

*In the five years 1996 to 2000, 103 school boards of trustees have been dissolved as a result of their school being disestablished through closure or merger. We have concerns about:*

- *The risk of loss of assets as a result of inadequate controls during the period leading up to disestablishment.*

*In two of the 103 cases, we have identified instances of unlawful disposal of assets in the period leading up to the board being dissolved.*

- *The lack of formal accountability, reporting, and auditing arrangements when a school is disestablished.*

*Neither the Education Act 1989 nor the Public Finance Act 1989 contemplates what accountability, reporting, or audit requirements should apply in such a situation – and this has led to instances of long delay in final financial reporting and auditing.*

*The Ministry of Education's procedural guidelines, improvements to the procedures followed in closures and mergers, and new provisions in the Education Standards Act 2001, will go a considerable way toward mitigating the risks involved.*

*Nevertheless, we believe that:*

- *procedures and controls over financial transactions, assets, and liabilities during the disestablishment period need to be strengthened; and*
- *appropriate accountability requirements for the boards of closing or merging schools need to be put on a legislative footing.*



### Background

- 3.1 When a school is closed or merged, or when school boards of trustees (boards) combine in order to improve schooling arrangements, at least one board goes out of existence. The assets of a board going out of existence should be re-applied within the education system – either in another school or schools, or in the same school under different governance arrangements.
- 3.2 For a board that knows it is going out of existence there are different risks to be addressed. These risks relate to its accountability to the Minister of Education (the Minister) and the community for the assets that the board has had in its care, and for the liabilities (if any) it is leaving behind.
- 3.3 In the five years 1996 to 2000, 103 boards were dissolved as a consequence of the schools for which they were responsible being either closed or merged with another school (see Figure 3.1 on page 54).
- 3.4 In two of those cases – which we describe in Case Studies A and B on pages 69-71 – we have identified unlawful disposal of assets during the period leading up to the board being dissolved. For comparison, a third (and major) case of school reorganisation entailing boards being dissolved is described in Case Study C on page 71-72.
- 3.5 An influencing factor on what might happen is that closure or merger takes place after a process of consultation within the school community in accordance with the Education Development Initiative (EDI). The EDI process and its time-scale are illustrated on pages 73-74.

### Case Studies of Closing and Merging Schools

- 3.6 Case Study A (Waitangirua Intermediate School) and Case Study B (Maungati School) provide examples of the issues and risks associated with closures and mergers. Case Study C (the Wainuiomata Area Rationalisation) illustrates the improvements that have occurred in mitigating the risks inherent in the disestablishment process.

3.7 In the case of both Waitangirua Intermediate School and Maungati School, financial statements for the final periods are yet to be completed, despite the fact that disestablishment occurred in 1999 and 2000 respectively. In both cases the delays are mainly due to significant issues concerning the boards' management of school assets leading up to closure. We are concerned that neither school community has been made aware yet of the seriousness of these issues, which include:

- Making unlawful or inappropriate payments with funds meant for educational purposes (Waitangirua Intermediate School); and
- Not maintaining adequate records of the assets distributed prior to the school's closure (Maungati School).

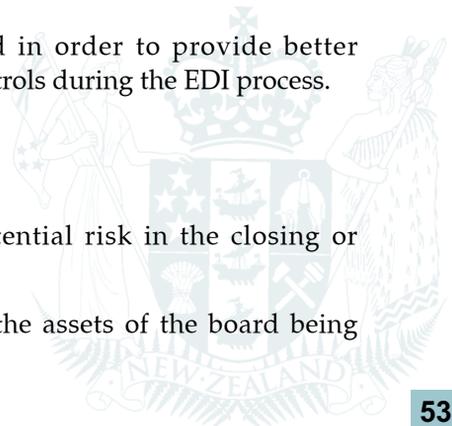
3.8 The schools affected by the Wainuiomata Area Rationalisation have not been exposed to the same level of risk as either Waitangirua or Maungati Schools. The management of the Wainuiomata closures was markedly better because:

- the time between initial discussion over the future of the schools concerned and the closures was much shorter;
- a project manager was used from the start, rather than a project co-ordinator (see paragraphs 3.28 to 3.30 on page 58);
- the Ministry of Education (the Ministry) was more active in managing the process and ensuring that the affected boards were aware of their responsibilities (mainly through specific and detailed EDI agreements); and
- procedures were revised in order to provide better information and more controls during the EDI process.

## What Are the Risks?

3.9 The two main areas of potential risk in the closing or merging of schools are:

- inadequate control over the assets of the board being dissolved; and



## ACCOUNTABILITY REQUIREMENTS FOR CLOSED OR MERGED SCHOOLS

- delayed accountability reporting on events during the period leading up to closure or merger.

3.10 Both of those risks can be exacerbated by the time taken to effect the closure or merger.

### *Assets at Risk*

3.11 The opportunity exists for unlawful disposal of assets before the dissolution of a board, if accountability arrangements for, and controls over, the disestablishment process are unclear and delays are lengthy.

3.12 Figure 3.1 below shows the number of schools that have been disestablished in the five years 1996 to 2000, and the total value of the boards' assets and liabilities.

3.13 The value of the assets at risk may not, however, be the key issue. The closing/merging schools may also have small but "attractive" assets – such as computers – that are at risk.

3.14 Nevertheless, control of that risk appears on the whole to have been effective. Of the 103 disestablishments in the five-year period, we have identified only two instances of inappropriate asset disposal (see Case Studies A and B on pages 69-71).

*Figure 3.1  
Total Assets and Liabilities of Boards of Disestablished  
Schools 1996-2000*

Year of disestablishment	Total disestablishments	Total Assets <sup>(1)(2)</sup> \$	Total Liabilities <sup>(1)</sup> \$
<b>1996</b>	19	1,031,000	182,000
<b>1997</b>	20	1,356,000	288,000
<b>1998</b>	17	3,104,000	1,150,000
<b>1999</b>	28	4,450,000	1,345,000
<b>2000</b>	19	1,697,000	400,000

(1) Total assets and liabilities have been calculated from each school's final set of audited financial statements. Where those statements are not yet available, the previous year's financial statements have been used.

(2) Assets consist mainly of furniture, computers, library books, and land and buildings paid for from community fund-raising. The value of land and buildings provided by the Ministry is not included.

## *Delays in Accountability Reporting*

- 3.15 The school community and the public in general might not receive sufficient or timely assurance about how the board has been managing its school. Long delays in the preparation of the final set of financial statements may exacerbate this.
- 3.16 Despite there being no requirement to do so, we make arrangements for a final audit in each case. With legislation silent as to whether final reporting is required, there is sometimes a significant delay in the production (and hence auditing) of the final set of financial statements.
- 3.17 Figure 3.2 below shows the length of delays that have occurred between board dissolution and the issue of an audit report on the final financial statements.
- 3.18 Four sets of final financial statements have been delayed in excess of four years, while the longest is now in excess of six years.

*Figure 3.2  
Delay Between Board Dissolution and Issue of the  
Audit Report<sup>(2)</sup> on Final Financial Statements 1996-2000*

Disestablishments		Months Between Dissolution and Issue of Audit report					Average Months <sup>(3)</sup>
Year	Total Number	Up to 4 <sup>(1)</sup>	5-6	7-12	13-18	More than 18 <sup>(2)</sup>	
1996	19	3	5	1	3	7	20
1997	20	4	6	4	2	4	14
1998	17	3	5	3	3	3	11
1999	28	6	8	7	1	6	11
2000	19	3	7	3	4	2	9
<b>Total</b>	<b>103</b>	<b>19</b>	<b>31</b>	<b>18</b>	<b>13</b>	<b>22</b>	
		<b>18.4%</b>	<b>30.1%</b>	<b>17.5%</b>	<b>12.6%</b>	<b>21.4%</b>	

(1) The statutory annual reporting requirement is to have the audit report issued within 120 days of balance date.  
 (2) Includes 6 instances where audit reports still not issued.  
 (3) "Average Months" indicates the time taken to complete the final financial statements. The figures show a decline over time. However, because some final audits have not yet been completed, the average months for each year are conservatively stated.

- 3.19 To minimise the risks inherent in long delays in financial reporting, we recommend the specification of a maximum period – say, six months – between the dissolution of a board of a closed or merged school and provision of the final financial statements for audit.
- 3.20 We support the Ministry’s actions to ensure that:
- boards that are about to be dissolved are given more information on their responsibilities, in order to manage their affairs appropriately;
  - controls are in place to minimise the risks that boards might unlawfully dispose of public assets; and
  - the controls take into account the length of the EDI process and the need to be effective – regardless of whether the EDI was involuntary.

### *The Time-scale*

- 3.21 The EDI time-scale creates the potential for disputes, both educational and financial. The Ministry has told us that the total time to complete an EDI is likely to be from at least 6 months and up to 24 months. Therefore:
- an EDI period could extend over two sets of annual financial statements;
  - there may be an extended period during which a school community considers its current position and future scenarios, before it makes a request for school closure merger;
  - about 3-6 months may then pass (while a minimum of 28 days’ consultation and negotiation of the conditions of closure/merger are agreed) before a Memorandum of Agreement is signed (see paragraphs 3.36 to 3.39 on pages 60-61), and the Minister announces her or his decision as to the school’s future; and
  - about three months may be required for contractual and “good employer” requirements to be met.

- 3.22 In Case Study C – the Wainuiomata schools’ EDI – the elapsed time from initiation to board dissolution for the Ministry-managed process was considerably shorter than in either Case Study A or Case Study B. We believe that this shorter period may have reduced the risks (see paragraphs 3.6 to 3.8 on pages 52-53).

## Managing the Risks

- 3.23 The key risks that surround the disestablishment process are currently being managed in three ways:
- through the procedural guidelines produced by the Ministry;
  - through a legal instrument – the Memorandum of Agreement – for the EDI or involuntary closure/merger; and
  - by using the powers contained in the Education Act 1989 (referred to hereafter as “the Education Act”), for intervention in poorly performing schools.

### *Procedures and Guidelines Applying to Closure and Merger*

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- 3.24 Following the case of the unlawful disposition of the assets at closure by the then Waitangirua Intermediate School Board of Trustees (see Case Study A on pages 69-70), we urged the Ministry to re-examine its procedures to be followed in the case of school closure/merger. It did so, and the procedures were updated in January 2002.
- 3.25 The procedures are set out in the Ministry’s *School Closure Desk File*<sup>1</sup>, which contains detailed and useful guidance for the Ministry and “residual agents”. However, while the *Desk File* may be binding on the Ministry’s employees, it has no status beyond the Ministry.

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1 Ministry of Education; updated January 2002.

- 3.26 The *Desk File* covers three distinct periods:
- the procedural requirements before closing a school;
  - actions after the decision to close but before closure;
  - and actions after closure.

### Support and Management in the EDI Process

3.27 The *Desk File* requires Ministry staff to remind boards that they must act in good faith and in accordance with their functions during the EDI period. One of these functions is to achieve the orderly winding up of the school. For example, boards are expected not to appoint permanent staff at this time and not to “spend up”.

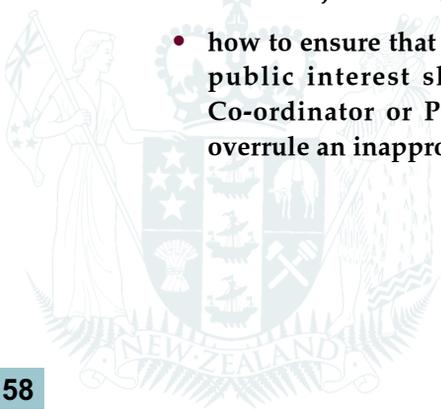
3.28 The *Desk File* envisages two levels of Ministry support in the EDI process:

- a Project Co-ordinator; or
- where there is a “potentially difficult situation”, a Project Manager specifically to manage the process.

3.29 Neither a Project Co-ordinator nor a Project Manager has the power to overrule the board should this be necessary in the wider public interest. Until it goes out of existence, or until its responsibilities are superseded in some other way, the board – under section 75 of the Education Act – has complete discretion, subject to the law, to control the management of the school as it thinks fit.

3.30 **The Ministry’s guidelines need to be made clearer on:**

- **the limitations to the powers of a Project Co-ordinator and a Project Manager; and**
- **how to ensure that action can be taken promptly in the public interest should the powers of the Project Co-ordinator or Project Manager be insufficient to overrule an inappropriate act by the board.**



## Management of Residual Matters

- 3.31 The Ministry advises boards to appoint (voluntarily) a residual agent as soon as possible after the decision to seek closure. It says that the board's residual agent should be in place to manage the board's interests in the period following the Minister's formal announcement of the closure/merger (at which time the board still has the responsibility for running the school). The residual agent continues to act until the actual closure/merger, and beyond that if there are any residual matters.
- 3.32 The *Desk File* sets out in detail the residual agent's responsibilities in the period before closure (including financial oversight) and information about disposal of school property and equipment.
- 3.33 However, the *Desk File* is unclear about who the residual agent is representing:
- It says that, prior to the closure date, *the board's* residual agent or a nominated member of the board should carry out the actions to assist in the winding up of the financial affairs of the school.<sup>2</sup>
  - However, it also says that *the Ministry* can appoint a residual agent to handle the financial matters of the closure. This residual agent should ideally – with the board's agreement – *work with the nominated board member (and financial agent) before the school closes.*<sup>3</sup>
- 3.34 We have concerns about this lack of clarity:
- An agent cannot act outside of the interests of the entity that the agent represents.
  - But the wider public interest necessitates oversight of the process of closure or merger by a manager who has interests wider than those of the outgoing board. This oversight needs to be exercised from the time of appointment of the manager until the end of the process.

<sup>2</sup> *Desk File*, page 16.

<sup>3</sup> *Ibid*, page 17.

### 3.35 We recommend, therefore, that:

- a residual manager be appointed by the Ministry as a condition of the closure (merger) agreement between the Minister and the board (see below);
- the residual manager should have effective control of the process after the board is dissolved, and should work with the board before closure (merger) to ensure that the necessary actions are taken to assist in winding up the financial affairs of the board; and
- the residual manager should ensure that the financial affairs of the school are wound up within the time prescribed, which we believe should be no more than six months from closure/merger.

### Memorandum of Agreement

3.36 The Ministry uses a legally binding Memorandum of Agreement in its EDI process to ensure prudent management by the board of the education resources under its control. Typically, the Memorandum covers the requirements for accounting and being audited, education delivery and resourcing, staffing, disposal of assets, and a general statement about “prudent governance”.

3.37 The Memorandum of Agreement is in force only from about the time of notification in the *Gazette* of the decision on the closure/merger (usually about three months before). It is not in place in time to mitigate the risks involved in earlier parts of the process.

3.38 Whether a closure/merger is “voluntary” or “involuntary” has in the past affected the risks involved in closure. Until November 2001, an *involuntary* closure did not entail using the EDI policy, and therefore no Memorandum of Agreement was signed. In effect, this meant that there was no legally binding agreement to constrain the board’s behaviour from the time of the decision to close or merge until the time when the board ceased to exist.

- 3.39 Between 1992 and November 2001, only *voluntary* closures and mergers entailed the use of a Memorandum of Agreement – accounting for 80% (126 out of 158) of all closures and mergers. After November 2001, *all* decisions to close or merge have entailed the use of a Memorandum of Agreement.

## *Legislative Powers to Intervene in a Poorly Performing School*

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- 3.40 Up to the passing of the Education Standards Act 2001, the Education Act contained provisions enabling the Minister or Ministry to:
- insist that a board engage expert services where the school was performing poorly<sup>4</sup>;
  - appoint a financial manager<sup>5</sup>; and
  - dissolve the board and appoint a commissioner<sup>6</sup>.
- 3.41 The Education Standards Act 2001 introduced further legislative powers, giving the Ministry wider powers to intervene if there is a risk to the operation of the school<sup>7</sup>. The full range of powers now includes:
- the ability of the Secretary for Education to require a board to –
    - provide information;
    - engage specialist help; or
    - carry out an action plan;
  - appointment of a limited statutory manager; and
  - dissolution of a board and appointment of a commissioner.

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4 Section 64A of the Education Act 1989 (repealed from 25 October 2001 by the Education Standards Act 2001).

5 Section 81B of the Education Act 1989 (repealed from 25 October 2001 by the Education Standards Act 2001).

6 Sections 106 and 107 of the Education Act 1989 (repealed from 25 October 2001 by the Education Standards Act 2001).

7 Part 7A of the Education Act 1989.

### *Are the Ministry's Powers Sufficient to Manage the Risks?*

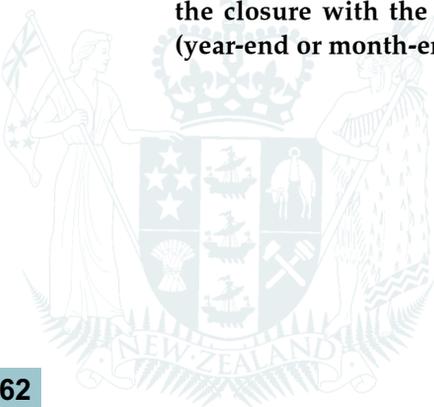
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- 3.42 These powers can be employed at any point in the EDI or closure/merger process. Taken together with the support mechanisms mentioned in the procedural guidelines, the Ministry has at its disposal a range of means of support and intervention – from facilitation to take-over of the governance role.
- 3.43 The Ministry believes that these powers give it sufficient scope to address the wide variations in the level of assistance that boards may require in either voluntary or involuntary closure or merger.
- 3.44 **In our view, for these powers to be as effective as possible, the Ministry needs to be clearer in its procedural guidelines and in the Memorandum of Agreement on:**
- what constitutes a “potentially difficult situation”, which would invoke the appointment of a manager of an EDI project, and what the management powers of that person would be; and
  - management of residual matters.

### *Timing of Disestablishment*

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- 3.45 The timing of a school closure or merger, or the combining of boards, is considered as part of the EDI process. The Minister ultimately determines the date of closure.
- 3.46 **We recommend that, in order to minimise disruption, the Ministry should, where practicable, agree to coincide the closure with the end of a natural accounting period (year-end or month-end).**



## Need to Clarify the Financial Reporting Requirements for Boards

- 3.47 Boards are Crown entities for the purposes of the Public Finance Act 1989 (the Public Finance Act) and, in the ordinary course of events, have to prepare annual financial statements within 90 days of the end of the financial year. The Public Finance Act also requires the chairperson of the board and the principal to sign a statement taking responsibility for the financial statements.<sup>8</sup> The auditor appointed by the Auditor-General must audit those statements within 30 days of receipt from the board.
- 3.48 The Public Finance Act contains no provisions relating to a Crown entity (or, for that matter, a government department) that is ceasing to exist. We have commented on this issue several times in the past.<sup>9</sup> Neither the Public Finance Act nor the Education Act contain provisions relating to a reporting period that is less than 12 months.<sup>10</sup>
- 3.49 Where a school is disestablished within the 90-day period referred to in paragraph 3.47 above, the board may not have completed the financial statements for the previous financial year or for the period between the end of the previous financial year and the date of closure. Unlike for a tertiary education institution being disestablished, the Education Act does not provide for the board of a closed school to continue in existence for the purpose of complying (or assisting compliance) with the accountability and financial reporting requirements of the Public Finance Act.<sup>11</sup>

8 Section 42 of the Public Finance Act.

9 See, for example, our 1990 report on *Selected Public Sector Issues* (parliamentary paper B.29B, pages 67-72) and our 1991 report on *The Audit of the Crown and Government Departments* (parliamentary paper B.1[Pt.II], pages 38-41).

10 The Education Standards Act 2001 amended the Education Act by introducing new requirements for planning and reporting, to be operational from 2003. These requirements mainly concern changes to the long-term and annual reporting of service performance. They refer to, but do not essentially alter, the financial reporting requirements. They are silent on the issue of boards of closing/merging schools.

11 Section 217(10) of the Education Act deems the council of a disestablished tertiary institution to continue to exist for financial reporting purposes, and provides for the council to be assisted to meet those requirements.

### *Principle and Practicalities of Accountability*

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- 3.50 In principle, an entity's governing body for a particular period should account for the discharge of its responsibilities through financial statements for that period. This would mean that the board of a school being disestablished would be responsible for preparing the financial statements for:
- the last full financial year before disestablishment; and
  - if required to report, for the period from the end of the last financial year until disestablishment.
- 3.51 In practical terms, it may not be reasonable to expect the board of a closed/merged school to be responsible for any reporting requirements that are still outstanding at the date of its dissolution. Board members serve their "electorate" voluntarily, and receive only small fees for their formal monthly meetings. Their interest might be expected to cease when the board is dissolved.
- 3.52 Nevertheless, the option for the board of a disestablished school to continue to exist for financial reporting purposes is one that could be available at the request of the board.<sup>12</sup>

### *Responsibility for Reporting on the Last Financial Year Before Closure/Merger*

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- 3.53 Section 154 of the Education Act concerns closure of schools by the Minister.<sup>13</sup> It sets out a process for closing a school and provides that, where a school is closed:
- its board is deemed to have been dissolved from the date of closure; and
  - all assets, liabilities, and debts that the board had immediately before dissolution are deemed to have become assets, liabilities, and debts of the Minister.<sup>14</sup>

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<sup>12</sup> To do so would require a change to section 154 of the Education Act, which dissolves the board on closure.

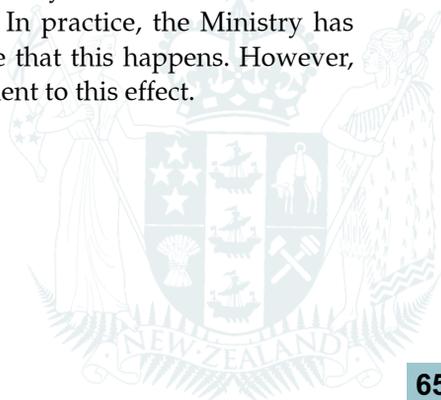
<sup>13</sup> This power is delegated to the Senior Manager, National Operations of the Ministry. However, it is Ministry policy for the Minister to make the decision about a school closure.

<sup>14</sup> Except any property held by the Board in trust – section 154(3A) of the Education Act.

- 3.54 In our view, the Minister becomes responsible for meeting any outstanding obligations of the board – including financial reporting – once it is dissolved. Certainly, the Minister would be responsible for any required financial reports for the period *after* dissolution.
- 3.55 **In our view, it is preferable to have an express reporting obligation on the Minister in the case where a board has been dissolved.** The Ministry – as the manager of all residual matters – would thus be responsible for any financial reporting requirements that are still outstanding when the board is dissolved.
- 3.56 **The Ministry’s guidance on, and the procedures to be followed when, a board is going to be dissolved – such as its *School Closure Desk File* – need to be clear on this point.**

### *Responsibility for Financial Reporting On the Period After the Last Annual Financial Statements*

- 3.57 While the Public Finance Act does not require financial statements to be completed for reporting periods of less than a year, in our view:
- there is a need for the preparation of financial statements to the date of closure;
  - such statements should be audited; and
  - the Minister should take responsibility (in place of the dissolved board) for preparing and presenting such statements for audit.
- 3.58 In our view, the residual responsibility for financial reporting on the period after that covered by the last annual financial statements is the Minister’s. In practice, the Ministry has procedures in place to ensure that this happens. However, there is no statutory requirement to this effect.



- 3.59 In the *Desk File*, the Ministry states that:
- the board should sign the Statement of Responsibility up to the date of closure; and
  - the board’s “residual agent” (see paragraphs 3.31 and 3.32 on page 59) is to be responsible for finalising the financial statements and sending them to our auditor.
- 3.60 It is clearly not practicable for the financial statements for the period from the end of the last financial year to date of closure to be ready for signing by closure date. The Ministry should have the responsibility for finalising the financial statements and sending them to the auditor, and for signing the Statement of Responsibility, should those things not have been done by closure date.
- 3.61 **We recommend that the Education Act be amended to make explicit that residual responsibility for preparing and presenting financial statements for audit, and disseminating the audited financial statements, rests with the Minister in place of the dissolved board of a closed school.**

### *Responsibility for Financial Reporting In the Case of Merger*

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- 3.62 A similar issue arises where schools are merged. The effect of the Minister merging a school (the merging school) into another school (the continuing school) is that:
- the merging school is part of the continuing school; and
  - if the continuing school and the merging school are not already administered by a single board –
    - the board of the merging school is dissolved; and
    - all rights, assets, liabilities, and debts of the merging school are vested in the board of the continuing school.<sup>15</sup>

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<sup>15</sup> Section 156A of the Education Act. More than one school can be merged into another (continuing) school.

- 3.63 Therefore, where the board of a merging school has been dissolved, it is no longer responsible for any outstanding annual financial statements. The assets and liabilities of the merging school are vested in the board of the continuing school, but the Education Act is silent on responsibility for any financial reporting obligations of the board of the merging school.
- 3.64 The board of the continuing school:
- is not responsible for reporting on the operations of the merged school up to the date of merger; and
  - in any case, would not necessarily have sufficient knowledge of the merged school's financial affairs to be able to take on the job of residual financial reporting for the merged school.
- 3.65 Section 156A(4A) of the Education Act requires the continuing school board to co-opt a member or members of the dissolved board. The co-opted member(s) might be able to help the continuing board to undertake any residual reporting for the dissolved board. If the co-opted member(s) had insufficient knowledge of the merged school's financial affairs, the Ministry might have to appoint a specialist under section 78K of the Education Act, to undertake the task.
- 3.66 **We recommend that the Education Act be amended to clarify whether the Minister – or the continuing board – has the residual responsibility for preparing and presenting financial statements in place of the dissolved board of a merged school.**

### Final Financial Reporting for Dissolved Public Entities

- 3.67 The issues raised about lack of legislative requirements for final reporting and audit on the dissolution of boards apply in the wider public sector.



- 3.68 We brought these issues to the attention of the Education and Science Committee in the context of the disestablishment of the Specialist Education Services and the Teacher Registration Board. Part of the problem is that the Public Finance Act contemplates only annual reporting.
- 3.69 We recommend that the legislation be amended to require production and audit of financial statements up to the date of closure or merger.
- Preferably, the Public Finance Act should be amended to ensure that, for every public entity (including a school board of trustees) that is being disestablished:
    - financial statements have to be prepared for the period from the end of the last financial year to the date of disestablishment;
    - those financial statements are presented for audit within six months of the date of disestablishment; and
    - if the final financial reporting period is three months or less, then, by agreement with the Auditor-General, the last annual reporting period can be extended to include that final period.
  - For schools in particular, the Ministry could consider promoting amendments to sections 154 and 156A of the Education Act.



## Case Study A – Waitangirua Intermediate School

- A.1 The future of Waitangirua Intermediate School was under discussion because of its falling roll from well before 9 June 1998, when EDI discussions were formally instituted. The Board of Trustees was involuntarily dissolved on 27 January 1999, and the School was closed on that date.
- A.2 A project co-ordinator had been appointed in 1997. The co-ordinator facilitated the EDI process from then until after the School closed. A residual agent<sup>16</sup> was empowered to act for the Board from October 1998, but the position was left vacant after the agent left the Ministry of Education in late-2000.
- A.3 We have specific concerns about the management of assets between the commencement of the EDI process on 9 June 1998, and the Board’s dissolution. After 31 December 1998, but before the closure of the School on 27 January 1999, the Board made payments that, in our view, were unlawful.
- A.4 The payments included amounts for Board members to receive training and skill-improvement services, as well as total payments of \$60,000 to charitable organisations within the Porirua community. The payments were not made in pursuance, or intended pursuance, of the functions of a Board as prescribed by the Education Act because, in our view, they did not have an educational purpose.
- A.5 The final audit is yet to be completed due to delays arising from the preparation of the final financial statements. Those delays arose because the final financial statements were inappropriately prepared on a “going concern” basis. While the discussions about the correct preparation of the financial statements were under way, we also discussed with the Ministry the recovery of the unlawful payments. The Ministry has told us that it will not seek recovery of the unlawful payments.

16 Employed by the Ministry of Education.

- A.6 Another major issue is that there is no officer to take responsibility for preparation of the financial statements. The Public Finance Act requires a Statement of Responsibility to accompany every set of annual financial statements. Where any board is dissolved (other than as a result of merger), the Ministry is responsible for the preparation of the financial statements. The Ministry accepts such responsibility in general, but is unable to do so in this case, because there is now no person who can verify that the assumptions used in the preparation of the financial statements are appropriate.

### *Case Study B – Maungati School*

- B.1 Maungati School was involuntarily disestablished on 26 April 2000 and the Board of Trustees dissolved on the same date.
- B.2 Under the EDI Memorandum of Agreement, on 17 April 2000 a residual agent was empowered to act for the board from that date until the activities of the School were fully wound up. The residual agent is still acting.
- B.3 Before 17 April 2000 discussions between the Board and the Ministry over the future of the School had been going on for some time. A project co-ordinator was appointed in mid-1999. The co-ordinator facilitated the EDI process from 20 August 1999 to 24 February 2000.
- B.4 We have concerns about the management of the board's assets between the start of the EDI process on about 8 February 1999 and the Board's dissolution. Specifically:
- The Board did not maintain adequate records of the distribution of its fixed assets to other schools in the South Canterbury area. As a result, the latest audit report (which covers only the last complete financial year, not the period up to dissolution of the Board) includes a "disclaimer of opinion" over the lack of those records.
  - On 2 December 1999 the Board transferred most of its cash to the Maungati Education Trust Board. The cash comprised operational grants provided for the education of the School's students, and some other locally raised funds. The Ministry was told of the transfer and sought

to recover the cash. The Ministry was largely successful and most of the cash was returned to the Board's accounts. Discussions over possible recovery of the balance of the missing cash are yet to be concluded.

- The unrecovered amount is \$3,550. Part of this amount was used to pay for the legal expenses to establish the Trust. We believe that payment of the legal expenses was inappropriate because it was not made in pursuance, or intended pursuance, of the functions of the Board as prescribed by the Education Act, as it did not have an educational purpose.
- Investigation also showed that almost \$1,800 of the \$3,550 was Telecom School Collection funds that only the Board should have received, but which were incorrectly collected by the Trust.

**B.5** The final audit has just been completed, because the final financial statements were being up-dated to better reflect the issues raised in the audit.

### **Case Study C – Wainuiomata Area Rationalisation**

- C.1** In December 2000, a Ministry Area Review was initiated because of falling rolls in most of the schools in the Wainuiomata area. As a result of the review, on 8 May 2001 the Minister announced the largest EDI in the last six years.
- C.2** The EDI included the rationalisation (closure and merger) of:
- two state secondary schools;
  - two state intermediate schools; and
  - six state primary schools.
- C.3** On 15 August 2001 an announcement was made that the schools were to be (involuntarily) disestablished, and the boards were dissolved on 31 December 2001. A project manager has been involved in the project from the beginning.

- C.4 Residual agents were appointed on:
- 18/12/01 for the two state secondary schools and the two state intermediate schools;
  - 19/12/01 for the merger between two state primary schools;
  - 16/1/02 for the merger between two more state primary schools; and
  - 17/1/02 for the merger between the last two state primary schools.
- C.5 Final financial statements are currently being prepared. Our discussions with the Ministry and our auditors indicate that the process has not generated any issues of the magnitude of those in the other two case studies. This is due mainly to the Ministry's involvement and management of the disestablishment process.
- C.6 In particular, the Wainuiomata Area Rationalisation EDI agreements between the boards being dissolved and the Ministry are very specific – and include more detail on the management (e.g. the requirement for a final audit) and the distribution of the assets of each board.
- C.7 In our view, the EDI agreements used in the Wainuiomata Area Rationalisation have contributed to the good management of the rationalisation.



## *EDI Process and Time-scale for Closure or Merger of a School*

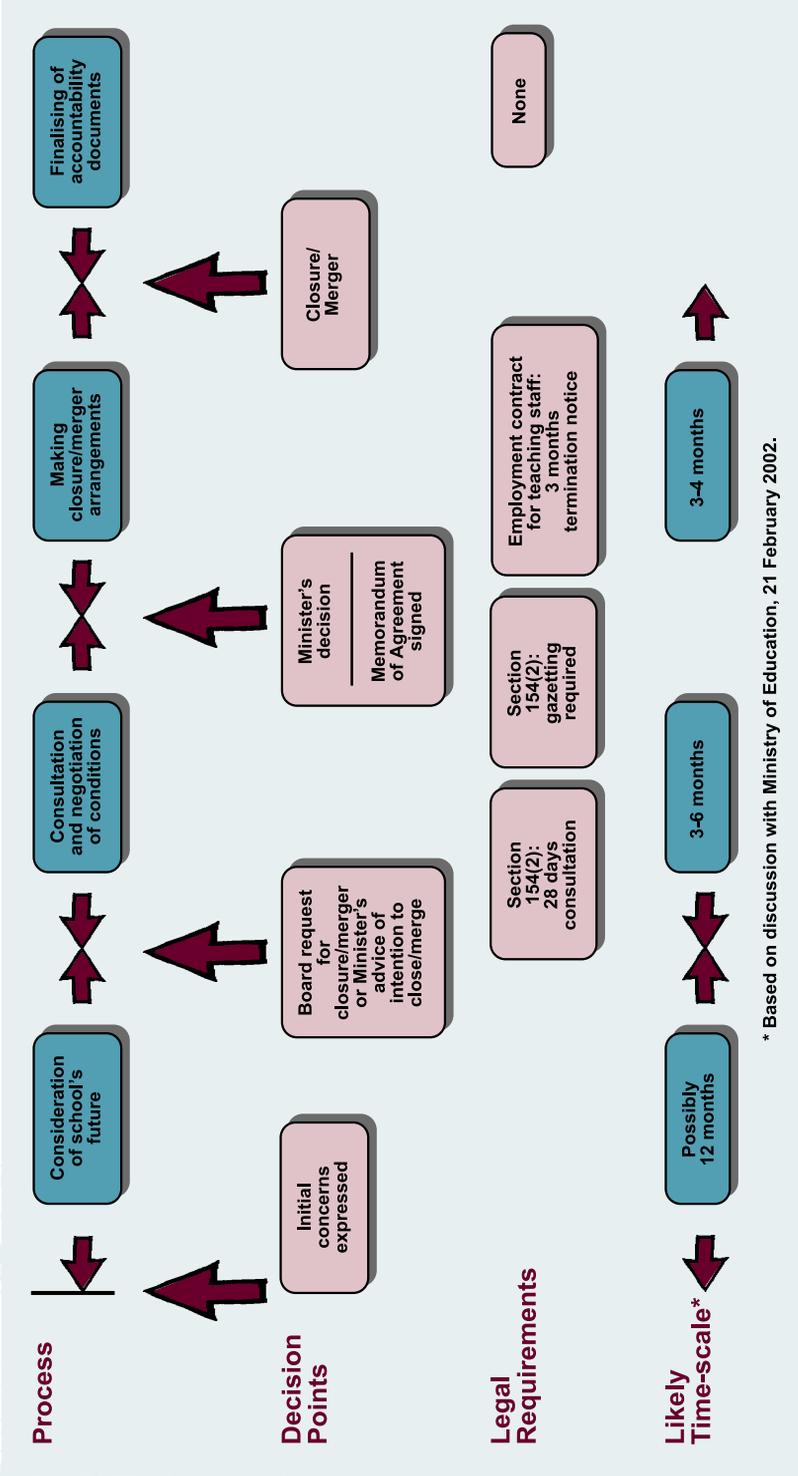
The EDI:

- takes into account the educational and economic viability of the school, and the availability of education alternatives;
- might be initiated by the board (*voluntary*) – as it is in 80% of cases – or by the Ministry of Education (*involuntary*), perhaps following a recommendation of the Education Review Office; and
- could result in –
  - closure of the school;
  - merger of the school with one or more other schools, and consequent closure of the non-continuing school(s); or
  - an initiative to improve schooling arrangements and/or performance in a cluster of schools that may not physically merge schools, but might combine the boards.



# ACCOUNTABILITY REQUIREMENTS FOR CLOSED OR MERGED SCHOOLS

## THREE



\* Based on discussion with Ministry of Education, 21 February 2002.