

**STATUTORY INTERVENTIONS**

**DESKFIDE**

OFFICIAL INFORMATION ACT  
RELEASED UNDER THE  
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MINISTRY OF EDUCATION



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This deskfile is reviewed annually.  
It was last reviewed on 19 June 2013 and  
is current from that date.  
It is next due to be reviewed and updated  
on or before 25 June 2014.

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OFFICIAL INFORMATION ACT

## SECTION 1 - Background

1. The current legislative framework was introduced in October 2001 and brought all statutory interventions under one part (Part 7A) of the Education Act. It allows a prompt, flexible and appropriate response to the varying needs of schools where there are reasonable grounds to believe that the operation of the school, or welfare or educational performance of the students is at risk.
2. Over the years since the legislation was first introduced the Ministry has refined and developed its application practice.
3. Part 7A of the Act provides a range of six interventions as follows:
  - the Secretary for Education requiring a school's board of trustees to provide specified information [section 78J];
  - the Secretary for Education requiring a board of trustees to engage specialists help [section 78K]. The specialist help may be particular persons or organisations, or types of persons or organisations;
  - the Secretary for Education requiring a board of trustees to prepare and implement an action plan to address specific issues [section 78L];
  - the Minister of Education temporarily removing specified power(s) of the board of trustees and directing the Secretary to appoint limited statutory manager(s) for a board of trustees while the board remains in existence [section 78M];
  - the Minister of Education dissolving a board of trustees and directing the Secretary to appoint a commissioner to replace the board [section 78N(1) and (2)]. All components of the board's responsibilities are removed from the board, the board is replaced by the commissioner, and the roles and responsibilities of governance are temporarily vested in the commissioner; and
  - the Secretary for Education dissolving a board of trustees and appointing a commissioner to replace the board [section 78N(3)], if any of the following applies:
    - the board has not held a meeting during the previous 3 months;
    - so many casual vacancies have arisen that there is no longer any member of the board who is eligible to preside at meetings of the board;
    - the result of an election of trustees is that the board has fewer than 3 trustees elected by parents;
    - an election of trustees has not been held as required by this Act; and
    - it is impossible or impracticable to discover the results of an election of trustees.
4. The geographical representation found in the resources tab as 'Representation of the Statutory Appointed roles' is intended to give a pictorial representation of the difference in application of statutory powers between section 78K (specialist adviser), section 78M (limited statutory manager) and section 78N (dissolution of the board and appointment of a commissioner).
5. The six interventions are applied at the governance level. While interventions are formally applied at the governance level, they commonly influence issues at a management level through application of board policy, direction to board employees, and performance management. These interventions are used only in schools where there are reasonable grounds to believe there is risk to the operation of the school, or the welfare or educational performance of the students.

6. The level of evidence-based identified risk will determine the level of intervention applied. The aim is to intervene no more than is necessary, at the same time as addressing the risks promptly and effectively to reduce the likelihood of more extreme and expensive interventions at a later stage.

7. Interventions can be applied concurrently, except when a commissioner has been appointed to replace the board (under section 78N). In that case, any additional expertise required can be contracted in by the commissioner at her/his discretion.

#### **Governance vs. Management**

8. There is not a specific statutory definition of respective governance or management roles, and where governance ends and management begins. The successive of that governance/management relationship often relies on implied duties such as trust and confidence, and fair and reasonable treatment. The relationship also relies on a mutual obligation to act in good faith. In addition, the board is required by law to act as a good employer.

9. Sections 75 and 76 of the Education Act 1989 provide

##### **75 Board**

Except to the extent that any enactment or the general law of New Zealand provides otherwise, a school's Board has complete discretion to control the management of the school as it thinks fit.

##### **76 Principals**

A school's principal is the Board's chief executive in relation to the school's control and management.  
Except to the extent that any enactment, or the general law of New Zealand, provides otherwise, the principal-  
shall comply with the Board's general policy directions; and  
subject to paragraph (a) of this subsection, has complete discretion to manage as the principal thinks fit the school's day to day administration

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## SECTION 2: Triggers for Interventions

10. To request information from the board under section 78J, the Secretary need only have reasonable grounds for concern about the operation of the school, or the welfare or educational performance of its students. The other interventions may be triggered when there are reasonable grounds to believe that there is a risk to the operation of the school, or the welfare or educational performance of its students.
11. The Ministry may be alerted to risk by an Education Review Office (ERO) report, by media reports, by public concern, or by discussion and interaction with the board and principal of the school in question, the New Zealand School Trustees Association (NZSTA) advisers, or Post Primary Teachers Association (PPTA) and/or New Zealand Educational Institute (NZEI) field officers.
12. It is also appropriate for a board or, in the case of an integrated school, the school's proprietors, to request the use of an intervention to resolve a problem at its school. In a number of cases, boards have requested statutory support to assist with specific risks, for example financial or employment issues.
13. Evidence of risk to the operation of a school includes such factors as problems with financial management, personnel management and/or asset management, inadequate planning, policy setting and reporting to parents, poor community relationships, and failure to comply with legislation.
14. Evidence of risk to student welfare includes inadequate policies and practices to ensure student welfare, health and safety, persistently high truancy rates, and high suspension, exclusion and expulsion rates. On occasions where a school experiences a critical incident relating to student welfare and safety, it may be considered prudent to use a statutory intervention to assist with managing the crisis.
15. Evidence of risk to the educational performance of the school's students includes such matters as inadequate curriculum management, absence of adequate policies and processes for student assessment, staffing issues that may influence student performance, persistently low student achievement in relation to comparable schools, and low achievement of particular groups within the school.

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### SECTION 3: Process for Interventions

16. When evidence of concern or risk is identified at a school the Ministry will consider the most appropriate action from a range of options, including informal and formal school support. Informal support may be provided through professional development, or low-level support and advice. The Ministry may provide 'brokerage' to coordinate a range of support options, or assist with small amounts of funding to enable a school to access professional advice or services to meet a specific need. A further option is for the Ministry and a school board to agree formally that certain actions will be undertaken. In some circumstances this formal action may also involve funding assistance from the Ministry. The concern or risk is regularly monitored by the Ministry during this period.
17. Sometimes initial evidence of concern or risk may come through direct reports to the Minister's office from groups such as education sector agencies, the public, and/or the media, and the Minister then requests that the Ministry scope all the issues and recommend intervention options.
18. In some cases the board of a school, or in the case of an integrated school, the proprietors, may request a statutory intervention.
19. Wherever the concern or risk is identified the local office of the Ministry will begin by scoping the identified and related issues. This is usually done by working with the board and senior management of the school, and often also with local NZSTA advisers, PPTANZEI field officers, ERO and relevant education sector agencies.
20. The Ministry uses this information together with tracking of identified school support risk factors such as financial status, staff turnover, school roll numbers, suspensions/exclusions/expulsions numbers and community complaints, to determine the scope and level of a proposed intervention.
21. Before the Secretary appoints a limited statutory manager or a commissioner to an integrated school the proprietors must, if practicable, be consulted. Before applying any intervention to a kura/kāhanga Māori operating in accordance with Te Aho Mātua, Te Runanga Mui must be consulted.
22. Where ERO finds serious cause for concern it is likely to recommend that a statutory intervention is considered. The Ministry ensures that its work is coordinated with and recognises the actions required by ERO.
23. The Ministry's scoping of the relevant issues almost always involves the board of trustees of the school. Although the legislation does not require that the board is first consulted, experience has shown that a board that has been included in the consideration of risk and appropriate intervention options, and the consideration of recommended appointees, will be more likely to work co-operatively with the intervention. However, in some serious situations, particularly where the Ministry feels swift action is needed, consultation may be brief or limited in its scope.
24. Local and National Office Ministry staff work closely together in developing the documentation necessary for recommendation of a statutory intervention. Depending on the nature and complexity of the situation, several divisions of the Ministry may contribute to the final documentation, but it will always be managed by National Operations Division. When relevant the Ministry documentation may include

reference to information from other education agency sources such as the New Zealand Qualifications Authority (NZQA) or ERO.

## Application of Statutory Interventions

25. The Ministry recommends a statutory intervention for application by either the Minister of Education or the Secretary for Education. On occasions, because of the complexity of the situation, the Ministry has recommended intervention options for the Minister with associated risks and benefits for each, so that he may make the choice for the appropriate level of intervention without recommendation from the Ministry. This is most common in situations where there are multiple areas of high risk.
26. The Secretary for Education authorises statutory interventions under sections 78J (requirement to provide information), 78K (specialist adviser), 78L (action plan) and 78N(3) (dissolution of the board and appointment of a commissioner) when any of the five stated constitutional situations arises).
27. The Minister of Education authorises statutory interventions under sections 78M (limited statutory manager) and 78N(1) (dissolution of the board and appointment of a commissioner).
28. In all statutory interventions it is the Secretary who appoints the statutory appointees. The difference is that under sections 78M and 78N(1) where the Minister has the authority to apply the intervention, the Minister directs the Secretary to make the appointment.

## Notification of Statutory Interventions

29. When either the Secretary or the Minister authorises a statutory intervention, this is notified using specific methods for specific interested parties. Legislation requires specific notification for each level of intervention, and common courtesy for optimum success of the intervention requires additional methods of notification.
30. When the Minister authorises a statutory intervention under sections 78M and 78N(1), he signs a notice which is published in the New Zealand Gazette. In these two instances the Minister is notifying the intervention and directing the Secretary to appoint either a limited statutory manager (s78M) or a commissioner (s78N(1)). The Secretary appoints the limited statutory manager by signing a letter to the board and to the appointee advising them of the Minister's decision and the role of the appointee. The Secretary appoints the commissioner, under section 78N(1), by signing a notice which is published in the New Zealand Gazette, and by signing a letter to the board and to the appointee advising them of the Minister's decision and the role of the appointee.
31. When the Secretary authorises a statutory intervention under sections 78J, 78K, and 78L, he signs a letter to the board which serves as the official notice of the application of the intervention. Under section 78K (specialist adviser) he also signs a letter to the appointee advising them of his decision requiring the board to engage their services. Only when the Secretary authorises a statutory intervention under section 78N(3), does he sign a notice which is published in the New Zealand Gazette. In addition he signs a letter to the board and to the appointee advising them of his decision and the role of the appointee.



32. Included with the letter to the board of trustees is an information sheet describing the intervention that has been applied, in a form that can be shared with the school staff and community.

33. In all instances the letter to the board of trustees (and the Gazette notice if applicable) is copied to the principal, the proprietor in the case of an integrated school, the local office of ERO and the Office of the Auditor General (OAG).

34. The board is required by Part 7A of the Act to pay the fees and reasonable expenses of a statutory appointee. In cases where the Ministry's assessment of a school's financial risk prevents the board from paying for an intervention, the Ministry will discuss with the board the need for additional temporary funding. The board is required to pay for at least the initial scoping phase of the intervention.

### Statutory Appointees

35. The three possible statutory appointee positions are specialist adviser (s78K) limited statutory manager (s78M) and commissioner (s78N). The people appointed to these roles are selected because of the skills required and how his compatibility with the school environment. While they are statutory appointees and work closely with the principal and the board (except for commissioners when the board is dissolved) they are not board members. They are not employees of the Ministry and must act independently when exercising their judgement. They can seek general consultative advice from the Ministry, but in the case of employment related issues they must seek independent advice from the NZSTA industrial adviser or similar, and not the Ministry. The appointees are required to report on a regular monthly basis to both the board (except for commissioners when the board is dissolved) and the local office of the Ministry.

36. In addition to the Secretary's letter to the appointee advising of their appointment, a formal agreement is signed recording the terms and conditions of each appointment. In the case of a specialist adviser (s78K), a contract for the provision of services is signed between the board and the appointee, because the Secretary directs the board to engage the services of a specific specialist adviser. In the case of a limited statutory manager (s78M) and a commissioner (s78N), a Memorandum of Understanding is signed between the appointee and the local Ministry office manager acting on the Secretary's behalf. The MOU (in the case of limited statutory managers and commissioners) and the contract (in the case of specialist advisers) reflect the requirements of the role, the reporting requirements and the agreed terms and conditions of the appointment.

37. Section 79K specialist advisers are appointed to advise the board on specified areas of its governance role, and the board is required to act on that advice. Specialist advisers work closely with the board and the principal. Specialist advisers do not have any of the board's powers vested in them. This section of the Education Act allows for the Secretary to direct the board to engage a particular person or organisation as a specialist adviser.

38. Section 78M limited statutory managers are appointed with specific functions, powers and duties of the board vested in them. The powers have been temporarily removed from the board. They may also be appointed with specific advisory powers, again which the board is required to act upon. Limited statutory managers work closely with the board and the principal. This section of the Act requires that a natural person is appointed as a limited statutory manager.

39. Section 78N commissioners are appointed following the dissolution of the board, with all functions, powers and duties of the board vested in them. All powers have been temporarily removed from the board. Commissioners work closely with the principal and with the school community. Commissioners often establish a representative community advisory group to provide a parent community perspective. Commissioners may also contract in additional specialist advice when necessary. This section of the Act requires that a natural person is appointed as a commissioner.

40. All statutory appointees are required to exercise independent and unbiased judgement.

## Monitoring of Statutory Interventions

41. The Ministry regularly monitors progress of an intervention by way of appointee's reports and/or board reports, meetings with the appointee and/or the board, and ERD review reports.

42. Evidence of escalating risk may require:

- increase in level of intervention;
- amendment of an existing level of intervention; or
- the use of more than one intervention.

43. Evidence of reducing risk and sustainable progress may require:

- reduction of intervention;
- amendment of an existing level of intervention; or
- revocation of statutory intervention.

44. The Ministry is required to formally review an intervention annually, but may do so at any time throughout the course of a year if there is evidence of alteration of risk.

45. Annual intervention reviews are scoped and documented at local Ministry office level, with peer review at National Office level. A memo is then sent to the Secretary advising of the outcome of the review, and the Secretary signs letters to the board and the appointee (if applicable) to advise of the outcome of the review.

46. If the Ministry's formal review of an intervention reveals that an amendment, escalation, reduction or revocation of the intervention should be recommended, then documentation will be prepared at local Ministry office level, working closely with the National Office.

47. If a proposed change of intervention requires authority from both the Secretary and the Minister, because the Act dictates that, then the Ministry will first seek an 'in principle' agreement from one authority before requesting that the other revokes or amends the existing intervention.

48. Amendment or revocation of an intervention is applied by the same authority that applied it, and the Ministry will accordingly generate documentation for appropriate structures. For example: the Minister applies a section 78M (limited statutory (manager) intervention, and only the Minister can amend or revoke that notice; the Secretary applies a section 78K (specialist adviser) intervention, and only the Secretary can amend or revoke that intervention. The exception is the section 78N(1) level of intervention: in this case the Minister applies the intervention and directs the Secretary to appoint the commissioner. Before this intervention can be revoked the Secretary has to be satisfied that a commissioner is no longer required for the

school, and the commissioner must then appoint a date for the election of trustees. The commissioner's appointment ends seven days after the election date concurrent with the board members taking office.

### 78J Requirement to Provide Information

49. Provides information about a statutory intervention, under section 78J of the Education Act 1989, in which the board of a school is required to provide specified information at a given time or at specified intervals.

50. A series of reflective questions provides a thought path to facilitate identification of a problem at a school and the process for initiating the intervention. Downloads of all the documentation pertaining to this type of intervention are included.

1. The Secretary may, by written notice to the Board of a school, require the Board to provide specified information:
  - (a) at a given time; or
  - (b) at specified intervals; or
  - (c) both.
2. The Secretary may give a notice under **subsection (1)** only if he or she has reasonable grounds for concern about the operation of the school, or the welfare or educational performance of its students.
3. A Board that receives a notice under **subsection (1)** must provide the Secretary with the information required:
  - (a) within or at the time or times specified in the notice; and
  - (b) in the form (if any) specified by the Secretary.
4. The Secretary may at any time amend or revoke a notice under **subsection (1)**, and the amendment or revocation takes effect on the date specified in the notice.

### Section 78J Request for information process / thought path

#### Problem identification sequence

1. Record a reasonable cause for concern.
2. Decide which (if any) statutory action is required.
3. Memorandum to Secretary enclosing letter for signature.
4. Send letter from Secretary requesting a single piece of information, ongoing information or both, by a certain date. Send a copy of the letter to the local ERO office.
5. Enter action onto SSR.
6. Respond to requests for clarification from board.
7. Receive information.
8. Respond to the school - either:

#### Reflective questions

1. Is there some cause for concern? Is there an information gap? Do we want to signal the concern, or the need for action?
2. Is a statutory action required or could we approach it differently? What could happen if we don't intervene?

#### 78J thought path

3 - 5. How do we approach it? There will usually be ongoing contact between the ministry and the school prior to this unless levels of risk demand immediate action.

6. - 10. Does response allay concern?

(a) Response confirms concern. Clearly there is a need for discussion with the school and for setting up a monitoring system.

- Thank you, no further action is required (terminates the statutory action); or
- Thank you, amend request and signal any further actions; or
- Thank you, terminate current statutory action and signal next step.
  - (b) What do you do if the school does not respond? There will need to be a decision about what to do next.
  - Should this intervention continue? Is a different intervention now required?

9. Enter school information into SSR.

10. If the intervention remains in place for a year, the ministry must review the operation of the intervention. The date of the initial letter is the review date.

*\*The Network and Schools Performance (National Office) team will send copies of all correspondence to boards principals and appointees) to the Office of the Auditor General.*

Check list	Tick	Comments
Has non-statutory action been applied to address issues?		
Has Te Rūnanga Nui been contacted at each stage of the process (if applicable)		
Does the letter to the board reflect the ministry's contact with the school to date and any special circumstances of the case? (the template may be personalised to suit the situation)		
Have all official notices (letters, Gazette notices etc) been copied/sent to the local ERO office?		
Has SSR been updated throughout the process?		

Note: All documentation needed to initiate this intervention is now available on SIMS <http://knowledgebase.minedu.govt.nz>

For further information contact

[directu.govt.nz](mailto:directu.govt.nz) [Email]

## 78K Specialist Help

51. Under section 78K the school's board of trustees is directed by the Secretary to engage the help of a specialist adviser.

1. The Secretary may, by written notice to the Board of a school, require the Board to engage specified specialist help.
2. A notice given under subsection (1) must identify particular persons or organisations, or types of persons or organisations, whom the Board must engage.
3. A Board that receives a notice under subsection (1) must comply with the notice as soon as practicable, and must pay the fees and reasonable expenses of any person or organisations engaged to provide specialist help.
4. The Secretary may at any time amend or revoke a notice under subsection (1) and the amendment or revocation takes effect on the date specified in the notice.

## Specialist Help - Section 78K Process / Thought Path

### Problem identification sequence

1. Recognise reasonable grounds for belief that there is a risk to school operation/student welfare/student educational performance.

### Reflective questions

What is the risk? Can the local monitoring analyst be of any assistance? Can it be managed in another way? Why is a statutory intervention justified? Do we need to convince board of level/scope of risk? Or the need to engage specialist help? Will the board accept non-statutory advice? Why is this the appropriate

2. Decide which, if any, statutory action non-statutory advice? Why is this the appropriate

is required/justified. Discuss problem, intervention logic and range of interventions with the board.

intervention? What could happen if we don't intervene? Should we intervene at a higher level?

3. Will board accept and act on advice?

**78K sequence**  
4. Consider whether request for funding is required.

**78K thought path**

5. In cases where the ministry's assessment of a school's financial risk (which must have the regional financial adviser's input) prevents the board from paying for an intervention, the ministry will discuss with the board the need for additional temporary funding. The board is required to pay for at least the initial scoping phase of the intervention.

**Scoping**

6. Refer to: *Financial Assistance Guidelines on the Deskfile*.

7. Draft Memo to Secretary enclosing letters for signature to board and appointee.

8. Send letter from Secretary to board identifying risks, requiring engagement of specialist help and identifying nature of specialist help and type of specific individual specialist/organisation to be engaged. Send a copy of the letter to the local ERO office, principal and in the case of an integrated school, the proprietor.\*

How to approach with school. Does the school's financial risk prevent them paying for the intervention? Involve the regional financial adviser in this discussion. How long is intervention likely to be required? What are the concerns? What outcomes are wanted? Who would be an appropriate person/organisation because of the skill/attribute set and community fit? How may this intervention affect the school community? For example, a school with a high percentage of Māori (or Pacific) parents or students may desire the appointee to be Māori (or Pacific), or have a wide knowledge of Māori (or Pacific) issues.

What may be some of the flow-on effects of this intervention?

9. Advise NZSTA so that contract support may be provided between board and appointee.\*

**Re-scoping**

10. Enter into SSR

11. Meet with board and specialist adviser to ensure contract is completed to ministry satisfaction and includes initial 4-week scoping phase.

Has the level and/or scope of risk altered? Is a s78K intervention still the most appropriate? Is the appointee/organisation the appropriate person/organisation to continue to engage? Are any amendments to the contract required?

**Renewal**

12. Monitor and review monthly in accordance with reporting schedule agreed with board and appointee.

Should this intervention continue? Is a different level or scope of intervention now required?

13. Enter action into SSR.

14. Formally review intervention within first year and annually thereafter. Amend contract as necessary.

15. Send letter to school board with outcome of review (revocation may

occur at any time - letter of advice of revocation required.)

Check list	Tick	Comments
Has non-statutory action been applied to address issues?		
Have Te Rūnanga Nui/proprietors been consulted (if applicable)?		
Has board, including principal, been consulted? What is their view?		
Have all official notices (letter to the board, etc) been copied/sent to the local ERO office?		
Does the letter to the board reflect the ministry's contact with the school to date and any special circumstances of the case? <b>(the template letters must be personalised to suit situation)</b>		
Has SSR been updated throughout the process?		

*\*The Network and Schools Performance (National Office) team will send a copy of the letter to the board to the Office of the Auditor General.*

Note: All documentation needed to initiate this intervention is now available on SIMS <http://knowledgebase.minedu.govt.nz>.  
 For further information contact [enquiries@minedu.govt.nz](mailto:enquiries@minedu.govt.nz) (email).

## 78L Action Plans

52. Under section 78L, a school's board of trustees is required, by the secretary, to prepare and carry out an approved action plan. In practice, action plans should be relatively short term interventions to demonstrate how a Board will carry out an approved course of action to minimise risk to student achievement, welfare, or the operation of a school.

- The Secretary ~~may~~ by written notice to the Board of a school, require the Board to prepare and carry out an action plan, and every such notice must specify:
  - The matter that the action plan must address;
  - The outcomes sought
  - The time within which a draft action plan must be prepared.
- A Board that receives notice under subsection (1) must comply with it by ~~preparing a draft action plan~~ within the time specified in the notice and presenting it to the Secretary for approval.
- The Secretary may negotiate with the Board over the draft action plan in order to reach an agreed plan but, if after a reasonable period (2 weeks) the Board ~~and~~ Secretary have not reached agreement over the content of the action plan, the Secretary may give notice to the Board that she will approve a particular version of the plan.
 

When the **Secretary has approved an action plan**, the Board:

  - Must implement it in accordance with its terms, unless or until the Secretary directs otherwise;
  - Must make the plan available as if it were part of the school's charter.

## Section 78L Action Plan - Process / Thought path

Problem identification sequence

Reflective questions

**Problem identification sequence**

1. Recognise reasonable grounds for belief that there is a risk to operations/student welfare/student learning.
2. Decide which statutory action is required.

**Reflective questions**

1. What is the risk? Can the local monitoring analyst be of any assistance? Will Board training help?
2. Can it be managed in another way? Is there some cause for concern? Do we want to signal the concern, or the need for action? Why is a statutory intervention required? What could happen if we don't intervene? Has TRN/proprietor been consulted?

**78L sequence**

3. In SIMS prepare a memorandum to Secretary with evidence of concern, justification for the interventions, expected benefits vs risks.
4. In SIMS, draft a letter from Secretary to Board (you send a copy of the letter to the local ERO office) requiring it to prepare an action plan, specifying:
  - Matters the action plan must address;
  - Expected results sought; and
  - Time within which the plan must be prepared.

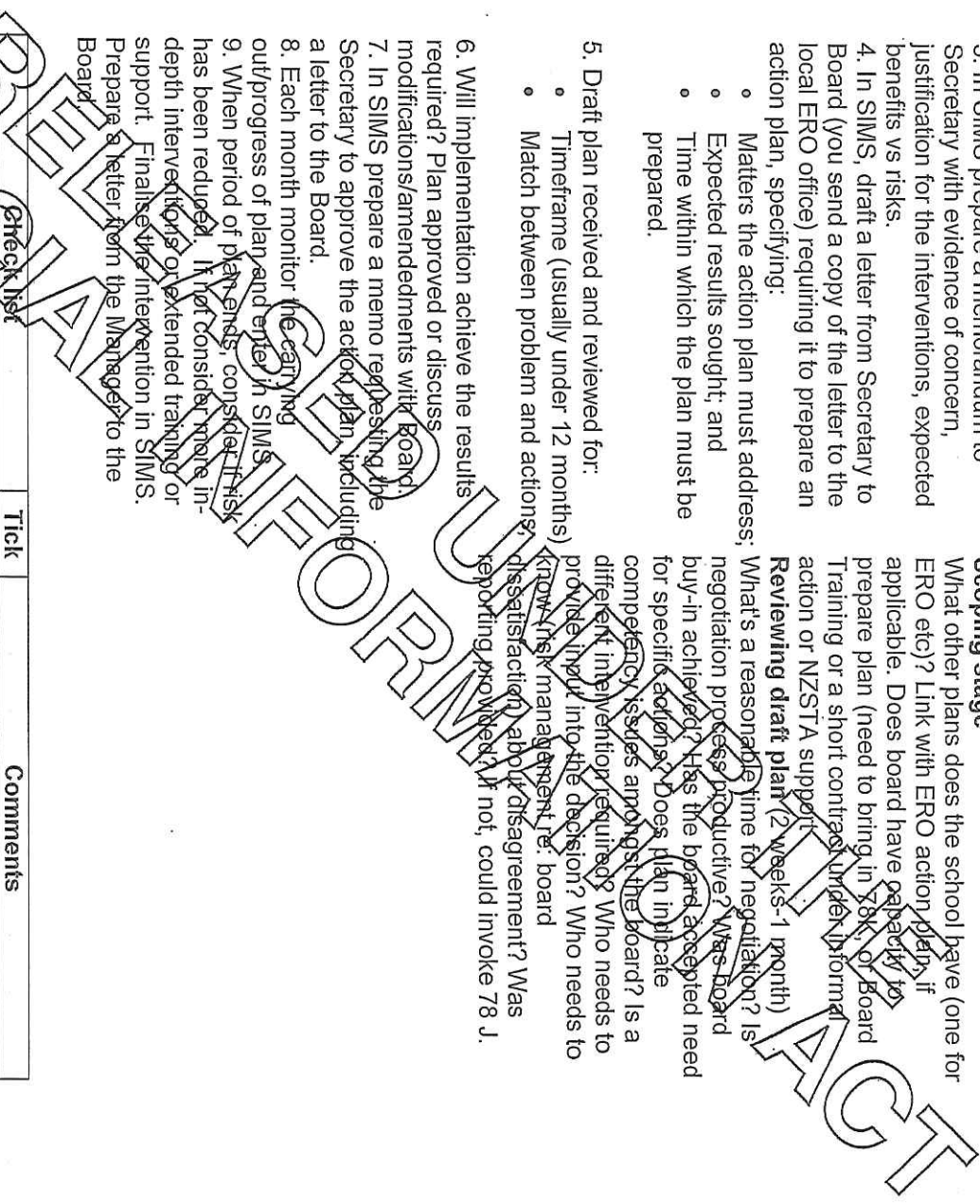
**78L thought path**

**Scoping stage**

What other plans does the school have (one for ERO etc)? Link with ERO action plan, if applicable. Does board have capacity to prepare plan (need to bring in 78K or Board Training or a short contract under informal action or NZSTA support)

**Reviewing draft plan (2 weeks-1 month)**

5. Draft plan received and reviewed for:
    - Timeframe (usually under 12 months)
    - Match between problem and actions?
  6. Will implementation achieve the results required? Plan approved or discuss modifications/amendments with Board.
  7. In SIMS prepare a memo requesting the Secretary to approve the action plan, including a letter to the Board.
  8. Each month monitor the carrying out/progress of plan and enter in SIMS
  9. When period of plan ends, consider if risk has been reduced. If not consider more in-depth interventions or extended training or support. Finalise this intervention in SIMS. Prepare a letter from the Manager to the Board.
- What's a reasonable time for negotiation? Is negotiation process productive? Was board buy-in achieved? Has the board accepted need for specific actions? Does plan indicate competency issues amongst the board? Is a different intervention required? Who needs to provide input into the decision? Who needs to know risk management e.g. board dissatisfaction, approval/disagreement? Was reporting provided? If not, could invoke 78 J.



**Checklist**

Checklist	Tick	Comments
Has non-statutory action been applied to address issues?		
Has Te Kōwhiri Nui Proprietor been contacted at each stage of the process (if applicable)?		
Have the letters been copied/sent to the local ERO office?		
Does the letter to the board reflect the Ministry's contact with the school to date and any special circumstances of the case? (the template may be personalised to suit situation)		

*\* ECP (National Office) team will send copies of all correspondence (to boards, principals and appointees) to the Office of the Auditor General.*

53. Note: All documentation needed to initiate and progress this intervention is available on SIMS <http://knowledgebase.minedu.govt.nz>.  
For further information contact: \_\_\_\_\_ [minedu.govt.nz](mailto:minedu.govt.nz) [Email].

#### 54. Related downloads

- Training guide for 78L [WORD: 278kb]
- Guidance focused on Charter development [WORD: 37kb]
- Key messages and FAQs [PDF: 64kb]

#### 78M Limited Statutory Manager

55. Under section 78M the Minister directs the Secretary to appoint a limited statutory manager for the board to assume an aspect or aspects of the board's governance role while the board remains in existence.
1. The Minister may, by notice in the Gazette, direct the Secretary to appoint a limited statutory manager for the Board of a school:
    2. A notice under subsection (1) must specify:
      - o any functions, powers, and duties of the Board (whether statutory or otherwise) that are to be vested in the limited statutory manager; and
      - o any matters on which the limited statutory manager may or must advise the Board; and
      - o any conditions attaching to the exercise of the powers by the Board or by the limited statutory manager.
    3. Upon publication of the Gazette notice, the Secretary must, by notice to the Board:
      - o appoint a person to be the limited statutory manager for the Board; and
      - o state the date on which the appointment takes effect.
    4. On and from the date on which his or her appointment takes effect:
      - o any functions, powers, or duties of the Board specified in a notice under subsection (1) vested in the limited statutory manager; and
      - o the Board must take into consideration advice given by the limited statutory manager on any matter on which he or she is obliged to give advice; and
      - o any conditions specified in the notice apply.

#### Section 78M limited statutory manager - process/thought path

##### 56. Problem identification sequence

1. Recognise reasonable grounds for belief that there is a risk to operations/student welfare/student education performance.
2. Decide which, if any, statutory action is required/justified. Discuss problem, intervention logic and range of interventions with the board.
3. Identify that 78M is to be used. Consider appropriateness of discussing use of 78M with board.

##### 57. Reflective Questions

- What is the risk?
- What are all the options for dealing with the risk?
- Does the risk validate the use of a statutory intervention?



- What is the issue?
- What outcomes do we hope to achieve through the use of 78M?
- What could happen if we didn't intervene?
- Why is 78M the most appropriate, given that it holds considerable risks and is more interventionist than 78K and other actions the board could take voluntarily?
- Is the board viable?
- Do the risks and issues require implementation of 78N(1)?
- Why is this the appropriate intervention?
- What could happen if we don't intervene?
- What are the things that need to change for the LSM to be no longer required?

### 58. 78M Sequence

1. Consider whether request for funding is required
2. In cases where the Ministry's assessment of a school's financial risk (which must have the regional financial advisor's input) prevents the board from paying for an intervention, the Ministry will discuss with the board the need for additional temporary funding. The board is required to pay for at least initial scoping phase of the intervention.
3. Refer to: **Financial Assistance Guidelines on the Deskfile.**
4. Identify powers that are to be vested in LSM.
5. Identify and check the availability of person to be recommended for appointment.
6. Consult with proprietors (if integrated school) and (in the case of section 155 Kura) with Te Rūnanga Nui about intervention and appointee/s.
7. Develop submission to Minister with rationale for intervention, justification risk assessment, required outcomes and comments. Gazette notice.
8. Develop memo to Secretary advising of the Minister's decision and making case for appropriate appointee, letters to board & appointee, (for Secretary's signature - including ~~hard~~ hard copy of Memorandum of Understanding and advising of ~~referred~~ referred initial scoping phase).
9. Develop a communications strategy. Schools and Student Support submits New Zealand Gazette notice for publication.
10. Send letters to school board and to LSM (send a copy of the board letter and the Gazette Notice to the local ERO office and the principal and in the case of an integrated school, the proprietor).
11. Enter into SSR
12. Monitor, review and amend if necessary (refer to MoU via link below). Review and update MoU with appointee according to monthly progress reports and send copy to National Office.
13. Formally review intervention within first year and annually thereafter.
14. Decide to recommend that the Minister revoke notice of direction of appointment.
15. Develop submission to Minister to revoke notice of direction of appointment including gazette notice.
16. Develop revocation memo to Secretary, and letters to board and LSM/s.
17. Ensure that when the statutory intervention is revoked and the appointment of the Limited Statutory Manager ceases, the Limited Statutory Manager should ensure that all relevant documentation that s/he has created and received in the course of her/his statutory role is appropriately filed in the boards' archiving system at the school, giving consideration to the Ombudsman's guidelines and the 'in-committee' status of any documentation.

### 59. 78M Thought Path/Scoping

How to approach with school. Does the school's financial risk prevent them paying for the intervention? Involve the regional financial adviser in this discussion. How long is intervention likely to be required? What are the concerns? What outcomes are wanted? Who would be an appropriate person because of the skill/attribute set and community fit?

Who has a stake in this intervention (Iwi Authorities, OAG, NZSTA, PPTA, NZEI, SPANZ, NZPF, ERO, school community and other Ministry groups etc)? Their support may be needed, they may oppose, they may misunderstand, how can we involve them? What are the risks around the relationship between board, principal and LSM? What needs to be done to mitigate these risks? How can this intervention be tailored to best suit the school? For example, a school with a high percentage of Māori (or Pacific) parents or students may desire the appointee to be Māori (or Pacific), or have a wide knowledge of Māori (or Pacific) issues.

Who has a stake in this intervention (Iwi Authorities, OAG, NZSTA, PPTA, NZEI, SPANZ, NZPF, ERO, school community and other Ministry groups etc)? Their support may be needed, they may oppose, they may misunderstand, how can we involve them? What are the risks around the relationship between board, principal and LSM? What needs to be done to mitigate these risks? How can this intervention be tailored to best suit the school? For example, a school with a high percentage of Māori (or Pacific) parents or students may desire the appointee to be Māori (or Pacific), or have a wide knowledge of Māori (or Pacific) issues.

What may be some of the flow-on effects of this intervention? For example, reducing a board's autonomy may reduce board members' mana in the wider community. Are suitable appointees available? Can you justify a number of risks being covered by the LSM, or should some risks be addressed differently?

What are the strategies that you need to ensure are in place to facilitate a good working relationship between board and LSM? They may involve:

- specification of Memorandum of Understanding
- conflict resolution processes agreed to
- facilitation of mutual understanding.

How can the LSM facilitate an increase in capability of the board so that the intervention can cease in time?

### 60. Re-Scoping

Has the level and/or scope of risk altered? Is a s78M intervention still the most appropriate? Is the appointed the appropriate person to continue to engage? Are any amendments to the powers and/or MOU required?

### 61. Renewal/Termination

Should this intervention continue? Is a different level or scope of intervention now required?

Check list	Tick	Comments
Has non-statutory action been applied to address issues?		
Have Te Rūnanga Nui/proprietors been consulted (if applicable)?		
Have board, including principal, been consulted? What is their view?		

Check list	Tick	Comments
Have all official notices (letter to the board, Gazette notice) been copied/sent to the local ERO office?		
Does the letter to the board reflect the Ministry's contact with the school to date and any special circumstances of the case? (the template may be personalised to suit situation)		
Has SSR been updated throughout the process?		

\*The Network and Schools Performance (National Office) team will send copies of all correspondence (to boards, principals and appointees) to the Office of the Auditor General.

62. The resource for Ministry staff, below, clarifies the legislative and regulatory parameters under which limited statutory managers are required to operate, and defines the roles of the parties involved in the practical application of the statutory intervention framework.

1. The Board must pay the fees and expenses of a limited statutory manager appointed for it.
2. The Minister may at any time, by notice in the Gazette, amend a notice under **subsection (1)**, and the amendment takes effect on and from the date given in the notice.
3. When the Minister is satisfied that the appointment of the limited statutory manager is no longer required, he or she must revoke the notice under **subsection (1)**, in which case the appointment terminates from the date of the revocation.

63. Note: All documentation needed to initiate this intervention is now available on SIMS <http://knowledgebase.minedu.govt.nz>.

For further information contact [en@inedu.govt.nz](mailto:en@inedu.govt.nz).

#### 64. Related downloads

- [78M Role of the LSN \(WORD: 106kb\)](#)
- [78M Gazette Powers Guidelines \(WORD: 41kb\)](#)
- [78M Memorandum Of Understanding \(WORD: 113kb\)](#)

### 78N(1) Dissolution of Board and Appointment of Commissioner

65. Under section 78N(1) the Minister dissolves the school's board of trustees and directs the Secretary to appoint a commissioner to replace the board.

1. The Minister may, by notice in the Gazette, dissolve the Board of a school and direct the Secretary to appoint a commissioner to replace that Board. Or publication of a notice under **subsection (1)**, the Secretary must, by notice in the Gazette, appoint a commissioner for the school, and state the date on which the appointment takes effect; (under sub section (2))

### Section 78N(1/2) Appointment of a commissioner - process / thought path

#### 66. Problem identification sequence

- Recognise reasonable grounds for belief that there is a risk to operations/ student welfare/student educational performance.

- Decide which, if any, statutory action is required/justified. Discuss problem, intervention logic and range of interventions with the board.
- Identify that 78N(1) is to be used. Consider appropriateness of discussing use of s78N with board.

#### 67. Reflective questions

- What is the risk?
- What are all the options for dealing with the risk?
- Does the risk validate the use of a statutory intervention?
- What is the issue?
- What outcomes do we hope to achieve through the use of s78N?
- What could happen if we didn't intervene?
- Why is s78N the most appropriate, given that it holds considerable risks and is more interventionist than 78M?
- Could the board work with a s78M?
- Why is this the appropriate intervention?
- What could happen if we don't intervene?
- What are the things that need to change for the Commissioner to be no longer required?

#### 68. 78N(1)(2) sequence

1. Consider whether request for funding is required.
2. In cases where the ministry's assessment of a school's financial risk (which must have the regional financial adviser's input) prevents the board from paying for an intervention, the Ministry will discuss with the board the need for additional temporary funding. The board is required to pay for at least the initial scoping phase of the intervention.
3. Refer to: Financial Assistance Guidelines on the Deskfile.
4. Identify the outcomes that have to be achieved before the school can return to sustainable self management.
5. Identify and check the availability of person to be recommended for appointed.
6. Consult with proprietors (if integrated school) and (in the case of s. 155 Kuria) with Te Rūnanga Māori about intervention and appointees.
7. Develop submission to Minister with: rationale for intervention, justification risk assessment, required outcomes and comments; and Gazette notice.
8. Develop memo to Secretary advising of the Minister's decision and making case for appropriate appointee, letters to board & appointee for Secretary's signature (including nominee and copy of Memorandum of Understanding and advising of required initial scoping phase).
9. Develop communications strategy, Schools and Student Support submits New Zealand Gazette notice for publication
10. Send letters to school board and to commissioner (send a copy of the board letter and the Gazette notices to the local ERO office and the principal and in the case of an integrated school, the proprietor).
11. Enter into SSR.
12. Monitor, review and amend if necessary (refer to MoU via link below). Review and update MOU with appointee according to monthly progress reports and send copy to National office.
13. Formally review intervention within first year and annually thereafter.
14. In preparation for return to full governance by a Board, in some instances the assessment of risk may justify the appointment of a Limited Statutory Manager (under section 78M) to assume some of the powers of the newly elected Board, or the appointment of a Specialist Advisor (under section 78K)

- to advise the newly elected Board. If this is the case, and the Secretary/Minister has agreed to the application of a statutory intervention to a newly elected Board, then the electoral community should always be advised of this intention, and the reasons for it, before the Commissioner moves to appointing a returning officer and starting the election process.
15. In all instances the Commissioner should contact the NZSTA advisory service on 0800 782 435 to access the current elections papers/forms and elections advice, and to agree on an election timeline that meets the requirements of the Education (School Trustee Elections) Regulations 2000.
16. In some circumstances a return to an elected Board may not be in the best interests of the school or the community, and an alternative Board constitution under section 105A of the Education Act 1989 may be considered. The ministry can provide relevant information regarding this option.
17. If a statutory intervention is revoked, then the ministry will continue to monitor progress and maintain an informal level of support for whatever period is considered necessary to sustain the positive change. The exception to this is when the outcome of the intervention review is that school closure has been recommended and approved.
18. Ensure that when the statutory intervention is revoked and the appointment of the Commissioner ceases, the Commissioner should ensure that all relevant documentation that s/he has created and received in the course of her/his statutory role is appropriately filed in the Board's archiving system at the school, giving consideration to the Ombudsman's guidelines and the in-committee - status of any documentation.
19. Ensure that the ministry's National Office is informed of the election date once the Commissioner has set it.

#### 69. 78N(1)(2) thought path/Scoping

How to approach with school. Does the school's financial risk prevent them paying for the intervention? Involve the regional financial adviser in this discussion. How long is intervention likely to be required? What are the concerns? What outcomes are wanted? Who would be an appropriate person because of the skill/attribute set and community fit?

Who are the stakeholders (NZSTA, PPTA, NZEI, SPANZ, NZPF, ERO, OAG, school community etc)? How do they need to be involved? What sort of communication strategy needs to be adopted by the ministry? What are the risks around the relationship between the commissioner and key parties within the school? What needs to be done to mitigate these risks? Who would be an appropriate person (to be the commissioner)? How can this intervention be tailored to best suit the school? For example, a school with a high percentage of Māori (or Pacific) parents or students may desire the appointee to be Māori (or Pacific), or have a wide knowledge of Māori (or Pacific) issues.

What may be some of the flow-on effects of this intervention? For example, the dissolution of a board may not only affect the board members' credibility within the school but also within the wider community.

Are suitable appointees available? Can you justify all risks being covered by the commissioner? Should some risks be addressed differently? What are the strategies that you need to ensure are in place to facilitate a good working relationship between school and the commissioner? How can the commissioner ready the community/school to return to self-governance? Would the BIAS contract support assist?

What is the best exit strategy?

### 70. Re-scoping

How can the ministry/commissioner ensure that the same risks do not resurface and undermine the new board? Has the problem turned out to be different from what was anticipated? Is 78N(1) still the best intervention to use? Is the appointee still the appropriate person to engage? Are any amendments to the MOU required?

### 71. Renewal/Termination

Should this intervention continue? Is a different level or scope of intervention now required?

Check list	Tick	Comments
Has non-statutory action been applied to address issues?		
Have Te Rūnanga Nui been contacted at each stage of the process (if applicable)?		
Have board, including principal, been consulted? What is their view?		
Have all official notices (letters, Gazette notices etc) been copied/sent to the local ERO office?		
Does the letter to the board reflect the ministry's contact with the school to date and any special circumstances of the case? (the template may be personalised to suit situation)		
Has SSR been updated throughout the process?		

*\*The Network and Schools Performance (Annual Office) team will send copies of all correspondence (to the board and the gazette notices) to the Office of the Advisor General*

72. The resource for ministry staff below, clarifies the legislative and regulatory parameters under which commissioners are required to operate, and defines the roles of the parties involved in the practical application of the statutory intervention framework

73. Note: All documentation needed to initiate this intervention is now available on [SWS http://knowledgebase.minedu.govt.nz](http://knowledgebase.minedu.govt.nz).  
For further information contact [iminedu.govt.nz](mailto:iminedu.govt.nz) [Email].

### 74. Related downloads

[78N\(1\)\(2\) Memorandum Of Understanding \[WORD: 101kb\]](#)  
[78N\(1\)\(2\) Role of Commissioner \[WORD: 100kb\]](#)

### 78N(3) Dissolution of Board and Appointment of Commissioner

75. Under section 78N(3) the Secretary dissolves the school's board of trustees and appoints a commissioner to replace the board.

78N(3). The Secretary may, by notice in the *Gazette*, dissolve the Board of a school and appoint a commissioner in its place, as from a specified date, if any of the following applies:

- the Board has not held a meeting during the previous 3 months
- so many casual vacancies have arisen that there is no longer any member of the Board who is eligible to preside at meetings of the Board
- the result of an election of trustees is that the Board has fewer than 3 trustees elected by parents
- an election of trustees has not been held as required by this Act
- it is impossible or impracticable to discover the results of an election of trustees.

### **Section 78N(3) process / thought path**

#### **76. Problem identification sequence**

1. Recognise reasonable grounds for belief that there is a risk to operations/student welfare/student educational performance
2. Decide which, if any, statutory action is required/justified: Discuss problem, intervention logic and range of interventions with the board.
3. Identify that 78N(3) is to be used.

#### **77. Reflective questions**

- What is the risk?
- What has created the need for intervention (refer s78N(3)(a)-(e) of the Act.)
- What are all the options for dealing with the risk?
- Is a statutory intervention required?
- Why is s78N(3) the most appropriate given that it could hold considerable risk and intervenes at a higher level
- Do the risks justify implementation of s78N(3)?

#### **78. 78N(3) sequence**

1. Consider whether request for funding is required.
2. In cases where the ministry's assessment of a school's financial risk (which must have the regional financial adviser's input) prevents the board from paying for an intervention, the ministry will discuss with the board the need for additional temporary funding. The board is required to pay for *at least* the initial scoping phase of the intervention.
3. Refer to: *Financial Assistance Guidelines* on the Deskfile.
4. Identify the outcomes that have to be achieved before the school can return to sustainable self management.
5. Identify and check the availability of person to be recommended for appointment.
6. Consult with proprietors (if integrated school) and (in the case of s.155 Kura) with Te Rūnanga Nui about intervention and appointee/s.
7. Develop memo to Secretary with: rationale for intervention, justification, risk assessment, required outcomes and comments  
Gazette notice; making case for appropriate appointee, letters to board & appointee for Secretary's signature (including nominee and copy of Memorandum of Understanding and advising of required initial scoping phase).

8. Develop a communications strategy, Schools and Student Support submits New Zealand Gazette notice for publication.
9. Send letters to school board and to commissioner (send a copy of the board letter and the Gazette notice to the local ERO office and the principal and, in the case of an integrated school, the proprietor).
10. Enter into SSR.
11. Monitor, review and amend if necessary (refer to MoU via link below). Review and update MOU with appointee according to monthly progress reports and send copy to National office.
12. Formally review intervention within first year and annually thereafter.
13. In preparation for return to full governance by a Board, in some instances the assessment of risk may justify the appointment of a Limited Statutory Manager (under section 78M) to assume some of the powers of the newly elected Board, or the appointment of a Specialist Adviser (under section 78K) to advise the newly elected Board. If this is the case, and the Secretary / Minister has agreed to the application of a statutory intervention to a newly elected Board, then the electoral community should always be advised of this intention, and the reasons for it, before the Commissioner moves to appointing a returning officer and starting the election process.
14. In some circumstances a return to an elected Board may not be in the best interests of the school or the community, and an alternative Board constitution under section 105A of the Education Act 1989 may be considered. The ministry can provide relevant information regarding this option.
15. If a statutory intervention is revoked, then the principals will continue to monitor progress and maintain an informal level of support for whatever period is considered necessary to sustain the positive change. The exception to this is when the outcome of the intervention review is that school closure has been recommended and approved.
16. Ensure that when the statutory intervention is revoked and the appointment of the Commissioner ceases, the Commissioner should ensure that all relevant documentation that s/he has created and received in the course of her/his statutory role is appropriately filed in the Board's archiving system at the school, giving consideration to the Ombudsman's guidelines and the "in-committee" status of any documentation.

### 78N(3) thought path

79. How to approach with school. Does the school's financial risk prevent them paying for the intervention? Involve the regional financial adviser in this discussion. How long is intervention likely to be required? What are the concerns? What outcomes are wanted? Who would be an appropriate person because of the skill/attribute set and community fit?
80. Who are the stakeholders (NZSTA, PPTA, NZEI, SPANZ, NZPF, ERO, OAG, school community etc)? How do they need to be involved? What sort of communication strategy needs to be adopted by the ministry? What are the risks around the relationship between the commissioner and key parties within the school? What needs to be done to mitigate these risks? Who would be an appropriate person (to be the commissioner)? How can this intervention be tailored to best suit the school? For example, a school with a high percentage of Māori (or Pacific) parents or students may desire the appointee to be Māori (or Pacific), or have a wide knowledge of Māori (or Pacific) issues.



81. What may be some of the flow-on effects of this intervention? For example, the dissolution of a board may not only affect the board members' credibility within the school but also within the wider community. Are suitable appointees available? Can you justify all risks being covered by the commissioner? Should some risks be addressed differently? What are the strategies that you need to ensure are in place to facilitate a good working relationship between school and the commissioner? How can the commissioner ready the community/school to return to self-governance? Would the BTAS contract support assist? What is the best exit strategy?

**Re-scoping**

82. How can the ministry/commissioner ensure that the same risks do not resurface and undermine the new board? Has the problem turned out to be different from what was anticipated? Is 78N(1) still the best intervention to use? Is the appointee still the appropriate person to engage? Are any amendments to the MOI required?

**Renewal/Termination**

83. Should this intervention continue? Is a different level or scope of intervention now required?

Check list	Tick	Comments
Have Te Rūnanga Nui / proprietors been consulted (if applicable)?		
Have board, including principal, been consulted? What is their view?		
Have all official notices (letter to the board, Gazette notice) been copied/sent to the local ERO office?		
Does the letter to the board reflect the ministry's contact with the school to date and any special circumstances of the case? (the template may be personalised to suit situation)		
Has SSR been updated throughout the process?		

*\*The National Schools Performance (National Office) team will send copies of all correspondence (to boards, principals and appointees) to the Office of the Auditor General.*

84. The resource for Ministry staff, below, clarifies the legislative and regulatory parameters under which commissioners are required to operate, and defines the roles of the parties involved in the practical application of the statutory intervention framework.

Note: All documentation needed to initiate this intervention is now available on SIMS <http://knowledgebase.minedu.govt.nz>.

For further information contact: [@minedu.govt.nz](mailto:@minedu.govt.nz) [Email].

**85. Related downloads**

- [78N\(3\) Role of Commissioner \[WORD: 96kb\]](#)
- [78N\(3\) Memo Of Understanding \[WORD: 100kb\]](#)

## SECTION 5: Financial Assistance for Statutory Interventions

### Background

86. Discretionary Financial Assistance for Schools is a Crown resource of \$1.46 million (GST exclusive) and is appropriated in Vote Education: Non-Departmental Other Expenses Effective Schools. It is used to assist schools to meet the costs of Ministry Informal Support or a statutory intervention under the provisions of Part 7A of the Education Act 1989.

87. The delegation for the appropriation is held by the Senior Manager and Group Manager, Education, Curriculum and Performance. The code is 3-4204-6448-747. This budget is "demand driven" and has been provided to support schools on a needs basis when schools can demonstrate they are unable to meet the costs of statutory intervention.

### Legislation

88. Legislation states that the Board must meet the costs of the intervention. Part 7A of the Education Act 1989 states that a board:
- Section 78K(3) - ... must pay the fees and reasonable expenses of any person or organisations engaged to provide specialist help
  - Section 78M(5) - ... must pay the fees and expenses of a limited statutory manager appointed for it.
- And
- Section 78O(3) states that the remuneration of the commissioner must be determined by the Secretary and paid for out of funds of the Board

89. There are cases where the assessment of the school's financial risk determines that the school cannot meet some or all of the costs of the intervention without putting the teaching and learning at risk. In these cases the Ministry can seek approval to reimburse the school part or all for the costs of its intervention. However the Board is always required to pay at least the full cost of the initial scoping phase (four to six weeks) of the intervention.

### Policy intent

90. The intention of the Discretionary Financial Assistance for Schools budget is that the funding will be used to best effect and within budget. Priority is given to support schools to resolve issues as quickly as possible.

91. To achieve the policy intent:

1. The scope of the work to be undertaken, the timeline to complete it, and a cost estimate is known at the outset.
2. A board is expected to budget for at least part of the costs of the intervention, at least if it goes into a second year.

### Process for Preparing a Financial Assistance Request

What does the Senior Advisor need to do?

92. The Senior Advisor is the key person responsible for collating the following four documents found in the resources tab.

- Financial Advisor's Recommendation Sheet [Excel; 394kb] completed by Senior Financial Advisor

- Action plan [word; 83kb] completed by appointee
- Memo to request funding [word; 174kb] (completed by Senior Advisor)
- Funding Provision Agreement [word; 85kb] (completed by Senior Advisor)

In what circumstances will the Senior Advisor need to prepare a financial assistance request?

93. When the Regional Financial Advisor determines that the Board cannot meet the full costs of the intervention without compromising teaching and learning. This analysis is based on a review of the school's financial data.

When does the Senior Advisor need to prepare a financial assistance request?

94. As soon as a school is identified as needing an intervention, financial assistance for intervention costs should be considered. If financial assistance is needed, start to organise the financial assistance application documents. Financial assistance cannot be contracted retrospectively, therefore it is important to be proactive when preparing a request. The scoping report forms the third schedule to the contract so it is important to work with the appointee and ensure it is completed promptly.

#### Steps

95. The Senior Advisor needs to collate four documents when a school is identified as needing an intervention and in financial risk. The templates for the documents can be downloaded from the bottom of the page under the heading *Documents for Processing Financial Assistance Applications*.

#### Financial Advisors Recommendation Sheet

96. The Regional Senior Financial Advisor assesses the school's financial position against the criteria (listed below) and determines whether the school is able to meet the full costs of the intervention.

Criteria for financial assistance:

- school's operating grants under \$500,000 (GST excl) in a year,
- the school can demonstrate it does not have sufficient cash to cover the costs of the intervention and
- the school has not had financial assistance within the last 12 months.

Schools that do not meet all of the above criteria can be considered for financial assistance where they are:

- multiple financial pressures (e.g. repaying a loan) or
- other expenditure priorities (e.g. purchasing learning resources).

The Regional Financial Advisor completes the Financial Recommendation Sheet and has it peer reviewed in National Office.

#### Action plan

97. Within the first month of appointment, a statutory appointee scopes and costs the work to be completed to return a school to self governance in the areas where they have the board's powers or have been asked to provide advice. This should be outlined in a monthly detailed action plan. The action plan and costings need to be

reviewed by the Senior Advisor to determine if the actions are realistic and in line with the:

- outcomes of the intervention
- appointee's powers.

#### Memo

98. The Senior Advisor drafts a memo to request funding and outlining how financial assistance can be justified.

#### Funding Provision Agreement

99. The Senior Advisor needs to draft a Funding Provision Agreement (FPA)

#### Completed Documents

100. Once completed, send all documents to Orla Griffin, Assistant Advisor, Education Curriculum and Performance, National Office for peer review and to submit to managers to consider. Documents will then be sent back to the Regional Office for countersigning. Once countersigned, return to National Office:

- signed original memo
- signed original FPA.

101. National Office will complete contract register formalities. The Regional Office will monitor the contract and action plan against the appointee's monthly reports.  
Invoicing

102. Each month the Senior Advisor checks the appointee's monthly report against the action plan and the invoice for the contracted proportion of the intervention costs. The Senior Advisor needs to ensure the appointee is on target with the action plan. In order for invoices to be processed at National Office the Senior Advisor must ensure that the following documents are sent to National Office, the:

- invoice from school to the Ministry
- invoice from appointee to school
- relevant monthly report from appointee.

#### Extending Financial Assistance (Variation)

103. Two to three months before the funding provision agreement expires, the Senior Advisor needs to assess if further financial assistance is required. If so, the Senior Advisor will need to formally review the intervention (signed off by the Secretary) to determine what outcomes are yet to be achieved. A new application is required to be completed to extend the financial assistance and a variation to the funding provision agreement.

#### Steps

1. Formally review the intervention – signed off by the Secretary
2. Organise for the Regional Senior Financial Advisor to assess the school's financial position against the criteria and determine if the school will continue to need financial assistance and at what level
3. Complete a memo requesting the financial assistance to be extended
4. Complete a variation to the contract

5. Organise for the appointee to submit a new action plan outlining month by month actions for the extended period. These actions should be a reflection of the review findings.

#### Notes

- Senior Advisor is responsible for the entire application process. They need to collect all documents and complete the final quality assurance.
- National Office payments can be checked by regional staff on a hyperlink excel spreadsheet. This can be found through the file path: J:\Education Curriculum and Performance\Schools\Performance\Governance\InterventionsandSupport in a documents called "A- hyperlink invoice coversheet".
- Payments for secretarial services should be met by the school (see appointee's Memorandum of Understanding paragraph 52).

#### 104. Exit from Statutory Interventions

Varying exit strategies are used for exiting a statutory intervention, and this will depend on the particular set of circumstances, evidence of sustainable change, and evidence of actual and potential risk factors.

105. As mentioned in paragraphs 41 and 42, interventions may be amended, reduced or revoked as evidence of risk decreases. This reflects a gradual withdrawal of support, as the board demonstrates sufficient capacity and capability to sustain the positive change that has been achieved.

106. If a statutory intervention is revoked, the Ministry will continue to monitor progress and maintain an informal level of support for whatever period is considered necessary to sustain the positive change. The exception to this is when the outcome of the intervention review is that school closure has been recommended and approved. Sometimes, following the revocation of the intervention, boards of trustees decide to contract in the services of the previous statutory appointee, because effective working relationships have developed and they want to continue to access their skills and advise for a period of time.

107. The aim is always to return the school to full self-management as soon as required changes can be sustained without the statutory intervention

#### Resources

- [78J Requirment to Provide Information](#)
- [78K Specialist help](#)
- [78L Action Plans](#)
- [78M: Limited Statutory Manager](#)
- [78N\(1\): Dissolution of Board by Minister](#)
- [78N\(3\): Dissolution of board and appointment of commissioner, by Secretary](#)

#### Documents for Processing Financial Assistance Applications

- [Action plan \[Word; 83kb\] \(example\)](#)
- [Regional Financial Advisor Recommendations \[Excel; 540kb\] \(template\)](#)
- [Financial Assistance Request Memo \[Word; 174kb\] \(template\)](#)
- [Funding Provision Agreement \[Word; 85kb\] \(template\)](#)
- [Variation to Funding Provision Agreement \[111kb\] \(template\)](#)

#### Related downloads

- [Representation of the Statutory Appointee Roles \[WORD: 34kb\]](#)
- [Guidelines for National Office Staff \[WORD: 61kb\]](#)
- [Principles for Selecting Candidates for Nomination for Statutory appointments \[WORD: 40kb\]](#)
- [Template Version Control \[PDF: 8kb\]](#)

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