to providing charter schools   kura hourua with roll-based operational funding and supplementary funding programmes to enable the delivery of education to students enrolled in Years 9 to 13.
Charter Schools Authorisation Board	Non-departmental Output Expense	This category is limited to expenses incurred by the Authorisation Board related to considering and approving applications to operate charter schools   kura hourua, and oversight of their performance and monitoring compliance with contractual and legislative requirements.

**Minister of Finance**  
Agree / Disagree

**Assoc Min of Education**  
Agree / Disagree

- e. **agree** that a Charter Schools Agency Capital Expenditure Permanent Legislative Authority (PLA) be established in Vote Education as follows:

Title	Type	Scope
Charter Schools Agency Capital Expenditure PLA	Departmental Capital Expenditure	This appropriation is limited to the purchase or development of assets by and for the use of the Charter Schools Agency, as authorised by section 24(1) of the Public Finance Act 1989.

**Minister of Finance**  
Agree / Disagree

**Assoc Min of Education**  
Agree / Disagree

- f. **note** that Budget 2024 established a \$153 million tagged contingency,<sup>2</sup> expiring on 31 August 2024, to fund the additional costs to be incurred in establishing and operating charter schools [CAB-24-MIN-0148.26, Initiative No. 15799 refers], including:

- i. establishment and transition costs of charter schools;
- ii. the additional ongoing operating costs of charter schools;
- iii. the ongoing operating costs of the departmental agency (the CSA); and

<sup>2</sup> Originally titled the “Partnership Schools (Charter Schools | Kura Hourua) – Tagged Contingency”. Referred to in this report as the “Charter Schools | Kura Hourua – Tagged Contingency”.

- iv. Vote Education Review Office costs to conduct confirmation assessments of potential sponsors of charter schools and proposed school sites;

**Minister of Finance  
Noted**

**Assoc Min of Education  
Noted**

- g. **note** that Cabinet made the draw-down of the tagged contingency subject to decisions on the appropriation structure and a clear outline of the respective roles and responsibilities of the CSA and the Ministry of Education [CAB-24-MIN-0148.26 refers];

**Minister of Finance  
Noted**

**Assoc Min of Education  
Noted**

- h. **agree** that the Annex of this report satisfies the requirement for “a clear outline of the respective roles and responsibilities between the departmental agency [the CSA] and the Ministry of Education”;

**Minister of Finance  
Agree / Disagree**

**Assoc Min of Education  
Agree / Disagree**

- i. **agree** to draw down funding to establish the CSA and the Authorisation Board;

**Minister of Finance  
Agree / Disagree**

**Assoc Min of Education  
Agree / Disagree**

- j. **approve** the following appropriation changes and capital injection for Charter Schools | Kura Hourua, with corresponding impacts on the operating balance and net debt:

<b>Vote Education Minister of Education</b>	<b>\$m – increase/(decrease)</b>			
	<b>2024/25</b>	<b>2025/26</b>	<b>2026/27</b>	<b>2027/28 &amp; Outyears</b>
Multi-Category Expenses and Capital Expenditure: Charter Schools   Kura Hourua MCA <i>Departmental Output Expense:</i> Resourcing and Oversight of Charter Schools (funded by revenue Crown)	12.816	8.640	3.645	3.089
<i>Non-departmental Output Expense:</i> Charter Schools Authorisation Board	0.400	0.400	0.400	0.400
Charter Schools Agency: Capital Injection	0.120	0.080	-	-
<b>Total Operating</b>	<b>13.216</b>	<b>9.040</b>	<b>4.045</b>	<b>3.489</b>
<b>Total Capital</b>	<b>0.120</b>	<b>0.080</b>	<b>-</b>	<b>-</b>

**Minister of Finance  
Agree / Disagree**

**Assoc Min of Education  
Agree / Disagree**

- k. **agree** that the expenses and capital injection in recommendation j. be charged against the Charter Schools | Kura Hourua – Tagged Contingency established by Cabinet for Budget 2024, described in recommendation f. above [CAB-24-MIN-0148.26 refers];

**Minister of Finance  
Agree / Disagree**

**Assoc Min of Education  
Agree / Disagree**

- l. **agree** that the proposed change to appropriations and departmental capital injection for 2024/25 be included in the 2024/25 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;

**Minister of Finance**  
**Agree / Disagree**

**Assoc Min of Education**  
**Agree / Disagree**

- m. **note** that, following the adjustments detailed in recommendation h., the balance remaining of the Charter Schools | Kura Hourua – Tagged Contingency described above will be as follows:

<b>Charter Schools   Kura Hourua – Tagged Contingency</b>	<b>\$m – increase/(decrease)</b>			
	<b>2024/25</b>	<b>2025/26</b>	<b>2026/27</b>	<b>2027/28&amp; Outyears</b>
Opening balance – operating	25.223	57.018	35.478	35.371
Opening balance – capital	0.120	0.080	-	-
Draw-down – Charter Schools Agency – operating	(13.216)	(9.040)	(4.045)	(3.489)
Capital Injection – Charter Schools Agency Capital Expenditure PLA	(0.120)	(0.080)	-	-
<b>Balance remaining – operating</b>	<b>12.007</b>	<b>47.978</b>	<b>31.433</b>	<b>31.882</b>
<b>Balance remaining – capital</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

**Minister of Finance**  
**Noted**

**Assoc Min of Education**  
**Noted**

- n. **agree** that the remaining operating balance held in contingency be used for the following expenses, based on rates approved by the Associate Minister of Education in accordance with the funding model agreed by Cabinet [CAB-24-MIN-0217 refers]:
- i. establishment costs for new charter schools
  - ii. property operating and maintenance costs for new schools
  - iii. base levels of staffing-based and operational funding (varying by type, and incorporated into the per student rate for small schools)
  - iv. the “cached-up services” per student rate for new charter schools
  - v. the “cached-up services” per student rate for converted charter schools, excluding any funding joint Ministers agree may be recovered through the removal of services to schools that convert to charter schools;

**Minister of Finance**  
**Agree / Disagree**

**Assoc Min of Education**  
**Agree / Disagree**

- o. **note** that we will provide further advice on the fiscal implications of charter school students (such as those transferring from private schools or homeschooling) who generate too little state school funding to cover the cost of charter school funding rates;

**Minister of Finance**  
**Noted**

**Assoc Min of Education**  
**Noted**

- p. **note** that the Ministry and CSA will seek agreement from joint Ministers to transfer funds between Vote Education appropriations, where needed, through the regular

Baseline Update processes or through technical Budget adjustments, based on the latest available reliable data on the cost of funding charter schools;

**Minister of Finance  
Noted**

**Assoc Min of Education  
Noted**

- q. **note** that the CSA is responsible for managing the Charter Schools | Kura Hourua MCA

**Minister of Finance  
Noted**

**Assoc Min of Education  
Noted**

- r. **note** that there is a risk of a breach of the Charter Schools | Kura Hourua MCA, or a temporary cash shortfall, if there is unexpected growth in charter school rolls in the period February to June each year, as there may be little, if any, opportunity to adjust the MCA before the end of the financial year;

**Minister of Finance  
Noted**

**Assoc Min of Education  
Noted**

- s. **agree** that the following measures be adopted to mitigate the risk of a breach:
- i. the CSA not contracting with sponsors to open a charter school between March and June, when it would create the greatest risk of a breach;

**Minister of Finance  
Agree / Disagree**

**Assoc Min of Education  
Agree / Disagree**

- ii. including, in contracts with sponsors, the right of the CSA to cap the number of students it will fund in the period January to June (although with schools able to enrol additional students during that period at the sponsor's cost);

**Minister of Finance  
Agree / Disagree**

**Assoc Min of Education  
Agree / Disagree**

- t. **note** that officials see the measures proposed in recommendation t. as the most effective mitigations of the risk of a breach, but can provide further advice if required;

**Minister of Finance  
Noted**

**Assoc Min of Education  
Noted**

- u. **note** that officials will advise Ministers of any significant fiscal risks that may arise as a result of self-selection bias in the conversion of schools;

**Minister of Finance  
Noted**

**Assoc Min of Education  
Noted**

- v. **agree** that sponsors' regular funding be paid in quarterly instalments, near the beginning of each quarter (as is the case for State schools);

**Assoc Min of Education  
Agree / Disagree**

Proactive Release:

w. **agree** that the Ministry of Education release this paper once final decisions are made.

**Minister of Finance**  
**Agree / Disagree**

**Assoc Min of Education**  
**Agree / Disagree**



Andrea Schöllmann  
**Acting General Manager, Schools  
Policy**  
**Te Pou Kaupapahere**  
**Ministry of Education**

12/07/2024

Hon Nicola Willis  
**Minister of Finance**

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Hon David Seymour  
**Associate Minister of Education**

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Proactively Released

## Background

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1. Charter schools will be funded from a tagged contingency from Budget 2024 [CAB-24-MIN-0148.26 Initiative 15799 refers], and Vote Education baselines. Cabinet agreed to fund approximately 15 new charter schools and approximately 35 state schools converted into charter schools, along with appropriate support. Where possible, funding is intended to “follow the student” when schools convert, and when students transfer between State and charter schools.

**Table 1: Partnership Schools (Charter Schools | Kura Hourua) – Tagged Contingency**

	<b>2024/25</b>	<b>2025/26</b>	<b>2026/27</b>	<b>2027/28 &amp; Outyears</b>
Partnership Schools (Charter Schools   Kura Hourua) - Operating Contingency	25.223	57.018	35.478	35.371
Partnership Schools (Charter Schools   Kura Hourua) - Capital Contingency	0.120	0.080	-	-
<b>Total</b>	<b>25.343</b>	<b>57.098</b>	<b>35.478</b>	<b>35.371</b>

2. On 24 June 2024 Cabinet authorised the Prime Minister, Minister of Finance, Minister of Education, and Associate Minister of Education to make decisions as soon as possible on property-based funding matters [CAB-24-MIN-0217]. These Ministers subsequently authorised (consistent with the Budget decision on charter schools) the Associate Minister of Education and the Minister of Finance to make joint decisions on:
  - a. a new appropriation or appropriations to fund charter schools;
  - b. fiscally neutral transfers between Vote Education appropriations (within a financial year), where necessary to fund charter schools, in a way that does not materially disadvantage State schools on a per-student basis;
  - c. further decisions on the treatment of Board of Trustees assets, liabilities, contracts, and obligations; and
  - d. further decisions needed to develop a transition of property funding for charter schools in Ministry-owned property.
3. Following your Cabinet paper on the funding model for charter schools, Cabinet authorised the Associate Minister of Education to set funding rates and make further decisions on the funding model as necessary, in accordance with Cabinet’s decisions on the charter school funding model and within the funding appropriated for charter schools.
4. Cabinet has agreed to your recommendation that sponsors of charter schools be contracted by a departmental agency hosted by the Ministry of Education [SOU-24-MIN-0018 refers], with a service agreement with the Ministry for “back-office functions” and minimal duplication of functions. When fully operational, the agency’s responsibilities will include:
  - a. being the secretariat for the authorisation board;
  - b. contracting with school sponsors;
  - c. providing an account for what has been achieved with contracts;
  - d. providing advice to the authorisation board on interventions with schools; and
  - e. working with other statutory bodies.
5. Since 1 July 2024 the Charter School Agency (CSA) has been listed in the Public Service Act 2020 and has been authorised to administer assets and liabilities so that it can be accountable for expenditure on charter school contracts.

6. The Associate Minister of Education and the Minister of Finance are jointly authorised to draw down the contingency once suitable appropriation structures have been defined and there is a clear outline of the respective roles and responsibilities of the CSA and the Ministry of Education (the Ministry) [CAB-24-MIN-0148.26].
7. We have consulted the Charter Schools Agency on this report.

## Appropriations structure and agency responsibility for funding charter schools

### **A Charter Schools Multi-Category Appropriation**

8. Following advice from the Treasury and consultation with the CSA, we recommend that charter school funding be in a multi-category appropriation (MCA) administered by the CSA. An MCA is a structure that simplifies administration and facilitates the best use of appropriated funds. This will enable the CSA to contract with, and pay, sponsors and decide on sponsor approvals and contracts within a defined fiscal envelope. It will provide flexibility and help manage the risk of an appropriation breach by allowing the Associate Minister of Education to approve transfers of funding between categories. A CSA Capital Expenditure Permanent Legislative Authority (PLA) is needed to enable the CSA to maintain and create assets.
9. We recommend that the MCA should have the single overarching purpose of implementing, supporting, and monitoring Charter Schools | Kura Hourua for delivery of education to enrolled school students in Years 0 to 13.
10. The MCA should include the following funding from Budget 2024:
  - a. **Departmental operating costs**, covering the CSA, support entity, and ERO costs – it is essential to be able to draw down funding for these before the expiry of the contingency on 31 August 2024.
  - b. **Non-departmental operating costs**, covering:
    - i. new schools (establishment costs, property funding, cashed-up services, and 'base' levels of staffing and operational costs);
    - ii. converted schools (transitional support and funding for the unrecoverable<sup>3</sup> component of cashed-up services funding); and
    - iii. the Authorisation Board.
11. The non-departmental operating cost component of the appropriation should be in primary and secondary categories, matching the structure of the Primary and Secondary Education MCA. The Authorisation Board merits a separate category. Non-departmental funding will be augmented with funding from other relevant Vote Education appropriations, to reflect conversions of schools and changes in school rolls.

### Drawing down the tagged appropriation

12. We recommend drawing down part of the tagged contingency as soon as possible. This will ensure that the departmental costs of the agency and the Authorisation Board will be met by mid-July, which will enable the CSA to commit funds. We will provide advice on drawing down the remaining funds when further policy decisions are made, notably regarding property.

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<sup>3</sup> Refers to whether conversion reduces State school costs ("recoverable") or not ("unrecoverable").

13. The following table sets out the recommended changes to appropriations:

Vote Education Minister of Education	\$m – increase/(decrease)			
	2024/25	2025/26	2026/27	2027/28 & Outyears
Multi-Category Expenses and Capital Expenditure:				
Charter Schools   Kura Hourua MCA <i>Departmental Output Expense:</i> Resourcing and Oversight of Charter Schools (funded by revenue Crown)	12.816	8.640	3.645	3.089
<i>Non-departmental Output Expense:</i> Charter Schools Authorisation Board	0.400	0.400	0.400	0.400
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<b>Total Operating</b>	<b>13.216</b>	<b>9.040</b>	<b>4.045</b>	<b>3.489</b>
<b>Total Capital</b>	<b>0.120</b>	<b>0.080</b>	<b>-</b>	<b>-</b>

#### Meeting the conditions of the draw-down

14. As noted above, the draw-down requires defining suitable appropriation structures, as recommended in this report. The other requirement is an accompanying clear outline of the respective roles and responsibilities of the CSA and the Ministry. Annex 1 contains our proposed statement regarding these. The Treasury has advised us that it considers this statement sufficiently detailed to meet the draw-down requirement.

#### Funding to follow the student

##### The charter schools appropriation needs to reflect school rolls and conversions

15. In order to adjust Ministry of Education and CSA appropriations in response to school conversions and student movements, data will be needed on which schools are converting and the rolls and key characteristics of all charter schools.
16. Charter schools will need to complete the standard July and (for schools with secondary students) September returns so their funding can reflect actual Term 3 and Term 4 rolls, with appropriations adjusted in the March Baseline Update (MBU). The March roll return may enable funding to adjust for unexpected roll changes but, as discussed below, this leaves little opportunity to adjust the MCA within the financial year. The results of the June roll return for secondary students are not available until July, the next financial year.
17. By 2027 it may be possible to make forecast adjustments to the Charter Schools | Kura Hourua MCA, thereby reducing the need for fiscally neutral transfers. The main operational funding appropriation for State schools (the Primary and Secondary Education MCA) is adjusted in the October and March baseline updates based on roll projections driven by predictable changes in the school-age population. Charter school costs in the next two-to-three years are too uncertain to apply this method.

##### Calculating the funding to transfer

18. Based on funding rates approved by the Associate Minister of Education in accordance with the funding model agreed by Cabinet, the CSA will use the funding appropriated through Budget processes to fund the following:

- a. Establishment costs for new schools, and transition costs for converting State schools (prior to conversion).
  - b. Property costs for new schools.
  - c. Base levels of staffing-based and operational funding for new schools, up to a “base” level per school (varying by type and converted to a per student rate for small schools).
  - d. The “cash-up services” rate, excluding any “recovered” funding in relation to cash-up services for converted schools.
19. Fiscally neutral transfers from the Primary and Secondary Education MCA should provide for the additional staffing and operational funding expected to be paid to sponsors. For “converted” schools, this will include the “base” level of funding referred to in paragraph 16c. When the cost of a cashed-up service reduces as a result of a conversion, Ministers may agree to transfer the estimated saving to the Charter Schools | Kura Hourua MCA. As agreed by Cabinet [CAB-24-MIN-0217 refers], transfers should not materially disadvantage State schools on a per student basis.
20. Cabinet agreed that charter schools will be eligible for the Ministry’s learning support services, services for Kaupapa Māori and Māori medium education, and school transport services. We propose that these be funded from their existing appropriations, with the funding tracked to provide a complete picture of charter school resourcing. We expect this to minimise administration costs and support consistency of access to services for targeted students.

**The charter schools appropriation also needs to adjust for cost pressures**

21. We intend to seek cost pressure adjustments to charter school operational funding in future Budget rounds, alongside any cost pressure bids for State school operational funding. We also intend to propose adjustments to staffing-based funding for charter schools as needed to maintain broadly equivalent resourcing to that of similar State schools – although increases need not be in “lock-step” with collective agreements.

**Appropriation and cashflow risks**

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***There are risks of breaching the charter schools appropriation, the agency running short of cash, or other unintended impacts on, or of, appropriations***

22. There are risks that potential mismatches may occur between the funding payable to charter schools, the funding appropriated for the agency, and the funding held in the agency’s bank accounts. There are also risks that changes in charter school rolls and costs could be overestimated, and/or will not be matched by similar reductions in State school rolls and costs, and that baseline appropriations (notably, the Primary and Secondary Education MCA) could be exceeded. Breaches must be reported under section 26A of the Public Finance Act. Even if the Charter Schools MCA can meet total costs for the financial year, there is potential for cashflow problems if funding is not transferred when needed.
23. One of the main risks is unexpected roll growth in the second half of the financial year when there is little opportunity to adjust appropriations. This is because:
- a. school rolls do not usually stabilise until late February, probably after MBU and Budget submissions are required;

- b. charter school rolls will be difficult to predict for some years. The initial small number of these schools could mean a high variance in the rate of growth and low confidence that prediction errors will balance out.
24. Generally, the last opportunity to make changes to appropriations within a financial year is the Budget, which can reflect information submitted to the Treasury by early March. The Budget moratorium allows no new Budget decisions between Cabinet approving the Budget and it being presented (usually mid-late May). The last mechanism that can be used to avoid an appropriation breach, post-Budget, is an Order in Council under Schedule 26A of the Public Finance Act 1989, intended for exceptional circumstances. This requires a surplus in another Vote Education output appropriation, and the transfer can be no more than 5% of the annual value of outputs in the MCA. Only one transfer is permitted in a year.
25. To inform decisions on funding transfers, the Ministry and CSA will update cashflow and appropriation forecasts with the latest information on actual and expected rolls. The CSA will monitor expenditure and adjust spending accordingly. However, a significant risk of a breach or cash shortfall may remain. Accordingly, we recommend adopting the following risk mitigations:
- a. The CSA not contracting with sponsors to open a charter school between March and June, when it would create the greatest uncertainty (*trade-off: this could mean some sponsors have to open slightly later or earlier than they wish – but we expect most sponsors will prefer to open at the beginning of the year given teacher and student availability and expectations*)
- b. Including, in contracts with sponsors, the right for the CSA to cap the number of students for whom it will provide funding in the period January-to-June (although allowing schools to enrol additional students at their own cost) (*trade-off: this is likely the most effective measure to enable the CSA to avoid a breach due to unexpected roll-growth, but it could mean that some schools will not be able to respond to unexpected growth in demand until July*).
26. These options involve policy trade-offs. We expect the CSA will only cap the number of students it will fund in January to June if it sees a significant risk of breaching its appropriation if it does not adopt this measure.
27. Some charter school students, such as those transferring from private schools and those who have been home-schooled, will not have been generating enough funding in State school appropriations to cover the costs they will generate in charter schools. These students could significantly increase the risks of a breach of either the Charter Schools | Kura Hourua MCA, or State school appropriations.
28. We are undertaking further analysis of how and when these students can be identified and how the associated fiscal risk will be managed. We will provide further advice on these matters when advising on the draw-down of the non-departmental funding for charter schools.

### ***Biased selection of converting schools***

29. State and charter schools will be funded using different formulas, so conversions may be biased towards schools that will receive more funding (if they convert), and against those that will receive less funding. Funding transferred to the charter schools appropriation could, therefore, exceed the reduction in State school costs, thereby reducing the value of State school appropriations per student (contrary to recommendation 59.2 of your funding model Cabinet paper [CAB-24-MIN-0217

refers]). The resourcing with the greatest potential for bias is property, on which we will provide further advice.

30. There is some mitigation for this bias in that certain funding streams will be smaller or not provided for charter schools. For example, charter schools will not be eligible for discretionary funding (Additional Relief Teacher Funding, Special Reasons Funding, or Special Reasons Staffing) for exceptional circumstances, as sponsors are expected to manage a higher level of risk and accountability in exchange for greater flexibility.
31. We intend to monitor for evidence of this type of bias in conversions. If needed, mitigations could include seeking additional funding through the Budget process, changes to the selection process, or changes to charter school funding rates.

### Other matters

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32. We recommend that regular payments to sponsors of charter schools be made at the same time as those to State schools (the beginning of each quarter). We have assumed charter schools will use the same term structure as State schools. If sponsors choose different terms, we will advise you of any fiscal implications.

### Next Steps

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33. If you agree to the recommendations in this report, we will work with the Treasury to establish the Charter Schools | Kura Hourua MCA and progress the draw-down.
34. A report on funding rates is being submitted alongside this paper, and further advice on property funding settings (including the transfer of funds to the Charter Schools | Kura Hourua MCA) and the draw-down of non-departmental funding is in development.

### Annex

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The following is annexed to this paper:

- Annex 1: Roles and responsibilities of the Charter Schools Agency and the Ministry of Education with respect to charter schools

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### **Roles and responsibilities of the Charter School Agency**

In March 2024, Cabinet agreed to the Charter School Agency's key roles and responsibilities, along with a staged approach to set up the agency (SOU-24-MIN-0018 refers).

The CSA has now been established by Order in Council and granted the ability to administer assets and liabilities. A core function, with respect to charter school funding, is that it will be accountable for the expenditure under charter school contracts.

#### ***A staged approach***

From 1 July, the CSA can engage with stakeholders, including those who may be interested in applying to be charter schools, and helping to respond to enquiries. It will also work alongside the Ministry to implement the charter school model and perform the secretariat function. It can begin to develop its own business planning, such as developing its own operating and delivery model. The Agency will not immediately have the capacity to take on its full operational responsibilities, and its fiscal responsibilities are currently limited to the running of the Establishment Board. However, it will shortly go live with the application process, and it is actively engaging with the sector.

The CSA is developing a shared services model with the Ministry to provide essential corporate services, including finance, HR, IT, property, and facilities.

#### ***Roles and responsibilities***

Your advice to Cabinet on the institutional arrangements for implementing charter schools described the CSA's roles and responsibilities as follows:

- 20.1. **Being the secretariat for the Authorisation Board.** The Authorisation Board is the key decision maker in the model. It will be making statutory decisions relating to the establishment of schools and their performance with commensurate impact on learners. It will also have legislative obligations to engage with other statutory bodies in the education system (for example, consulting ERO and the Secretary). The secretariat will need to do the background work that will enable the Authorisation Board to fulfil these responsibilities. This will involve collating and considering information, providing advice, as well as developing and implementing Board related logistics and systems.
- 20.2. **Contracting with school sponsors.** The administering body will enter contracts with sponsors that are approved to establish and operate schools. It will also be responsible for the operational work associated with the day-to-day management of contracts.
- 20.3. **Providing an account of what is achieved in contracts.** The administering body will hold the performance and financial information, which means it will be best placed to report on what is achieved in the contracts. It may receive corporate services from another party to enable it to deliver this role.
- 20.4. **Advising on interventions with schools and acting on Board decisions.** The intervention framework is set out in the companion paper. The Authorisation Board will decide on the use of interventions and the administering body will undertake the operational work on their behalf. The administering body will also receive information from ERO and charter schools on their performance and

compliance with contractual requirements. Any concerns would be passed onto the Authorisation Board.

20.5. **Working with other statutory bodies.** Charter schools will be a key part of the education system and their administering body will need to engage at a senior level with the other agencies in the Education Sector on both strategy and operational matters.

20.6. **Advising Ministers** on the overall model and its implementation, including gathering input from relevant stakeholders and considering solutions that are practical and offer value for money.

In addition, the CSA will have obligations to the responsible Minister, under the Public Finance Act, as the administrator of the Charter Schools | Kura Hourua MCA. These obligations are summarised in Treasury guidance.<sup>4</sup> They include, for example, ensuring that expenses and expenditure are within the terms of the appropriation (amount, scope, and period); advising the Minister on the efficiency and effectiveness of the expenditure; and reporting to the Minister for the agency's own financial management, performance, and sustainability.

We have developed the following indicative clusters of functions for the CSA to deliver on these roles and responsibilities:

***Cluster One: Governance and Participation***

Key functions in this cluster are:

- Secretariat support for the Authorisation Board, Hautū, and Oversight Group;
- Iwi/Māori engagement;
- Communications and engagement, including with potential school sponsors; and
- Servicing the Minister (e.g., weekly reports, parliamentary questions, Ministerial correspondence).

***Cluster Two: Strategy and Policy***

Key functions in this cluster are:

- Strategic advice;
- Policy advice, including supporting the development of the model and cross-agency engagement;
- Operational policy, including making sure the legislation is operationalized; and
- System liaison (i.e., the interface with other statutory bodies in the system).

***Cluster Three: Contracting and Monitoring***

Key functions in this cluster are:

- Contract negotiations;
- Procurement of legal advice; and
- Monitoring, reporting, evaluation, and benefits realization.

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<sup>4</sup> *The responsibilities of an appropriation administrator* (treasury.govt.nz) - <https://www.treasury.govt.nz/sites/default/files/2013-09/sspfr-respadmin.pdf>

## **Cluster Four: Operations**

Key functions in this cluster are:

- Responsibility for the Charter Schools I Kura Hourua MCA (as described above);
- Interface with the Ministry (i.e., overseeing the departmental agency agreement/service level agreement); and
- Delegating the roles of Privacy Officer, Health Safety Officer, Plain Language Officer; protected disclosures; and other PFA and PSC obligations.

### **Roles and responsibilities of the Ministry of Education**

The Ministry of Education (the Ministry) will retain responsibility for the education system as a whole, and the statutory powers of the Secretary for Education will continue to apply to Charter Schools unless legislation specifies otherwise.

The Ministry will retain its ability to provide advice on any aspect of the education system, including advising on the overall performance of charter schools and their place as education providers. The Ministry will also administer the charter school legislative provisions as part of its responsibility for administering the Education and Training Act.

The Ministry may also provide advice on approving prospective applicants, especially regarding any network impacts a proposed school may have.

As outlined above, the Ministry is the host of the Charter School Agency and there will (initially) be a shared services model between the two entities. The Ministry will provide back-office services and other supports through a service agreement. The Charter School Agency will utilise Ministry office space at 1 The Terrace and will initially adhere to the Ministry's internal policies and systems (including the financial management and HR systems).

Ministers have agreed that certain targeted services and resourcing streams, such as learning support, should be provided to charter schools on the same or similar terms to those of State schools. We recommend that the funding for these services should remain in their current appropriations, and that the Ministry should take responsibility for allocating these services and resourcing streams to charter schools. This will avoid duplication of functions and potential inconsistencies and inequities in students' access to necessary support.

The roles and responsibilities of the Ministry of Education do not include providing advisory support to charter schools and their sponsors, except in relation to accessing those services and resourcing streams for which the Ministry will be responsible.