

31 AUG 2017

Tim Newman
fyi-request-6251-e36b34c4@requests.fyi.org.nz

Dear Tim

Thank you for your email of 21 July 2017 to the Ministry of Education requesting the following information:

1. *all relevant letters, emails and documents relating to the appointment of statutory manager Madeleine Hawkesby at St Joseph's Primary School in Invercargill*
2. *all relevant letters, emails and documents relating to a head teacher at the school being put on extended leave during the past four months*
3. *all relevant letters, emails and documents from the statutory manager to the St Joseph's school board since her appointment.*


We have considered your request under the Official Information Act 1982 (the Act).

On 3 August 2017, we transferred parts 2 and 3 of the request to the Combined Board of Trustees for St Joseph's School, Invercargill, St Patricks School, Nightcaps, and St Teresa's School, Bluff.

With regard to part 1 of your request, we have conducted a search for information about the process of appointing Madeleine Hawkesby to the role of Limited Statutory Manager. We identified five documents within scope of this part of your request. We are releasing one document to you in part and four to you in full, withholding information under section 9(2)(a) of the Act to protect individuals' privacy.

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

Yours sincerely



Katrina Casey
Deputy Secretary
Sector Enablement and Support



5 July 2017

Chris Haines
Chairperson
St Joseph's School Board of Trustees
70 Eye Street
Appleby
Invercargill 9812

Tēnā koe Chris

Notice of Statutory Intervention

Your Board of Trustees (the Board) has asked Mary Geary, Manager of the Ministry of Education for a statutory intervention to help your school.

Under section 78M of the Education Act 1989 (the Act), as the Secretary's delegate, I have been directed to appoint a Limited Statutory Manager (LSM) for your Board because of risks to the educational performance of students at your school, welfare of students and staff and risks to the operation of the school.

I have appointed Madeleine Hawkesby as LSM with all functions powers and duties of a Board as an employer and to manage communications. Madeleine Hawkesby specialises in employment law and HR management for employers. Her approach is proactive and pragmatic and grounded in the values of working in partnership with her clients.

The notice directing the appointment has been published in the *New Zealand Gazette* and is available via the following link: <https://gazette.govt.nz/>. Madeleine Hawkesby's appointment takes effect from the 6 July 2017.

Madeleine Hawkesby is expected to use her 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.

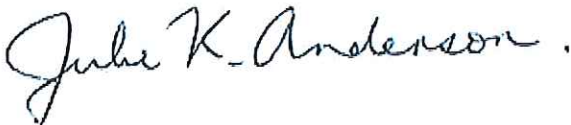
The rate of remuneration is \$150 per hour for up to 40 hours for the first four weeks (the scoping period). The ongoing maximum monthly hours will be confirmed after this time. Under section 78M(5) of the Act, your school is required to meet the cost of the statutory appointment.

Mary Geary and Trish Boyle will accompany Madeleine Hawkesby 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 <http://www.education.govt.nz/school/running-a-school/interventions-in-schools/>.

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

Nāku noa, nā



Julie Anderson
Director of Education, Otago/Southland
Ministry of Education

cc Principal, St Joseph's School
Proprietor
Statutory Provider
Education Review Office
Office of the Auditor General
NZSTA national

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5 July 2017

Madeleine Hawkesby
Unit 8
Cowlshaw Mews
296 Montreal Street
Christchurch 8013

Tēnā koe Madeleine Hawkesbury

Thank you for making yourself available for a statutory appointment for the Combined Board of Trustees of St Joseph's School, Invercargill (4017) St Patrick's School, Nightcaps (4019), St Teresa's School, Bluff (4021) and for agreeing to the terms of the appointment, which were discussed with you on 22 June 2017

As the Secretary's delegate, I am appointing you as a Limited Statutory Manager (LSM) to the Combined Board of Trustees of St Joseph's School, Invercargill (4017) St Patrick's School, Nightcaps (4019), St Teresa's School, Bluff (4021) under 78M of the Education Act 1989 because of risks to the educational performance of students at St Joseph's school, welfare of students and staff at the school and risks to the operation of the school.

The following functions, powers and duties are vested in the limited statutory manager:

- All functions, powers and duties of the **Combined Board of Trustees of St Joseph's School, Invercargill (4017) St Patrick's School, Nightcaps (4019), St Teresa's School, Bluff (4021)** effective from 6/07/2017 to manage communications (whether statutory or otherwise); and
- all functions, powers and duties of the **Combined Board of Trustees of St Joseph's School, Invercargill (4017) St Patrick's School, Nightcaps (4019), St Teresa's School, Bluff (4021)** as an employer (whether statutory or otherwise).

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 6 July 2017

I have enclosed a copy of my letter to the St Joseph's School, Board Chair, Chris Haines informing him of this appointment. Mary Geary and Trish Boyle will accompany you to meet with the Board so you can discuss your working arrangements.

I thank you again for your willingness to support the governance of St Joseph's School.

Naku noa, nā



Julie Anderson
Director of Education, Otago/Southland
Ministry of Education

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Departmental

Notice of Direction to Appoint a Limited Statutory Manager for the Combined Board of Trustees for St. Joseph's School, Invercargill (4017), St Patrick's School, Nightcaps (4019) and St Teresa's School, Bluff (4021)

Under section 78M of the Education Act 1989, with delegated authority from the Minister of Education, I hereby direct the appointment of a limited statutory manager for the Combined Board of Trustees ("board") for St Joseph's School, Invercargill (4017), St Patrick's School, Nightcaps (4019), and St Teresa's School, Bluff (4021).

1. The following functions, powers and duties of the board in relation to St Joseph's School, Invercargill, are to be vested in a limited statutory manager:
 - a. All functions, powers and duties of the board in relation to St Joseph's School, Invercargill, as an employer (whether statutory or otherwise).
2. 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 29th day of June 2017.

KATRINA CASEY, Deputy Secretary, Sector Enablement and Support, Ministry of Education.

6
JUL
2017

Notice Number

2017-g03315

Issue Number

71



Terms of Appointment

Limited Statutory Manager appointment for the Combined Board of Trustees of St Joseph's School, Invercargill (4017), St Patrick's School, Nightcaps (4019), St Teresa's School, Bluff (4021) effective from 6/07/2017

Appointee: Madeleine Hawkesby

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Functions, powers and duties as gazetted:

The following functions, powers and duties of are to be vested in a limited statutory manager:

- all functions, powers and duties of the combined board in relation to **St Joseph's School, Invercargill (4017)** as an employer (whether statutory or otherwise); and
- advisory functions of the combined board in relation to St Joseph's School, Invercargill (4017) of Board communications.

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.

Core Duties

1. You are expected to:

- 2
- use your functions, powers and duties to address the identified issues at the school
 - build the Board's capability so it can achieve the expected intervention outcomes
 - 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
- consult with the Board on all actions you wish to take (because they may 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 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. If you wish to contract specific services for the intervention, you must seek prior approval from the Ministry of Education (the Ministry). Details should be recorded in a memo signed by the Ministry Director of Education in your Area.

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 Board powers
- **undertake a Scoping Period**, in the first four weeks (unless an extension has been approved by the Ministry).

Scoping Period and Report

6. During your 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:

- 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 overall assessment of risk level (eg an assessment of whether this is lower, equal to or higher than what was originally assessed by the Ministry).

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8. The scoping report must be submitted to your Ministry contact person by the end of the Scoping Period.
9. The Ministry 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 has a Statutory Interventions scoping report template available for your use if you wish (your Ministry contact person can provide you with this).

Expected Intervention Outcomes and Outcomes Plan

11. The following outcomes are expected as a result of this intervention:
 - Ensure that human resource management procedures and practices promote and support high quality education outcomes and safety
 - Effectively manage the performance of the Principal linking the school's strategic direction, goals, priorities and targets, appraisal goals, and appropriate learning and development opportunities
 - Develop and maintain relationships with professional leaders and/or other staff based on trust, integrity and openness, clarity about roles and responsibilities, transparency and shared knowledge, in the interests of improving valued outcomes.
12. These outcomes may be amended after you have scoped the issues at the school to reflect any new information found.
13. 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 broader 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.
14. 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.
15. Your finalised Outcomes Plan will be attached as an addendum to this Terms of Appointment document in due course.

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Fees and Hours of Work

16. Your fees will be at the rate of \$150 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.

Your Reporting Requirements

17. After the Scoping Period is complete and Outcomes Plan finalised, you must submit monthly progress reports to the Board and Ministry 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;
 - progress made towards achieving the agreed set of objectives (outlined in the Outcomes Plan)
 - details of any barriers or challenges to be addressed
 - your monthly fees and expenses.
18. All reports should **not** include:
- specific details about individuals, employment issues or complaints; and
 - details about issues or problems that arise as part of the day-to-day operations of the school.

Ministry Monitoring and Review and Exit from Intervention

19. 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 Minister 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.
20. 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 decisions you made and your decision making process.

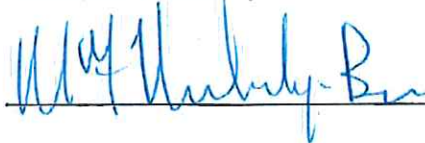
Discussion and Acceptance of Terms Subject to Appointment

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: Madeleine Hawkesby

Signature



Date:

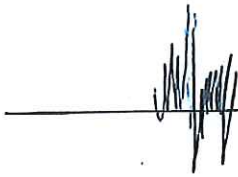
6/7/17

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: Mary Geary

Signature



Date:

6/7/17

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MINISTRY OF EDUCATION
TE TĀHURU O TE MĀTAURANGA

03 JUL 2017



MEMO

To: Katrina Casey, Deputy Secretary, Sector Enablement and Support

From: Julie Anderson, Director of Education, Otago/Southland

Date: 26 June 2017

Subject: Request to direct the Appointment of a Limited Statutory Manager for the Combined Board of Trustees for St Joseph's School, Invercargill (4017), St Patrick's School, Nightcaps (4019), and St Teresa's School, Bluff (4021)

Purpose

1. This memorandum asks you, as the Minister of Education's delegate, to direct the appointment of a Limited Statutory Manager (LSM) for the Combined Board of Trustees for St Joseph's School, Invercargill (4017), St Patrick's School, Nightcaps (4019), and St Teresa's School, Bluff (4021) ("board"), under section 78M of the Education Act 1989 (the Act).
2. The school profile information is available in **Appendix A** for your reference.

Issues, evidence and outcomes

3. An intervention under 78M of the Act is required if the Minister of Education (or delegate) has reasonable grounds to believe that there is risk to the operation of a school, or the welfare or educational performance of its students.
4. **Appendix B** outlines the key issues that have been identified in St Joseph's School, Invercargill (4017), which provide reasonable grounds to believe that there is risk:
 - to the operation of the school
 - the educational performance of the students at the school

Functions, powers and duties to be vested with the LSM

5. The LSM will be vested with the Board's employment powers and Board communications advisory functions. Further detail of the functions, powers and duties to be vested with the LSM is provided in the *New Zealand Gazette* notice attached for your signature.
6. The LSM will be expected to apply these functions, powers and duties to address the identified issues at the school and build the Board's capability so it can achieve the expected intervention outcomes listed in **Appendix B**.

Rationale for intervening at this level

7. I propose that an intervention at this level (LSM) is required for the following reasons:

Non-statutory support has been unsuccessful

- The Board has been trying to manage this relationship breakdown. Two Trustees have resigned during this phase. The Board has been supported by the New Zealand School Trustees Association (NZSTA) Employment Adviser and wish to continue to manage the situation and continue the governance role.

Lower Statutory Intervention would be insufficient

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- The level of expertise to deal with employment and HR matters which are involving lawyers now requires specific skills such as experience with employment law.

Higher Statutory Intervention would be unnecessary

- The LSM enables us to select a provider with employment law experience and previous experience working with school Board's to manage personal grievance processes.

Concluding comment

- Appointing a LSM enables a provider with employment law experience and previous experience working with school Board's to be appointed to support the Board and manage personal grievance processes.
- The Board requested that the Ministry intervene and is supportive of the level of this intervention.

Financial check

8. Currently as at May 2017 the school has funds of \$185k and only liabilities of \$77K therefore surplus of \$114K. This does not take into account any major capital expenditure that is planned, which the school confirms there is none. Also they are showing a surplus of YTD of \$61,468 in their operating statement. The cashflow projection shows a stable bank balance. A detailed costing by the LSM has not been forwarded yet of their costs (using previous like examples say \$52 K). The school may require some funding for the intervention but should be able to fund 80% of the LSM costs.

Consultation

9. The Ministry consulted with the NZSTA Industrial Advisor on 18 June 2017. Board chair believes (and NZSTA adviser agrees with him) that the Board is unable to deal with the issues before them. They have lost two board members and Principal is on sick leave because of situation. Sick leave taken with no reference or notice to the chair.
10. We also consulted with the school's Proprietor on 21 June 2017 and informed the Proprietor of the process. The Proprietor was aware that personal issues were impacting on relationships at school, concerned to hear about Board resignations but supportive of the intervention. The Ministry has also consulted the Catholic Education Office, which supports this intervention.

Issues likely to arise following intervention

11. The following issues are likely to arise if this intervention is approved:

Likely issues	Mitigation these issues
<ul style="list-style-type: none"> • The Principal resigns. Note: St Joseph's School Invercargill is one of the 'Trinity Schools' and shares a principal with the two other schools the Combined Board administers. If the Principal resigns this will have an impact on all three schools. 	<ul style="list-style-type: none"> • The LSM appointed will have skills in employment and HR management. The provider's experience in this area in working with other schools should also include advisory skills in communications and managing relationships.
<ul style="list-style-type: none"> • Divisions are created in the staff/school community 	<ul style="list-style-type: none"> • The LSM appointed will have advisory skills in communications and managing relationships.
<ul style="list-style-type: none"> • The Board resigns 	<ul style="list-style-type: none"> • The LSM powers in this role will support and upskill the Board in their decision making and

	<p>managing of employment matters.</p> <ul style="list-style-type: none"> The LSM will take the lead role in managing the two Personal Grievances against the Board and support them with subsequent actions. Appointment of LSM will support the members of the Board to manage the Employment Issues.
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Implementation and exit

12. You have the delegated authority, as the Minister of Education's delegate, to direct the appointment of a LSM vested with specified functions, powers and duties of the Board. If you agree to do this, the appointed LSM will scope the issues in greater depth and develop a scoping report within the first four weeks of appointment.
13. The Ministry will finalise the set of expected outcomes for this intervention based on the facts collated in the scoping report, and then the LSM will develop a planned approach to achieve these outcomes. The LSM will then continue to report monthly to the Ministry on progress towards achieving these outcomes.
14. The Secretary for Education (or delegate) will review the intervention within twelve months of the intervention taking effect. When it is considered the LSM is no longer required you will be asked to revoke the notice directing the appointment of the LSM. The powers vested in the LSM will then return to the Board.

Recommendations

We recommend that you:

- a. agree to direct the appointment of a Limited Statutory Manager, under section 78M of the Education Act 1989, for the Combined Board of Trustees for St Joseph's School, Invercargill (4017), St Patrick's School, Nightcaps (4019), and St Teresa's School, Bluff (4021)

AGREE / DISAGREE

- b. sign the attached *New Zealand Gazette* notice.

(electronic sign-off in SIMS – 26 June 2017)
 Julie Anderson
 Director of Education
 Otago/Southland

Katrina Casey
 Deputy Secretary
 Sector Enablement and Support

29.6.2017

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School profile

1. St Joseph's School, Invercargill (4017) is a decile 3, Full Primary, State-integrated school located Southland.
2. The school's special character affiliates with the Roman Catholic faith and the school is part of the Dunedin Diocese.
3. The July 2016 roll was 129, comprising students who identified with the following ethnicities (note some students may identify with more than 1 ethnicity) - 28.7% Māori (37), 6.2% Pasifika (8), 13.2% Asian (17) and 51.9% Pākehā students (67). Over the last five years, the roll has increased from 103 students in 2013 to 129 students in July 2017. The staffing entitlement is 7.01 full time teacher equivalents (CSIS).
4. The Education Review Office (ERO) last reviewed the school on [date report published]. [Provide details about the review frequency the school/kura is on and a brief summary of the conclusions drawn in the last ERO report].
5. Reading National standards increased from 2015 data by 6% to 74% Māori students increased by 15% to 82% ; Writing National standards increased from 2015 data by 12% to 68%, Māori students increased by 22% to 73% ;Mathematics National standards increased from 2016 data by 18% to 68% ,Māori students increased by 23% to 73%.
6. St Joseph's School Invercargill is one of the 'Trinity Schools' and shares a principal with the two other schools the Combined Board of Trustees administers - St Patrick's School, Nightcaps (4019), and St Teresa's School, Bluff (4021). St Patrick's is a sole charge rural school with stable leadership and reasonable student achievement. St Teresa's is a two teacher school with high achievement. Each school has an Associate Principal.

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Appendix B

Issues relating to:	Further details	Source(s) of evidence	Expected intervention outcomes
<ul style="list-style-type: none"> human resource management procedures and practices. 	<p>The Board received formal complaints [redacted] Board engaged a lawyer to carry out an investigation. A Board sub-committee was set up to manage the complaints. [redacted] begin process to have [redacted] come back to school at 30 June [redacted] unhappy with findings and recommendations of investigation report that has been accepted by the Board. They are unhappy with the way the investigation has been handled. [redacted]</p>	<ul style="list-style-type: none"> Contact between Board, NZSTA and Board minutes 	<ul style="list-style-type: none"> ensure that human resource management procedures and practices promote and support high quality education outcomes and safety.
<ul style="list-style-type: none"> managing Principal performance. 	<p>[redacted]</p>	<ul style="list-style-type: none"> Contact between Board, NZSTA and Board minutes 	<ul style="list-style-type: none"> effectively manage the performance of the Principal, linking the school's strategic direction, goals, priorities and targets, appraisal goals, and appropriate professional learning and development opportunities.
<p>relationships between Board members, professional leaders and/or other staff.</p>	<p>Relationships between [redacted] is unhappy with findings of investigation by Board and considers allegations could be construed as serious misconduct [redacted] will be unsafe at school [redacted] will be unsafe at school</p>	<ul style="list-style-type: none"> Contact between Board, NZSTA and Board minutes 	<ul style="list-style-type: none"> develop and maintain relationships with professional leaders and/or other staff based on trust, integrity, openness, clarity about roles and responsibilities, transparency and shared knowledge, in the interests of improving valued outcomes.

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