

Education Report: Release of the Physical Restraint and Seclusion Guides

Date:	12 October 2016	Priority:	Medium
Security Level:	In Confidence	METIS No:	1027615

Action Sought

Addressee	Action Sought	Deadline
Minister of Education	<p>Note that we have already provided an Education Report to you (20 June 2016) regarding the launch of the <i>Guidance for New Zealand Schools on the Minimisation of Physical Restraint and Transitional Guidance as we work towards the Elimination of Seclusion in New Zealand Schools</i>.</p> <p>Note the intended approach to the launch of the guides.</p> <p>Note that you were unable to participate in a launch of the guides at that time. We are revisiting that option given the recent media coverage concerning the Secondary Principals' Association of New Zealand (SPANZ) and their view that there is a need for legislation to support the guides.</p> <p>Indicate whether you wish to participate in a launch of the guides.</p> <p>Note the process for considering additional statutory protections for teachers regarding physical restraint and seclusion in schools.</p>	

Enclosure: No

Round Robin: No

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1 st Contact
Kim Shannon	Deputy Secretary	9(2)(a)	
David Wales	Director		✓
9(2)(a)	Drafter		

The following departments/agencies have seen this report:

☒ MoE

☐ Other

Minister's Office to Complete:

1 = very poor

2 = poor

3 = acceptable

4 = good

5 = very good

☐ Approved

☐ Declined

☐ Noted

☐ Needs change

☐ Seen

☒ Overtaken by Events

☐ See Minister's Notes

☐ Withdrawn

☐ Signed

18 OCT 2016

Comments:

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Recommended Actions

We recommend that you:

- a. **note** that we have already provided an Education Report to you (20 June 2016) regarding the launch of the *Guidance for New Zealand Schools on the Minimisation of Physical Restraint and Transitional Guidance as we work towards the Elimination of Seclusion in New Zealand Schools*;
- b. **note** the intended approach to the launch of the guides;
- c. **note** that you were unable to participate in a launch of the guides at that time. We are revisiting that option given the recent media coverage concerning SPANZ and their view that there is a need for legislation to support the guides;
- d. **indicate** whether you wish to participate in a launch of the guides; and
- e. **note** the process for considering additional statutory protections for teachers regarding physical restraint and seclusion in schools.


Kim Shannon
Deputy Secretary
Sector Enablement and Support

Hon Hekia Parata
Minister of Education

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Education Report: Release of the Physical Restraint and Seclusion Guides

Purpose of Report

1. This report follows up on an earlier Education Report (20 June 2016) regarding the launch of new training and guides to support schools manage challenging behaviour.
2. It outlines the intended approach to the launch of the guides, *Guidance for New Zealand Schools on the Minimisation of Physical Restraint and Transitional Guidance as we work towards the Elimination of Seclusion in New Zealand Schools*.
3. While you earlier unable to participate in a launch of the guides, we are revisiting that option given the recent media coverage concerning Secondary Principals Association of New Zealand (SPANZ) and their view that the guides should be supported by additional protections for teachers.
4. The process for considering additional statutory protections for teachers is outlined.

Background

5. The guides have been developed by a sector-led Advisory Group, which includes a SPANZ representative, Patrick Walsh. SPANZ members are supportive of the guides, but believe they should also be supported by additional protections for teachers.
6. The guides have been developed in response to requests from the sector for formal guidance. While most schools have good practices in places concerning physical restraint and seclusion, the sector, and the Ministry, are aware of some examples of poor practice in this area that is putting students and teachers at risk.
7. The intention was to release the guides in September 2016. There was a delay while the SPANZ viewpoint was considered. We now propose to launch the guides in November 2016.

Development of the guides

8. Developing the guides has included undertaking background research prior to the development of the guides. This work included literature reviews and considered best practice internationally. Consultation was undertaken with the sector and stakeholders throughout the development of the guides including school visits, consultation with parent representative groups, the New Zealand Police and the Office of the Children's Commissioner.

9. The Crown Law opinion provided an opinion on the guides. Their opinion is that 9(2)(h)
10. A PowerPoint presentation has been developed for school leaders to assist them in unpacking the guides in schools. The presentation, along with the guides, was trialled with groups of principals and changes were made to simplify and clarify the intention of the guides and to support best practice in schools. The guides focus on minimisation and de-escalation strategies.
11. Ministry regional staff have been trained as "go to people" to support implementation of the guides. They are well informed on the guides and their intent and they will assist with responses from the sector.
12. A training package, which includes a presentation, manual and participant workbook, has also been developed and trialled in consultation with the sector. The training is module-based to provide schools with flexible training options, and a system of trainers and support people has been established to assist schools in its implementation. The training package focuses on strategies to prevent or de-escalate behaviours so that physical restraint is less likely to be required.

Launch of the guides

13. The planned launch of the guides in November 2016 will coincide with the availability of the training package for schools on de-escalation and prevention strategies so that physical restraint is less likely to be required.
14. The launch of the guides will be supported by members of the cross-sector Advisory Group, who will inform their members about the guides and the accompanying training.
15. Although you initially were unable to officially launch the guides, you may now wish to reconsider given the recent publicity.

Next steps to consider statutory options

16. 9(2)(h)
17. The Ministry will work with SPANZ and other interested parties in the sector during 2016-17 to consider any options available for additional statutory protections for teachers. We will provide recommendations to you during this process.
18. SPANZ understands that any legislative changes, which may arise as part of this consideration, are not possible at this time. The Ministry anticipates, and SPANZ is aware, that any legislative amendments will be included in the 2018 legislative programme.

19. The Ministry proposes to begin work on preparing for these legislative requirements including:
- beginning discussions about what the statutory powers may need to look like, including any requirements they will need to meet in terms of the Bill of Rights Act and Human Rights Act
 - undertaking a consultation on options for the legislation in early 2017
 - seeking Cabinet sign off for recommended policy options in mid 2017

Risks

20. A high profile launch could escalate public awareness and may cause undue concern that behaviours requiring physical restraint and seclusion are major issues in New Zealand schools. If you agree to participate in a launch of the guides you may wish to stress the importance of other types of intervention to manage challenging behaviour.
21. The media may continue to show interest in this area and seek out examples to promote unease about the safety of students and staff in New Zealand schools. Key messages will emphasise that physical restraint and seclusion are interventions of last resort, and that the guides have been jointly developed with the sector.
22. Teachers may use the launch to raise their concerns about other education initiatives such as the Learning Support (Special Education) Update and the Review of Funding. Key messages will emphasise that these guides support teachers and that there will be further work to explore possible statutory options in this area.
23. It is possible that the sector may bring up these concerns at the select committee process for the Education (Update) Amendment Bill. However, the Ministry has discussed with SPANZ the difficulty of including any legislative amendments to the Education Act in regard of these matters which have the potential to be controversial and complex. SPANZ have indicated that they are satisfied with the Ministry's preferred approach for any legislative amendments, as outlined above.