

## Document 1

Out of scope

**Subject:** FW: MBAS Complaint & Financial Support

---

**From:** Marcus Freke  
**Sent:** Thursday, 10 March 2022 4:37 pm  
**To:** John Wright <[wrightj@mbas.ac.nz](mailto:wrightj@mbas.ac.nz)>  
**Subject:** RE: MBAS Complaint & Financial Support

Thanks John – I look forward to hearing from you for our conversation.

Ngā mihi

Marcus

**Marcus Freke** | Director of Education for Waikato  
Te Mahau | Te Tai Whenua  
DDI +6478508896 | 9(2)(a)

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**From:** John Wright <[xxxxxxx@xxxx.xx.xx](mailto:xxxxxxx@xxxx.xx.xx)>  
**Sent:** Thursday, 10 March 2022 4:35 pm  
**To:** Marcus Freke <[Marcus.Freke@education.govt.nz](mailto:Marcus.Freke@education.govt.nz)>  
**Cc:** MBAS BOT Secretary <[botsecretary@mbas.ac.nz](mailto:botsecretary@mbas.ac.nz)>  
**Subject:** Re: MBAS Complaint & Financial Support

Greetings Marcus

The meeting is our usual monthly meeting and along with other matters, those items will be discussed.

As mentioned earlier, the Board is considering its position at the moment regarding the meeting in January, and this is not as a result of 9(2)(a) email - it was something we had discussed at our previous meeting in terms of what the Board's response to the meeting would be, which is for further discussion at this meeting.

The Board's response is being developed currently and I would imagine it would be appropriate for a conversation subsequent to our meeting.

Our financial position is also part of our discussions.

Regards  
John



**John Wright** MSc(Hons), Dip Tch, CSMM  
**Principal**

Mercury Bay Area School  
20 South Highway, Whitianga, New Zealand  
Ph:+64 7 8665916 / 9(2)(a)

[john.wright@mbas.ac.nz](mailto:john.wright@mbas.ac.nz) [www.mbas.ac.nz](http://www.mbas.ac.nz) skype - john.wright

On Thu, 10 Mar 2022 at 16:05, Marcus Freke <[Marcus.Freke@education.govt.nz](mailto:Marcus.Freke@education.govt.nz)> wrote:

Kia ora John

Thanks for your email. Is the Board discussing the complaint or the financial management plan or both?

Ngā mihi

Marcus

**Marcus Freke** | Director of Education for Waikato  
Te Mahau | Te Tai Whenua  
DDI +6478508896 | 9(2)(a)

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**From:** John Wright <[wrigxxx@xxxx.xx.xx](mailto:wrigxxx@xxxx.xx.xx)>  
**Sent:** Thursday, 10 March 2022 11:16 am  
**To:** Marcus Freke <[Marcus.Freke@education.govt.nz](mailto:Marcus.Freke@education.govt.nz)>  
**Cc:** MBAS BOT Secretary <[botsecretary@mbas.ac.nz](mailto:botsecretary@mbas.ac.nz)>  
**Subject:** Re: MBAS Complaint & Financial Support

Morena Marcus

For your information our Board are meeting next week and this matter is on the agenda for discussion. I understand they will be in touch subsequently on this matter.

Thank you for your email.

Ngā mihi

John



**John Wright** MSc(Hons), Dip Tch, CSMM

**Principal**

*Mercury Bay Area School*

*20 South Highway, Whitianga, New Zealand*

*Ph:+64 7 8665916 / 9(2)(a)*

[@](#) [www.mbas.ac.nz](http://www.mbas.ac.nz) skype - john.wright

On Wed, 9 Mar 2022 at 15:19, Marcus Freke <[Marcus.Freke@education.govt.nz](mailto:Marcus.Freke@education.govt.nz)> wrote:

Kia ora John

Thank you for your email 9(2)(a) I  
look forward to hearing from regarding a time we can with you and your Board Presiding Member to discuss the  
issue.

Ngā mihi

Marcus

**Marcus Freke** | Director of Education for Waikato  
Te Mahau | Te Tai Whenua  
DDI +6478508896 | Mobile 9(2)(a)

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**From:** John Wright <[xxxxxxx@xxxx.xx.xx](mailto:xxxxxxx@xxxx.xx.xx)>  
**Sent:** Wednesday, 9 March 2022 2:04 pm  
**To:** Marcus Freke <[Marcus.Freke@education.govt.nz](mailto:Marcus.Freke@education.govt.nz)>  
**Cc:** [xxxxxxx@xxxx.xx.xx](mailto:xxxxxxx@xxxx.xx.xx); Mere LawsonNuri <[Mere.LawsonNuri@education.govt.nz](mailto:Mere.LawsonNuri@education.govt.nz)>; Chad Britton <[Chad.Britton@xxxxxxxxx.xxxx.xx](mailto:Chad.Britton@xxxxxxxxx.xxxx.xx)>; Colleen Kiely <[Colleen.Kiely@education.govt.nz](mailto:Colleen.Kiely@education.govt.nz)>  
**Subject:** Re: MBAS Complaint & Financial Support

Thank you Marcus for this email

9(2)(a)

Ngā mihi

John



**John Wright** MSc(Hons), Dip Tch, CSMM

**Principal**

Mercury Bay Area School

20 South Highway, Whitianga, New Zealand

Ph:+64 7 8665916 /9(2)(a)

[\[redacted\]](#) [www.mbas.ac.nz](http://www.mbas.ac.nz) skype - john.wright

On Wed, 9 Mar 2022 at 11:30, Marcus Freke <[Marcus.Freke@education.govt.nz](mailto:Marcus.Freke@education.govt.nz)> wrote:

Kia ora John

9(2)(a)

However, this does not address the issues that were being discussed at the meeting. Mercury Bay Area School is in significant financial difficulty. There is no evidence of a plan being implemented to address the financial challenges or any significant actions taken. Those actions taken to date will not resolve the financial situation the school is facing in the long term.

It is now the view of the Ministry of Education that a higher-level intervention needs to be put in place and the financial management be transferred to a statutory manager to enable a plan to be developed and implemented to address the financial issues MBAS is facing.

I would like to organise a time to meet with you and your Board Presiding Member to discuss a financial management solution for Mercury Bay Area School. I will invite Chad Britton (Leader School Financial Advisory Team) and Mere Lawson-Nuri (Manager Education) to be a part of conversation. 9(2)(a)

9(2)(a)

With some urgency, please let me know some times & dates that would work for you and your Board Presiding Member to meet.

Ngā mihi

Marcus

**Marcus Freke** | Director of Education for Waikato  
Te Mahau | Te Tai Whenua

DDI +6478508896 | Mobile 9(2)(a)  
Hamilton Office

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

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



**Te Mahau**

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**Te Tahuu o te Matauranga | The Ministry of Education is a COVID-19 vaccinated workplace. To meet our workplace safety requirements you will be asked to show your My Vaccine Pass when you visit our offices for non-essential education services.**

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Intervention evidence 18 March, 2022

Ministry representatives have met with the Principal John Wright a number of times concerning the schools ongoing finances, ways of operating and reliance of international student's income. These meetings have occurred in 2018, 2021 and more recently with the Senior Leadership Team and Board of Trustees in January 2022. Of concern none of the remedial actions or recommendations have been implemented by the school over the past years.

Currently the Board do not have a plan to address the financial concerns and were going to wait until the 2022 budget was approved and the annual accounts were submitted to the Ministry. They are of the opinion this will inform the active state of the school's financial position. The school has featured in the Auditor Generals Report (2020, 2021) highlighting their poor financial position and lack of working capital.

With regards to the school's complaints policy, the Ministry has received a large amount of correspondence from the community. Some of these complaints have taken a long time to investigate and report back to the complainant. Further a number of the community do not wish to complain to the Board as they feel they will not be heard and that there will be consequences for speaking up given the small nature of the community.

The complaints consist of allegations of bullying (students and staff), staff performance and conduct, poor communication, lack of adhering to and fairness around code of conduct, students being isolated from others, poor adherence to behavioural plans, fighting, intimidation, unfairness and favouritism.



# Terms of Appointment

Limited Statutory Manager appointment for Mercury Bay Area School Board, effective from the date specified in the New Zealand Gazette notice.

Appointee: Val Wenham

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## Core Duties

1. You are expected to:
  - **(s180 only)** apply the following functions, powers and duties of the Board: to manage financial operations, to establish policies and procedures and to manage communications.
  - use your functions, powers and duties to achieve the [intervention objectives](#)
  - **(s180 only)** empower the Board to be able to exercise its powers effectively when the intervention ends, and
  - report immediately to the local Director of Education on any matters of particular concern relevant to the level of risk to the school or if you encounter any conflict of interest as Limited Statutory Manager.
2. **(s180 only)** You must also:
  - keep an accurate record of any meetings you attend with the Board and/or the Principal, including any decisions you make
  - consult with the Board on actions you wish to take that are likely to have an impact on powers and functions that remain with the Board
  - consider any existing delegations and work with the Principal and Board to make changes if and as required
  - work with the Board and Principal to define responsibilities and boundaries for financial commitment/liabilities
  - work with the Board, and obtain approval where required, to implement any changes that may impact on the Health and Safety of the staff, students or others at the school.
3. You must seek prior approval from the Ministry of Education (the Ministry) if you wish to contract services for the intervention that are outside the scope of costs anticipated in the Outcomes Plan. Details should be recorded in a memo signed by the local Ministry Director of Education.
4. If you will be unable to fulfil your functions, powers or duties for any period of time, you must advise the Board, the Principal and your Ministry contact person, with reasonable notice.



## Getting Started

5. Upon starting your appointment, you must:
  - **contact the Board's insurer** to ensure the Board's powers vested in you are covered by the Board's insurance policy and that you are aware of any conditions required by the insurer
  - **(s180 only) meet with the Board and Principal** to reach an understanding on the working arrangements, responsibilities and boundaries of your vested governance functions, powers, duties, and any conditions on those powers
  - undertake a **scoping period**, in the first four weeks (unless an extension has been approved by the Ministry).

## Situation Background

The Ministry has requested the appointment of an LSM to address a range of historic and current issues pertaining to poor financial management and parental complaints. Additional support is needed to assist trustees in understanding their current roles and responsibilities. Over the past 12 months the Principal has been offered support and guidance from the School's Finance Advisor which has not been accepted. This was due to the school being on the Auditor General's Report for 2 years regarding concern over the lack of the schools operating capital. Over the past 3 years the Ministry has received a large number of parental complaints on reoccurring themes which appear not to have been resolved.

## Scoping Period and Report

6. During the scoping period you must make as full an assessment as possible of the issues facing the school/kura and write this up in a Scoping Report.
7. The Scoping Report must include:
  - the evidence for this scoping;
  - identified strengths;
  - the issues facing the school/kura (the facts) and an analysis of the severity and scope of these issues;
  - issues not apparent at the outset of the intervention; and
  - the overall assessment of risk level.
8. The scoping report must be submitted to your Ministry of Education contact person by the end of the scoping period.
9. The Ministry of Education will use the scoping report to review the broader intervention outcomes and suitability of the current intervention level and scope. If the scoping report uncovers a need to replace the current intervention with a lower or higher level of intervention, your Ministry contact person will develop recommendations supporting the approval of this change and coordinate as applicable.
10. The Ministry of Education will provide you with a scoping report template for your use.

## Intervention Outcomes Plan and Statements of Effective Governance

11. The Ministry has identified the following (Education Review Office aligned) statements that describe the areas of effective governance that are the focus of this intervention:
  - The Board will ensure that regular monitoring, evaluation and reporting in relation to financial delegation's takers place
  - The Board will have shared understanding of individual roles and responsibilities and distribution of tasks
  - The Board will ensure that a physically and emotionally safe environment is provided for all students
12. From these statements of effective governance, a tailored set of measurable and iterative objectives will be developed by you, and updated during the course of the intervention.
13. After you have submitted your Scoping Report, your Ministry Education Adviser will contact you to discuss how and when the Outcome Plan will be completed. The Outcome Plan must outline:
  - the objectives to be achieved during the intervention;
  - the planned approach to achieve these objectives;
  - the indicative timeline for achieving these objectives;
  - the intervention costs, including the agreed maximum hours per month and other agreed expenses; and
  - any significant areas/items of expenditure that may be necessary to achieve the intervention objectives.
14. You are responsible for drafting an Outcomes Plan but should do this in collaboration with your Ministry contact person and the Board.
15. The Ministry of Education will provide you with an Outcomes Plan template for your use.
16. Your finalised Outcomes Plan will be attached as an addendum to this Terms of Appointment document in due course.

## Fees and Hours of Work

17. Your fees will be at the rate of  $\text{\$}^{9(2)(a)}$  per hour (GST excl). You may claim a maximum of 40 hours while you complete the scoping period and your post-scoping maximum monthly hours will be confirmed in the Outcomes Plan. Invoices will be submitted monthly.
18. Your rate of travel will be at  $\text{\$}^{9(2)(a)}$  per hour, which equates to approximately 5 hours per trip at  $\text{\$}^{9(2)(a)}$  including travel kilometres @ .76 per km.
19. On the occasion where you will need to stay overnight, you will be compensated  $\text{\$}^{9(2)(a)}$  per night for accommodation and  $\text{\$}^{9(2)(a)}$  for a meal allowance.

## Your Reporting Requirements

20. After the scoping period is complete and Outcomes Plan finalised, you must submit monthly progress reports to the Ministry of Education (and the Board) with details of:
  - any of your decisions/actions (financial or otherwise);

- (s180 only) any impacts that your decisions have had or may have on the Board's other areas of responsibility;
  - a review of the agreed set of objectives outlined in the outcome plan, progress made towards them and any amendments that need to be made to them (recognising that intervention progress and environmental changes may require such changes);
  - details of any barriers or challenges to be addressed; and
  - your monthly fees and expenses.
21. All reports should **not** include:
- specific details about individuals, employment issues or complaints;, or
  - details about issues or problems that arise as part of the day-to-day operations of the school/kura.
22. The Ministry of Education will provide you with a monthly reporting template for your use.

### Ministry Monitoring and Review and Exit from Intervention

23. This intervention and your appointment will be reviewed against the Outcomes Plan by the Ministry of Education within the first year and annually thereafter. Your appointment will end when one of the following occurs:
- the Minister of Education or delegate is satisfied that the intervention is no longer required; or
  - your appointment and/or the intervention is amended to the extent that your role is no longer required; or
  - you resign.
24. As part of your exit from appointment, you will:
- provide a final report;
  - manage a handover to the Board or new Statutory Provider; and
  - ensure all relevant documentation is appropriately filed or archived at the school, including a record of decisions you made and your decision making process.

## Discussion and Acceptance of Terms Subject to Appointment

### Appointee signature block

My signature below confirms that, should I be appointed to the Limited Statutory Manager role described in this document, I accept the stated terms of the appointment.

Name: Val Wenham

Signature \_\_\_\_\_ Date: \_\_\_\_\_

### Key Intervention Contact (Ministry of Education) signature block

My signature below confirms that I have discussed the terms of appointment outlined in this document with the above appointee.

Name: Cameron Frethey

Signature \_\_\_\_\_ Cameron Frethey \_\_\_\_\_ Date: 23/03/2021

Released under the Official Information Act 1982



Click here to enter a date.

Dan Asquith  
Presiding Member  
Mercury Bay Area School Board  
20 South Highway  
Whitianga 3510

Tēnā koe Dan

### Notice of Statutory Intervention

Alan Smith and Cameron Frethey has met with your Board to discuss the financial risk the school is currently facing.

Under section 180 of the Education and Training Act 2020 (the Act), as the Secretary's delegate, I have been directed to appoint a Limited Statutory Manager (LSM) for your Board because of risk to the operation of your school, the educational performance of students at your school and the welfare of students at your school.

I have appointed Val Wenham as LSM with the power to manage financial operations, to establish Board systems and processes and to manage communications. Val Wenham has extensive experience in governance and management in several schools and has assisted schools with their financial management and developing their policies and procedures.

The notice directing the appointment has been published in the *New Zealand Gazette* and is available via the following link: <https://gazette.govt.nz/>. Val Wenham's appointment takes effect from the date the Gazette notice takes effect.

Val Wenham is expected to use their vested functions, powers and duties to address the identified issues and build the Board's capability to manage all its functions, powers and duties independently.

### Remuneration for Statutory Provider

The rate of remuneration is <sup>9(2)(a)</sup> per hour for up to 40 hours for the first four weeks (the scoping period). The ongoing maximum monthly hours will be confirmed after this time.

Under section 180(6) of the Act, your school is required to meet the cost of the statutory appointment, unless the Ministry determines otherwise.

### Scoping Period and Report

The Statutory Provider must undertake a four week scoping period, making as full an assessment as possible of:

- all issues facing the school (the facts)
- analysis of the severity and scope of the issues
- evidence to support the analysis
- any issues that were not apparent at the outset
- the level of risk (eg an assessment of whether this is lower, equal to or higher than what was originally assessed by the Ministry).

Please note that the scoping report may uncover a need to:

- amend the scope of the current intervention;
- replace the current intervention with a lower level of intervention;
- replace the current intervention with a higher level of intervention; or
- add another intervention in the school alongside this one.

If any intervention changes are necessary, Cameron Frethey will develop recommendations supporting the approval of these changes and coordinate as applicable.

### **Intervention Outcomes and Outcomes Plan**

The following outcomes are expected as a result of this intervention:

- The Board will ensure that regular monitoring, evaluation and reporting in relation to financial delegation's takers place
- The Board will have shared understanding of individual roles and responsibilities and distribution of tasks
- The Board will ensure that a physically and emotionally safe environment is provided for all students

These outcomes may be amended after the issues have been scoped to reflect any new information found.

After the scoping report has been submitted to the Ministry, the Statutory Provider will develop an Outcomes Plan. The Outcomes Plan will outline:

- the objectives to be achieved during the intervention, which will contribute to the above intervention outcomes, as agreed by the Ministry
- the planned approach to achieve these objectives
- the expected timeline for achieving these objectives
- any additional support the Statutory Provider may require
- the intervention costs, including the agreed maximum hours per month and other agreed expenses.

### **Monthly reports to the Board and Ministry**

The Statutory Provider **must** submit monthly progress reports to the Board and the Ministry with details of:

- any decisions or actions made by the Board as a result of the advice or direction provided by you as the provider (financial or otherwise)
- progress made towards achieving the agreed set of intervention objectives (outlined in Outcomes Plan)
- details of any barriers or challenges to be addressed
- the Statutory Provider's monthly fees and expenses.

The Statutory Provider must also report to the Board and/or Ministry (as appropriate under the circumstances) about any matters of particular concern or if the statutory provider encounters any conflicts of interest as the LSM.

### **Review and exit from intervention**

I will review the intervention and Val Wenham's appointment within the first year. The intervention will end when it is no longer required or needs to be amended.

As part of the Statutory Provider's exit from appointment, they will:

- provide a final report
- manage a handover to the Board or new Statutory Provider
- ensure all relevant documentation that they have created and received in the course of their role is appropriately filed or archived at the school.

Cameron Frethey will accompany Val Wenham to meet with you and the Principal to discuss working arrangements, and will continue to support the school and monitor progress of the intervention. For further information about statutory interventions, please refer to <https://www.education.govt.nz/school/boards-information/boards-of-schools-and-kura/support-for-boards/>

Nāku noa, nā

Marcus Freke  
Director of Education, Waikato  
Te Mahau | Te Tai Whenua

cc John Wright, Mercury Bay Area School Board  
Val Wenham



[Click here to enter a date.](#)

9(2)(a)

Tēnā koe Val

Thank you for making yourself available for a new statutory appointment at Mercury Bay Area School.

As the Secretary's delegate, I am requiring the Mercury Bay Area School Board to contract you to provide it with specialist help, under section 173 of the Education and Training Act 2020, because of risk to the operation of your school.

Cameron Frethey will accompany you to meet with the Board to discuss the new role. The Board Chairperson will present a contract for services to you for your signature, and your appointment will start after you and the Board Chairperson have signed this.

I have enclosed a copy of the statutory intervention notice to the Board. This outlines what must be included in the contract for services and what is required from you in your role.

### Scoping Period and Report

You must undertake a four week scoping period, making as full an assessment as possible of:

- all issues facing the Choose an item. (the facts)
- analysis of the severity and scope of the issues
- evidence to support the analysis
- any issues that were not apparent at the outset
- the level of risk (eg an assessment of whether this is lower, equal to or higher than what was originally assessed by the Ministry).

Please note that the scoping report may uncover a need to:

- amend the scope of the current intervention
- replace the current intervention with a lower level of intervention
- replace the current intervention with a higher level of intervention
- add another intervention in the school alongside this one.

If any intervention changes are necessary, Cameron Frethey will develop recommendations supporting the approval of these changes and coordinate as applicable.

### Intervention Outcomes and Outcomes Plan

The following outcomes are expected as a result of this intervention:

- The Board will ensure that regular monitoring, evaluation and reporting in relation to financial delegation's takers place
- The Board will have shared understanding of individual roles and responsibilities and distribution of tasks.



These outcomes may be amended after you have scoped the issues at the school to reflect any new information found.

After you have submitted your scoping report, your Ministry contact person will contact you to discuss it with you and to discuss how and when the Outcomes Plan will be completed. The Outcomes Plan will outline:

- the objectives to be achieved during the intervention, which will contribute to the above intervention outcomes, as agreed by the Ministry
- the planned approach to achieve these objectives
- the expected timeline for achieving these objectives
- any additional support the Statutory Provider may require
- the intervention costs, including the agreed maximum hours per month and other agreed expenses.

You are responsible for drafting the Outcomes Plan but should do this in collaboration with your Ministry contact person and the Board. The Ministry has a Statutory Interventions Outcomes Plan template available for your use if you wish.

### **Monthly reports to the Board and Ministry**

You must submit monthly progress reports to the Board and Ministry with details of:

- any decisions or actions made by the Board as a result of the specialist help provided (financial or otherwise)
- progress made towards achieving the agreed set of intervention objectives (outlined in Outcomes Plan)
- details of any barriers or challenges to be addressed
- Your monthly fees and expenses.

A template is available for this.

You must also report to the Board and/or Ministry (as appropriate under the circumstances) about any matters of particular concern or if you encounter any conflicts of interest as specialist help.

### **Intervention Costs**

Your Ministry of Education contact will inform you as to whether the costs are being met by the School Board or the Ministry. Monthly invoices must be submitted to the relevant party in order for hours and expenses to be paid.

### **Exit from Intervention**

This intervention and your appointment will be reviewed against the Outcomes Plan by the Ministry within the first year and annually thereafter. Your appointment will end when one of the following occurs:

- the Secretary or delegate is satisfied that the intervention is no longer required
- your appointment and/or the intervention is amended to the extent that your role is no longer required
- you resign.

As part of your exit from appointment, you will:

- provide a final report
- manage a handover to the Board or new Statutory Provider

- ensure all relevant documentation that you have created and received in the course of your role is appropriately filed or archived at the school, including a record of Specialist Help you have provided

I thank you again for your willingness to support the governance of Mercury Bay Area School.

Nāku noa, nā

Marcus Freke  
Director of Education, Waikato  
Ministry of Education

Released under the Official Information Act 1982

**From:** [Cameron Frethey](#)  
**To:** [Val Wenham](#)  
**Subject:** RE: Terms of Appointment  
**Date:** Friday, 1 April 2022 8:06:00 am  
**Attachments:** [image001.png](#)

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Morning Val

National Office have suggested to add the extra advice due to the number of complaints we have received with regards to allegations of bullying (staff and students), staff performance and conduct, poor communication, lack of adhering to and fairness around code of conduct, poor adherence to behavioural plans, fighting, intimidation and favouritism.

I am happy to talk about this if need be.

Regards

Cameron

**Cameron Frethey** | Senior Education Adviser ECP

Te Mahau | Te Tai Whenua

DDI +6478587307 | 9(2)(a)

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**From:** Val Wenham 9(2)(a)

**Sent:** Thursday, 31 March 2022 4:26 PM

**To:** Cameron Frethey <[Cameron.Frethey@education.govt.nz](mailto:Cameron.Frethey@education.govt.nz)>

**Subject:** Re: Terms of Appointment

Hi Cameron

I will sign but was wondering is there any specific reason for adding this that I need to be aware of?

Cheers Val

On Thu, Mar 31, 2022 at 3:05 PM Cameron Frethey <[Cameron.Frethey@education.govt.nz](mailto:Cameron.Frethey@education.govt.nz)> wrote:

Kia ora Val

In discussion with National Office I have added a line in the first paragraph that states ' You may also advise the Board on its roles and responsibilities relating to student wellbeing.'

Given that I have made the change are you able to re-sign the agreement and return to me.

Regards

Cameron

**Cameron Frethey** | Senior Education Adviser ECP

Te Mahau | Te Tai Whenua

DDI +6478587307 | 9(2)(a)

Hamilton Office

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

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We shape an education system that delivers equitable and excellent outcomes*

## Document 7

Intervention evidence 22 April, 2022

Ministry representatives have met with the Principal John Wright a number of times concerning the schools ongoing finances, ways of operating and reliance of international student's income. These meetings have occurred in 2018, 2021 and more recently with the Senior Leadership Team and Board of Trustees in January 2022. Of concern none of the remedial actions or recommendations have been implemented by the school over the past years.

Earlier in the year the Board did not have a plan to address the financial concerns and were going to wait until the 2022 budget was approved and the annual accounts were submitted to the Ministry. They are of the opinion this will inform the active state of the school's financial position. The school has featured in the Auditor General's Report (2020, 2021) highlighting their poor financial position and lack of working capital.

With regards to the school's complaints policy, the Ministry has received a large amount of correspondence from the community. Some of these complaints have taken a long time to investigate and report back to the complainant. Further a number of the community do not wish to complain to the Board as they feel they will not be heard and that there will be consequences for speaking up given the small nature of the community.

The complaints consist of allegations of bullying (students and staff), staff performance and conduct, poor communication, lack of adhering to and fairness around code of conduct, students being isolated from others, poor adherence to behavioural plans, fighting, intimidation, unfairness and favouritism.

Ministry representatives met with the Board on 6 April 2022 to discuss the concerns and the purpose of the intervention. The Board are supportive of an Specialist Adviser being appointed.

Released under the Official Information Act 1982



29 April 2022

Val Wenham  
9(2)(a)

Tēnā koe Val

Thank you for making yourself available for a new statutory appointment at Mercury Bay Area School.

As the Secretary's delegate, I am requiring the Mercury Bay Area School Board to contract you to provide it with specialist help, under section 173 of the Education and Training Act 2020, because of risk to the operation of your school.

Cameron Frethey will accompany you to meet with the Board to discuss the new role. The Board Chairperson will present a contract for services to you for your signature, and your appointment will start after you and the Board Chairperson have signed this.

I have enclosed a copy of the statutory intervention notice to the Board. This outlines what must be included in the contract for services and what is required from you in your role.

#### Scoping Period and Report

You must undertake a four week scoping period, making as full an assessment as possible of:

- analysis of the severity and scope of the issues
- evidence to support the analysis
- any issues that were not apparent at the outset
- the level of risk (eg an assessment of whether this is lower, equal to or higher than what was originally assessed by the Ministry).

Please note that the scoping report may uncover a need to:

- amend the scope of the current intervention
- replace the current intervention with a lower level of intervention
- replace the current intervention with a higher level of intervention
- add another intervention in the school alongside this one.

If any intervention changes are necessary, Cameron Frethey will develop recommendations supporting the approval of these changes and coordinate as applicable.

#### Intervention Outcomes and Outcomes Plan

The following outcomes are expected as a result of this intervention:

- The Board will ensure that regular monitoring, evaluation and reporting in relation to financial delegation's takers place

- The Board will have shared understanding of individual roles and responsibilities and distribution of tasks.

These outcomes may be amended after you have scoped the issues at the school to reflect any new information found.

After you have submitted your scoping report, your Ministry contact person will contact you to discuss it with you and to discuss how and when the Outcomes Plan will be completed. The Outcomes Plan will outline:

- the objectives to be achieved during the intervention, which will contribute to the above intervention outcomes, as agreed by the Ministry
- the planned approach to achieve these objectives
- the expected timeline for achieving these objectives
- any additional support the Statutory Provider may require
- the intervention costs, including the agreed maximum hours per month and other agreed expenses.

You are responsible for drafting the Outcomes Plan but should do this in collaboration with your Ministry contact person and the Board. The Ministry has a Statutory Interventions Outcomes Plan template available for your use if you wish.

### **Monthly reports to the Board and Ministry**

You must submit monthly progress reports to the Board and Ministry with details of:

- any decisions or actions made by the Board as a result of the specialist help provided (financial or otherwise)
- progress made towards achieving the agreed set of intervention objectives (outlined in Outcomes Plan)
- details of any barriers or challenges to be addressed
- Your monthly fees and expenses.

A template is available for this.

You must also report to the Board and/or Ministry (as appropriate under the circumstances) about any matters of particular concern or if you encounter any conflicts of interest as specialist help.

### **Intervention Costs**

Your Ministry of Education contact will inform you as to whether the costs are being met by the School Board or the Ministry. Monthly invoices must be submitted to the relevant party in order for hours and expenses to be paid.

### **Exit from Intervention**

This intervention and your appointment will be reviewed against the Outcomes Plan by the Ministry within the first year and annually thereafter. Your appointment will end when one of the following occurs:

- the Secretary or delegate is satisfied that the intervention is no longer required
- your appointment and/or the intervention is amended to the extent that your role is no longer required
- you resign.

As part of your exit from appointment, you will:

- provide a final report
- manage a handover to the Board or new Statutory Provider

- ensure all relevant documentation that you have created and received in the course of your role is appropriately filed or archived at the school, including a record of Specialist Help you have provided

I thank you again for your willingness to support the governance of Mercury Bay Area School.

Nāku noa, nā



Marcus Freke  
Director of Education, Waikato  
Te Mahau | Te Tai Whenua

Released under the Official Information Act 1982



29 April 2022

Dan Asquith  
Presiding Member  
Mercury Bay Area School Board  
20 South Highway  
Whitianga 3510

Tēnā koe Dan

### Notice of Statutory Intervention

Ministry of Education colleagues and I have met with your Board to discuss how statutory intervention can help your school.

Under section 173 of the Education and Training Act 2020 (the Act), I am requiring you to engage specialist help from Val Wenham because of risk to the operation of your school.

The specialist help engaged must provide advice in relation to:

- Financial management
- Board roles and responsibilities

Your Board is required to act on the advice of the specialist help. The specialist help is at a statutory level and cannot be elected, co-opted or appointed to the Board while holding this role. While specialist help holds no voting powers and is not a member of the Board, the Board may wish to grant her speaking rights at Board meetings and committee meetings as necessary to carry out her role.

I have selected Val Wenham for the role because she has extensive experience in governance and management in several schools and has assisted schools with their financial management and developing their policies and procedures.

To engage the required specialist help, your Board will need to prepare a contract for services.

The following link takes you to a template you can use (if you wish) for your contract:

<https://www.nzsta.org.nz/assets/Recruitment-and-induction/Forms-and-templates/contractforservices-template.docx>

You can also contact the [New Zealand School Trustees Association](#) (NZSTA) for help to draft your contract for services, free of charge.

The contract for services must specify the information set out in Appendix One of this letter.

Cameron Frethey will accompany Val Wenham to meet with you and John Wright when you may present the contract for services for co-signing.



Val Wenham's role starts upon signing and Cameron Frethey will introduce the Statutory Provider to you and John Wright and continue to support the school and monitor progress of the intervention.

Nāku noa, nā



Marcus Freke  
Director of Education, , Waikato  
Te Mahau | Te Tai Whenua

cc John Wright, Mercury Bay Area School Board  
Val Wenham

Released under the Official Information Act 1982

## **Appendix One: Contract for specialist help must contain the following information**

### **Details of specialist help**

The specialist help that the selected Statutory Provider will provide to your Board, as outlined at the beginning of this letter.

### **Remuneration**

The rate of remuneration is <sup>9(2)(a)</sup> per hour for up to 40 hours for the first four weeks (the scoping period). The ongoing maximum monthly hours will be confirmed after this time. Under section 173(4)(b) of the Education and Training Act 2020, the school is required to meet the cost of the specialist help. The Statutory Provider is required to provide monthly invoices.

### **Scoping Period and Report**

The Statutory Provider must undertake a four-week scoping period, making as full an assessment as possible of:

- all issues facing the school/kura (the facts)
- analysis of the severity and scope of the issues
- evidence to support the analysis
- any issues that were not apparent at the outset
- the level of risk (e.g. an assessment of whether the risk is lower, equal to or higher than what was originally assessed by the Ministry).

Please note that the scoping report may uncover a need to:

- amend the scope of the current intervention;
- replace the current intervention with a lower level of intervention;
- replace the current intervention with a higher level of intervention; or
- add another intervention in the school alongside this one.

If any intervention changes are necessary, Cameron Frethey will develop recommendations supporting the approval of these changes and coordinate as applicable.

### **Intervention Outcomes and Outcomes Plan**

The following outcomes are expected as a result of this intervention:

- The Board will ensure that regular monitoring, evaluation and reporting in relation to financial delegation's takers place
- The Board will have shared understanding of individual roles and responsibilities and distribution of tasks.

These outcomes may be amended after the issues at the school have been scoped by the Statutory Provider, to reflect any new information found.

After the Scoping Report is submitted, the Ministry contact person will contact the Statutory Provider to discuss it, and how and when the Outcomes Plan will be completed. The Outcomes Plan will outline:

- the objectives to be achieved during the intervention, which will contribute to the above intervention outcomes, as agreed by the Ministry;
- the planned approach to achieve these objectives;
- the expected timeline for achieving these objectives;
- any additional support the Statutory Provider may require; and
- the intervention costs, including the agreed maximum hours per month and other agreed expenses.

The Statutory providers is responsible for drafting the Outcomes Plan but should do this in collaboration with the Ministry contact person and the Board. The Ministry has a Statutory Interventions Outcomes Plan template available for use if desired.

### **Monthly reports to the Board and Ministry**

The Statutory Provider **must** submit monthly progress reports to the Board and Ministry with details of:

- any decisions or actions made by the Board as a result of the specialist help provided (financial or otherwise)
- progress made towards achieving the agreed set of intervention objectives (outlined in Outcomes Plan)
- details of any barriers or challenges to be addressed
- the Statutory Provider's monthly fees and expenses.

The Statutory Provider must also report to the Board and/or Ministry (as appropriate under the circumstances) about any matters of particular concern or if the Statutory Provider encounters any conflicts of interest as specialist help.

### **Exit from Intervention**

This intervention and the Statutory Provider's appointment will be reviewed against the Outcomes Plan by the Ministry within the first year and annually thereafter. The Statutory Provider's appointment will end when one of the following occurs:

- the Secretary or delegate is satisfied that the intervention is no longer required;
- their appointment and/or the intervention is amended to the extent that their role is no longer required; or
- they resign.

As part of the Statutory Provider's exit from appointment, they will:

- provide a final report;
- manage a handover to the Board or new Statutory Provider; and
- ensure all relevant documentation that they have created and received in the course of their role is appropriately filed or archived at the school, including a record of Specialist Help they have provided.

Released under the Official Information Act 1982

## A Funding Provision Agreement for the Payment of Statutory Intervention Costs

**Between** the Secretary for Education acting by and through Jann Marshall of the Ministry of Education (the Ministry)  
**And** Mercury Bay Area School Board  
**Dated** June 2022

### Background

- A The Board is the subject of a Statutory Intervention ("the Intervention") in accordance with Section 171 of the Education and Training Act 2020.
- B The Minister or the Secretary, as the case may be, has appointed a Statutory Appointee or Specialist Help ("the Statutory Provider") to administer the Intervention under section 173 of the Education and Training Act 2020.
- C The Ministry agrees to pay the Statutory Provider directly on the Board's behalf (the Payment).
- D The Ministry and the Board wish to record the terms of the Payment in this Funding Provision Agreement ("the FPA").

The Ministry and the Board agree as follows:

#### 1.0 Term

- 1.1 The FPA shall cover costs incurred between June 2022 and May 2023 or if terminated in accordance with clause 6.1.
- 1.2 Funding under the FPA will only cover costs incurred between these dates only and this agreement will expire on the last day of the funding month.

#### 2.0 Payments to the Statutory Provider

- 2.1 For the avoidance of doubt the Board acknowledges that it is required to pay the fees and expenses of the Statutory Provider incurred outside of the dates and above the maximum figure in the FPA.
- 2.2 The Ministry will pay the Statutory Provider's fee up to a maximum of 9(2)(a) excluding GST. That is for 100% of hours and for 100% of expenses for the period stated in clause 1.1.

Released under the Official Information Act 1982

3.0 **Invoices**

- 3.1 The Statutory Provider shall invoice for the Payment at the end of each month for any specialist help or Board duties undertaken by the Statutory Provider during that month.
- 3.2 The Statutory Provider's invoice shall be addressed to the Ministry and copied to the Board for transparency.
- 3.3 Any invoices that fall outside of this agreement will be sent to the Board for payment.

4.0 **Disputes**

- 4.1 Ministry staff and the Board shall take all reasonable steps to resolve any dispute that may arise in connection with this FPA.
- 4.2 Any dispute that cannot be resolved by negotiation or discussion will be decided upon by the Secretary for Education or their nominated delegate. Decisions will be final and binding on the Board.
- 4.3 The Ministry shall not be liable to the Board for damages, compensation or any other remedy at law or in equity in relation to this FPA.

5.0 **Variation**

- 5.1 This FPA may be varied once by agreement in writing between the parties.

6.0 **Termination**

- 6.1 The Ministry may terminate this FPA at any time by giving at least 30 days written notice to the Statutory Provider and the Board.

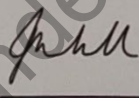
7.0 **Obligations of the Board**

- 7.1 The Board agrees to work in co-operation with the Statutory Provider and further agree to offer all practicable assistance to enable the Statutory Provider to fulfil their role.
- 7.2 The Board shall bring to the attention of the Ministry any discrepancies between the Statutory Provider's invoice and the actual hours worked or the level of expenses claimed.

8.0 **Review of FPA**

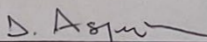
- 8.1 The FPA is subject to periodic review by the Ministry on a date or dates to be agreed between the Parties.

**For and on behalf of the Secretary  
for Education by Jann Marshall,  
Associate Deputy Secretary, Ministry  
of Education**

  
\_\_\_\_\_

Signed this 29 day of June 2022

**For and on behalf of the Mercury Bay  
Area School Board by Board  
nominee**

  
\_\_\_\_\_

POSITION: CHAIR BOARD OF TRUSTEES  
MERCURY BAY AREA SCHOOL

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2022

# Statutory Interventions Scoping Report

## Key Intervention Details

**Statutory Intervention:** Specialist Help engaged under section 173 of the Education and Training Act 2020

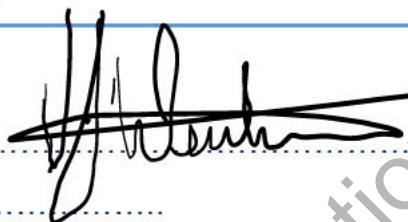
**Board:** Mercury Bay Area School Board

**Intervention Effective From:** 10 May 2022

**Name of Person Engaged:** Val Wenham

### Statutory Provider to Date and Sign

Physical signature or printed name: .....



Date... 13/06/2022.....

**Note to Statutory Providers:** All information produced in this document (and any other document relating to this intervention including emails) may be accessible by the public under the Official Information Act 1982. Personal information about individual employees at the kura/school may also be accessible under the Privacy Act 1993. You may seek advice from New Zealand School Trustees Association [Advisory and Support Centre](#)<sup>1</sup> and/or look at the [Ombudsmen Guidelines](#)<sup>2</sup> to understand what can be withheld.

## Situation Background

The Ministry has requested the appointment of myself as Specialist Advisor to address a range of historic and current issues pertaining to poor financial management and parental complaints. Additional support is needed to assist trustees in understanding their current roles and responsibilities and understanding and implementing Board policies and procedures. Over the past 12 months the Principal has been offered support and guidance from the School's Finance Advisor which has not been accepted. This was due to the school being on the Auditor General's Report for 2 years regarding concern over the lack of the schools operating capital.

## The Evidence for this Scoping

An introductory meeting was held at the school on 10 May 2022, with Cameron Frethey the main intervention contact and members of the Board. Those present were the Chairperson, Principal and included members of the finance committee. On 11 May 2022, I separately met with the Principal, a finance committee member and the executive officer. As a result of meeting with the executive officer, correspondence was shared with me. This has continued and has been advantageous in shaping the analysis and scope of the issues.

<sup>1</sup> NZSTA Advisory and Support Centre: For governance advice contact 0800 782 435 (option 1) and for employment advice contact 0800 782 435 (option 2).

<sup>2</sup> Ombudsmen Guidelines: <http://www.ombudsman.parliament.nz/resources-and-publications/guides> .

## Identified Strengths

The executive officer has very good understanding of the school's financial situation and has been employed at the school for nine years. The school is well supported by the Board of Trustees and who are willing to work with me to address their current financial situation.

## Issues Analysis

The final figures on 31<sup>st</sup> December showed a cash flow deficit (\$149,000).

This year the school is budgeting for an operating positive of \$5,627 which is too small for a school of this size. The 2022 budget was not approved until April 14 2022. Ideally the budget should have been completed and signed by November 2021 to start the year in January 2022. It is not good practice to start the year without a visible operating budget.

The current monthly finance report for the end of May 2022 has a cash deficit of \$31,167. This is most likely to be caused by the purchase of 150 chrome books which were ordered last year and paid in January 2022 for a total of \$58,177.

The school has adequate skills and strengths in the executive officer, but the systems, process and accountabilities need to be strengthened. Information from the executive officer to the Principal is not utilised. Despite concerns from the executive officer and lack of funds, the Principal has insisted that purchases are made.

The school will not reach a surplus budget unless the Principal and Board stop purchasing and agree to purchases only once the funds are available. This appears to have been a major contributor to the school being in the financial situation they are to date.

Of significance a contract was signed in March 2019 regarding the development of a whare on the school site. Part of the contract was the carving of the entrance way and several pou to the whare for a cost of \$118,150. Trust Waikato had approved a contribution of \$70,500. The school has covered the shortfall from their operational grant which has blown out to \$117,300. For reasons unknown the cost associated with this project have blown out to \$197,800.

Analysis has identified a number of transactions on the school's credit card over the past few years. These purchases include lotto tickets, coffee vouchers, visits to the local bar, koha (petrol vouchers) etc. under the title of 'staff appreciation'. This use of the school's credit card does not align with the FISH delegations of the appropriate use of the school's operational grant funding, as it does not benefit the students directly for teaching and learning.

Board systems and process are not robust, and the budget has not been well managed. Further the process for financial approvals is not robust, as approval is given after the fact a purchase has been made.

*Details about the issues facing the school/kura (the facts) and an analysis of the severity and scope of these issues.*

## Issues Not Apparent at Outset of Intervention

No further issues have been identified.

## Overall Assessment of Risk Level

Given the risk analysis, the risk level remains the same.

## Any Further Comments

The Board need to be informed that the school should not be spending any money if there are no funds available in the school account. There have been several examples where spending has happened before the funds are obtained and secured into the school account. As a result, money has had to be borrowed from other school sources to cover expenses. This is then paid back when Operational Grant funding has been received.

It is recommended to the Board that they may consider having the executive officer as part of the school senior leadership team. The executive officer provides an in-depth monthly report to the Principal on cash flow and financial concerns.

Another issue that was raised by the Ministry was the number of complaints received. To assist the Board with addressing complaints in a timely manner, training will need to be provided by me. The Board are wishing to contract an independent investigator to investigate a complex complaint – despite no funds being available.

The Principal has informed the Board that he will be retiring at the end of the 2022 year. It was raised that a considerable amount of money was needed to assist with the job application process and the school is unable to afford this. There are people accredited with NZSTA who can assist the Board with Principal appointment for a reasonable fee.

I have shared with the Board chair information pertaining to advertising for replacement staff and Principal positions through the Education Gazette. Additional information was shared regarding the school insurance legal liability cover, financial funding for schools (FISH handbook) and planning and reporting information.

The Board will benefit from training on systems and processes. The Board will have a shared understanding of individual roles and responsibilities and distribution of tasks. The Board will ensure that school policies and procedures are coherent and fit for purpose.

Additional information for Statutory Providers is available in the [Further Guidance Document](#).



Document 13

Dear Cameron,

This is to confirm that the Board agree to the increased level of support to be offered to Mercury Bay Area School by the LSM in the person of Val Wenham.

Kind regards

Dan Asquith

Board Chair

Sent from my iPhone

On 5/09/2022, at 8:50 AM, Daniel Asquith 9(2)(a) wrote:

Dear Cameron,

This is to confirm that following on from the Board meeting of 25th August. The increase in a Sent from my iPhone

On 26/08/2022, at 12:29 PM, Cameron Frethey <[Cameron.Frethey@education.govt.nz](mailto:Cameron.Frethey@education.govt.nz)> wrote:

Kia ora Dan

Thanks for leading a good meeting last night.

Can you please confirm that as discussed at yesterday's board meeting, the board agreed to an increase in the level of statutory support provided from the current level of specialist advisor to Limited Statutory Manager. It is proposed that this person hold the following board powers:

All functions, powers and duties of the board as an employer (whether statutory or otherwise)

All functions, powers and duties of the board in relation to property management (whether statutory or otherwise)

All functions, powers and duties of the board to establish procedures and processes (whether statutory or otherwise) for the investigation and resolution of complaints to the board

The LSM to also advise on the board's management of financial operations.

Regards

Cam

**Cameron Frethey** | Senior Education Adviser ECP

Te Mahau | Te Tai Whenua

DDI +6478587307 | Mobile 9(2)(a)

Hamilton Office

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

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

## Document 14

Updated -Intervention evidence 5 September, 2022

Ministry representatives have met with the Principal John Wright a number of times concerning the schools ongoing finances, ways of operating and reliance of international student's income. These meetings have occurred in 2018, 2021 and more recently with the Senior Leadership Team and Board of Trustees in January 2022. Of concern none of the remedial actions or recommendations have been implemented by the school over the past years.

Earlier in the year the Board did not have a plan to address the financial concerns and were going to wait until the 2022 budget was approved and the annual accounts were submitted to the Ministry. They are of the opinion this will inform the active state of the school's financial position. The school has featured in the Auditor General's Report (2020, 2021) highlighting their poor financial position and lack of working capital.

With regards to the school's complaints policy, the Ministry has received a large amount of correspondence from the community. Some of these complaints have taken a long time to investigate and report back to the complainant. Further a number of the community do not wish to complain to the Board as they feel they will not be heard and that there will be consequences for speaking up given the small nature of the community.

The complaints consist of allegations of bullying (students and staff), staff performance and conduct, poor communication, lack of adhering to and fairness around code of conduct, students being isolated from others, poor adherence to behavioural plans, fighting, intimidation, unfairness and favouritism.

Ministry representatives met with the Board on 6 April 2022 to discuss the concerns and the purpose of the intervention. The Board are supportive of an Specialist Adviser being appointed.

Ministry representatives have met with John Wright a number of times over the past few years about being over staffed and doing a staffing review. This has not occurred in timely fashion, neither has it been completed or actioned despite the school's financial position.

On September 2 2022, the Ministry were notified by the interventionist that the presiding member was concerned about a recent alleged serious confidentially privacy breach by a staff member. This matter has become an employment matter and was of a concern to the presiding member.



6/09/2022

Val Wenham  
9(2)(a)

Tēnā koe Val

On 29/04/2022 the Mercury Bay Area School Board were directed to engage you to provide Specialist Help to address risks to the operation of the school.

The intervention has been reviewed and while progress has been made addressing the school's financial operations, it is now considered that the risk has increased to the extent that this intervention needs to be replaced with a higher level of intervention. I have therefore decided that this intervention will be revoked, effective 14 days from the date of this letter.

Thank you for making yourself available for another statutory appointment at Mercury Bay Area School and for agreeing to the terms of the appointment, which were discussed with you on 6/08/2022

As the Secretary's delegate, I am appointing you as a Limited Statutory Manager (LSM) for this school under section 180 of the Education and Training Act 2020, because of risk to the operation of the school.

The notice directing this statutory appointment has been published in the New Zealand Gazette and is available via the following link: <https://gazette.govt.nz/>. Your appointment takes effect from the date the Gazette notice takes effect.

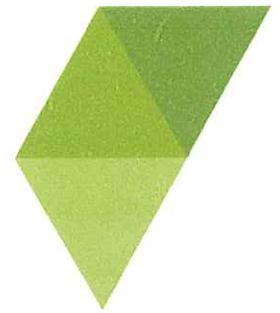
I have enclosed a copy of my letter to the Mercury Bay Area School Board Chair, Dr Dan Asquith, informing him of this appointment. Cameron Frethey will accompany you to meet with the Board so you can discuss your working arrangements.

The Ministry of Education Bulletin for School Leaders - He Pitopito Kōrero provides fortnightly updates on what school leaders need to know and action, local news, events and more. If you would like to be added to the recipient list, please email [bulletin@education.govt.nz](mailto:bulletin@education.govt.nz), alternatively you can access this via the Ministry website at [www.education.govt.nz](http://www.education.govt.nz).

I thank you again for your willingness to support the governance of Mercury Bay Area School.

Nāku noa, nā

Marcus Freke  
Director of Education, Waikato  
Te Mahau



# Terms of Appointment

Limited Statutory Manager appointment for Mercury Bay Area School Board, effective from the date specified in the New Zealand Gazette notice.

Appointee: Val Wenham

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## Core Duties

1. You are expected to:
  - apply the following functions, powers and duties of the Board: as an employer (whether statutory or otherwise) and in relation to property management (whether statutory or otherwise).
  - use your functions, powers and duties to achieve the [intervention objectives](#)
  - apply the following functions, powers and duties of the Board: to manage financial operations, to establish policies and procedures and to manage communications.
  - You may also advise the Board on its roles and responsibilities relating to student wellbeing.
  - empower the Board to be able to exercise its powers effectively when the intervention ends, and
  - report immediately to the local Director of Education on any matters of particular concern relevant to the level of risk to the school or if you encounter any conflict of interest as Limited Statutory Manager.
2. You must also:
  - keep an accurate record of any meetings you attend with the Board and/or the Principal, including any decisions you make
  - consult with the Board on actions you wish to take that are likely to have an impact on powers and functions that remain with the Board
  - consider any existing delegations and work with the Principal and Board to make changes if and as required
  - obtain the prior approval of the Board to commit any expenditure
  - work with the Board, and obtain approval where required, to implement any changes that may impact on the Health and Safety of the staff, students or others at the school.
3. You must seek prior approval from the Ministry of Education (the Ministry) if you wish to contract services for the intervention that are outside the scope of costs anticipated in the Outcomes Plan. Details should be recorded in a memo signed by the local Ministry Director of Education.

4. If you will be unable to fulfil your functions, powers or duties for any period of time, you must advise the Board, the Principal and your Ministry contact person, with reasonable notice.

## Getting Started

5. Upon starting your appointment, you must:
  - **contact the Board's insurer** to ensure the Board's powers vested in you are covered by the Board's insurance policy and that you are aware of any conditions required by the insurer
  - **meet with the Board and Principal** to reach an understanding on the working arrangements, responsibilities and boundaries of your vested governance functions, powers, duties, and any conditions on those powers
  - undertake a **scoping period**, in the first four weeks (unless an extension has been approved by the Ministry).

## Situation Background

The Ministry has requested the appointment of an LSM to address a range of historic and current issues pertaining to employment and property management. Currently the Board is being supported with specialist advice regarding financial management and roles and responsibilities. Progress has been made with regards to financial management. Additional support is needed to assist up and coming trustees in understanding their new roles and responsibilities.

Over the past 18 months the Principal has been offered support and guidance from the School's Finance Advisor which has not been accepted. This was due to the school being on the Auditor General's Report for 2 years regarding concern over the lack of the schools operating capital. Over the past 3 years the Ministry has received a large number of parental complaints on reoccurring themes which appear not to have been resolved.

## Scoping Period and Report

6. During the scoping period you must make as full an assessment as possible of the issues facing the school/kura and write this up in a Scoping Report.
7. The Scoping Report must include:
  - the evidence for this scoping;
  - identified strengths;
  - the issues facing the school/kura (the facts) and an analysis of the severity and scope of these issues;
  - issues not apparent at the outset of the intervention; and
  - the overall assessment of risk level.
8. The scoping report must be submitted to your Ministry of Education contact person by the end of the scoping period.
9. The Ministry of Education will use the scoping report to review the broader intervention outcomes and suitability of the current intervention level and scope. If the scoping report uncovers a need to replace the current intervention with a lower or higher level of

intervention, your Ministry contact person will develop recommendations supporting the approval of this change and coordinate as applicable.

10. The Ministry of Education will provide you with a scoping report template for your use.

## **Intervention Outcomes Plan and Statements of Effective Governance**

11. The Ministry has identified the following (Education Review Office aligned) statements that describe the areas of effective governance that are the focus of this intervention:
  - The Board will ensure that regular monitoring, evaluation and reporting in relation to financial delegation's takers place
  - The Board will have shared understanding of individual roles and responsibilities and distribution of tasks
  - The Board will ensure that a physically and emotionally safe environment is provided for all students
  - The Board will ensure that human resource management procedures and practices promote and support high quality education outcomes and safety.
  - The Board will ensure that regular monitoring, evaluation and reporting in relation to property management delegations takes place.
12. From these statements of effective governance, a tailored set of measurable and iterative objectives will be developed by you, and updated during the course of the intervention.
13. After you have submitted your Scoping Report, your Ministry Education Adviser will contact you to discuss how and when the Outcome Plan will be completed. The Outcome Plan must outline:
  - the objectives to be achieved during the intervention;
  - the planned approach to achieve these objectives;
  - the indicative timeline for achieving these objectives;
  - the intervention costs, including the agreed maximum hours per month and other agreed expenses; and
  - any significant areas/items of expenditure that may be necessary to achieve the intervention objectives.
14. You are responsible for drafting an Outcomes Plan but should do this in collaboration with your Ministry contact person and the Board.
15. The Ministry of Education will provide you with an Outcomes Plan template for your use.
16. Your finalised Outcomes Plan will be attached as an addendum to this Terms of Appointment document in due course.

## **Fees and Hours of Work**

17. Your fees will be at the rate of <sup>9(2)(a)</sup> per hour (plus GST). You may claim a maximum of 40 hours while you complete the scoping period and your post-scoping maximum monthly hours will be confirmed in the Outcomes Plan. Invoices will be submitted monthly.

18. Your rate of travel will be at 9(2)(a) per hour (plus GST), which equates to approximately 5 hours per trip at 9(2)(a) (plus GST) including travel kilometres 9(2)(a) per km.
19. On the occasion where you will need to stay overnight, you will be compensated 9(2)(a) per night for accommodation and 9(2)(a) for a meal allowance. (Plus GST)

### Your Reporting Requirements

20. After the scoping period is complete and Outcomes Plan finalised, you must submit monthly progress reports to the Ministry of Education (and the Board) with details of:
- any of your decisions/actions (financial or otherwise);
  - any impacts that your decisions have had or may have on the Board's other areas of responsibility;
  - a review of the agreed set of objectives outlined in the outcome plan, progress made towards them and any amendments that need to be made to them (recognising that intervention progress and environmental changes may require such changes);
  - details of any barriers or challenges to be addressed; and
  - your monthly fees and expenses.
21. All reports should **not** include:
- specific details about individuals, employment issues or complaints; or
  - details about issues or problems that arise as part of the day-to-day operations of the school/kura.
22. The Ministry of Education will provide you with a monthly reporting template for your use.

### Ministry Monitoring and Review and Exit from Intervention

23. This intervention and your appointment will be reviewed against the Outcomes Plan by the Ministry of Education within the first year and annually thereafter. Your appointment will end when one of the following occurs:
- the Minister of Education or delegate is satisfied that the intervention is no longer required; or
  - your appointment and/or the intervention is amended to the extent that your role is no longer required; or
  - you resign.
24. As part of your exit from appointment, you will:
- provide a final report;
  - manage a handover to the Board or new Statutory Provider; and
  - ensure all relevant documentation is appropriately filed or archived at the school, including a record of decisions you made and your decision making process.

## Discussion and Acceptance of Terms Subject to Appointment

### Appointee signature block

My signature below confirms that, should I be appointed to the Limited Statutory Manager role described in this document, I accept the stated terms of the appointment.

Name: Val Wenham

Signature



Date: 06/09/2022

### Key Intervention Contact (Ministry of Education) signature block

My signature below confirms that I have discussed the terms of appointment outlined in this document with the above appointee.

Name: Cameron Frethey

Signature



Cameron Frethey \_\_\_\_\_

Date: 06/09/2022

Released under the Official Information Act 1982

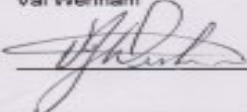


**Discussion and Acceptance of Terms Subject to Appointment**

**Appointee signature block**

My signature below confirms that, should I be appointed to the Limited Statutory Manager role described in this document, I accept the stated terms of the appointment.

Name: Val Wenham

Signature:  Date: 23-03-2022

**Key Intervention Contact (Ministry of Education) signature block**

My signature below confirms that I have discussed the terms of appointment outlined in this document with the above appointee.

Name: Cameron Frethey

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Released under the Official Information Act 1982



## NOTICE FOR NEW ZEALAND GAZETTE

### Notice of Direction to Appoint a Limited Statutory Manager for the Mercury Bay Area School (110) Board

Under section 180 of the Education and Training Act 2020, with delegated authority from the Minister of Education, I hereby direct the appointment of a limited statutory manager for the Mercury Bay Area School (110) Board ('the Board').

1. The following functions, powers and duties of the Board are to be vested in the limited statutory manager:
  - a. all functions, powers and duties of the Board as an employer (whether statutory or otherwise); and
  - b. all functions, powers and duties of the Board in relation to property management (whether statutory or otherwise).
2. The LSM may also advise the Board on:
  - a. Financial operations (whether statutory or otherwise); and
  - b. board policies and procedures.
3. The Board will retain its primary duty of care as a person conducting a business or undertaking, under the Health and Safety at Work Act 2015, above and beyond all functions, powers, and duties of this limited statutory manager.

This notice takes effect on the date of publication.

Dated at Wellington this            day of September 2022.

JOCELYN MIKAERE  
Hautū | Deputy Secretary  
Te Mahau | Te Tai Whenua  
Te Tāhuhu o te Mātauranga | Ministry of Education



22 September 2022

9(2)(a) m

Tēnā koe Val

On 29 April 2022 the Mercury Bay Area School Board were directed to engage you to provide Specialist Help to address risks to the operation of the school.

The intervention has been reviewed and while progress has been made addressing the school's financial operations, it is now considered that the risk has increased to the extent that this intervention needs to be replaced with a higher level of intervention. I have therefore decided that this intervention will be revoked and replaced.

As the Secretary's delegate, I am appointing you as a Limited Statutory Manager (LSM) for this board under section 180 of the Education and Training Act 2020, because of increased risk to the operation of the school.

Thank you for making yourself available for the new statutory appointment at Mercury Bay Area School and for agreeing to the terms of the appointment, which were discussed with you on 6 September 2022.

The notice directing this statutory appointment has been published in the New Zealand Gazette and is available via the following link: <https://gazette.govt.nz/>. Your appointment takes effect from the date the Gazette notice takes effect.

### Scoping Period and Report

You must undertake a four-week scoping period, making as full an assessment as possible of:

- all issues facing the school (the facts)
- analysis of the severity and scope of the issues
- evidence to support the analysis
- any issues that were not apparent at the outset
- the level of risk (e.g. an assessment of whether this is lower, equal to or higher than what was originally assessed by the Ministry).

Please note that the scoping report may uncover a need to:

- amend the scope of the current intervention
- replace the current intervention with a lower level of intervention
- replace the current intervention with a higher level of intervention
- add another intervention in the school alongside this one.

If any intervention changes are necessary, Cameron Frethey will develop recommendations supporting the approval of these changes and coordinate as applicable.

### **Intervention Outcomes and Outcomes Plan**

The following outcomes are expected as a result of this intervention:

- the Board will ensure that human resource management procedures and practices promote and support high quality education outcomes and safety.
- The Board will ensure that regular monitoring, evaluation and reporting in relation to property management delegations takes place.
- The Board will ensure that regular monitoring, evaluation and reporting in relation to financial delegation's takes place.
- The Board will have shared understanding of individual roles and responsibilities and distribution of tasks
- The Board will ensure that a physically and emotionally safe environment is provided for all students

These outcomes may be amended after you have scoped the issues at the school to reflect any new information found.

After you have submitted your scoping report, your Ministry contact person will contact you to discuss it with you and to discuss how and when the Outcomes Plan will be completed. The Outcomes Plan will outline:

- the objectives to be achieved during the intervention, which will contribute to the above intervention outcomes, as agreed by the Ministry
- the planned approach to achieve these objectives
- the expected timeline for achieving these objectives
- any additional support you may require
- the intervention costs, including the agreed maximum hours per month and other agreed expenses.

You are responsible for drafting the Outcomes Plan but should do this in collaboration with your Ministry contact person and the Board. The Ministry has a Statutory Interventions Outcomes Plan template available for your use if you wish.

### **Monthly reports to the Board and Ministry**

You must submit monthly progress reports to the Board and Ministry with details of:

- any decisions or actions made by the Board as a result of the specialist help provided (financial or otherwise)
- progress made towards achieving the agreed set of intervention objectives (outlined in Outcomes Plan)
- details of any barriers or challenges to be addressed
- your monthly fees and expenses.

A template is available for this.

You must also report to the Board and/or Ministry (as appropriate under the circumstances) about any matters of particular concern or if you encounter any conflicts of interest as specialist help.

### Intervention Costs

Your Ministry of Education contact will inform you as to whether the costs are being met by the School Board or the Ministry. Monthly invoices must be submitted to the relevant party for hours and expenses to be paid.

### Exit from Intervention

This intervention and your appointment will be reviewed against the Outcomes Plan by the Ministry within the first year and annually thereafter. Your appointment will end when one of the following occurs:

- the Secretary or delegate is satisfied that the intervention is no longer required
- your appointment and/or the intervention is amended to the extent that your role is no longer required
- you resign.

As part of your exit from appointment, you will:

- provide a final report
- manage a handover to the Board or new Statutory Provider
- ensure all relevant documentation that you have created and received during your role is appropriately filed or archived at the school.

I have enclosed a copy of my letter to the Mercury Bay Area School Board Chair, Dr Dan Asquith, informing him of this appointment. Cameron Frethey will accompany you to meet with the Board so you can discuss the new working arrangements.

I thank you again for your willingness to support the governance of Mercury Bay Area School.

Nāku noa, nā



Marcus Freke  
Director of Education, Waikato  
Te Mahau | Te Tai Whenua



22 September 2022

Dan Asquith  
Presiding Member  
Mercury Bay Area School Board  
20 South Highway  
Whitianga 3510

Tēnā koe Dan

### Review of Statutory Intervention and resulting outcomes

On 29 April 2022 your Board received a notice requiring it to engage specialist help from Val Wenham because of risk to the operation of your school.

This intervention has been reviewed and it is now considered that risk to the operation of the school has increased. The Minister of Education's delegate has therefore directed me as Secretary's delegate to appoint a Limited Statutory Manager (LSM) for the board under section 180 of the Education and Training Act 2020 (the Act). The current specialist help intervention will end of the day the LSM intervention takes effect.

I have appointed Val Wenham as LSM with all functions, powers and duties of the Board as an employer, and in relation to property management. Val will also advise the Board on financial operations and board policies and procedures. Val has extensive experience in governance and management in several schools and has assisted several boards with their financial management and developing their policies and procedures.

The notice directing the appointment has been published in the *New Zealand Gazette* and is available via the following link: <https://gazette.govt.nz/>. Val's appointment takes effect from the date the Gazette notice takes effect.

Val is expected to use their vested functions, powers and duties to address the identified issues and build the Board's capability to manage all its functions, powers and duties independently.

### Remuneration for Statutory Provider

The rate of remuneration is <sup>9(2)(a)</sup> per hour for up to 40 hours for the first four weeks (the scoping period). The ongoing maximum monthly hours will be confirmed after this time.

Under section 180(6) of the Act, your school is required to meet the cost of the statutory appointment, unless the Ministry determines otherwise.

## Scoping Period and Report

The Statutory Provider must undertake a four-week scoping period, making as full an assessment as possible of:

- all issues facing the school (the facts)
- analysis of the severity and scope of the issues
- evidence to support the analysis
- any issues that were not apparent at the outset
- the level of risk (e.g. an assessment of whether this is lower, equal to or higher than what was originally assessed by the Ministry).

Please note that the scoping report may uncover a need to:

- amend the scope of the current intervention
- replace the current intervention with a lower level of intervention
- replace the current intervention with a higher level of intervention
- add another intervention in the school alongside this one.

## Intervention Outcomes and Outcomes Plan

The following outcomes are expected as a result of this intervention:

- the Board will ensure that human resource management procedures and practices promote and support high quality education outcomes and safety.
- The Board will ensure that regular monitoring, evaluation and reporting in relation to property management delegations takes place.
- The Board will ensure that regular monitoring, evaluation and reporting in relation to financial delegation's takes place.
- The Board will have shared understanding of individual roles and responsibilities and distribution of tasks
- The Board will ensure that a physically and emotionally safe environment is provided for all students

These outcomes may be amended after the issues have been scoped to reflect any new information found.

After the scoping report has been submitted to the Ministry, the Statutory Provider will develop an Outcomes Plan. The Outcomes Plan will outline:

- the objectives to be achieved during the intervention, which will contribute to the above intervention outcomes, as agreed by the Ministry
- the planned approach to achieve these objectives
- the expected timeline for achieving these objectives
- any additional support the Statutory Provider may require
- the intervention costs, including the agreed maximum hours per month and other agreed expenses.

## Monthly reports to the Board and Ministry

The Statutory Provider **must** submit monthly progress reports to the Board and the Ministry with details of:

- any decisions or actions made by the Board as a result of the advice or direction provided by you as the provider (financial or otherwise)
- progress made towards achieving the agreed set of intervention objectives (outlined in Outcomes Plan)
- details of any barriers or challenges to be addressed
- the Statutory Provider's monthly fees and expenses.

The Statutory Provider must also report to the Board and/or Ministry (as appropriate under the circumstances) about any matters of particular concern or if the statutory provider encounters any conflicts of interest as the LSM.

## Review and exit from intervention

I will review the intervention and Val's appointment within the first year. The intervention will end when it is no longer required or needs to be amended.

As part of the Statutory Provider's exit from appointment, they will:

- provide a final report
- manage a handover to the Board or new Statutory Provider
- ensure all relevant documentation that they have created and received in the course of their role is appropriately filed or archived at the school.

Cameron Frethey will accompany Val to meet with you and the Principal to discuss the new working arrangements and will continue to support the school and monitor progress of the intervention.

I will review the intervention and Val's appointment within the first year. The intervention will end when it is no longer required or needs to be amended.

Nāku noa, nā



Marcus Freke  
Director of Education, Waikato

cc John Wright, Principal, Mercury Bay Area School  
Val Wenham, Statutory Provider





## A Funding Provision Agreement for the Payment of Statutory Intervention Costs

**Between** the Secretary for Education acting by and through David Olivier of the Ministry of Education (the Ministry)  
**And** Mercury Bay Area School Board  
**Dated** 14 November 2022

### Background

- A The Board is the subject of a Statutory Intervention ("the Intervention") in accordance with Section 171 of the Education and Training Act 2020.
- B The Minister or the Secretary, as the case may be, has appointed a Statutory Appointee or Specialist Help ("the Statutory Provider") to administer the Intervention under section 180 of the Education and Training Act 2020.
- C The Ministry agrees to pay the Statutory Provider directly on the Board's behalf (*the Payment*).
- D The Ministry and the Board wish to record the terms of the Payment in this Funding Provision Agreement ("the FPA").

The Ministry and the Board agree as follows:

#### 1.0 Term

- 1.1 The FPA shall cover costs incurred between September 2022 and August 2023 or if terminated in accordance with clause 6.1.
- 1.2 Funding under the FPA will only cover costs incurred between these dates only and this agreement will expire on the last day of the funding month.

#### 2.0 Payments to the Statutory Provider

- 2.1 For the avoidance of doubt the Board acknowledges that it is required to pay the fees and expenses of the Statutory Provider incurred outside of the dates and above the maximum figure in the FPA.
- 2.2 The Ministry will pay the Statutory Provider's fee up to a maximum of \$9(2)(a) excluding GST. That is for 100% of hours and for 100% of expenses for the period stated in clause 1.1.

Released under the Official Information Act 1982

**3.0 Invoices**

- 3.1 The Statutory Provider shall invoice for the Payment at the end of each month for any specialist help or Board duties undertaken by the Statutory Provider during that month.
- 3.2 The Statutory Provider's invoice shall be addressed to the Ministry and copied to the Board for transparency.
- 3.3 Any invoices that fall outside of this agreement will be sent to the Board for payment.

**4.0 Disputes**

- 4.1 Ministry staff and the Board shall take all reasonable steps to resolve any dispute that may arise in connection with this FPA.
- 4.2 Any dispute that cannot be resolved by negotiation or discussion will be decided upon by the Secretary for Education or their nominated delegate. Decisions will be final and binding on the Board.
- 4.3 The Ministry shall not be liable to the Board for damages, compensation or any other remedy at law or in equity in relation to this FPA.

**5.0 Variation**

- 5.1 This FPA may be varied once by agreement in writing between the parties.

**6.0 Termination**

- 6.1 The Ministry may terminate this FPA at any time by giving at least 30 days written notice to the Statutory Provider and the Board.

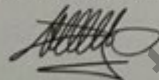
**7.0 Obligations of the Board**

- 7.1 The Board agrees to work in co-operation with the Statutory Provider and further agree to offer all practicable assistance to enable the Statutory Provider to fulfil their role.
- 7.2 The Board shall bring to the attention of the Ministry any discrepancies between the Statutory Provider's invoice and the actual hours worked or the level of expenses claimed.

**8.0 Review of FPA**


- 8.1 The FPA is subject to periodic review by the Ministry on a date or dates to be agreed between the Parties.

For and on behalf of the Secretary  
for Education by David Olivier,  
Acting Associate Deputy Secretary,  
Ministry of Education



Signed this 14 November day of 2022

For and on behalf of the Mercury Bay  
Area School Board nominee



POSITION: Presiding Member  
Mercury Bay Area School  
Board of Trustees

Signed this 14 day of November 2022



# A Funding Provision Agreement for the Payment of Statutory Intervention Costs

<b>Between</b>	the Secretary for Education acting by and through David Olivier of the Ministry of Education (the Ministry)
<b>And</b>	Mercury Bay Area School Board
<b>Dated</b>	14 November 2022

## Background

- A The Board is the subject of a Statutory Intervention (“the Intervention”) in accordance with Section 171 of the Education and Training Act 2020.
- B The Minister or the Secretary, as the case may be, has appointed a Statutory Appointee or Specialist Help (“*the Statutory Provider*”) to administer the Intervention under section 180 of the Education and Training Act 2020.
- C The Ministry agrees to pay the Statutory Provider directly on the Board’s behalf (*the Payment*).
- D The Ministry and the Board wish to record the terms of the Payment in this Funding Provision Agreement (“the FPA”).

The Ministry and the Board agree as follows:

### 1.0 **Term**

- 1.1 The FPA shall cover costs incurred between September 2022 and August 2023 or if terminated in accordance with clause 6.1.
- 1.2 Funding under the FPA will only cover costs incurred between these dates only and this agreement will expire on the last day of the funding month.

### 2.0 **Payments to the Statutory Provider**

- 2.1 For the avoidance of doubt the Board acknowledges that it is required to pay the fees and expenses of the Statutory Provider incurred outside of the dates and above the maximum figure in the FPA.
- 2.2 The Ministry will pay the Statutory Provider’s fee up to a maximum of 9(2)(a) excluding GST. That is for 100% of hours and for 100% of expenses for the period stated in clause 1.1.

Released under the Official Information Act 1982

3.0 **Invoices**

- 3.1 The Statutory Provider shall invoice for the Payment at the end of each month for any specialist help or Board duties undertaken by the Statutory Provider during that month.
- 3.2 The Statutory Provider's invoice shall be addressed to the Ministry and copied to the Board for transparency.
- 3.3 Any invoices that fall outside of this agreement will be sent to the Board for payment.

4.0 **Disputes**

- 4.1 Ministry staff and the Board shall take all reasonable steps to resolve any dispute that may arise in connection with this FPA.
- 4.2 Any dispute that cannot be resolved by negotiation or discussion will be decided upon by the Secretary for Education or their nominated delegate. Decisions will be final and binding on the Board.
- 4.3 The Ministry shall not be liable to the Board for damages, compensation or any other remedy at law or in equity in relation to this FPA.

5.0 **Variation**

- 5.1 This FPA may be varied once by agreement in writing between the parties.

6.0 **Termination**

- 6.1 The Ministry may terminate this FPA at any time by giving at least 30 days written notice to the Statutory Provider and the Board.

7.0 **Obligations of the Board**

- 7.1 The Board agrees to work in co-operation with the Statutory Provider and further agree to offer all practicable assistance to enable the Statutory Provider to fulfil their role.
- 7.2 The Board shall bring to the attention of the Ministry any discrepancies between the Statutory Provider's invoice and the actual hours worked or the level of expenses claimed.

8.0 **Review of FPA**

- 8.1 The FPA is subject to periodic review by the Ministry on a date or dates to be agreed between the Parties.

**For and on behalf of the Secretary  
for Education by David Olivier,  
Acting Associate Deputy Secretary,  
Ministry of Education**



**For and on behalf of the Mercury Bay  
Area School Board nominee**

\_\_\_\_\_  
**POSITION:**