

Legal literacy: Auckland secondary school principals' understanding of education law

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Attestation of Authorship

I hereby declare that this submission is my own work and that, to the best of my knowledge and belief, it contains no material previously published or written by another person (except where explicitly defined in the acknowledgements), nor material which to a substantial extent has been submitted for the award of any other degree or diploma of a university or other institution of higher learning.

Signed

A handwritten signature in black ink, appearing to be 'A. R. Rao', written in a cursive style.

Abstract

This study is an examination of Auckland's secondary school principals' perceptions of education law and the implications of these perceptions on their leadership practice. The literature suggests that the number and nature of activities undertaken in secondary schools involves greater danger thereby increasing the likelihood of staff in that sector facing litigation. Accordingly, this research study was carried out with principals of Auckland secondary schools. The schooling environment in New Zealand is being impacted by an increase in the amount of legislation. This, together with the number of court decisions against Boards of Trustees and a willingness in stakeholders to challenge educational decisions and practices using legal mechanisms, means that schools are fast becoming legalised. This legalisation of schools has meant that schools are quickly becoming legal minefields requiring principals and educators to traverse with judicial awareness. This study attempts to uncover whether Auckland secondary school principals have this judicial awareness.

This research takes the form of a qualitative study that utilises two research methods: a questionnaire, and semi-structured interviews. This research is guided by four research questions:

- What are New Zealand secondary principals' perceptions of legal literacy?;
- What do New Zealand secondary school principals perceive as their most influential source of education law?;
- What are the implications of a possible lack of legal knowledge on secondary school principals' practice?;
- How can the understanding of legal literacy amongst secondary school principals be supported?

The findings identified a number of concerns for principals of secondary schools in Auckland. In the first instance, the findings showed that most participants exhibited only moderate levels of legal literacy. Secondly, participants relied heavily on other colleagues and mentors, along with their experience, when dealing with legal issues. Thirdly, participants were concerned by the emotional and financial implications for themselves and their practice due to a lack of legal knowledge. Finally, participants

indicated a need for more training to enhance principals' understanding of education law and so raise their levels of legal literacy. The implications from this study have particular significance for principals of secondary schools given that they are more likely than their primary school peers to face a legal challenge.

Recommendations from this study suggest that principals' overall understanding of education law can be improved with adequate and mandatory training, which should be undertaken during aspiring principals' programmes.

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CHAPTER ONE: INTRODUCTION

Research overview

This research is an examination of Auckland's secondary school principals' perceptions of education law and the implications of these perceptions on their leadership practice. The study was carried out with principals of Auckland secondary schools and data were collected using online questionnaires and one to one interviews. The questionnaire was designed to elicit insight into the participants understanding of education law, their levels of legal literacy, where they get their legal information from, the area of law related to schools which concerns them most and for which they need professional development and finally the implications of the lack of legal knowledge in the management of their schools. This questionnaire was followed up with interviews to get more detail with regards to the participants' responses in the questionnaire. The feedback provided by the participants presented a number of issues causing concern for them on a daily basis.

Research context

A number of research studies have shown that the schooling environment has become thick with law (Rishworth, 1996; Stewart, 1998; Walsh, 1997; Wardle, 2006). There is an increase in the number of legislation that is impacting education in New Zealand schools. This together with the number of court decisions against Boards of Trustees and a willingness of stakeholders to challenge educational decisions and practices using legal mechanisms, means that schools have become legalised (Stewart, 1998) resulting in the concomitant emergence of "education law" as a field of legal practice and research in New Zealand (Caldwell, 2006; Rishworth, 1996). This legalisation of schools has meant that principals need to have appropriate levels of legal literacy, to enable them, at the very least to be able to recognise when a legal problem is developing and so seek legal advice.

This research aimed to find out what Auckland secondary school principals know about education law and its impact on education. Rishworth (1996) refers to education law as the application of general legal principles to the field of education. It comprises the legal concerns of a school community- teachers, students, parents, school Boards, the Ministry of Education and agencies such as the Education Review Office (ERO) and the Teachers' Council. Whilst the *Education Act* of 1964 (Government of New Zealand, 1964) and *Education Act* of 1989 (Government of New Zealand, 1989) constitute the backbone of our state education system (Wylie, 1999) they have to be interpreted with due regard to other legislation such as the *New Zealand Bill of Rights Act* of 1990 (Government of New Zealand, 1990), *Human Rights Act* of 1993 (Government of New Zealand, 1993), *Employment Relations Act* of 2000 (Government of New Zealand, 2000), *Privacy Act* of 1993 (Government of New Zealand, 1993), *United Nations Conventions on the Rights of the Child* of 1989 (United Nations, 1989) and New Zealand's common and criminal laws.

Research conducted at overseas secondary schools reveal that there is a lack of legal literacy amongst principals and this has adverse effects for some of the administrative decisions made by principals (Rishworth, 1996; Stewart, 1998; Trimble, Cranston & Allen, 2012; Walsh, 1997; Wardle, 2006). Given the impact of education law and the levels of principals' legal literacy on the practice of principals in public schools, this thesis will examine principals' perceptions of education law and the implications of these perceptions on their leadership practice. Given that not much research has been done in New Zealand in this area, it can be argued that, in light of the unique school education system in New Zealand, the contentions raised by overseas researchers, specifically that of the Australian researchers, Rishworth (1996) and Stewart (1998), does not find application here. In the introduction to his research study, Wardle (2006) speculated that the advent of *Tomorrow's Schools* resulted in feverish policy writing and may have resulted in principals being able to manage risk effectively. However, the findings of his study, led him to conclude that the overseas experience is indeed mirrored in New Zealand. He argues that the principals in New Zealand shared the same deficiencies in terms of their legal literacy as their overseas counterparts and were in danger of exposing themselves and their schools to unnecessary risk and possible litigation (Wardle, 2006).

Positioning of the researcher

There were a number of reasons for conducting this research. The motivation was due to my avid interest in education law. Having studied and acquired a Bachelor of Laws qualification, I worked for some time for the Legal Services of the Department of Education in South Africa. Many of the matters I dealt with indicated a lack of legal literacy on the part of educators and educational leaders. I was exasperated by how much time, money and effort was being taken up by the schools, in South Africa, in dealing with matters that could have been avoided had there been a proper handling of the matter following due process and the principles of natural justice and an awareness of other legislation that impacted their administrative decisions.

Now as a classroom teacher and middle manager, in New Zealand, I am acutely aware of instances where senior leaders as well as classroom teachers, notwithstanding the fact that they have the best intentions for their students, breach the law through sheer ignorance. This, I verily believe, is brought on by their legal illiteracy. Furthermore, I served as a parent member of the Board of Trustees of a local secondary school for five years. Having taken over from the establishment Board, I was alarmed by the gaps in the policies drawn up by the Board. Many of these policies did not have the “carefully considered *preventive legal risk management strategies*” needed to help the principal keep the school legally safe (Stewart, 1997, p. 43), leaving the school open to legal action. I came to the realisation that the Board needed to be adequately trained in education law to be able, through their policies, to better protect their school. Given the fact that the principal of the school was chief executive of the Board, I began to ponder their understanding of education law and its impact on their practice, and so decided to examine, through this research study, Auckland secondary school principals’ perceptions of education law. This area of research is significant because New Zealand has a unique system of education. The advent of *Tomorrow’s Schools* saw the devolution of governance from the Ministry of Education to locally elected Boards of Trustees, with principals being appointed as the Board’s chief executive in relation to the school’s control and management. The *Education Act* of 1989 gave the principal complete discretion to manage the school’s administration subject to the Board’s general policy direction (Act, 1989). However, the Act was express in its provision that the powers of

principals and Boards are subordinated to other legislation as well as ‘the general law of New Zealand’ (Act, 1989). This proviso effectively means that Boards of Trustees and principals need to be acutely aware of, and take into account applicable legislation, as well as pay heed to the common law of New Zealand in all their decisions. New Zealand’s education system has been bombarded with legislative reforms and new legislation (Rishworth, 1996; Walsh, 1997; Wardle, 2006). Parents and students are becoming more aware of their rights and are keen to challenge administrative decisions they deem to be arbitrary and courts are readily intervening when the rights of a student have been infringed. The number of disputes being taken to court is clearly on the increase and is extremely costly to schools in morale and money (Rishworth, 1996).

Given the recent developments in education law, I wanted to examine Auckland secondary school principals’ understanding of education law in order to determine whether there is a need to improve their legal literacy and so prepare them to deal with the upsurge in legislation affecting their day to day practice.

Research aims

Very little research has been conducted on this aspect of educational leadership in Auckland secondary schools. Accordingly, I consider that a gap exists in the knowledge and research of what is fast becoming a crucial area of education leadership. This gap, I submit, strongly supports the relevance of the aims and research questions of this study as set out below:

The aims of this study are:

- to engage in discussion with Auckland secondary school principals about their perceptions of education law;
- to identify and explain Auckland secondary school principals’ perceptions of the implications of a possible lack of legal knowledge on their practice; and,
- to identify ways to support Auckland secondary school principals’ understanding of education law.

This research is driven by the following research questions:

1. What are New Zealand secondary principals' perceptions of legal literacy?;
2. What do New Zealand secondary school principals' perceive as their most influential source of education law?;
3. What are the implications of a possible lack of legal knowledge on secondary school principals' practice?; and
4. How can the understanding of legal literacy amongst secondary school principals be supported?

Research hypothesis

The hypothesis for this research is that principals of secondary schools who have a good understanding of education law are more adept at making administrative decisions that are legally compliant and will therefore not expose their schools to legal action. The unstated assumption is that school communities expect principals, from their moment of their first appointment, to have sufficient professional knowledge and experience to be able to manage all matters that are brought to bear on their schools (Stewart, 1998). The reality, however, is that principals are not adequately prepared to traverse what has become a legal minefield. Therefore, by providing principals with opportunities to build their education law capacity they will be better equipped to make legally sound decisions, thereby minimising risk to their school.

Research justification

A study of the value of educational law to principals of Auckland secondary schools is important for several reasons. Firstly, the principals involved in this study will provide some insight in respect of a deficient area of research concerning education law in New Zealand. Secondly, the findings may highlight gaps in the participants' knowledge of education law and the application thereof to issues arising in schools. Thirdly, the identification of these gaps could facilitate the provision of more professional development and legal support to principals resulting in the increased confidence of principals to effectively deal with routine legal issues that arise in their schools without opening themselves up to litigation. An understanding of education law will further serve to alleviate the stress experienced by principals when dealing with legal issues

and could result in them being effective legal advisors to their staff. Fourthly, findings from this study may emphasise concerns related to principals and their levels of education law that need to be addressed by the Ministry of Education.

Thesis structure

The six chapters of this thesis contribute towards the identification, justification and understanding of the research topic. The contents of these chapters also highlight the parameters of this research by focusing on the four research questions. Chapter One has presented an overview of this research project, a rationale that justifies the study and an outline of the research aims and questions.

Chapter two looks at the literature review on relevant topics that support the key themes of this research. This chapter provides an overview of research from overseas and New Zealand authorities on education law. Most of the research included is from the United States of America (USA), the United Kingdom and Australia. Due to the lack of current research specific to principals' legal literacy, research related to teachers were also included as they focused to some extent on the need for legal literacy amongst school leaders. The review also included some court cases that involved schools so as to give some insight into the judicial review of school decisions by the courts. The chapter will first give the definitions of education law and legal literacy and then go onto outline the history of education law in New Zealand. This will show how the change in the educational landscape of New Zealand and the introduction of self-managing schools has led to an increase legalisation of schools. Thereafter the chapter will highlight the key debates and concerns in the field of education law and will go onto explain in detail the increase in the scope and complexity of legislation that impacts education; principals' lack of understanding and knowledge of education law and the need for in-service education law programmes as recurrent themes.

Chapter three presents the methods and methodologies used in the research. The terms methods and methodology are often used inconsistently in research literature resulting in much confusion to the reader. This chapter therefore starts out by providing a clear and concise definition of these terms, with the intention of providing the reader with a

distinct understanding of these terms. The chapter then discusses the different theoretical frameworks that underpin research studies and justifies the choice of the interpretivist paradigm for this research study. The next section compares and contrasts the qualitative and quantitative approaches to social investigations and justifies the choice of the qualitative approach as being most appropriate to examine the research questions.

The next section explains how the participants and sites were selected for the research and reviews purposive sampling. The questionnaire and semi-structured interviews as methods for collecting the data for this study are then discussed followed by an explanation of how the data were analysed. An explanation of research validity and reliability in qualitative research follows and the transferability of the findings in this research is commented on. Finally, the ethical issues faced by the researcher are detailed and the manner in which these issues were dealt with explained.

Chapter four reports and analyses the findings gathered using the research methods chosen for this study. It presents the findings from the questionnaire of eleven principals and the semi-structured interviews of five principals.

The findings are collated under the key themes of:

- Principal's knowledge of education law;
- Legal implications for schools; and
- Principals' sources of education law information.

Chapter five discusses the concerns that emerge from the thematic findings and relates them to relevant literature and other research in the field of education law.

Chapter six completes the thesis with a summary of the findings, final recommendations with regards to practice and further research and a review of the possible limitations of this research study.

CHAPTER TWO: LITERATURE REVIEW

Introduction

The aim of this study is to examine Auckland secondary school principals' perceptions of education law and the implications of these perceptions for their leadership practice. This chapter reviews literature that examines whether there is a need for school leaders to be legally literate and the possible consequences for schools where leaders lack legal literacy. The literature reviewed in this chapter is synthesised according to the recurring themes identified from the key studies and writers in regard to this topic. These themes are:

- Increase in litigation against schools;
- Principals' reliance on experience as a source of education law;
- Principals as legal advisers to staff;
- Judicial review of school decisions;
- Legalisation of schools; and,
- Lack of effective risk management programmes.

As there appears to be very little New Zealand research and literature in this area, that I have been able to locate, much of the literature reviewed for this study comprises research studies conducted in overseas schools in Australia, the United States of America (USA) and Canada. The Australian studies draw parallels to the New Zealand education system and, according to the authors of this research the findings can be applied to New Zealand. Several writers (Davies, 2009; Findlay, 2007; Militello, Schimmel & Eberwein, 2009; Trimble et al., 2012; Walsh, 1997) agree that due to the increase in the amount of legislation and court decisions, and the willingness of stakeholders to challenge educational decisions and practices using legal mechanisms, schools are fast becoming 'legalised'. This legalisation of schools has made it incumbent upon school leaders to be well versed in education law. As posited by Trimble et al. (2012) and Young, Kragulund and Foran (2013), principals do not have to be lawyers but they do need to have a basic level of legal literacy to enable them to deal with the legal issues that frequently arise in schools. This view is consistent with that of Stewart (1996) who stated that principals need to be able to recognise a legal problem when it arises and thereby practice preventative risk management in schools. Whilst recourse to

litigation in respect of educational disputes in New Zealand has not reached the level of hyperlexis prevailing in overseas schools, more especially the United States, the number of reported court cases involving schools' Boards of Trustees is certainly on the increase (Walsh, 1997). This, together with the increase in the number, extent and complexity of legislation impacting decisions taken by school leaders, has prompted a need for school leaders to be well versed with education law.

Definitions of education law and legal literacy

The research shows that education law is not a distinct body of law (Rishworth, 1996; Walsh, 2016). Many writers have attempted, through their observations of the impact of various legislation on the day to day operation of schools, to construct a definition of education law. Rishworth (1996) defines education law as the "application of general legal principles to a particular field of endeavour coupled with the interpretation of relevant legislation" (p. 33). It is therefore defined by its location and clientele and encompasses any type of law arising in schools and colleges (Walsh & Anderson, 2012). According to Brown and Zuker (2007) education law is shaped by the fact that people want education and a say in what it looks like, and it is further fashioned by the obligation imposed on schools to educate any eligible pupil who wishes to attend. Education law arises primarily from education specific legislation and is comprised of both statutory and common law. It is further influenced by the myriad of Ministry of Education regulations, by governmental agencies, by policies and guidelines issued pursuant to legislation, and by collective agreements (Brown & Zuker, 2007; Walsh, 1997).

An individual's understanding of education law can be determined by their level of 'legal literacy'. Delaney (2009) refers to the knowledge level that administrators have with respect to educational law and the ways in which it impacts on the governance of their schools as 'legal literacy'. Essentially, it is an awareness that leaders have of legal consequences and risks in decision making (Walsh & Anderson, 2012). For school leaders to be legally literate it is therefore necessary for them to have knowledge and understanding of the law as it applies to schools. Apart from having an understanding of the law and an appreciation of the concept of law, some writers argue that legal literacy also refers to the leader's ability to know when to seek legal advice (Findlay,

2007; Rishworth, 1996; Rishworth, Walsh & Hannan, 2001; Walsh & Anderson, 2012; Wardle, 2006). Together these elements will enable principals to implement preventive legal risk management policies and practices in their schools and so minimise legal risks to their schools (Stewart, 1996; Walsh & Anderson, 2012).

History of education law in New Zealand

New Zealand first established a centralised compulsory education system for children aged 7-13 years with the enactment of the *Education Act* of 1877 (Government of New Zealand, 1877). This Act saw education in New Zealand being taken over from parents and the church by the State. Prior to this, schooling was organised by parents who decided what was in the best interests of their children. Parents delegated their power over their children to their teachers when children were placed in their care. Teachers enjoyed the status of 'in loco parentis' which allowed them to act "in place of the parent" (Hancock, 2002, p. 44). The *Education Act* of 1877 established a national system of free, secular and compulsory primary education in New Zealand and made it compulsory for children ages 7-13 years to attend schooling (Olssen & Matthews, 1997). Continuing education reforms during the 20th century resulted in the introduction of the *Education Act* of 1964 (Government of New Zealand, 1964) and *Education Act* of 1989 (Government of New Zealand, 1989). The *Education Act* of 1989 became the backbone of the current state school education system, resulting in *Tomorrow's Schools* (Wylie, 1999). This gave schools the legal mechanisms with which to govern themselves, make rules, suspend and exclude students and establish enrollment schemes (Hancock, 2002). This Act significantly reshaped the schooling sector and "marked the beginning of a major upheaval in the education system" (Konings, 2002, p. 6). The key change was that the 1989 Act shifted responsibility for school governance from national and regional authorities to individual schools, with the setting up of a locally-elected governing Board of Trustees in each school, and devolving discretion for acting within the law to individual Boards (Gordon, 2003). Consequently, the Boards of Trustees and principals - who acted as the Board's Chief Executive- became subject to an ever increasing range of laws that applied to education (Liddle, 2005). These laws, according to Rishworth et al. (2001), were derived from three main sources: general legal principles and statutes that apply across the whole range of public and private life; general legal principles that apply to public institutions and persons exercising statutory powers and specialised

statutes that establish the regime for public education. Accordingly, Brown and Zuker (2007) declared that education could be regulated by laws that are unique to education as well as those which find application both in education as well as other areas.

The role of the principal in *Tomorrow's Schools*

The emergence of *Tomorrow's Schools* (Wylie, 1999), and subsequent *Education Act* of 1989 re-organised and reformed education in New Zealand and brought about significant changes to the education system. One such important change was the introduction of the appraisal system for principals which had significant effects on the role of principals, making them more accountable to the community and government for their performance (Piggot-Irvine, 2000). The New Zealand Institute of Education points out that when implementing the Board's policies, principals need to ensure that appropriate legal requirements are complied with (NZEI, n.d.). This is made explicit by the professional standard required in the area of systems development and management. This professional standard requires the principal to "operate effective systems within Board policy and in accordance with legislative requirements" (New Zealand Ministry of Education, 2009, para. 3). Cranston, Trimble and Allen (2013) point out that the introduction of professional standards, as a component of appraisal to the secondary school sector in 1999 placed further legal demands on school leadership by explicitly linking education law knowledge to the principal's role. In examining the organisational factors which impact the professional practice of school principals, Cranston et al. (2013) linked the many leadership and management activities of Australian school principals to areas of education law (Figure 2.1). These writers contend that whilst there is a contextual variation between Australia and New Zealand, the two systems are considered to be sufficiently common so as to suggest that education law impacts the capacity of school principals to fulfill their mandates.

	Education issues	Criminal Law	Employment Law	Negligence (Duty of care)	Family Law	Child Welfare Law	Social Security Issues	Immigration Law	Anti-Discrimination Law	Privacy & FOI	Copyright Law	Administrative Law
Management Functions:												
Personnel			X	X					X	X	X	X
Site management		X	X	X								
Relationships			X		X	X	X	X	X	X		
Student conduct	X	X			X	X	X		X	X	X	X
Safety and security	X	X		X	X	X			X			
Leadership Functions:												
Political leadership	X											
Distributed leadership	X											X
School culture leadership									X			X
Values leadership									X			X

Figure 2.1: Linkage of education law areas with school principal’s management and leadership functions

(Source: Cranston et al., 2013, p. 86)

From the figure it can be observed that almost every aspect of a principal’s leadership and management function is linked to some area of education law. Implicit in this, is the need for principals to have an understanding of the impact of education law on their leadership and management practices so that they can meet the “organisational demands for sound policy, transparent and fair decision- making, the balancing of legal risk, dispute resolution and democratic leadership” without falling foul of the law (Cranston et al., 2013, p. 90).

Key debates and concerns in the field of education law

Increase in litigation against schools

The myriad of court cases which position schools as defendants may be an indicator that schools are fast becoming legal ‘minefields’ which principals are required to traverse

with judicial awareness. Students and parents are becoming acutely aware of their rights and are keen to challenge what they deem to be poor decisions taken by a school. As such, the impact on “principals to lead and manage their schools has meant they are required to call on a broader range of capabilities than ever before” (Trimble et al., 2012, p. 60). One of these capabilities relates to their knowledge of education law. The research carried out in this area shows that, overall, principals lack an understanding of education law (Militello et al., 2009; Rishworth, 1996; Stewart, 1996; Trimble et al., 2012; Walsh, 1997, Wardle, 2006), with the result that they often leave themselves open to legal challenges. Brown and Zuker (2007) argue that in areas such as school discipline and special education, human rights tribunals and courts have become the forum for dispute resolution replacing the mechanisms within education statutes. Patrick Walsh, a secondary school principal and qualified lawyer in New Zealand, submits that the increase in legal issues facing schools is due to a number of factors including a greater awareness by parents and students of their rights, as well as principals and Boards of Trustees acting in ignorance of the law and failing to seek legal advice when necessary (Walsh, 1997).

Principals’ reliance on experience as a source of education law

It would appear that principals who lack grounding in education law draw on “experience they have built up over the years in their management and administrative roles to deal with legal issues” that arise in their schools (Stewart, 1996, p. 123). Some argue that dealing with legal issues in this manner is remedial rather than preventative (Gordon, 1997; Stewart, 1996; Young et al., 2013), with the potential to “neglect the needs of students and all school staff” (Stewart, 1997, p. 142). Lacking legal literacy can result in principals and their not putting into place appropriate risk management practices to minimise legal issues resulting in an increase in the possibility of litigation against their schools. To put in place preventative legal risk management practices, principals need an understanding of education law (Gordon, 1997; Stewart, 1996; Young et al., 2013). Findings in the study conducted by Cranston et al. (2013) suggest that the principals’ work may be most directly impacted by education law in instances where principals, rather than seeking expert legal advice, rely on their own knowledge and experience, or that of colleagues to deal with legal issues that arise in their

organisations. Research further reveals that principals defer to their experience most often when dealing with routine legally related issues (Davies, 2009; Findlay, 2007; Stewart, 1996). This raises concerns about novice principals that lack experience as well as training in education law matters. As Stewart (1996) argues, this “puts the novice principals at considerable legal risk, particularly as they have the potential to face the full range of laws affecting schools” (p. 126). Whilst Cranston et al. (2013) examine principals’ knowledge of education law and how they deal with routine and non-routine legal issues, the study undertaken by Stewart (1996) did not explicitly recognise the distinction between education law knowledge used to resolve non-routine legal problems and such knowledge used for routine legally related activities.

Principals as legal advisers to staff

Principals are usually the first port of call for teachers requiring clarity on a legal issue. This is cause for concern given that “some legal knowledge held by principals is not legally accurate” (Trimble et al., 2012, p. 51). This concern is echoed by Militello et al., (2009) who argue that although it is the responsibility of the principal to “support staff development so that they demonstrate an acceptable understanding of policy, regulation, and law” (p. 28), principals frequently provide a “mixture of accurate, inaccurate and ambiguous legal advice to their staff often resulting in staff being misinformed about their responsibilities” (p. 39). Findlay (2007) concludes from her findings that principals may not be the best source of information for their staff. She attributed this to the fact that principals rely heavily on experience rather than accurate knowledge when dispensing legal advice to staff. This, she posited may lead to legal difficulties. In another study, Schimmel and Militello (2007) questioned the role of principals as legal educators for their staff. Their findings showed that whilst some principals believed that they had an obligation to inform staff about legal issues, most believed that teachers were certified to teach and therefore should have a basic understanding of what constituted “appropriate and legal behaviour” and that they, the principals, were not adequately prepared to be the chief legal instructors in their schools (Schimmel & Militello, 2007, p. 266).

Judicial review of school decisions

A common area of debate around school law is whether decisions taken by a school should be reviewable by a court of law. This contention was raised by Rishworth (1996) and Cranston et al. (2013). Schools in New Zealand derive their power to act from the *Education Act* of 1989 and therefore their actions are subject to judicial review. Rishworth (1996), however, contends that decisions taken by the Boards of Trustees are deemed to be community decisions. Therefore, the courts should be wary of interfering in such decisions unless, as Smith (2004) argues there is a possibility of harm to a student's reputation or long term livelihood. Rishworth's (1996) contention is affirmed by the judicial approach taken in the *Maddever v Umawera School Board of Trustees* [1993] 2 NZLR 478 case wherein judicial caution was emphasised when dealing with procedural, managerial, or administrative matters falling into the context of the *Education Act* of 1989, unless the rights of students and staff are seriously threatened. This case was the result of a minor playground fight in which the plaintiffs' ten year old son punched another student and received a brief verbal warning from the principal. The boy's parents complained to the principal over her handling of the matter and subsequently withdrew their child from the school. The parents legally challenged the decisions taken by the principal and Board in response to the incident. The judge in this matter ruled that there was no substance to the complaints and since no question of suspension or expulsion was involved there was not a statutory power of decision. The actions of the principal and the Board were purely administrative and managerial functions and, as such, they were matters over which they had complete discretion and therefore were not amenable to review. Caldwell (2006), however, argues that a number of counterbalancing factors indicate that the philosophy of restraint enunciated in the *Maddever* case is unlikely to prove enduring. One of those factors, the notion of children's rights, is also likely to question the appropriateness of the philosophy of restraint given that new socio-legal thinking would suggest that the interests and rights of the affected child should be highly influential in any judicial consideration of the traditional administrative law grounds. Stewart and McCann (1999) take this argument further, contending that whilst judicial review proceedings will assist with issues involving questions of due process in the suspension and expulsion of students, these proceedings will reinforce and extend the processes of natural justice to the areas of appointment and appraisal of teachers and will accordingly extend individual and

organisational responsibilities and liabilities. This, Cucannon and Dorking (2002) maintain, highlights the need for educational leaders to have a broad understanding of judicial review.

Education law qualifications

Given that decisions of the Board of Trustees as well as the principal are subject to judicial review, many authors posit that it is necessary for educators and principals to have some grounding in education law (Cranston et al., 2013; Findlay, 2007; Gordon, 1997; Militello et al., 2009; Stewart, 1996; Trimble et al., 2012). Unlike educational qualification requirements in the USA, educators in Australian and New Zealand are not required to undertake any course in education law as part of their qualification and are “thus at considerable risk when it comes to managing the many legal matters that arise in the life of the school” (Stewart, 1996, p. 11). Without proper grounding in education law, many principals defer to their experience when dealing with routine legal issues that arise in schools. This subjective approach does not help principals minimise legal risks in the day- to- day running of their schools and often results in principals and Boards of Trustees “acting in ignorance of the law” (Walsh, 1997, p. 2). Despite the potential importance of principals having an accurate understanding of school law, the available research to date suggests that the level of such knowledge held by principals is generally poor (Trimble et al., 2012) and lacks accuracy (Cranston et al., 2013).

Many writers acknowledge that school principals do not need to attend law school to practice preventative law (Cranston et al., 2013; Davies, 2009; Stewart, 1998; Stewart & McCann, 1999; Young et al., 2013). However, given their ever increasing and somewhat complex legal obligations, Stewart (1997) advocates that principals need an understanding of the areas of law that impact on schools including legislation, common law, criminal law and grievance procedures. This proposition is supported by Walsh (1997), who argues that this is also sound advice for education managers in New Zealand. With these resources, principals can not only practice preventive law but also build a legally literate staff who can reduce the risks of lawsuits and spend more time on schooling (Militello et al., 2009).

Legalisation of schools

Education worldwide, including New Zealand, is fast being impacted by a series of legislation. Stewart (1998) refers to this as the 'legalisation' of schools. This increase in the scope and complexity of legislation, as well the right consciousness movement (Walsh, 1997) by parents and students to challenge school decisions in court, has led to the rapid legalisation of schools. Cranston et al. (2013) argue that this has placed "greater legal responsibilities upon principals" (p. 85). In New Zealand the practices and procedures of principals must not only be in line with the *Education Act* of 1964 and the *Education Act* of 1989, but must also take into consideration New Zealand common law, New Zealand criminal law and the plethora of statutes and regulations affecting schools (Walsh, 1997). Some of the more significant pieces of legislation affecting schools, and requiring some understanding by school principals, include the:

- *Administration Act* (1969);
- *Children, Young Persons and Their Families Act* (1989);
- *Health and Safety in Employment Act* (1992);
- *Health and Safety in the Workplace Act* (2015);
- *Human Rights Act* (1993);
- *New Zealand Bill of Rights Act* (1990);
- *Official Information Act* (1982); and the
- *Privacy Act* (1993).

The consideration of this vast body of legislation and statutes when making decisions affecting students and staff, requires principals to have some legal knowledge to ensure that decisions taken by the school does not potentially open them up to litigation. The literature shows that while some principals have had some support in developing their education law knowledge there is a general lack of attention by school systems and schools to the legal knowledge (or access to legal knowledge) required by principals (Findlay, 2007; Militello et al. 2009; Stewart 1998; Tie 2014). This is potentially problematic in an increasingly litigious world (Cranston et al., 2013; Davies, 2009; Findlay, 2007; Stewart, 1996).

Lack of effective risk management programmes

A consequence of schools becoming more legalised is that school leaders face an increasing demand for accountability. This is nowhere more evident than in a leader's ability to manage risks. It is imperative for school leaders to develop and implement

effective risk management programmes in their schools and to have a good grasp of preventive law in order to minimise the risk of litigation. Robins (2011) notes that principals have a clear understanding of what risk management means and the related responsibilities of their role as outlined in the *Education Act* of 1984.

In their writings, Stewart (1997) and Walsh and Anderson (2012) contend that now more than ever, principals need sufficient education law knowledge to manage the ever increasing risks in their schools. In his seminar, Robins (2010) questions whether “In the eyes of the law, principals are adequately prepared to address risk management issues” (p. 2)? Dunklee and Shoop (1993) argue that problems that may lead to litigation are too often dealt with ex post facto rather than by means of a well-planned, proactive programme of risk anticipation and litigation prevention. They contend that a well-defined proactive programme of preventive law will diminish the risk factors that may arise in schools. It would seem that principals who are legally literate are better able to appreciate the pitfalls of not effectively managing potential risks likely to arise in their schools, and therefore will be able to put into place effective risk prevention management practices (Stewart, 1998).

Increase in the scope and complexity of legislation impacting education

The management and governance of schools no longer falls within the sole domain of education legislation. There are several other pieces of legislation that impact education and its practice which inadvertently impacts the roles and responsibilities of Board of Trustees and principals. Both Boards of Trustees and principals of New Zealand schools attain explicit and implicit powers to manage their schools from the *Education Act* of 1989 read in conjunction with the *Education Act* of 1964 in terms of:

Section 75:

Boards to control management of schools

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.

And

Section 76:

Principals

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

In terms of the *Education Act* of 1989, the powers of the Board of Trustees and the principal are subordinate to other legislation as well as the common law of New Zealand. The other legislation includes but is not limited to the *New Zealand Bill of Rights Act* of 1990; the *Human Rights Act* of 1993; and the *Privacy Act* of 1993, (Stewart, 1996). These enactments confer very broad rights on students, which often conflict with decisions taken by the school. Stewart (1996) notes that the “increased encroachment of the law into school affairs, has created a greater need than has previously existed for principals and teachers to ensure their professional knowledge includes appropriate levels of legal literacy” (p.133).

Principals’ lack understanding and knowledge of legislative and common law

Stewart (1996) investigated principals’ common law knowledge based on the duty of care of students under their supervision. He found that most principals did not know who might be held responsible for breaches of duty of care when student injuries occurred in situations where close supervision was required such as school grounds, sporting activities, excursions, care of very young children and within classrooms. It was further found that a considerable number of principals have only a minimal level of knowledge of some of the legislation that affects their school. Given the fact that principals need to now interpret the *Education Act* of 1964 and the *Education Act* of 1989 in tandem with several other pieces of legislation, their lack of education law knowledge is indeed troublesome and as pointed out by Davies (2009), is likely to lead

to an irrational fear of the law. However, the literature suggests that, provided appropriate legal support is available, school principals need not become lawyers; rather they need to obtain an accurate understanding of basic principles in relation to the legal issues which frequently arise in schools (Davies, 2009; Findlay, 2007; Militello et al., 2009; Stewart, 1996; Trimble et al., 2012; Walsh, 1997).

Developing principals' current knowledge of education law

Many writers express concern that there is an expectation amongst school communities that newly appointed principals have adequate levels of legal literacy and experience to expertly deal with all matters affecting the school (Findlay, 2007; Gordon, 1997; Stewart, 1998; Stewart & McCann, 1999; Walsh, 1997). However, while such expectations may exist, Stewart and McCann (1999) assert that there is considerable evidence to show that, in a number of respects, the training, qualifications and experience of school staff may not adequately equip them for the wide and increasing range of professional responsibilities being demanded of them. Various studies conducted on the legal literacy of school principals found that principals had an average preparation in school law, resulting in greater legal risks in the day-to-day running of their schools (Gordon, 1997; Stewart, 1996; Trimble et al., 2012). This finding was confirmed by a study on the legal literacy of urban public school administrators conducted by Tie (2014). This later study established that there was a lack of the component on school law in both teachers' and school administrators' professional training programmes, and suggested a need for universities and colleges of education to include components of school law in their teacher education and principal-training curriculum as well as the development of in-service programmes to update principals' current legal knowledge. In his study, Stewart (1998) suggests that principals receive "adequate preparation, both before and during their appointments as principals" (p.142) and argues that in relation to "professional development, there is a need for education departments to provide ongoing, and clearly focused in-service courses on school law throughout a principal's career" (p. 142). His argument is sustained in the study by Stewart and McCann (1999), who note that "the knowledge needed by administrators and classroom practitioners necessitates a new emphasis being accorded professional training at both pre- and in-service stages" (p. 136). This need for professional development is also enunciated by the assertion in Gordon (1997), that "the very nature of the law dictates that practicing principals be up-

to-date with current changes and other developments” (p.8). Similarly, Trimble et. al (2012) contend that given the raft of legislation that impacts education, school principals now need knowledge, or at least access to knowledge, of a wider range of legal areas than ever before. According to Walsh and Anderson (2012) this knowledge of the law is now a core professional requirement for principals and administrators.

A national survey of 493 secondary school principals in the USA undertaken by Militello et al. (2009) regarding various aspects of the law relevant to school leaders, revealed that most school principals had not taken a course in school law and were uninformed or misinformed about teacher and student rights. The researchers concluded that principals were interested in learning about aspects of educational law that impact on education, and that they wanted and needed more information about the rights and responsibilities of their students and teachers. This information could be provided through professional development courses, which would help principals become legally literate and therefore less intimidated by unfounded threats of lawsuits (Davies, 2009). They also recommended that principals should become conscious, informed and effective school law teachers of their staffs. To that end, they advised:

School principals do not need to attend law school to practice preventative law. Instead, every principal needs a comprehensive pre-service school law course, regular professional development legal updates, user-friendly resources, and access to the district's legal counsel. (Militello et al., 2009, p. 42)

In the same vein, Stewart (1998) argues that given the complex and constantly changing environments in which principals work, their professional knowledge should be sufficient to cover their range of responsibilities and so help them to “dispel unnecessary or incorrect misconceptions they might have of the law as it affects the principalship” (p. 140).

The education reform of 1989 in New Zealand resulting in the Tomorrow’s Schools, saw the governance and management of schools being vested in the hands of the local communities through specially elected Boards of Trustees. This has resulted in a series of responsibilities with potential legal consequences being delegated to individual schools. This phenomenon has increased the impact of education law on principals. This

increase in the legal demands on principals has been further exacerbated by the introduction of professional standards for educators, which have explicitly linked education law knowledge to the principal's role. In the course of my literature review I discovered that little research has been done with respect to the legal literacy and/or levels of education law of principals in New Zealand schools. Given the necessity for principals of the 21st century to be legal experts in all things (Gordon, 1997), and the increased responsibilities placed on the principal's in New Zealand with the advent of the *Tomorrow's Schools* reforms, this thesis focuses on Auckland secondary school principals' understanding of education law.

Conclusion

No research of which I am aware, has been conducted on this aspect of educational leadership. Accordingly, I consider that a gap exists in the knowledge and research about what is fast becoming a crucial area of education leadership. This gap, I submit, strongly supports the relevance of the aims of this research study which were:

- to engage in discussion with Auckland secondary school principals about their perceptions of education law;
- to identify and explain Auckland secondary school principals' perceptions of the implications of a possible lack of legal knowledge on their practice; and,
- to identify ways to support Auckland secondary school principals' understanding of education law.

It was expected that carrying out this research study in New Zealand, in accordance, with the stated aims, would answer the research questions:

1. What are New Zealand secondary principals' perceptions of legal literacy?
2. What do New Zealand secondary school principals perceive as their most influential source of education law?
3. What are the implications of a possible lack of legal knowledge on secondary school principals' practice?
4. How can the understanding of legal literacy amongst secondary school principals be supported?

My research study focused on Auckland secondary school principals. Although no direct research has been carried out on whether the law impacts differently on primary schools compared to secondary schools, the study carried out by Stewart (1997) suggests that the number and nature of activities undertaken in secondary schools involves greater danger, thereby increasing the likelihood of staff in that sector facing litigation. This has influenced my decision to conduct this study with principals of secondary schools.

The following chapter will discuss the research methodology of the study.

CHAPTER THREE: METHODOLOGY

Introduction

The aim of this study was to examine Auckland secondary school principals' perceptions of education law and the implications of these perceptions on their leadership practice. This study is positioned within an interpretivist paradigm. This chapter begins with a clarification of the difference between methods and methodologies. These terms are often used inconsistently in research literature and often times results in much confusion to the reader.

Mutch (2013) offers the following interpretation of these terms:

Methodologies link theoretical frameworks to methods and usually comprise a selection of related methods and strategies whilst methods are a coherent set of strategies or a particular process that you use to gather one kind of data. (p. 10)

I have chosen this definition to best represent my understanding of these terms and have sought to use them consistently in this research. In writing the rest of this chapter I have followed the layout suggested by Rudestam and Newton (2015). Accordingly, this chapter begins with the theoretical framework that underpins this research study and examines the research design and data collection which make up the research methodology chosen for this study. It discusses and justifies the choice of a qualitative approach and subsequent interpretive paradigm for this study. The methods used to gather the data for this study will be discussed. The use of themes to analyse the data will be described with the issues of reliability and credibility being addressed. Finally, the ethical considerations governing this research will be discussed.

Ontological and epistemological assumptions

Every paradigm is based upon its own ontological and epistemological assumptions. Scotland (2012) asserts that since different paradigms inherently contain differing ontological and epistemological views they have "differing assumptions of reality and knowledge which underpin their particular research approach" (p.9). This is reflected in a researcher's choice of methodology and methods.

Ontological assumptions are concerned with what constitutes reality, in other words 'what is'. Researchers need to take a position regarding their perceptions of "how things really are and how things really work" (Scotland, 2012, p. 9). Bryman (2012) refers to the ontological positions of objectivism and constructionism when considering the nature of social entities. He describes objectivism as an ontological position which asserts that social phenomena and their meanings exist independent of social actors, whilst constructionism is presented as an ontological position which claims that social phenomena and their meanings are socially constructed (p.33). Bryman's account of constructionism finds support with many researchers who argue that meaning in respect of the real world is socially constructed by individuals in interactions with their world, with there being multiple constructions and interpretations of realities (Cohen, Manion & Morrison, 2007; Creswell, 2013; Merriam & Tisdell, 2016). Given that individuals construct their own social realities the ontological position that underpinned my research was that of constructionism. This implies that social properties are the outcomes of the interactions between individuals rather than phenomena 'out there' and separate from those involved in its construction (Bryman, 2012, p. 34).

Research paradigm

The term 'paradigm' is used in research to describe an entire way of looking at the world, providing "the landscape in which individual theories can flourish" (Tolich, 2001, p. 26). It encompasses ethics (axiology), epistemology, ontology and methodology (Denzin & Lincoln, 2013). Epistemological assumptions are concerned with "how knowledge can be created, acquired and communicated, in other words what it means to know" (Scotland, 2012, p. 9). Bryman (2012) raises the question of whether the social world can and should be studied according to the same principles, procedures, and ethos as the natural sciences. Tolich (2001) argues that the measurement in social sciences is fundamentally different from measurements in natural sciences. This is attributed to social science being value-laden whilst natural science focuses on data as value free facts i.e. beliefs, emotions and values are outside science and therefore cannot be observed (Denzin & Lincoln, 2013; Somekh & Lewin, 2011).

There are a number of paradigms used in social research, with positivism and interpretivism being the most common research paradigms used in educational research. A positivist approach is used when researchers seek precise quantitative data (Neumann, 2014; Somekh & Lewin, 2011) in order to discover a set of causal laws that can be used to predict general patterns of human behaviour (Bryman, 2008; Denzin & Lincoln, 2013; O'Toole & Beckett, 2013; Tolich, 2001). Whilst the positivist paradigm places emphasis on deduction and causal laws, interpretivism seeks an inductive understanding of how people create meaning in their social worlds (Tolich, 2001).

The creation of knowledge in this study was dependent upon principals sharing their awareness, understandings and experiences of education law with me. Accordingly, it was appropriate to situate this study in the interpretive paradigm. The interpretive paradigm is concerned with understanding the world as it is from subjective experiences of individuals (Thomas, 2010) and assumes that reality is "socially constructed; that is, there is no single, observable reality. Rather, there are multiple realities, or interpretations, of a single event. Researchers do not find knowledge they construct it" (Merriam & Tisdell, 2016, p. 9).

I considered the interpretivist paradigm to be most appropriate for my research because I wanted to understand principals' interpretations of education law and its impact on the day-to-day running of their schools. In the interpretive paradigm the researcher seeks to understand human behaviour as it applies to a world of social science. This contrasts significantly with the positivist paradigm wherein researchers attempt to explain human behaviour and identify causal relationships. According to Bryman (2012), the interpretivist paradigm "requires the social scientist to grasp the subjective meaning of social action" (p. 712) and to "understand the social world through an examination of the interpretation of that world by its participants" (p. 380). Thus the "the central endeavour in the context of the interpretive paradigm is to understand the subjective world of human experience" (Cohen et al., 2007, p. 21). In my research, the interpretivist paradigm enabled the interpretation of principals' perceptions about the importance of education law and its impact on the daily running of their schools.

Research methodology

Quantitative and qualitative research constitute different approaches to social investigations and carry with them important epistemological and ontological considerations (Bryman, 2012). A choice between qualitative and quantitative research depends on what the researcher is looking to find out and should be based on “their sensitivity and application to the research question” (Rudestam & Newton, 2015, p. 42). The research question or interest is the key factor in selecting the most appropriate research approach (Mutch, 2013). Comparing and contrasting the detailed definitions of qualitative research offered by Denzin and Lincoln (2013) and Creswell (2013) succinctly sums up the characteristics of this research approach.

Denzin and Lincoln (2013) offer a generic definition of qualitative research as being:

A situated activity that locates the observer in the world. Qualitative research consists of a set of interpretive, material practices that make the world visible. These practices transform the world. They turn the world into a series of representations.... At this level, qualitative research involves an interpretive naturalistic approach to the world. This means that qualitative researchers study things in their natural settings, attempting to make sense of, or interpret, phenomena in terms of the meanings people bring to them. (p.6)

For the better part, Creswell’s (2013) definition is similar but he goes on to emphasise the research design and the use of distinct approaches to inquiry. He states that:

Qualitative research design begins with assumptions and the use of interpretive/theoretical frameworks that inform the study of research problems addressing the meanings individuals or groups ascribe to a social or human problem. To study this problem, qualitative researchers use an emerging qualitative approach to inquiry, the collection of data in a natural setting sensitive to the people and places under study, and data analysis that is both inductive and deductive and establishes patterns or themes. The final written report or presentation includes the voices of participants, the reflexivity of the researcher, a complex description and

interpretation of the problem, and its contribution to the literature or a call for change. (p. 44)

In comparing the quantitative and qualitative research approaches, Mutch (2013) posits that quantitative research generally “uses methods that gather numerical data in order to generalise to a broader population whilst qualitative research uses methods that gather descriptions of the unique lived experience of participants to enhance understanding of a particular phenomenon” (p.24). Bryman (2012) defines quantitative research as being highly structured with the aim of producing data which are amenable to statistical analysis and according to Davidson and Tolich (2003) “focuses on providing statistical measures of things being researched” (p.122). This approach fails to take into account the differences between people and the objects of the natural sciences.

My research was primarily concerned with the meaning that principals attribute to their experience of applying education law in the day to day running of their schools. As “this meaning cannot be measured in the way that quantitative research demands” (Davidson & Tolich, 2003, p. 29), a qualitative approach was deemed to be most appropriate to gather and analyse data in relation to my research questions. Various studies reviewed in respect of my research questions, also recognized the qualitative approach as being most appropriate to gather the information that these studies sought.

Sampling

Qualitative researchers deliberately seek knowledgeable respondents who can contribute significantly to understanding the phenomenon been studied and they are therefore “deliberate and purposeful in seeking participants who are likely to contribute to a deeper understanding of the questions or topics posed by the study” (Rudestam & Newton, 2015, p. 123). A phenomenological study usually involves purposive sampling which allows the researcher to select individuals and sites for the study that can “purposefully inform an understanding of the research problem and central phenomenon in the study” (Creswell, 2013, p.156). For this study the sample was selected on the basis that the findings may be useful and transferable to other principals in secondary schools. The participants for this research were purposively selected based on their experience of the phenomenon being studied. The criterion for the participants

in this study was that they had to be a principal of a secondary school in Auckland. After receiving ethical approval an invitation was initially e-mailed out to 15 principals of secondary schools in East Auckland. A lack of response to this invitation resulted in me e-mailing the invitation out to principals of 15 secondary schools in the greater Auckland area. The invitation to participate in this research study was accompanied with a questionnaire for the principals to complete. Once principals completed the questionnaire they were then invited to participate in a semi structured interview. Principals were then contacted by phone to set up dates and times for the interviews. Participants were interviewed at locations that were convenient to them, with four out of the five interviews taking place at their respective schools. The interviews varied between 20 to 50 minutes in duration and were audio-recorded. Bell and Waters (2014) recommend the use of a digital recorder as this not only ensures an accurate recording of the interviews but also enables the researcher to code, summarise and note comments that are of particular interest without having to write them down during the course of the interview. The recordings of the interviews were transcribed using a university approved transcriber. This did not only ensure accuracy of the transcription but also reduced researcher bias. Once the interviews were transcribed, they were sent to the participants for authentication before being used in the study. This verification by the participants further ensured the accuracy of the interviews as they took place.

Research methods

Qualitative research generally uses methods that gather “descriptive accounts of the unique lived experiences of the participants to enhance understanding of the particular phenomena” (Mutch, 2005, p. 19). As stated earlier, given that I wanted to get an insight into Auckland secondary school principals’ understanding and valuing of education law in their social world, I adopted an interpretive, qualitative approach to data collection. As such, questionnaires and interviews were selected as the most appropriate instruments for me to gather data for this study.

Questionnaires

Various researchers perceive the questionnaire to be a cost effective instrument for the collection of data from a large number of respondents (Hinds, 2000; Wilkinson & Birmingham, 2003; Somekh & Lewin, 2011). Lambert (2008) maintains that questionnaires are effective when wanting to canvas opinions and feelings of participants. It is an organised and systematic way to collect information and allows the researcher to investigate from a distance the activity being evaluated or studied. Use of this instrument is likely to minimise researcher influence on participants which is one of the weaknesses of a qualitative approach to research. Cohen et al. (2007) argues that the researcher will have to “judge the appropriateness of using a questionnaire for data collection, and, if so, what kind of questionnaire it should be” (p. 317).

In this study, I wanted to investigate Auckland secondary school principals’ knowledge of education law. Considering that a study of this nature had not been carried out in New Zealand before, the use of a questionnaire as a starting point in my research study was appropriate as a medium of conversation between myself and the participants and so help establish relevant themes that could be followed up with the semi-structured interviews (Brace, 2013, p.5). Several authors (Lambert, 2008; O’Toole & Beckett, 2013; Wilkinson & Birmingham, 2003) point out the limitations of the use of questionnaires in education research. Some of the limitations highlighted were that ill designed questionnaires may generate large amounts of irrelevant data, questions may not be properly interpreted by the participants, participants may give socially desirable responses and, finally, questionnaires do not offer the flexibility of interviews. Brace (2013) however, posits that the effects of these phenomena can be minimised by the way the questionnaire is written and structured. This view is consistent with that of Wilkinson and Birmingham (2003) who contend that “a well- planned and well executed questionnaire can produce rich data in a format ready for analysis and simple interpretation” (p.8).

In planning and executing my questionnaire, I followed the advice of Mutch (2005). The questionnaire was created using Google Forms and comprised 24 questions which included dichotomous, yes or no questions, multiple choice questions, contingency questions, which were only answered only if the respondent gave a particular response

to a previous question, open- ended questions and rating scales. This questionnaire is included as Appendix A. Somekh and Lewin (2011) point out that “scales may force a particular response, may not include all options, and may not allow for additional comments” (p. 225). To overcome the limitations posed by the use of scales, open-ended questions were included in the questionnaire which allowed for participants to give their own interpretations (Hinds, 2000; Mutch, 2013). The questions were divided into three sections which sought to ascertain the principals’ knowledge of education law, legal implications for schools and principals’ sources of education law. The full set of interview questions used in this study is attached in Appendix B. These three sections were derived from my review of the literature which examined whether there is a need for school leaders to be legally literate and the possible consequences for schools where leaders lack legal literacy. Once completed, the questionnaire was proofed and edited by a colleague and trialed with a teacher who gave feedback on the question structure, ease of use and the overall flow of the layout. Minor changes were made based on the feedback received. The link to the questionnaire was then included in the invitation to principals to participate in my research study.

I initially sent out 16 questionnaires to all secondary schools in East Auckland, using e-mail addresses obtained through the Ministry of Education’s database. Of this number only three principals agreed to complete the questionnaire. Many schools did not respond to my request whilst those that did advised that they were unable to participate in my research. No reasons were advanced for their refusal to participate. Given this low rate of responses, it was decided that I extend my sample size to include all schools in Auckland. This resulted in sufficient responses to achieved my preferred sample size of 11 principals.

Interviews

In my research I overcame the limitations inherent in using questionnaires for my research with the additional method of a semi- structured interview, which Bryman (2012) refers to as qualitative interviewing. Principals, upon completion of the questionnaire, were invited to participate in the interview. The semi-structured interview not only helped clarify participants’ responses to the questionnaire but also added depth to the “meaning and significance of what was happening” (Wilkinson &

Birmingham, 2003, p. 44). Bell (2005) argues that a major advantage of an interview is its adaptability in that “whilst questionnaire responses have to be taken at face value, a response in an interview can be developed and clarified” (p.174), to provide “in-depth information pertaining to participants’ experiences and viewpoints of a particular topic” (Turner, 2010, p.1). In my study, exploring principals’ understanding of education law could have left principals feeling exposed and intimidated. A semi-structured interview approach helped to not only explore their lack of knowledge in education law but also give them an opportunity to express what they had in place that is currently working in regard to education law. This approach helped to gain the confidence of the participants and so “minimised any distress or other negative feelings that might result from participating in the research” (Bryman, 2012, p. 41).

A semi-structured interview using open-ended questions was most appropriate for my qualitative research as rigidly adhering to “predetermined questions in a structured interview may not allow the researcher to access the participant’s understanding and perspectives of their worlds resulting in reactions to the investigator’s preconceived notions of the world” (Merriam & Tisdell, 2016, p. 109). Furthermore, qualitative interviewing was more likely to provide rich, detailed answers which would assist me in making judgements about the transferability of findings to other settings. My choice of qualitative interviewing is based on my ontological position which suggests that “people’s knowledge, views, understandings, interpretations, experiences, and interactions are meaningful properties of the social reality which the research questions are designed to explore” (Mason, 2002, p. 64). Since several researchers (Gordon, 1997; Stewart, 1996; Young et al., 2014) suggest that principals use their experience when dealing with legal issues, semi-structured interviews allowed participants to talk through those specific incidents wherein they deferred to their experience and the outcomes of such an approach.

Data analysis strategy

Data analysis in qualitative research is almost inevitably interpretive and more of a reflexive, reactive interaction between the researcher and the decontextualised data (Cohen et al., 2007). Because qualitative research is often associated with the generation of theory (inductive), several writers argue that coding is an important first

step in the generation of theory, and position coding as the starting point for qualitative data analysis (Bell, 2005; Bryman, 2012; Cohen et al., 2007; Thomas, 2010). According to Bell (2005) “coding allows you to ‘cluster’ key issues in your data and allows you to take steps towards ‘drawing conclusions’” (p. 231). The data collected mean very little until the researcher has identified appropriate clusters and can begin to understand what they mean. The aim of analysis of qualitative data is to discover patterns, concepts, themes and meanings (Bell, 2005; Bryman, 2012; Cohen et al., 2007; Thomas, 2010).

Once the data were collected in this research, I clustered the responses by identifying key themes that arose with regard to each of my research questions and the overall interview. These themes were closely examined to establish the findings and draw conclusions from my study. My analysis of the data collected closely followed the process below as outlined by Creswell (2014):

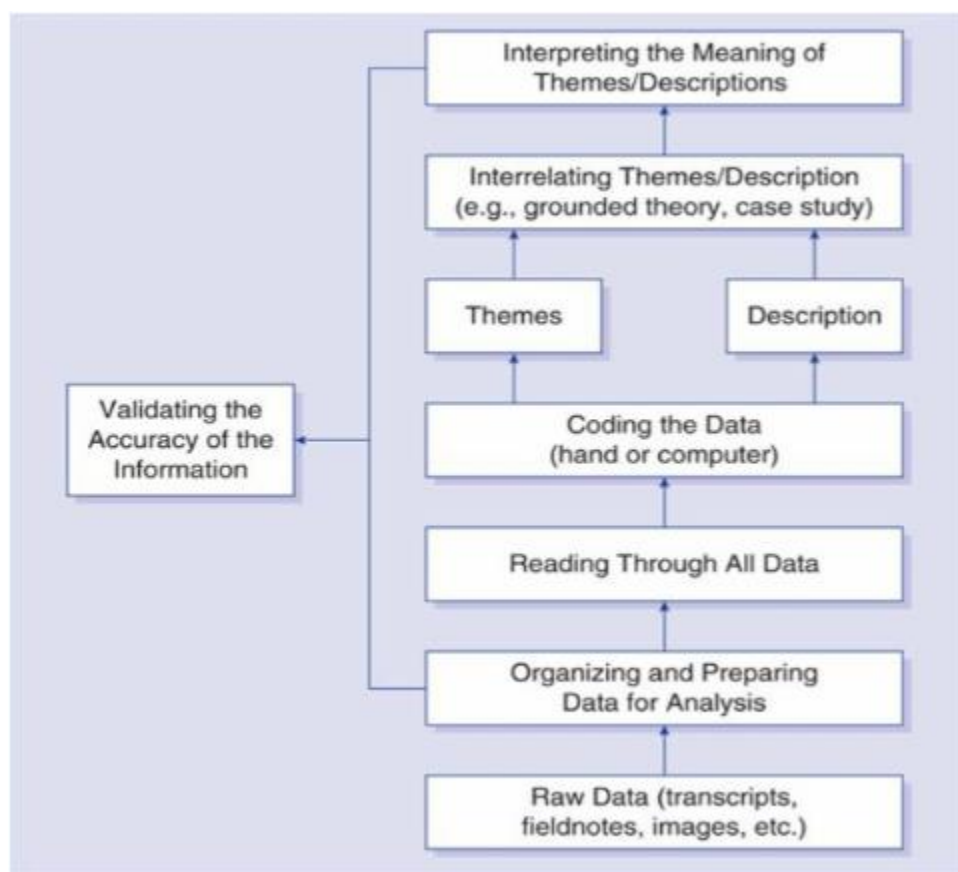


Figure 3.1: Data analysis in qualitative research

(Source: Creswell, 2014, p. 247)

Step 1: Organise and prepare the data for analysis. This involved me transcribing data from the questionnaires and interviews.

Step 2. Read or look at all the data. To get a general sense of the data provided, I read and re-read transcripts of all the interviews and the qualitative comments from the questionnaires. Categories for each participant's response was created after the detailed analysis of the transcripts.

Step 3. Start coding all of the data. To sort all of the data collected into the relevant categories I assigned a code to each category. Data that identified with these categories were clustered together.

Step 4. Use the coding process to generate a description of the setting or people as well as categories or themes for analysis. Once the coding was done I grouped the categories into key themes that arose with regards to each of my questions and the overall interview.

Step 5. Advance how the description and themes will be represented in the qualitative narrative. I structured the qualitative narrative according to the the themes identified in Step 4, with the four research questions providing the framework for the narrative. The discussion for each research question was completed under several subheadings based on the concerns that emerged from the data collection.

Step 6. A final step in data analysis involves making an interpretation in qualitative research of the findings or results. In my study the findings that I arrived at were derived from comparing the results of the data with the information gleaned from the literature that I reviewed in respect of my topic.

Validity and transferability

As opposed to quantitative research, many researchers propose that reliability is not important when assessing the quality of research for qualitative research. Bryman (2012) however, argues that for a researcher to persuade his or her audience that the research findings of an inquiry are worth paying attention to, some form of assessment of the quality of qualitative research is necessary. To this end he proposes trustworthiness, encompassing credibility, transferability, dependability and

confirmability, as the primary criteria for assessing a qualitative study. This change is suggested because Bryman (2012) believes that applying reliability and validity standards used in quantitative research to a qualitative standard implies that there is a single account of a social reality. There are multiple realities and it is the credibility of these accounts that is going to determine its' acceptability to others (Bell & Waters, 2014).

To provide for internal validity (credibility) in this research I ensured that the methods used for my data collection and analysis were appropriate, relevant and consistent. For example, the use of an interview protocol helped ensure participants were being asked the same questions. The use of Google Forms to collect responses from the questionnaire and digitally recording the interviews ensured that accurate records of all data were kept. Credibility of my research was further ensured by the use of Auckland University of Technology- approved transcriber to transcribe the interviews. In my research the participants were asked to check their transcripts for accuracy and they were also informed of the findings of my research. This respondent validation enabled them to confirm that I have correctly understood their social world.

External validity examines the transferability of a study (Cohen et al., 2007; Bryman, 2012; Merriam & Tisdell, 2016). Qualitative studies, unlike quantitative studies, are not easily transferable or replicated. This is so because whilst quantitative research usually examined the natural sciences, qualitative studies look at the social sciences and often explain human behaviour in a particular context. Qualitative studies, therefore, provide a detailed account of what goes on in the setting being studied, as this provides the context within which people's behaviour takes place. Bryman (2012) and Thomas (2010) recommend the provisions of thick descriptions of social settings, events and often individuals. Bryman (2012) argues that these "thick descriptions" of the details of a study will provide other researchers with a database which will enable them to make judgements about the transferability of findings to another setting (p. 392). In my research I sought to provide an in-depth account of my findings so as to enable potential readers to make their own judgements about the transferability of my findings to their particular context.

For qualitative researchers, the more important question is whether the results are consistent with the data collected (Merriam & Tisdell, 2016). That is, are the results dependable? To ensure dependability in a study, detailed records must be kept of all phases of the research process (Bryman, 2012). In this study dependability was achieved by keeping complete records of the various phases of the research and ensuring that these records were easily accessible. Finally, confirmability is concerned with the researcher carrying out the research in good faith and not overtly influencing the research or the findings (Bryman, 2012). Confirmability in this study was achieved by ensuring, as far as possible, that each interviewee understood the interview questions in the same way. The piloting of both the questionnaire and interview questions, with a view to eliminating leading questions and thereby removing researcher bias, allowed for greater objectivity in this study.

Ethical considerations

Ethical and cultural issues in research

Whatever the specific nature of their work, social researchers must take into account the “effects of the research on participants, and act in such a way as to preserve their dignity as human beings” (Cohen et al., 2007, p. 77). In a qualitative study the researcher has to interact deeply with the participants when collecting data. This interaction raises “several ethical issues that should be addressed during, and after the research had been conducted” (Thomas, 2010, p. 325). For my study to have integrity I had to be considerate of the ethical and cultural issues arising at the various stages of my research. Merriam and Tisdell (2016) postulate that “to a large extent the validity and reliability of a study depends on the ethics of the researcher” (p.260).

Bryman (2012) identified the common and often times overlapping ethical principles in social research as being: minimisation harm to participants, informed consent, provision of confidentiality and/or anonymity, and the elimination of deception. I have used Bryman’s checklist to guide me in examining the ethical validity of my research.

Minimisation of harm to participants

Bryman (2012) describes harm to participants as including physical harm; harm to participants' development; loss of self-esteem; and stress. In this research study the option for the participants to withdraw from the research at any time helped to assure that no participants would be placed in a situation where they might be harmed, either physically or psychologically, as a result of their participation. My questionnaire and interview questions were designed to ensure that participants did not feel compelled to offer up information that would be potentially harmful to themselves and/or their organisation. Mutch (2013) asserts that participants should understand the consequences of participation and should be informed of whom to approach if they have concerns about the conduct of the research. To this end the contact details of my supervisor were provided on both the Participant Information Sheets (see Appendix C) and the Consent Forms (see Appendix D) to enable the participants to have an authority to whom they could express any grievance they had with regard to the manner in which the research was conducted.

Informed consent

Participants in a research should be fully informed about the purpose, conduct and possible dissemination of the researched information and should give their consent to be involved (Mutch, 2013). In my research the participants' informed consent was obtained in writing for each of the phases of data collection. To ensure that the consent was indeed 'informed', the Consent Form was accompanied by the Participant Information Sheets which set out in detail the purpose, nature, data collection methods, and extent of the research prior to commencement. Participants were also made aware that signing the Consent Form did not compel them to complete their participation in the research as they could withdraw from the research at any time prior to the data analysis.

Provision of confidentiality and/or anonymity

In any research study the privacy and well-being of the participants are of paramount importance. Due to the subject of my research, principals may have felt somewhat intimidated by gaps in their education law knowledge and therefore may have been

reluctant to participate in the study. I was able to encourage participation by guaranteeing the privacy, confidentiality, and anonymity of the questionnaire respondents. Although the identities of those principals participating in the interview were known to me, they were informed that the confidentiality of their identities was guaranteed, as pseudonyms were used in my final thesis. As a further endeavor to protect the participant's identities, the transcriber employed to transcribe the interview recordings was required to sign a confidentiality agreement and all consent forms were, in accordance with Auckland University of Technology (AUT) requirements, stored separately from the data and could only be accessed by myself and my research supervisor, with these data to be destroyed after six years.

Elimination of deception

The question of honesty and trust was addressed by my seeking approval for my research from the Ethics Committee of Auckland University of Technology (AUTEC). Creswell (2013) argues that "deception occurs when participants understand one purpose but the researcher has a different purpose in mind" (p. 136). To avoid such deception, my participants were clearly informed about the purpose of the study and how the data was to be used.

Summary

This chapter discussed and justified the research methods and methodology undertaken in this study. The appropriateness of employing the questionnaire and the semi-structured interview to answer my research question has been expounded on. Furthermore, the criteria used to ensure the validity and transferability of this study has been explained. This chapter concludes with a detailed discussion in respect of the ethical considerations taken into account during this research. In the next chapter I will analyse the data gathered from the questionnaire and semi-structured interview and present my findings.

CHAPTER 4: PRESENTATION OF DATA

The aim of this study was to examine Auckland secondary school principals' knowledge of education law and to identify the implications of a possible lack of legal literacy on their practice as leaders. This chapter provides an overview of the findings from the questionnaire and the interviews. Where the interview data reaffirmed the questionnaire data, these are integrated in order to add depth and clarity to the overall findings. Table 4.1 shows this integration.

Table 4.1: Integration of questionnaire and interview questions

Questionnaire questions	Interview questions
Q1: Legal literacy refers to the knowledge that school leaders have with respect to educational law and how it impacts the governance, leadership and management of their schools. Rate your level of confidence with regards to your legal literacy.	Q1: Can you tell me about a time when your knowledge of the law has helped you as a leader? Q2: Is there a time when you felt you lacked legal knowledge? What happened?
Q 4: What is the most important area of your school and/or leadership practice that has given rise to education law issues in your school?	Q3: In ways do you think a knowledge of education law is important to your practice?
Q 6: Which groups do you consider to need a knowledge of education law?	Q13: Do you think education law should be taught at teacher training institutions?
Q13a: Have you in your role as principal, faced a legal challenge?	Q6: What in your opinion are the implications of a lack of legal knowledge for secondary school principals in New Zealand?
Q18: What is your main source of legal knowledge?	Q10: What external legal support is available to you to help deal with legal issues that arose in your schools?
Q21a: Do you think training in educational law matters is important for principals?	Q8: Do you think training in education law matters is important for principals? Please elaborate.
Q24: Please describe any educational law training which you have participated in.	Q9: What in your opinion is the best form/s of training for principals?

The following pseudonyms have been used to protect the participants' identities:

- Questionnaire participants are denoted with 'Q/P' followed by the numbers 1 to 11 as assigned for each participant, for example, Q/P3; and
- Interview participants are denoted with 'I/P' followed by the numbers 1 to 5 as assigned for each participant, for example, I/P5.

Research participants

Questionnaire participants

The participants in this research project were principals of eleven Auckland secondary schools and comprised a mix of males and females. My sample target was set at 15 participants. However, only eleven principals completed the questionnaire, giving a response rate of 73.3%.

Semi-structured interview participants

Participants in the questionnaire were asked to indicate if they would like to be part of the second phase of the data gathering via the final question in the questionnaire. A lack of participants indicating their interest to be interviewed resulted in me personally contacting principals to participate in the interviews. Five principals indicated their interest and were interviewed at locations that were convenient to them, with four out of the five interviews taking place at their respective schools.

Both the questionnaire (included as Appendix A) and the semi-structured interview questions (included as Appendix B) aimed to collect data in three areas: principal's knowledge of education law; legal implications for schools; and principals' sources of education law information. The results are presented according to these three areas. The questions asked in the questionnaire were set out for each of the three areas and where applicable the responses to those interview questions that linked to the questionnaire questions are reported on together.

Principal's knowledge of education law

Questionnaire Q1 stated: Legal literacy refers to the knowledge that school leaders have with respect to educational law and how it impacts the governance, leadership and management of their schools. Rate your level of confidence with regards to your legal literacy

This question required participants to rate their level of confidence in respect to their perceptions of their legal literacy on a scale of 1-5, with 1 being 'not confident' to 5 being 'completely confident'. Figure 4.1 shows that two out of the eleven participants rated themselves as being moderately confident in their legal literacy with one participant being only slightly confident, whilst the other eight participants indicated either being very or completely confident in the legal literacy.

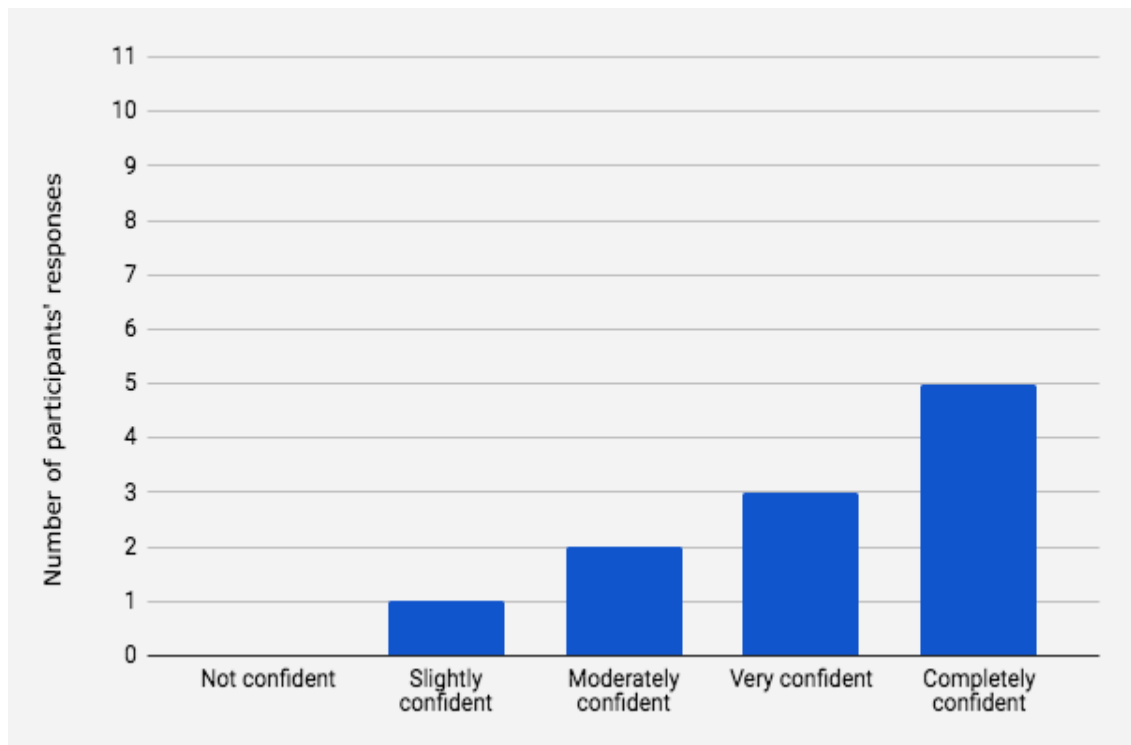


Figure 4.1: Principals' perceived confidence in their own legal literacy

Questions 1 and 2 of the semi-structured interview sought more clarity in respect to the responses to Question 1 of the questionnaire, by asking each participant to indicate when their knowledge of the law helped them as a leader and when they felt they lacked the legal knowledge needed to deal with a legal issue.

Interview Q1 asked: Can you tell me about a time when your knowledge of the law has helped you as a leader?

Table 4.2, overleaf, shows that two participants viewed staff employment matters, especially that of teacher competency, and student discipline for example stand-downs¹, suspensions², exclusions³ and expulsions⁴ as areas where they perceived that their knowledge of the law helped them as leaders. Interviewees indicated that even if principals don't have knowledge of the law knowing how and/or where to get it is important. The following quotes illustrate this view:

So that's when I go back to following process so I make sure that I refer to our SPANZ lawyers, seek advice from NZ Star, Trustees Association, and then also other experienced colleagues in the community that I've got a network and built a relationship with up over the years. (I/P2)

I have always been quite good at getting help and seeking advice. (I/P3)

So accessing the information prior and being able to have a better understanding of it is always helpful and there are a number of sources or places to go for that. (I/P5)

¹ A state or state integrated school principal may consider the formal removal of a student through a **stand-down** from school for a period of up to 5 school days. A stand-down, for any student, can total no more than 5 school days in a term, or 10 days in a school year. Students return automatically to school following a stand-down. (Ministry of Education, 2017c)

² A **suspension** is a formal removal of a student from a school until a school Board of Trustees decides the outcome at a suspension meeting. Following a suspension, the Board of Trustees decides how to address the student's misbehaviour. The Board can either lift the suspension (with or without conditions), extend the suspension (with conditions), or terminate the student's enrolment at the school. (Ministry of Education, 2017c)

³ **Exclusions** and **expulsions**⁴ are subsets of suspension where an enrolment is terminated. If the student is aged under 16, the Board may decide to **exclude** the student from the school, with the requirement that the student enrolls elsewhere. This decision should be arrived at in only the most serious cases. If the student is aged 16 or over, the Board may decide to **expel** him or her from the school, and the student may or may not enrol at another school. (Ministry of Education, 2017c)

Table 4.2: Knowledge of the law helpful to leaders

Response category	Number of participants' responses
Dispensing information to a non-custodial parent	1
Student stand- downs and suspensions	2
Prosecuting parents for students' non-attendance at school	1
Search and seizure of student's property	1
Staffing issues especially teacher competency	2

Interview Q2 asked: Is there a time when you felt you lacked legal knowledge? What happened?

As shown in Table 4.3, two participants felt they lacked the legal knowledge to deal with teacher competency issues whilst the lack of legal knowledge necessary to deal with searching students' properties and dispensing information to a non- custodial parent was reported by one participant each. Another participant indicated that there was no definite area in which he lacked legal knowledge. Notably participants indicated that when they felt they lacked legal knowledge they invariably sought advice from external sources, as shown in the quotes from participants below:

I've always been quite good at getting help and seeking advice. I think the trick is knowing when you don't have enough information to make a fully informed decision. I suppose with that case mentioned it was one where I went is this what I think it is but really I don't have any idea. I could have charged off and done something based on my limited knowledge, but it would have been the wrong thing ... Having the wherewithal to know that you don't know everything is quite important I think. (I/P 1)

One instance I recall was around searching a bag. I rang our community constable to check the law around this and so could act in accordance with the law. (I/P3)

Table 4.3: Areas of lack of legal knowledge

Response Category	Number of participants' responses
Teacher competency	2
Searching student's property	1
Dispensing information to a non-custodial parent	1
No definite area	1

Questionnaire Q2a asked: How would you define 'natural justice'?

Table 4.4 summarises the data. Whilst four participants accurately referred to the need for fair process in their responses they did not give any detail as to what this fair process would entail. Another four simply referred to natural justice as 'fairness when dealing with individuals', without indicating how this fairness would be realised. The following response from a participant indicated a lack of understanding of the term 'natural justice':

Natural means un-obstructed- so not influenced- not prejudged- justice doesn't need definition. (Q/P9)

A critique of this response is included in Chapter 5.

Table 4.4: Definition of 'natural justice'.

Response Category	Number of participants' responses
The right to a fair process without bias	4
Acting fairly (with due recognition of the circumstance of each person, especially students)	1
Making a decision that would impact on someone based on mutual and shared understanding of all the extenuating circumstances and influences	1
Fairness, ensuring that the rights of individuals are protected	3
Fair and equitable	1
Natural means unobstructed- not prejudged- justice doesn't need definition	1

Questionnaire Q2b asked: Indicate your understanding of the principles of natural justice when dealing with student or staff issues.

Figure 4.2 shows that six participants noted that they had an excellent understanding of the principles of natural justice when dealing with student and staff issues whilst the remaining five participants purported to have some understanding of these principles. It is noted that none of the participants indicated not having any understanding of these principles.

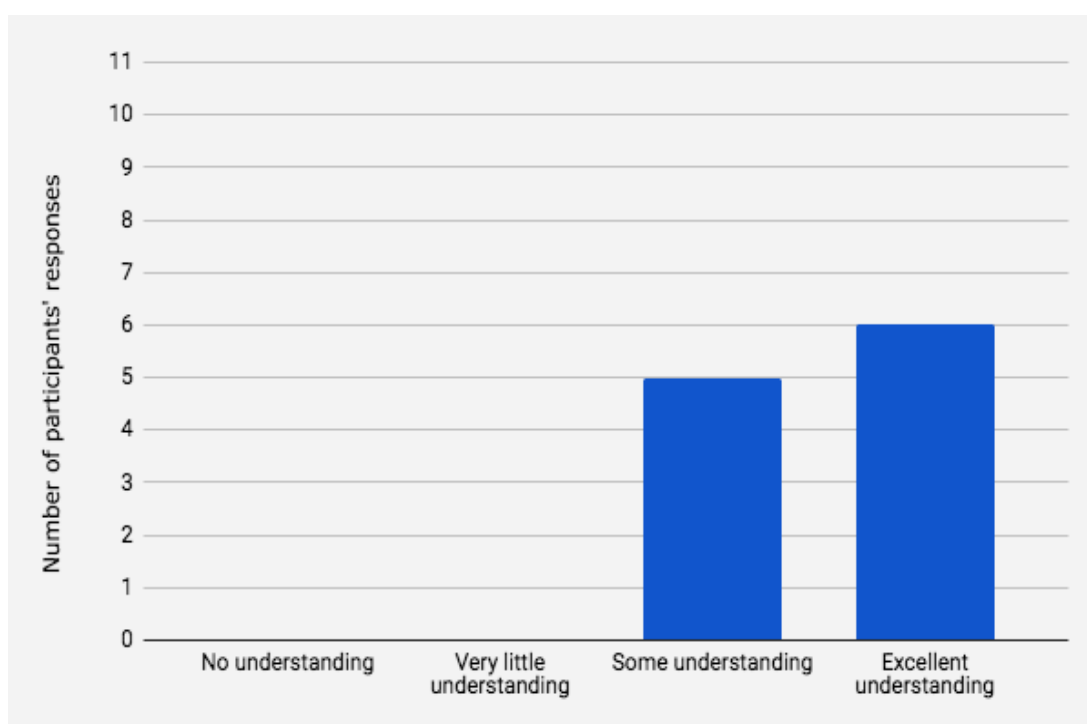


Figure 4.2: Principals' perceived levels of understanding of the principles of natural justice

Questionnaire Q3a asked: List the legislation that you are aware of that impacts on your school, and on leadership and governance practice at your school?

Table 4.5 shows that whilst most participants listed a range of legislations they believed impacted their school, two participants were only able to list two pieces of legislation. The most commonly listed legislations were the *Education Act* of 1989 and the *Health and Safety in the Workplace Act* of 2015 (Government of New Zealand, 2015). It is notable, given that the *Employment Relations Act* of 2000 (Government of New Zealand, 2000) regulates the employment relationship between the Board, school leader and the staff, that only three participants cited this Act as impacting on the leadership and governance practice at their schools.

Table 4.5: Legislation impacting school and leadership and governance practice

Response Category	Number of participants' responses
<i>Education Act</i>	8
<i>Health and Safety in the Workplace Act</i>	7
<i>Vulnerable Children's Act</i>	5
<i>Human Rights Act</i>	4
<i>Privacy Act</i>	4
<i>Employment Relations Act</i>	3

Questionnaire Q3b asked: Rate your overall understanding of the legislations that you have listed above (3a). Tick one option.

Figure 4.3 shows that the majority of the participants rated themselves as having some understanding of the different legislations which had a bearing on their school and leadership and governance practice with only one participant indicating having very little understanding of these legislations.

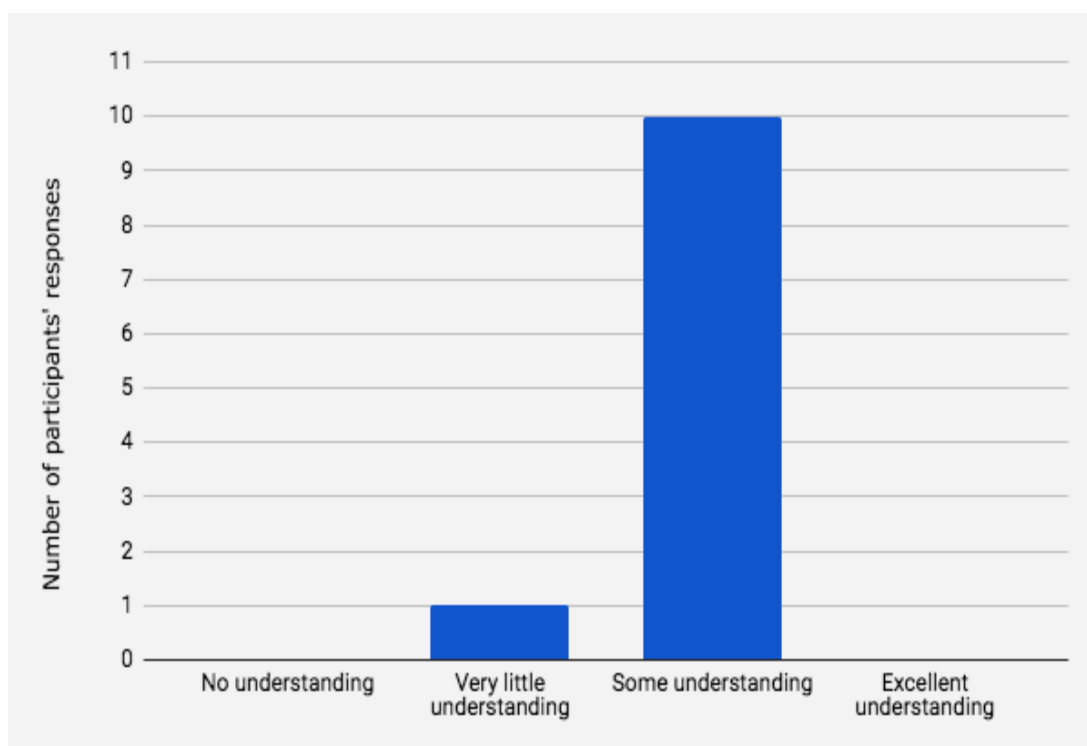


Figure 4.3: Understanding of the legislation impacting school and leadership and governance practice

Questionnaire Q4 asked: What is the most important area of your school and/or leadership practice that has given rise to education law issues in your school?

Table 4.6 shows that, generally, education law issues most often arose with regards to staffing/personnel matters, and with student suspension, stand-downs and expulsions being the next most common response. The areas of student enrolment, health and safety and privacy were the less common areas giving rise to educational law issues.

Table 4.6: Areas giving rise to education law issues

Response Category	Number of participants' responses
Staffing/personnel issues	8
Student suspensions, stand downs and expulsions	5
Student enrolment	1
Health and safety	1
Privacy	1

This question was further expanded upon by Question 3 of the interview which asked interviewees to indicate the ways in which they thought a knowledge of education law was important to their practice. Three interviewees cited the employment and management of staff as an important area requiring a knowledge of education law.

I suppose you've got your employment, actually the employment of the personnel as well, and making sure you're following good process. (I/P2)

It's extremely important as lack of knowledge can lead to all sorts of issues which could have legal implications, for example, employment law has an impact on hiring and firing. (I/P3)

I think it's very, very important in terms of managing your staff and their performance and getting improved outcomes for your students. (I/P4)

From these quotes it can be inferred that principals are generally concerned about the legal implications of not following proper process when dealing with management of their staff.

One interviewee regarded education law in the area of student discipline to be important whilst two of the interviewees saw education law in the areas of health and safety and dealing with vulnerable children as being crucial to their practice. Interviewees indicated that knowledge of education law was important to their practice due to the possibility of litigation. For example:

Vital because we do make decisions and do stuff that can bring litigation. I haven't really needed it too much before I was a principal, but in terms of principal-ship, everything comes back to the boss. No matter what any staff members do, from a legal point of view it's essentially all going to come back on me. So you sort of have to have a little bit more of an awareness as the principal. (I/P1)

Questionnaire Q5 asked: Do you think education law is important to your leadership practice? Please explain your answer.

Ten participants indicated that they believed education law to be important to their leadership practice. Their explanations as to why education law was considered to be important, however, were varied, with three participants indicating that training in education law was important to ensure that principals acted within the legal boundaries and so protected themselves and their schools from legal consequences.

It's vital that whatever we do sits within the boundaries of the law or else we are acting unlawfully and we will be unprotected from consequences. We are leaving ourselves and our schools vulnerable and at risk if we don't abide by educational laws. (Q/P2)

Yes. Provides protection and guidance. (Q/P6)

Yes, we have to work within a very clear framework, if we get it wrong there are serious consequences for the school, staff and ourselves personally. (Q/P10)

One participant indicated that education law was not important to leadership practice.

No - leadership practice is a massive part of a principal's job. Education law is less than 1% compared to the things principals do in the course of a year or a lifetime in principalship. (Q/P9)

A critique of this response is included in Chapter 5.

Questionnaire Q6 asked: Which groups do you consider to need a knowledge of education law?

This question required participants to indicate, from a predetermined list, the groups that they considered to need a knowledge of education law. Figure 4.4 shows that, whilst all participants considered principals to be in need of this knowledge, ten thought that this was essential for Boards of Trustees and six suggested that teachers

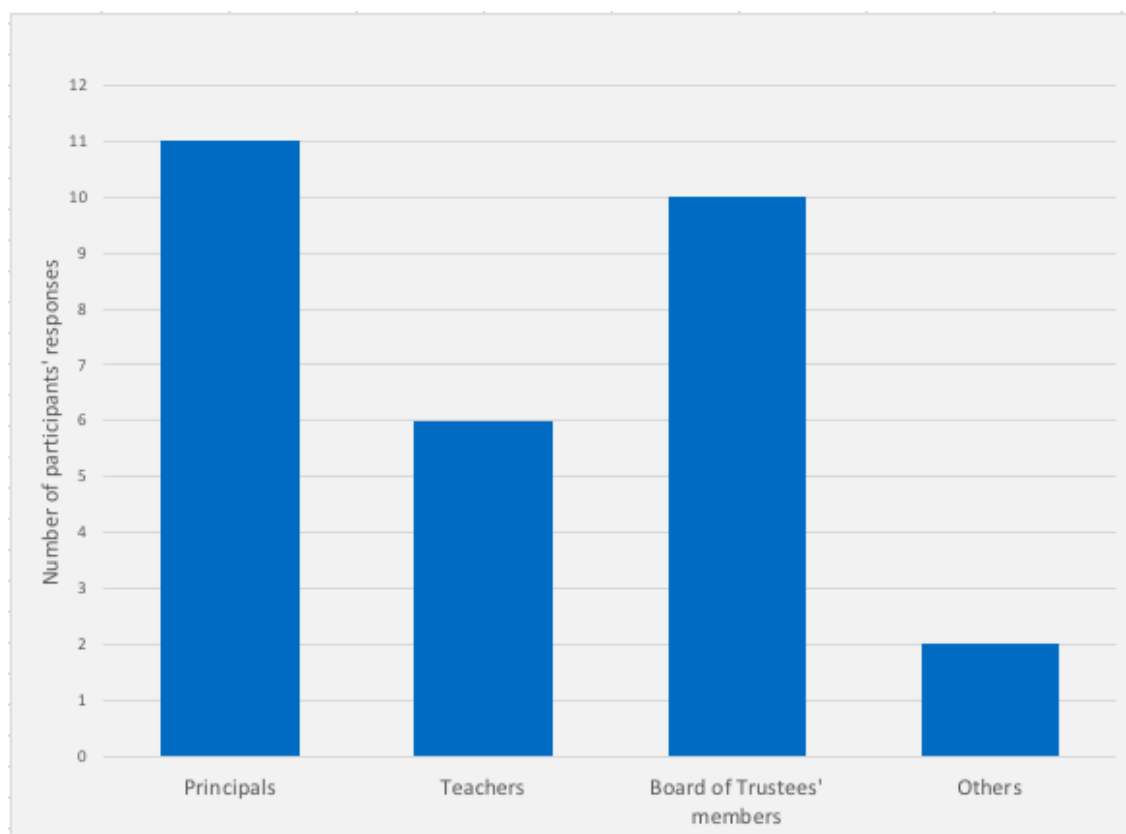


Figure 4.4: Groups requiring knowledge of education law

Linking to this question, Question 13 of the interview asked interviewees if they thought that education law should be taught at teacher training institutions. Three of the five interviewees indicated that it should. Their responses were as follows:

I do and the reason for that is that as soon as they step into the classroom they have the professional standards and they've got the PTCs and everything else, but they're also in a situation of I think about someone, a student that becomes volatile and a teacher puts their hand on a student, without thinking, to try and stop the situation. That can actually spin around totally against the staff member who is trying to protect the other students in the classroom. So even young teachers I think have to be aware of their rights, but they also need to be really aware of what student rights are because students are more forthright with quoting their rights,It's always good to come in with some knowledge rather than no knowledge. (I/P2)

Maybe some basics, maybe the Education Act, maybe just some very basic information. I think we probably need Just-in-time learning for teachers. They probably need to be aware of what the... I mean so introduction to educational law, like what Acts of Parliament affect schools and what do you need to be aware of, but I don't think in depth understanding, but awareness, yes. (I/P3)

There should be serious consideration given to offering it in the teacher trainee programme, whether it's a paper or a broadening of knowledge in legal interpretations or introduction to education law. There is a heightened need for it, more-so now than what it used to be. (I/P5)

Two interviewees indicated that they did not think that education law should be taught at teacher training institutions. Their responses seem to indicate that education law training for teachers will only serve to enhance teacher's knowledge of their employment rights.

Not even close. They should be taught how to teach kids and worry about the pedagogy because that's hard enough to begin with... I don't think a beginning teacher needs to have too much industrial relations knowledge and all of that sort of stuff unless they're wronged themselves and they might go and get support from an employment lawyer, but they won't get exposed to any of that stuff for quite some time. (I/P1)

Not really. Teachers get quite good induction through their union branches in the school. So NZEI in the primary to intermediate sector and PPTA in the secondary sector, they put quite a lot of effort and resource into training teachers about their rights in terms of their interpretation of the contract. I often find the teachers are very well schooled up in their rights and they have field officers at their disposal and they have a branch chairperson they can go to to advise them and a structure. I don't think it's an issue. I think the issue is more around the challenges that principals face in managing people who know their rights and sometimes transgress them. (I/P4)

Questionnaire Q7 asked: Do you think the *Education Act* of 1989 helps with knowledge of education law?

As can be seen from Table 4.7, seven of the eleven participants believed that the *Education Act* of 1989 helped with their knowledge of education law. This response aligns with Question 3A of the questionnaire (Table 4.5), where eight participants listed the *Education Act* of 1989 as one of the many pieces of legislation which impacted the leadership and governance practice at their school.

Table 4.7: Impact of Education Act 1989

Response Category	Number of participants' responses
Yes	7
No	2
Don't know	2

Questionnaire Q8 asked: Do you think school leadership is becoming more concerned with legislation and legal issues? Please explain your answer.

Table 4.8 shows that the some participants believed that increased legislation and an acute awareness amongst parents and communities of their legal rights are the primary reasons for leadership becoming more focused on legislation and legal issues in their practice.

Table 4.8: Legalisation of school leadership

Response Category	Number of participants' responses
Increased level of compliance due to increase in legislations	3
Parents and communities are more aware of their rights	4
Increased litigious times	2
Not sure	1
No	1

Questionnaire Q9 stated: Policy development requires educational leaders to have accurate knowledge of student, staff and parental rights. With reference to this, how confident are you in regards to developing school policy?

Whilst five participants were completely confident with policy development, one was slightly confident. According to Robins (2011), the risks inherent in principals not being confident in this area means that they will not be able to to develop policies, procedures and activities that will prevent, reduce and mitigate risk to students, staff, property and reputation. Figure 4.5 describes the data.

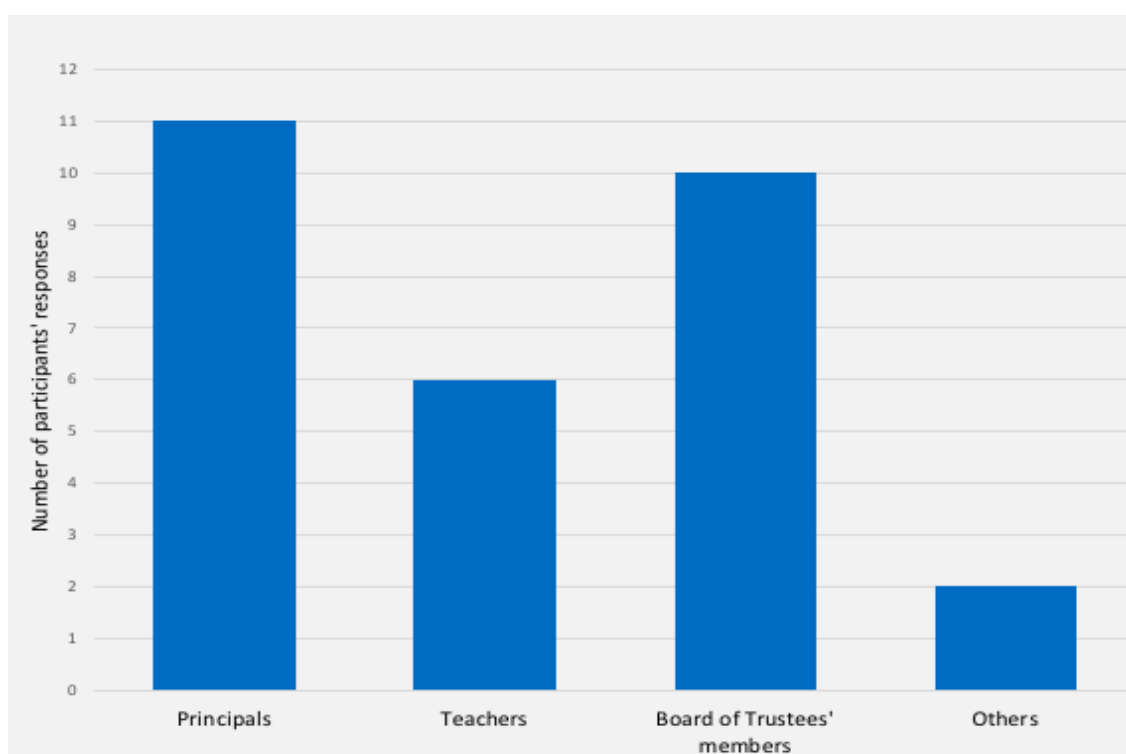


Figure 4.5: Confidence in developing policies

Questionnaire Q10 asked: What areas of law impacting on your practice do you feel particularly confident about?

Three participants indicated that they were confident in all areas of the law which impacted their practice with another three indicating confidence when dealing with student discipline. Two participants were particularly confident when dealing with matters related to teacher discipline. Table 4.9 describes the data.

Table 4.9: Areas of law impacting on leadership practice

Response Category	Number of participants' responses
Student discipline: stand-downs and suspensions	3
Teacher discipline	2
Staff employment	1
All areas	3
Unsure	1
None	1

Questionnaire Q11 asked: What areas of law impacting on your practice do you feel particularly concerned about?

Table 4.10 shows that the most common concern for participants was in the area of health and safety followed by personnel issues. It is noted that personnel issues were also an area in which the majority of the questionnaire participants found that they were often legally challenged (Q13 a.) and had to change their administrative decisions. This area was further identified by two of the interviewees (Q2) as an area in which they lacked legal knowledge.

Table 4.10: Areas of law causing concern

Response Category	Number of participants' responses
Health and safety	5
Personnel issues	2
All areas	2
None	2

Legal implications for schools

Question 12 asked: How confident are you when dealing with legal issues?

This question required participants to rate their level of confidence when dealing with legal issues. Figure 4.6 shows the majority of participants to perceive themselves as being either very or completely confident when dealing with issues of a legal nature.

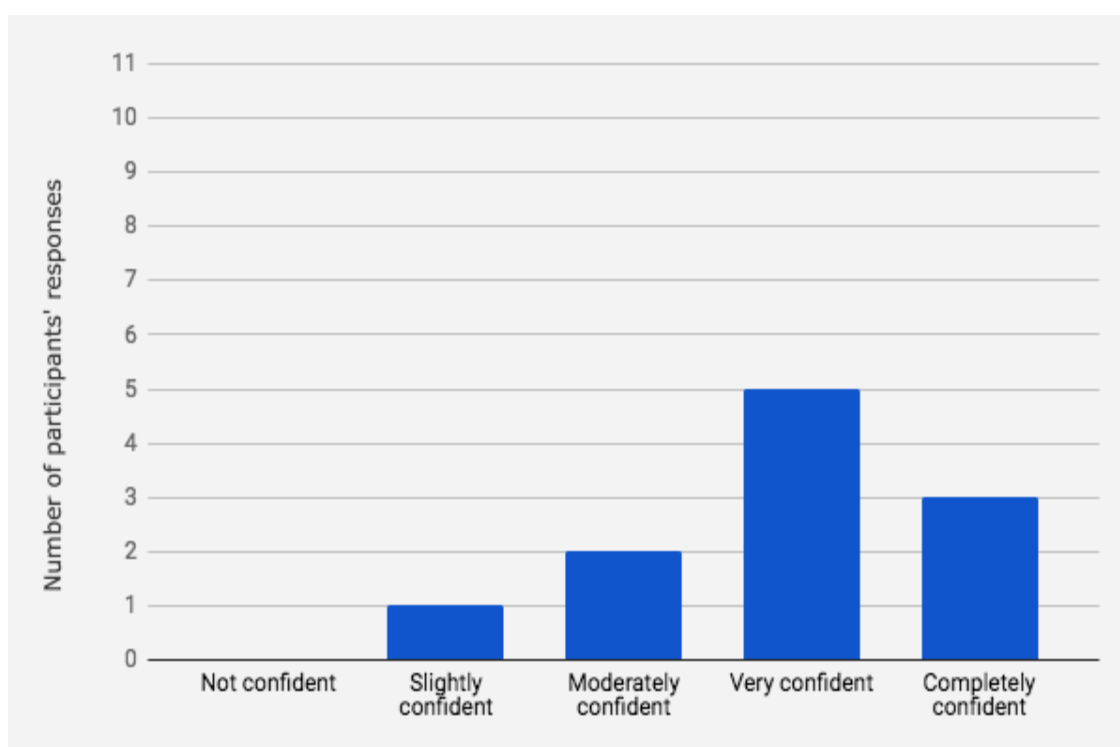


Figure 4.6: Confidence when dealing with legal issues

Questionnaire Q13a asked: Have you in your role as principal, faced a legal challenge?

As can be seen from Table 4.11, the majority of the participants had faced a legal challenge in their role as principal. Given that principals open themselves up to legal challenges because they oftentimes lack legal knowledge resulting in consequences for themselves and their schools, Question 6 of the interview asked: What in your opinion are the implications of a lack of legal knowledge for secondary school principals in New Zealand? Three of the participants spoke of the emotional and financial implications of getting legal decisions wrong.

The implications are you do things wrong and you have penalties. The penalty may be organisational, it may be individual and mostly that penalty is a financial penalty of some description. (I/P1)

That's one of the implications, is that you can get caught out, you can end up with personal grievances and complaints to your Board first. But then you can end up with personal grievances and mediations and court cases, which can be both expensive for the school but also taxing of your time and taxing of your emotional wellbeing as a principal. (I/P4)

The school can be vulnerable to court cases, to costing the school a lot of money through lack of compliance. It can have huge implications. (I/P5)

Two participants mentioned that a lack of legal knowledge for principals could result in a poor reputation for the school.

The first thing is the negative impact on the people involved. You can bring the school into disrepute if you like. (I/P2)

Potentially being sued personally. Bringing the school into disrepute. Putting your staff or students at unnecessary risk. (I/P3)

Table 4.11: Legal challenge

Response category	Number of participants' responses
Yes	6
No	5

When asked to elaborate on the area in which participants faced a legal challenge the majority of the participants indicated that they were legally challenged in respect of decisions made around staff employment. Staff employment was one of the areas in which three of the interviewed participants felt that they had encountered legal challenge. Table 4.12 describes the data.

Table 4.12: Areas of legal challenge

Response Category	Number of participants' responses
Staff employment	3
Student exclusion	1
Privacy of information	1
Health and safety	1

Questionnaire Q14 asked: Have you ever changed an administrative decision as a result of legal threats? If you have, please elaborate on your answer.

Three out of the eleven participants indicated that they did change their decisions due to legal threats mainly in the areas of student discipline and staff employment

matters. It is noted that the areas in which administrative decisions were changed were the same areas in which participants faced legal challenges.

Questionnaire Q15 asked: What legal decisions do you as an educational leader commonly make?

Table 4.13 shows that decisions in respect of employment issues were commonly made by the participants, followed by decisions regarding student discipline and health and safety.

Table 4.13: Common legal leadership decisions

Response Category	Number of participants' responses
Students discipline: suspensions/stand-downs, expulsions	4
Employment issues related to staff	8
Health and Safety	4
Student enrolment	1
Financial decisions	1
Privacy of information	1
Marking roll	1

Questionnaire Q16a asked: Do you offer legal advice to your staff?

As Figure 4.7 shows, the majority of the participants, either regularly or at times, offered legal advice to their staff. Participants who indicated that they did offer legal advice to staff pointed out in Question 16 (b) that they did so in very general terms, oftentimes pointing staff in the right legal direction for them to source advice for themselves. For example, participants noted that:

It's my place to point staff in the right legal direction, not give legal advice.
(Q/P2)

In general, I would only ever suggest a staff member seek legal advice and/or I would refer them to legislation... (Q/P8)

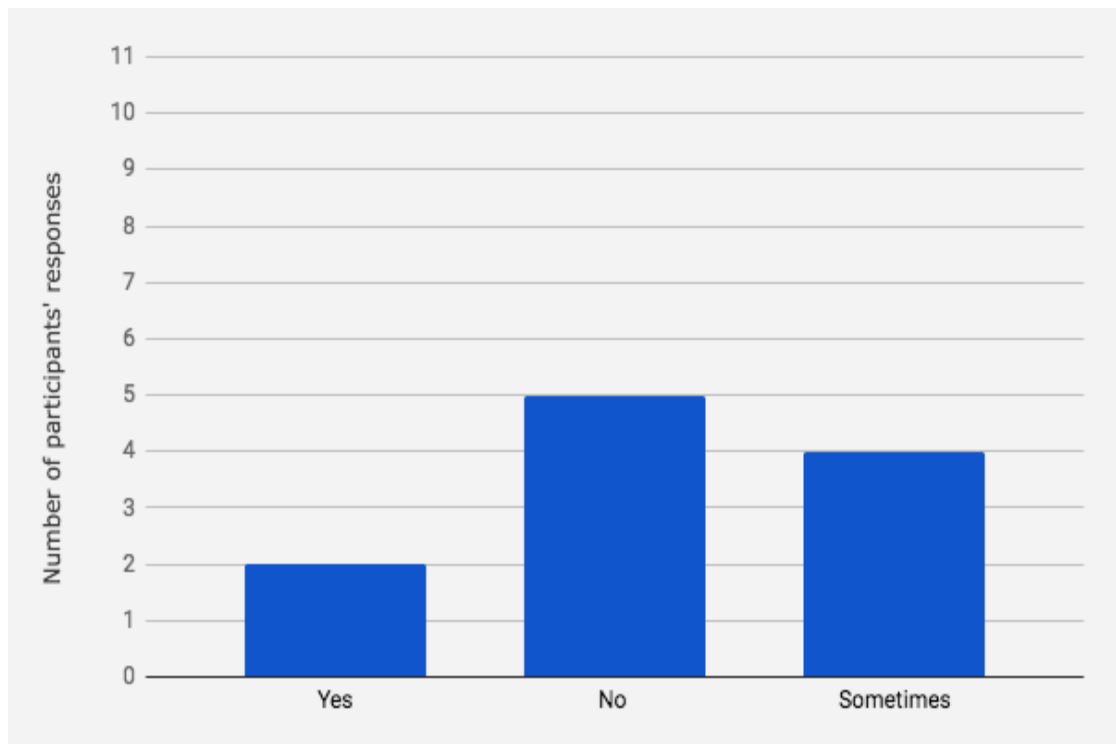


Figure 4.7: Legal advice to staff

Questionnaire Q17 asked: How much time do you spend on addressing legal issues?

Table 4.14 shows that the majority of the participants spent between one to two hours a week addressing legal issues. The participant who indicated that he spends four hours or more also indicated in Question 10 that he was not confident in any area of the law which had an impact on his practice. This relationship between lack of confidence and increased time spent on legal issues was also identified in the study conducted Militello et al. (2009) and is further discussed in Chapter 5.

Table 4.14: Time spent on legal issues

Response Category	Number of participants' responses
None	1
Between 1-2 hours per week	8
Between 3-4 hours per week	1
More than 4 hours per week	1

Educational leaders source of legal knowledge

Questionnaire Q18 asked: What is your main source of legal knowledge?

This question required participants to list their main source of legal knowledge. Table 4.15 describes this data.

Table 4.15: Main source of legal knowledge

Response Category	Number of participants' responses
Secondary Principals' Association of New Zealand (SPANZ)	6
New Zealand Secondary Teachers' Association (NZSTA)	5
Collective agreements	1
Ministry of Education guidelines	2
Seminars	1
Profession Learning Development	2
Professional readings	3
Appraiser	1
Experience	2
Degree papers	1
Short courses	1
Attorneys	1

The questionnaire data shows that the participants' sources of legal knowledge were wide-ranging. The most common sources of legal knowledge being the *Secondary Principals' Association of New Zealand (SPANZ)* and *New Zealand Secondary Teachers' Association (NZSTA)*. Two participants indicated that they relied on the information provided by the Ministry of Education as their main source of legal knowledge. This question was closely linked to Question 10 of the interview which asked interviewees to identify the external legal support available to them to help deal with legal issues that arose in their schools. Table 4.16 shows the external support available and how many participants utilise these services.

Table 4.16: External legal support available to principals

Response Category	Number of participants' responses
NZSTA	5
SPANZ	5
Colleagues	5
Education Council	1
Lawyers	2
MOE	1
Secondary Principal's Association	1

Question 11 of the interview asked Interviewees to elaborate on the effectiveness of the external legal support available to them. The results showed that all five interviewees found the external support to be effective to some extent.

Effective enough to get you started. I don't think anything will be a one-stop shop for everything all the time because everything's in the grey when it comes to legal stuff. (I/ P1)

Very, the SPANZ, the lawyers, Harrison Stone, are very responsive, which is awesome and there's always someone at the end of the phone to give you advice, which is great. (I/P2)

I've found them to be very effective indeed. For the emergency situations being to be able to pick up the phone and ring an experienced person, that's exactly what you need. Other ones, the Legalwise seminars, you've got a resource there that you turn to when I just want clarification about what I would do in a situation like that. It's not an emergency, but you just need to go so you've got that resource there. Then if you're wanting to download some policies or look at other places you could go to either the Ministry or the NZSTA website. So they all play their part, but I've found them all to be useful. (I/P3)

I think all of them are very effective. The STA support and the availability of their advisors is very good. I think we as principals often don't use them enough. I certainly didn't early in my career and learnt the hard way to go to them to get good advice and support. (I/P4)

Yes, it's the helpdesk (NZSTA), because the information you are seeking will be done so in a timely manner. Like if we had an issue now and I rang up I know I could talk to someone and I know they're going to come back to me with more

advice quickly. I've either emailed my dilemmas and got some advice back from them and then been able to ring a particular person, so it's really good. (I/P5)

Questionnaire Q19a asked: Do you rely upon your previous leadership experience when dealing with a legal issue?

Figure 4.8 shows that all participants deferred to their experience when dealing with legal issues. The value of experience in helping with legal issues were expounded by the participants and included:

Everything you do adds to your experience for the next situation. (Q/P2)
I have been in education for over 30 years so I have had some useful learning experiences. (Q/P8)

Some problems are similar to previous, often it is previous experience tells me where to go to get the right advice. (Q/P10)

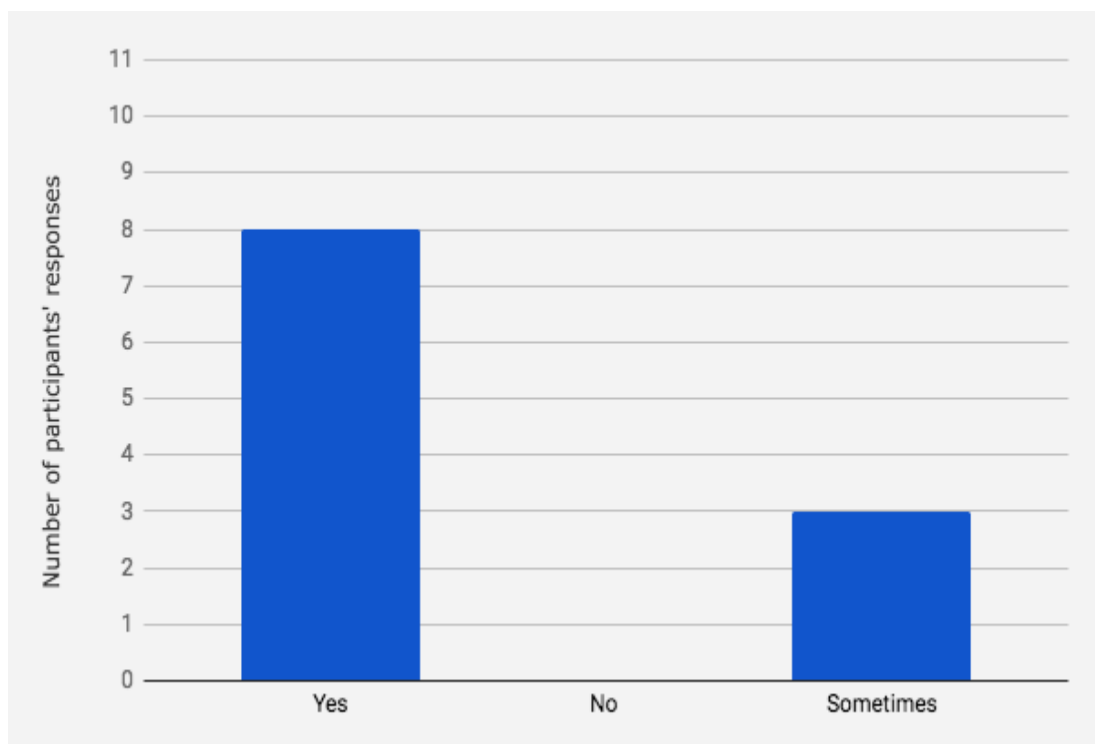


Figure 4.8: Reliance on previous leadership experience

Questionnaire Q20 asked: Which of the following sources of legal advice do you utilise in your role as educational leader? You can select multiple answers.

This question required participants to indicate, from a predetermined list, the sources of legal advice they utilised in their role as an educational leader. Participants were allowed to select multiple sources. The data summarised in Table 4.17 shows that all participants were likely to access professional organisations for legal advice. The majority of the participants indicated that they would seek advice from other school principals. The Ministry of Education and school attorney were the third most commonly selected source of legal knowledge.

Table 4.17: Sources of legal advice

Response Category	Number of participants' responses
Ministry of Education	6
Other principals	9
School's Attorney	6
Professional organisations	11
Print or electronic resources	5
Other	1

Questionnaire Q21a asked: Do you think training in educational law matters is important for principals?

Figure 4.9 shows that most participants were of the opinion that training in educational law matters was important for principals. This position was reaffirmed in Question 8 of the interviews where all five interviewees confirmed that training in education law matters was important for principals.

Yes, for principals because anything that gets to a legal situation is normally going to be in the boss's office, so I don't think trainees need too much exposure and training to the sharp end of that. Deputy principals, if they're looking to aspire, maybe you could play around a little bit, but in terms of essential to do the job it's a principal's gig, absolutely. (I/P1)

Absolutely. It's my neck on the line I feel and it's a huge role that I have when I make a decision to follow through with a stand down, a suspension, with a personnel matter. It has, potentially for those people involved, really big

outcomes for them or very negative outcomes for them. So you have to do your job well and you cannot do that if you don't have the knowledge and the understanding and appreciation of the rights of all parties involved and what you have to do. (I/P2)

Vital, absolutely vital, because there's so many pitfalls you could fall into and you could be sued. The safety of your whole school could be in jeopardy; all sorts of things could be the result. (I/P3)

I'm a fan of a system where to be a principal you have to have gone through a bit of an apprenticeship, they have that overseas, and part of that apprenticeship would be legal elements. It wouldn't be hard to find people to identify what are the key mistakes that new principals make and to make sure that there's some work done on that before people become principals so that they don't fall into those traps. (I/P4)

Given today's climate I think it's important to now consider having some kind of legal component as part of teaching. If you're a middle leader or a senior leader, then certainly to be able to participate in seminars of some kind around legal frameworks is a must. (I/P5)

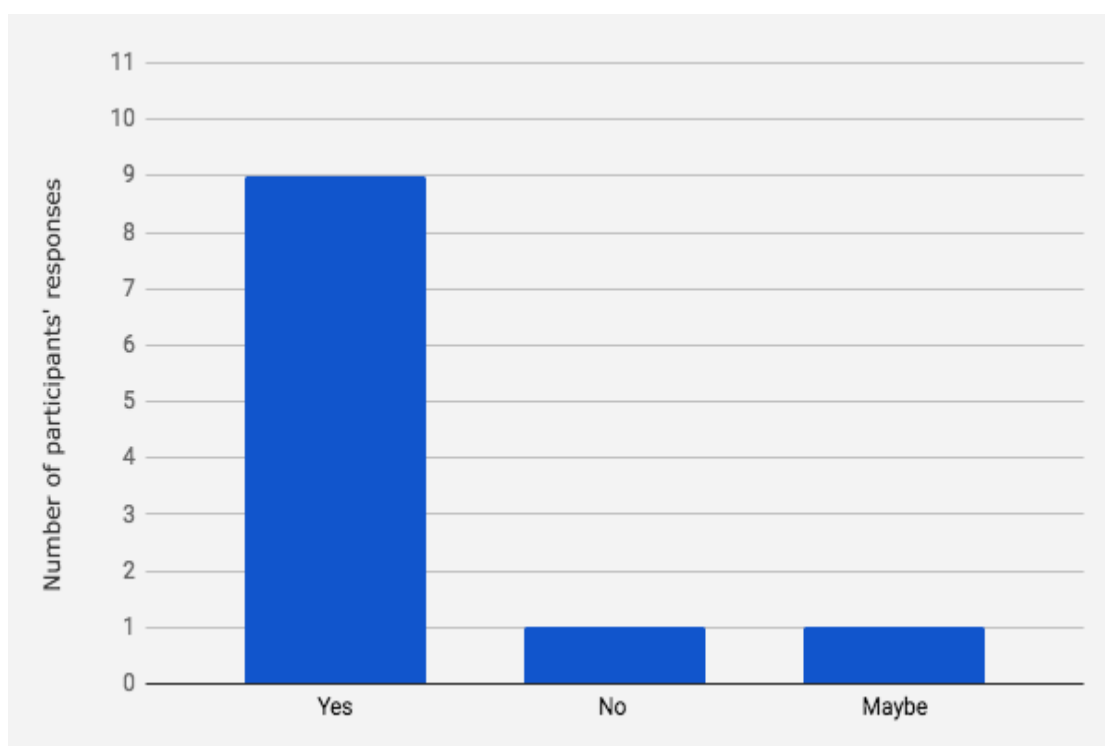


Figure 4.9: Need for principals to have training

Participants indicated that a need for educational law training was necessary to enable them to know what to do and/or when to seek advice should a legal issue arise.

Essential part of training. Of course, may not always have legal challenges but when you do it's important you have some idea of what to do. (Q/P4)

It is critical for our jobs, many principals who get things wrong do so because they didn't seek advice early enough. (Q/P10)

Imperative to have some knowledge and in particular who to call when in doubt. (Q/P11)

This thinking supports the literature which argues that principals do not have to go to law school, but should have adequate knowledge to know when to seek legal advice (Stewart 1996; Rishworth, 1996; Walsh & Anderson, 2012).

One participant indicated that training was not important and offered the following response:

Personally it's negativity thinking and a waste of time. I'd prefer to seek advice when and if needed. (Q/P 9)

The literature shows that this 'wait and see' attitude for handling legally-related matters in schools tends to be curative or dispute-centered and focused on past events (Gordon, 1997; Stewart, 1996; Young et al., 2014). Being reactive rather than proactive, this stance may be said to neglect the needs of students, and all school staff, particularly teachers and senior administrators (Stewart, 1997).

Questionnaire Q23 asked: Through which of the following platforms do you consider educational law training for principals would be most effective? You can select multiple answers.

For this question participants were allowed to select multiple answers. As can be seen from Table 4.18, nine participants considered professional development to be the most effective form of training for principals in educational law matters. Training through legal studies (education papers) was the second, most commonly selected, effective

platform followed closely by self-directed postgraduate studies. This finding is also reflected in the responses of two of the interviewees who indicated some sort of educational law qualification as suitable training for principals.

I do believe formal professional learning undertaking postgraduate work. (I/P2)

My feeling would be that there should be some legal training. If they're not papers offered, some seminars or programmes or courses that people can attend when they're thinking of becoming principals, deputy principal... (I/P4)

Table 4.18: Forms of training for principals

Response Category	Number of participants' responses
Professional development	9
Education papers as part of the 'First time principals programme'	6
Self- directed postgraduate studies	5
Other	4

Questionnaire Q24 asked: Please describe any educational law training which you have participated in.

The most common form of educational law training undertaken by the participants, as shown in Table 4.19, was through attendance at sessions at the SPANZ. None of the participants indicated that they had any formal law training whilst one participant indicated having no educational law training. Educational law training undertaken through SPANZ was also a popular way through which interviewees indicated that they stayed abreast of current developments in education law.

Table 4.19: Educational law training undertaken

Response Category	Number of participants' responses
SPANZ	3
NZSTA	1
Education law seminars	2
First time principals programme training	2
Profession development	2
Short courses	2

Linking to educational law training interviewees were asked to identify the legal topics that they wanted to learn more about. The data in Table 4.20 clearly shows employment law and health and safety to be two topics that participants want to learn about. Earlier findings show that these were the areas in which caused participants concern, opening them up to possible legal challenges.

Table 4.20: Legal topics

Response Category	Number of participants' responses
Cyber safety	2
Health and safety	3
Child protection	2
Employment law (Performance issues/Discipline)	3
Financial law	1

In concluding the interview, interviewees were asked to share any other comments or concerns regarding education law. Four of the five interviewees spoke of the need for more training for both principals and teachers in education law.

I think it's a really worthwhile topic that you're researching. If I look back in my time in education, 30 years now, and I think of how few opportunities there have been for me as a practitioner to engage in legal literacy and understanding the implications and obviously now with my role as a principal there's huge implications if you don't get it right. (I/P2)

I think there are some gaps in the training, I think there's gaps in supporting principals and I think the Ministry maybe needs to take on Board how they can meet those needs, especially if you look at the aging population of teachers and educators here. It can be tough. (I/P3)

I think it would be wise for probably the School Trustee Association to develop some introductory packages for school principals, for new principals. ...when you become a first time principal they give you a first time principal mentor who is an experienced ex-principal. But they're not always people who know the law well.... the challenge as a principal is to understand the law and know how to apply it in the best way possible to meet the needs of your school, without transgressing the law or transgressing people's rights. (I/P4)

It's about being proactive isn't it and particularly for teachers going into the profession who are very vulnerable at times and then most definitely if their career pathways take them into middle and senior leadership.....I think with the 21st century both students and parents are becoming so savvy about their rights. It's out there; the awareness is there for them.... at the end of the day, even for the teacher in the class, how do you protect yourself? That's what it comes down to. (I/P5)

Summary

Chapter Four has presented the data gathered from the secondary school principals through a questionnaire and semi-structured interviews. The data from each of these instruments have not been presented separately but have been aggregated such that key data provided by the participants in the semi-structured interviews have been included alongside the relevant questionnaire findings, where this data reaffirmed data from the questionnaire and served to add depth and clarity to the participants' responses in the questionnaire. Every effort was made to present the data in a clear and unbiased manner. Graphs and tables, as well as the use of direct quotes from the participants, serves to summarise and illustrate the findings.

In the next chapter I discuss the major findings from the data analysis by relating the research findings to literature and research in the field of legal literacy for secondary school principals.

CHAPTER 5: DISCUSSION

Introduction

This chapter discusses the findings and relates them to relevant literature and research in the field of education law. The chapter is organised according to these themes. In the first instance, the findings showed that most participants exhibited only moderate levels of legal literacy. Secondly participants relied heavily on other colleagues and mentors, along with their experience, when dealing with legal issues. Thirdly, participants were concerned by the emotional and financial implications for themselves and their practice due to a lack of legal knowledge. Finally, participants indicated a need for more training for principals to enhance their understanding of education law and so raise their levels of legal literacy.

Creswell (2014) postulates that the most effective way of interpreting qualitative research findings is by examining the lessons learned. In my analysis of the findings this will take the form of meaning derived from a comparison of the findings with information gleaned from the literature or theories. The following four research questions provide the framework for this chapter. The discussion for each research question is completed under several subheadings based on the concerns that emerged from the data collection.

1. What are Auckland secondary school principals' perceptions of legal literacy?
2. What do Auckland secondary school principals perceive as their most influential source of education law?
3. What are the implications of a possible lack of legal knowledge on secondary school principals' practice?
4. How can the understanding of legal literacy amongst secondary school principals be supported?

Research Question 1: What are Auckland secondary school principals' perceptions of legal literacy?

The review of literature reported in Chapter Two indicates that, overall, principals lack an understanding of education law. This study was therefore aimed at examining principals' perceptions of legal literacy and the implications of these perceptions on their leadership practice. Accordingly, items in the questionnaire and semi-structured

interviews were designed to collect data that would indicate principals' understanding of education law and the implications a possible lack of knowledge may have on their practice.

Responses within the category of legal literacy were separated into three sub-categories:

1. Principals confidence with regards to legal literacy;
2. Importance of education law to leadership practice; and
3. Legalisation of schools.

Principals confidence with regards to legal literacy

Participants' confidence in their levels of legal literacy was investigated in the questionnaire through the initial question 'Legal literacy refers to the knowledge that school leaders have with respect to educational law and how it impacts the governance, leadership and management of their schools. Rate your level of confidence with regards to legal literacy.' In the semi-structured interviews participants were asked 'Can you tell me about a time when your knowledge of the law has helped you as a leader?' Both these questions aimed to determine how confident principals were in regard to their legal literacy.

The findings showed that more than half of the participants had limited confidence in their legal literacy. Almost all participants indicated that their knowledge of the law with regards to staff employment and student discipline, particularly in the areas of stand-downs, suspensions and expulsions helped them as leaders. This could be interpreted as areas of the law, pertaining to their practice, that principals felt confident about. Almost all participants indicated that when they felt that they lacked legal knowledge they invariably sought advice from external sources.

The findings that most participants were moderately confident in their legal literacy is in keeping with several studies that have been carried out that also found that principals generally had a limited knowledge of school-related law with the result that they often left themselves open to legal challenges (Stewart, 1998; Trimble et al., 2012; Walsh, 1997; Wardle, 2006). Both Findlay (2007) and Tie (2014) claim that if principals are

equipped with adequate knowledge of school law their confidence levels increase when making decisions of a legal nature. Davies (2009) explains that the pervasive inadequacy of an understanding of the law has resulted in a grave fear of litigation and a lack of confidence causing principals anxiety and stress when making decisions likely to have legal consequences. Many writers attribute this lack of assurance when dealing with decisions of a legal nature to the lack of education law training for school leaders (Stewart, 1998; Trimble et al., 2012; Walsh, 1997; Wardle, 2006).

In this study, this lack of training is evident first and foremost in the participants' lack of understanding of the principles of natural justice. This is concerning given that "most judicial review cases arising out of state schools concern the exercise of the statutory powers to stand-down, suspend, exclude or expel students" (Breakwell & Rishworth, 2016, p. 3). Darlow (2011) explains that this general legal concept requires all people or organisations performing a public judicial function to observe certain principles of fairness. For schools it means that students must be treated fairly, and decisions that affect their rights - such as stand-downs, suspensions and exclusions - should be made using fair procedures (p.55). Cuncannon and Dorking (2002) point out that for natural justice to prevail, there must be procedural fairness in every situation because, as Smith (2004) reminds us, the courts readily assume that decisions affecting a person's rights, interests or legitimate expectations, will attract natural justice unless the legislation clearly states differently. Students have a right to education and any interference with such a right, unless procedurally sound, is likely to be amenable to judicial review. Walsh (2016) further advances that in view of the "finality of principal and school Board decisions it is crucial that any removal from school should be justified in accordance with strict criteria and procedural protections to protect access to education" (p.7). In her paper entitled *Restorative Justice in Schools vs the Formal Provisions under Section 14 of the Education Act*, Walsh's examination of the youth law case files revealed that the number of 'kiwi suspensions' - a term used to indicate the illegal suspension of a student - is steadily on the increase (Figure 5.1). This contention is evidenced by the 2016 statistics gathered by the Ministry of Education, which shows that age-standardised stand-down, suspension, and exclusion rates have increased (Ministry of Education, 2017c). Whilst it can be argued that not all the stand-down, suspension, and exclusion cases covered in these statistics are the result of the improper application of the

principles of natural justice, it can be assumed, considering the number of 'kiwi suspensions', that these suspensions have served to significantly increase the overall rates of denial of access to education and until and unless school leaders are adequately educated in the aspects of law that impact their schools, this unsatisfactory situation is not only likely to persist but escalate.

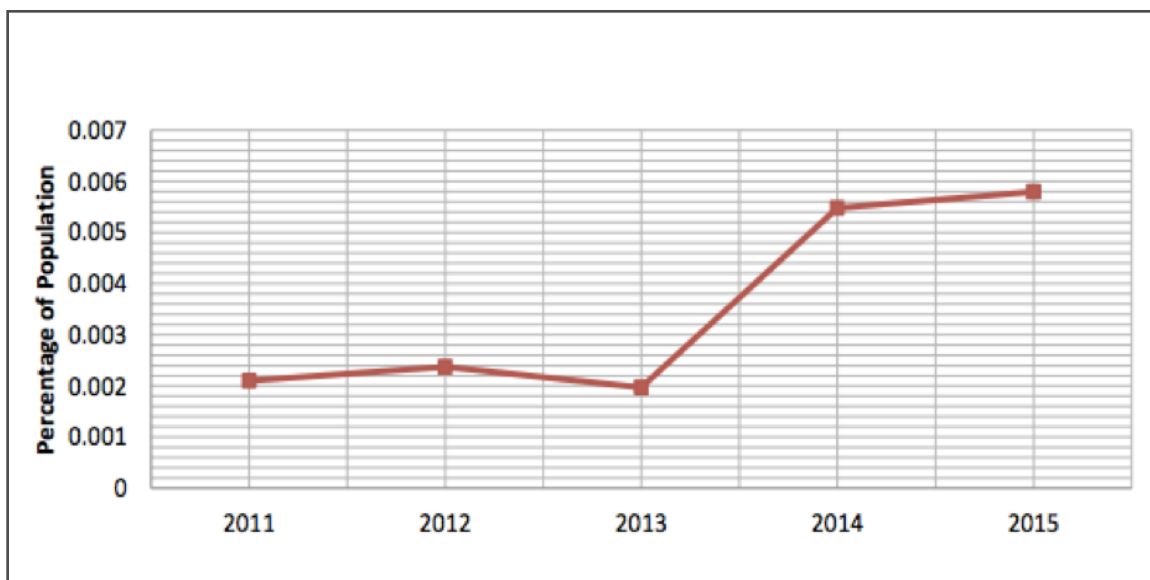


Figure 5.1: Percentage of “kiwi suspensions”

(Source: Walsh, 2016, p. 15).

It is important to note that even though participants of this study could not clearly define the principles of natural justice, most believed that they had some understanding of these principles. The literature shows that most judicial review cases in New Zealand and overseas jurisdictions are brought on the grounds of a breach in the rules of natural justice (Breakwell & Rishworth, 2016; Caldwell, 2006; Rishworth, 1996; Cranston et al., 2013). The Ministry of Education in New Zealand asserts that school leaders have many responsibilities to groups and individuals within the school community and, whilst they don't have to be lawyers to lead the school, they do need to understand how natural justice affects their role (New Zealand Ministry of Education, 2014). These responsibilities emanate from the fact that principals, being mostly public sector employees of government schools, have a legal duty to ensure that their decisions, which affect the rights and interests of individuals and groups, accord with the rules of procedural fairness (Administrative Review Council, 2007).

So important are the rules of natural justice to the rights of individuals, that the *New Zealand Bill of Rights Act* of 1990 (Government of New Zealand, 1990) provides for an aggrieved person to apply for a judicial review in the High Court if they believe the observance of the principles of natural justice has been breached. Judicial review is more concerned with the manner in which a decision is made than the merits or otherwise of the ultimate decision. As long as the processes followed by the decision-maker are proper, and the decision is within the confines of the law, a court will not interfere (Cucannon & Dorking, 2002). Given the importance of a clear understanding of the principles of natural justice in the decision-making of principals, it is perplexing that participants in this study did not seem to have a coherent understanding of these principles. A lack of understanding of the principles of natural justice was also a finding in the study conducted by Wardle (2006) who points out that “without a good working understanding of procedural fairness it is highly likely that principals will get themselves into trouble very quickly when problems arise “(p.3).

A study of the literature shows that a principal’s overall understanding of education law is impacted by the importance placed on education law, legalisation of schools, training in education law, and the sources of education law (Cranston et al., 2013; Davies, 2009; Findlay, 2007; Gordon, 1997; Militello et al., 2009; Stewart, 1996; Tie, 2014; Trimble et al., 2012; Walsh, 1997). In this study, these factors were examined in respect of their findings to determine how they contribute to principals understanding of school related law.

Importance of education law to leadership practice

The importance of education law to leadership practice has been well established in previous studies (Davies, 2009; Stewart & McCann, 1999; Tie, 2014; Walsh, 1997). This importance emanates from the fact that schools are operating under an increased volume of legislation that needs to be taken into consideration when making decisions which are likely to result in possible risk to the school. Walsh (1997) points out that the rapid increase of New Zealand schools’ involvement with the law has reached a point where school leadership is now involved with a large body of statute law. Several studies have shown that principals who value the importance of education law are more aware of their legal obligations and are therefore less likely to make adverse decisions that may

result in a legal challenge to their school (Davies, 2009; Stewart & McCann, 1999; Tie, 2014). The data in this study show that ten of the participants thought that education law was important to their leadership practice, and that training in education law was important to ensure that principals acted within the legal boundaries and so protected themselves and their schools from legal consequences. Given the importance that the research attaches to principals' knowledge of school law and the possible implications likely to emanate from a lack of such knowledge, it is concerning to note that not enough attention is being paid to this aspect of a principal's training in New Zealand. Up until recently principals received most of their training from the *First Time Principals' Programme* (New Zealand Ministry of Education, 2017a). Wardle (2014), in his research study, examined the usefulness of this programme and came to the conclusion that at best it was "casual in its coverage of legal issues" (p. 106). *The First Time Principals' Programme* and the *National Aspiring Principals' Programme* have now been replaced by three new leadership programmes – Leadership advisors; Emerging leaders; and Expert partners – being offered by the Ministry of Education (New Zealand Ministry of Education, 2017b). From my examination of these programmes, it appears that, yet again, very little attention is being paid in respect of providing principals with the knowledge they require to manage those aspects of the legal system impacting on school policies and procedures.

One participant believed that education law was less than 1% of a principal's job and was therefore not important to leadership practice whilst another contended that the law was more about common sense. The perception that education law and leadership practice are separate entities shows a lack of the understanding of education law. The *Education Act* of 1989 establishes the legal framework for our education system and creates the foundation upon which education law in New Zealand rests. Militello et al. (2009) point out that the adoption of the 'self-managed school' model in New Zealand has devolved a raft of responsibilities that have legal consequences to the level of the individual school. This has substantially increased the impact of education law on the everyday practice of principals (Hancock, 2002). Education law arises primarily from education-specific legislation and is comprised of both statutory and common law. It is further influenced by the myriad of Ministry of Education regulations, by governmental agencies, by policies and guidelines issued pursuant to legislation, and by collective

agreements (Brown & Zuker, 2007; Walsh, 1997). It is not surprising then that Rishworth et al. (2001) claims that the law of education necessarily permeates the decisions of principals, school Boards, and their advisers. It is therefore imperative that decisions made by principals in their everyday leadership practice have their basis in one or more tenets of education law - one cannot argue that education law is separate from leadership practice. Furthermore, the contention that principals simply need to have a common sense approach also undermines the importance of education law to school leadership. Reglin (1992) noted that the ability of principals to provide proper supervision and to protect the rights and welfare of students, requires more than common sense. Instead principals need to have a working knowledge of education law. This misconception of a common sense approach is also highlighted in the study conducted by Young et al. (2014) where it was found that teachers often believe that simple common sense is all that is required to guide their behaviour in and out of the classroom, yet the prevalence of litigation involving teachers would appear to indicate otherwise.

The data from this study suggest that the common sense approach advocated by the participants could be interpreted as some principals not having a clear understanding of education law, resulting in a lack of appreciation of its importance in their leadership practice. Whilst it can be asserted that the law needs to be balanced with common sense, the propensity for parents to legally challenge decisions taken by schools makes it prudent to have any decision taken supported by the law. As Song (2014) cautions, common sense should not be relied on as a sole authority when making decisions, as this is prone to result in arbitrary outcomes likely to attract the interests of the courts.

From the findings it appears that most principals see education law as being important; however, some of the responses indicate that there are principals who do not understand some aspects of education law and are therefore more likely to make legally reckless and arbitrary decisions, resulting in ramifications for the school community. Accordingly, it can be argued, there is a need for greater clarity for principals in respect of what education law is and how it impacts their everyday leadership practice.

Legalisation of schools

Some of the participants in this study were of the opinion that New Zealand schools were fast becoming legalised due to increased legislation, the willingness of parents to challenge decisions and an overall awareness in the community of students rights. These elements were similarly identified by both Walsh (1997) and Cranston et al. (2013) as contributing to the rapid legalisation of schools. As stated previously, in New Zealand the practices and procedures used by principals must not only be in line with the *Education Act* of 1964 and the *Education Act* of 1989, but must also take into consideration New Zealand common law, New Zealand criminal law and the plethora of statutes and regulations affecting schools (Walsh, 1997). This is compounded by the considerable amount of school-related case law arising in New Zealand of which principals need to be cognisant. This legalisation of schools has resulted in principals being held to a higher standard of accountability in respect to their decisions, and it can be argued that they need to now implement effective risk management policies to protect themselves and their practice from legal challenge. The question though, remains: Do these principals have the knowledge needed to draw up risk management policies required to protect themselves and their schools from legal action? As Stewart (1998) informs us, the implementation of effective risk management policies calls for principals to have “a level of legal literacy sufficient to inhibit and hopefully prevent a legal problem developing” (p.133).

The findings in this study suggest that participants have limited levels of legal literacy with the result that only five of the eleven participants perceived themselves to be completely confident with developing effective risk management policies for their schools. According to Robins (2011), the risks inherent in principals not being confident in this area means that they will not be able to develop policies, procedures and activities that will prevent, reduce and mitigate risk to students, staff, property and reputation. It is precisely for this reason that Stewart (1997) called for the “urgent review of legal risk management policies and practices” (p. 147). He emphasises the compelling need for principals to ensure that, as part of their overall professional knowledge, they have sufficient understanding of school law, including a working knowledge of the parliamentary statutes and common law decisions which affect

schools. Stewart (1997) further contends that this will enable them to implement appropriate legal risk management strategies in their schools. Given the increased levels of litigation being brought against school Boards, and as education becomes high stakes and legal actions by parents are edging dangerously close to undermining the authority of the country's principals to manage their schools (Walsh, 2016), it is compelling that New Zealand moves with a degree of urgency to ensure that their school leaders are adequately trained to minimise these legal challenges. This could be achieved through appropriate and compulsory legal training. Whilst Stewart (2000) is not a proponent of training imposed by legislation, Pont, Nusche, and Moorman (2008) make a strong case for compulsory training, arguing that "If school leaders themselves, or their employing Boards of trustees, do not recognise the need for development, the system has no strong levers to require it of them" (p. 112). Given the importance of principals having adequate levels of legal literacy to protect their school from legal exposure there is, it could be argued, the need to make training in education law compulsory, so at the very least they can recognise when a legal problem is developing and seek legal advice. To deal with the rapid escalation in the legal challenges being brought to bear on schools, New Zealand Crown Law is drafting legal submissions for school Boards to use when challenged (Bilby, 2015). This support, will only be effective if principals and Boards know when to seek legal advice. As Walsh (1997), points out the increase in legal issues facing schools is due in part to principals and Boards of Trustees acting in ignorance of the law and failing to seek legal advice when necessary. Wardle's research (2014) expressed concern that principals did not have a sure way of determining when an issue was developing into a legal problem, with principals oftentimes relying on the "level of emotion generated by the issue" to make this call (p.114). This awareness, others argue, can be gained from education law training which will render principals sufficiently legally literate to know when to seek legal advice in order to make informed decisions concerning legal issues in school (Davies, 2009; Findlay, 2007; Militello et al., 2009; Rishworth, 1996; Stewart, 1996; Trimble et al., 2012; Walsh & Anderson, 2012).

Research Question 2: What do Auckland secondary school principals perceive as their most influential source of education law?

It can be argued that the source of a principal's knowledge of education law will affect the accuracy of their knowledge. Stewart (1998) claims that the "training, qualifications

and experience of principals should equip them adequately for the extensive and increasing range of professional responsibilities being demanded of them” (p.130). Questions in both the questionnaire and the interview were designed to elicit information to help find out from where the respondents in this study gained their knowledge. The data show that the participants’ sources of legal knowledge were wide-ranging. Whilst a number of participants indicated their use of professional organisations such as the SPANZ and NZSTA for legal advice, the practice of seeking advice from other principals and relying on their own experience to deal with legal issues was also popular. This finding is similar to that found in the 2006 study conducted by Wardle, who found that principals showed confidence in the two main organisations providing support for them, namely the *New Zealand Education Institute* (NZEI) and *School Trustees Association* (STA). This study, therefore, reinforces the continuing importance of professional organisations in the professional lives of principals. However, in light of the discovery by Wardle (2006) that some principals are receiving conflicting advice from the different organisations, it can be argued that too much reliance by principals on professional organisations without them having an adequate level of legal literacy themselves to discern the accuracy and suitability of the advice solicited, is likely to result in principals following inaccurate advice from these organisations with legal ramifications for the school. Furthermore, considering that “these professional associations vary in their status, mandates and functions” (Pont et al., 2008, p. 176), there is a real possibility that the information dispensed by professional organisations may be skewed by possible bias, resulting from them acting within the scope of their mandate. With adequate levels of legal literacy it could be envisaged that principals will become more au fait with what is expected of their schools and will, accordingly, be able to critically evaluate the advice of these organisations to determine whether the advice received is suitable for them and their school and not biased in favor of a particular party.

The revelation that a number of principals seek advice from other principals and rely on their own experience when dealing with legal issues raises concern, especially as a number of studies have pointed out that the knowledge principals do have is often distorted, inaccurate or based on misinformation (Decker, 2014; Schimmel & Militello, 2007; Stewart, 1996; Wardle, 2006). Wardle (2006) points out that a reliance on other

principals will require that these 'other principals' have a thorough understanding of education law to be able to dispense accurate advice. Caution however needs to be paid to the concern raised by Cranston et al. (2013), who point out that a principal's work may be most directly impacted by education law in instances where a legal issue arises and the principal deals with the matter by relying on his or her own knowledge and experience, or that of colleagues, rather than seeking expert legal advice.

A broader perspective has been adopted by Stewart (1996), who advances that reliance on professional knowledge gained solely through experience would provide principals with little understanding of the wider range of legal matters which have the "potential to impact on the management of schools" (p. 135). Such practices would also be likely to result in arbitrariness and lack of consistency in decision making. Stewart (1996) argues that due to the complexity and ever-changing nature of the legal issues that principals are increasingly facing, a reliance on intuition and school-based experience to aid in the development of preventative risk management policies and practices is a mistake. This sense of reliance on experience when dealing with school matters raises further concerns in respect of novitiate principals. Stewart and McCann (1999) point out that school communities expect principals "from the moment of their first appointment to be experts on all matters" (p. 144). This Stewart (1997) maintains, puts the "novitiate principals at considerable legal risk, particularly as they have the potential to face the full range of law affecting schools" (p. 139).

Keeping in mind that there is an incredible expectation for newly appointed principals to have a mastery of their principalship there is a real need for them, as pointed out by Pont et al. (2008), to receive adequate training before taking up a principal position. In their research (Figure 5.2), they examined the leadership development approaches across 22 countries and found that New Zealand was amongst one of the very few countries not offering mandatory pre-service training as a pre-requisite for principalship.

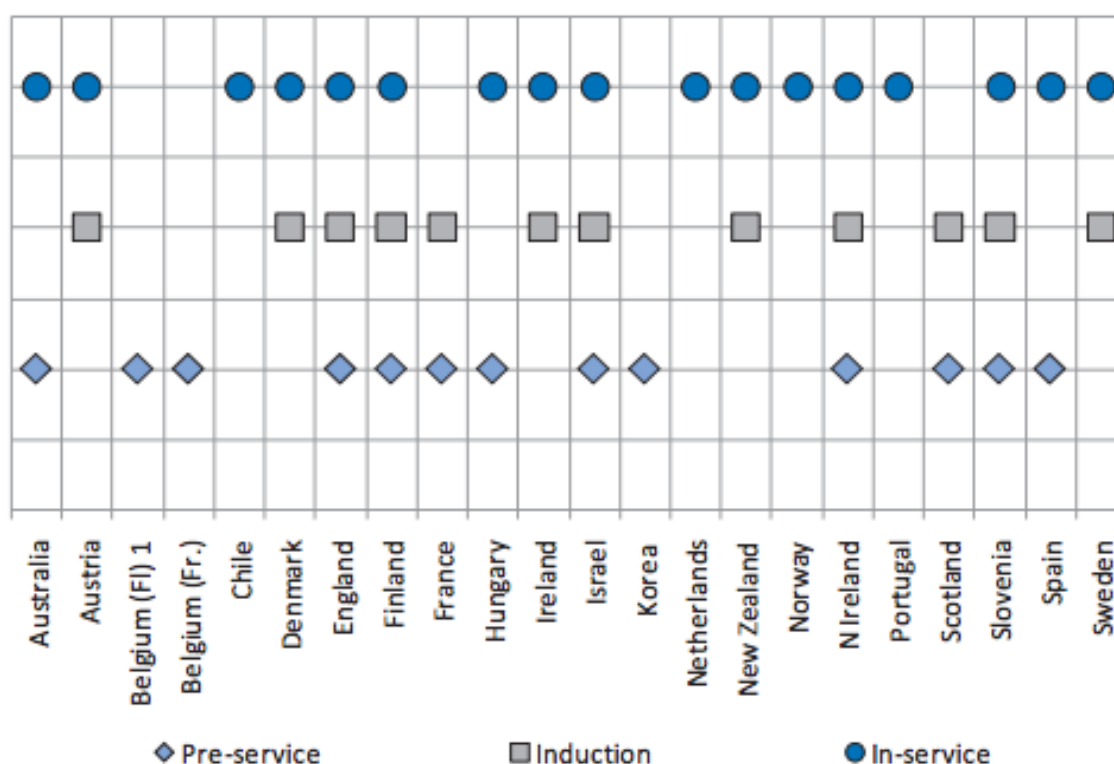


Figure 5.2: Leadership development approaches across countries, 2006/07, public schools

(Source: Pont et al., 2008, p. 109).

Adequately preparing aspiring principals with regard to education law helps novitiate principals, who otherwise lack principalship experience, to deal with legal issues or at the very least be aware of when an issue requires legal advice. Mulford (2003) asserts that education should, like law and medicine be considered a profession and just as lawyers are required to pass the bar exam or doctors their internship before being given the license to practice, so too should aspiring principals be adequately prepared for all major aspects of principalship before being deemed suitable for appointment. Mulford (2003) explores the career stages of a school leader and argues that the evolving context of modern principalship requires urgent attention be paid to the systematic induction of school leaders over a period of time. He cites, as an example, the *New Leaders for New Schools* (Goldstein, 2002), induction programme undertaken in the United States of America. In this programme, which is aimed at recruiting and training principals, aspiring principals receive seven weeks training in educational leadership, one year paid internship under the guidance of a master principal and two years of intensive professional development upon appointment as a principal. The closest that we have come to this type of training in New Zealand is the *Master of*

Secondary School Leadership, offered by the University of Victoria, which aims to provide hands-on training for aspiring principals, combining theory with practical experience shadowing principals in schools around the country over a period of three weeks (Victoria University of Wellington, 2017). An examination of the courses offered for the theory component shows that principals will, through the *Managing the Organisation and Systems* course, be exposed to legal and governance issues faced by school leaders. Whilst programmes such as these should start making inroads into effectively preparing aspiring principals for principalship, this programme, as well as the current leadership programmes being offered by the Ministry of Education, are not mandatory. This voluntary approach to pre-service training relies on the interest and initiative of aspiring principals to undertake such training. It can be anticipated that many aspiring principals may deem it not necessary for them to undertake such pre-service training, and upon appointment as principal, they will continue to perpetuate the lack of education law knowledge evident amongst school leaders. In choosing to make pre-service training optional for aspiring principals, attention should be paid to the concerns raised by Dr Linda Bendikson, Director of the University of Auckland's Centre for Educational Leadership, who states that:

New Zealand has a lot of very small schools and their principals receive minimal, if any, pre-principalship training. It is time we found better ways to support them in their positions and put more rigour into ensuring teachers in rural areas with principalship aspirations are identified early and provided with preliminary leadership training in preparation for these roles. (Bendikson 2015)

In light of this concern and the several studies which have shown that principals are not adequately trained in education law and therefore are not able to effectively manage the risks likely to arise in their schools, it could be argued that, to ensure that principals are ready to take up the legal cudgels of their role, the Ministry of Education must make pre-service training mandatory and a condition of appointment to principalship. Furthermore, they need to allocate the time and resources necessary for such training to take place so as to make this training more accessible to those aspiring for principalship.

In this study there was a clear contradiction between areas of the law participants felt confident in and those areas in which they changed their decision due to a legal challenge. The findings showed that student discipline, teacher discipline and staff employment were areas of law that the participants felt confident about. However, it was noted that these were the areas in which participants changed their administrative decisions once challenged. This could be seen as principals perceiving themselves to be confident in these area when they are in reality not so. Findlay (2007) talks of the false sense of confidence that school leaders have when dealing with legal matters and states that this confidence could be based on experience or intuition that does not always serve them well or on their practice of consulting with colleagues when dealing with legal issues. It can therefore be established that confidence does not necessarily mean an understanding of the law and this may very well explain why, notwithstanding the fact that the participants in this study felt confident in the areas of student discipline and staff issues, these were the areas in which they were often legally challenged. This could point to the dangers of relying too much on one's previous experience when dealing with school related matters likely to engage the law.

Research Question 3: What are the implications of a possible lack of legal knowledge on secondary school principals' practice?

The research into the implications of a possible lack of legal knowledge on secondary school principals' practice in this study revealed the following themes:

- Financial and emotional costs;
- Fear of litigation;
- Restraint in respect of legal advice to staff;
- Change of administrative decisions; and
- Limited confidence in respect of policy development.

Each of these themes is discussed in further detail below.

Financial and emotional costs

Participants' views of financial and emotional costs as the greatest implications for a lack of legal knowledge for secondary school principals is supported by many writers including Cuncannon and Dorking (2002). They assert that resolving disputes through the intervention of the courts is not only likely to result in a hefty legal bill but that the proceedings are likely to be divisive and use up scarce resources, including time and emotional energy. This, they argue, will ultimately affect the quality of education provided to students. In this study one participant spent more than four hours a week on legal matters. A cross referencing of responses showed that this participant lacked confidence in most areas of school related law. This relationship between a lack of confidence and the increased time spent on legal issues has also been identified in the study conducted by Militello et al. (2009) and is supported by Findlay (2007) who posits that a lack of familiarity with statutes and case law leads to poor decision making, ineffective school management, and consequently, costly and time-consuming litigation. In addition to the emotional and financial toll legal actions may have on principals and their practice, participants also expressed their concern that any legal action brought against the school is likely to cause harm to its reputation. This concern finds acute application in New Zealand in light of its school choice policies, and is articulated by Gordon (1997) who points out that given New Zealand schools are forced into direct competition with one another for students and the number they attract directly influences the resources they receive it is imperative that they maintain their profile in the market place. In this context it is understandable that principals are concerned about the possible harm to their schools that legal challenges may bring and it is therefore essential for them to have adequate levels of legal literacy to identify when a legal problem is developing and to seek legal advice before it escalates to a 'full blown' legal action with sanctioned consequences for their school.

Fear of litigation

The majority of participants in this study expressed their fear of possible legal action by parents and staff. Davies (2009) contends that this fear can be attributed to their knowledge deficits as such a lack of knowledge can prompt fear. In his study, Stewart (1996) points out that this fear can result in principals harbouring unreasonable

“‘doomsday’ perceptions concerning their personal responsibility for all legal matters that arise in their schools” (p.140), and this may, according to Militello et al. (2009), result in principals eliminating programmes because of liability concerns, ultimately affecting education delivery in public schools. A case in point is the newly introduced *Health and Safety in the Workplace Act* of 2015 which caused considerable consternation amongst school principals to the extent that some, as a knee jerk reaction to the possible penalties, chose to remove high risk activities from their curriculum. This concern could well be the result of principals not having adequate levels of legal literacy to reasonably interpret the provisions of the Act and instead harbour ‘doomsday’ perceptions (Stewart, 1996, p.140), to the detriment of their students. Education law knowledge would give principals the confidence they need to put in place policies that will effectively manage, “as far as it is reasonably practical”, the risk of harm to those in their care and so meet their responsibilities under the *Health and Safety in the Workplace Act* of 2015.

Restraint in respect of legal advice to staff

This study found that the majority of the participants offered legal advice to their staff but only did so in very general terms, oftentimes pointing staff in the right legal direction for them to source advice for themselves. Providing information on a general basis or redirecting staff to seek advice for themselves may be attributed to principals’ lacking confidence in their legal literacy. Militello and Schimmel (2008) are adamant that whether they know it or not, principals are a key source of information about school law. This argument is supported by several other researchers (Decker, 2014; Militello et al. 2009; Stewart, 1998; Tie, 2014; Trimble et al., 2012). Many researchers have, however, observed that currently the information provided by principals is a mixture of accurate, inaccurate and ambiguous information (Decker, 2014; Schimmel & Militello, 2007; Stewart, 1996; Wardle, 2006). Findlay (2007) maintains that administrators who are ignorant of education law are often perceived by their teachers to be inept whereas administrators with immediate responses to issues in a legally correct manner demonstrate more effective leadership. Considering that almost all participants in my survey indicated that they dispensed legal advice to their staff, however general, it is imperative as Militello and Schimmel (2008) point out, that they

should become conscious, informed and effective school law teachers of their staff and so help staff understand the laws that affect them and consequently protect their students, staff and themselves (Militello et al., 2009).

Change of administrative decisions

Real or perceived threats and challenges have the potential to influence behaviours; specifically, the decisions that school leaders make (Militello et al., 2009). The majority of the participants in this study had faced a legal challenge in their role as principal with most of them attributing this to the increased awareness amongst students and parents. This finding aligns with the argument advanced by Rishworth (1996), that unpopular school decisions are being subjected to increased scrutiny by commentators both inside and outside school communities as they become more aware of education law. This, he contends, will invariably lead to an increase in the number of legal challenges faced by school leaders. Although the majority of participants in this study indicated having faced a legal challenge, less than a third changed their administrative decision as a result of a legal threat. This finding was unexpected and suggests that some principals are capable of making decisions that are robust and legally compliant. The 2009 study by Militello et al, which investigated the impact of legal knowledge on a principal's practice in schools in the USA, found that almost one third of the principals changed their decisions regarding school discipline as a result of legal threats. Similarly, the results of my study showed that participants who indicated that they changed their administrative decisions did so mainly in the areas of student discipline and staff employment matters. Whilst these participants represented less than a third of participants in this study, attention should be paid to the warning of the many researchers (Breakwell & Rishworth, 2016; Rishworth, 1996; Stewart, 1998, Walsh, 1997) who contend that in light of the recent increase in review proceedings being brought against decisions made by the Board of Trustees, more principals in New Zealand schools are likely, in the face of these increased legal threats, to change their administrative decisions in a range of areas. These areas include but are not limited to student discipline and staff employment. It is imperative, therefore, that principals make well informed decisions that can withstand review by the courts. Implicit in this is the principal's ability to follow proper procedure when making decisions. As

discussed earlier, given the fact that many principals do not seem to understand the principles of natural justice, which is the very foundation of procedural fairness in decision making, it stands to reason that they will continue to make decisions that will be open to review by the courts and likely to result in a change of administrative decisions.

Limited confidence in respect of policy development

As stated earlier the findings of this study show that less than half of the participants were completely confident with developing effective risk management policies for their schools. In light of Stewart's (1998) contention that the implementation of effective risk management policies calls for principals to have "a level of legal literacy sufficient to inhibit and hopefully prevent a legal problem developing" (p. 133), it can be suggested that the participants' limited confidence in respect of policy development could be attributed to their lack of legal literacy. Given that in New Zealand there is "higher degree of autonomy and accountability at the school level" (Pont et al. 2008, p. 10), there is, it could be argued, a greater need for schools to have effective risk management policies in place to minimise exposure of their schools to legal action. It appears to be common practice for principals and Boards of Trustees to rely extensively on generic policy templates provided by the NZSTA when developing their school policies. Not having an adequate level of legal literacy could mean that these principals are not mindful of the situational dangers that may arise in their schools, and may not be able to address these risks in their policies. In order to minimise risk in self-managing schools, it is imperative that school leaders know what is required of their schools and not rely on what "someone from somewhere might tell them is required" (Wardle, 2014, p.9). This could be achieved by making risk awareness a mandatory part of aspiring principals' training.

Research Question 4: How can the understanding of legal literacy amongst secondary school principals be supported?

All participants in this study agreed that principals' understanding of education law can be supported through more training which will enable them to know what to do and

when to seek advice should a legal issue arise. This thinking supports the literature which asserts that principals don't have to go to law school but should have adequate knowledge to know when to seek legal advice (Rishworth, 1996; Stewart 1996; Walsh & Anderson, 2012). One participant, however, indicated that training was not important and all that is required is for leaders to have the wherewithal to seek advice if and when needed. The literature shows that this 'wait and see' attitude when dealing with legal matters arising in schools tends to be remedial or after the fact (Gordon, 1997; Stewart, 1996; Young et al., 2013). Being remedial, this stance may be said to "neglect the needs of students, and all school staff, particularly teachers and senior administrators" and, consequently, lead to legal challenges for the school (Stewart, 1997, p. 142).

The majority of the participants in this study considered professional development to be the most effective form of training for principals in educational law matters. This form of training is supported by Stewart and McCann (1999) who argue that principals require appropriate professional development to get a better understanding of the law and so "adopt preventive legal risk management strategies" (p.147). However, Stewart (1998) suggests that professional development courses which lack practical application do not make a substantial difference to the legal knowledge of principals. Such courses, Stewart and McCann (1999) posit, are "generally successful when principals or classroom teachers are directly required to establish school policies and implement school practices in order to facilitate a statutory provision or a common law decision" (p. 145).

Like the study conducted by Findlay (2007), the desire for professional development from participants in this study appears to be consistent with the fact that they had a level of concern about their ability to make correct legal decisions. This, it can be claimed, supports their desire to receive some measure of professional development notwithstanding their self-assessed levels of confidence in their ability to deal with legal issues. Participants indicated that they wanted more professional development in the areas of employment law (personal grievances), health and safety, child protection and cyber safety. It should be recalled that areas of staff employment and student discipline were areas in which participants faced most legal challenges and this could be the reason why these are the topics that they want to learn more about. The

Health and Safety in the Workplace Act of 2015 and the *Vulnerable Children's Act* of 2014 (Government of New Zealand, 2014), which serves to protect children, are relatively new and quite demanding. It therefore stands to reason that participants want to learn more about these topics to ensure that they make decisions that are compliant with these legislations. Similarly, as the *Bring Your Own Device* programme continues to gain momentum in schools (Stock, 2017), participants are seeking more professional development around cyber safety, so they are able to deal with behavioural concerns surrounding the use of these devices.

Training through legal studies (education papers) was considered to be the second most effective platform. In her review of several education law studies, Decker (2014) concluded that legal training was positively correlated with legal knowledge and was perturbed that many school Board members, teachers and other school employees were not required to receive any legal training. This concern is mirrored in New Zealand in that it is not a condition of appointment for school Board members, principals or teachers to have any legal training. Given that Board members and principals are instrumental in developing policies for their schools to safeguard against risk, this concern, in light of our present day litigious climate, is indeed of concern.

Teacher training

The findings in this study reveal that principals are most often challenged in the area of student discipline. Considering that students spend a significant amount of their time in classrooms, it can be argued that quite often these disciplinary issues emanate from the classroom with the teacher being the first to deal with this. If teachers are adequately trained to deal with these issues fairly and without prejudice to the student, then the likelihood of these issues escalating into a full blown legal challenge for the principal may be minimised.

Many researchers advance the need for teachers to be legally literate in order for them to act in accordance with the law within their classrooms and so prevent a legal issue from arising in the first instance. Schimmel and Militello (2011) contend that:

Traditionally it may have been adequate to only require principals to take a course in school law. But this tradition was born of an earlier era-before public schools became law-saturated systems, before the Bill of Rights impacted every public school classroom, and before some parents and students came to believe that every injury deserves a financial settlement and every educational dispute merits a legal claim. Therefore, we believe that the failure to provide all teachers with a basic understanding of school law, in view of today's demonstrated need, can be considered a form of educational malpractice. (p.51)

A little over half of the participants surveyed in this study believed that teachers required knowledge of education law and three of the five interviewees indicated that education law should be taught at teacher training institutions. Two interviewees indicated that they did not think that education law should be taught at teacher training institutions. Their responses seem to indicate, rather erroneously, that education law training for teachers will only serve to enhance teachers' knowledge of their employment rights. This view fails to take into account the number of positive effects, as expounded below, that a training in education law will have for both teachers and students.

The *Professional standards for secondary teachers* require teachers to effectively manage student behavior (New Zealand Ministry of Education, 2015). This requires an understanding of education law especially with regards to the principles of natural justice when dealing with student discipline in the classroom. Doctor (2013) posits that teachers discipline and hold students accountable for appropriate as well as inappropriate behaviors and it is therefore crucial that they have knowledge of the law. Similarly, Moswela (2008) contends that knowledge of the law will give teachers more confidence and freedom when disciplining the students as they will be more familiar with correct procedures. This may also result in enhanced student-teacher relationships in which students perceive teachers to be fair and impartial when dealing with them.

Delany (2008) points out that knowledge of education law can evoke in educators a paranoia which may stifle their efforts in the classroom. This position is challenged by Littleton (2008) who asserts that teachers who possess an inadequate level of legal knowledge may discourage risk taking and innovation in their classrooms. It could be argued that given the rapid legalisation of our schools, education law knowledge cannot be a matter of choice. This is consistent with the views of Schimmel and Militello (2011) who maintain that whilst some critics of teaching teachers about school law argue that a little legal knowledge can be a dangerous thing, legal ignorance is much more dangerous.

This chapter has highlighted and discussed the themes that emerged from the findings. In the next chapter I draw conclusions from such discussions, identify the limitations of my study, and present directions for future research.

CHAPTER SIX: CONCLUSIONS AND RECOMMENDATIONS

Introduction

Having answered the questions which this research study sought to answer in Chapter Five, this final chapter gives a synopsis of the research findings as elucidated in Chapter Five, and considers the overall conclusions and recommendations for this study. The limitations of the research are also summarised.

Summary of findings

Research question 1: What are New Zealand secondary principals' perceptions of legal literacy?

The findings showed that the majority of participants had limited confidence in their legal literacy. Participants did not have a coherent understanding of the principles of natural justice and not all participants were completely confident with developing effective risk management policies for their schools. Most participants believed that education law was important to their practice and that training in this area was important to ensure that principals acted within the legal boundaries and so protected themselves and their schools from legal risk. Almost all participants indicated that when they felt that they lacked legal knowledge, they invariably sought advice from external sources.

Research question 2: What do New Zealand secondary school principals perceive as their most influential source of education law?

A number of participants relied on professional organisations such as the SPANZ and NZSTA for legal advice. Most participants sought advice from other principals and relied on their own experience to deal with legal issues. It was also found that participants, when challenged, changed their administrative decisions in areas of the law that they deemed themselves to be confident in.

Research question 3: What are the implications of a possible lack of legal knowledge on secondary school principals' practice?

Some participants feared the possibility of litigation and the associated financial and emotional costs as major ramifications of a possible lack of legal knowledge. Restraint in offering legal advice to their staff was another implication that surfaced. None of the participants appeared to understand that as leaders they were inevitably a chief source of legal advice to their staff. Most participants indicated that they cautiously offered any advice to their staff and oftentimes redirected staff to other sources. A further implication was the limited confidence held by participants in respect of policy development. This was attributed to the participants' lack of legal literacy as many studies have linked the ability to develop and implement effective risk management policies with the need for a sound level of legal literacy (Gordon, 1997; Robins, 2011; Stewart, 1996; Stewart, 1998; Stewart & McCann, 1999; Young et al., 2014).

Research question 4: How can the understanding of legal literacy amongst secondary school principals be supported?

All participants in this study agreed that principals' understanding of education law can be supported through more training which will enable them to know what to do and when to seek advice should a legal issue arise. The majority of the participants in this study considered professional development to be the most effective form of training for principals in educational law matters whilst training through legal studies (education papers) was considered to be the second most effective means of acquiring an understanding of legal literacy. A little over half of the participants surveyed in this study believed that teachers required knowledge of education law and that such knowledge should be taught at teacher training institutions.

Conclusions

The aim of this study was to examine Auckland secondary school principals' perceptions of education law and to the implications of these perceptions on their leadership practice. This follows the many studies that have been carried out wherein it was found

that principals generally had a limited knowledge of school-related law with the result that they often left themselves open to legal challenges (Stewart, 1998; Trimble et al., 2012; Walsh, 1997; Wardle, 2006). These studies concluded that whilst principals did not have to go to law school, they needed training in education law to enable them to be sufficiently legally literate so at the very least they are able to recognise when a legal problem is developing and so seek legal advice. The findings of my study shows that overall, the Auckland secondary schools principals who participated in my research, also lack the level of understanding of education law necessary for them to keep their schools from facing possible legal challenges.

Implications for practice and research

Implications for practice

- The Ministry of Education should provide frequent, continuous and in-depth education law courses, throughout a principal's career, with a strong focus on risk management and the principles of natural justice. Such courses should have a practical component, requiring principals to establish school policies and practices in accordance with statutory or common law requirements. An example of this would be requiring principals to establish a policy in line with the legal requirements of the *Health and Safety in the Workplace Act* of 2015 specific for their school context with guidance from a 'legal expert';
- Principals need to keep abreast of current legislation and legal precedents. To this end Boards of Trustees should make available mandatory, regular and relevant professional development for their principals;
- As a prerequisite to being appointed as a principal, aspiring principals should undertake some study in educational leadership which encompasses an education law component, not dissimilar to the Master of Secondary School Leadership, offered by the University of Victoria. Whilst this research study was targeted at principals, it could be argued, that effective preparation for school leadership should begin with those aspiring to be principals. The Ministry of Education is aware that aspiring leaders need opportunities for professional learning that will facilitate them to take on the challenging role of principals but notwithstanding this, their programmes do not offer much in the way of

education law preparation (Ministry of Education, 2017c). Given the immense workload that newly appointed principals are expected to deal with, it is prudent that they undertake compulsory pre-service training which will prepare them for the many legal challenges that they are likely to face when they take up their principalship. This stance aligns with the work of Stewart (1998) who has in the past suggested that principals receive adequate preparation, both before and during their appointments as principals as “the very nature of the law dictates that practicing principals be up to date with current changes and other developments” (Gordon, 1997, p. 8). To adequately prepare aspiring principals for their roles as principals necessitates a detailed and compulsory education law programme. Such a programme could be designed with respect to the different areas of education law that a principal is expected to be knowledgeable in, and offered as papers to aspiring principals. Drawing on the data from this study and the extensive literature that has been reviewed, Figure 6.1 sets out a draft framework for what this education law programme might include.

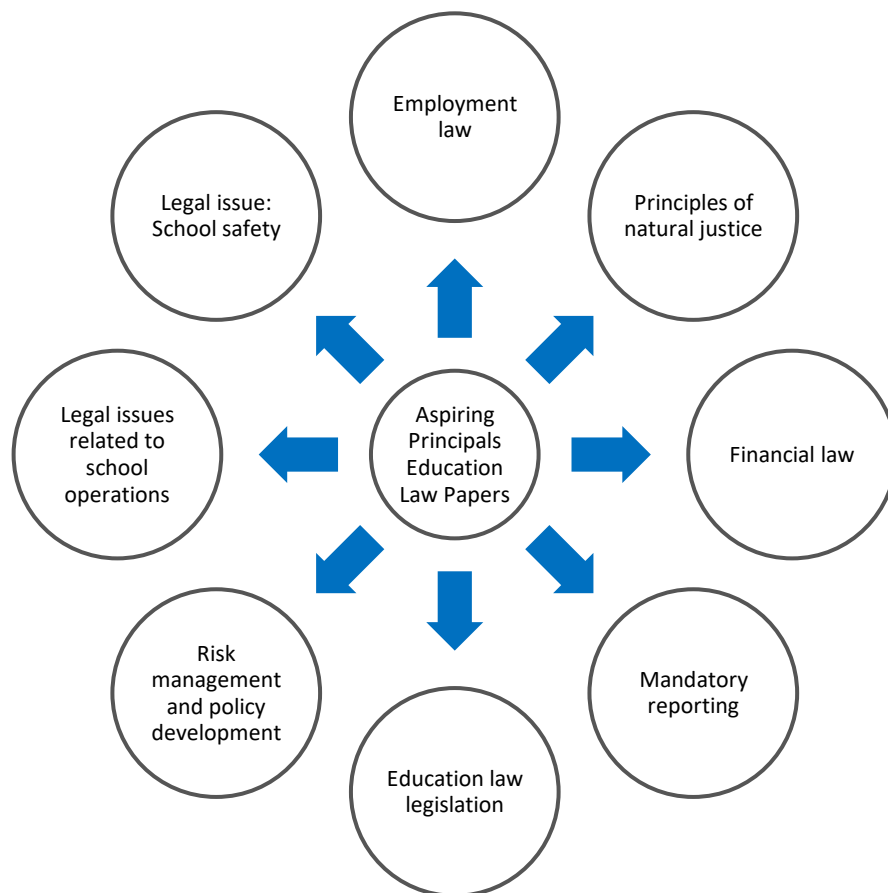


Figure 6.1. Proposed education law papers for aspiring principals

- Compulsory education law modules should be introduced into teaching training qualifications. Currently, New Zealand does not require education law to be part of teacher certification and given the significant influence teachers have over students, this is likely to compromise their duty to abide by the law. This potential legal ‘pothole’ could be addressed by making basic education law a part of the requirements for undergraduate and graduate teacher training.
- Finally, as suggested by Findlay (2007), schools should consider the appointment of a teacher to create and to maintain a professional collection of education law related materials and, to regularly, update the staff on relevant legislative changes and recent judicial decisions impacting schools.

Implications for research

- Research should be conducted into appropriate legal education programmes for inclusion in teacher training certification. As a precursor to this research consideration should be given to the recommendation by Wardle (2006) that a literature review be conducted with a view to establishing what other jurisdictions are providing in terms of pre- service legal education in order to determine what legal education might be appropriate for beginning teachers.
- An evaluation of the new leadership programmes being offered by the Ministry of Education should be carried out to examine its effectiveness in preparing newly appointed and experienced principals for the legal aspects of their work.
- Given that globally schools are facing a leadership replacement crisis due significantly to principals not being adequately prepared for their jobs (Dogan, 2017), an evaluation should be carried out on the effectiveness of the Master in Secondary School Leadership, currently offered by the University of Victoria, in preparing aspiring principals for principalship, with a view to making such postgraduate studies a mandatory part of an aspiring principal’s preparation for principalship.

Limitations of this study

Although this study has suggested that principals of Auckland secondary schools have a limited understanding of education law in some areas, several limitations to this

research study need to be acknowledged. Firstly, the continuous legalisation of schools means that there will be a continual generation of case law and new legislation that will continue to impact and change principals' perceptions about school law. Secondly, there are limited research findings on this topic carried out in New Zealand, to compare to this study and methodological design employed in this research. Thirdly, this study examines only participants' perceptions, which may not reflect actual facts. Apart from the question on natural justice, participants' actual knowledge in respect of legal scenarios and legal questions was not tested. This knowledge was, however, tested by Wardle (2006) who looked at the levels of legal literacy amongst a cross section of New Zealand principals and concluded that "principals do not know what they need to know" (p. 120). Whilst Wardle's study may not be considered 'current', I do submit that not much change has been effected based on the recommendations by Wardle (2006) or in the general Ministry of Education and Boards of Trustees' attempts to improve the legal literacy of principals. The fourth limitation of this study can be ascribed to the questionnaire used to collect data. Open ended questions were used to give the participants the opportunity to make written comments and so clarify their responses. However, this opportunity was not utilised by all of the participants. While some participants engaged more fully with the questionnaire, some provided what seemed to have been hurried responses lacking in content. A plausible explanation for this could be that the questionnaire was sent out during a time when principals are at their busiest resulting in some vague, sketchy responses. A fifth limitation was that this was a small scale exploratory study involving eleven secondary school principals in Auckland, with the aim of gaining some understanding of the participants' perceptions of education law. The small number of participants may limit the transferability of these findings. However, like in the study by Wardle (2006), it can be reasonably suggested that the findings may apply to the wider population of principals in Auckland. Accordingly, there is a need for a more extensive study in this area of research.

Significance of the findings of this study

Despite its exploratory nature, this study offers some insight into some principals' perceptions of education law and the implications of a possible lack of legal literacy on their practice. Furthermore, it confirms some of the findings in Wardle's (2006) research on New Zealand principals' levels of legal literacy. It also contributes additional evidence

that suggests that while principals do not need law degrees, they do need, and are expected to have, an appropriate and adequate knowledge of those aspects of school law that impinge on their professional responsibilities (Rossow, 1990; Stewart, 1996; Stewart & McCann, 1999; Sungaila, 1988).

The ‘hunch’ for this research was that principals of secondary schools who have a good grasp of education law are more adept at making administrative decisions that are legally compliant and will therefore not expose their schools to legal action. The unstated assumption is that principals are from their moment of appointment expected to be experts in all matters affecting their schools (Stewart & McCann, 1999). Both Gordon (1997) and Taylor (2001) argue that simply promoting teachers to principalship does not confer upon them an instant legal expertise by mere virtue of their new position. The reality is that principals are expected to traverse a legal minefield for which they are not adequately prepared. This research suggests that providing principals with opportunities to build their education law capacity, both before and during principalship, may provide principals with the much needed confidence and knowledge to make legally sound decisions, thereby minimising legal challenges to their schools.

It could be argued that New Zealand’s no-fault accident compensation system provides erring principals with a degree of immunity from the arms of the law. However, given that a complainant may still seek exemplary compensation ⁵and that the fines imposed in terms of the *Health and Safety in the Workplace Act* of 2015 cannot be insured against, it has become necessary for principals to be schooled in education law. This need for knowledge of the law is made more compelling by the high degree of accountability required of schools under the *Tomorrow’s Schools* reforms (Pont et al. 2008). This, it could be argued, highlights the need for an expansive investigation into the legal literacy levels of principals in New Zealand, because if principals lack this knowledge there are important implications not only for themselves but for their Boards, staff and students.

5. An award to a plaintiff for an amount to solely punish the defendant for outrageous conduct. Harle (2017)

References

- Administrative Review Council. (2007). *Decision making: Natural justice*. Canberra, Australia: Commonwealth of Australia. Retrieved from: <https://www.arc.ag.gov.au/Documents/ARC+Best+Practice+Guide+2+Natural+Justice.pdf>
- Bell, J. (2005). *Doing your research project* (4th ed.). Berkshire, England: Open University Press.
- Bell, J., & Waters, S. (2014). *Doing your research project: A guide for first time researchers*. Maidenhead, England: McGraw-Hill Education.
- Bendikson, L. (2015, February 18). Why are new principals resigning? *Dominion Post*. Retrieved from: <http://www.stuff.co.nz/dominion-post/comment/editorials/66332730/Why-are-new-principals-resigning>
- Bilby, L. (2015, July 5). Schools lawyer up in face of threats by parents. *New Zealand Herald*. Retrieved from http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11475962
- Brace, I. (2013). *Questionnaire design: How to plan, structure and write survey material for effective market research* (3rd ed.). London: Kogan Page Publishers.
- Breakwell, J. & Rishworth, P. (2016). *Judicial review of internal decisions in state schools*. Presented at the meeting of the ANZELA 2016, Rydges, Auckland.
- Brown, A. F., & Zuker, M.A. (2007). *Education law* (4th ed.). Toronto, ON: Thomson Carswell.
- Bryman, A. (2008). *Social research methods* (3rd ed.). Oxford, NY: Oxford University Press.
- Bryman, A. (2012). *Social research methods* (4th ed.). Oxford, NY Oxford University Press.
- Caldwell, J. (2006). Judicial review of school discipline. *New Zealand Universities Law Review*, 22(2), 240-270.
- Cohen, L., Manion, L. & Morrison, K. (2007). *Research methods in education* (6th ed.). Abingdon, England: Routledge.
- Cranston, N., Trimble, A. J., & Allen, J. M. (2013). The impact of education law on school principalship: Challenges and emergent findings. *Journal of Educational Leadership, Policy and Practice*, 28(2), 79-93. Retrieved from: <http://search.informit.com.au.ezproxy.aut.ac.nz/documentSummary;dn=210394695082202;res=IELHSS>
- Creswell, J. W. (2013). *Qualitative inquiry & research design: Choosing among five approaches* (3rd ed.). Thousand Oaks, CA: Sage Publications.

- Creswell, J. W. (2014). *Research design: Qualitative, quantitative and mixed methods approaches* (4th ed.). Thousand Oaks, CA: Sage Publications.
- Cuncannon, F., & Dorking, B. (2002, March). Principles for principals: A guide to avoiding costly litigation. *New Zealand Principal Association*. Retrieved from: http://nzpfacnz2.digiwebhosting.com/sites/default/files/March02_Unreasonable.pdf
- Darlow, N. (2011). *Schools and the right to discipline: A guide for parents and caregivers* (5th ed.). Wellington, New Zealand: Wellington Community Law Centre.
- Davidson, C., & Tolich, M. (2003). Competing traditions. In C. Davidson, & M. Tolich (Eds.), *Social science research in New Zealand: Many paths to understanding* (2nd ed., pp. 23-38). Auckland, New Zealand: Pearson Education.
- Davies, T. A. (2009). The worrisome state of legal literacy among teachers and administrators. *Canadian Journal for New Scholars in Education*, 2(1), 1-9.
- Decker, J. (2014). Legal literacy in education: An ideal time to increase research, advocacy, and action. *Education Law Reporter*, 303 (1), 679-696. Retrieved from: https://www.researchgate.net/publication/286459177_Legal_Literacy_in_Education_An_Ideal_Time_to_Increase_Research_Advocacy_and_Action
- Delaney, J. G. (2009). The value of educational law to practising educators. *Education Law Journal*, 19, 119-121.
- Denzin, N. K., & Lincoln, Y. S. (2013). *The landscape of qualitative research*. Los Angeles: CA, SAGE Publications.
- Doctor, T. L. (2013). *Should principals know more about law?* (ERIC Archive ED539380). Retrieved from: <http://files.eric.ed.gov/fulltext/ED539380.pdf>
- Dougan, P. (2017, February 15). 'Critical' principal shortage spawns new course in school leadership. *New Zealand Herald*. Retrieved from http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11801153
- Dunklee, D., & Shoop, R. (1986). Teacher preparation in a litigious society: Implications in times of reform. *Journal of Teacher Education*, 37(5), 57-60.
- Education Act, New Zealand Statutes. (1989). Retrieved from: <http://www.legislation.govt.nz/act/public/1989/0080/latest/DLM175959.html>
- Employment Relations Act. (2000). Retrieved from: <http://www.legislation.govt.nz/act/public/2000/0024/109.0/DLM58317.html>
- Findlay, N. M. (2007). In-school administrators' knowledge of education law. *Education Law Journal*, 17(2), 177-180.
- Goldstein, A. (2002). How to fix the coming principal shortage. *Time.com*. Retrieved from: <http://www.time.com/time/columnist/goldstein/article/0,9565,168379,00.html>

- Gordon, H. R. (1997, February). *Legal knowledge of secondary school principals: Impact of selected variables*. Paper presented at 20th Annual Eastern Educational Research Association Conference, Hilton Head, South Carolina. Retrieved from: <http://files.eric.ed.gov/fulltext/ED423182.pdf>
- Gordon, L. (2003). School choice and the social market in New Zealand: Education reform in an era of increasing inequality. *International Studies in Sociology of Education*, 13(1), 17-34.
- Hancock, J. (2002). The application of 'in loco parentis' in state schools-still relevant or practically extinct? *Children's Issues: Journal of the Children's Issues Centre*, 6(1), 44-48.
- Health and Safety in the Workplace Act. (2015). Retrieved from: <http://www.legislation.govt.nz/act/public/2015/0070/latest/DLM5976660.html>
- Hinds, D. (2000). Research instruments. In D. Wilkinson (Ed.), *The researcher's toolkit: The complete guide to practitioner research* (pp. 41-54). London, England: Routledge Falmer.
- Konings, M. (2002). *School rules: parents, students and New Zealand schools*. Wellington, New Zealand: LexisNexis Butterworths.
- Lambert, M. (2008). Devil in the detail: Using a pupil questionnaire survey in an evaluation of out-of-school classes for gifted and talented children. *Education 3-13*, 36(1), 69-78.
- Liddle, A. (2005). *The dangers of the lack of legal literacy in secondary schools* (Master's thesis, Unitec Institute of Technology, Auckland, New Zealand).
- Littleton, M. (2008). Teachers' knowledge of education law. *Action in Teacher Education*, 30(2), 71-78.
- Maddever v Umawera School Board of Trustees* [1993] 2 NZLR 478. Retrieved from: http://www.lexisnexis.com.ezproxy.aut.ac.nz/nz/legal/search/enhRunRemoteLink.do?A=0.5659278230892061&service=citation&langcountry=NZ&backKey=20_T26464315128&link
- Mason, J. (2002). *Qualitative researching*. Thousand Oaks, CA: Sage Publications.
- Merriam, S. B., & Tisdell, E. J. (2016). *Qualitative research: A guide to design and implementation*. San Francisco, CA: Jossey-Bass.
- Militello, M., & Schimmel, D. (2008). Toward universal legal literacy in American schools. *Action in Teacher Education*, 30(2), 98-106.
- Militello, M., Schimmel, D. & Eberwein, H.J. (2009). If they knew, they would change: How legal knowledge impacts principals' practice. *NASSP Bulletin*, 93(1), 27-52. doi:10.1177/0192636509332691
- Moswela, B. (2008). Knowledge of educational law: An imperative to the teacher's practice. *International Journal of Lifelong Education*, 27(1), 93-105.

- Mulford, B. (2003). *School leaders: Changing roles and impact on teacher and school effectiveness*: A paper commissioned by the Education and Training Policy Division, OECD, for the Activity *Attracting, Developing and Retaining Effective Teachers*. Retrieved from: <https://www.oecd.org/edu/school/2635399.pdf>
- Mutch, C. (2005). *Doing educational research: A practitioner's guide to getting started* (2nd ed.). Wellington, New Zealand: NZCER Press.
- Mutch, C. (2013). *Doing educational research: A practitioner's guide to getting started*. Wellington, New Zealand: NZCER Press.
- New Zealand Bill of Rights Act. (1990). Retrieved from: <http://www.legislation.govt.nz/act/public/1990/0109/latest/DLM224792.html>
- New Zealand Educational Institute Te Rui Roa. (n.d.) Principals' kit. Retrieved June 23, 2017 from <http://www.principalskit.org.nz/your-role-as-a-principal>
- New Zealand Ministry of Education. (2009). *Professional standards*. Retrieved June 23, 2013, from: <http://www.minedu.govt.nz/NZEducation/EducationPolicies/SchoolEmployment/TeachersPrincipals/SecondaryPrincipals/CollectiveAgreement/ProfessionalStandards.aspx>
- New Zealand Ministry of Education. (2015). *Professional standards for secondary teachers - Criteria for Quality Teaching*. Retrieved June 23, 2013, from: <https://education.govt.nz/school/running-a-school/employing-and-managing-staff/collective-agreements/secondary-teachers-collective-agreement/supplement-1-professional-standards-for-secondary-teachers/professional-standards-for-secondary-teachers-criteria-for-quality-teaching/>
- New Zealand Ministry of Education. (2017a). *Leadership programmes*. Retrieved March 21, 2017, from: <http://www.educationalleaders.govt.nz/Leadership-development/Leadership-programmes/First-time-principals-modules>
- New Zealand Ministry of Education (2017b). *Information for aspiring principals*. Retrieved March 21, 2017, from: <http://www.educationalleaders.govt.nz/Aspiring-principals>
- New Zealand Ministry of Education. (2017c). *Stand-downs, suspensions, exclusions and expulsions from school*. Retrieved July 4, 2017, from: <http://www.educationcounts.govt.nz/statistics/indicators/main/student-engagement-participation/Stand-downs-suspensions-exclusions-expulsions>
- Neuman, W. L. (2014). *Social research methods: qualitative and quantitative approaches*. Harlow, England : Pearson.
- O'Toole, J., & Beckett, D. (2013). *Educational research: creative thinking and doing*. South Melbourne, VIC: Oxford University Press.
- Olssen, M., & Matthews, M. (1997). *Education policy in New Zealand: the 1990s and beyond*. Palmerston North, New Zealand.: Dunmore Press.

- Piggot-Irvine, E. (2000). Appraisal—The impact of increased control on the “state of play” in New Zealand schools. *Journal of Educational Administration*, 38(4), 331-351.
- Pont, B., Nusche, D., & Moorman, H. (2008). *Improving school leadership, volume 1: Policy and practice*. OECD Publishing. Retrieved from: <https://www.oecd.org/edu/school/44374889.pdf>
- Principals’ kit. (n.d). Retrieved from: <http://www.principalskit.org.nz/your-role-as-a-principal>
- Reglin, G. L. (1992). Public school educators’ knowledge of selected supreme court decisions affecting daily public school operations. *Journal of Educational Administration*, 30(2), 26-31.
- Rishworth, P. T. (1996). Recent developments in education law in New Zealand. *Australia New Zealand Journal of Law Education*, 1(1), 33-54.
- Rishworth, P., Walsh, P., & Hannan, J. (2001). *Recent developments in school law*. Wellington, New Zealand: New Zealand Law Society.
- Robins, T. (2011). *Principals and risk management issues: In the eyes of the law, are principals adequately prepared to address risk management issues?* Retrieved from <http://www.osbie.on.ca/pdf/rmseminar/2011/Principals%20and%20Risk%20Management%20Issues.pdf>
- Rossow, L.F. (1990). *The Principalship: Dimensions in instructional leadership*. Englewood Cliffs, NJ: Prentice-Hall.
- Rudestam, K. E., & Newton, R. R. (2015). *Surviving your dissertation: a comprehensive guide to content and process*. Thousand Oaks, CA: Sage Publication.
- Schimmel, D., & Militello, M. (2007). Legal literacy for teachers: A neglected responsibility. *Harvard Educational Review*, 77(3), 257-284.
- Schimmel, D., & Militello, M. (2011). The risks of legally illiterate teachers: The findings, the consequences and the solutions. *University of Massachusetts Law Review*, 6(1), 37-55. Retrieved from: <http://scholarship.law.umassd.edu/cgi/viewcontent.cgi?article=1092&context=umlr>
- Scotland, J. (2012). Exploring the philosophical underpinnings of research: Relating ontology and epistemology to the methodology and methods of the scientific, interpretive, and critical research paradigms. *English Language Teaching*, 5(9), 9-16. doi: 10.5539/elt.v5n9p9
- Smith, B. (2004). Schools and suspected drug related incident management. *Practising Administrator*, 26(1), 34-34.
- Somekh, B., & Lewin, C. (2011). *Theory and methods in social research* (2nd ed.). London, England: Sage Publications.

- Song, M. (2014). *Causation in insurance contract law*: New York, NY: CRC Press.
- Stewart, D. (1996). Principals' knowledge of law affecting schools. *Australia New Zealand Journal of Law Education*, 1(1), 111-129.
- Stewart, D. J. (1996). *School principals and the law: A study of the legal knowledge needed and held by principals in government schools in Queensland* (Doctoral dissertation, Queensland University of Technology, Queensland, Australia).
- Stewart, D. (1997). Principals and the law. *Independence*, 22(3), 41-43.
- Stewart, D. (1998). Legalisation of education: Implications for principals' professional knowledge. *Journal of Educational Administration*, 36(2), 129-145.
- Stewart, D. (2000). *Tomorrow's principals today*. Palmerston North, New Zealand: Kanuka Grove Press.
- Stewart, D., & McCann, P. (1999). Educators and the law: Implications for the professional development of school administrators and teachers. *Journal of In-Service Education*, 25(1), 135-143. doi:10.1080/13674589900200074
- Stock, R (2017, January 22). Schools' 'BYOD' or 'Bring your own device' demands are a rising cost to parents. *Business Day*. Retrieved from: <http://www.stuff.co.nz/business/money/88562690/schools-byod-or-bring-your-own-device-demands-are-a-rising-cost-to-parents>
- Sungaila, H. (1988). *Litigation in education*. Sydney, NSW: Gavemer Publishing.
- Taylor, K. (2001). Yesterday's principal, today's legal eagle. *Principal Leadership*, 1(6), 75-78.
- Thomas, P. Y. (2010). *Towards developing a web-based blended learning environment at the University of Botswana*. Retrieved from: <http://hdl.handle.net/10500/4245>
- Tie, F. H. (2014). A study on the legal literacy of urban public school administrators. *Education and Urban Society*, 46(2), 192-208. doi:10.1177/0013124512446220
- Tolich, M. (2001). *Research ethics in Aotearoa New Zealand: Concepts, practice, critique*. Auckland, New Zealand.: Longman.
- Trimble, A. J., Cranston, N., & Allen, J. M. (2012). School principals and education law: What do they know, what do they need to know? *Leading & Managing*, 18(2), 46-61. Retrieved from: <http://dro.deakin.edu.au/eserv/DU:30062774/allen-schoolprincipals-2012.pdf>
- Turner III, D. W. (2010). Qualitative interview design: A practical guide for novice investigators. *The Qualitative Report*, 15(3), 754-780. Retrieved from <http://www.nova.edu/ssss/QR/QR15-3/qid.pdf>

- Victoria University of Wellington. (2017). *Master of Secondary School Leadership*. Retrieved: 30 March, 2017, from: <https://www.victoria.ac.nz/explore/postgraduate-programmes/master-of-secondary-school-leadership/overview>
- Walsh, P. (1997). *Educational management and the law*. Auckland, New Zealand: Longman.
- Walsh, J. (2016). *Restorative justice in schools vs the formal requirements under section 14 of the education act: Balancing what works to ensure retention in education and the rise of kiwi suspensions*. Presented at the meeting of the ANZELA Conference 2016, Rydges Hotel, Auckland.
- Walsh, P., & Anderson, C. (2012). *Education law intensive*. Wellington, New Zealand: New Zealand Law Society, Family Law Section, Property Law Section.
- Wardle, D. J. (2006). *School related law: Do principals know what they need to know?* (Doctoral dissertation, Massey University, Auckland, New Zealand).
- Wilkinson, D., & Birmingham, P. (2003). *Using research instruments: A guide for researchers*. London, England: Routledge/Falmer.
- Wylie, C. (1999). *Ten years on: How schools view educational reform*. Wellington: NZCER.
- Young, D. C., Kraglund-Gauthier, W. L., & Foran, A. (2014). Legal literacy in teacher education programs: Conceptualizing relevance and constructing pedagogy. *EAF Journal*, 24(1), 7-21.

Appendices

Appendix A:

Legal literacy: Auckland secondary school principals' knowledge of education law

What is the existing levels of legal literacy amongst principals?

1. 1. Legal literacy refers to the knowledge that school leaders have with respect to educational law and how it impacts the governance, leadership and management of their schools. Rate your level of confidence with regards to your legal literacy. *

Mark only one oval.

	1	2	3	4	5	
Not confident	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Very confident

Start this form over.

2. 2a. How would you define 'natural justice'? *

3. 2b. Indicate your understanding of the principles of natural justice when dealing with student or staff issues. Tick one option. *

Check all that apply.

- ☐ No understanding
☐ Very little understanding
☐ Some understanding
☐ Excellent understanding

4. 3a. List the legislation that you are aware of that impacts on your school, and on leadership and governance practice at your school? *

5. 3b. Rate your overall understanding of the legislations that you have listed above. Tick one option. *

Check all that apply.

- ☐ No understanding
- ☐ Very little understanding
- ☐ Some understanding
- ☐ Excellent understanding

6. 4. What is the most important area of your school and/or leadership practice that has given rise to education law issues in your school? *

7. 5. Do you think education law is important to your leadership practice? Please explain your answer. *

8. 6. Which groups do you consider to need a knowledge of education law. Tick as many as apply. *

Check all that apply.

- ☐ Principals
- ☐ Teachers
- ☐ Board of Trustees' members
- ☐ Other: _____

9. 7. Do you think the Education Act 1989 helps with knowledge of education law? *

Mark only one oval.

- ☐ Yes
- ☐ No
- ☐ Don't know

10. 8. Do you think school leadership is becoming more concerned with legislation and legal issues? Please explain your answer. *

11. **9. Policy development requires educational leaders to have accurate knowledge of student, staff and parental rights. With reference to this, how confident are you in regards to developing school policy? ***

Mark only one oval.

	1	2	3	4	5	
Not confident	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Very confident

12. **10. What areas of law impacting on your practice do you feel particularly confident about? ***

13. **11. What areas of law impacting on your practice do you feel particularly concerned about? ***

Legal implications for schools

What are the possible legal implications for schools in reference to the Education Act 1989?

14. **12. How confident are you when dealing with legal issues? ***

Mark only one oval.

	1	2	3	4	5	
Not confident	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Very confident

15. **13a. Have you in your role as principal, faced a legal challenge? ***

Mark only one oval.

- ☐ Yes
☐ No

16. **13b. If you answered yes to the question above, please elaborate on your answer. ***

17. **14. Have you ever changed an administrative decision as a result of legal threats? If you have, please elaborate on your answer. ***

18. **15. What legal decisions do you as an educational leader commonly make? ***

19. **16a. Do you offer legal advice to your staff? ***

Mark only one oval.

- ☐ Yes
- ☐ No
- ☐ Sometimes

20. **16b. Please elaborate on your answer to the question above. ***

21. **17. How much time do you spend on addressing legal issues? ***

Mark only one oval.

- ☐ None
- ☐ Between 1-2 hours a week
- ☐ Between 3-4 hours a week
- ☐ 4 hours or more per week

Educational leaders' sources of education law

22. **18. What is your main source of legal knowledge? ***

23. 19a. Do you rely upon your previous leadership experience when dealing with a legal issue? *

Mark only one oval.

- ☐ Yes
- ☐ No
- ☐ Sometimes

24. 19b. Please elaborate on your answer to the question above. *

25. 20. Which of the following sources of legal advice do you utilise in your role as educational leader? You can select multiple answers. *

Check all that apply.

- ☐ Ministry of Education
- ☐ Other principals
- ☐ School attorney
- ☐ Professional Organisations
- ☐ Print or electronic resources
- ☐ Other: _____

26. 21a. Do you think training in educational law matters is important for principals? *

Mark only one oval.

- ☐ Yes
- ☐ No
- ☐ Maybe

27. 22b. Please explain your answer to the question above. *

28. 23. Through which of the following platforms do you consider educational law training for principals would be most effective? You can select multiple answers. *

Check all that apply.


- ☐ Professional development
- ☐ Education papers as part of the "First time principals program"
- ☐ Self directed post graduate studies
- ☐ Other: _____

29. **24. Please describe any educational law training which you have participated in.** *

30. **Thank you for your time. If you would be keen to be part of the second phase of this research, an interview with me, please click on the link below.**

Mark only one oval.

☐ <https://docs.google.com/forms/d/1zE6v9fzD5Oa375Nd3aO53SmPkT7-Mz9HdypGm7W4qbY/viewform>

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 Google Forms

Appendix B: Indicative interview questions:

Legal Literacy:

1. Can you tell me about a time when your knowledge of the law has helped you as a leader?
2. Is there a time when you felt you lacked legal knowledge? What happened?
3. In what other ways do you think knowledge of education law is important to your practice? Please elaborate.
4. What, if anything, has affected your level of legal literacy?

Implications:

5. The law is not stagnant. What do you do to stay abreast of the current developments in education law?
6. What in your opinion are the implications of a lack of legal knowledge for secondary school principals in New Zealand?
7. What advice would you give first-time principals in regard to legal knowledge?


Sources:

8. Do you think training in education law matters is important for principals? Please elaborate.
9. What in your opinion is the best form/s of training for principals?
10. What external support is available to you to help deal with legal issues that arise in your school?
11. How effective do you think these external support/resources are?
12. What legal topics do you want to learn more about?
13. Should education law be taught at teacher training institutions? Please elaborate.

General:


14. Do you have any comments or concerns you would like to share regarding education law?

Appendix C: Participant information sheet



Participant Information Sheet

Date Information Sheet Produced: 08 June 2016



Project Title: Legal Literacy: Auckland secondary school principals' knowledge of education law
An Invitation

Kia ora. My name is Priscilla Naidoo and I am enrolled in the Master of Educational Leadership degree at Auckland University of Technology. I am seeking your possible help in meeting the requirements of research for a thesis course which forms a substantial part of this degree. The aim of this study is to find out what Auckland secondary school principals know about education law and its impact on educational leadership practice. I invite you to participate in this research study. Your participation is voluntary and you may withdraw at any time prior to the data analysis phase of my study (i.e. 10 days after you receive your interview transcript from me for checking).

What is the purpose of this research?

The aims of this study are:

- To engage in discussion with Auckland secondary school principals' about their perceptions of education law
- To identify and explain Auckland secondary school principals' perceptions of the implications of a possible lack of legal knowledge on their practice
- To identify ways to support Auckland secondary school principals' understanding of education law

How was I identified and why am I being invited to participate in this research?

I have confined my study to the Auckland region of New Zealand. You are being invited to participate in this study as you are a principal of an Auckland secondary school. For the purposes of the questionnaire, your contact details were obtained from your school website. In regard to the interviews, you will be able to indicate your interest in participating when you completed the online questionnaire. In order to maintain the integrity of this research project and reduce possible researcher bias, my school principal and any other Auckland secondary school principal that has an existing direct relationship with me have been excluded from this research.

What will happen in this research?

For the first part of the research, you will be sent a link to complete a survey through Google Forms, which will take a maximum of twenty minutes. You will also have the opportunity to volunteer for a face-to-face interview with me, which would take place at your school. This interview will help clarify some of your responses in the questionnaire and will enable me to triangulate the data gathered and so ensure greater credibility of my findings. Whilst you will be known to me during the interview phase, your identity will be kept confidential in that the final thesis will not identify you, the name of your school, or any other staff or students to whom you may refer. Pseudonyms will be used for all schools and participants. I need a maximum of 6 interview participants, so if more than 6 people volunteer; I will select my participants randomly.

What are the discomforts and risks?

There is no anticipated discomfort or risk to you as a result of participating in this research.

How will these discomforts and risks be alleviated?

To minimise the possibility of discomfort or risk to you, you will be advised not to answer any question/s in the questionnaire that you do not feel comfortable with. Should you express an interest to participate in the interview you will be able decline to answer any question that I ask, and you are also able to withdraw from

the interview at any stage should you feel uncomfortable with the questions. You will not be required to provide any reasons for your withdrawal. Furthermore, you will also be allowed to withdraw from the project if you so desire up to a date 10 days after you have received your interview transcript for checking.

What are the benefits?

The findings of this research may identify strengths and gaps in principals' knowledge of education law and this could facilitate the provision of more professional development and legal support to principals. This would increase the confidence of principals to effectively deal with routine legal issues that arise in their schools without opening themselves up to litigation. An understanding of education law may further serve to alleviate the stress experienced by principals when dealing with legal issues and could result in them being effective legal advisors to their staff. This research will also benefit me in that the completion of this study will enable me to attain a Master of Educational Leadership qualification.

How will my privacy be protected?

For the questionnaire phase, all participants will be anonymous. Accordingly you will not be required to fill in your name on the questionnaire. Your identity, including your name, the name of your school and the names of any other teachers or students you refer to, will be protected by the use of pseudonyms in the final thesis and the responses collected in this study will not enable me to identify what information belongs to a specific participant/school. If you agree to participate in the interview phase your identity will be known to me. However, your identity will be kept confidential in that the final thesis will not identify you, the name of your school, or any other staff or students to whom you may refer. Pseudonyms will be used for all schools and participants. Details identifying the participants will be stored separately from the data.

What are the costs of participating in this research?

The initial questionnaire survey should take a maximum of twenty minutes of your time. If you are selected to participate in the semi-structured interview, then this will take approximately 45 minutes. To negate any costs of travel, the semi-structured interview can take place in a private meeting room at your school if you are comfortable with this location.

What opportunity do I have to consider this invitation?

Once the questionnaire link has been sent to you, you can complete it – as your response is anonymous, your identity will be protected. At the end of the survey you will be redirected to another survey where you can indicate your willingness to participate in an interview with me. Please note that your response to this question is not linked to your questionnaire responses, so the anonymity of your survey response is retained. If you indicate that you would like to be considered for the interview, and are randomly selected, you will have 5 days to inform me of your intent to participate. This interview will be digitally recorded and transcribed. You will also have the opportunity to approve your interview transcript (within 10 days of receiving it) before the data are used in the findings.

How do I agree to participate in this research?

By responding to the questionnaire, I will know that you have agreed to participate in the questionnaire phase of my research project. At the end of the survey you will be redirected to another survey question where you can indicate your willingness to participate in an interview with me. Please note that your response to this question is not linked to your questionnaire responses, so the anonymity of your survey response is retained. Should you agree to participate in the interview you will be required to sign a consent form to this effect. This interview will be digitally recorded and transcribed.

Will I receive feedback on the results of this research?

Yes. I will provide you with a digital summary of the thesis findings when the final thesis is completed.

What do I do if I have concerns about this research?

Any concerns regarding the nature of this project should be notified in the first instance to the Project Supervisor, Alison Smith alsmith@aut.ac.nz, 9 921 999 ext. 7363.

Concerns regarding the conduct of the research should be notified to the Executive Secretary of AUTC, Kate O'Connor, ethics@aut.ac.nz, 921 9999, ext. 6038.

Whom do I contact for further information about this research?

Please keep this Information Sheet and a copy of the Consent Form for your future reference. You are also able to contact the research team as follows:

Researcher Contact Details: Priscilla Naidoo: e-mail: pnaidoo0103@gmail.com

Project Supervisor Contact Details: Alison Smith alsmith@aut.ac.nz, 9 921 999, ext. 7363.

**Approved by the Auckland University of Technology Ethics Committee on 16 August 2016 AUTC
Reference number 16/276**

Appendix D: Consent form

AUT

TE WĀNANGA ARONUI
O TĀMAKI MAKAU RAU

Project title: *Legal Literacy: New Zealand secondary school principals' knowledge of education law.*

Project Supervisor: *Alison Smith*

Researcher: *Priscilla Naidoo*

- ☐ I have read and understood the information provided about this research project in the Information Sheet dated dd mmmm yyyy.
- ☐ I have had an opportunity to ask questions and to have them answered.
- ☐ I understand that notes will be taken during the interviews and that they will also be audio-taped and transcribed.
- ☐ I understand that I may withdraw myself or any information that I have provided for this project at any time prior to completion of data collection, without being disadvantaged in any way.
- ☐ If I withdraw, I understand that all relevant information including tapes and transcripts, or parts thereof, will be destroyed.
- ☐ I agree to take part in this research.
- ☐ I wish to receive a summary of the research findings (please tick one): Yes ☐ No ☐

Participant's signature:

Participant's name:

Participant's Contact Details (if appropriate):

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Date:

Approved by the Auckland University of Technology Ethics Committee on 16 August 2016 AUTEK Reference number 16/276

Note: The Participant should retain a copy of this form.