

Office of the Minister of Education
Cabinet Social Outcomes Committee

Treaty References in the Education and Training Act

Proposal

- 1 This paper seeks agreement to remove consideration of amendments to Treaty references in section 127(1)(d) of the Education and Training Act 2020 from the Treaty References Review (the Review) and progress these through the Education and Training Amendment Bill (No. 2).

Relation to government priorities

- 2 The New Zealand National Party and New Zealand First coalition agreement includes a commitment to “conduct a comprehensive review of all legislation (except when it is related to, or substantive to, existing full and final Treaty settlements) that includes “The Principles of the Treaty of Waitangi” and replace all such references with specific words relating to the relevance and application of the Treaty or repeal the references”.

Executive Summary

- 3 The Treaty References Review (the Review) has made a range of recommendations relating to the recognition of the Treaty in the Education and Training Act 2020 (the Act). These recommendations focus on clarifying the status of the Treaty and the specific duties various educational institutions should be required to discharge in meeting Treaty obligations.
- 4 I asked for section 127(1)(d) of the Act to be considered by the Review while the Education and Training Amendment Bill (No. 2) (the Bill) was progressing so I could get expert advice and align to broader Treaty reference changes. The Bill is still being considered by the House, and progressing changes via an Amendment Paper now will reduce duplication of process.
- 5 9(2)(f)(iv) [REDACTED]
- 6 The Review also considered four substantive matters relating to:
 - 6.1 The objectives of boards in governing schools (section 127(1)(d))
 - 6.2 The duties of (tertiary) Councils (section 281(1)(b))
 - 6.3 9(2)(f)(iv) [REDACTED]

6.4 9(2)(f)(iv)

7 I intend to progress changes to the Act relating to objectives of school boards (paragraph 5.1) through the Education and Training Amendment Bill (No 2) via an Amendment Paper at the Committee of the Whole House.

8 Following discussions with the Ministers for Universities and Vocational Education, I also propose that section 281 (paragraph 5.2) matters be removed from the scope of the Review and progressed separately.

9 9(2)(f)(iv)

10 9(2)(f)(iv)

Background

11 In September 2024, Cabinet agreed that the purpose of the Review is to ensure that, where it is appropriate to encapsulate the Treaty or the Treaty relationship in legislation, the provisions are clear as to how the Treaty applies in the context of each legislative regime, to reduce uncertainty and support better compliance [CAB 24-MIN-0346 refers].

12 On 5 May 2025, Cabinet agreed to establish a Ministerial Oversight Group of the Minister of Justice, Attorney-General, Minister for Regional Development, and Minister for Māori Crown Relations: Te Arawhiti, to make in principle policy decisions, subject to Cabinet confirmation [CAB-25-MIN-0144 refers].

13 Cabinet also agreed to establish an advisory group to report to the Oversight Group for the review [CAB-25-MIN-0144 refers]. The function of the Advisory Group has been to provide advice to the Oversight Group on whether to retain, amend, or repeal references to the Treaty principles to achieve greater certainty, and on engagement processes, including with Māori. 9(2)(f)(iv)

Standardisation of clauses across statutes

14 9(2)(f)(iv)

Substantive matters to be addressed

- 15 The Advisory Group has identified four substantive matters that require further policy work:

15.1 Section 127(1)(d) **Objectives of boards in governing schools**

15.2 Section 281(1)(b) **Duties of Councils**

15.3 9(2)(f)(iv)

15.4 9(2)(f)(iv)

Section 127(1)(d) Objectives of boards in governing schools

- 16 Section 127 of the Education and Training Act (the Act) provides for the objectives of boards in governing schools, including (1)(d) that provides that the school gives effect to [Te Tiriti o Waitangi](#), including by:

16.1 working to ensure that its plans, policies, and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori; and

16.2 taking all reasonable steps to make instruction available in tikanga Māori and te reo Māori; and

16.3 achieving equitable outcomes for Māori students.

- 17 A Treaty duty for school boards was introduced in 2017, requiring that boards “must take all reasonable steps to act in a manner that is consistent with the principles of the Treaty of Waitangi.” This was amended to the current wording in 2020.

- 18 The MAG has questioned whether, as Crown Entities, the standard of commitment provided for school boards is appropriate. The MAG has also questioned whether greater specificity can be provided in respect of boards’ specific duties, noting that terms such as ‘working to ensure’ and ‘taking all reasonable steps’ are vague.

- 19 I propose that the duty for school boards to give effect to Te Tiriti o Waitangi be removed in recognition that schools are not part of the core Crown and school boards are elected by communities. It is not reasonable for parents and volunteers who make up boards to hold and discharge legal responsibilities in respect of the Treaty. However, the Crown retains its Treaty responsibilities in respect of schools. These are set out in s32 and section 4(d). Amongst other things, this means that the Crown will continue to support Kura Māori, maintain Te Marautanga o Aotearoa (the national curriculum for Māori-medium education) and support te reo Māori.

- 20 I also propose to replace the s127 duties that a school should discharge to reflect that schools should:

20.1 **Seek to achieve equitable outcomes for Māori students** – this reflects the need to elevate Māori educational achievement and success.

- 20.2 **Take all reasonable steps to provide for teaching and learning in te reo Māori to students or caregivers request it** – this reflects that some families consider providing for teaching in te reo important to their child’s education, while others do not. The provision aims to provide choice to families to enable their child/children to be educated in line with their family’s aspirations.
- 20.3 **Take reasonable steps to ensure that the policies and practices for its school reflect New Zealand’s cultural diversity, including te ao Māori** – this reflects that some schools have a high proportion of Māori students and it is appropriate that such a school should conduct its affairs in a way that reflects and te ao Māori.
- 21 Paragraph 20.3 above also means that section 133 **Boards’ policies and practices must reflect cultural diversity** is now superfluous and I consider it can be removed.
- 22 I consider that this new section sets a clearer and more appropriate legal standard for boards of trustees to be accountable for. We are publishing much more detailed knowledge-rich curricula that are mandated for all schools, which means that we now need less emphasis on individual schools adapting curricula.
- 23 The new curricula have shifted to include more concepts drawn from te ao Māori (for example history, language and culture) than previous curricula. I have been careful to avoid the Crown seeking to define or take over mātauranga Māori.
- 24 In respect of Kura Māori, I am comfortable that the Act provides for them to deliver mātauranga Māori to their students in the same way that they have done since the 1980s under previous legislation.

Cost-of-living Implications

- 25 There are no cost-of-living implications associated with this paper.

Financial Implications

- 26 There are no financial implications associated with this paper.

Legislative Implications

- 27 Amendments to the Education and Training Act 2020 will be made through the Education and Training Amendment Bill (No. 2) (ETAB2) via an Amendment Paper at Committee of the Whole.

Impact Analysis

Regulatory Impact Statement

- 28 A Regulatory Impact Statement (RIS) associated with the proposals in this paper has not been prepared due to the timeframes for this proposal to be considered. I have directed officials to prepare a Post-Implementation Review after the fact.

Climate Implications of Policy Assessment

- 29 There are no climate impacts associated with this paper.

Population Implications

- 30 Changes prioritise attainment of equitable education outcomes for Māori and support schools with large Māori populations to conduct themselves in accordance with tikanga and te ao Māori. Changes also seek to provide families with choices.

Human Rights

- 31 There are no human rights implications associated with this paper.

Use of External Resources

- 32 A contractor has been engaged for the last 3 months to substantively support the development of proposals in this paper, due to the large number of competing legislative priorities being managed by the Ministry.

Consultation

- 33 Due to time constraints, no consultation has been undertaken on this paper. However, the Department of Prime Minister and Cabinet and the Ministry of Justice are aware of my proposals.

Communications

- 34 Proposed changes will be communicated to the sector at the first available opportunity.

Proactive Release

- 35 I intend to release this paper once my Amendment Paper is introduced through the Select Committee process.

Recommendations

The Minister of Education recommends that the Committee:

- 1 **Note** that the Treaty References Review (Review) identified several areas where the Education and Training Act 2020 (the Act) could be strengthened, including:

- 1.1 Standardisation of the level of terminology reflecting the level of commitment to the Treaty.
- 1.2 Improved clarity in respect of the:
 - 1.2.1 objectives of school boards
 - 1.2.2 duties of Tertiary Education Institution Councils
 - 1.2.3 9(2)(f)(iv)
 - 1.2.4 9(2)(f)(iv)
- 2 **Note** that Section 127 of the Education and Training Act (the Act) provides for the objective of boards in governing schools, including (1)(d) that provides that - the school gives effect to [Te Tiriti o Waitangi](#), including by:
 - 2.1 working to ensure that its plans, policies, and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori; and
 - 2.2 taking all reasonable steps to make instruction available in tikanga Māori and te reo Māori; and
 - 2.3 achieving equitable outcomes for Māori students.
- 3 **Note** my intent is to provide a schooling system that provides for elevates Māori student success while offering students and families choice in respect of the extent to which children receive and education in te reo or are educated in a school whose foundations are embedded in tikanga and te ao Māori.
- 4 **Agree** that section 127 of the Act be amended through the Education and Training Amendment Bill (No 2) to remove Treaty duties from school boards, in recognition that schools are not part of the core Crown and boards are elected by the community.
- 5 **Agree** that section 127 of the Act be amended through the Education and Training Amendment Bill (No 2) to provide that it is an objective of school boards to:
 - 5.1 seek to achieve equitable outcomes for Māori students
 - 5.2 take all reasonable steps to provide for teaching and learning in te reo Māori to students whose parents or caregivers request it
 - 5.3 take reasonable steps to ensure that the policies and practices for its school reflect New Zealand's cultural diversity, including te ao Māori.
- 6 **Agree** to remove section 133 from the Act.
- 7 **Authorise** the Minister of Education to introduce an Amendment Paper to the Education and Training Amendment Bill (No. 2) at Committee of the Whole House.
- 8 **Invite** the Minister of Education to issue drafting instructions to Parliamentary Counsel Office to give effect to the proposals in recommendations 4, 5 and 6.

- 9 **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.
- 10 **Agree** that drafting of the Amendment Paper is subject to Parliamentary Counsel Office's discretion as to how best to express the above policy decisions in legislation.
- 11 **Note** that I have directed officials to undertake a Post-Implementation Review of this regulatory change, with agreement on the nature and timing of this jointly agreed by the Minister of Education, the Minister for Māori Development and the Minister for Regulation.
- 12 **Note** that, following discussion with the Minister for Universities and the Minister for Vocational Education, further work is required in respect of recommendation 1.2.2.
- 13 **Agree** to remove consideration of Treaty duties for Tertiary Education Institution Councils (1.22) from the Review and progress this on a longer timeline.
- 14 9(2)(f)(iv) [Redacted]
[Redacted]
[Redacted]
[Redacted]
- 15 9(2)(f)(iv) [Redacted]
[Redacted]
[Redacted]
- 16 9(2)(f)(iv) [Redacted]
[Redacted]
[Redacted]
[Redacted]

Hon Erica Stanford
Minister of Education



Cabinet Social Outcomes Committee

Minute of Decision

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

Treaty References in the Education and Training Act 2020

Portfolio **Education**

On 15 October 2025, the Cabinet Social Outcomes Committee, having been authorised by Cabinet to have Power to Act [CAB-25-MIN-0359]:

- 1 **noted** that the Treaty References Review (Review) identified several areas where the Education and Training Act 2020 (the Act) could be strengthened, including:
 - 1.1 9(2)(f)(iv) [REDACTED]
 - 1.2 improved clarity in respect of the:
 - 1.2.1 objectives of school boards;
 - 1.2.2 duties of Tertiary Education Institution Councils;
 - 1.2.3 9(2)(f)(iv) [REDACTED]
 - 1.2.4 9(2)(f)(iv) [REDACTED];
- 2 **noted** that Section 127 of the Education and Training Act (the Act) provides for the objectives of boards in governing schools, including (1)(d), which provides that the school gives effect to the Treaty, including by:
 - 2.1 working to ensure that its plans, policies, and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori;
 - 2.2 taking all reasonable steps to make instruction available in tikanga Māori and te reo Māori; and
 - 2.3 achieving equitable outcomes for Māori students;
- 3 **noted** that the Minister of Education intends to provide a schooling system that provides for equity in education outcomes for Māori students, while offering students and families choice in respect of the extent to which children receive and education in te reo or are educated in a school whose foundations are embedded in tikanga and te ao Māori;
- 4 **agreed** that section 127 of the Act be amended through the Education and Training Amendment Bill (No 2) to remove Treaty duties from school boards, in recognition that schools are not part of the core Crown and boards are elected by the community;

- 5 **agreed** that section 127 of the Act be amended through the Education and Training Amendment Bill (No 2) to provide that it is an objective of school boards to:
 - 5.1 seek to achieve equitable outcomes for Māori students;
 - 5.2 take all reasonable steps to provide for teaching and learning in te reo Māori to students whose parents or caregivers request it;
 - 5.3 take reasonable steps to ensure that the policies and practices for its school reflect New Zealand’s cultural diversity, including te ao Māori;
- 6 **agreed** to remove section 133 from the Act;
- 7 **authorised** the Minister of Education to introduce an Amendment Paper to the Education and Training Amendment Bill (No 2) at the Committee of the Whole House stage;
- 8 **invited** the Minister of Education to issue drafting instructions to the Parliamentary Counsel Office to give effect to the decisions in paragraphs 4, 5, and 6;
- 9 **authorised** 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 those under SOU-25-MIN-0142;
- 10 **agreed** that drafting of the Amendment Paper is subject to Parliamentary Counsel Office’s discretion as to how best to express the above policy decisions in legislation;
- 11 **noted** that the Minister of Education has directed officials to undertake a Post-Implementation Review of the above regulatory change, with agreement on the nature and timing of this jointly agreed by the Minister for Regulation, Minister of Education, and Minister for Māori Development;
- 12 **noted** that, following discussion with the Minister for Universities and the Minister for Vocational Education, further work is required in order to improve clarity in respect of the duties of Tertiary Education Institution Councils, as per paragraph 1.2.2 above;
- 13 **agreed** to remove consideration of Treaty duties for Tertiary Education Institution Councils from the Review and progress this on a longer timeline;
- 14 9(2)(f)(iv) 
- 15 9(2)(f)(iv) 
- 16 9(2)(f)(iv) 

Jenny Vickers
Committee Secretary

Attendance: (see over)

Present:

Hon David Seymour
Rt Hon Winston Peters
Hon Erica Stanford
Hon Paul Goldsmith
Hon Louise Upston (Chair)
Hon Dr Shane Reti
Hon Tama Potaka
Hon Matt Doocey
Hon Nicole McKee
Hon Chris Penk
Hon Scott Simpson

Officials present from:

Office of the Prime Minister
Officials Committee for SOU
Office of the Minister of Education

Proactively Released



Minute of Decision

Report of the Cabinet Social Outcomes Committee: Period Ended 17 October 2025

Out of scope

SOU-25-MIN-0142

Treaty References in the Education and Training Act 2020
Portfolio: Education

CONFIRMED

Rachel Hayward
Secretary of the Cabinet

Proactively Released