



# Report

**Date:** 13 May 2021

**Security Level:** IN CONFIDENCE

**To:** Hon Priyanca Radhakrishnan, Minister for Youth

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## Partnership Fund Board appointments

### Purpose of the report

- 1 This report outlines the options available to you to respond to the Partnership Fund Board (the Board) members' terms which expire on 30 June, while a proposal to Cabinet is developed to seek approval to disestablish the Board.

### Recommended actions

It is recommended that you:

- 1 **note** that you have agreed to disestablish the Partnership Fund Board [REP-21-3-239] and we are preparing a Cabinet paper for you to take to the Cabinet Social Wellbeing Committee on 4 August 2021
- 2 **note** four Board members' terms expire on 30 June 2021 before Cabinet agreement can be sought to disestablish the Board
- 3 **note** a decision on how to manage the transition must be taken to ensure stability for the Board and a quorum is maintained
- 4 **agree** to:
  - either**
    - 4.1 Option 1: allow the members' terms to continue past their expiry as a short-term measure until 31 December 2021 to allow for decisions to be taken on the outcome of the review (recommended)

**Agree/Disagree**
    - or**
    - 4.2 Option 2: present a noting paper to the Cabinet Appointments and Honours Committee to formally reappoint the Board members whose terms are ending, until 31 December 2021  

**Agree/Disagree**

- 5 **note** that subject to you indicating your preferred approach, the Ministry of Youth Development (MYD) - Te Manatū Whakahiato Taiohi will prepare communications to assist you in informing the Chair and members of your decision

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Melissa Cathro  
Policy Manager  
Child and Youth Policy

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Date

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Hon Priyanca Radhakrishnan  
Minister for Youth

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Date

## Background

- 2 In 2020, the Minister for Youth commissioned a review of the governance arrangements for the Partnership Fund Board to consider whether the arrangements were 'fit-for-purpose' in ensuring the Board was operating strategically and independently and whether the Board had the right resources and funding to deliver on its objectives [REP/20/7/751 refers]. The Ministry of Social Development (MSD) – Te Manatū Whakahiato Ora Child and Youth Policy team led this review.
- 3 In March 2021, the findings of the review noted that the policy intent of the Board did not align with the current operational implementation and proposed three high level approaches to help reorient the Board to better realise your strategic intentions [REP/21/3/239].
- 4 You asked for advice to re-establish the Board as a Youth Advisory Group ensuring youth voice in Government decision-making, with the Ministry of Youth Development (MYD) - Te Manatū Whakahiato Taiohi continuing to operationalise the investment of the Partnership Fund.
- 5 In April 2021 you were provided advice on the options to re-establish/repurpose the Board or s 9(2)(f)(iv) [REDACTED]. You have agreed to disestablish the Board, s 9(2)(f)(iv) [REDACTED].  
[REDACTED]  
[REDACTED]  
[REDACTED]

*To implement decisions made on the outcome of the review, Cabinet agreement is required to disestablish the Board*

- 6 The Board was established by a Cabinet decision in 2016 [SOC-16-SUB-0034 refers] recommending Ministers agree to the establishment of a partnership fund and that "MYD should continue as a function within the Ministry of Social Development, subject to significant changes to give effect to the new focus and a new non-statutory board or charitable trust to make decisions on the allocation of a new partnership fund." We advise that a Cabinet process is therefore required to seek agreement to disestablish the Board.
- 7 A Cabinet paper to seek Ministerial agreement to disestablish the Board is currently being developed. Given the time required to develop a Cabinet paper and the sitting calendar, the Cabinet process will not likely be complete until early August 2021. A timeline for the process is outlined in next steps.
- 8 s 9(2)(f)(iv) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- 9 Once Cabinet decisions are taken on the outcome of the review, MYD will prepare advice on the processes it will implement for a seamless transition to formally lead discussions with prospective partners on future Partnership Fund investments. s 9(2)(f)(iv) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

## **Four members' terms expire on 30 June 2021 before Cabinet can consider the proposal to disestablish the Board**

- 10 There are nine current Board members, however one Board member has stepped away from Board duties due to personal reasons. The terms of four members will expire on 30 June 2021. We are preparing a Cabinet paper for you to take to the Cabinet Social Wellbeing Committee (SWC) on 4 August 2021 proposing the disestablishment of the Board. Until Cabinet decisions are taken, the outcome of the review is still under active consideration and the Board will continue operating as it is currently.

- 11 Should Cabinet agree to the proposal, a transition away from the Board model will be required. A smooth transition will ensure relationships and networks built by the Board can continue to be maintained by MYD as it steps in to formally lead discussions with prospective partners on future Partnership Fund investments. There is a risk that should Cabinet agree to the proposal, Board members could perceive the disestablishment of the Board in bad faith. Therefore, a decision on how to manage the transition process for the members of the Board whose terms expire in June is needed.

**There are two possible options to manage the transition process for the members of the Board whose terms expire on 30 June 2021**

*Option one: allow the members' terms to continue past their expiry as a short-term measure until decisions are taken on the outcome of the review (recommended)*

- 12 In the absence of any governing legislation for this Board, we can refer to the Crown Entities Act 2004 (the Act) which is intended to provide a consistent framework for the establishment, governance, and operation of Crown entities. Section 32 of the Act provides for Crown entity Board members to continue in office beyond the expiry of their term until reappointed, a successor is appointed, or until members are informed in writing that they are not to be reappointed and no successor will be appointed at this time. This provision is a short-term measure only but provides some flexibility around the appointments process.
- 13 If you opted to apply that provision in this situation, the members whose terms are expiring would be notified that you intend to continue on their terms past expiry, until decisions are taken on the outcome of the review. Terms could potentially continue until 31 December 2021, to align with the terms of appointment of the remaining four members. Communications will be developed to support you in informing the Board of your decision not to formally reappoint members until there is certainty around the future direction of the review.
- 14 Continuing on members' terms would ensure that a quorum is retained, and the Board could continue to advise on the upcoming round of Youth Development F22 funding. Allowing for the continuation of members' terms also provides stability for the Board, and removes the need for members to go through a comprehensive appointments process.
- 15 There is a risk that in applying this provision and not undergoing a formal reappointment process, the members may feel a lack of clarity regarding their appointments and the direction of the Board. However, a carefully managed transition ensuring good communication with Board members may mitigate these concerns, with the assurance that continuing to invest in best practise youth development opportunities remains the focus of the Partnership Fund. Additionally, there is the risk if Board members do not express interest in continuing their term, the Board will no longer maintain a quorum. However, as financial delegations for the Partnership Fund sit with the General Manager, MYD, interruptions to funding decisions in the short-term are unlikely to occur. MYD and MSD will provide you with advice on next steps should this arise.

*Option two: present a noting paper to the APH to formally reappoint the Board members whose terms are ending, until 30 December*

- 16 Under the Board's current Terms of Reference, the process for formally extending the terms of Board members requires that the members of the Board whose terms are expiring are invited to apply to be reappointed. This option proposes that the four members with terms expiring are invited to reapply for a further term from 1 July 2021 to 31 December 2021. This would bring the terms of members of the Board whose terms expire on 30 June in line with the appointments of the remaining four members, and provide for continuity and stability for the Board until formal decisions are taken on the outcome of the review.

- 17 To formally reappoint members of the Board a noting paper would have to be taken to the Cabinet Appointments and Honours Committee (APH) as has been the process in the past. The paper would outline your intentions to continue the terms of the currently appointed members up until 31 December 2021, while the review is underway.
- 18 The APH process would ideally need to take place before 30 June 2021. Given the time constraints, this option proposes a truncated appointment process. As was the process for the last round of Board reappointments, MYD will run a closed expressions of interest (EOI) process and formally invite the current Board members to submit an application for reappointment. MYD will then run due diligence checks and convene an internal panel to make recommendations to you on the suitability of members for reappointment and their terms of appointment. You will be provided with a draft Cabinet paper to submit to APH for consideration in early June.
- 19 Providing formal assurance and stability to the Board as the review process is completed could be beneficial. It would follow best practice with regards to appointments, and it would allow the Board to maintain a quorum and to continue to advise on the upcoming round of Youth Development F22 funding. However, the APH process is resource intensive for Board members and MYD. Members would be required to undergo a fulsome appointments process within less time than is usually available which could potentially create some stress and inconvenience. In addition, formally reappointing members to the Board may be perceived as acting in bad faith when final decisions on the outcome of the review are communicated.

*We have assessed the possibility of allowing the four Board member's terms to expire with formal notice from you, however this approach is not recommended*

- 20 The Crown Entities Act 2004 outlines that a quorum for a meeting of the Board requires that a majority of members be present (if the Board has an odd number of members), and that no business may be transacted at a meeting of the Board if a quorum is not established.
- 21 In addition to the above, the Terms of Reference of the Partnership Fund Board specify that the Board will include a minimum of two young people for a quorum. Meaning at least five Board members are required for a Partnership Fund Board quorum, of which two must be young people.
- 22 As one Board member has stepped away from the Board due to personal reasons, allowing for the expiration of the terms of four members on 30 June 2021, would bring the number of young people represented on the Board below the required number. As such, allowing the four Board members' terms to expire would be in breach of the Board's Terms of Reference and this approach is not recommended.

## **Next steps**

- 23 Subject to your direction, communications will be prepared to assist you in your conversation with the Board Chair.
- 24 The next Board meeting is on 25 May 2021. We recommend engaging with the Board Chair at your earliest convenience. MYD are developing key messages to assist you with this discussion.
- 25 A Cabinet paper is being developed to seek agreement to disestablish the Board, with the intention of you presenting it to SWC 04 August 2021. We will continue to keep you informed as this work progresses. A proposed timeline for the Cabinet process is below.

| <b>Date</b> | <b>Action</b>                                 |
|-------------|---|
| 08 June     | Draft Cabinet paper to your Office for review |
| 14 -28 June | Departmental consultation                     |

|              |  |
|--------------|--|
| 01 July      | Updated version of the draft Cabinet paper sent to your Office for agreement to circulate for Ministerial consultation |
| 06 – 20 July | Ministerial consultation (Two weeks)   |
| 26 July      | Final Cabinet paper provided to your Office for approval to lodge  |
| 29 July      | Cabinet paper lodging  |
| 04 August    | SWC  |
| 09 August    | Cabinet  |

26 s 9(2)(f)(iv) [Redacted]

27 Officials are available to discuss the options outlined in this paper as required.

Report: REP/21/5/469

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