



## MEMO

**To:** David Wales  
**From:** Paul Scholey  
**Cc:** Saroja Casinader; 9(2)(a) Leo Trompetter  
**Date:** 7 February 2018  
**Subject:** Memorandum of Understanding between the Ministry of Education and the Ministry of Business, Innovation and Employment – Dispute Resolution Process

### Purpose

The purpose of this memo is to **seek your approval and signature** for the Memorandum of Understanding (MoU) between the Ministry of Education (MoE) and the Ministry of Business, Innovation and Employment (MBIE) to provide a panel of independent MBIE mediators to help parents, caregivers, whānau and schools resolve disputes which have been unable to be resolved through existing school and MoE processes.

### Background and Context

1. The MoE has been working with MBIE's Government Centre for Dispute Resolution, New Zealand School Trustees Association (NZSTA) and key stakeholders to design a Dispute Resolution Process to manage unresolved issues involving schools, parents, caregivers and whānau of children and young people aged five to 21 years with learning support needs.
2. The MoE has planned a phased approach to implementation to allow for the proposed process to be tested and evaluated (for approximately nine months). Phase 1 of implementation will begin in Marlborough/Nelson/West Coast, Whanganui/Manawatu, and Auckland.
3. The Dispute Resolution Process aims to enable, parents, caregivers, whānau, students with additional learning support needs and schools (the parties) to resolve issues, concerns and complaints quickly at a local level, with those most closely involved being supported to determine an appropriate resolution. These issues and concerns may relate to access, presence, participation or learning of students with learning support needs.
4. Existing school and MoE processes include providing a facilitator to help parties resolve their concerns and issues as soon as possible, and a review by the regional Director of Education to ensure that everything that could have been done has been done.
5. Where facilitation is not successful or the issue is unable to be resolved at the local level, the Ministry has entered in to the development of a suitable nationally contracted and locally delivered independent mediation service as part of the Dispute Resolution Process.
6. The mediation service will include a panel of independent mediators from MBIE for the three implementation areas to help parents, caregivers, whānau and schools resolve

disputes which have been unable to be resolved through existing school and MoE processes.

7. It is expected that there may be between 20 to 25 mediations during the phase 1 implementation period which will finish in September 2018.
8. The details of this arrangement, setting out the roles and responsibilities of the parties in relation to the operation of the mediation service during Phase 1 of the implementation, including funding arrangements, has been recorded in the MoU which is attached for your approval and signature.
9. The MoU has been negotiated between the Ministry and MBIE and has had legal advice and input from both Ministries.

### Resource and funding implications

10. It is expected that the mediations will be carried out either by MBIE employment mediators who have expressed an interest in carrying out this work and who might then be back-filled by mediators from MBIE's service provider panel.
11. Case Management will be carried out by MBIE case managers once a referral has been made. Case management will include contacting the parties, arranging dates, venues, travel, accommodation (if necessary) and allocating a mediator.
12. It has been agreed that MBIE will invoice MoE for the mediation services based on the rates of up to \$1,800 per mediator for each mediation plus reasonable travel and accommodation costs, and \$800 case management for each mediation.
13. Funding is available for the mediation services carried out by MBIE.

### Recommendation

It is recommended that you:

- a. **Agree/disagree** to approve and sign the attached MoU between the MoE and the MBIE to provide a panel of independent MBIE mediators to help parents, caregivers, whānau and schools resolve disputes which have been unable to be resolved through existing school and MoE processes.



12/2/18

David Wales  
National Director Learning Support



**MINISTRY OF EDUCATION**

*Te Tāhuhu o te Mātauranga*

## **Learning Support Dispute Resolution Service**

### **Memorandum of Understanding**

**Between**

**The Ministry of Education**

**And**

**The Ministry of Business, Innovation and  
Employment**

**January 2018**

## Memorandum of Understanding

**Parties:** The Ministry of Education (MoE)  
The Ministry of Business, Innovation and Employment (MBIE)

**Date:** January 2018

### *Purpose*

- 1 MoE has been working with MBIE's Government Centre for Dispute Resolution, New Zealand School Trustees Association (NZSTA) and key stakeholders to design a dispute resolution process to manage unresolved issues involving schools, parents, caregivers and whānau of children and young people aged five to 21 years with learning support needs.
- 2 MoE has planned a phased approach to implementation to allow for the proposed process to be tested and evaluated (for approximately nine months). Phase 1 of implementation will begin in Marlborough/Nelson/West Coast, Whanganui/Manawatu, and Auckland. The three implementation areas may not all start at the same time.
- 3 The dispute resolution process aims to enable, parents, caregivers, whānau, students with additional learning support needs and schools (the parties) to resolve issues, concerns and complaints quickly at a local level, with those most closely involved being supported to determine an appropriate resolution. These issues and concerns may relate to access, presence, participation or learning of students with learning support needs.
- 4 Existing school and MoE processes include providing a facilitator to help parties resolve their concerns and issues as soon as possible, and a review by the regional Director of Education to ensure that everything that could have been done has been done.
- 5 Where facilitation is not successful or the issue is unable to be resolved at the local level, MoE wants the option of a mediation service to be offered to the parties by the Director of Education for the region.
- 6 MoE and MBIE have discussed the development of a suitable nationally contracted and locally delivered

independent mediation service as part of the dispute resolution process.

- 7 The mediation service will include a panel of independent mediators from MBIE for the three implementation areas to help parents, caregivers, whānau and schools resolve disputes which have been unable to be resolved through existing school and MoE processes.
- 8 MoE has accepted an offer by MBIE to provide a panel of independent mediators during phase 1 of the implementation, and various other services that support the mediation service.
- 9 This memorandum records the roles and responsibilities of the parties in relation to the operation of the mediation service during phase 1 of the implementation.

### **Roles and Responsibilities**

- 10 MBIE will:
  - i. Provide to MoE a panel of mediators who are part of their mediation team for the three phase 1 implementation areas based on a role description provided by MoE (see appendix 1 attached)
  - ii. provide mediation services through a panel in accordance with the purpose, objectives and timeframes of the dispute resolution process (see appendix 1 attached)
  - iii. use trained, accredited, experienced mediators who are members of an appropriate professional body and who have knowledge of the New Zealand education system, special education/learning support and cultural issues (see appendix 1 attached)
  - iv. monitor the quality of the mediation service against the established service standards (see appendix 1 attached)
  - v. provide a report to the MoE on the outcome of each mediation while maintaining the confidentiality of the parties
  - vi. notify the MoE immediately of any matter that it becomes aware of that could affect the mediation service or the safety of a child or young person
  - vii. monitor and report on the effectiveness of the dispute resolution process to assist the MoE to evaluate the phase 1 implementation and development to expand the service nationally (see appendix 1 attached)
  - viii. have the capacity to manage an estimated 20 to 25 mediations during the phase 1 implementation (the

parties will meet and discuss if demand is for more than 25)

- ix. invoice MoE for the mediation services based on the rates of up to \$1,800 per mediator for each mediation plus reasonable travel and accommodation costs, and \$800 case management for each mediation within fifteen working days of the mediation. Case management will include contacting the parties, arranging dates, venues, travel, accommodation (if necessary) and allocating a mediator
- x. provide a final report about the individual mediation services provided, including all final invoices to MoE by 28 September 2018
- xi. carry out any other function of the mediation process as required under the purpose and objectives (see Appendix 1 attached).

11 MoE will:

- i. work collaboratively with MBIE to resolve any operational issues that may arise, including if demand for the service is more than anticipated by this memorandum
- ii. pay MBIE the amounts invoiced for each mediation including reimbursement of reasonable travel and accommodation expenses (if required) on invoice
- iii. provide a half day (four hours) training session to MBIE mediators to increase their knowledge and understanding of the New Zealand education system and special education/learning support before the start of the phase 1 implementation
- iv. organise quarterly meetings during the phase 1 implementation to share and discuss the knowledge gained to manage any identified concerns and areas for improvement
- v. provide MoE contact details of key people in national and regional offices to MBIE who can provide information, support, and if required, attend the mediation meetings
- vi. consult with MBIE and obtain agreement before making public any information about the mediation service.

## **Publications**

- 12 The parties (MoE and MBIE) will not comment publicly about the dispute resolution process in general or the mediation service specifically without consultation with the other party.

## **Confidentiality**

- 13 Subject to a request under the Official Information Act 1982, each party agrees that it will not, without the prior written consent of the other, disclose details of this memorandum to any person other than to the officers, employees and advisors of either party. If either party receives an Official Information Act request which would include release of this memorandum, it will notify the other party before it makes the decision to withhold or release.
- 14 Both parties will comply with the Privacy Act 1993 when undertaking their roles and responsibilities under this memorandum.

## **Relationship Management**

- 15 For the management of this memorandum MoE will be represented by: Paul Scholey, Manager Strategic Design
- 16 For the management of this memorandum MBIE will be represented by: National Manager, Dispute Resolution, Employment Services

## **Review**

- 17 This memorandum will be reviewed six months after its start date and then again at the end of the phase 1 implementation in September 2018. The representatives for each party will arrange review meetings to discuss:
- the reports provided to the MoE on the outcome of each mediation case
  - early implementation issues, sharing of knowledge, and information about access to and delivery of the mediation service.

## **Variation**

- 18 This memorandum may be varied by written agreement following the signing by both parties.

**Disagreements between the Parties**

- 19 The parties agree to work in good faith, and to attempt, to the fullest extent that is reasonably possible, to resolve disagreements in a timely and mutually satisfactory manner.
- 20 If a disagreement needs to be resolved then the parties agree that this will be resolved through negotiation.


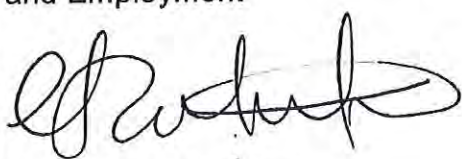
**Termination/Cancellation**

- 21 This memorandum shall terminate on delivery by MBIE of its final report on the service to MoE, or such earlier date as the parties may agree. Either party may cancel this Memorandum by giving the other party three months' notice. The parties will consult each other as to any steps necessary to ensure an orderly process for any transfer of the mediation service (and other services provided).

**Memorandum Not Binding**

- 22 The parties acknowledge that this memorandum is intended as a statement of mutually agreed intentions. It is not intended to create legally enforceable rights or obligations. However, the parties agree that they will observe and perform their obligations under this memorandum in good faith. The provisions of this memorandum are subject to any Government direction or policy change.

SIGNED by

<p>David Wales National Director, Learning Support Ministry of Education</p>  <p>Date: 12/2/18.</p>	<p>Cara Takitimu National Manager Ministry of Business, Innovation and Employment</p>  <p>Date: 26/1/18</p>
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## **Appendix 1**

### **Mediation Service – Service Description**

#### **Background**

The Ministry of Education has worked in partnership with the New Zealand School Trustees Association (NZSTA), and with advice and guidance from MBIE's Government Centre for Dispute Resolution (GCDR) since 2015 to develop the DRP. Support for this work has also been provided by representatives from the Ministry of Education regions, New Zealand Principals' Federation (NZPF), Secondary Principals Association of New Zealand (SPANZ) and Parent to Parent as well as from the education sector, Disabled Person's Organisation, parent support groups and teacher unions.

The mandate to develop this process resulted from the Review of Special Education 2010, and the work programme approved by Cabinet in October 2010 to address the recommendations from the review. This work programme known as *Success for All - Every School, Every Child*, contributed to the Ministry's vision of a fully inclusive education system that would meet the needs of all students.

The work to develop this process has also been supported by feedback to the 2015 Education and Science Select Committee Inquiry into the identification and support for students with significant challenges of dyslexia, dyspraxia and autism spectrum disorder, and the 2016 Education (Update) Amendment Bill.

The complaints made to the Human Rights Commission and the Office of the Children's Commissioner have further highlighted the need for a dispute resolution process.

#### **Purpose**

The Ministry of Education's dispute resolution process aims to enable schools, parents, caregivers, whānau and students with additional learning support needs (the parties) to resolve issues, concerns and complaints quickly at a local level, with those most closely involved being supported to determine an appropriate resolution. These issues and concerns may relate to access, presence, participation and learning support for students.

*Note: Complaints relating to schools, MoE staff, learning support services and resourcing, and Special Education School Transport Assistance (SESTA) are out of scope of the dispute resolution process as there are existing processes for dealing with these issues.*

#### **Key Components of the dispute resolution process**

The dispute resolution process will enable:

**Prevention** - clear and accessible information for all parties on how to raise and address concerns and issues.

**Facilitation** - access to MoE trained facilitators to assist the parties to develop successful solutions if issues or concerns remain unresolved.

**Review** - where agreement between the parties cannot be reached a review by the local Director of Education to ensure that everything that could have been done has been done.

**Mediation** - as part of the review, the Director of Education may approve an independent mediation service for the parties which is contracted through the Ministry of Business, Innovation and Employment (MBIE).

Note: The parties to a dispute must agree to be part of the dispute resolution process. The dispute resolution process is not binding on the parties and is focused on early resolution ie preventing issues and concerns from escalating into complaints and disputes. Parents, caregivers, whānau and students can contact the Human Rights Commission, Office of the Children's Commissioner or other agencies for assistance at any time.

### **Objectives**

The dispute resolution process is intended to provide:

- additional support to schools, parents, caregivers, whānau and students with learning support needs to jointly solve issues that are not easily resolved through the schools' processes for managing concerns, issues and complaints
- the parties with a responsive, local and more informal process than resorting to legal proceedings or complaints to agencies such as the Human Rights Commission
- a consistent national process that is guided by the following best practice principles:
  - Student focused and accessible – clear, consistent, widely promoted and includes the student's voice as appropriate and culturally suitable for the parties involved.
  - Objective and fair – manages conflicts of interests, separation of roles, privacy and confidential information.
  - Effective – clear process for providing the right dispute resolution response at the right time by skilled and experienced staff. Data collected is used to improve the system and identify issues to inform service improvement and policy more generally.

- Efficient - one point of contact (nationally and in the regions) and a centralised process and database/system to manage and collect data.
- Accountable – led by the MoE and structured in a way to ensure tracking and follow up with the parties throughout the process.

### **Service location**

From January 2018, there will be a phased approach to the implementation of the dispute resolution process in three regions to allow for the proposed service to be evaluated and adjusted if required before national implementation in 2018. Phase 1 will be implemented in Auckland, Whanganui/Manawatu and Marlborough/Nelson/West Coast.

### **Mediator - role description**

Mediators will work in accordance with the purpose and objectives of the dispute resolution process. They will use accepted best practice and professional standards in mediation to assist the parties to reach mutually acceptable settlement of their issues, concerns and complaints.

Mediators will have the following skills, knowledge, qualifications and person qualities:

- Current membership of an approved dispute resolution organisation eg. Arbitrators' and Mediators' Institute of New Zealand Inc., Resolution Institute and New Zealand Law Society.
- Experience in resolving disputes as mediators.
- Ability to communicate and work effectively with others who have diverse cultural backgrounds and languages.
- Experience in using interpreters to communicate with the parties.
- Interest in the education sector and special education/learning support environment.
- Understanding of relevant human rights, privacy, education law and the protection of confidential information.
- Ability to provide mediation services in a way that preserve relations between the parties involved.
- Ability to be objective, impartial and be able to judge when further information and support may be needed.
- Ability to provide information to parties about other services and support available to them.

### **MoE role – engaging the mediation service**

At the point when there are issues about a child or young person's learning support needs not being met quickly or resolved early at a local level, the parties may request 3<sup>rd</sup> party facilitation by MBIE's mediation service and case management process.

The MoE facilitator will review initially all the issues and actions that have taken place so far which may be related to access, presence, participation and learning support, and then provide this to the Director of Education for final review.

The Director of Education will review the information provided to ensure that everything has been done that should be done. Following this consideration, the Director of Education will make the decision to engage MBIE's mediation service and case management process. This will only occur if all parties, including the student, are agreeable to mediation.

At this point, MBIE's mediation service and case management process will commence.

The case manager will contact the parties, providing information about the mediation service, ensuring that all the relevant people are consulted and ensuring that the voice of the child or young person is included as appropriate. As part of the mediation process all options for resolution are explored and discussed with the parties. The mediator will write up the resolution agreement including agreed actions for signing by the parties.

The mediator will provide to the Director of Education by email the outcome of the mediation process while maintaining the confidentiality of the parties.

### **Mediator role - description and deliverables**

The underpinning principles of mediation is that it is voluntary, confidential, that it focuses on empowerment of the parties, and that it is carried out by an impartial person.

The mediator will assist the parties to set out the issues from each of their perspectives, identify the issues that need to be discussed, facilitate that discussion, and then help parties look at options for resolving the matter that meets all their needs. If agreement is reached the mediator will draft up the terms of settlement for signing by the parties.

### **Service Standards**

#### **Quality**

- At least 75% of issues, concerns and complaints referred to the mediation are resolved.

- Less than 10% of issues, concerns and complaints referred to mediation are progressed to the Human Rights Commission or the courts by one or both of the parties.
- 85% of parties who respond to client satisfaction surveys or evaluation interviews are satisfied with the mediation service.

### **Timeframes**

- 95% of referrals to the mediation service are acknowledged within three working day/s of receipt (acknowledgement must include next steps, likely timeframe for this to occur and a point of contact).
- 95% of mediations take place within 20 working days of referral by the MoE.

### **Mediation process**

- Each mediation session will be for up to 8 hours unless otherwise approved by the Director of Education.
- If the parties agree that a further mediation would be useful, the Director of Education can approve a follow up mediation session on the same matter to be held within six months of the first session.
- If a different dispute arises and the Director of Education considers that mediation could be useful then this will be considered as separate from the previous matter.

### **Ongoing supervision and professional development**

- Mediators will follow good practice policies and processes about the mediation service managed by MBIE.
- Mediators will receive regular supervision and ongoing professional development provided by MBIE.
- The MoE will provide a half day (4 hours) training session to mediators before the start of phase 1 implementation to increase their knowledge and understanding of the New Zealand education system and special education/learning support environment.

### **Requirement for escalation of issues**

- Mediators will notify the MoE immediately of any matter that could affect the mediation service or the safety of the child or young person.

### **Record keeping**

- Mediators will ensure that all referrals by the MoE to the mediation service are recorded, along with related information and the notes

from the mediation meeting and signed resolution/settlement agreement with the parties.

### **Reporting**

- Mediators will provide reports to the MoE on the outcome of each mediation using the reporting template provided by MoE while maintaining the confidentiality of the parties.
- Mediators will take part in an evaluation of the mediation service at the end of the phase 1 implementation.
- The MoE will meet with MBIE quarterly during phase 1 implementation to discuss the mediation service including highlights and trends, emerging issues and risks, and access to and delivery of the service.
- MBIE will provide a final report on the service provided, including all final invoices to MoE by 28 September 2018.

### **Evaluation**

The evaluation of the phase 1 implementation dispute resolution process will include:

- surveying those accessing the mediation service to assess their satisfaction with the process and satisfaction with the outcome
- mediators' compliance with the timeframes within which to provide and deliver the mediation service
- sharing feedback from the mediators and MoE staff, achievements, challenges and how these can be applied to the future national expansion of the dispute resolution process
- opportunities and recommendations for the Phase 2 expansion.

### **Complaints about the mediation service**

Complaints will be dealt with according to the MBIE mediation service standard complaints policy and process.

### **Budget**

The mediation service is provided within the agreed budget forecast based on agreed per mediation costs. It is acknowledged that the number of referrals to mediation is demand driven.

### **National and regional contacts:**

National mailbox: [disputeresolution.process@education.govt.nz](mailto:disputeresolution.process@education.govt.nz)

National office: Akari Miyamoto, Advisor, Learning Support,  
[akari.miyamoto@education.govt.nz](mailto:akari.miyamoto@education.govt.nz)

Auckland office: 9(2)(a) [redacted] Manager Learning Support,  
9(2)(a) [redacted] [@education.govt.nz](mailto:[redacted]@education.govt.nz)

Whanganui/Manawatu: Julie Hook, Learning Support Manager,  
[julie.hook@education.govt.nz](mailto:julie.hook@education.govt.nz)

Marlborough: 9(2)(a) [redacted] Learning Support Manager,  
9(2)(a) [redacted] [@education.govt.nz](mailto:[redacted]@education.govt.nz)

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# Variation to the Memorandum of Understanding (MoU) January 2018

## Dispute Resolution Process (DRP)

January 2019

Ministry of Education (MoE) and the  
Ministry of Business, Innovation and  
Employment (MBIE)

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### Current Memorandum of Understanding Details

Memorandum of Understanding Title	Memorandum of Understanding (MoU) between the Ministry of Education (MoE) and the Ministry of Business, Innovation and Employment (MBIE) January 2018 (attached)
Supplier Name	The Ministry of Business, Innovation and Employment (MBIE)
Description of Service	<p>The current and signed MoU, January 2018, outlines an understanding between parties to provide:</p> <ul style="list-style-type: none"><li>• additional support to schools, parents, caregivers, whānau and students with learning support needs to jointly solve issues that are not easily resolved through the schools' processes for managing concerns, issues and complaints</li><li>• the parties with a responsive, local and more informal process than resorting to legal proceedings or complaints to agencies such as the Human Rights Commission</li><li>• a consistent national process that is guided by the following best practice principles:<ul style="list-style-type: none"><li>▪ Student focused and accessible</li><li>▪ Objective and fair</li><li>▪ Effective</li><li>▪ Efficient</li><li>▪ Accountable</li></ul></li></ul>
Start date ( Memorandum of Understanding)	<p>Term 1, 2018 for a phased approach to implement the DRP in three regions (Auckland, Whanganui-Manawatu and Marlborough/Nelson/West Coast) to allow for the mediation service to be evaluated and adjusted if required before national implementation in 2018.</p> <p>Provide a final report about the individual mediation services provided, including all final invoices to the Ministry by 28 September 2018.</p>
Current end date	28 September 2018
<b>APPROVAL FOR EXTENSION</b>	
Variation start date	4 February 2019, to implement the DRP in three additional sites (Wellington, Hawkes Bay/Gisborne and Bay of Plenty/Rotorua/Taupo) along with existing sites (Auckland, Whanganui/Manawatu and Marlborough/Nelson/West Coast) to evaluate and adjust if required before national implementation in later 2019.

	Provide a final report about the individual mediation services provided, including all final invoices to the Ministry by 28 June 2019.
Revised end date	28 June 2019
Circumstances and rationale for the variation	<p>Variation to the signed Memorandum of Understanding, January 2018, is due to no requests for mediation being received in the three original sites.</p> <p>The Ministry's request to MBIE to extend the timeframe to implement the DRP was agreed on 8 May 2018.</p> <p>The extension of time, and implementing the DRP in three additional sites could increase the number of mediations (currently estimated at 20-25).</p>
<b>BUDGET</b>	
No change to the signed MoU, 2018	<p>No change for service provision and payment has been made to the Memorandum of Understanding, signed January, 2018.</p> <p>As per the signed MoU:</p> <ul style="list-style-type: none"> <li>• Invoice the Ministry of Education for the mediation services based on the rates of up to \$1,800 per mediator for each mediation plus reasonable travel and accommodation costs, and \$800 case management for each mediation within fifteen working days of the mediation.</li> <li>• Case management will include contacting the parties, arranging dates, venues, travel, accommodation (if necessary) and allocating a mediator</li> </ul>
<b>VARIATION APPROVAL</b>	
Owners: Memorandum of Understanding, January 2018	<p><b>Agree and sign</b> this variations to the signed MoU, January 2018 and to:</p> <ul style="list-style-type: none"> <li>• Acknowledge agreement by MBIE on 8 May 2018, for the MoU to be extended to 28 June 2019.</li> <li>• Acknowledge that expanding the DRP to three additional sites could increase the number of mediations (currently 20–25).</li> <li>• Acknowledge that the Ministry will meet with MBIE in January 2019 to discuss capacity to provide a mediation service to additional sites after 4 February 2019.</li> </ul> <p><b>Susan Howan</b>, Associate Deputy Secretary Strategy and Implementation, Ministry of Education Signature:</p> <p><b>Cara Takitimu</b>, National Manager, Ministry of Business, Innovation and Employment Signature:</p>



# **Implementation Plan**

## ***Dispute Resolution Process***

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## Document information

### Template Properties

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Version Number	Date	Summary of Changes	Changes Marked

### Distribution List

This version of the document has been distributed to:

Name	Title	Group/ Team
David Wales	National Director	Learning Support Leadership Group
9(2)(a)	General Manager	
Nicky Hampshire	General Manager	
9(2)(a)	Deputy Director	

### Formal Sign Off

Name	Title	Signature	Date of Issue	Version
9(2)(a)	General Manager, System Innovation and Strategic Design, Learning Support			

### Related Documents

Title	Author	Location
Learning Support Service Delivery (Testing model) Bay of Plenty/Wairiki Region	Learning Support Update Programme Team	Te Tāhuhu

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## 1. Plan Description

Further to the memo to the Learning Support Leadership Group considered at their meeting on 13 September, this Dispute Resolution Process (DRP) Implementation Plan provides details of proposed activities and costs relating to the DRP implementation in the three phase 1 areas – Marlborough, Whanganui/Manawatu and Auckland for consideration and approval by the Learning Support Leadership Group.

## 2. Assumptions

- Project scope - is based on the terms of reference agreed by the DRP Working Group (NZSTA, NZPF, SPANZ, Parent to Parent and Ministry representatives) on 26 November 2015.
- DR process - the project is based on the recommendation report dated 12 April 2016 from the Government Centre for Dispute Resolution including best practice principles, process and monitoring and evaluation.
- Staffing - 1.0FTE has been allocated to the DRP project across 2 roles for 2017/18.
- Facilitation - support to parents and schools will be provided by Ministry staff who will be trained in facilitation.
- Support for parents to raise and resolve issues with schools (estimated costs from Parent to Parent for phase 1 were \$100,000 - \$150,000) is unable to be funded. Support for parents will be provided, as part of business as usual, by Ministry regional staff and local parent support groups who already work with families.
- New definition of “students with special education needs” - NZSTA has asked the Ministry for the new definition and advised that the DRP should be for students who are accessing or eligible to access learning support. The suggested wording is: “students who require additional support to be present, participate, learn and achieve.”
- Revised timeline – the project was scheduled to be implemented in September in phase 1 regions but the timeline has been extended to include a soft launch (enhanced business as usual) in term 1, 2018 (to be confirmed with Auckland) due to the work still to be undertaken (please refer revised implementation plan on page 9). The period for testing and evaluating this process has also been extended to 28 September 2018.
- Mediation costs – the number of referrals to mediation services have been estimated as they will be demand driven.

## 3. Plan Pre-requisites

- Need for all elements of a project framework to be in place including a steering group, sponsor and resources to support keeping the project on track to its original intent, scope and purpose.

- Managing expectations from external stakeholders such as the HRC, OCC and Ombudsman (who have also expressed a strong interest in being part of this work).
- Managing expectations from parent support groups and disabled persons organisations (some of whom have asked for a code of rights, code of practice or a tribunal to assess complaints).

#### 4. Outcomes

The DRP outcomes developed by the working group are as follows:

- Families and schools understand what they can expect and what they can do if things are not working well at school.
- School culture, policies and procedures and practices provide pathways to resolve issues as they arise.
- Ministry has a transparent process to make timely decisions about when to deescalate or escalate an issue.
- Unresolved issues are managed through an independent, culturally appropriate mediation process that is timely and meets industry best practice standards.
- The school ensures enrolment, attendance, participation, learning and achievement for every student.
- Parents know they can access other options such as Crown agencies or the legal system at any time.

#### 5. Benefits

- Information and support for families, whānau, and schools to manage unresolved issues involving students who need additional learning support quickly and at a local level.
- Avoids the need for costly legal proceedings or complaints to agencies such as the Human Rights Commission which can take time, although these will still be options for families and students to access should they wish.
- The agreed process will focus on prevention of disputes so that children and young people who need additional support can attend school fulltime, participate, learn and achieve alongside their peers.

#### 6. Dependencies

The following dependencies were identified during the planning for implementation:

- Agreement with and approval from NZSTA on the draft process.
- Support from NZPF and SPANZ to start implementation in three phase 1 areas.
- Agreement from Parent to Parent in principle to start implementation.
- Support from local NZSTA, NZPF, SPANZ and parent support groups in each of the phase 1 areas who will be part of the regional implementation team.



- Training in place for Ministry staff identified as able to provide facilitation if requested by parents and schools.
- Information resources in place for schools/boards, parents and whānau, students, Ministry staff, regional implementation teams.
- MoU signed with MBIE for independent mediation services.
- JIRA system set up to include functionality for DRP data recording and reporting
- Funding is in place for training for Ministry staff on DRP facilitation, information resources development, support from national office, regional meetings, independent mediation services and an evaluation.

## 7. Budget

### • Current budget for phase 1

Item	Details	Cost
MBIE mediation services	\$8000 x 20 for 9 months	\$160,000

### • Revised budget for Phase 1

Item	Details	Cost
MBIE mediation services	\$4000 x 30 for 9 months	\$120,000
Training – Orb Solutions (facilitation training for MoE staff in three areas)	3 regions (10 participants per workshop) x 4 workshops (2 in Auckland)  \$4000 per workshop	\$16,000
Information resources (parents, schools, students, MoE staff, regional implementation teams, website, FAQs)  Note: design services are now provided in-house by MoE.	Writer (contractor)  \$100 per hour x 3 weeks + printing	\$15,000
Translation of information resources including NZSL, easy read		\$5,000
Evaluation	Process and outcomes evaluation over 9 months	\$48,000

Systems development	Developing process flowchart, building the form, testing, pre-production support, making changes and support after going live	\$20,000
Travel and meetings	Travel to regions, working group meeting/s, regional implementation teams meetings	\$5,000
<b>Total</b>		\$229,000
<b>Current funding provided</b>		\$160,000
<b>Balance required</b>		\$69,000

**Note:** If referrals to the mediation service are less than projected because they will be demand driven, we may be able to carry over some of the evaluation costs to 2018/19.

## 8. Risks

Issues and Risks	Mitigation and Opportunities
The time lag between the process design and implementation has created a broadening / lack of clarity of roles in the DRP within the working group. This has impacted on the relationship with Parent to Parent and resulted in raised expectations.	Work with NZSTA with support from the Learning Support Leadership Group to agree on the process.  Continue to work with Parent to Parent to maintain the relationship even if they do not wish to be part of implementation.
The time lag between the process design and implementation has also resulted in change of personnel in key stakeholder and partner organizations which is having an impact on relationships and the ability to progress this work.	Keep NZPF and SPANZ informed of the final process and implementation plan.
Need for all elements of a 'project' to be in place including a steering group, sponsor and resources to support keeping the project on track to its original intent and purpose.	The Learning Support Leadership Group to provide feedback on this draft plan to support and progress this work.
External stakeholders such as the HRC, OCC and Ombudsman have also expressed a strong interest in being part of this work.	The expectations of all stakeholders will need to be managed with support from the sponsor and guidance from the Learning Support Leadership Group.

Issues and Risks	Mitigation and Opportunities
<p>Funding has been set aside for 2017/18 to cover an estimated 20 mediations from August 2017 (when phase 1 was due to start) – end of June 2018 (with a potential extension of a further three months). Thought demand is unclear extending the DRP across the whole of Auckland will have an impact on the budget. There are high expectations from groups in the community who may wish to test the process.</p> <p>Other costs, including the evaluation have not been included in the funding set aside for 2017/18. The evaluation will inform what changes need to be made before extending the DRP to other regions in 2018/19.</p>	<p>This has been raised with the Auckland management team to consider in their planning.</p> <p>A review of funding and resources will need to be undertaken based on this plan identified to progress this work now that better information is available on project requirements including the implementation and evaluation.</p>
<p>Feedback from parents indicates that the DRP is seen as biased towards boards and that parent support groups feel they are not funded to support parents to resolve issues with schools, unlike the Ministry, principals and boards who are funded for the work they do.</p>	<p>Continue to keep Parent to Parent informed on the implementation and evaluation of DRP with support from the Learning Support Leadership Group.</p> <p>The Phase 1 evaluation will indicate if and what changes need to be made to the DRP before being extended to other regions across the country.</p>

## 9. Controls and Monitoring

Project Owner: David Wales

Project Sponsor: 9(2)(a)

Project Manager: Paul Scholey (includes finalising DR Process with NZSTA)

Project Advisor: 9(2)(a)

Project Lead: Saroja Casinader

Project team: Akari Miyamoto, Leo Trompetter, Saroja Casinader

Reporting: Learning Support Leadership Group –

- September 2017 – revised DRP implementation plan
- December 2017 – update prior to go live in Term 1, 2018
- March 2018 – Update on implementation
- As required.

## 10. Revised Project Schedule

Task	Completed by	Responsibility	Approval
Finalise DRP with NZSTA	30 Sept 17	Paul	GM
Work with MBIE and MoE Legal to finalise MoU with MBIE re mediation services	15 Oct 17	Leo	Manager
Work with Orb Solutions to develop training workshop on facilitation for MoE staff  Draft contract for Orb Solutions to deliver in 3 regions	15 Oct 17	Saro, Akari	Manager
Update Comms plan. Groups include: NZPF, SPANZ, HRC, CC, Ombudsman's office, ERO, Education Council, Minister (EWU), workshop participants (wider stakeholder group)	5 Oct 17	Saro	GM
Confirm and contract writer. Consult with MoE Comms team.	5 Oct 17	Saro	Manager
Develop information resources (parents, schools, students, MoE staff (information and practice guidance), regional implementation teams, Te Tāhuhu, MoE website, EasyRead, FAQs). Consult with MoE Comms team, NZSTA, OCC, regions.	31 Oct 17	Saro, Akari	Manager
Translate resources into main languages & NZSL	15 Nov 17	Akari	Manager
Update MoE website & Te Tāhuhu. Consult with MoE Comms team.	31 Oct 17	Akari	Manager
Develop information resource and organise training day for MBIE mediators	31 Oct 17	Leo	Manager
Work with IT to develop form, test and implement in JIRA to record and report on data from the DRP	31 Oct 17	Akari	IT, Manager
Work with EDK on developing an evaluation plan.	31 Oct 17	Akari	Manager
Draft contract for evaluator to implement evaluation plan	30 Nov 17	Akari	Manager


Task	Completed by	Responsibility	Approval
Provide support for regions in phase 1 (DRP mailbox has been set up to manage queries but regular travel to regions and regular contract will be necessary to manage any issues during initial implementation.	Ongoing	Saro, Akari	Manager

**Note:** A tender process will need to be run in 2018/19 to source independent mediation services and facilitation training for MoE staff. Orb Solutions are providing training for the regions in phase 1 and MBIE have agreed to provide mediation services for phase 1. This provides an opportunity to implement and evaluate the DRP so that any required changes can be made and we will be in a better position to project numbers and estimate training requirements for phase 2 (extending the DRP to the rest of the country in 2018/19).

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## MEMO

**To:** Sector Enablement and Support (SE&S) Management Team  
**From:** David Wales, National Director, Learning Support   
**Date:** 15 February 2018  
**Subject:** **Implementation of Phase 1 of the Learning Support Dispute Resolution Process**

### Purpose

1. As we finalise preparations for implementation, this memo asks the SE&S Management Team to:
  - Note the key information about the Learning Support Dispute Resolution Process (the DRP)
  - Note the summary of progress in implementing Phase 1 of the DRP in three regions
  - Note that we will report back to you in October 2018 with information and analysis on how the DRP has worked in the Phase 1 regions to support your decision making on further rollout.

### Key information about the DRP

2. The DRP aims to support students who need additional support to learn, their parents, and schools to work together on challenging issues that have not been able to be resolved at a school level. It provides a fair, quick and local process, which is more informal than legal proceedings or complaints to agencies such as the Human Rights Commission (the HRC).
3. Appendix 1 contains more detailed information about the DRP including its key components, processes, and roles and responsibilities.
4. The DRP supports schools' complaints processes, the SE&S Complaints process and the Effectively Supporting Providers Guide by providing:
  - information to students, their families and whānau on how to resolve problems at school;
  - information to schools on the DRP;
  - an opportunity to resolve issues between students, parents and schools through meetings facilitated by Ministry staff who have received relevant training;
  - a review by the regional Director of Education to ensure that everything that should be done to assist the student, family and school has been done;
  - a referral to independent mediation by the Director, if they consider this necessary to resolve the issues.
5. The DRP is intended to enhance schools' own processes, rather than replace them. It should also enhance the Ministry's business-as-usual engagement with schools, students, and families. The DRP provides an additional avenue of support to help resolve issues that are brought to the attention of the Ministry.
6. It is anticipated that providing a specific framework will help Ministry staff manage early, potentially long-term, challenging issues that have previously gone directly to outside avenues for resolution. Over time we expect that the use of the process, and investing in facilitation training for the wider SE&S teams, will result in greater trust in the Ministry and a reduction in

staff time supporting families, whānau and schools to resolve issues and concerns that are not able to be resolved at a school level.

7. The outcome of the DRP is to ensure that all students who need additional support to learn are able to enrol, attend, learn and participate at school.
8. The Ministry has developed the DRP in partnership with the New Zealand School Trustees Association (NZSTA) and with input from the DRP Working Group (the Working Group), which was made up of representation from Parent to Parent, the New Zealand Principals' Federation, the Secondary Principals Association of New Zealand and Ministry regional representatives.
9. The Government Centre for Dispute Resolution provided advice and guidance and facilitated consultation meetings with NZSTA, the Working Group and other key stakeholders, including disabled peoples organisations, parent support groups, principals' associations and teacher unions, in order to develop this process together. The HRC has also reviewed the DRP to ensure that it aligns with Human Rights Conventions and the process meets best practice for complaints and dispute resolution.
10. There is strong interest in the implementation of the DRP from the HRC and the Office of the Children's Commissioner (the OCC) as students, families and schools continue to request information and support to resolve issues that have been unable to be managed at a local level.

### **Summary of progress in three trial regions**

11. In April 2017, Directors in three regions agreed to be part of Phase 1 and identified key areas for implementation – Marlborough (now broadened to Nelson, Marlborough and West Coast), Whanganui and Manawatu, and Auckland Central (now broadened to the whole of Auckland).
12. Phase 1 regions have selected staff to be trained in facilitating challenging conversations. These include education advisors, education managers, SAF practitioners, service managers, and Learning Support specialist staff including early intervention staff. A facilitation skills workshop for these staff has been provided by Orb Solutions for the three trial regions.
13. A Memorandum of Understanding (MoU) has been signed with the Ministry of Business, Innovation and Employment (MBIE) to provide Ministry of Education funded mediation services for Phase 1. The Director of Education can approve a referral to the mediation service for situations that have been escalated.
14. Next steps in the DRP work plan to be completed by 16 March 2018 include:
  - development of internal processes and links with stakeholders to support implementation of the DRP in the Phase 1 regions;
  - liaising with the Directors of Education and Managers Learning Support in the Phase 1 regions, and NZSTA to review and finalise the information resources for students, families and schools;
  - working with the Ministry's Web Services team to develop the JIRA system for recording DRP information;
  - working with the Ministry's Evidence, Data and Knowledge (EDK) team to develop a monitoring framework for the DRP to include volume, staff time, location, issue and outcome;
  - provision of information to stakeholder groups on progress and the further work planned.

### **Report back to support decision making on further rollout**

15. We will report to you in October 2018 on the findings from EDK's monitoring framework and the experiences and perspectives of the Directors and staff in the Phase 1 regions. At this time

we will be seeking decisions on further roll out in 2019. Future capacity will require budget considerations and will be determined during Phase 1.

**Action required**

It is recommended you:

- a. **Note** the key information about the Learning Support Dispute Resolution Process (the DRP) and the summary of progress in implementing it in the three Phase 1 regions;

YES/NO

- b. **Note** that we will report back to you in October 2018 with information and analysis on how the DRP has worked in the Phase 1 regions to support your decision making on further rollout, subject to the availability of departmental funding in 2018/19.

YES/NO

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## Appendix 1

### **Dispute Resolution Process**

#### **Information for national and regional implementation teams**

## **Background & purpose**

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The Ministry of Education's Dispute Resolution Process (DRP) is about ensuring that all students who need additional support to learn (such as from a Ministry of Education specialist, a resource teacher, teacher aide, or through the use of assistive technology) are able to enrol, attend, learn and participate at school.

The DRP does this by supporting parents and schools to come together and work through challenging issues for children and young people with learning support needs where these issues have not been able to be resolved at a school level. These issues and concerns may relate to the student's access, presence, participation or learning.

The Ministry is not there to advocate or enforce. We're there as an independent party to help facilitate the hard conversations. The Ministry will step in at the request of a student, a parent or a school. We'll do this once either group has raised the concern with the other and given them a chance to put things right (the DRP is about enhancing schools' processes, not replacing them). We can also provide guidance on raising an issue with a school or the board.

Our focus is on restoring relationships so that parents, caregivers, whānau and schools can focus on the children and their potential.

We will help to resolve the problem as quickly as possible so that the child or young person can continue their education in the best way for them.

The DRP has been developed in partnership with the New Zealand School Trustees Association, with advice from the Government Centre for Dispute Resolution, and with advice and input from other key stakeholders. As part of this process, a number of key principles underpinning the DRP were agreed:

- every child has the right to be in education
- the process will encourage issues to be raised and resolved early
- everyone involved will work together to find a solution for the student.

## Key components

The key components of the DRP are:

- **Prevention** – clear and accessible information for students, parents and schools about how to raise issues with each other in an effective way.
- **Early resolution** - access to Ministry of Education-trained facilitators to help parents, families and schools work together to come up with practical solutions to unresolved issues.
- **Review** – where agreement can't be reached between the groups, there will be a review by the local Director of Education, to ensure that everything that could have been done for the student has been done.
- **Mediation** - as part of the review, the Director of Education can approve an independent mediation service for the family and school. This service is contracted by the Ministry of Education through the Ministry of Business, Innovation and Employment (MBIE) for Phase 1.

Note: Everyone has to agree to be part of the DRP, including mediation. The DRP is not binding and is focused on early resolution i.e. preventing issues and concerns from escalating into complaints and disputes. Parents, caregivers, whānau and students can contact the Human Rights Commission, the Office of the Children's Commissioner or other agencies for help, at any time.

## Objectives

The DRP is intended to provide:

- additional support to schools, parents, caregivers, families, whānau, and students who need additional support to learn, to work together to solve issues that are not easily resolved through the schools' processes for dealing with concerns, issues and complaints. It is intended to enhance schools' own processes, rather than replace them. It should also enhance the Ministry's business-as-usual work with schools, parents, caregivers, families and whānau.
- the parties with a fair, quick, local and more informal process than legal proceedings or complaints to agencies such as the Human Rights Commission.
- a more consistent national process that meets best practice principles –
  - **Student focused** – includes the student's voice, as appropriate.
  - **Accessible** – clear, consistent, widely promoted, and culturally responsive to the parties involved.
  - **Objective and fair** – supports everyone to be heard, and manages conflicts of interests, separation of roles (e.g. advisors or advocates), privacy and confidential information.
  - **Effective** – clear process for providing the right DRP intervention, at the right time, by skilled and experienced staff. Data collected is used to improve the system and policy more generally.
  - **Efficient** - one point of contact (nationally and in the regions) and a centralised process and database/system to manage and collect data.
  - **Accountable** – led by the Ministry and structured in a way that ensures tracking and follow up with the parties throughout the process.

## Mandate

The DRP was developed in response to the recommendations of the Review of Special Education, approved by Cabinet in 2010.

Work to develop this process is also supported by feedback to the 2015 Education and Science Select Committee *Inquiry into the identification and support for students with significant challenges of dyslexia, dyspraxia and autism spectrum disorder*, and the 2016 Education (Update) Amendment Bill.

Complaints made to the Human Rights Commission and the Office of the Children's Commissioner by parents of students with learning support needs further highlight the need for this process.

The Ministry has worked in partnership with the New Zealand School Trustees Association (NZSTA), and with advice and guidance from the Government Centre for Dispute Resolution (GCDR) since 2015 to develop the DRP. Input into the DRP has also been provided by the New Zealand Principals' Federation (NZPF), Secondary Principals Association of New Zealand (SPANZ) and Parent to Parent, as well as from the education sector, disabled persons organisations, parent support groups and teacher unions. Feedback was also given by a group of young people from People First.

## DRP locations and implementation

From Term 1 2018 there will be a phased approach to implementation of the DRP in three regions: Auckland, Whanganui/Manawatu and Nelson/ Marlborough/West Coast.

Phased rollout will allow the proposed process to be evaluated and adjusted, if required, before it is rolled out nationally, later in 2018.

Directors of Education will decide who will have oversight of the implementation of the DRP in their region. In the three phase 1 regions, Directors have delegated this oversight to Managers Learning Support.

## Roles and responsibilities

### Ministry staff – business as usual

The DRP formalises much of the work that staff already do to facilitate challenging conversations between schools and parents.

The Ministry is contacted about issues, concerns and complaints through its national and local offices. A variety of subjects are raised. Contacts can range from expressions of dissatisfaction about an issue/concern and asking for help from the Ministry, to serious and formal complaints.

Issues, concerns or complaints from parents, caregivers, whānau and schools relating to a student with learning support needs will continue to be managed by the local Ministry office. The DRP is not intended to replace schools' own processes so parents, caregivers and whānau are advised to first raise an issue with their school. The DRP is only available where the issue or concern has already been raised.

Information for parents, caregivers and whānau, students and schools about how to prevent an issue or concern from escalating to a dispute will be available on the Ministry website and through our partner organisations.

### **Partner organisations – business as usual (NZSTA, Parent to Parent, NZPF, SPANZ)**

Our partner organisations will support the DRP by ensuring that information about how to raise and resolve issues early reaches parents, caregivers, whānau, students and schools, and that they know how to access the DRP if their issues, concerns or complaints are not resolved.

They will also continue to work on ensuring existing legislation, policies and processes are followed and reflect good practice.

It is expected that regional DRP implementation teams supporting phase one rollout will work together to manage any implementation issues that may arise and to monitor data collection and reporting. National Office will work with the three DRP regions and ensure partner organisations are informed at a national level.

### **Individuals involved in a dispute (e.g. parents, whānau, caregivers, students, schools)**

Everyone involved in a dispute is responsible for preparing for meetings, taking part constructively in discussions and implementing any agreed action plan. If the issues or concerns are still not resolved, a Ministry review can be requested to make sure that everything that could have been done has been done. If helpful, the Ministry will consider referral to the mediation service.

### **DRP facilitators**

If an issue, concern or complaint can't be resolved, the student, parent or school can ask for help from a Ministry facilitator. Facilitators will work with those involved to help them clearly articulate the issues and concerns, and to work together to come up with practical solutions. They should establish and build on family and school partnerships and focus on outcomes for the student. They should ensure that all the relevant people are involved and that the voice of the student is taken into account.

Ministry facilitators will have the following knowledge, skills, experience and personal qualities:

- A clear idea of the purpose and boundaries of their role. They are impartial rather than acting as an advocate or support for either party.
- An understanding of the education sector and special education/learning support.
- An ability to communicate and work effectively with others who have diverse cultural backgrounds and languages.
- Experience in using interpreters to communicate with those involved.
- Knowledge of the diverse and unique education, health and support needs of students with additional learning needs, and of effective interventions or the ability to have the right people involved.
- An understanding of relevant human rights, privacy and education law.
- An ability to provide facilitation in a way that preserves relations between the parties involved.
- Training and experience in facilitation.
- An ability to provide information to those involved about other services and support available to them, or to actively engage with people from the Ministry and other agencies to help with information and support to resolve the dispute.

Facilitators use a joint problem-solving approach and a range of techniques focussed on negotiating and achieving an agreement between those involved. The responsibility for the implementation of any action plan rests with those involved.

The facilitator can help to organise the facilitated meeting. They write up the summary of actions and outcomes from the meeting and send them for review and agreement by the parties. The facilitator is also responsible for recording the summary of actions and outcomes from the meeting in the Ministry JIRA system and reporting on the issue to the Manager Learning Support.

### **DRP oversight – Manager Learning Support (or their delegate)**

The Ministry Manager Learning Support provides leadership for the DRP in their region and is responsible for making sure that the issue or complaint is recorded in the Ministry JIRA system. If appropriate, they can arrange for a facilitator, where this is agreed.

The Manager Learning Support can also initiate a review with the Director of Education to ensure that everything has been done that should be done, if asked to do so by those involved and with their agreement. The Manager Learning Support lets those involved know the outcome of the review, which may include working with them if more can be done to support resolution, or contacting a mediator.

The Manager Learning Support then follows up with the parties, post mediation, to find out if the issue is resolved and whether any further actions are needed. If not resolved, they may also discuss next steps.

### **DRP review - Director of Education**

As above, at the request of the Manager Learning Support, the Director may undertake a review to ensure that everything that should be done to assist the student has been done. This may include the Ministry working with the parties if they feel more can be done to support resolution or approving mediation as a next step.

### **DRP mediation**

If the Director and those involved agree, the Manager Learning Support will contact the mediation service provided by the Ministry of Business, Innovation and Employment (MBIE). MBIE employs trained, skilled and experienced mediators who are members of an approved dispute resolution organisation. They have extensive experience and well-established procedures to manage dispute mediation across a range of topic areas. This experience and the support available make it appropriate for them to be contracted to supply mediation services during Phase 1.

## Dispute Resolution Process, Learning Support

For unresolved issues, concerns and complaints between parents, caregivers, whānau and schools relating to students who require additional learning support.

**Principles:** student focused and accessible, objective and fair, efficient, accountable, transparent.

**Parties:** raise and resolve issues early, communicate constructively, involve students, participate in good faith, timely implementation of agreed actions



### Where those involved wish to access the DRP about an unresolved issue:

#### Ministry staff member (BAU)

- Works with the Manager Learning Support to assess whether the DRP could help those involved and provide recommendations. This includes:
  - working with those involved to discuss options and any help that might be needed or helpful in resolving this issue/concern
  - discussing with Ministry managers what support and resources are available
  - providing information on other services and support available from other agencies and in the community
  - offering a facilitated meeting between those involved, if appropriate
  - other actions, as required.
- Once recommendations are finalised, informs the line manager, Manager Learning Support and those involved of the recommendations. If a facilitated meeting is an appropriate option, agrees this with those involved. Works with the Manager Learning Support to identify a facilitator and updates them on issues/concerns and progress so far.
- Updates the Ministry JIRA system.

### Ministry facilitator

- If required, a trained Ministry facilitator can work with those involved. If a meeting is needed, the facilitator will contact those involved and organise a facilitated meeting at the earliest opportunity, no later than 15 working days of one being agreed to by those involved.
- Manages and facilitates the meeting and makes a record of agreed actions for review by those involved.
- Ensures a record of the meeting is put into the Ministry JIRA system.

### Ministry Manager Learning Support (as delegate of the Director of Education)

- Has oversight of the issue when raised with the Ministry.
- Supports the Ministry staff involved with the family and school.
- Manages the facilitation process, review and referral to mediation (if approved).
- Makes sure that data is recorded in the Ministry JIRA system and is accessible for evaluation.
- Co-ordinates the DRP for the region.

### Review – Director of Education

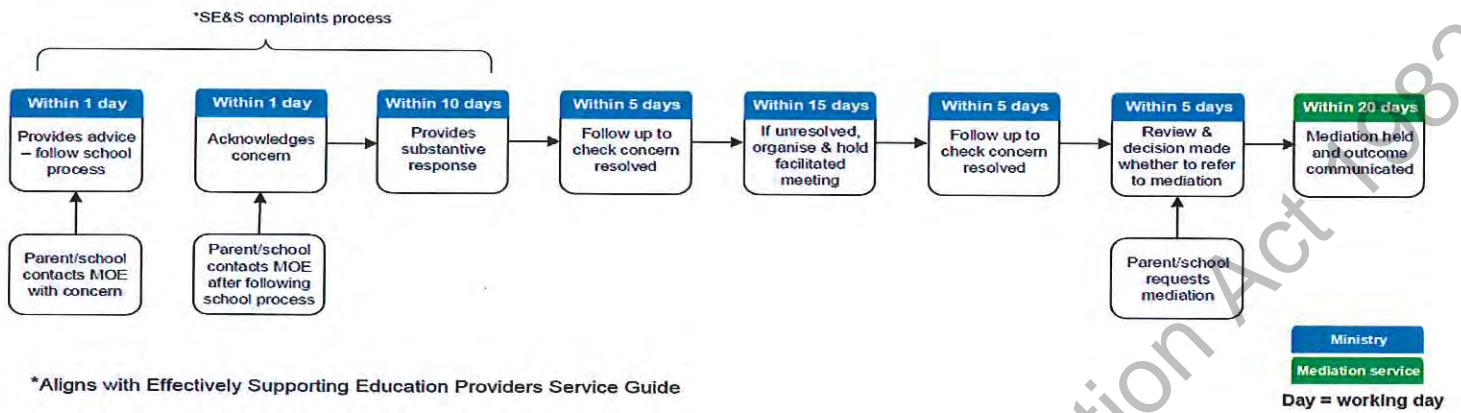
- If those involved request a review, or the Manager Learning Support thinks it will help resolve the issue, the Director will review the information provided on the issue, including that provided by the facilitator (if involved) to see if everything possible has been done.
- If more can be done, this will be followed up with those involved. The Director may agree that mediation might be useful to help resolve the matter. The Ministry Manager Learning Support will ensure the details are input into the Ministry JIRA system.

### Mediation – mediation service

- The Manager Learning Support contacts the mediation service after the review is completed, if mediation is appropriate and those involved are agreeable.
- The mediator ensures that all the relevant people are involved, the views of the student are taken into account and all options are discussed. They hold a meeting as soon as possible, no later than 20 working days after those involved have agreed, and record agreed actions for signing by everyone.
- The mediator lets the Manager Learning Support know the outcome of the mediation by email, while maintaining the confidentiality of those involved.

**Note:** Parents, caregivers and whānau can continue to contact the Human Rights Commission, Office of the Children's Commissioner or other agencies for assistance, at any time, or to go through the legal system.

## Dispute Resolution Process Timeline



National mailbox: [disputeresolution.process@education.govt.nz](mailto:disputeresolution.process@education.govt.nz)

Auckland: 9(2)(a) [redacted], Manager Learning Support 9(2)(a) [redacted] @education.govt.nz

Whanganui/Manawatu: Julie Hook, Manager Learning Support [julie.hook@education.govt.nz](mailto:julie.hook@education.govt.nz)

Marlborough: 9(2)(a) [redacted], Manager Learning Support, 9(2)(a) [redacted] @education.govt.nz







## MEMO

**To:** Paul Scholey, Manager Strategic Design, Learning Support  
**From:** 9(2)(a) Senior Evaluator, Analytics and Insights, Education, Data and Knowledge  
**Cc:** Saro Casinader, 9(2)(a)  
**Date:** 2 May 2018  
**Subject:** Proposed monitoring and evaluation framework for the Dispute Resolution Process

### Purpose

1. This document proposes a monitoring and evaluation framework for Phase one of the Ministry's Dispute Resolution Process (DRP).

### Background

2. The DRP is being set up to address issues between parents, caregivers and whānau, and schools relating to children and young people with additional learning needs. The DRP will build on the Ministry's complaints process and enhance the Ministry's role with the parents, caregivers, whānau and schools.
3. The Ministry has worked in partnership with the New Zealand School Trustees Association (NZSTA), and with advice and guidance from the Government Centre for Dispute Resolution (GCDR) based in the Ministry of Business, Innovation and Employment (MBIE), to develop the DRP. A wide consultation process has been carried out with disabled peoples' organisations, parent support groups, principals' associations and teacher unions. A working group with representatives from NZSTA, New Zealand Principals Federation (NZPF), Secondary Principals Association of New Zealand (SPANZ), Parent to Parent and Ministry regional and national office staff supported the development of the process.
4. The DRP will initially be implemented in three regions (Auckland, Whanganui/Manawatu, Nelson/Marlborough/West Coast) beginning in Term 2, 2018. We will evaluate the DRP to inform future decision making/next steps.

### Objectives of the DRP

5. The DRP aims to enable early resolution of issues at a local level, with those involved being supported to determine a resolution as agreed through facilitated meetings or independent mediation.

6. The process is intended to contribute to improved inclusion and education outcomes for children and young people with additional learning needs by helping parents, children and young people, and schools jointly resolve issues.
7. A further aim is to reduce the number of cases advancing to the Human Rights Commission, the Ombudsman's office or to litigation - although this will still be an option. (See Figure 1)

**DRP Principles**

8. The DRP principles agreed by the working group are:
  - a. student-focussed
  - b. accessible
  - c. objective and fair
  - d. effective
  - e. efficient
  - f. accountable

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DRAFT

Figure 1 Theory of change for the DRP

**The problem**

Some parents of children and young people with additional learning needs are involved in disputes with schools that could have been resolved more quickly with better outcomes for the child or young person.

**What we're doing**

Instituting a dispute resolution process: developing information resources, training selected MOE staff in facilitation, instituting a MOE review process; contracting independent, trained mediators from MBIE.

**The change we want to see**

Prevention and timely resolution of issues at the lowest level.  
Improved experience of resolving disputes for all parents and schools.  
Reduction in disputes that escalate (eg, to HRC).

**The higher level impact we're trying to achieve**

Increased enrolment, attendance, participation, progress and achievement, and inclusion for children and young people with additional learning needs.

**What has to exist for the change we want to happen?**

Parents and schools need to know about school complaints resolution policies and the Ministry's dispute resolution process.

The process needs to be satisfactory in terms of the DRP principles: student-focussed and accessible, objective and fair, effective, efficient, accountable.

The process needs to reflect good practice (articulated in the GCDR report).

**Evidence and assumptions - why we think the activities will lead to the outcomes we want**

2010 Review of Special Education - Cabinet paper provides a mandate for the DRP.

2015 Review of Special Education - reinforcement of feedback to the Review of Special Education 2010 confirms need for a DRP.

2015 Engagement with GCDR, MBIE - provided principles of best practice in dispute resolution.

2016 Education and Science Committee on Dyslexia, Dyspraxia, Autism Spectrum Disorder - reinforcement of feedback to the Review of Special Education 2010 about the need for a DRP.

2016 Collaborative design agreed by education and disability representative groups - provides consensus for recommendations for current design of DRP.

2017 Education (Update) Amendment Bill - reinforcement of feedback to the Review of Special Education 2010 confirming the demand/need for DRP.

**Definitions**

9. Children and young people with additional learning needs are defined as those experiencing disability, difficulty, disadvantage, or challenges to progressing learning.
10. Disputes involving schools and parents are defined as issues, concerns and complaints being referred to the Ministry's facilitation and points beyond.

## *Process timeframes*

11. Process timeframes have been determined as:

- Facilitation - the facilitator will contact those involved and organise a meeting at the earliest opportunity, no later than 15 working days after contact.
- Follow up after facilitation with those involved to check if the issue is resolved as agreed at the meeting – within 5 working days of meeting
- If not resolved, review by the Regional Director of Education (the Director) is held within 5 working days of the facilitation meeting.
- If mediation has been approved by the Director, check with the parent and school to see if they wish to access mediation and make referral to mediation – within 5 working days
- Mediation to be completed within 20 working day of referral by the Ministry.
- The Ministry's MoU with MBIE sets out service standards and timeframes based on the DRP for international students. These standards, listed below, provide a point of reference for making evaluative judgements:
  - Quality
    - At least 75% of issues, concerns and complaints referred to mediation are resolved.
    - Less than 10% of issues, concerns and complaints referred to mediation are progressed to the Human Rights Commission or the courts by one or both of the parties.
    - 85% of parties who respond to client satisfaction surveys or evaluation interviews are satisfied with the mediation service.
  - Timeframes
    - 95% of referrals are acknowledged within 3 working day/s of receipt (acknowledgement must include next steps, likely timeframe for this to occur and a point of contact).
    - 85% of mediations completed within 20 working days of referral by the Ministry.
    - 95% of mediations completed within 30 working days of referral by the Ministry.
  - Mediation sessions
    - Each mediation session will be for one day (up to 8 hours) unless otherwise approved by the Director of Education.
    - If the parties agree that a further mediation would be useful the Director of Education can approve a follow up mediation session on the same matter to be held within six months of the first session.

- If a different dispute arises and the Director of Education considers that mediation could be useful then this will be considered as separate from the previous matter.

#### *Monitoring and evaluation*

12. The purpose of the monitoring and evaluation framework is to gather and understand information about the outputs and medium term outcomes of the DRP. This will be used to inform future decision making/next steps.
13. Monitoring and evaluation of the process will run alongside the implementation of phase one (May 2018 to the end of the school year 2018). Note: MBIE are currently considering our request to extend the MoU with them from September to December 2018 or till June 2019 to enable us to gather data to inform future decision making/next steps.
14. The monitoring and evaluation framework (see Table 1 on page 8) addresses the goals of the process.

#### *Frequency and timing of data collection*

15. Data from the CMS, SE BDS and Learner BDS will be collected throughout the trial (to the end of the school year 2018).
16. Every parent and school involved in a dispute will be sent a questionnaire at the end of each facilitation meeting and after mediation, as well as a follow up questionnaire three months after the facilitation or mediation. Facilitators and mediators will also be asked for feedback.

#### *Considerations regarding data collection and analysis*

17. Parents and schools involved in the DRP will be asked to provide consent to participating in the monitoring and evaluation.
18. Data analysis may be complicated by cases involving multiple or very longstanding issues, or partial resolution of a dispute. It would be useful to test the data collection as soon as possible into the trial.
19. The first month of survey administration (or a greater or lesser duration depending on volume) will be regarded as a pilot period. In particular, open text fields in the surveys will be analysed to determine any amendments to the surveys.

#### *Outcomes*

20. There will be difficulties with conclusively evaluating the new dispute resolution process (at least at this point early in the use of the process), namely:
  - a. we will not be able to collect data about a key area of the process, ie, resolution at the school level (which includes conversations at school involving children and young people, parents, and schools)
  - b. we have little with which to compare the new process, and therefore will struggle to develop success criteria for the process

- c. the numbers of facilitated, reviewed and mediated cases may be quite small in some regions during the trial period – certainly the number of cases escalated beyond mediation is likely to be so small in each region each year that comparison with the previous year's process would be problematic
  - d. it is possible that having a new process will increase the number of disputes taken to the Ministry and beyond – but it would be difficult to accurately attribute the reasons for any increase.
21. The monitoring and evaluation data will still enable the Ministry to answer some research questions about 'the dispute environment' such as at which stage in the process different types of dispute are resolved. The data will also enable us to capture the nature of the issue and some outcomes for children and young people with additional learning needs.
22. We will also gather data through survey responses from parents and schools regarding how well the process is working for them.

*Reporting the results of monitoring and evaluation*

23. Assuming the expected data is collected, the evaluation summary report will cover:
- availability of information about the DRP on school websites
  - availability of facilitators (ie, the Ministry meeting timeframes)
  - facilitators' satisfaction with training.
  - number and type of disputes in the DRP
  - timeframes for the process in practice
  - rate of resolution at various points (facilitation, review, mediation)
  - durability of resolutions
  - student's age, ethnicity and gender
  - extent of multiple disputes by parents and schools
  - satisfaction with the DRP (both parents and schools) across a range of domains including whether involvement in the DRP results in improved outcomes for children and young people, (with the possibility of following up improved attendance and participation in school activities for children and young people through Ministry data)
  - depending on the nature of open comments by parents, schools, facilitators, mediators –
    - what works well with facilitation/mediation
    - what could be improved with facilitation/mediation, and
    - insight into why disputes are unresolved at certain points.
24. Topics not covered in the data collection:
- Process - how parents and schools heard about the dispute resolution process
  - Principles – accessibility, cost effectiveness.
  - Proportionately of disputes involving children and young people with additional learning needs compared to other children and young people.

25. The monitoring and evaluation report covering the period from Term 2, 2018 to the end of Term 4, 2018) will be provided to the following people/groups by 31 January 2019:

- 9(2)(a) Group Manager, System Innovation and Strategic Design (project sponsor)
- David Wales, National Director Learning Support (project owner)
- Katrina Casey, Deputy Secretary SE&S
- Learning Support Leadership Team
- Directors of three phase one regions
- Implementation teams in three phase one regions
- SE&S Management team

Information will also be shared with the Ministry's partner organisation, – NZSTA.

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Table 1 Monitoring and evaluation framework for the dispute resolution process

	INDICATORS	DEFINITIONS	BASELINE What is the current value?	TARGET What is the target value?	DATA SOURCE
Overall objective	Increased student - participation attendance inclusion	Question in the 3 month follow up facilitation/mediation survey question, eg, "Overall [the facilitation] meeting produced a good outcome for my child" <i>We will need to explore whether this objective is feasible to research beyond participant-report or whether it is an assumed benefit of the DRP. EDK (A&amp;I) could look at attendance, enrolment and engagement (disciplinary) data for children and young people receiving particular services (attendance data coverage is not 100%) but data quality will be an issue, as would ability to attribute any increase to the DRP.</i>	No baseline data	No target set	Post facilitation/mediation and 3 month follow up facilitation/mediation online surveys
Immediate outcomes	Timely resolution of issues at the lowest level (the lowest level we will have data for is facilitation )	Time spent in dispute between the following time points: Initiating facilitation to completing facilitation [this will have to account for disputes with more than one facilitation] ≤ 15 working days From facilitation to follow-up to ensure resolution achieved ≤ 5 working days From follow-up to review by Director ≤ 5 working days If applicable, from review to referral to mediation ≤ 5 working days From referral to mediation ≤ 20 working days (NB There are no time frame on actions past mediation).	We do not have any baseline duration data with current complaints	% meeting targets	CMS data
	Parents and schools support the process	Immediately post facilitation/mediation survey - satisfaction with process, and reported good outcome for child 3m follow-up survey – satisfaction with facilitation/mediation, usefulness of facilitation/mediation for the issue of concern; effectiveness of facilitation/mediation in addressing the issues; other party's fulfilment of agreements reached and implementation of agreement; impact on relationship between parents and schools, range of outcomes for child.	No baseline data	% agreement/ satisfaction overall or with aspects	Post facilitation/mediation and 3 month follow-up facilitation/mediation online surveys
	Reduction in disputes that escalate (beyond facilitation, beyond Ministry review & beyond mediation)	Number of disputes resolved by facilitation [have to deal with multiple facilitations relating to one dispute]/Number of disputes reaching facilitation Number of disputes resolved by review/ Number of disputes reaching review Number of disputes resolved by mediation/ Number of disputes reaching mediation Number of disputes not resolved by mediation at 3 month point Number of disputes going beyond mediation.	Baseline data exists for cases going beyond the Ministry	No target set	CMS data Surveys
	Durable resolutions	3 month follow up surveys will provide early information on sustainability of the DRP outcome.	No baseline data	No target set	CMS data 3m follow up surveys



	INDICATORS	DEFINITIONS	BASELINE What is the current value?	TARGET What is the target value?	DATA SOURCE
	Reduction in disputes with same parents and schools	Same party involvement in multiple disputes over time. Again, given the duration of the trial, we may not have many opportunities to look at this.	No baseline data	No target	CMS data
<b>What we're doing - inputs</b>					
Providing information resources	Awareness of process	We cannot look at awareness of the DRP at the lowest level (in schools) but we can look at the extent to which schools make information about complaints procedures available on their websites.	N/A	No target set	School websites (A&I)
	Usefulness of information about facilitation and mediation	% of parents and schools reporting that they were given useful information about what to expect from facilitation and mediation.	N/A	No target	Post facilitation and mediation surveys of parents and schools
Training Ministry facilitators	Trained facilitators available	Number trained facilitators in the regional offices Time interval from request to facilitation ≤ 15 working days.	N/A	% meeting target for timeliness	Admin data CMS data
	Satisfaction with the training process for facilitators	How effectively was the day structured (e.g. pace, types of activity, amount of information)? How well were the facilitators able to communicate ideas and information? How useful did you find the facilitators use of examples – were they practical and those that you could relate to? How useful did you find the DRP information sheet in enhancing your understanding of the dispute resolution process and your role in the process? How useful did you find the workshop in increasing your skills and knowledge in facilitation? How confident are you in being able to facilitate the resolution of issues and concerns between parents, children and young people, and schools? How will you continue to build on the knowledge and skills gained at the facilitation workshop? If rated any of the questions less than a 4, what could be improved? Any other suggestions or comments improving the workshop?	N/A	No target set	Post training survey of facilitators – data collected after 4 training sessions between 24 January and 14 February 2018.
		Facilitators have what they need to fulfil the role – information derived from the open questions in the post facilitation survey of facilitators, and the open text comments in the participants' surveys.	N/A	No target set	Post facilitation questionnaire
Independent mediators		Mediators have what they need to fulfil the role – information derived from the open questions in the post mediation report from mediators, and the open text comments in the participants' surveys.	N/A	No target set	Post mediation report

Table 2 Implementation schedule





Date	Task	Responsibility
April 2018	Website scraping	EDK
May 2018	Implement data collection processes with regional offices	Learning Support, SE&S
June 2018	Assessing usefulness of Learner BDS data	EDK
	Check in with regional offices re data collection	Learning Support, SE&S
May – Dec 2018	Ongoing data collection – inputting CMS data and sending out surveys	Regional offices
Dec 2018	Repeat website scraping	EDK
Jan-Feb 2019	Analysis and reporting	EDK

Table 3 Analysis plan

Indicators	Analysis	Data source
Information available to parents	% of schools in trial area and nationally making info available on their websites about conflict/dispute/issue resolution	School websites
Facilitators are trained	<p>% agreement/satisfaction etc.</p> <p>How effectively was the day structured (e.g. pace, types of activity, amount of information)?</p> <p>How well were the facilitators able to communicate ideas and information?</p> <p>How useful did you find the facilitators use of examples – were they practical and those that you could relate to?</p> <p>How useful did you find the DRP information sheet in enhancing your understanding of the dispute resolution process and your role in the process?</p> <p>How useful did you find the workshop in increasing your skills and knowledge in facilitation?</p> <p>How confident are you in being able to facilitate the resolution of issues and concerns between parents, children and young people, and schools?</p> <p>How will you continue to build on the knowledge and skills gained at the facilitation workshop?</p> <p>If rated any of the questions less than a 4, what could be improved?</p> <p>Any other suggestions or comments improving the workshop?</p>	Post training survey of facilitators – data collected from training session
	Facilitators have what they need to fulfil the role by type of dispute, and outcome of dispute	Survey of facilitators Open text comments from participants in the process
Timely resolution	<p>Days between points of the process, (min , max, mean)</p> <p>achievement of targets,</p> <p>Differences between trial sites</p> <p>Differences with types of disputes</p> <p>Analysis of differences will be descriptive – unlikely to be enough cases for statistical analysis</p>	<p>DRP data collected in CMS by regional offices</p> <p>Each facilitated case needs a unique ID to be linked to surveys, to enable linking of DRP cases to school</p>

Indicators	Analysis	Data source
		ID and NSN of student Need email of parents and school staff involved for online surveys
Reduction in disputes that escalate	% of disputes resolved at each point of the process (Number of disputes resolved at each point divided by number of disputes that got to that point).  *possible point to review: dealing with multiple episodes of facilitation in relation to a single issue	
Durable resolutions	May not be entirely clear whether a dispute has been resolved or whether same party reappearance in the spreadsheet relates to a new issue, or a new episode of the same/very similar issue – if all ID data is recorded we can analyse the reappearance of the same child in disputes and look at durability of resolution through the 3m follow up survey	
Parents and schools' satisfaction immediately after facilitation and mediation: Level of satisfaction with meeting, good outcome for child, etc.	Views of parents and schools by type of dispute, and outcome of dispute	Post facilitation online survey of both parents and schools Post mediation online survey of both parents and schools The unique case ID needs to be inserted into the emailed survey link
Parents and schools' satisfaction 3 months after facilitation: Resolution of issue, compliance with agreements, durability of agreements, change for child, impact on relationship, appropriateness of process, general satisfaction	Views of parents and schools by type of dispute, and outcome of dispute	3 month follow-up to facilitation online survey of both parents and schools 3 month follow -up to mediation online survey of both parents and schools

# Disputes Resolution Process – Auckland

 <p>(15 Working Days)</p>	 <p>(15 Working Days)</p>	 <p>(5 working days)</p>	 <p>(20 Working Days)</p>
<p><b>SE&amp;S Complaints Process (Business as usual)</b></p> <p><b>1. Parent/school contacts MOE with a concern</b></p> <p><b>Action:</b></p> <ul style="list-style-type: none"> <li>➢ Provide advice to support a resolution and check that the school process has been followed.</li> <li>➢ Work with those involved to discuss options and help that may be needed or helpful in resolving the issue/concern</li> <li>➢ Discuss with MOE managers what support or resources are available</li> <li>➢ Provide information on other services and support available from other agencies and in the community</li> </ul> <p><b>2. Concern is resolved:</b></p> <p><b>3. If the concern issue remains unresolved and the concern has not gone to the BOT</b></p> <p><b>Action:</b></p> <ul style="list-style-type: none"> <li>➢ Consider the option of a facilitator and discuss with school/family if they would be willing to proceed to this option.</li> <li>➢ Communicate with LMS, EM, SM, EA about the need to proceed to a facilitator</li> </ul>	<p><b>Request for a Facilitator:</b></p> <p><b>Action:</b></p> <ul style="list-style-type: none"> <li>• Education Manager (EM) or Service Manager brings issue to MLS to discuss further options</li> <li>• MLS checks that all solutions have been explored</li> <li>• MLS allocates a facilitator: <ul style="list-style-type: none"> <li>➢ Facilitator must not have been previously involved in the school /family/whānau – they must be independent</li> <li>➢ Facilitator should not be in the same team/area</li> </ul> </li> </ul> <p><a href="#">SM/Education Manager obtains agreement to the facilitation process and written consent to share information from relevant parties.</a></p> <p><a href="#">In CMS SM processes job to facilitation and adds the Facilitator as allocated by MLS.</a></p> <p><b>Facilitation:</b></p> <p><b>Action:</b></p> <ul style="list-style-type: none"> <li>• Within 5 working days, the facilitator organises a meeting and venue then contacts all parties</li> <li>• Facilitator must consider all cultural components/processes/needs <ul style="list-style-type: none"> <li>➢ Seek appropriate advice and support re: Māori, Pasifika/Migrant refugee needs</li> </ul> </li> <li>• Facilitator remains independent and manages and facilitates the meeting</li> <li>• Facilitator records all of the agreed actions at the end of the meeting using the template</li> </ul> <p><a href="#">Facilitator places completed “Agreed Actions” Template on the client file in CMS.</a></p> <p><b>Post Facilitation:</b></p> <p><b>Individual Facilitator Support:</b></p> <ul style="list-style-type: none"> <li>• Immediate post facilitation conversation - facilitator debriefs with MLS or EM</li> <li>• If necessary, facilitator needs are identified to offer a coaching conversation/supervision support.</li> </ul> <p><b>Post Facilitation Action:</b></p> <ul style="list-style-type: none"> <li>• Facilitator provides feedback to MLS</li> <li>• Facilitator provides feedback on the outcome to the team supporting the school/family/whānau</li> <li>• Within 5 working days, the facilitator checks that all parties are happy with the Action Plan following the meeting</li> </ul> <p><a href="#">Facilitator records on CMS - Post facilitation phone call</a></p> <p><a href="#">If all parties are happy with outcome i.e. resolved, SM records on CMS and the DRP client job is closed. Enter survey activation in CMS.</a></p> <p><a href="#">If unresolved, EM/SM checks with Family/whanau and school whether they are willing to undergo mediation process. Enter survey activation in CMS.</a></p> <p><a href="#">In CMS, SM processes job to Review &amp; Decision.</a></p>	<p><b>Request for a Review:</b></p> <p><b>Action:</b></p> <ul style="list-style-type: none"> <li>• The issue is brought to MLS by the service manager because an outcome was not achieved at the Facilitator Resolution Phase - request for Review and Mediation.</li> <li>• The original Team supporting the school/family/whanau – highlight barriers to implementing the Facilitation Action Plan – request for Review and Mediation</li> </ul> <p><b>Review decision:</b></p> <p><b>Action:</b></p> <ul style="list-style-type: none"> <li>• Education Director and MLS discuss the issue to decide the next steps:</li> <li>• Consider trying other solutions</li> <li>• Move to mediation</li> <li>• Consider no further action (possible option if 1&amp; 2 deemed not appropriate)</li> </ul> <p><b>Final outcome:</b></p> <p><b>Action:</b></p> <ul style="list-style-type: none"> <li>• Agree a timeframe for another review to check if it has been resolved or move onto mediation</li> </ul> <p><a href="#">MLS records on CMS, completion date of the review and the Directors decision on whether mediation is appropriate.</a></p> <p><a href="#">In CMS, if mediation is appropriate, EM/SM processes job to Mediation and enters the start date for this phase.</a></p>	<p><b>Request for mediation:</b></p> <p><b>Action:</b></p> <ul style="list-style-type: none"> <li>• MLS contacts MBIE - mediation service</li> </ul> <p><a href="#">SM will record in CMS relevant Mediation details.</a></p> <p><b>Mediation:</b></p> <p><b>Action:</b></p> <ul style="list-style-type: none"> <li>• MBIE arrange an appropriate venue, time and date</li> <li>• Outcome of the mediation process is provided to MLS. MLS notifies relevant SM.</li> </ul> <p><a href="#">SM places outcome of Mediation on CMS and Client job is closed. Enter survey activation in CMS.</a></p>

## Lucy Jordan

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**From:** Leo Trompetter  
**Sent:** Thursday, 24 January 2019 8:44 am  
**To:** 'Judy Dell'  
**Subject:** Extending the DRP  
**Attachments:** Signed MoU and MBIE DRP 2018 pdf.pdf; FW: Ministry of Education [UNCLASSIFIED]; Variation to DRP January 2018 MoU (002).docx

Morena Judy and welcome back to a New Year! and one month has almost gone... I hope you have had a fantastic and fun filled break.

I am very aware that we are meeting next Monday to discuss the DRP with yourself and Cara. Thought I'd put together some bullet points to refresh our memories (below).

I have included the key documents – MoU, email and Variation Document.

Any concerns just give me a call.

Ngā mihi nui.

Leo

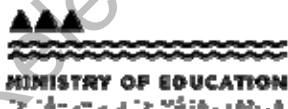
Key points and purpose for the meeting:

- meet with MBIE to discuss extending the DRP to an additional three sites (Wellington, Hawkes Bay/Gisborne and Bay of Plenty/Rotorua/Taupo) to ensure capacity to provide a mediation service
- a request to vary and extend the timeframe to implement the DRP was approved by MBIE on 8 May 2018 (confirmation email attached)
- due to the larger service area in Auckland, Whanganui/Manawatu Marlborough/Nelson/West Coast and three additional sites (Wellington, Hawkes Bay/Gisborne and Bay of Plenty/Rotorua/Taupo) the number of mediations may be greater than the estimated 20-25 mediations
- since the initial rollout in Term 2, 2018 MBIE have not had any requests to provide a mediation service
- note that MBIE will provide a final report about the individual mediation services provided, including all final invoices to the Ministry by 28 June 2019.
- approve the attached variation document outlining the changes to the January 2018 MoU

**Leo Trompetter** | Lead Adviser  
DDI +6444638257 | Mobile 9(2)(a) [REDACTED]  
33 Bowen Street, Wellington

[education.govt.nz](http://education.govt.nz)

*We shape an education system that delivers equitable and excellent outcomes*  
*He mea tārai e mātou te mātauranga kia rangatira ai, kia mana taurite ai ōna huanga*



## Lucy Jordan

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**From:** Judy Dell <Judy@mbie.govt.nz>  
**Sent:** Tuesday, 8 May 2018 10:40 am  
**To:** Leo Trompetter  
**Subject:** FW: Ministry of Education [UNCLASSIFIED]

Its all go Leo!

Judy Dell

PRINCIPAL MEDIATOR,

Employment Services, Market Services

Ministry of Business, Innovation & Employment

Judy.Dell@mbie.govt.nz <mailto:Judy.Dell@mbie.govt.nz> | +64 (04) 901 3999 | Mobile: 9(2)(a)

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**From:** Cara Takitimu  
**Sent:** Tuesday, 8 May 2018 10:38 a.m.  
**To:** Judy Dell  
**Subject:** RE: Ministry of Education [UNCLASSIFIED]

Kia ora Judy,

I agree with your recommendation.

Nga mihi,

Cara

Cara Takitimu

National Dispute Resolution Manager

Employment Services

Ministry of Business, Innovation & Employment (MBIE)

<mailto:Cara.takitimu@mbie.govt.nz> | Caxx.xxxxxxxx@xxxx.xxxx.xx | Telephone +64 4 901 1585 | Mobile: 9(2)(a)

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From: Judy Dell

Sent: Wednesday, 2 May 2018 3:20 p.m.

To: Cara Takitimu

Subject: Ministry of Education [UNCLASSIFIED]

Hi Cara

I am asking for your approval to extend the length of time of this pilot programme to end of June 2019:

Learning Needs Dispute resolution service:

Ministry of Education are requesting that we extend the trial period from September 2018 until June 2019. This is due to the delay in implementation. They feel it would enable them to implement and evaluate phase one over a year, rather than a shorter timeframe which may not give them the data we need to make decisions about future implementation. If MBIE is agreeable to this, then Ministry of Education will provide a letter of variation to reflect this as provided for in the MoU.

Implementation has been delayed from February 2018 as originally contemplated.

It is my recommendation that we agree to this extension. We have a group of quite enthusiastic mediators and a Case Coordinator who will enjoy the experience of mediating in this area. There are no immediate cases ready to

mediate. The extension of time will give greater opportunity for the mediators to have involvement and will be of no further cost to our service as we are fully reimbursed in accordance with the Memorandum of Understanding.

If we do not agree to this extension I am not sure that we will get sufficient exposure to mediations to enable us to assess whether we should offer our services for similar pilots in the future.

Regards

Judy

Judy Dell

PRINCIPAL MEDIATOR,

Employment Services, Market Services

Ministry of Business, Innovation & Employment

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## For Learning Support Leadership Team meeting - 28 March 2019

### Learning Support Dispute Resolution Process

#### What

- i. The Learning Support Dispute Resolution Process (DRP) aims to support parents, whānau of children and young people with additional learning needs and their schools to resolve issues early, efficiently and focused on education outcomes for the student.
- ii. The process enhances existing Ministry business as usual (BAU) and schools' complaint processes. It involves Ministry' staff facilitating conversations between the parties in order to resolve the issue as early as possible, where that issue has not been able to be resolved at the school level. If the facilitation outcome is not successful the Ministry Regional Director will review the situation to ensure that what could have been done has been done and, from there, may recommend and initiate Ministry funded independent mediation – until June 2019 we have access to MBIE contracted mediators.
- iii. The DRP was developed with support from the Government Centre for Dispute Resolution in MBIE and in partnership with NZ School Trustees Association. Three large cross- sector workshops were held. The process has been rolled out in three initial regions and a further three regions are in the early stages of implementing the process from February this year. Facilitation training has been provided to all six regions. The remaining regions are expected to be trained by the end of this financial year.

#### Why

- iv. Parents and whānau of children with additional learning needs have repeatedly said in all reviews, updates and Select Committee hearings that if they have an unresolved issue with a school, there is nowhere for them to go. The issue may be about enrolment, participation or learning. Some may go to the Office of the Ombudsmen, the Human Rights Commission, and the Office for the Children's Commissioner or their MP. However, most will feel they have no choice but to accept the principal's decision. The IHC v Attorney General Claim in the Human Rights Review Tribunal reinforced this view.
- v. As part of the Review of Special Education in 2010, Cabinet agreed to develop and implement a "complaints and dispute resolution process." Initial work was undertaken in 2011 across the Ministry but did not progress. From about 2015 through till 2018 we collected data from Ministry districts about children and young people experiencing barriers to enrolment, getting an understanding of the current state and at the same time raising awareness amongst Ministry teams about children

who were not having their rights to education met. Over time, the numbers rose from minimal to 336.

### **Current State**

- vi. The roll out of the DRP has been very low key with minimal communication within offices or out into the sectors. Whilst initially this was because regions were fearful of not being able to manage a potential flood of concerns, in reality that has not been borne out. We plan to step up the communications within the next few weeks.
- vii. The recording process has proven to be a barrier in the regions. Only Learning Support staff appear to be trained to use CMS, and while many are still struggling to differentiate between BAU and the DRP, the recording has been unsuccessful. Staff acknowledge that they may be using the facilitation skills but regarded it as BAU rather than a separate process. This means we have no data to be able to evaluate the implementation.
- viii. Families report not knowing about the DRP. For those who do there is a sense of not knowing who to talk to in the Ministry and a sense that the Ministry will be "on the school's side". Implementation of a communication plan that involves wider and relevant stakeholders to help promote the process and provide a Ministry contact name will assist with raising awareness and trust.
- ix. The regional teams who have recently been trained have not yet established processes for allocation and management of disputes. Emphasis has been on the training of facilitation skills without due focus on the actual regional process. Further work is needed to support this.
- x. The Tomorrow's Schools team is proposing that the DRP be widened to include issues for all children and young people that cannot be resolved at a local level. This will include removals (stand downs, suspensions and exclusions) and is proposed to be part of a sector wide system for managing complaints and disputes.
- xi. The Early Childhood sector is also asking for a Dispute Resolution Process in early childhood.