



28 AUG 2019

Sarah Vaughan
fyi-request-10628-a2e5fc93@requests.fyi.org.nz

Dear Sarah

Thank you for your email of 29 June 2019 to the Ministry of Education requesting the following information:

You are currently running an advisory group to review the physical restraint guidelines. Can you please provide the following:

- a. name of the members of the advisory group and the organisations they represent*
- b. the terms of reference for the group*
- c. the name of the group's chair/convener, and the organisation they represent*
- d. the name and position of the person(s) the group is reporting to, and the expectations on the group for progress and final reporting to said person(s)*
- e. copies of agendas and accompanying papers for all advisory group meetings*
- f. copies of minutes and all meeting notes from advisory group meetings*
- g. copies of papers and advice provided to the advisory group*
- h. copies of advice and papers from the advisory group given to the person they are reporting to, the Ministry or Minister responsible for the work*
- i. information about the decision making process for constituting the advisory group, the reason for its establishment, and why, how and when individual members were appointed.*
- j. the groups forward meeting schedule*
- k. information about budget for the work and remuneration [sic] rates for members of the advisory group*

Can you please also provide:

- l. since 1 January 2017, copies of reports/advice/papers provided to the Ministry of Education or Minister responsible about the physical restraint guidelines from the Teaching Council (or then Education Council), and the Ministry's/Ministers response to these.*
- m. copies of all guidelines for schools related to physical restraint and seclusion/timeout room issued since 1995. Please include updated and amended versions.*
- n. information about membership (names and organisations represented) of advisory groups or equivalent that the ministry has convened since 2000 to discuss or review guidelines or guidance related to physical restraint or seclusion/timeout rooms. Please also indicate the date range these groups were active, and the names these groups were known by.*
- o. since 1 Jan 2016, correspondence from unions, union spokespeople, teacher representatives, and NZSTA related to the physical restraint guidelines, and any subsequent responses from officials or the minister.*

Your request has been considered under the Official Information Act 1982 (the Act) and my response to each aspect of your request is below.

a. Name of the members of the advisory group and the organisations they represent

Organisations represented on the Advisory Group are:

- New Zealand Principals' Federation
- New Zealand School Trustees Association
- Secondary Principals' Association of New Zealand
- Te Akatea New Zealand Māori Principals' Association
- Special Education Principals' Association of New Zealand
- New Zealand Area Schools Association
- NZEI Te Riu Roa
- Post Primary Teachers' Association
- Teaching Council of Aotearoa New Zealand
- Office of the Children's Commissioner
- New Zealand Police, and
- Ministry of Health.

Invitations to attend and to be part of the reconvened Advisory Group were sent to organisations, and organisations determined who would attend. Individuals attending vary from time to time, as such I am not able to give you a comprehensive list of the names of attendees.

b. The terms of reference for the group

The purpose for reconvening the Advisory Group was set out in a letter from Dr David Wales, National Director Learning Support, to members of the Advisory Group. A copy of this letter, and the attachment: *Physical Restraint Advisory Group representation sheet* is attached as **Appendix A**. Some information in this letter has been withheld under section 9(2)(a) of the Act, to protect the privacy of natural persons.

c. The name of the group's chair/convener, and the organisation they represent

The two meetings held have been chaired by Dr David Wales, National Director Learning Support, from the Ministry of Education.

d. The name and position of the person(s) the group is reporting to, and the expectations on the group for progress and final reporting to said person(s)

The reconvened Advisory Group, now temporarily paused, reports to Dr David Wales, National Director Learning Support.

The attending organisations were asked to provide feedback on suggested changes made by the Ministry of Education to the Guidelines for Registered Schools in NZ on the Use of Physical Restraint a year after they were issued in August 2017.

The Advisory Group was not expected to report to the National Director for Learning Support. The role of the Group was to advise on drafting changes to the guidelines led by the Ministry of Education.

e. Copies of agendas and accompanying papers for all advisory group meetings

Two meetings with the Advisory Group were held. These were held on 14 September 2018 and 9 November 2018. Agendas and accompanying papers for both meetings are attached

as **Appendices B and C**. Some information has been withheld under section 9(2)(a) of the Act, to protect the privacy of natural persons.

f. Copies of minutes and all meeting notes from advisory group meetings

Copies of minutes and meeting notes from the first meeting of 14 September 2018 are attached as **Appendix D**. No formal minutes were produced for the meeting of 9 November 2018. The scope of the discussions included:

- real-world class room scenarios provided by schools and practitioners and how the guidelines can be applied
- the use of values to help direct teacher action
- how principles could be used to support school actions to minimise the use of physical restraint
- how information could be presented better for different users of the guidance (teachers, school principals, boards)
- additional information about what can be done, instead of what can't, and
- how to incorporate cultural values to reflect our commitment to Te Tiriti O Waitangi and Te Ao Māori.

g. Copies of papers and advice provided to the advisory group

No additional material has been supplied and no advice has been provided to the Advisory Group. I am refusing this part of your request under section 18(e) of the Act, as the documents requested do not exist.

h. Copies of advice and papers from the advisory group given to the person they are reporting to, the Ministry or Minister responsible for the work

No advice and papers were produced by the Advisory Group for the Ministry or Minister. I am refusing this part of your request under section 18(e) of the Act, as the documents requested do not exist.

i. Information about the decision making process for constituting the advisory group, the reason for its establishment, and why, how and when individual members were appointed.

The Advisory Group, which compiled the original guidelines, was reconstituted to review the guidelines one year from their issue in August 2017. It was timely to review the guidelines following a range of feedback.

There was no appointment process. Organisations were invited to identify their own representatives.

Membership/participation beyond the original group was extended to include Te Akatea NZ Maori Principals' Association, New Zealand Area Schools Association (NZASA), the Office of the Children's Commissioner, the New Zealand Police and the Teaching Council of Aotearoa New Zealand.

Te Akatea NZ Maori Principals' Association and NZASA diversified the perspectives offered by school leaders.

The Office of the Children's Commissioner was invited to provide a children's right perspective.

The New Zealand Police was invited, recognising their role in preventing and responding to harm and serious risk to safety in school communities, as well as their role investigating complaints to them of inappropriate physical restraint.

The Teaching Council was invited, recognising their role in guiding teacher behaviour and teacher practice expectations, as well as managing concerns about a teacher's conduct.

j. The groups forward meeting schedule

There is no forward meeting schedule. Therefore I am refusing this part of your request under section 18(e) of the Act, as the document requested does not exist.

k. Information about budget for the work and remuneration [sic] rates for members of the advisory group

The Advisory Group membership are not remunerated for their attendance and their advice. As a result there is no fixed budget for the work. Therefore I am refusing this part of your request under section 18(e) of the Act, as the document requested does not exist.

l. Since 1 January 2017, copies of reports/advice/papers provided to the Ministry of Education or Minister responsible about the physical restraint guidelines from the Teaching Council (or then Education Council), and the Ministry's/Ministers response to these.

The Education Council provided the Ministry with a copy of Briefing Note: Physical Restraint in Education. I have attached a copy of this briefing as **Appendix E**. Some information in this letter has been withheld under section 9(2)(a) of the Act, to protect the privacy of natural persons.

m. Copies of all guidelines for schools related to physical restraint and seclusion/timeout room issued since 1995. Please include updated and amended versions.

The Ministry had developed guidelines in 1998 on 'Managing Extreme Behaviour in Schools' (1998 Guidelines). These were described as primarily a resource for classroom teachers. They were revised in 1999 and 2005, and effective until the 2016 guidance was issued.

The 1998 guidelines (July 2005 revision), 'Managing Extreme Behaviour in Schools' is attached as **Appendix F**. Early versions of the guidelines are not centrally located within the Ministry. With movement of staff and changes to record management systems we are unable to locate and provide you with early version of the guidelines.

The 2016 guidance 'Guidance for New Zealand Schools on Behaviour Management to Minimise Physical Restraint' included a definition of seclusion and advice that its use is no longer acceptable. The document is attached as **Appendix G**.

The 2016 guidance was then updated to align it with the new legal framework for physical restraint created through the Education (Update) Amendment Act 2017. These current Guidelines for Registered Schools in NZ on the Use of Physical Restraint (August 2017) are available at the following link:

<https://www.education.govt.nz/assets/Documents/School/Managing-and-supporting-students/Guidance-for-New-Zealand-Schools-on-Behaviour-Mgmt-to-Minimise-Physical-....pdf>

The guidelines make clear that the use of seclusion in schools is now prohibited by law, as well as outlines the new requirement to report incidents of physical restraint to the Ministry of Education.

n. Information about membership (names and organisations represented) of advisory groups or equivalent that the ministry has convened since 2000 to discuss or review guidelines or guidance related to physical restraint or seclusion/timeout rooms. Please also indicate the date range these groups were active, and the names these groups were known by.

A Restraint and Seclusion Advisory Group was convened for the first time in June 2015 to consider the use of seclusion and restraint in schools, and to investigate best practice models. The Advisory Group was made up from representatives from the following organisations:

- New Zealand School Trustees Association
- Special Education Principals' Association
- New Zealand Principals' Federation
- Secondary Principals' Association of New Zealand
- New Zealand Post Primary Teachers Association
- New Zealand Educational Institute Te Riu Roa
- Child Youth and Family's High and Complex Needs Unit
- Ministry of Health, and
- Ministry of Education.

The Advisory Group met once or twice a month between June and October 2015.

By October 2015, two sets of draft guidelines had been formulated: '*Physical Restraint*' and '*Transitional Guidelines as we work towards the Elimination of the Use of Seclusion in New Zealand Schools*'. The draft guidelines were submitted to the Ministry to be finalised and disseminated.

The Advisory Group remained active in 2016, meeting in April and August to consider a number of matters including a training package to support schools with the proposed guidelines.

In October 2016, the Minister for Education directed the Ministry to work on ending the use of seclusion in schools as soon as possible. The two sets of draft guidelines were combined into one document and amended to reflect the change in approach. In November 2016, the Acting Secretary for Education wrote to all schools advising that the use of seclusion was no longer acceptable and the '*Guidance for New Zealand Schools on Behaviour Management to Minimise Physical Restraint*' was issued.

The Advisory Group then meet again in March and May 2017 to discuss matters including the implementation of the 2016 Guidance, the training package, the Education Update, and updating the guidance in response to the new legal framework for physical restraint created through the Education (Update) Amendment Act 2017.

The updated 2016 guidelines were then issued in August 2017 as *Guidelines for Registered Schools in NZ on the Use of Physical Restraint*.

Throughout this engagement, organisations represented on the Advisory Group remained unchanged, and was made up of representatives from:

- New Zealand School Trustees Association
- Special Education Principals' Association of New Zealand
- New Zealand Principals' Federation
- Secondary Principals' Association of New Zealand
- New Zealand Post Primary Teachers Association
- New Zealand Educational Institute Te Riu Roa
- the inter-agency High and Complex Needs Unit
- Ministry of Health, and
- Ministry of Education.

The Advisory Group has most recently met on September and November 2018, to discuss the latest refresh. Membership and participation has been extended to include Te Akatea NZ Maori Principals' Association, the New Zealand Area Schools Association, the Office of the Children's Commissioner, New Zealand Police and the Teaching Council of Aotearoa.

- o. Since 1 Jan 2016, correspondence from unions, union spokespeople, teacher representatives, and NZSTA related to the physical restraint guidelines, and any subsequent responses from officials or the minister.***

I have interpreted your request for correspondence as being for formal written correspondence received from unions, union spokespeople, teacher representatives and NZSTA related to physical restraint guidelines, and sent by the Ministry. Copies of this correspondence is attached as **Appendix H**. Information has been withheld under section 9(2)(a) of the Act, to protect the privacy of natural persons.

As required under section 9(1) of the Act, I have had regard to the public interest considerations favouring the release of the information withheld. I do not consider the public interest considerations favouring the release of this information are sufficient to outweigh the need to withhold it at this time.

Please note, the Ministry now proactively publishes OIA responses on our website. As such, we may publish this response on our website after five working days. Your name and contact details will be removed.

Thank you again for your email. You have the right to ask an Ombudsman to review this decision. You can do this by writing to info@ombudsman.parliament.nz or Office of the Ombudsman, PO Box 10152, Wellington 6143.

Yours sincerely



Katrina Casey
Deputy Secretary
Sector Enablement and Support