

Physical restraint in Residential Specialist Schools

New Zealand has three Residential specialist schools (RSS) that are live-in schools for students who are considered to have educational needs relating to socialisation, behaviour, and learning.

IHC has concerns about the safety, wellbeing and educational outcomes of the students with social, behaviour and/or learning needs who are sent to live at these schools. These schools are more likely to have intellectually disabled students enrolled. We looked at the information about these schools and decided to write this paper outlining the issues that urgently need addressing.

Key findings

- In the years 2017 – 2021 physical restraint was between 3000 - 6000 times more likely to occur at RSS compared to a mainstream school¹
- This physical restraint occurs despite the high teacher and specialist support resources available at these schools (student teacher ratio of 1.66 students per teacher compared to mainstream schools with a 11.5 student to teacher ratio)
- The schools have declined support from the Ministry of Education to reduce the use of physical restraint as they feel that this level of physical restraint is justified²
- The Ministry of Education has also reviewed the physical restraint incidents at these schools and found that physical restraint is often used for behaviour management and not for reasons of safety³
- The Ministry of Education does not monitor or report on student wellbeing or learning at RSS
- Families tell IHC that their decision to send children to RSS away from whānau is based on the lack of support provided by education, health and social development systems in the local community. IHC believes that removal of disabled children and young people from their whānau for periods of time (particularly ākonga Māori⁴) causes harm to their wellbeing.
- Some leaders of RSS have communicated ableist and troubling attitudes in the media about disabled students.

The Ministry of Education is currently investigating whether to make it easier for young people to be enrolled in RSS. Without implementing the recommendations IHC is making we do not think it is safe to increase the numbers of students enrolled in RSS.

Recommendations

- That compulsory holistic standards of care for students at RSS are legislated in the Education and Training Act. These care standards could be similar to the Oranga

¹ See appendix A at page 7.

² OIA response at page 10 of this document.

³ OIA response at page 11 of this document.

⁴ International Literature Review on Residential Specialist Schools for Learning and Behaviour

Prepared for the Ministry of Education, New Zealand. Page 18. Available at <https://assets.education.govt.nz/public/Documents/our-work/information-releases/responses-to-Official-Information-Act-requests/1284544-Appendix-A.pdf>

Tamariki National Care Standards to apply to students away from home enrolled in RSS. We appreciate the different legislative contexts that apply to children in the Oranga Tamariki system who live in out of home care, however the reality for the disabled children and young people in RSS is that they are essentially in residential home care with no standards or monitoring in place.

- These care standards require external monitoring of how RSS use physical restraint and why, as well as on the academic outcomes and ongoing wellbeing of RSS students.
- All schools, in particular specialist schools, develop action plans to end physical restraint at school.

Residential specialist schools do not serve an education purpose

Many families use RSS because the local schools have excluded or removed their child, frequently due to a lack of supports available in the local school. Parents are often placed in a difficult position – stop working outside the home and home school their child or send their child to a RSS. Some have called RSS a circuit breaker for disabled students and family, providing respite and a reset for the student and their whanau.⁵

In reality, there is very little evidence that RSS settings are beneficial to students. An international literature review commissioned by the Ministry of Education found that the evidence for benefits of RSS is very thin, quoting other studies saying:

*‘there is “little research or evaluation of the education or care” provided by RSS, raising concerns that “decisions and judgements are being made about what is best for disabled children with very little evidence on which to base them”’.*⁶

There are better ways to provide to respite to families, which do not involve children being separated from their families. There are also questions to be answered about whether school is the appropriate place for non-academic support and reset. These services should be provided to disabled students in their own communities and outside of school hours. Families of disabled children have lobbied for decades for an across government response to their child and whanau circumstances in their own community and now is the time to take this seriously.

The implementation of EGL principals is a positive step in the right direction however, the current education policies are a retrograde step and the continued support of RSS flies in the face of the government’s positive progress in embedding EGL principles and greater alignment with international and national human rights laws and conventions.

It is also difficult to understand the reasoning in enrolling a disabled student in a RSS due to behavioural or socialisation issues. This enrolment removes them from the settings that may have contributed to the behavioural or social concerns without addressing those environmental factors.

⁵ Ministry of Education ‘Education Report: Improving access to Residential Specialist Schools’, 1/12/2021. Page 4. Available at <https://assets.education.govt.nz/public/Documents/our-work/information-releases/Advice-Seen-by-our-Ministers/November-2021/3-ER-1276987.pdf>

⁶ International Literature Review on Residential Specialist Schools for Learning and Behaviour Prepared for the Ministry of Education, New Zealand. Page 33. Available at <https://assets.education.govt.nz/public/Documents/our-work/information-releases/responses-to-Official-Information-Act-requests/1284544-Appendix-A.pdf>

Physical restraint is between 3000-6000 times more likely to occur in a residential specialist school

One of the functions of RSS is to provide specialist support to students who are considered to have educational needs relating to behaviour. Some people may feel that high levels of physical restraint at a school that provides extra support for students with behavioural needs is not unusual and isn't necessarily a cause for alarm.

There is no evidence that physical restraint is an effective way to reduce behavioural issues.⁷ The use of physical restraint also reduces the mana of all people involved, with negative feelings and emotions being experienced by the person being physically restrained as well as the person doing the physical restraint.⁸ There is also strong evidence that disabled students are more likely to be victims of abuse than other students and more can be read about this on page 4.

New Health and Disability Services standards for disability service providers commits providers to working towards a physical restraint free environment. If this is what we expect of services that work with disabled adults, we should not expect less for schools that work with disabled children. All schools in New Zealand should be committing to working towards a physical restraint free environment, particularly the schools that use physical restraint the most.

The Ministry of Education does not collect data on the wellbeing or learning outcomes of students at RSS. One of the only outcomes the Ministry monitors is reports on the incidences of physical restraint. IHC has been concerned about the use of physical restraint against disabled students for a long time. We knew anecdotally that disabled students were most likely to be restrained, and to be restrained for behaviour that was related to their disability. Disabled students are unlikely to be able to control these behaviours very well, but teachers and school staff consider this disruptive and problematic.

Both IHC and Newsroom have recently obtained figures on physical restraint under the Official Information Act. The picture this data paints about physical restraint in RSS schools should alarm any parent of a disabled student. According to the figures that Newsroom obtained in their OIA, in 2019, the 28 students at Halswell and Westbridge were restrained on average 20 times each. This is with incredibly high staff to student ratios – on average 1.66 students to every teacher (Table 1).⁹ For comparison, mainstream schools have on average 11.5 students per teacher.¹⁰

Table 1 – Physical restraint incidents at Westbridge/Halswell residential schools

Year	Physical restraint incidents	Number of students	Staff (FTE)	Student – teacher ratio
2018	503	27	15.2	1.78

⁷ Heyvaert, Mieke & Saenen, Lore & Maes, Bea & Onghena, Patrick. (2014). Systematic Review of Restraint Interventions for Challenging Behaviour Among Persons with Intellectual Disabilities: Focus on Effectiveness in Single-Case Experiments. Journal of applied research in intellectual disabilities : JARID. 27. 493–590. 10.1111/jar.12094.

⁸ Ibid.

⁹ These figures differ from Ministry data provided in an earlier OIA request we made. This is because Westbridge Residential School in Auckland and Halswell Residential College in Christchurch had been significantly underreporting their restraint figures to the Ministry of Education – they had not been reporting restraints that happened outside of normal school hours.

¹⁰ Taken from <https://www.educationcounts.govt.nz/statistics/teacher-numbers> and includes day relief teachers. We understand that this ratio does not represent how teachers experience resourcing in the classroom and use it here to show the discrepancy between resourcing for RSS and mainstream schools only.

Year	Physical restraint incidents	Number of students	Staff (FTE)	Student – teacher ratio
2019	568	28	15.4	1.82
2020	145	24	17.5	1.37

Sources: Physical restraint incidents¹¹; student numbers¹²; staff numbers¹³.

IHC made another OIA after the Newsroom story broke.

When we compared the number of physical restraints at mainstream schools, specialist schools and residential specialist schools with the average populations of these schools¹⁴ we found that incidents of physical restraints in the years 2017-2021 were **between 18-43** times more likely to occur at a specialist school compared to a mainstream school, but incidents of physical restraint are **between 3000-6000** times more likely to occur at a residential specialist school than a mainstream school. RSS advertise themselves as places where students can get specialist support from highly trained professionals to help students thrive, but this support does not appear to equate to less physical restraint.

It is remarkable that mainstream schools are able to deal with many students with extremely varied backgrounds with far less resources than RSS and with far less use of physical restraint. One such school, the Henry Hill School in Napier, which won the Prime Minister's Excellence in Education Wellbeing Award, focuses on folding family and whānau into the school to work towards increasing wellbeing and healing from trauma. This is the model that we should be emulating in New Zealand, not moving students away from whānau to unmonitored institutions with extremely high physical restraint rates and little interest in lowering these rates.

Residential Specialist Schools breach the UN Convention on the Rights of Disabled Persons (UNCRPD)

The UNCRPD is an international convention written by disabled people in 2006. The UNCRPD sees disabled people as equal members in society who possess their own human rights not as people who are the subjects of pity and charity.

New Zealand has signed this convention and is required to implement it.

The UNCRPD article 24 deals with the rights that disabled students hold regarding their education. This article is very strong in its emphasis on disabled students attending the same schools as other students in their community. One of the biggest objections to RSS is how disabled people themselves feel about segregated school settings. A quote from an intellectually disabled Māori woman who attended Salisbury tells some of this story:

"I hated the food at Salisbury because it was different from what I was used to. I had to stay at the table for hours until someone said I could leave the table. I slept in a big room with about thirty other girls...we were not allowed to go home in the holidays. Some of the staff were not good to us and they smacked us with a ruler and that hurt. They used to tell us off. If we didn't do what they said that would sometimes lock us up in a "jail". It

¹¹ IHC OIA at page 8.

¹² At page 14 and 15.

¹³ At page 12 and 13.

¹⁴ <https://www.educationcounts.govt.nz/statistics/6028>

was horrible the girls did not like it. I was really happy to leave Salisbury when I was 16 years old”¹⁵

Historically segregated settings for disabled people have led to higher levels of abuse for disabled people. There is a lot of research that demonstrates this, for example the work of the Australian Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.¹⁶

Leaders of Residential Specialist Schools view their students as problems

The Ministry of Education has evaluated incident reports from RSS and found that these incidents were generally more about behaviour management rather than safety.

The high levels of physical restraint in RSS appear to be made worse by ableist attitudes among leaders of these schools. The chair of the combined boards of Halswell and Westbridge has stated, in response to their extremely high levels of physical restraint:

“As yet, I haven’t heard anyone come up with a response to a student, and it can be a male or a female student, who might be a big bully who is, let’s say, 100 kilos, who loses it ... we have difficult kids at our schools, very difficult kids.”¹⁷

Disabled children are not difficult. Disabled children are not bullies. While some disabled students might have disruptive or potential harmful behaviours, these are often driven by conditions they have little control over and traumatic experiences they have endured. The above labelling is not only unhelpful but ableist, and harmful for children.

Recent research¹⁸ summarising the experiences of 16 million disabled children and young people worldwide found:

- About a third (31.7%) of disabled children are survivors of violence.
- Disabled children are twice as likely to experience violence than their non-disabled peers.
- Children with emotional disorders and cognitive impairments are victimised more often than those with other forms of disability, across all types of violence and perpetrator, except for sexual violence and peer bullying.
- Nearly 40% of disabled children were bullied by peers and had higher odds of being bullied than nondisabled children.

Disabled children with behavioural difficulties need support and understanding. It is not likely that they can control the behaviour they are demonstrating. They do not need increased physical restraint to manage their behaviour. Physical restraint is not likely to help these problems, but instead make them worse.

¹⁵ Inclusion International's Global Report on Article 19: The Right to Live and be Included in the Community - October 2012

¹⁶ <https://disability.royalcommission.gov.au/system/files/2022-03/Overview%20of%20responses%20to%20the%20Education%20and%20learning%20Issues%20paper.pdf>

¹⁷ <https://www.newsroom.co.nz/specialist-schools-underreported-use-of-restraint>

¹⁸ Zuyi Fang, Ilan Cerna-Turoff, Cheng Zhang, Mengyao Lu, Jamie M Lachman, Jane Barlow, ‘Global estimates of violence against children with disabilities: an updated systematic review and meta-analysis’ *The Lancet Child & Adolescent Health*, Volume 6, Issue 5, 2022, Pages 313-323.

More oversight of Residential Specialist Schools is urgently needed

IHC wants Monitoring Standards developed and put in place in residential specialist schools similar to Oranga Tamariki National Care Standards to These Care Standards have six parts and take a holistic approach to supporting children and young people who are not in the care of their whanau. It includes external monitoring of how the Care Standards are being adhered too.

At present, the only legislation covering the boarding part of a residential specialist school is the Education (Hostels) Regulations 2005. These Regulations are very perfunctory and do not discuss the wellbeing of the students or ensuring that they have a voice in their education or maintaining connections to their whānau.

IHC wants more oversight on the wellbeing and academic development of disabled students in all schools but in particular specialist schools and specialist residential schools. We do not think that the level of restraint currently experienced by disabled students can be justified.

IHC wants all schools, and in particular specialist schools, to develop action plans to end physical restraint at school.

Last thoughts

These schools are meant to be providing to best support available to students who need support. However, the level of physical restraint is huge and IHC fails to see how this could be the best support.

We are currently undertaking a Royal Commission about the tragedy of removing children from their families and placing them into the care of the state when there was something considered deviant about them at that time. Looking back now, it is easy to see that the state did not provide the best care for their children: there was little oversight and monitoring of the children and wildly outdated racist, sexist and ableist notions were held by people in charge at these institutions. Abuse flourished in those schools.

We do not want to look back in another 20 years at residential special schools and see that disabled students were restrained, ignored and segregated from their families, peers and communities in 2022 and nothing was done to for our disabled children and young people. The evidence is clearly telling us these schools are a problem. The government needs to solve it now.

Appendix A – relative rate of restraint compared to mainstream schools

Year	Halswell	Westbridge	RSS combined	Specialist schools excl. RSS
2017	5666.6	3734.8	4700.7	24.6
2018	8511.3	2908.9	6021.3	25.3
2019	7420.6	6448.1	6969.0	18.5
2020	3738.5	2642.8	3145.0	42.8
2021	4756.5	1585.5	3397.5	33.9
Average 2018-2021	7250.0	4046.2	5734.2	28.4

7 June 2022

Shara Turner
Advocate
IHC New Zealand Incorporated
[REDACTED]

Tēnā koe Shara

Thank you for your email of 2 May 2022 to the Ministry of Education requesting the following information:

- *Would I be able to have the incidents of restraint broken out by year as you supplied last time? I have attached both responses for comparison.*

Your request has been considered under the Official Information Act 1982 (the Act).

The following tables cover the data range from 1 August 2017 to the 15 February 2022, with relevant caveats noted for each table. I am refusing the data prior to this date under section 18(e) of the Act, as reporting requirements were only implemented in August 2017, therefore the document alleged to contain the information requested prior to that period does not exist.

Please note that the total number of Specialist Schools is made up of 33 Specialist Schools plus the three Residential Specialist Schools, so the totals will not match the second table provided.

- 1. Total number of physical restraint incidents reported since reporting began in August 2017 to 15 February 2022 in mainstream schools, broken down by year (so, if a student has more than one physical restraint on the same day, we count all of them and include all in the total).**

Year	Mainstream	Specialist School	Grand Total
01/08/2017 – 31/12/2017	952	245	1197
2018	2490	786	3276
2019	2366	770	3136
2020	1580	462	2042
2021	1564	347	1911
01/01/2022 – 15/02/2022	51	10	61
Grand Total	9003	2620	11623

Caveats:

- Data is live and subject to change.
- Data range is between '01-08-2017' and '15-02-2022'

2. Total number of physical restraint incidents reported since reporting began in August 2017 to August 2021, broken down by year in the following three schools
- Westbridge Residential School
 - Halswell Residential College
 - Salisbury School

Year	Halswell Residential College	Westbridge Residential School	Salisbury School	Grand Total
01/08/2017 – 31/12/2017	88	58	0	146
2018	395	108	0	503
2019	324	244	0	568
2020	79	66	0	145
2021	72	18	0	90
01/01/2022 – 15/02/2022	0	0	0	0
Grand Total	958	494	0	1452

Caveats

- Data in this table is a subset of the previous tables
- Data is live and subject to change.
- Data range is between '01-08-2017' and '15-02-2022'

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

Nāku noa, nā



Dr David Wales
Poutohu Matua | National Director Learning Support Delivery
Te Pae Aronui

35 The RSS funding model was developed in consultation with the schools throughout 2018-2020 to ensure the schools are adequately funded for their residential services, based on the actual costs of running a residential villa.

36 9(2)(f)(iv) [REDACTED]

37 9(2)(f)(iv) [REDACTED]

38 New ways of working across the specialist schooling network will be discussed at the meeting on 14 May.

9(2)(ba)(i) [REDACTED]

39 9(2)(ba)(i) [REDACTED]

40 9(2)(ba)(i) [REDACTED]

Concerns about restraint

41 The Ministry has asked the combined Board to take steps to reduce the use of physical restraint at both Halswell and Westbridge, as their incident reports show these schools are the highest users of restraint in New Zealand. The majority of restraint incidents occur in the residences, involving residential staff members.

42 The Ministry has offered to support the schools to reduce the use of restraint. The Board has indicated that it believes the current levels of restraint are justified and that it will not be taking any direct action on this.

43 The Ministry is currently working to update the Physical Restraint Guidelines. This work is expected to provide the RSS with greater motivation to reduce the number of times ākonga are restrained. We will continue to take steps to ensure the Board addresses safety risks and reduces restraint as a high priority.

9. Outcome data for TKT IWS shows positive change occurs for young people supported through this service. We have limited information on outcomes for the RSS only pathway. An evaluation of the RSS only pathway was commissioned in 2019. A literature review has been completed. Phase 2 of the evaluation will undertake case studies of ākonga who have attended RSS to understand their experiences and the impact of the intervention. This evaluation is due in August 2022.
10. The Ministry is concerned about the high levels of restraint of ākonga reported by two of the RSS. Review of incident reports from RSS shows that restraints are often used for behaviour management and not for reasons of safety. Use of restraint can be harmful especially for young people who may have experienced trauma. It is a priority for the Ministry to resolve this issue. It should be considered alongside consideration of increasing enrolments.

Funding

11. RSS provide 24-hour, 7 day a week care. Ākonga attend day school on site and then remain on site in the residential setting. RSS receive operational grants and staffing entitlements for their day school, as for any other state school. They are staffed on a ratio of 1: 5 teachers to ākonga. They are also funded for a residential component for the additional costs associated with the 24-hour, 7 day support they deliver.
12. Funding for the RSS is based on a notional roll which provides guaranteed minimum funding for the schools. The RSS are currently funded for both residential and education services using a notional roll of 84 across the three schools. Residential funding for the three schools is currently \$7.74 million per annum.

Changes have been made to enrolment pathways

13. Prior to the implementation of the Intensive Wraparound Service (IWS), the Boards of the RSS made decisions based on entry criteria for their schools. Boards proactively went into the community to encourage enrolment and select which students they would take. While they were national schools, there was no process to ensure that this intensive support was available to ākonga with the highest needs.
14. The IWS, now known as Te Kahu Tōi Intensive Wraparound Service (TKT IWS), was set up in 2011. TKT IWS makes intensive supports available in the child or young person's community. Time at a RSS is a choice as part of the programme for ākonga supported by TKT IWS.
15. Applications for enrolment at a RSS with the support of IWS are considered against a set of clear criteria (Annex 1). Following the introduction of IWS the number of enrolments to the RSS has declined.

HALSWELL RESIDENTIAL COLLEGE
Official Information Act Request

	Students enrolled 1st July	All Staff Employed on 1st July calculated as 1FTE= 40 hour working week	Cost of Teaching staff employed on 1st July calculated in FTE	Cost of all Staffing (excluding teachers) from 1st January to December 31st	MOE FUNDING Operations Grant Notice (estimated entitlement)	MOE FUNDING Residential Grant Notice (estimated entitlement)
2021	8	40.2	8.8	\$ 2,369,823.00	\$ 411,214.44	\$ 2,802,784.34
2020	11	37.3	7.8	\$ 2,437,467.71	\$ 396,498.74	\$ 2,636,599.11
2019	15	46.2	7.8	\$ 2,413,480.38	\$ 397,870.87	\$ 2,154,391.30
2018	15	42.5	7.8	\$ 2,253,385.17	\$ 389,534.63	\$ 2,120,463.47
2017	13	47.1	7.9	\$ 2,163,755.74	\$ 388,386.72	\$ 2,429,052.16
2016	14	51.2	7.8	\$ 2,427,122.20	\$ 393,716.68	\$ 2,429,052.16
2015	23	37.2	7.8	\$ 2,544,536.26	\$ 389,489.06	\$ 1,938,150.43
2014	22	64.6	13.4	\$ 2,237,337.67	\$ 379,903.88	\$ 2,037,321.72
2013	16	information unavailable	information unavailable	\$ 3,984,227.41	\$ 456,436.14	\$ 2,739,130.44
2012	31	77.7	16.3	\$ 3,687,264.61	\$ 479,140.12	\$ 4,233,641.72
2011	37	information unavailable	information unavailable	information unavailable	\$ 448,301.98	\$ 4,113,526.95

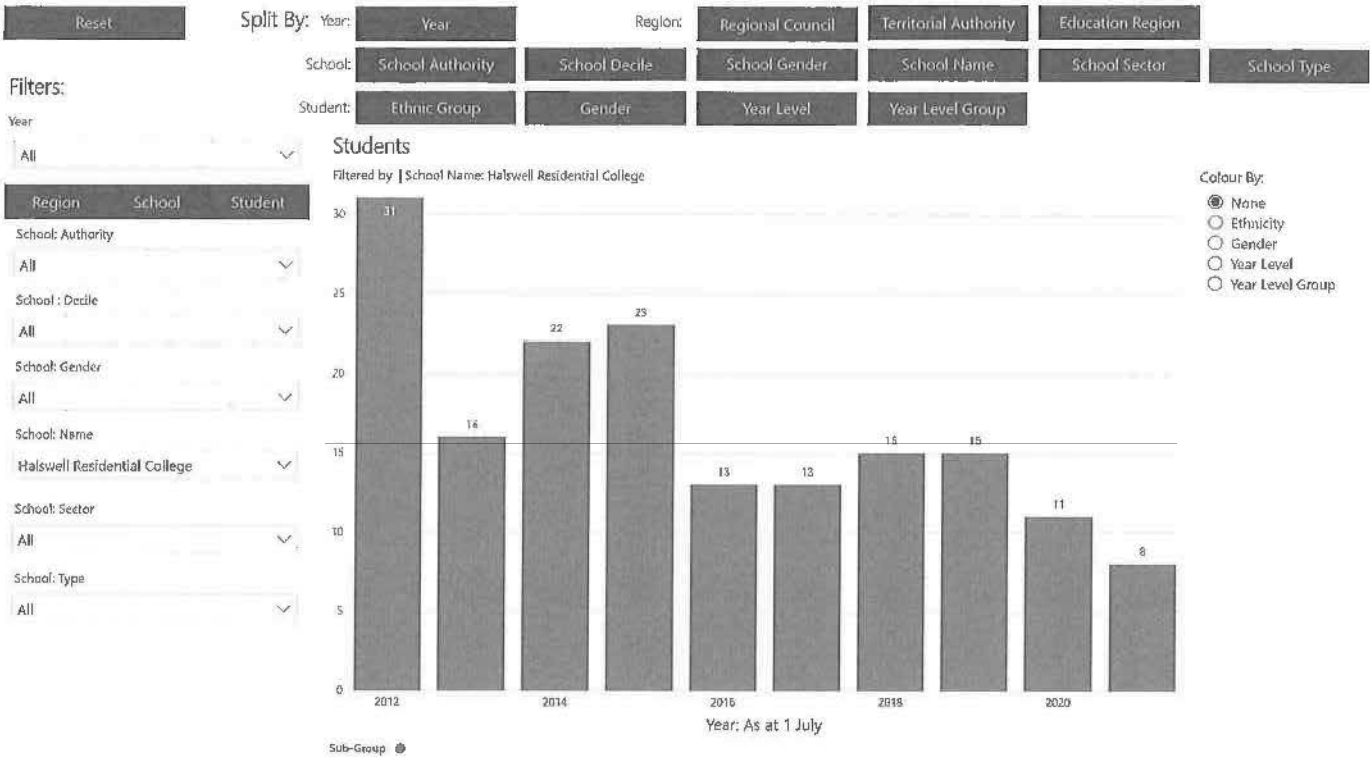
Note: 2021 is a projected estimate of staffing costs (excluding teachers)

WESTBRIDGE RESIDENTIAL SCHOOL
Official Information Act Request

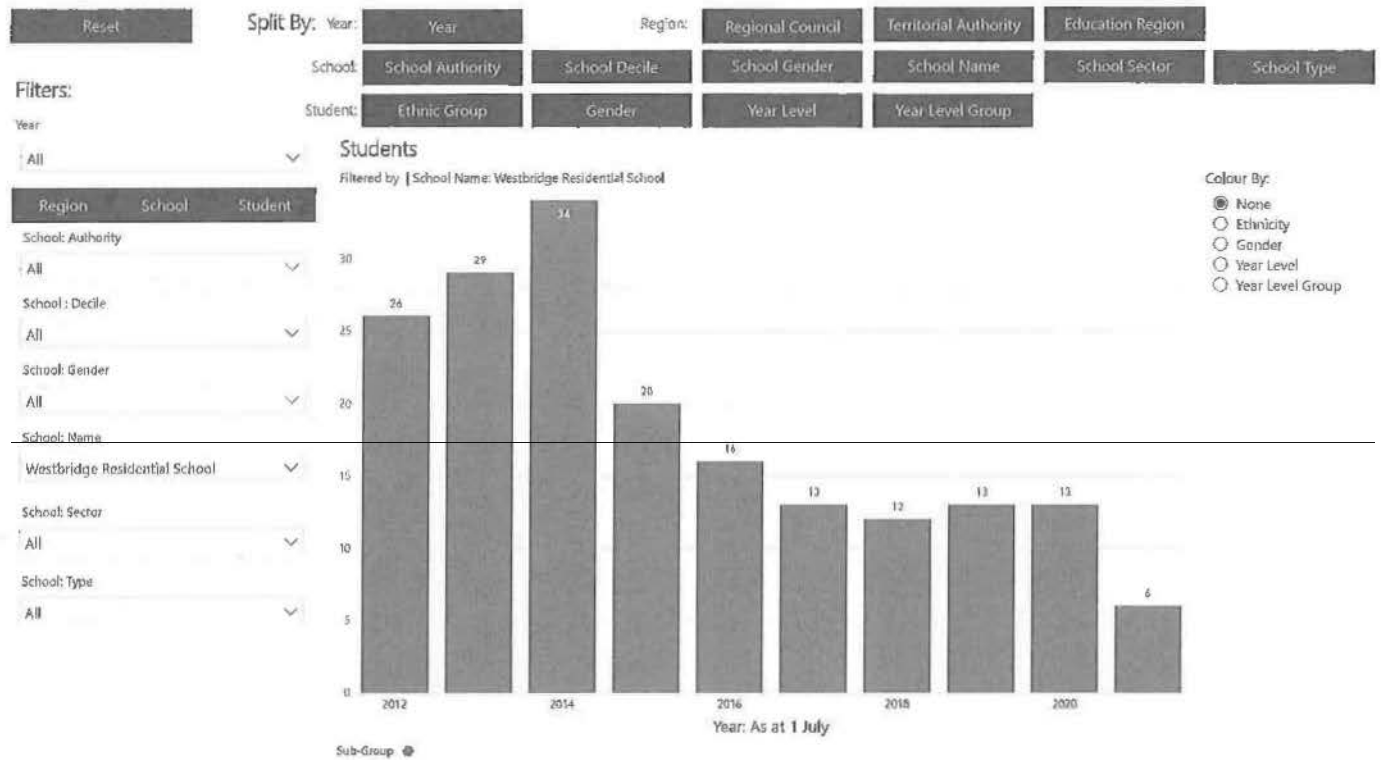
	Students enrolled 1st July	All Staff Employed on 1st July calculated as 1FTE= 40 hour working week	Cost of Teaching staff employed on 1st July calculated in FTE	Cost of all Staffing (excluding teachers) from 1st January to December 31st	MOE FUNDING Operations Grant Notice (estimated entitlement)	MOE FUNDING Residential Grant Notice (estimated entitlement)
2021	3	46.95	9.7	\$ 2,570,732.44	\$ 258,857.81	\$ 2,802,784.34
2020	13	48	9.7	\$ 2,570,105.43	\$ 244,117.85	\$ 2,636,599.11
2019	13	47.24	7.6	\$ 2,381,298.23	\$ 235,697.24	\$ 2,154,391.30
2018	12	44.78	7.4	\$ 2,107,468.97	\$ 230,824.61	\$ 2,120,463.47
2017	13	46.16	6.6	\$ 2,065,250.35	\$ 232,367.40	\$ 1,171,633.06
2016	16	51.57	9.8	\$ 2,114,672.64	\$ 250,441.85	\$ 1,191,846.09
2015	20	48.33	11.7	\$ 1,644,620.95	\$ 247,658.57	\$ 2,037,915.75
2014	34	56.73	13	\$ 1,877,369.18	\$ 242,848.40	\$ 1,860,782.60
2013	28	39.93	12.2	information unavailable	information unavailable	information unavailable
2012	26	information unavailable	information unavailable	information unavailable	information unavailable	information unavailable

Note: 2021 is a projected estimate of staffing costs (excluding teachers)

Appendix G school roll Halswell



Appendix H school roll Westbridge



Microsoft Power BI

