



Report Title:	Draft Cabinet paper on institutional arrangements to support charter schools		
Report No:	2024-0063		
Date:	1 March 2024		
To:	Hon David Seymour, Associate Minister of Education (Partnership Schools)		
Action Sought:	Agree to agency consultation	Due Date	4 March 2024
Cc:	Hon Nicola Willis, Minister for the Public Service		
Contact Person:	Hannah Cameron, Deputy Commissioner, Strategy & Policy		
Contact No:	9(2)(a) privacy		
Encl:	Yes – draft Cabinet paper	Priority:	High
Security Level:	SENSITIVE-STAFF		

Executive Summary

1. You have asked for a draft Cabinet paper to establish a Charter School Agency as a departmental agency hosted by the Ministry of Education (MoE). The Charter School Agency is to support the charter school decision making role of the Authorisation Board and lead the engagement and contracting process with charter school sponsors.
2. We are seeking your feedback on this draft and, in parallel, your approval to consult public service agencies on the attached draft Cabinet paper.
3. The following areas are likely to generate feedback, need decisions from you, and discussion with your colleagues during the Ministerial consultation planned for 8 – 18 March:
 - a. **Financial implications:** We estimate the costs associated with choosing the departmental agency form will be around \$1 million initially for 2024/25. You will need to set out in the Cabinet paper how this will be met. The more significant financial question is the overall resourcing to deliver the functions required by any administrative body as set out in the cabinet paper (regardless of form) as well as any contribution required by other Education Agencies to ensure successful implementation of Charter Schools.
 - b. **Functions and powers:** the parallel work on the role and statutory framework that applies to the Authorisation Board, the Secretary of Education and the approach to contracting and performance management will need to be reflected in this paper. These are being consulted on by the Ministry of Education in parallel.
4. We understand that there will be Budget bilateral meetings in the week of 11 March between Vote Ministers and the Minister of Finance. While the additional costs for a departmental agency are small in the scale of the overall bid to implement the charter school model this report notes some risk that there may be insufficient resource to match the scale and pace

of change. These costs and the best way to meet them, also need to be considered in the context of other proposals within Vote Education.

5. Officials are working to support you with a suite of Cabinet papers on the charter school model to be considered at SOU Cabinet Committee on 27 March. We can provide you with an updated version of this paper by 8 March to support ministerial consultation over 8-18 March.

Recommended Action

We recommend that you:

- a **agree** that we circulate this early draft Cabinet paper on Monday 4 March for consultation with public service agencies

Agree/disagree.

- b **provide** your feedback on this draft during the week of 4 March

Financial implications

- c **note** that the Ministry of Education is supporting you with a budget bid to resource the charter school model which we assume will resource the functions set out in the draft Cabinet paper

- d **note** that we estimate the additional cost of establishing a departmental agency will be approximately \$1 million in 2024/25 to cover the salary for a chief executive and a few extra staff who would not otherwise have been required for delivering the functions

- e **note** the Charter School Agency will rely on its host agency providing support for its corporate functions and, in the establishment phase, for support in the secretariat and contract roles

- f **indicate** how you would like to manage the additional financial implications of the departmental agency model

Working arrangements for the departmental agency model

- g **agree** that the Charter School Agency will operate within the strategic framework of its host agency

Agree/disagree

- h **note** we will consult with Treasury and the Ministry of Education on the appropriation administration and accountability options and provide further advice on those arrangements

- i **agree** that Te Kawa Mataaho release this briefing in full alongside the release of the Cabinet decisions

Agree/disagree.

Hon David Seymour

Associate Minister of Education (Partnership Schools)

STAFF-SENSITIVE

Purpose of Report

6. This report seeks your agreement to share the attached draft Cabinet paper on the Charter School Agency with public service agencies for consultation.
7. Since our advice to you in mid-February on the options for an agency to support the charter school model, we have become aware of additional financial implications and draw these to your attention in this report as they are likely to impact the establishment pathway for the agency.

Background

8. We provided you with advice on 16 February (report 2024-0046 refers) that the functions to support the implementation of the charter school model could be delivered by either a departmental agency or a branded business unit. 9(2)(f)(iv) confidentiality of advice
[REDACTED]
9. Your preference is for a departmental agency which provides clear lines of accountability, dedicated and visible leadership and the ability to be connected to the wider education system. This reflects what we understand is your policy intent for charter schools to be 'separate within' the education system. That advice also noted there are additional costs that come with a departmental agency model.
10. The Cabinet paper seeks agreement to establish the Charter School Agency as a departmental agency of the Ministry of Education (MoE) and will sit alongside papers from MoE on the legislative framework and decision rights.
11. We have been sharing our work with MoE and will focus on aligning our draft with the description of the legislative framework in the next round of consultation. We have informed Treasury of this work and have met with the Education Review Office.
12. We have informed the Minister for the Public Service about this work and will continue to copy our advice to her. Minister Willis has decided that she will not be a co-signatory to this machinery of government paper as she will need to consider many of the issues through the budget process in her role as Minister of Finance.

Staged establishment of the departmental agency

13. We have advised that the Departmental Agency form does appear to best meet your ongoing needs for the 'separate but within' nature of the Charter School model. However, the successful implementation of any institutional arrangements will depend on appropriate resourcing, and clarity of roles and responsibilities.
14. The charter school model is being implemented at pace and this is necessary in order that schools can be operational from the beginning of the 2025 school year. We expect that a focus for the departmental consultation will be around how we manage the implementation path for the Charter School Agency to mitigate risks to the delivery of charter schools and other priorities in the education system.
15. The best way to divide functions between the new Charter School Agency and the existing agencies are dependent on Cabinet's agreement to the overall policy framework for the model. More work is required to identify appropriate ways of working, and how specific statutory requirements and operational functions should be delivered in the most cost-effective way. Work on these arrangements is expected to evolve alongside implementation planning over the next year.

16. We have previously discussed starting the departmental agency with a chief executive and a small number of staff. This approach assumes the Charter School Agency can access resource from its host department while it is getting established. This part of the Cabinet paper is currently in italics because we are continuing to discuss options, and it is somewhat dependent on your approach to financial implications.

Financial Implications

17. Regardless of the institutional form of the Charter School Agency there needs to be sufficient resource (either reprioritised or sought through Budget) to deliver on the scale and pace of change that is envisioned.
18. The MoE is supporting you with a budget bid that covers the operational activities required to implement the charter school model. On top of that there additional costs that we estimate as being around \$1 million that come with the choice to establish a departmental agency, namely:
- a. New chief executive. Salary costs are subject to a job sizing process involving independent advice. These costs reflect the nature of the role as well as the size of the staff and expenditure that is managed.
 - b. New roles or work that would not have been required if the Ministry was leading the work: director for the CE's office and a corporate lead to work with the Ministry on support arrangements and the additional reporting under the Public Finance Act.
19. We understand that the current budget bid will make the delivery of charter schools in 2025 reliant on future reprioritisation across MoE. This will require a high degree of collaboration in the working relationships between the Secretary and Charter School Agency chief executive or more detailed service level agreements.
20. The Ministry of Education has concerns with moving directly to a departmental agency and suggests an interim step of a business unit within the Ministry of Education to begin with. The reasons for this are outlined in their advice (Metis 132665). In relation to financial implications, it recommends delaying the establishment of a departmental agency to ensure a clear funding pathway for it is possible in view of the significant departmental reductions to the Ministry in Budget 2024, which will see its functions altered. This would also enable the right sizing and scoping for the agency, in view of a better understanding of demand for conversion of state schools and for new charter schools.
21. Equally, it is important that there is appropriate and accountable leadership in place to build the confidence of the Authorisation Board and potential school sponsors ahead of implementation. If you wished to change the timing of implementation of the Departmental Agency, we could provide you with advice about how you might achieve this.

Options to support delivery of schools by 2025

22. We understand you are looking for around 30 charter schools to be operating from the start of 2025. Subject to the outcome of the budget process you have options to set the system up for successfully opening schools in 2025 by considering the scale, pace, or resources.
- a. Scale: you may need a mechanism to direct the Authorisation Board on the type of school to include in the first tranche to manage demand given the resources available
 - b. Pace: the MoE have suggested delaying the establishment of the Departmental Agency to provide more short-term flexibility around the management of resources alongside significant cost savings change process

- c. Resources: you could discuss changing your bid to include funding for Departmental Agency costs or time limited funding for the first year of operations.
- 23. You may want to seek further advice from the Minister for Education and from the Treasury on the overall resource available for delivering on education priorities. This will be essential if you are seeking to resource elements of the model from Education baselines. There are many different proposals in play (including the current savings exercise) and it will be important that Ministers have information on the cumulative effect.
- 24. The cost of implementing the charter school model is uncertain and will increase with the number of schools. The 2025 review of institutional arrangements may require a parallel review of the operating model to ensure there are appropriate resources and systems to minimise transaction costs for sponsors and support ongoing public confidence in the compulsory schooling sector.

Departmental agency working arrangements

- 25. The Cabinet paper will need to confirm the working arrangements for the Charter School Agency. These relate to the strategic relationship with the host and the allocation of financial accountability. We recommend that the agency operate within the strategic framework of its host. For instance, the Statement of Intent set by the MoE will apply to the Charter School Agency. This is the standard approach for a departmental agency and it reflects the intention for charter schools to be separate but within the education system.
- 26. The second choice is whether the MoE or the Charter School Agency administers the appropriations used for paying the contracts. Depending on how the appropriations are arranged it will impact who holds the accountability under the Public Finance Act for what is achieved with the funds, the integrity of the systems for expenditure and the judgements expressed in the financial reporting statements. This is a topic we will be discussing with Treasury and MoE through the agency consultation process and will brief on you on any implications for consultation with the Minister of Education as the appropriation minister.

Functions and decision rights

- 27. The Departmental Agency model ensures the Authorisation Board receives separate streams of advice on individual charter schools (Charter School Agency) and the impacts on the school network (Secretary of Education). The details of the Authorisation Board, its powers and decisions making process and the role of the Secretary are covered by the Cabinet papers being drafted by MoE.
- 28. We have noted in the draft Cabinet paper some areas where our description of other roles and decision rights in the system may require revising in light of parallel advice from MoE. We will work on this in the agency consultation process.

Next Steps

- 29. Following your agreement we will share the draft paper with public service agencies with a particular focus on the implications for the implementation and working arrangements that need Cabinet agreement now.
- 30. Alongside the departmental consultation we will discuss this paper with you to incorporate your feedback and ensure it aligns with the material in the papers being prepared by MoE. You will receive an updated draft Cabinet paper for ministerial consultation on 8 March.

Milestone	Timeframe
Public service agencies consultation	4 to 7 March
Provide revised draft Cabinet paper based on your feedback and public service consultation	8 March
Ministerial consultation	8 to 18 March
Lodge cabinet paper by 10am	21 March
Cabinet Committee (SOU) approval for policy options	27 March
Cabinet approval for policy options	2 April