Cabinet Paper material
Proactive release

Minister & portfolio	Hon Chris Hipkins, Minister of Education
Name of package	Paper One: Education and Training Amendment Bill (No 2) Proposals: Approval to Consult
Date considered	19 April 2021
Date of release	20 May 2022

These documents have been proactively released:

Cabinet Paper: Paper One: Education and Training Amendment Bill (No 2) Proposals: Approval to Consult Appendices 1 to 8
Date considered: 19 April 2021
Author: Minister of Education

Cabinet Minute: CAB-21-MIN-0131
Date considered:19 April 2021
Author: Cabinet Office

Cabinet Minute: SWC-21-MIN-0048
Date considered:14 April 2021
Author: Cabinet Office

Material redacted

Some deletions have been made from the documents in line with withholding grounds under the Official Information Act 1982. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

The applicable withholding grounds under the Act are as follows:

Section 9(2)(f)(iv)	to protect the confidentiality of advice tendered by Ministers of the Crown and officials

Some deletions have been made from the documents as the information withheld does not fall within scope of the Minister's portfolio responsibilities, and is not relevant to the proactive release of this material.

You can read the Official Information Act 1982 here:
http://legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html

In Confidence

Office of the Minister of Education

Cabinet Social Wellbeing Committee

Education legislative proposals paper one – public consultation on Education and Training Amendment Bill (No 2) proposals

Proposal

1 This paper is the first of two papers seeking approval for public consultation on education legislative proposals. This paper outlines several proposals for the Education and Training Amendment Bill (No 2) (the Bill). These proposals are set out in the attached discussion documents. The second paper seeks approval for public consultation on proposals related to school board elections.

Relation to government priorities

2 These proposals support the government's focus on accelerating the recovery and laying the foundations for a better future. The proposals in this Cabinet paper will support students and our workforce and assist in the reform of the vocational education system, ensuring it is more response to the needs of industry and learners. Our schooling system will be better placed to ensure the wellbeing of learners.

Executive Summary

3 The Bill is proposed for inclusion in the 2021 Legislation Programme with a priority of Category 4 – refer to select committee within the year. The Bill will implement the proposed reforms identified through the education work programme.

4 This paper seeks approval to consult on the following proposals for inclusion in the Bill:

4.1 Ensuring all education workers who are required to be Police vetted under the Education and Training Act 2020 (the Act) are vetted prior to beginning work in licenced Early Childhood Education (ECE) services and schools;

4.2 Improving the equity and fairness of the order of priority for offers of enrolment to out-of-zone students at schools with enrolment schemes;

4.3 Streamlining the disciplinary regime for teachers, clarifying the Teaching Council's role in enforcing certification requirements, and clarifying how the Teaching Council should consider the recent teaching experience of professional leaders in tertiary education organisations;

4.4 Increasing flexibility for Government to set requirements on compulsory student services fees charged by tertiary education providers, by

authorising these fees to be regulated as conditions of funding mechanisms under section 419 of the Act;

4.5 Enabling National Student Numbers (NSNs) to be used to support work-based learning;

4.6 Enabling the New Zealand Qualifications Authority to use discretion in cancelling a Private Training Establishment's registration if that establishment is convicted of allowing a person to undertake a course of study that they are not entitled to under the Immigration Act 2009;

4.7 Simplifying New Zealand qualifications and other credentials;

4.8 Specifying a new function for the Education Review Office to review professional learning and development services accessed by schools, kura and early learning services.

5 I expect to report the feedback from this consultation to Cabinet's Social Wellbeing Committee in August 2021 and will seek policy decisions and approval to issue drafting instructions at that time.

Background

6 I have proposed a Legislation Bid for the Bill with a suggested priority of Category 4 – refer to select committee within the year – in the 2021 Legislation Programme.

7 The education work programme includes a number of work items that require legislative change. These work items include implementation of the Review of Tomorrow's Schools and the Review of Vocational Education. Other changes to be progressed in the Bill relate to the process of continuous improvement for education legislation.

Comment

Changes for Police vetting of non-teaching and unregistered employees

8 I am proposing to consult on the removal of the two-week period for ECE services and schools to apply for a Police vet for non-teaching and unregistered employees from the Act. Removing the application period will mean all employees must be Police vetted before they begin working.

9 The Act and the Children's Act 2014 sets out a framework for ensuring children are safe while engaging in education. In most circumstances, the safety checks under the Children's Act and Police vets under the Act must be completed before employees and contractors begin work.

10 However, there is one exception. Non-teaching and unregistered employees must still be Police vetted because they will have contact with children. The Act currently provides that these employees can begin work without a Police vet provided the vet is applied for within two weeks of the person beginning work, and they are supervised at all times around children until the vet is obtained. This

creates a grace period of potentially longer than two weeks, depending on when the Police vet becomes available.

11 The two-week application period has caused confusion. Although it only applies to a limited number of employees, some employees mistakenly think it applies to them. The application period is inconsistent with the Police vetting requirements for all other education and children's workers, who must all obtain a Police vet before they begin work.

12 The two-week period was originally intended to provide flexibility for employers of low-risk employees who would otherwise need to await a potentially lengthy Police-vetting process before beginning work. However, Police vetting times have improved considerably in recent years, and I consider the two-week period is no longer necessary.

13 Removing the two-week period will ensure all education employees who require a Police vet must have obtained this vet before they begin work in licensed ECE services and schools.

Changes to the priority categories for out of zone enrolment in school enrolment schemes

14 As part of the review of Tomorrow's Schools, Cabinet asked for advice on whether the current ballot criteria used for the selection of out-of-zone students for enrolment are fit for purpose [SWC-019-MIN-0153 refers]. The initial analysis found that while there is no strong evidence of a problem with the current criteria, and they are transparent, it may be possible to amend the priority categories so that they are fairer and more equitable.

15 The current priority categories determine the order in which out of zone applicants for enrolment must be offered places at a school. In order, the categories are:

15.1 students accepted into a special programme[1] run by the school;

15.2 siblings of current students;

15.3 siblings of former students;

15.4 children of former students;

15.5 children of board employees and board members;

15.6 all other students.

[1] Section 10 of the Education and Training Act defines special programmes as programmes approved the Secretary for Education that offer special education, Māori language immersion classes, or any other type of specialised education to overcome educational disadvantage. Alternatively they may be a programme that takes a significantly different approach in order to address particular student needs that would not be viable unless it could draw from beyond the school's home zone and to which entry is determined independently of the school.

16 Categories 2-5 involve a pre-existing familial connection to the school, through either siblings or parents. This reduces the likelihood that children without a pre-existing connection can enrol in a school.

17 There have also been concerns from the sector that the low priority of children of board members and board employees (currently fifth priority), means that many teachers have been unable to enrol their children into the school where they are employed.

18 Based on initial analysis, I consider it is important to seek wider feedback on whether the current priority categories are fit for purpose. In particular, there are two potential options for changes that I consider could be appropriate.

18.1 Option one – increase the priority of children of board employees (teachers and other staff) and board members and reduce the priority of children of former students;

18.2 Option two – retain the current priority groups one and two (children accepted into a special programme run by the school and siblings of current students), increase the priority of children of board members and board employees to priority three, and replace categories four to six with an all other students category.

19 At this stage the case for change is uncertain and there are no preferred options. I intend to use the information gained from public consultation to inform further development of these options and decisions on the need for legislative change. I will also take the opportunity provided by the consultation period to seek feedback on whether improvements could be made to the implementation of balloting in practice.

Teacher conduct and certification requirements

20 I am proposing to consult on changes relating to three areas of the Teaching Council's functions. The intentions of these changes are to:

20.1 improve the distribution of cases between the Complaints Assessment Committee (CAC) and the Teaching Council's Disputes Tribunal (the Tribunal;

20.2 make explicit the Teaching Council's ability to prosecute breaches of teacher registration requirements; and

20.3 clarify that the Teaching Council must exercise discretion when considering the recent teaching experience of professional leaders outside schools and early childhood services.

Improving the distribution of cases between the CAC and the Tribunal

21 The Education and Training Act 2020 (the Act) empowers the Teaching Council to manage disciplinary proceedings for teacher misconduct and provides for a two-tier system. Cases of misconduct can be dealt with by the CAC, which may, only with the agreement of the person who engaged in 'misconduct' and the person who made the complaint or report, impose a range of sanctions.

22 Cases of potential serious misconduct are dealt with by the quasi-judicial Tribunal, which has powers to call witnesses and hear evidence as well as being able to unilaterally impose sanctions. It can impose all the same sanctions as the CAC and a range of more severe ones such as cancelling a person's registration and imposing a fine of up to $3,000.

23 The Act requires the CAC to refer to the Tribunal any matter that it considers "may possibly constitute serious misconduct". In addition to this low threshold for referral, the definition of serious misconduct is itself very broad, capturing conduct that, despite the label of 'serious misconduct', is not always conduct of the most serious nature.

24 More than two-thirds of cases requiring a disciplinary response are being referred to the Tribunal. It is common for these cases to take more than an additional year to reach a disciplinary outcome and this is preventing timely determination for all parties involved.

25 I propose to consult on a package of changes to resolve this issue by allowing the CAC to resolve more cases that currently must be referred to the Tribunal.

26 The changes I propose consulting on are:

26.1 the threshold for the mandatory referral of cases from the CAC to the Tribunal should be raised by linking the threshold to whether the Tribunal may need to consider suspension or cancellation of registration or practising certificates as a starting point;

26.2 the CAC should be enabled to resolve cases that meet the definition of serious misconduct in the Act;

26.3 the requirement for the CAC to reach agreement between the teacher and the complainant should be removed, but an appeals process should be established so parties can appeal to the Tribunal; and

26.4 the CAC should no longer have the power to suspend practising certificates. All cases that may require suspension should be referred to the Tribunal.

Making explicit the Teaching Council's ability to prosecute breaches of teacher registration requirements

27 I propose to make it explicit that the Teaching Council has a function to prosecute teachers and/or employers who breach teacher registration requirements.

28 Under the Act, a teacher who does not hold a practising certificate or a limited authority to teach can be employed as a teacher at a school or early childhood education service for a maximum of 20 half-days in any calendar year. Under section 662 of the Act, a person commits an offence, and is liable on conviction to a fine not exceeding $2,000, if the person, among other things:

28.1 falsely represents themselves as a registered teacher;

28.2 teaches when they hold neither a practising certificate nor a limited authority to teach.

29 Further under section 662, a person is liable on conviction to a fine not exceeding $5,000, if that person appoints any person to a position, knowing the person is not registered as a teacher, or knowing the person does not hold a current practising certificate or a current limited authority to teach.

30 As the professional body for teaching, it is a natural function of the Teaching Council to take prosecutions where it considers someone has breached these registration requirements. For the avoidance of doubt, I consider that the Act should explicitly state the Teaching Council can prosecute a person who commits an offence under these provisions.

Clarifying that the Teaching Council must exercise discretion when considering the recent teaching experience of professional leaders outside schools and ECE services

31 I propose to consult on removing the reference to “professional leaders in other educational institutions” from the definition of ‘teaching position’ in the Education and Training Act 2020.

32 This change will clarify that the Teaching Council must exercise discretion when considering the recent teaching experience of professional leaders in tertiary organisations. This change will mean that instructors and professional leaders in tertiary settings are treated the same when the Teaching Council considers their recent teaching experience for the purposes of renewing practising certificates.

Increasing flexibility for the Government to set requirements on compulsory student services fees

33 I propose to consult on removing the current provisions on compulsory student services fees (CSSFs) from the Education and Training Act 2020 (the Act), and instead authorising these fees to be regulated as conditions of funding under section 419 of the Act. This would increase the flexibility for Government to set requirements on CSSFs charged by tertiary education providers.

34 CSSFs are fees that can be charged by tertiary education providers to students to support a range of services, such as health services, careers advice, and sports and recreation services. Universities, Te Pūkenga and some Private Training Establishments charge CSSFs.

35 Since 2012, the Government has regulated the process that providers must follow in setting CSSFs and how they are spent through a Ministerial direction issued under sections 257 and 360 of the Act. This includes specifying the

categories of services that providers can fund through CSSF revenue and requiring providers to make decisions in consultation with students.

36 The current legislative framework for CSSFs constrains the requirements the Government can place on providers that charge a CSSF. For example, to prevent trainees that transition to tertiary providers as part of the Reform of Vocational Education (RoVE) from being charged a CSSF, legislation needed to be amended to introduce time-limited provisions.

37 I propose that officials undertake a targeted consultation with the tertiary sector and students to remove the provisions on CSSFs in sections 257 and 360 of the Act, and instead authorise regulation of CSSFs through conditions on funding mechanisms issued under section 419 of the Act. This is the same way that all other provider-based fees are currently regulated. I propose that the legislative process for changing CSSF requirements would be subject to existing procedural requirements for making changes to a funding mechanism, including:

37.1 the requirement to consult with the tertiary sector on the proposed changes for a minimum of 21 days via the New Zealand Gazette; and

37.2 A minimum stand-down period of at least three months before changes can take effect following consultation and decisions.

38 This proposed legislative change would give the Government a more durable and resilient regulatory framework for CSSFs that can respond to broader system changes, such as RoVE and the new Code of Practice for Pastoral Care. It would also support the Government to consider changes in response to emergent issues raised by the tertiary sector and students.

39 The ability to change CSSF requirements through an annual administrative process, rather than through legislation, may mean that there is less certainty for providers and students on potential future changes to CSSF requirements. Tertiary providers may also consider that the proposal impinges on their institutional autonomy to make decisions on CSSFs and to fund student services. Officials will seek feedback on the legislative proposal, including whether the proposed consultation process and stand-down period is fit-for-purpose.

40 Initially policy settings for CSSFs would remain the same. This legislative proposal relates to changing the mechanism for regulating CSSFs, rather than the current policy settings. I intend to report back to Cabinet on future changes to policy settings on CSSFs in due course, which is likely to include proposals to specify distinct rules for trainees within the CSSF framework.

Using National Student Numbers for work-based learning

41 I propose to consult on enabling National Student Numbers (NSNs) to be used when there is resourcing to support students in work-based education and training. I consider that this change would support effective administration of public funding and help confirm that resources for workplace-based learning are being used effectively, efficiently, and equitably, and for their intended purpose.

42 Under the Act, every student who is enrolled with an education provider is issued with an NSN. NSNs are used to track students' enrolments and results to ensure that funding is allocated effectively, efficiently, and equitably. They allow monitoring of the impact of learner support and the use of student loans and allowances.

43 The current legislative settings provide for industry trainees and apprentices to have NSNs, but NSNs are not able to be used to allocate and monitor resourcing for learners in work-place based education and training when the funding is not administered through a registered provider, including tertiary organisations.

44 Other methods to perform the necessary monitoring of student achievement and funding allocations take more time and resources than if NSNs were used. In particular, the Ministry of Education is required to develop bespoke arrangements with a range of agencies involved in various initiatives aimed at supporting work-based learning. Employers and students are also impacted by unnecessarily long waiting times for funding allocations.

Changes to Private Training Establishment registration cancellation

45 I propose to enable the New Zealand Qualifications Authority (NZQA) to choose whether to cancel the registration of a Private Training Establishment (PTE) when the PTE has been convicted of an offence under section 352(1) of the Immigration Act 2009 – allowing a person to undertake a course of study if they are not entitled to do so under the Immigration Act.

46 Currently, the Act requires NZQA to cancel the registration of a PTE in this situation.

47 Immigration New Zealand (INZ) was not able to take forward a number of prosecutions against PTEs for enrolling international students without the appropriate immigration authority (visa) because of the likelihood that deregistration would be considered by judges to be disproportionate to the seriousness of the offending. There have been at least five cases in 2018-19 that were impacted by these restrictions.

48 Deregistration is also an unnecessary punishment as the Immigration Act provides the deterrent penalties of a fine of up to $30,000, or up to $50,000 if the provider has knowingly allowed a student to study unlawfully.

49 I consider that cancellation of a PTE's registration for immigration breaches should be at the discretion of NZQA, rather than automatic, so that the punishments for the offence are more proportionate to the offence.

Simplifying New Zealand qualifications and other credentials

50 I propose that the New Zealand Qualifications Authority consult on ways to simplify New Zealand qualifications and other credentials. All New Zealand qualifications at levels 1 to 7 are in scope, excluding National Certificates in Education Achievement (NCEA), wānanga-developed iwi qualifications and degrees.

51 This would also involve the following changes:

51.1 Renaming ‘training schemes’ as ‘micro-credentials’;

51.2 Enabling micro-credentials to be developed by WDCs for providers to deliver.

52 The proposals are intended to consider how the intent of the RoVE can best be supported. The intent of RoVE is for a unified, collaborative, innovative and sustainable vocational education system which:

52.1 delivers to the needs of all learners;

52.2 is relevant to the changing needs of employers;

52.3 is collaborative, innovative and sustainable for all regions of New Zealand;

52.4 upholds and enhances Māori Crown partnerships and Te Tiriti.

53 There is an opportunity to consider if a simplification of vocational education products could support the overall RoVE objectives, particularly:

53.1 the portability of students’ learning when they move between work-based and provider-based learning and between providers;

53.2 consistency of what graduates know and can do, so that employers can be confident of what learners know and can do.

Ensuring that vocational qualifications meet the needs of students and employers

54 This proposal seeks feedback on two options to understand how vocational qualifications can best support learner mobility and consistent skills for employers, whilst retaining flexibility for regional needs.

55 The first option implements the current legislative settings for the vocational qualifications as set out in the Education and Training Act 2020, as a result of changes driven by the RoVE. This comprises qualifications, skills standards, training packages, programmes and micro-credentials. This will be implemented by default if no changes are proposed as a result of the consultation process.

56 The second option proposes a simplified vocational qualification system, comprising qualifications, skill standards and micro-credentials. Under this option, there would be no separate programmes or training packages in future. Instead, qualifications would specify a national curriculum, which would be collaboratively developed. This will be done by the qualification developer (for industry qualifications, this will be the Workforce Development Council) and providers who wish to deliver the qualification.

Replacing the term ‘training schemes’ with the term ‘micro-credentials’

57 I propose replacing the term ‘training schemes’ with the term ‘micro-credentials’ in the Act.

58 Training schemes are a type of training which results in an award but do not, of themselves, lead to a qualification listed on the New Zealand Qualifications Framework. Micro-credentials are currently a subset of training schemes and are a more recent feature of the education system.

59 This change would make the quality assurance framework easier to navigate for learners and employers.

Enable Workforce Development Councils to develop standardised micro-credentials that providers can deliver

60 I propose to consult on enabling Workforce Development Councils (WDC) to develop training schemes/micro-credentials for providers' use. This would require the separation of the process for the approval of training scheme/micro-credential content from the process for the accreditation of providers to deliver them. I also propose to consult about whether third parties, other than WDCs, should be able to seek NZQA approval for training schemes/micro-credentials that providers can deliver.

Expanding the Education Review Office's mandate

61 I propose to consult on an amendment to enable the Education Review Office (ERO) to review professional learning and development (PLD) accessed by schools, kura and early learning services. This would require an amendment to section 462 of the Act.

62 Section 462 does not currently allow for ERO to review PLD accessed by schools, kura and early learning services because ERO is not currently permitted to review education services provided only to over 16-year olds who are not enrolled in State schools.

63 PLD is an important lever in improving the quality of teaching to students. The proposed amendment is otherwise consistent with ERO's system evaluation function.

Consultation

64 The Treasury, Department of Prime Minister and Cabinet, Public Service Commission, Te Puni Kokiri, Ministry for Pacific Peoples, Ministry for Women, Ministry of Business, Innovation and Employment, Ministry of Social Development, Office of Disability Issues, Office of Ethnic Communities, Ministry of Youth Development, Police, Oranga Tamariki, Ministry of Justice, Office of Māori-Crown Relations - Te Arawhiti, Immigration New Zealand, Office of the Privacy Commissioner, New Zealand Qualifications Authority, Education Review Office, Tertiary Education Commission, Teaching Council and Education New Zealand have been consulted.

Publicity

65 I have directed the Ministry of Education to prepare a consultation plan for the proposals for inclusion in the Bill that I will approve once Cabinet has made

relevant decisions. This consultation will take place from 21 April to 16 June 2021.

66 The NZQA will manage the consultation on the proposals related to qualifications and credentials. This will take place on the same timeframe, from 21 April to 16 June.

Financial Implications

67 There are no financial implications.

Population Implications

68 The proposed changes are intended to make a range of improvements to strengthen the opportunities and protections for students/ākonga, including Māori, Pacific, disabled and migrant students/ākonga. Students/ākonga in schools will be particularly impacted by any change to the school balloting criteria. Students/ākonga in tertiary education providers will be affected by future changes to the compulsory student services fees requirements that would be enabled by the proposed legislative change because these fees are charged to students by providers. Students/ākonga in tertiary education providers will also be affected by qualifications and other credentials changes, as this may impact their choice of study.

Human Rights

69 All of the proposals appear to be consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. A final determination as to the consistency of these proposals with the New Zealand Bill of Rights will only be possible when the Bill has been drafted.

Legislative Implications

70 Feedback on these proposals will inform revised proposals that I expect to submit to Cabinet later this year when I will be seeking approval to issue the drafting instructions for the Education and Training Amendment Bill (No 2).

71 9(2)(f)(iv) [redacted]

Impact Analysis

Regulatory Impact Statement

72 The Regulatory Impact Analysis panel at the Ministry of Education has reviewed and confirmed that the following discussion documents can substitute for a Regulatory Impact Statement. They will lead to effective consultation and support the eventual development of a quality Regulatory Impact Statement:

72.1 improving the equity and fairness of the order of priority for offers of enrolment to out-of-zone students at schools with enrolment schemes;

72.2 strengthening Teaching Council processes regarding disciplinary proceedings and issuing practising certificates;

72.3 enabling National Student Numbers to be used to support work-based learning;

72.4 allowing NZQA to use discretion to cancel a PTE's registration when the PTE has been convicted of an offence under the Immigration Act 2009; and

72.5 simplifying New Zealand qualifications and other credentials;

73 The Ministry of Education's Quality Assurance Panel has reviewed the Interim Regulatory Impact Statements "Increasing flexibility for Government to set requirements on compulsory student service fees" and "Extending ERO's mandate to include the review of professional learning and development (PLD) accessed by schools, kura and early learning services" produced by the Ministry of Education. The panel considers that they both meet the Quality Assurance criteria.

74 The Ministry of Education's Quality Assurance Panel has reviewed the Interim Regulatory Impact Statement "Police vetting - the application period for specified employees" produced by the Ministry of Education dated 11 March 2021 and the associated discussion document. The panel considers that the Statement meets the Quality Assurance criteria and that the discussion document will lead to effective consultation and support the delivery of RIA to support subsequent decisions.

Climate Implications of Policy Assessment

75 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to these proposals as the threshold for significance is not met.

Proactive Release

76 I intend to proactively release this Cabinet paper subject to redaction as appropriate under the Official Information Act 1982.

Recommendations

77 The Minister of Education recommends that the Committee:

1 **note** that an Education Amendment Bill is proposed for inclusion on the 2021 Legislation Programme with a priority of Category 4 – refer to select committee within the year, and will amend the Education and Training Act 2020;

2 **note** that the policy proposals are intended to:

2.1 Ensure all education workers who are required to be Police vetted are vetted under the Act prior to beginning work in licensed ECE services and schools;

2.2 Improve the equity and fairness of the order of priority for offers of enrolment to out-of-zone students at schools with enrolment schemes;

2.3 Strengthen Teaching Council processes regarding disciplinary proceedings and issuing practising certificates;

2.4 Repeal sections 257 and 360 of the Act and authorise compulsory student services fees charged by tertiary education providers to be regulated as conditions of funding mechanisms issued under section 419 of the Act;

2.5 Enable National Student Numbers to be used to support work-based learning;

2.6 Remove the requirement that NZQA must cancel a Private Training Establishment's registration if that establishment is convicted under section 352(1) of the Immigration Act 2009;

2.7 Simplify New Zealand qualifications and credentials;

2.8 Specify a new function of the Education Review Office to review professional learning and development services accessed by schools, kura and early learning services;

3 **note** that the intended period of public consultation will be from 21 April to 16 June (eight weeks);

4 **note** that I intend to seek final policy approvals for these proposals from Cabinet in August 2021;

5 **agree** to the release of the following documents subject to any minor editorial, formatting and layout changes required:

5.1 Changes for Police vetting of non-teaching and unregistered employees (attached at Appendix 1);

5.2 Changes to the priority categories for school enrolment schemes (attached at Appendix 2);

5.3 Strengthening Teaching Council processes (attached at Appendix 3);

5.4 Changes for compulsory student services fees (attached at Appendix 4);

5.5 Using National Student Numbers for work-based learning (attached at Appendix 5);

5.6 Changes to Private Training Establishment registration cancellation (attached at Appendix 6);

5.7 Simplify New Zealand qualifications and other credentials (attached at Appendix 7);

5.8 Expanding the Education Review Office's mandate (attached at Appendix 8).

Authorised for lodgement

Hon Chris Hipkins

Minister for Education

Appendices

Appendix 1: Changes for Police vetting of non-teaching and unregistered employees

Appendix 2: Changes to the priority categories for school enrolment schemes

Appendix 3: Strengthening Teaching Council processes

Appendix 4: Changes for compulsory student services fees

Appendix 5: Using National Student Numbers for work-based learning

Appendix 6: Changes to Private Training Establishment registration cancellation

Appendix 7: Simplify New Zealand qualifications and other credentials

Appendix 8: Expanding the Education Review Office's mandate

Appendix 1: Discussion document: Proposed changes for Police vetting of non-teaching and unregistered employees

Have your say about amending the Police vetting provisions in the Education and Training Act 2020 to remove the two-week application period

Proposal

In most circumstances, safety checks under the Children's Act 2014 and Police vets under the Education and Training Act 2020 (the Act) must be obtained *before* staff begin work in their new jobs at early childhood services (ECE services) and schools. However, there is one exception. The Act currently provides that non-teaching and unregistered employees can begin work without a Police vet as long as the vet is applied for within two weeks of their beginning working, and as long as they are supervised at all times around children until the Police vet is obtained.

We are proposing to amend the Police vetting provisions in the Act to remove the application period and to ensure all employees who require a vet are vetted before they begin work. This change is intended to remove confusion and ensure consistency for all Police vetting requirements for ECE and school staff.

Background

All children's workers in ECE services and schools, whether teaching or non-teaching staff, are subject to the safety check requirements in the Children's Act 2014. Children's workers are people who work in, or provide, a regulated service (including ECE services and schools), and where the person's work may or does involve regular or overnight contact with children without the parents being present. The majority of workers in the education sector are children's workers.

For all other staff (i.e. staff who are not "children's workers"), the Act requires ECE services and schools to Police vet specified groups of workers involved in the education sector, including their non-teaching and unregistered employees. In practice, the Police vet provisions apply to workers who are not required to be safety checked as children's workers. This is one very important way of keeping children and young people safe while engaging in education.

The current situation

Under the Act, ECE services and schools must obtain a vet of their non-teaching and unregistered employees before those employees have unsupervised access to children. ECE services and schools have two weeks after these employees begin work to ***apply*** for a Police vet (the application period), as long as the employee does not have unsupervised access to children before the Police vet is obtained.

The application period under the Act

The application period was intended as a compromise between flexibility and safety

At the time the application period was introduced in 2010, the processing times for vets had the potential to cause delays for ECE services and schools recruiting staff. ECE services and schools were given two weeks to apply for a vet as a compromise between flexibility and safety. However, processing times for vets have improved, and Police are currently working on changes to improve them further. In limited circumstances, approved agencies which meet the criteria managed by the Ministry of Education can make requests for urgent vets.

The application period only applies to a few employees

In practice, the application period only applies to non-teaching and unregistered employees at licensed ECE services and schools, who are unlikely to have unsupervised access to children in their daily jobs (otherwise they would be children's workers and must be safety checked). Examples include some office staff and cooks, although many of these staff may also have unsupervised access to children (and would therefore be safety checked).

The application period causes confusion

We've heard that the application period causes confusion. Although it only applies to a very limited number of staff in practice, some ECE services, schools and staff mistakenly think it applies when it doesn't. The application period does not apply to children's workers as there is no two-week window in the Children's Act safety checking provisions. Given the nature of the ECE and school environments, we think there are very few staff for whom the application period applies.

Questions:

Q.1. Do you agree that the application period causes confusion?

Q.2. Do you have any roles at your ECE service or school where the application period currently applies (i.e. the staff member is not also a children's worker who needs to undergo a safety check)? What are these roles, and what access do they have to children?

Q.3. Have you vetted staff before they start even when you are able to vet once the staff member has started work? If so, why?

Proposed solution – removing the application period

We are proposing to amend the Act to remove the application period and to ensure ECE services and schools must ***obtain*** the vet before non-teaching and unregistered employees begin work.

We want to hear about the advantages and disadvantages of this solution, especially if additional costs will be imposed on ECE services and schools, or they will need to change the way they operate.

Questions:

Q.1. Do you agree with the proposed solution?

Q.2. What are the advantages and disadvantages (including costs) of the proposed solution?

Q.3. How would having to obtain a vet before beginning work impact you?

Q.4. Are there other solutions to the problem we identified? What are the advantages and disadvantages (including costs) of those solutions?

How to have your say

We are seeking your views on changes to Police vetting of non-teaching and unregistered employees discussed above. You can email your submissions to legislation.consultation@education.govt.nz
or write to:

Education Consultation
Ministry of Education
PO Box 1666
Wellington 6140
New Zealand

Submissions close on 16 June 2021 and will inform advice to the Minister on final policy proposals that would be submitted to Cabinet.

Purpose of feedback

We are seeking your views on the suggested changes discussed above. Your feedback will enable us to make better informed decisions about possible changes to Police vetting for non-teaching and unregistered employees.

Please be assured that any feedback you provide will be confidential to those involved in analysing the consultation data. We will not identify any individuals in the final analysis and report writing unless you expressly give permission for this. However, submissions, including submitters' names, and documents associated with the consultation process may be subject to an Official Information Act 1982 request.

Appendix 2: Discussion document: Proposed changes to the priority categories for school enrolment schemes

Have your say about whether we should amend the provisions in the Education and Training Act 2020 to change the priority categories for out of zone enrolments in state schools

Introduction

Many schools in New Zealand operate an enrolment scheme to manage capacity constraints. If a school with an enrolment scheme has capacity to enrol additional students from out-side their home zone, the school must offer those places to students using the balloting priority categories laid out in Schedule 20 of the Education and Training Act 2020.

In its July 2019 Report, *Our Schooling Futures: Stronger Together | Whiria Ngā Kura Tūātinitini,* the Independent Taskforce for the Review of Tomorrow's Schools' (the Taskforce) noted concerns about barriers to accessing education, especially for Māori, Pacific peoples, children and young people with disabilities and/or learning support needs, and learners from disadvantaged backgrounds. As part of the Government's response to the Taskforce's Report, Cabinet agreed to review the current balloting priority categories to ensure they are fit for purpose (i.e. they are equitable, fair and transparent).

Our initial analysis did not find any strong evidence of problems with the current priority categories. However, while the priority categories are transparent, they could be amended to be fairer and more equitable.

We have identified three potential options for changing the priority categories (in addition to retaining the status quo) which are presented in this document for feedback. We would like to hear your views to better understand how the current categories are working, whether there are any issues that justify changing the categories through legislative amendments, and if so, the preferred priority categories.

Background

Many schools in New Zealand operate enrolment schemes. The purpose of an enrolment scheme is laid out in section 71 of the Education and Training Act 2020 (the Act) and is to:

- avoid overcrowding, or the likelihood of overcrowding;
- enable the Secretary for Education (the Secretary) to make the best use of existing networks of State schools; and
- ensure that the selection of applicants for enrolment at the school is carried out in a fair and transparent manner.

The Act requires that an enrolment scheme must, as far as possible, ensure that the scheme does not exclude local students and that no more students are excluded from the school than is necessary to avoid overcrowding at the school.

Where a school's capacity is greater than the number of enrolled in-zone students, the school can decide whether to offer those excess places to out-of-zone students. Clause 2 of Schedule 20 of the Act sets out how school boards must select applicants from outside the home-zone. This includes the order of priority in which applicants are offered places at the school (the priority categories). The current order of priority is:

1) students accepted into a special programme[1] run by the school;
2) siblings of current students;
3) siblings of former students;
4) children of former students;
5) children of board employees and board members;
6) all other students.

Each of the priority groups must be considered in order. If the number of applicants within a priority grouping is fewer than the total number of remaining available places, all applicants within the grouping must be offered enrolment. Otherwise a ballot is required. If out-of-zone spaces are still available, then consideration moves to the next priority until all available out-of-zone spaces are filled.

What is the problem?

In their July 2019 report, the Taskforce noted that there are systemic inequities in educational outcomes in New Zealand. A key theme of the Taskforce's findings was the need to place greater weight on equity at a system level. The Taskforce considered that improving equity of access to schooling has an important role to play in reducing these systemic inequities.

Enrolment schemes inherently limit access to schooling as they restrict guaranteed enrolment to a geographic zone around a school. The order of the priority groups heavily influences the chances that an out-of-zone student has to be offered a place at a school. To mitigate the risk of creating barriers to accessing education, the balloting categories must be fit for purpose. This means they should be transparent, fair and equitable.

We do not currently have strong evidence of a problem with the current balloting categories. We are seeking your feedback to better understand and quantify the extent to which there are concerns with the current order of the priority categories.

Question:

Do you agree with the problem definition outlined above? If not, why?

Objectives/criteria

Criteria

Based on the Taskforce's concerns, and the legislated purposes of enrolment schemes, we have used the following principles to determine whether the current priority groups are fit for purpose:

- **Transparency**: the primary purpose of the priority groups and the ballot process is to ensure that the offer of places to out-of-zone students is carried out in a fair and transparent manner. Ministry guidance states that, to be considered transparent, a process must be freely available, unambiguous and consistently applied.

[1] Special programmes for the purpose of enrolment schemes are programmes that have been approved as special programmes by the Secretary for Education and offer special education, Māori language immersion classes, or any other type of specialised education to overcome educational disadvantage

- **Fairness:** to be considered fit for purpose, the ordering of the priority groups must be perceived as fair and justified. Perceptions that the priority categories are unfairly advantaging certain groups would be seen as a failure to meet this principle by the broader community.
- **Equity**: some children and young people are underserved by the current education system. If the ordering of the priority categories perpetuates this disadvantage or creates additional barriers to access by reducing choice for these learners, then options for improving equity of access should be considered.

Objectives

The objective of any change to the status quo is to improve the overall balance of transparency, fairness, and equity of the enrolment of out-of-zone students. However, in meeting these objectives, any changes must have benefits that justify any potential downsides of their implementation.

Do the current priority groups meet these objectives?

Transparency

The current priority groupings are set out in legislation, which prescribes the manner that out-of-zone students are to be prioritised and offered enrolment. There are also mandatory instructions to schools that lay out the criteria for and details of balloting. Accordingly, we consider that legislatively the priority groups and ballot criteria are transparent in that they provide a clear hierarchy for selecting out-of-zone students and clear details of how to select students from within groups in that hierarchy.

This finding rests on the assumption that offers of enrolment and balloting are carried out in accordance with legislation and the guidelines and instructions available. It also assumes that the legislation, instructions, and priority groups and balloting practices are accessible and understandable to the public. We have not carried out an in-depth analysis of how balloting operates on the ground or its accessibility for different communities (such as people with disabilities), so would welcome views on the operation of balloting in practice.

Question:

What is your experience of balloting in practice? Are you aware of issues with it?

Fairness

Currently, children of board employees and children of board members are fifth priority in the priority groups. We are aware of concerns that this low priority results in teachers being unable to enrol their children at the school where they work. This has the potential to influence where teachers choose to work.

We are unable to quantify the extent to which this is considered to be a problem with the current balloting categories. However, one option to address these fairness concerns would be to increase the priority of children of board employees and board members. This option is discussed in detail below.

Question:

Do you think that the priority groups are fair? If not, why? Please provide examples where relevant.

Equity

The current priority groups place a high value on familial connection to a school, even if that connection was some time ago through a sibling who no longer attends the school or a parent who once attended the school. The priority groups also acknowledge students who would significantly benefit or be disadvantaged if they could not attend a certain school (such as children who would be separated from their siblings). These connections help build school community, which in turn supports wellbeing and quality learning for students.

While the priority groups have benefits for many whānau and schools, they also significantly reduce the likelihood of out-of-zone students without a current connection to a school being able to enrol. In practice, this means that access to many schools with an enrolment scheme is currently restricted to students and whanau who live within a school's home-zone or fall within the first few priority groups.

Additionally, we consider that there may be a risk that prioritising some family connections, especially links between former students and their children, could contribute to inequity, by removing opportunity for families without these connections from attending some schools.

Some students and whanau choose to apply for out-of-zone enrolment at a school other than their local school. When a decision is made to apply to enrol in a school from out-of-zone, the process for selecting these students for enrolment should be as equitable as possible, in keeping with the Taskforce's emphasis on increasing equity throughout the education system.

One option to address these concerns would be to reduce the number of priority groups. This could increase the number of available out-of-zone spaces.

Questions:

Q.1. Do you agree with our findings that the priority groups could be made more equitable? Please provide examples where relevant.

Q.2. Have you seen evidence of inequitable outcomes caused by the priority groups or balloting? If so, what are they?

Constraints on analysis

Our analysis to date has been constrained by the lack of data surrounding the use of balloting. While we have data on the number of in-zone and out-of-zone students enrolled at a school, we do not have information on the use of specific priority groups or the socioeconomic background of students enrolling under each category. This means we would value information on the real-world impacts of the options presented below.

Options and Analysis

The options below will not result in any change in access to schools that do not currently have capacity to accept out-of-zone enrolments or those schools that only have capacity to accept applicants for special programmes or siblings of current students.

The Ministry does not have a preferred option. We are seeking public feedback on the feasibility, impact, and effects of each option to inform further policy development, including whether any changes should be progressed.

Option one: Retain the status quo

This option retains the current priority groups in their current order. We currently have limited information on the operation of priority groups and balloting in practice. However, if the status quo is chosen, any existing issues or inequities in the current system will remain.

Question:

Do you want to retain the status quo? If so, why?

Option two: Increase the priority of children of board employees (teachers and other staff) and board members to priority three, lower the priority of siblings of former students, and remove the children of former students as a priority group

This option recognises the strength of the connection that board employees and board members have with their school and uses this as the basis for increasing their priority.

It addresses some of the concerns raised by the sector about teachers not being able to enrol their children in the school that they work at. Increasing the priority of children of board employees and board members should increase the number of students being accepted under this category, although, as with all other out-of-zone applicants, it would not guarantee them enrolment in a school.

There is a risk that schools that are already perceived as desirable places to work could be seen as even more attractive due to the increased likelihood of a teacher's children being enrolled there. This could lead to work force pressures such as teacher retention issues in other schools.

This option could exacerbate fairness concerns from other sectors of society as it only focusses on the fairness concerns of teachers. There are other groups who may have their own connections to a school but are not recognised in the current priority categories. Further prioritising the children of board employees and board members may be seen as unfair by these groups.

Lifting children of board members and board employees to priority three under this option would move siblings of former students to priority four (down from priority three).

We did not consider retaining the priority category for children of former students as this did not meet our policy objectives of improving equity of balloting.

This option removes the priority category for children of former students to try and improve the equity of balloting.

Questions:

Q.1. Do you agree with this option and want it progressed?

Q.2. Do you believe that children of board employees and children of board members should continue to be treated together as the same priority, or do you believe they should be prioritised separately?

Option three: Retain current priority groups one and two, increase the priority of children of board members and employees to priority three, and hold an open ballot for all other applicants

This option would retain the current priority groups one and two (students accepted into a special programme run by the school and siblings of current students), increase the priority of children of board members and board employees to priority three, and then hold an open ballot for all other applicants.

This option aims to address the fairness concerns of teachers being unable to enrol their children in the school that they work at by increasing the priority of children of board members and board employees. This option is also intended to improve equity of access by opening more out-of-zone spaces to applicants without a pre-existing connection to a school (where a school has capacity).

Removing the priority for siblings of former students would be disruptive for some families (assuming the sibling did not receive a place via the wider ballot). We note that there are fewer cost savings for parents associated with siblings attending a school at different times, than if they attend together, such as transportation and after school care. However, this option still carries a risk of increased costs for families, as other cost saving measures (such as passing down uniforms) will no longer be available.

Question:

Do you agree with this option and want it progressed?

Options not considered

We have not considered options that would bypass balloting and guarantee enrolment for certain categories of students. We have also not considered options that would remove the underlying structure of enrolment schemes, and geographically based home-zones.

We also did not present an option that would have removed all priority categories aside from children accepted into special programmes and siblings of former students as the disruption caused outweighed potential equity benefits.

How to have your say

We are seeking your views on school enrolment scheme out-of-zone priority categories. You can email your submissions to legislation.consultation@education.govt.nz
or write to:

Education Consultation
Ministry of Education
PO Box 1666
Wellington 6140
New Zealand

Submissions close on 16 June 2021 and will inform advice to the Minister on final policy proposals that would be submitted to Cabinet.

Purpose of feedback

We are seeking your views on the suggested changes discussed above. Your feedback will enable us to make better informed decisions about possible changes to enrolment priority categories.

Please be assured that any feedback you provide will be confidential to those involved in analysing the consultation data. We will not identify any individuals in the final analysis and report writing unless you expressly give permission for this. However, submissions, including submitters' names, and documents associated with the consultation process may be subject to an Official Information Act 1982 request.

ANNEX 1: Options analysis table

	OPTION ONE Retain the status quo	OPTION TWO Increase the priority of children of board employees (teachers and other staff) and board members to priority three, lower the priority of siblings of former students, and remove the children of former students as a priority group	OPTION THREE Retain current priority groups one and two, increase the priority of children of board members and employees to priority three, and hold an open ballot for all other applicants
Benefits & advantages	• **Recognises the policy reasons underlying the current priority groups:** the underlying policy reasons for the current priority groups and their ordering (such as recognising the importance of keeping siblings together) would be retained. • **Stability**: continuation of status quo will not impact the current management of the schooling network and is unlikely to cause disruption for families and school communities. • **Transparency:** the current priority groups and balloting system is generally perceived as being transparent with a clear hierarchy mandated in legislation. This system may be perceived as being more transparent than having no criteria at all.	• **Increased likelihood of some parents being able to enrol their children at the school that they work at**: this option increases the likelihood that children of board employees and board members will be able to enrol their children, from out-of-zone into the school where they are employed at/a member of the board. This partially addresses the concerns raised by the sector that it is unfair that many teachers are unable to enrol their children at the school where they work.	• **Increased likelihood of parents being able to enrol their children at the school that they work at and improved equity for families that lack a parental connection to a school:** this option would increase the likelihood that children of board members and employees would be able to enrol at the school where their parents work.
Costs & disadvantages	• **Continues the perceived inequities in the current system:** this option retains the order of the current priority groups and would perpetuate any inequities that may exist.	• **Impact on schools with Old Boy/Girl cultures:** this option removes the priority of siblings of former students and children of former students. Accordingly, schools may see a decrease in the number of students attending their schools whose parents also attend the school. This could affect schools which are known for their Old Boy/Girl cultures. • **Decrease in priority for siblings of former students:** this option will decrease the priority of siblings of former students and may lead to fewer of these students being enrolled in a school.	• **Impact on schools with Old Boy/Girl cultures:** this option removes the priority of siblings of former students and children of former students. Accordingly, schools may see a decrease in the number of students attending their schools whose siblings or parents also attended the school. This could affect schools which are known for their Old Boy/Girl cultures. • **Disregards some connections to schools:** this option rejects consideration of the connection that children of former students have to a school as well the connection of siblings of former students. As noted above this may lead to some families experiencing additional costs.
Risks	• **Perpetuation of unseen issues:** unidentified issues related to the current system of balloting would be perpetuated.	• **Unfairness:** while this option is designed to address the perceived unfairness by school staff and board members of the current system, it may contribute to additional perceptions of unfairness by others. Other members of the school and local community have their own connections to a school as well as their own legitimate reasons for wanting their children to attend a certain school. These groups may feel that it is unfair that the children of board employees and members are further prioritised. • **Work force pressures:** there is a risk that schools that are already perceived as desirable places to work could be seen as even more attractive due to the increased likelihood of a teacher's children being enrolled there. This could lead to work force pressures such as teacher retention issues in other schools.	• **Uncertain equity benefits:** the Ministry does not hold any data on the use of specific out-of-zone enrolments, nor do we have any information as to the connection between the current groups and real world inequities. This option is designed to address the potential for the current priority groups to perpetuate inter-generational inequality. However, the real-world equity benefits from this change cannot currently be predicted. • **Less structure allows more opportunity for misuse:** increasing the number of enrolments that occur through an open ballot increases the number of students who are enrolled through a strict identifiable criteira. If proper safeguards are not adhered to in the operation of balloting, bad faith actors could offer enrolment to students in contravention of the process.
Magnitude of impact	• **Impact on schools and students:** this option retains the current status quo. Schools and students will likely continue to act as they do now.	• **Will not guarantee enrolment of children of board members or board employees:** this option rearranges the current priority groups for selecting out-of-zone enrolments. It does not create additional spaces or guarantee children of board members and employee's enrolment. As noted earlier many high demand schools do not take in out-of-zone students. • **Impact on equity:** this option re-orders the current ballot priority categories and is not explicitly designed to improve the equity of the education system.	• **Will not guarantee enrolment of disadvantaged students or children of board employees or board employees:** this option will only address how out-of-zone spaces are allocated - it will not guarantee enrolment for out-of-zone students. Many highly sought-after schools take in an extremely limited number of out-of-zone students, and these changes will not necessarily impact these schools. • **Impact on equity:** the Ministry does not hold data on the use of specific priority categories, or the correlation between the current groups and inequity in New Zealand. This change is intended to address inequity in the priority groupings, but the real-world equity impacts cannot be predicted at this stage

Appendix 3: Discussion document: Strengthening Teaching Council processes

Have your say on three proposals to strengthen and clarify Teaching Council of Aotearoa New Zealand (the Council) processes:

- streamlining teacher disciplinary processes run by the Council
- ensuring that teacher registration requirements are enforced by the Council
- clarifying how the Council is to consider the recent teaching experience of professional leaders in tertiary settings.

Proposed changes to streamline the disciplinary process for teachers

The Education and Training Act 2020 (the Act) empowers the Teaching Council of Aotearoa New Zealand (the Council) to manage disciplinary processes for teacher conduct. The Council has told us that matters of teacher conduct are currently taking too long to reach a disciplinary outcome and this is denying timely resolution for all those involved. A significant number of low-level conduct cases are being dealt with through a disciplinary process that was intended to deal only with the most serious cases. We are proposing to streamline the disciplinary processes to allow the Complaints Assessment Committee (CAC) of the Council to resolve a greater proportion of matters.

Current situation

Concerns about teachers' conduct and competence are usually brought to the Council via mandatory reports from employers, criminal convictions, or complaints made to the teacher's employer or directly to the Council.

The Triage Committee

Concerns are initially considered by the Council's Triage Committee. The Triage Committee decides whether to take no action, or to refer the concern to either the teacher's employer, a Professional Practice Evaluator (to consider competence matters), the Governing Board (if immediate action is needed), or the CAC.

The Complaints Assessment Committee (CAC)

The CAC considers conduct matters that may require a disciplinary response.[1] Where the CAC considers there may possibly have been serious misconduct, it must refer the matter to the Disciplinary Tribunal (DT).[2] The CAC may also refer any other case to the DT that it decides to.

If the CAC considers that a case amounts to misconduct (but not serious misconduct) it may impose a range of sanctions but only with the agreement of the teacher and the person who

[1] A CAC panel generally contains one lay member and three registered teachers. An investigator is appointed on behalf of the CAC who produces a report and the teacher being investigated is given the opportunity to respond to this report and meet with the CAC before a decision is made.
[2] Refer s 497(5) of the Act.

made the complaint or mandatory report.[3] When there is no agreement, the CAC may refer the matter to the DT.

The requirement for the CAC to refer certain cases to the DT together with the requirement for the CAC to reach agreement with parties, means that the CAC exercises its powers to impose a sanction in relatively few cases.

The Disciplinary Tribunal (DT)

The DT is a quasi-judicial body independent of the Council. It has the power to call witnesses, hear evidence, and to unilaterally impose sanctions.[4] The DT can impose all the sanctions available to the CAC as well as cancelling a teacher's registration, practising certificate or LAT, and imposing a fine of up to $3,000. The CAC prosecutes the teacher before the DT. The teacher and the CAC can appeal DT decisions to the District Court.

The Council appoints the members of the CAC and the DT and funds their activities. Further detail about the Council's disciplinary processes are available on the Council's website.

Problems to consider

Problem 1 – too many matters are being referred to the DT that could be appropriately resolved by the CAC

The current "may possibly constitute serious misconduct" threshold for when the CAC must refer a case to the DT was introduced in 2015.

The definition of serious misconduct is broad. It requires conduct to meet one of three high-level categories in the Act:

- may negatively affect the wellbeing of a student, or
- reflects poorly on a person's fitness to teach, or
- conduct that may bring the profession into disrepute.

In addition, conduct must meet the requirement for reporting serious misconduct set out in the Council's rules. The reporting requirement centres on whether there has been a 'serious breach' of the Teaching Council's Code of Professional Responsibility and sets out specific examples of conduct that are a serious breach. While described as 'serious misconduct', the breadth of this definition results in it capturing more than conduct of a truly serious nature.

The policy intention behind the current settings was for the DT to deal with all cases of serious misconduct. This was in response to concerns that the CAC was failing to refer too many cases that were of a serious nature. A finding of serious misconduct is now the most common

[3] With such agreement, the CAC can censure the teacher, impose conditions on a teacher's practising certificate or limited authority to teach (LAT), annotate the register, direct the Council to impose conditions on subsequent practising certificates, or suspend a practising certificate or LAT for a fixed period or until specific conditions are met.

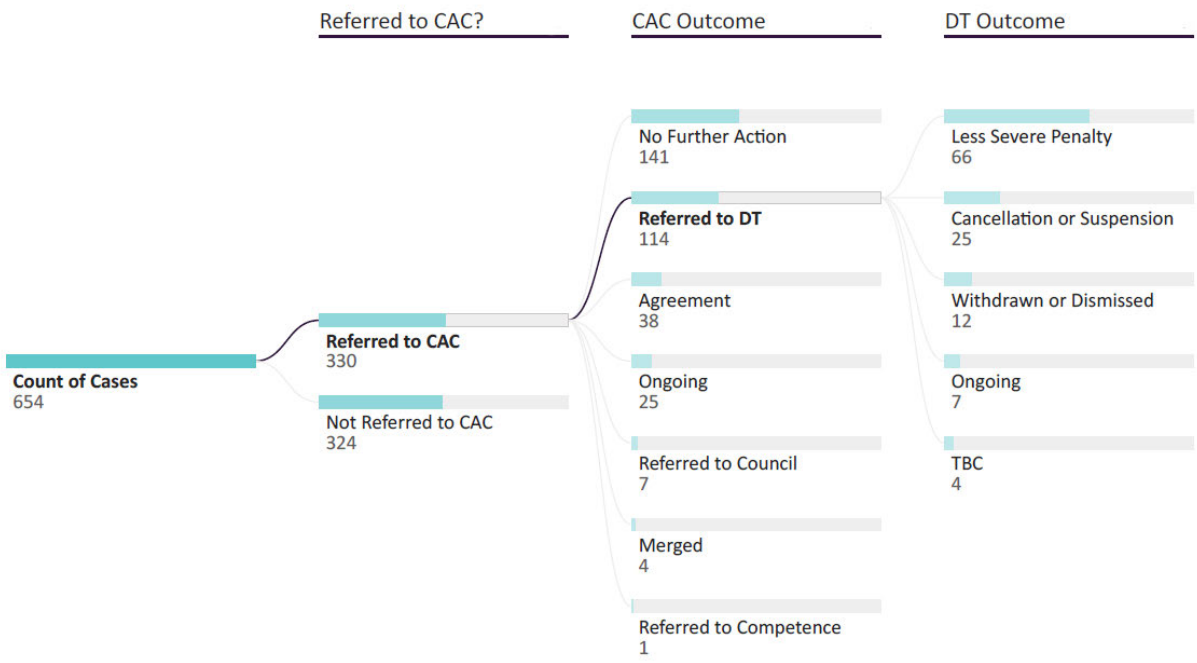
[4] Cases are usually heard by a three-person panel (chaired by a lawyer) and the CAC is the prosecuting body (represented by its lawyer).

finding made by the DT. The DT makes the lesser finding of misconduct rather than serious misconduct in fewer than 10% of cases.

While a finding of serious misconduct is common, cases where the conduct is so serious that a teacher is restricted from practising are less common. The DT imposes a sanction that falls short of suspension or cancellation of a teacher's practising certificate or registration over two thirds of the time. Conditions, censure and annotation of the register are by far the most common penalties imposed. All of these less severe penalties are available to the CAC.

The following diagram shows outcomes for cases received by the Council in 2018. It shows that 66 cases referred to the DT attracted penalties falling short of cancelation or suspension, and 12 cases were either withdrawn or dismissed. Meanwhile, the CAC reached agreement on a penalty (with the teacher and complainant) on 38 cases. 25 cases with the CAC are still ongoing. While the total number of cases referred to the DT in 2019 and 2020 is less than 2018, the proportions of cases being resolved at different parts of the disciplinary process are comparable.

Diagram: Outcomes for matters received by the Council in 2018



We believe some of the lower-end cases resolved by the DT are more appropriately dealt with by a lower disciplinary body. Those cases typically resulting in less severe penalties could be resolved by the CAC, in terms of the sanction imposed, if it was within the jurisdiction of the CAC to handle them.

There are two main advantages of having the CAC resolve more cases. Firstly, it avoids duplication of process. After the CAC has considered whether a case should be referred to the DT, the CAC must then lay a charge before the DT in its role as the prosecutor. Secondly, the CAC can resolve cases through a less resource intensive process. The CAC currently considers most cases on the papers, this has the potential to be less costly and faster than a

quasi-judicial process. Drawn out timeframes for resolution can also extend and intensify an already stressful process for teachers and other parties involved.

Question:

Do you agree that too many cases are being referred to the DT?

Problem 2 - the requirement that the CAC reach agreement before imposing a sanction for misconduct is contributing to delays in the regime

Currently the CAC must have the agreement of the person who engaged in misconduct and the person who raised concerns before imposing sanctions. If agreement is not reached but the CAC believes that a certain sanction is appropriate, the only way to have that sanction imposed is to refer the case to the DT which has the power to do so.

The Council estimates that only a few cases (approximately four in the last two years) are being referred to the DT from the CAC for this reason. However, the Council is concerned that excessive amounts of CAC time and resources are going into trying to reach agreement between the parties. In 2019, it took the CAC an average of 9 months to resolve a case. Further, due to the low threshold for referral to the DT, currently there are relatively few cases in which the CAC has jurisdiction to attempt a resolution by agreement. It is anticipated that this number would increase with an appropriate adjustment to the point at which matters are referred to the DT.

Questions

Q.1. Do you agree that the requirement for the CAC to reach agreement with parties before setting a sanction is a barrier to timely resolution?

Q.2. Are there any other barriers to timely resolution?

Options and Analysis

Options relating to changing the mandatory threshold for cases to be referred from the CAC to the DT

The objectives of the proposed changes are to ensure that:

- *All serious cases are dealt with by the DT.* This is to ensure that the public interest (including the safety of children) is protected and the level of scrutiny is proportionate to the seriousness of the matter.
- *Only serious cases are dealt with by the DT.* We want to avoid unnecessary duplication of process. Because the DT is more time and resource intensive, we suggest it should be reserved for the most serious cases.
- *Consistent and transparent application of the legislation.* Any changes should be easy for the relevant disciplinary bodies to apply and be transparent to the public.

Questions:

Q.1. Do you agree with these objectives? Why?

Q.2. Are there any other objectives that should be included?

We assess four options, including the status quo, against these objectives below.

An additional option we considered was to tighten the definition of serious misconduct. We have rejected this option because:

a) We were unable to arrive at a revised definition that tightens the scope of serious misconduct and still captures all the conduct that might be of a serious nature and warrant referral to the DT.
b) Because employers are required to report to the Council where they have "reason to believe that the teacher has engaged in serious misconduct" (s491 of the Act), changing the definition of serious misconduct would also change the mandatory reporting criteria. It is important that the mandatory reporting criteria casts a wide net so that the Council is made aware of all the conduct that may require a disciplinary response. Moreover, employers are already familiar with the mandatory reporting criteria. While these problems could be mitigated by introducing separate definitions for the referral threshold and mandatory reporting, it could be confusing to have two similar definitions playing different roles.
c) Amending the definition of serious misconduct would make the case law that has developed around the current definition of serious misconduct less applicable.

Options	*All serious cases are dealt with by the DT*	*Only serious cases are dealt with by the DT*	*There is consistent and transparent application of the rules*
(1) Retain current referral threshold: whether a case "may possibly constitute serious misconduct.	+ Provides the greatest certainty that all cases meeting the legal definition of serious misconduct are dealt with by the DT. The DT is currently making a finding of serious misconduct, rather than misconduct, over 90% of the time.	- Fewer than one third of cases before the DT currently result in suspension or cancelation. This suggests the current definition of serious misconduct is capturing a lot of cases that are not the most serious cases (those that lead to suspension or cancellation of a teacher's right to practice).	O We have heard from the Council that the "may possibly" wording in the Act can be confusing for CAC panels. However, the CAC has the benefit of being able to apply the definition of serious misconduct to the facts.
(2) Referral threshold is based on serious misconduct being likely to have occurred.	+ The vast majority of cases meeting the legal definition of serious misconduct will likely still be referred to the DT.	O Only likely to reduce the number of 'misconduct' findings made by the DT which make up less than 10% of DT findings. The current definition of serious misconduct may not be a good indicator of a case's true seriousness given serious misconduct is often found but serious penalties are only imposed less than a third of the time.	O Could be confusing for the CAC to use a threshold that is so similar to the current threshold.
(3) Referral threshold is based on whether the DT may need to consider suspension or cancelation as a starting point. Starting point penalty is the penalty considered before mitigating factors are accounted for.	+ Serious cases would be determined by whether they may attract suspension or cancelation as a starting point. This would mean that in addition to the cases actually leading to suspension or cancelation, the DT will also be referred some cases that result in less serious sanctions.	+ The DT would be referred all matters that the CAC determines are serious enough for the DT to consider (as a starting point) if the teacher should be restricted from continuing to practice. While some cases which result in less severe penalties will still be considered by the DT, there are likely to be fewer such cases than captured by the current threshold.	O This option introduces a degree of discretion to the CAC they do not currently have. It requires the CAC to assess the starting point penalty rather than applying a definitional standard to the facts.

(4) Referral is based on CAC discretion	O Risks replicating the situation where the CAC was perceived to be holding onto too many serious cases rather than referring them to the DT.	+ Incentives to reduce delays would likely help to reduce the number of less serious cases being referred to the DT.	- This option does not include a prescribed standard for when a case should be referred. While the Council could issue guidelines to support consistent treatment of cases, we lose a degree of public accountability that would be achieved with a legislated referral threshold.

We consider that Option 3 (referral is based on whether the DT may need to consider suspension or cancellation as a starting point) is the strongest option.

Option 3 will likely have the effect of reducing the number of less serious cases being referred to the DT. This is because we think the kind of sanction that a matter may attract is likely to be a better predictor of a case's true seriousness than can be achieved through a legislated definition of serious misconduct. Option 3 also retains transparency around which cases are required to be referred to the DT which we lose if there is no mandatory referral threshold.

Questions

Q.1. Do you agree that option 3 performs the strongest against the objectives above? If not, why not?

Q.2. Are there any other options that we should have considered?

Q.3. Can you think of a way to tighten the definition of serious misconduct so that it captures all and only the most serious cases of misconduct?

Options relating to changing the CAC's powers to resolve cases

The objectives of these proposed changes are to:

- *Uphold principles of natural justice.* The regime should be fair to teachers and initiators. This includes having a right to appeal where a teacher's rights are affected.
- *Ensure timely resolution.* Cases should be able to be resolved in a timely manner for the sake of all parties involved.
- *Protect the public interest.* If the referral threshold is raised, and the CAC is dealing with a higher number of more serious cases, it is important that an outcome that gives consideration to the public interest can be reached.
- *Provide for flexible resolution of cases.* Legislation should allow the CAC to resolve less serious matters using restorative practices where it sees fit.

Options analysis table - changing the CAC's powers to resolve cases

Options	Criteria: *Supporting timely resolution*	*Uphold principles of natural justice*	*Protecting the public interest*	*Flexibility*
(1) Retain requirement to reach agreement	- Cases will continue to take a long time to resolve and there will continue to be cases where agreement cannot be reached. This problem will only worsen if the threshold for referral of cases to the DT is raised, as one of the change options in the previous section would do.	+ Requirement to reach agreement supports natural justice in the absence of an appeal.	O Because the CAC need to reach agreement, it may be influenced to reduce a penalty in order to resolve a case.	- Currently, the CAC can either resolve a case with agreement from the teacher and initiator, or it can refer the case to the DT.
(2) Require the CAC to take reasonable steps to reach agreement before imposing a penalty	O The ability to impose a penalty would help the CAC resolve a matter where agreement cannot be reached, or it is taking too long to be reached. However, an appeal right would need to be included which could draw out a case.	+ An appeal right would be introduced for cases where the CAC has imposed a penalty.	O Complainants would lose a degree of influence over the outcome that they have under the current provisions.	O The CAC is already required by the Council's rules to take reasonable steps to reach agreement. But where this cannot be reached, the CAC must refer the case to the DT. This option provides some more flexibility as CAC would be able to impose a sanction rather than needing to refer the case to the DT.

(3) Give the CAC power to impose a penalty without agreement, and provide for other ways that the CAC can resolve a case including by agreement or mediation	O Would enable the CAC to resolve certain cases more quickly where other methods are inappropriate or not successful. However, an appeal right would need to be included.	+ An appeal right would be introduced for cases where the CAC has imposed a penalty.	O Where a sanction is imposed, complainants would lose a degree of influence over the outcome that they have under the current provisions.	+ This option would allow the CAC to tailor the way it resolves a case to the circumstances. For example, the CAC could resolve some cases by mediation.

We consider that Option 3 (give the CAC power to impose a penalty without agreement and provide for other ways that the CAC can resolve a case including by agreement or mediation) is the strongest option.

This option will help the CAC resolve more cases faster and stop a few cases going to the DT that don't really need to go there. Rather than requiring the CAC to attempt agreement before imposing a penalty, Option 3 introduces a degree of flexibility which could better support the use of restorative practices.

Under all the options we identify above, the requirement for CAC panels to have a lay member would remain. This goes some way towards protecting the public interest.

Questions

Q.1. Do you agree that option 3 is the best for achieving the objectives above?

Q.2. Are there any other options that we should have considered?

Options relating to appeal

Removing the requirement for the CAC to reach agreement with the teacher and the complainant means an appeal right would be needed in cases where the CAC imposes a penalty. The most natural place to appeal is the DT, which has the relevant professional knowledge. At a minimum, a teacher should have a right to appeal if a CAC decision adversely affects them. Any part of a CAC decision should be open to appeal with several restrictions.

We do not consider it appropriate to be able to appeal a CAC decision to take no further action or refer a case on to another body such as the DT. Currently, the Triage Committee of the Council can decide to take no further action on a case and there is no right of appeal to this (although it can be judicially reviewed). It would not make sense to create a right of appeal of such a decision at a later stage. Also, the CAC should feel free to refer a case to another body it deems is more appropriate to resolve the case without the fear that this decision can be appealed.

We think there are two options to consider with respect to who can appeal a CAC decision. Option 1 is that any party adversely affected by a CAC decision can appeal. This would protect the interests of teachers as well as initiators who may be dissatisfied with the CAC's decision. This may be important as initiators will be losing a measure of influence over the CAC outcome that they have currently, if the provision that the CAC must reach agreement is removed. A second option is to limit appeal to the teacher. This option would likely lead to fewer appeals than Option 1 but does less to protect the interests of the initiators to the complaint.

Questions

Q.1. Does the requirement to include an appeal right support the objective to ensure timely resolution?

Q.2. Which of these two options for appeal do you agree with and why?

Minor and consequential changes

While the CAC can theoretically suspend a practising certificate under section 497(3)(c) of the Act, it does not happen in practice as suspension is reserved for only the most serious cases. Cases that attract suspension are almost certainly captured by the current definition of serious misconduct and so are referred to the DT. Therefore, it is inappropriate and potentially confusing for the CAC to retain this power.

Currently, the CAC can only attempt to resolve matters that are misconduct and not serious misconduct. Should any option to raise the referral threshold progress, the CAC will need to be able to deal with some matters that the DT may previously have found to meet the legal definition of 'serious misconduct'. Following such a change, the restriction on the CAC against making findings of serious misconduct should be removed.

Questions

Q.1. Do you agree that it is inappropriate for the CAC to retain the power to suspend practising certificates? If not, why not?

Q.2. If the CAC is going to be resolving more serious cases do you think it should be required to publish a summary of cases?

Proposed change to clarify the Teaching Council's role in enforcing certification requirements.

Summary

We are proposing a law change to make it clear that the Teaching Council of Aotearoa New Zealand (the Council) can prosecute the relatively small number of cases where teachers and employers are in breach of registration requirements. It is important for the quality of teaching and the safety of children that certification requirements are enforced and seen to be enforced

There is nothing to stop the Council from taking such prosecutions at present. The Council has told us, however, that the absence of an explicit function to prosecute breaches of teacher certification requirements is a barrier to it taking such prosecutions. For the avoidance of doubt, we propose that this function be made explicit.

The Teaching Council of Aotearoa New Zealand supports this proposal.

Background

It is currently illegal for a teacher without a practising certificate or a limited authority to teach to be employed as a teacher at a school or early learning service for more than 20 half-days in any calendar year (s93(3) and (4)).

The Education and Training Act 2020 (s662) sets out offences relating to false representations. A person commits an offence, and is liable on conviction to a fine not exceeding $2,000, if they:

- use the words 'registered teacher' or any word or initials likely to make any other person believe they are a registered teacher when they are not;
- teach when they hold neither a practising certificate nor a limited authority to teach.

Under s662 of the Act, a person also commits an offence, and is liable on conviction to a fine not exceeding $5,000, if they appoint any person to a position or continue to employ a person in a position knowing the person is not registered as a teacher, or knowing the person does not hold a current practising certificate or a current limited authority to teach.

As the professional body for teaching, it is a natural function of the Teaching Council to take prosecutions where it considers people have breached s662.

The change - making the Council's prosecution function explicit

We are proposing to make it clear that the Teaching Council has a function of prosecuting people who are in breach of practising certificate requirements. This is a natural extension of the Council's current functions that involve managing registration/certification and upholding professional standards. This is also a natural extension of the Council's current practices which include notifying teachers that they are not certified.

These changes would be consistent with other statutory professional bodies. For example, the legislation governing lawyers, veterinarians, and electricians includes the ability to prosecute as an explicit function of the governing body.

Questions

Q.1. Are there any other options that we should have considered?

Q.2. Do you agree with the proposed change to make it explicit that the Teaching Council can prosecute teachers who are practising without practising certificates? If so why; if not why not?

Proposed change to clarify the grounds on which professional leaders in tertiary education organisations can have their practising certificates renewed using their recent teaching experience.

Introduction

We are seeking your views on a change to make it clear that the Teaching Council must use its discretion when considering the recent teaching experience of professional leaders (and other registered teachers) in tertiary settings for the purposes of renewing these peoples' practising certificates.

The proposed change is supported by the Teaching Council of Aotearoa New Zealand.

Background

Schedule 3, clause 10 of the Education and Training Act 2020 specifies when the Council can issue and renew practising certificates. When a registered teacher applies to renew their practising certificate using their recent teaching experience, the Teaching Council must determine whether the applicant satisfies one of two clauses:

a. a person has been in a teaching position or teaching positions for a period of 2 years in the past 5 years.
b. a person has been employed in a position for a period of 2 years in the past 5 years that in the Teaching Council's opinion was equivalent to a teaching position in an educational institution in New Zealand. [5]

Most teachers can have their teaching experience considered under clause a. because the definition of teaching position includes teachers and professional leaders in registered schools and early learning services. This reflects the fact that the primary focus of the teacher registration framework is the regulation of the schooling and early childhood sectors.

The Council can individually assess applications from teachers working outside schooling and early childhood settings under clause b. This applies to teachers working in tertiary settings, for example, people involved in initial teacher education.

However, the Act is not clear about what clause applies to professional leaders in tertiary settings. This is because the definition of teaching position includes reference to professional leaders in "other educational institutions" which covered tertiary education institutions in the previous Education Act 1989. This phrase is an unintended carry over from the previous Act. It was never intended that professional leaders in tertiary education organisations would be treated differently to teachers in tertiary education organisations in respect of the teaching experience test they must meet to renew their teacher certification. There is no rationale for treating teachers differently to professional leaders in tertiary institutions.

The change - the Council should exercise its discretion when considering the recent teaching experience of people in TEOs. (Option 3 below)

Removing the reference to "other educational institutions" in the definition of teaching position will make it clear that the Teaching Council must exercise its discretion (under b. above) when considering the recent teaching experience all registered teachers, including professional leaders, in tertiary education organisations.

The proposed change is intended to clarify that the primary focus of teacher registration is the regulation of the schooling and early childhood sectors. The proposed change also provides consistency for how recent teaching experience of

[5] Refer Schedule 3, clause 10(6)(a) of the Act. Note that the requirements for renewing a practising certificate are different from issuing a first certificate which is covered by Schedule 3, clause 10(2). Certificates can also be renewed via a refresh process established by the Council under Schedule 3, clause 10(6)(b).

teachers and professional leaders outside schools and early childhood services is assessed by the Council.

Who will be affected by this change?

Most professional leaders and other registered teachers in tertiary education organisations (TEOs), for example those working in initial teacher education, who choose to hold a practising certificate will be able to have their recent teaching experience considered under schedule 3 clause 10(9)(b). Any additional evidence they may need to provide is likely to be minimal. If the Council is not satisfied that an applicant's employment is equivalent to being in a teaching position in a school or early childhood service, the applicant may be able to renew their certificate via a refresh process.

Questions

Q.1. Do you agree with the proposed change? If not, why not?

Q.2. How might these changes affect you?

Options analysis

	Benefits	**Disadvantages/risks**
1. Status quo		The current Act is not clear which test applies to professional leaders in tertiary settings. In addition, there is no rationale for treating teachers and professional leaders in tertiary settings differently.
2. Experience of people in TEOs should be considered under a.	Provides more certainty for people working in tertiary settings, particularly in initial teacher education, that they are able to renew their practising certificate using their employment experience.	Teaching in a tertiary setting is diverse and not necessarily equivalent to teaching in a school or early learning service. A blanket inclusion of employment in tertiary settings for the purposes of recognizing recent teaching experience does not recognize this difference.
3. Experience of people in TEOs should be considered under b. (preferred option)	Holding a practising certificate is primarily a way of showing that a registered teacher has the skills to practise in a school or early childhood service. If a registered	May mean less certainty for some teachers working in tertiary settings, particularly those who are not working in initial teacher education, that they are able to renew

	teacher wants to use their recent experience as a way of demonstrating they have such skills but they have not been working in a school or early childhood service, then it makes sense that the Council should determine whether their recent employment required them to exercise the relevant skills.	their practising certificate using their employment experience.

How to have your say

We are seeking your views on changes to the Teaching Council's functions. You can email your submissions to legislation.consultation@education.govt.nz
or write to:

Education Consultation
Ministry of Education
PO Box 1666
Wellington 6140
New Zealand

Submissions close on 16 June 2021 and will inform advice to the Minister on final policy proposals that would be submitted to Cabinet.

Purpose of feedback

We are seeking your views on the suggested changes discussed above. Your feedback will enable us to make better informed decisions about possible changes to the Teaching Council functions.

Please be assured that any feedback you provide will be confidential to those involved in analysing the consultation data. We will not identify any individuals in the final analysis and report writing unless you expressly give permission for this. However, submissions, including submitters' names, and documents associated with the consultation process may be subject to an Official Information Act 1982 request.

Appendix 4: Discussion document: Proposed changes to how compulsory student services fees are regulated

Have your say on the administrative framework for regulating compulsory student services fees

Proposal

The Government is proposing to remove the current provisions on compulsory student services fees (CSSFs) from sections 257 and 360 of the Education and Training Act 2020 and instead enable Government to regulate CSSFs through conditions on funding under section 419 of the Act. This is the same way that all other provider-based fees are currently regulated.

This would give the Government greater flexibility to make changes to the requirements on providers that charge a CSSF, to support system changes or to respond to feedback from the tertiary sector.

Background

CSSFs are fees tertiary education providers can charge to all students as part of their enrolment. CSSFs are used by support providers to offer a range of services to students, such as health services, careers advice, and sports and recreation services.

The Government currently regulates CSSFs through a ministerial direction enabled by sections 257 and 360 of the Act. This regulates the process providers must follow to set and spend CSSFs. The Government can currently:

- specify the categories of services that providers can fund through CSSFs
- require providers to make decisions on CSSFs in consultation or jointly with students
- require providers to publish information about how students are involved in decisions and,
- require providers to account for CSSFs separately, and report income and expenditure for CSSFs.

Not all providers charge a CSSF, but all universities, most Te Pūkenga subsidiaries and some private training establishments do. Most domestic tertiary students are supported by government to meet CSSFs through student loans or fees-free initiatives – including first year Fees Free and the Targeted Training and Apprenticeship Fund.

Current situation

The Government cannot currently place any additional requirements on providers charging a CSSF beyond those requirements specified by legislation. This means the Government can't adapt the framework to make sure it aligns with broader changes to the tertiary education system.

There are two significant changes in tertiary education system that are likely to have implications on CSSF settings:

- *The Reform of Vocational Education (RoVE)* – the responsibility for arranging industry training for all trainees and apprentices will shift from transitional industry training organisations (ITOs) to tertiary providers by 2023. When this happens, trainees could be charged a CSSF by their tertiary provider. There are transitional provisions to

prevent this until the end of 2022. Once these expire, it is likely that tertiary providers would charge CSSFs to trainees.

- *The development of a new Code of Practice for Pastoral Care (the Code)* – if the Code results in additional compliance costs at tertiary providers, providers may look to fund these through CSSFs. This would shift these costs onto students and government through student loans and fees-free support.

Questions:

Q.1. Does the current framework for CSSFs give the Government enough discretion to specify requirements on providers that charge a CSSF?

Q.2. Do current settings on CSSFs incentivise tertiary providers to involve students in decisions on CSSFs?

Q.3. Under the current framework for CSSFs, are the current arrangements at tertiary providers for different types of students fair? (For example, extramural students or part-time students).

Proposal for change

The Government is proposing that CSSFs are regulated the way all other provider-based compulsory fees charged to students are. This would mean the Government is better able to make changes to the requirements on providers that change a CSSF. If this happens, the Government could consider:

- *Putting different requirements on CSSFs for different types of students.* The Government is likely to consider distinct rules for trainees to limit what services a provider can charge trainees for. This would change the fee these students are charged, their access to student services, and the amount tertiary providers receive in CSSFs.
- *Placing more specific requirements on providers to involve students in decisions on CSSFs.* The Government could consider ways to encourage greater involvement of students in decisions on CSSFs. This could include explicit requirements on providers to engage and consult with different student groups, including Māori and disabled students.

To make this change the current provisions on CSSFs in sections 257 and 360 of the Act would be removed. Instead new provisions would enable government to regulate CSSFs through conditions on funding under section 419 of the Act, like tuition fees.

This proposal would enable government to ensure that CSSF requirements support the achievement of wider tertiary sector goals, such as removing barriers to access or supporting stronger student involvement in the tertiary system. This would support a more durable regulatory framework for CSSFs which government could change over time in response to broader system changes or emergent issues.

It is intended that following the passage of the Bill, the existing requirements on in the ministerial direction would remain the same. This proposal only relates to changing the mechanism for regulating CSSFs.

This proposal would mean there is less certainty for providers and students on potential future changes to the CSSF requirements. However, any future changes to the requirements on CSSFs would still be subject to a specified process, which includes:

- The requirement to consult on proposed changes for a minimum of 21 days via the New Zealand Gazette, and
- A minimum stand-down period of at least three months before changes could take effect.

Questions:

Q.1. What requirements should the Government be able to place on tertiary providers that charge a CSSF and how should these change over time to respond to system changes or sector feedback?

Q.2. What consultation process should the Government go through to make future changes to the CSSF framework, as enabled by the proposal in this discussion document?

Q.3. How much notice should the Government need to give to make changes to the requirements on tertiary providers charging a CSSF, particularly for providers implementing changes?

Q.4. What timeframes for managing any changes to the CSSF framework do tertiary providers consider sufficient to adapt?

How to have your say

We are seeking your views on the proposed changes to CSSFs. You can email your submission to: legislation.consultation@education.govt.nz
or write to

Education Consultation
Ministry of Education
PO Box 1666
Wellington 6140
New Zealand

Submissions close on 16 June 2021 and will inform advice to the Minister on final policy proposals that would be submitted to Cabinet and, if approved, would be reflected in changes to the Act. You can choose to answer some, or all of the questions in this discussion document, or provide your own feedback outside of the scope of these questions.

Purpose of feedback

We are seeking your views on the suggested changes discussed above. Your feedback will enable us to make better informed decisions about possible changes to the CSSFs framework.

Please be assured that any feedback you provide will be confidential to those involved in analysing the consultation data. We will not identify any individuals in the final analysis and report writing unless you expressly give permission for this. However, submissions, including submitters' names, and documents associated with the consultation process may be subject to an Official Information Act 1982 request.

Appendix 5: Discussion document: Proposed changes to using the National Student Number to support workplace-based learning

Have your say on proposed changes to using the National Student Number to support workplace-based learning

Introduction

The Education and Training Act (the Act) 2020 allows the Secretary of Education to issue national student numbers (NSNs) to any student enrolled with an education provider.

Currently however, the NSN cannot be used for work-based education and training when the funding is not administered through a registered provider. The inability to use the NSN has caused problems for government agencies tracking the monitoring and use of this funding.

Extending the scope of NSNs requires legislation change. Accordingly, we are seeking your views on allowing the NSN to be used when there is funding support for work-based learning when a student is not enrolled with a provider. Submissions are open from 21 April to 16 June 2021.

Current situation

The NSN ensures that funding is allocated effectively, efficiently, and equitably. It also allows for monitoring of the impact of learner support and the use of student loans and allowances.

The Act currently allows the use of NSNs only for the following purposes:

- monitoring and ensuring enrolment and attendance
- encouraging attendance at early childhood services
- ensuring education providers and students receive appropriate resourcing
- statistics
- research
- ensuring that student educational records are accurately maintained
- establishing and maintaining student identities to support online learning.

The NSN cannot currently be used for learners in work-place based education and training when the funding is not administered through a registered provider, including tertiary education organisations.

For instance, the Apprenticeship Boost Initiative provides funding directly to employers to support work-place learning, but NSNs cannot be used. Government agencies cannot use the NSN to monitor funding for the Apprenticeship Boost.

The inability to use NSN for learners in work-based education and training not connected to a provider requires time and resources to find alternative ways to collect, store, and share information.

As a result, there are:

- bespoke arrangements for each initiative with several agencies involved
- limits on Government's ability to assess the equity of particular initiatives.

Options analysis

Options were explored to ensure student records are efficiently and accurately maintained, and funding is allocated effectively and equitably for learners in education and training not directly connected to a provider.

The option to maintain the current NSN legislation was discounted due to the current problems with the approach.

The proposed legislation change allows NSNs to be used when funding is not administered through a registered provider and the scope of the change addresses current problems.

Other options considered, such as using NSNs as a national identifier, extended the scope of the NSN unnecessarily and had risks to the privacy of individuals.

Proposed change

We consider that the proposed legislation change will support the effective administration of public funding, strengthen assurance that resources to support workplace-based learning are being used effectively and efficiently, and will support learners in work-place based education and training, even if the funding is not directed through a provider.

The change also aligns with the Reform of Vocational Education which is intended to create a strong, unified, and sustainable system for all vocational education and training that better supports workplace-based learning.

Any legislation change to NSNs would have to consider the information privacy principles in the Privacy Act 2020, regulatory stewardship, and data management. Under the proposed legislation change, student privacy will be maintained. NSNs will be shared only between authorised government agencies for authorised administrative use. Employers will not be provided NSNs.

There are no other impacts anticipated as a result of the proposed legislation change.

Questions

Q.1. Do you agree it's important to ensure student records are accurately and efficiently maintained and funding is allocated effectively and equitably for learners in education and training no matter where their learning is based?

Q.2. Do you support the proposed approach for national student numbers to be used to support workplace-based learning when not enrolled with a provider? If so, why? If not, why not?

Q.3. What factors should be taken into account when deciding how to implement national student numbers to support workplace-based learning??

How to have your say

We are seeking your views on the proposed change to allow NSNs be used to support workplace-based learning. You can email your submissions to: legislation.consultation@education.govt.nz
or write to:

Education Consultation
Ministry of Education
PO Box 1666
Wellington 6140
New Zealand

Submissions close on 16 June 2021 and will inform advice to the Minister on final policy proposals that would be submitted to Cabinet.

Purpose of feedback

We are seeking your views on the suggested changes discussed above. Your feedback will enable us to make better informed decisions about possible changes to enable the use of NSNs for workplace-based learning.

Please be assured that any feedback you provide will be confidential to those involved in analysing the consultation data. We will not identify any individuals in the final analysis and report writing unless you expressly give permission for this. However, submissions, including submitters' names, and documents associated with the consultation process may be subject to an Official Information Act 1982 request.

Appendix 6: Discussion document: Proposed changes to NZQA cancellation of PTE registration for immigration breaches

Have your say on proposed changes to NZQA's mandatory cancellation of PTE registration for immigration breaches

Proposal for change

We propose that cancellation of a Private Training Establishment's (PTE) registration for immigration breaches (enrolling international students without an appropriate visa) happens at the discretion of the New Zealand Qualifications Authority (NZQA), rather than automatically. This is in line with NZQA's discretion to cancel a PTE's registration for other reasons under section 350(1) of the Education and Training Act 2020 (the Act); for example, breaches of registration conditions. This will also enable Immigration New Zealand to undertake appropriate prosecutions for immigration breaches, without providers potentially suffering the disproportionate consequence of cancellation of registration.

NZQA already has other processes in place for considering cancellation of a PTE's registration, and a conviction for enrolling an international student without an appropriate visa would be added to the list of actions that would trigger an investigation / consideration of cancellation.

Background

Section 350(2) of the Act states that the NZQA ***must*** cancel the registration of a PTE under certain circumstances. This includes if a PTE is convicted of an offence under section 352(1) of the Immigration Act 2009 – allowing a person to undertake a course of study if they are not entitled to do so under the Immigration Act.

The penalties for breaches of this section of the Immigration Act are fines of up to $30,000.

Immigration New Zealand (INZ) can, and has, successfully prosecuted other providers[1] for allowing a person to undertake a course of study without the appropriate immigration authority, as these providers are not subject to the same penalties (registration cancellation) under the Act. Providers usually receive an official warning before the decision is made to prosecute.

Section 350(1) of the Act outlines situations whereby NZQA ***may*** cancel a PTE's registration, including breaches of registration conditions or for no longer meeting registration criteria.

Current situation

INZ have advised that they find it difficult to take forward prosecutions of providers for enrolling international students without the appropriate immigration authority (visa), because of the likelihood that requirement to deregister the PTE would be considered by judges to be disproportionate to the seriousness of the offending. There were five cases in 2018 and 2019 that were impacted by these restrictions. Each case usually involved 8-16 international students.

[1] This does not apply to providers of compulsory education – they cannot be prosecuted for enrolling a child unlawfully in New Zealand.

NZQA notes that the consequences of cancelling a PTE's registration on its students and staff can significantly outweigh the seriousness of the immigration offence. There are a number of statutory actions and other mechanisms by which NZQA can address these issues instead (in addition to any actions INZ may take).

Why change?

We are proposing this change so that:

- providers are held to account for immigration breaches;
- INZ can exercise their regulatory function and better enforce immigration law;
- fewer PTEs enrol international students without the appropriate immigration authority
- immigration breaches primarily have consequences under immigration provisions, rather than education ones;
- NZQA can build a stronger case for cancelling a PTE's registration, if required, so that immigration issues are just one factor in the decision (rather than the sole basis);
- these provisions are better aligned with the current PTE deregistration provisions for breaches of registration conditions or criteria;
- the consequences for these immigration breaches by PTEs are aligned with the consequences for other provider types; and
- the risks of exploitation to international students are mitigated by ensuring that they are enrolled legitimately and therefore have appropriate legal protections.

Options analysis

We considered several options, including:

Maintaining status quo

This is likely to perpetuate the current situation, i.e. INZ is unable to successfully prosecute PTEs for these immigration breaches, and providers therefore don't face the consequences for these breaches. It is therefore not a recommended option.

Remove any obligation to cancel a PTE's registration for immigration breaches entirely

It is important that PTEs operate within the law and that their behaviour does not create any risks to international students (for example, enabling a breach of visa conditions or increasing vulnerability to exploitation). This option would also be inconsistent with the requirement to consider cancelling a PTE's registration for other transgressions and is therefore not a recommended option.

Narrowing the criteria under which NZQA must cancel a provider's registration for immigration breaches

We considered whether it would be possible to establish a narrower set of criteria under which NZQA must cancel a provider's registration for breaching section 352 of the Immigration Act, for example repeated offences or particularly severe offences. However, we consider that it would be difficult to set appropriate criteria which were able to take into consideration all relevant circumstances, so this is not a recommended option.

Imposing an alternative penalty

We considered whether it would be appropriate to impose an alternative penalty to deregistration; for example conditions on registration or increased monitoring. This option is not recommended as it is inconsistent with penalties for other breaches of registration and monitoring requirements, and there are already penalties under the Immigration Act.

We believe the following groups will be impacted

International students

The proposed changes will improve protections for international students. International students who are not entitled to be enrolled are at risk of breaching their visa conditions, at increased risk of exploitation, and may not have all the appropriate protections international students are entitled to.

Private Training Establishments

The proposed changes will have an impact on PTEs that are breaching section 352(1) of the Immigration Act, as they are more likely to be prosecuted. However, the penalty for a successful prosecution is likely to be more proportionate to the seriousness of the immigration offence, and deregistration would no longer be an automatic consequence.

Other international education providers

The proposed changes would have no direct impact on other international education providers. However, the whole international education sector benefits from ensuring that immigration rules are upheld and international students have appropriate protections.

Cost impacts

INZ already investigates alleged breaches of section 352(2) of the Immigration Act 2009. It is possible that if this provision is changed more cases will be progressed to prosecution, which may result in increased legal costs. INZ will be able to manage this through current baselines. NZQA currently has discretion to manage PTE registration cancellations for a number of reasons. Moving cancellation for immigration breaches from an automatic requirement to a discretionary power may require some additional administrative processes for NZQA, however NZQA considers that it is unlikely to have a significant impact on resourcing.

Next steps

Proposed process

We propose that these potential changes are included in the Education and Training Amendment Bill (No. 2).

Support for implementation

INZ and NZQA already have established processes for notifications of immigration breaches. These processes would be updated to include the impacts of the new provisions.

The changes would also be communicated to the sector, particularly PTEs.

Timeframe and process for implementation

The changes would take effect when the Education and Training Amendment Bill (No. 2) is passed into law.

Questions:

Q.1. Do you agree that it is important that INZ is able to prosecute PTEs for enrolling international students without the appropriate immigration authority (visa), in the same way they are currently able to address these issues with other education providers?

Q.2. Do you support the proposed approach for enabling NZQA to decide whether a PTE's registration should be cancelled for enrolling international students without the appropriate immigration authority, rather than making it automatic? If so, why? If not, why not?

Q.3. What other factors could or should be taken into account when deciding whether a PTE's registration should be cancelled for enrolling international students without the appropriate immigration authority? Are there any situations where it should be a requirement in the Education and Training Act 2020?

How to have your say

We are seeking your views on the proposal to make cancellation of a PTE's registration for immigration breaches at the discretion of NZQA, rather than an automatic requirement. You can email your submissions to legislation.consultation@education.govt.nz
or write to:

Education Consultation
Ministry of Education
PO Box 1666
Wellington 6140
New Zealand

Submissions close on 16 June 2021 and will inform advice to the Minister on final policy proposals that would be submitted to Cabinet and, if approved, would be reflected in the Education and Training Amendment Bill No. 2, due to be introduced in November 2021.

Purpose of feedback

We are seeking your views on the suggested changes discussed above. Your feedback will enable us to make better informed decisions about possible changes to NZQA cancellation of PTE registration.

Please be assured that any feedback you provide will be confidential to those involved in analysing the consultation data. We will not identify any individuals in the final analysis and report writing unless you expressly give permission for this. However, submissions, including submitters' names, and documents associated with the consultation process may be subject to an Official Information Act 1982 request

Reform of Vocational Education (RoVE)

Consultation on simplifying New Zealand qualifications and other credentials

April 2021

Contents

Te Pānui – How to read this document

Purpose

The purpose of this document is to seek public input on the design of qualifications and other education products.[1]

The document sets out legislative changes introduced as part of the Reform of Vocational Education (RoVE) in 2020 and what their implementation would mean for qualifications and other education products. There are also some consequential amendments that are proposed to other parts of the qualification system and we encourage your input on these.

The document seeks feedback on two options relating to the design of qualifications, and the terminology and process for the approval of credentials. The proposals seek feedback on options to simplify the qualification and credentials system so that learners, employers and providers can be confident that qualifications are portable and that learning outcomes are consistent.

Scope

Within scope are all New Zealand qualifications at levels 1 to 7, **excluding** the National Certificates in Educational Achievement (NCEA), wānanga-developed iwi qualifications, and degrees at level 7 and higher. Level 7 Diplomas which are not "New Zealand Diplomas" are also not within scope.

Parts of this document outline changes already made through the Education and Training Act 2020. Some of these changes are being implemented over the next two years and will become status quo. These include the establishment of Workforce Development Councils (WDCs), Te Pūkenga and the disestablishment of Industry Training Organisations (ITOs). These aspects of RoVE are already embedded in legislation and are not within the scope of this consultation.

Other work underway not included in this document

There is other work underway which is not included in this consultation document. We are continuing to engage with stakeholders on these issues to prepare consultation proposals. These include:

Inclusion of mātauranga Māori in qualifications

NZQA acknowledges that mātauranga Māori is equal to, and therefore should be valued as much as, other bodies of knowledge recognised within our qualifications system. It is therefore fundamental that the status of mātauranga Māori is reflected within the New Zealand Qualifications Framework (NZQF) and its key documents. Through the review of the

[1] Educational products include qualifications, programmes, capstone assessments, standards, training schemes, micro-credentials and training packages

NZQF, NZQA is committed to contribute to the strengthening, reclamation and revitalisation of mātauranga Māori.

We want to ensure that the foundations are laid for mātauranga Māori to be included in all qualifications, instilling in each learner an appreciation of the importance of te reo Māori and tikanga Māori, and the value of mātauranga Māori.

We will work with partners across the education sector, as well as with iwi and hāpu to progress this work as part of the review of the NZQF.

Bilingual framework

We will also propose a bilingual architecture for the NZQF to give more prominence to te reo Māori and mātauranga Māori as part of the unique New Zealand qualification system. We will seek stakeholder feedback on a more detailed proposal later in 2021.

NZQF Level Descriptors

NZQA is working on draft level descriptors as part of the NZQF review, taking into account sector feedback from the second consultation on the review[2]. These descriptors embed three transferable competencies – critical thinking, collaboration and communication and reflect vocational training through the inclusion of practical skills. Our work on integrating mātauranga Māori at a system level across all qualifications would also require us to consider how the level descriptors can reflect that. We expect that the draft level descriptors will be shared with the sector for feedback later in 2021.

Skill standards

NZQA is working with experts on proposals for the structure and content of skill standards. An example of a draft skill standard is in Appendix 1 for your information only. This draft represents our current thinking but is subject to further development, particularly with input from the WDCs (or Interim Establishment Boards). We intend to consult on the composition of skill standards later in 2021.

Quality assurance framework

The changes arising from RoVE, including the creation of WDCs and Te Pūkenga, and any decisions arising from the consultation proposals in this document, will also require NZQA to review its quality assurance settings. This is dependent on timelines for the establishment of WDCs and the operating model for Te Pūkenga which is expected at the end of 2021. NZQA will work closely with the sector during this process and will provide further information as it becomes available.

[2] https://www.nzqa.govt.nz/about-us/consultations-and-reviews/review-nzqf/

He Whakamarama - Background

Te Whakahou i Mātauranga Ahumahi - The Reform of Vocational Education

The Education (Vocational Education and Training Reform) Amendment Act came into effect on 1 April 2020. It amends the Education Act 1989 and repeals the Industry Training and Apprenticeships Act 1992 to create a unified and cohesive vocational education and training system. The intent of RoVE is to create a vocational education system that is ready for a fast-changing future of skills, learning and work. This unified system aims to:

- Deliver to the unique needs of all learners, including those who have been traditionally under-served, such as Māori, Pacific peoples, and disabled learners, particularly as they will form a growing part of the working-age population in the future
- Be relevant to the changing needs of regional and national employers
- Be collaborative, innovative and sustainable for all regions of New Zealand
- Uphold and enhance Māori Crown partnerships.

There were seven key changes introduced in the Act, of which most relevant to this consultation are:

- The establishment of Workforce Development Councils (WDCs) which will set a vision for the skills and training needs for the workforce, set standards, develop qualifications and shape the curriculum, and advise on investment in vocational education.
- The creation of Te Pūkenga – a unified and sustainable public network of regionally accessible vocational education, bringing together the 16 existing Institutes of Technology and Polytechnics (ITPs).
- Shifting the role of supporting workplace learning from ITOs to providers: Te Pūkenga, the wānanga and other providers would support workplace-based, on-the-job training as well as delivering education and training in provider-based, off-the-job settings, to achieve seamless integration between the settings and to be well connected with the needs of industry.
- The transition of standard-setting and qualification development from ITOs to the six WDCs will take place over the next two years, as will the Te Pūkenga amalgamation of ITPs and management of work-based training.

Extensive work is also being done to unify the vocational education funding system which will apply to all provider-based and work-integrated education at certificate and diploma levels 3 to 7 (excluding degrees) and all industry training. We want to ensure that the qualification system, the regulatory environment, the funding system, and student loans and allowances continue to work together to support learner achievement. This includes ensuring that smaller packages of learning can continue to be funded by the Tertiary Education Commission. The changes also provide for the establishment of Regional Skills Leadership Groups.

For more information on the unified funding system project, please visit the Tertiary Education Commission (TEC) website: https://www.tec.govt.nz/rove/unified-funding-system/

Qualification design in RoVE

The design of vocational qualifications and other credentials, and the related quality assurance, will also play a critical part in achieving the aims of RoVE.

The building blocks of qualifications and credentials, along with the way education and training is delivered, play a crucial role in their recognition by industry and the extent to which graduates can move between jobs and upskill and trainees can change their mode of study without interruption.

RoVE seeks to create greater consistency in learning outcomes, and greater collaboration between providers and employers.

There is now an opportunity to consider if a simplification of the range of vocational education products could further support the overall RoVE objectives, particularly:

- the portability of students' learning when they move between work-based and provider-based learning and between providers
- consistency of what graduates know and can do, so that employers can have confidence in their skills.

This consultation document outlines options for the simplification of qualifications and other credentials.

Proposal 1: Ensuring that vocational qualifications meet the needs of students and employers

Objective

This proposal seeks to ensure that vocational qualifications support learner mobility and consistent skills for employers, whilst retaining flexibility for regional needs. Responsibility for the provision of education and training remains with providers, including support for employers and learners in work-based training.

Opportunity definition

Under RoVE, the intended roles of the WDCs and providers are clear.

It is intended that WDCs will have a forward looking, strategic view of the future skills needs of industries. They will use information from the Regional Skills Leadership Groups. They will translate industry skill needs now and in the future for the vocational education system. In practice this means WDCs will work collaboratively with industry and providers to set standards, develop qualifications and help shape the delivery of vocational education. WDCs will moderate assessments against industry standards and, where appropriate, set and moderate capstone assessments at the end of a qualification.

Providers will remain responsible for delivering education and training, as well as for supporting employers and learners in work-based training.

However, there are further choices that could be made about the range and purpose of the educational products that are currently available. Further choices can also be made about the nature and extent of collaboration between industry, providers and WDCs in order to achieve a unified system enabling full portability of learning for students and consistency of outcomes for employers.

There are two options for consideration under this proposal. The first option represents how the actors in the system and the education products are intended to work together under the Education and Training Act 2020. It does not require further legislative change. The second option proposes a simplified qualification system for all New Zealand qualifications at levels 1 – 7 on the NZQF[3], which would require further legislative change.

[3] Except for NCEA Levels 1-3 and wānanga-developed iwi qualifications

Option A: Implementing the current legislative settings

Note: This option envisages the implementation of the current settings in the Education and Training Act 2020. It requires no further legislative change. The information in this section describes what is already in statute and what will be implemented by default if Option B below does not progress.

Note: This consultation is focused on the qualification system. Other changes arising from RoVE, including the establishment of WDCs, Te Pūkenga and the disestablishment of ITOs, are **not** within scope of this proposal.

The 2020 legislation changes

The vocational education reforms introduced through the Education and Training Act 2020 ("the 2020 Act") were informed by stakeholder views – including feedback from learners, employers, providers and professional associations[4]. The following key challenges were identified with the design, delivery and regulation of vocational qualifications:

1. End-user influence on qualification design and delivery is relatively weak. In particular:
    a) Industry has limited influence on *provider-based* vocational programmes and assessment. This means that industry and employers sometimes lack confidence that graduates who have undertaken provider-based study have the technical and transferrable skills and knowledge they need to succeed in the workplace.
    b) Variability in programme content, delivery and assessment affects learner mobility and the credibility of vocational qualifications.
        I. Employers do not always trust that a given vocational qualification provides an accurate signal that a graduate has the knowledge, skills and attributes that employers expect.
        II. Learners face challenges with transferring their learning and assessment towards a vocational qualification between providers, employers and regions, or between work and study without repeating their learning.
    c) The regulatory system for developing, amending and delivering vocational qualifications constrains innovation.
        I. Stakeholders report that upfront regulatory processes hamper 'speed to market' and limit the ability of qualification developers and education providers to innovate and respond more quickly to changing learner and industry needs.[5]

[4] Ministry of Education (2019). *What we heard – summary of public consultation and engagement – Reform of Vocational Education.* Wellington. https://conversation.education.govt.nz/assets/RoVE/AoC/Reform-of-Vocational-Education-Summary-of-Public-Consultation-and-Engagement.pdf

[5] See also the recommendations to streamline upfront regulatory approval processes recommended by the Productivity Commission. Productivity Commission (2017). *New models of tertiary education*. Wellington. https://www.productivity.govt.nz/assets/Documents/2d561fce14/Final-report-Tertiary-Education.pdf

II. Industry and employers also express interest in greater flexibility for providers to tailor delivery to meet diverse employer needs, increased speed to market for new or refined qualifications, and smaller, stackable credentials.

The changes introduced to the 2020 Act are aimed at responding to these concerns by strengthening the voice of industry in qualification design and improving graduate consistency and learner transitions and by bringing classroom and work-based learning under the management of providers. More information on the rationale behind these changes is set out in the *Regulatory Impact Assessment: Reform of vocational education,* available here.

If implemented as currently set out in the legislation, it is expected that the new system actors will work together collaboratively to achieve the unified and innovative vocational system that RoVE is seeking to establish.

Qualifications

Prior to the Reform, vocational qualification development and standard-setting was (primarily) the responsibility of ITOs who were also tasked with arranging workplace training and apprenticeships. Qualifications and standards were developed by ITOs in conjunction with the industries they represented, providers and other stakeholders and were subsequently approved by NZQA for listing on the NZQF.

Qualifications outlined the level, graduate profile and any mandatory components of the qualification, but did not generally specify its content in terms of what or how it was to be taught.

Under the 2020 Act, WDCs will take over responsibility for developing and maintaining vocational qualifications. Guided by the relevant industry, they will determine the content of a qualification through qualification design and specifying which skill standards must be used, any micro-credentials which can contribute to a qualification and any required capstone assessments.

NZQA will continue to approve qualifications and skill standards developed by WDCs, as was the case with ITOs.

Programmes

The 2020 Act retains programmes as a key feature of the qualifications system. Programmes specify the 'what and how' – the content and delivery requirements - of teaching and learning and are mapped to the graduate outcomes of the qualification. This means that there could be many different programmes leading to a single qualification.

Programmes are usually provider-developed to meet the needs of their particular learner groups and regions, and also require industry and/or other stakeholder input during the development process.

WDCs will have a role in endorsing programmes developed by providers before NZQA can grant programme approval[6]. Specific criteria on this is yet to be gazetted but it is possible that WDCs could use their programme endorsement function to limit the number of programmes leading towards a qualification if the industry deems it necessary. This could

[6] Under NZQA Rules, providers must have the relevant WDC's endorsement of their proposed programme before NZQA considers it for approval.

mean that several providers would offer the same programme. Providers would be encouraged to engage with WDCs throughout the development of a programme, including early discussions about the need for a new programme.

This reduction in programmes could lead to better consistency of delivery and graduate outcomes for employers, while at the same time simplifying transitions between programmes for learners.

Through the amalgamation of ITPs into Te Pūkenga, we expect that over time Te Pūkenga will also consolidate many of its programmes that lead to the same qualification which currently exist across its network of ITP subsidiaries.

For PTEs this means that they would need to engage with WDCs when they are reviewing or developing programmes, to understand industry needs and preferences for programme design. For new programmes, PTEs, like other providers, would need to seek WDC endorsement before applying for NZQA approval.

Skills Standards

Skill standards will be the core building blocks of vocational qualifications[7].

They will be listed on the Directory of Assessment Standards (DAS) at levels 1 – 7. It is envisaged that skill standards will be more comprehensive than the current unit standards, will be based on learning outcomes and have a larger credit value. They would include a clear statement of the skills and level of performance to be achieved. They could be assessed singularly or as part of an integrated assessment (e.g. portfolio).

Over time, unit standards will be phased out and replaced with skill standards.

The policy intent is that all providers, including wānanga offering workplace-based vocational education and training, will use WDC-developed skill standards in their delivery[8]. Te Pūkenga is explicitly required in the legislation to use skill standards, where they exist.

Currently providers can generally choose whether to use standards as the mode of assessment or not. In the future, the use of skill standards will be required for vocational qualifications, which represents a significant shift in practice for some providers. This would lead to better consistency of training and skills for employers and much more seamless transitions for learners, should they need to move or change provider or mode of study.

WDCs will be responsible for the external moderation of skill standards and will be able to quality assure assessment practice through this function.

Training Schemes

Training schemes are short packages of learning (typically no more than 40 credits) and can, but do not have to, include standards. They result in an award, but not in a qualification on the NZQF.

One function of WDCs is to develop and maintain training schemes for delivery by providers. Providers may also continue to develop and deliver their own training schemes, but where

[7] Refer to page 7 of this document regarding ongoing work on the development of skill standards.
[8] Summary of Change Decisions, Reform of Vocational Education, Ministry of Education https://conversation.education.govt.nz/assets/RoVE/AoC/RoVE-Summary-of-Change-Decisions.pdf

these training schemes are vocational, providers would be required by NZQA to consult with the relevant WDCs.

Under the current legislation, NZQA approval of training schemes combines approval of the package of learning with accreditation to deliver. For WDCs to seek NZQA approval of training schemes which providers can then apply to deliver, the legislation would need to be amended to separate the approval of the content from the accreditation to deliver *(see Proposal 3 below)*.

Micro-credentials

Micro-credentials are a sub-set of training schemes. They are NZQA-approved formal packages of learning that are between 5 - 40 credits in size, are industry-informed, address an unmet need and lead to specified employment outcome. They may be "stackable" and can contribute to qualifications, subject to NZQA requirements. They are available at all levels of the NZQF and can be recorded on learners' New Zealand Record of Achievement (NZROA).

Previously, micro-credentials could be developed and assessed by providers or ITOs. Under the new legal settings, WDCs (subject to Proposal 3 below) and providers can develop micro-credentials, but only providers can deliver and assess them.

Training Packages

Training packages are a new feature of the legislation. These provide an opportunity for WDCs to develop and require specific core teaching and learning activities and resources to be used by providers. These could be specified by the WDC in the qualification and their use could be required through the WDCs' programme endorsement role. WDCs will have the flexibility to decide when to use them.

Summary of Option A - status quo (the 2020 Act)

Qualification development and maintenance (for vocational qualifications) will be the responsibility of WDCs. They can specify any mandatory and elective skills standards and the use of training packages and capstone assessments on behalf of the industries they represent. NZQA will continue to approve qualifications for listing on the NZQF.

Programmes remain a key feature of the system to describe the learning and assessment activities for qualification achievement. Programmes will be developed by providers and will require WDC endorsement before they can be approved by NZQA. Over time the number of programmes in the system may be reduced, particularly by Te Pūkenga, to support greater consistency of training to meet the skill needs of employers.

Skill standards are a new feature of the system. They will replace unit standards over time and will be the core components of vocational programme delivery. They will specify learning outcomes, skills, and the level of performance in those skills.

Training schemes and micro-credentials can now be developed by WDCs[9] and by providers, but only providers can deliver and assess them. They may be "stackable" and can contribute to qualifications in future.

[9] See Proposal 3 in this document.

Training packages are a new feature of the system. They will be developed by WDCs to include core teaching and learning activities and resources. Their use could be made mandatory for providers by WDCs by specifying them in the qualification or through the WDC programme endorsement role.

Option B: A simplified vocational qualification system, comprising only qualifications, skill standards and micro-credentials

At an NZQA hui on 12 March 2020, a group of around 75 stakeholders said that there could be a simpler approach to vocational education. Stakeholders suggested a simpler system, with fewer educational products.

Following this meeting, NZQA developed some early thinking on a simplified approach which was tested with the original attendees (and others) on 29 July 2020. The early thinking received broad support and NZQA has continued to engage with stakeholders on these ideas. Over 50 stakeholder groups (more than 750 people) have now contributed their thoughts on how the system could be further simplified and how Māori-Crown relationships can be enhanced. These included:

- Workshops with each of the Te Pūkenga subsidiaries in December 2020
- Māori staff across the sector
- Māori trade students at EIT
- Students and student representatives
- Te Taumata Aronui
- Te Pūkenga Academic Board and Academic Managers
- WDC Working and Reference Groups
- Peak bodies
- Individual ITOs
- Individual TEOs including legislated wānanga.

Building on the above engagement, this option proposes a simplified vocational qualification system, comprising qualifications, skill standards and micro-credentials. Under this option, there would be no programmes or training packages in future.

Note: Within scope of this option are all New Zealand qualifications listed at levels 1 – 7 on the NZQF[10]. Whilst the RoVE is primarily aimed at level 3 -7 qualifications, stakeholders have told us that it would be confusing to have different requirements for vocational and non-vocational qualifications at the same level on the NZQF. The proposal therefore includes level 1 – 2 qualifications, foundation learning, mātauranga Māori and English language qualifications developed by NZQA and other New Zealand qualifications developed by other entities e.g. regulatory bodies, Government Training Establishments (GTEs), Ako Aotearoa and providers.

WDCs would not set national curriculum for foundation learning or mātauranga Māori qualifications.

[10] This excludes NCEA levels 1 – 3 and wānanga-developed iwi qualifications

Note: If this option is selected, it would require legislative changes and a long implementation period over several years to allow for qualification re-design and learner transitions.

Instead of programmes and training packages, qualifications would specify a 'national curriculum'

Under this option, qualifications would retain their current components and would specify mandatory and elective skill standards. Qualifications would also include a single 'national curriculum' (or core content) – an agreed specification developed by WDCs (and other qualification developers) collaboratively with industry and providers of what should be taught in the delivery of the qualification (see next section). This would replace individual provider programmes. This content could be specified under the current 'conditions' part of qualification.

Providers would be accredited to deliver qualifications rather than a programme.

The 'national curriculum'

The 'national curriculum' or core content would be collaboratively developed, led by the WDCs (or other qualification developer) working with industry and providers. The collaborative process would seek broad agreement on the skills, knowledge and attributes (reflected in the skill standards) that graduates should possess[11]. It would be about the *what,* not the *how,* of teaching and learning.

Dependent on the nature and purpose of the qualification, the 'national curriculum' could be specified at a high level or at a more detailed level. Vocational qualifications are expected to be comprised wholly of skill standards, both mandatory and elective. Therefore, those qualifications would include detailed specifications through the skill standards. Other qualifications might have a less specific curriculum with other components or more elective skill standards, dependent on the needs of the qualification end-user (such as employers, iwi, industry, and communities).

That way, instead of it being a separate programme, the core content would be specified in the qualification itself.

The 'national curriculum' would be dynamic. The WDC (or other qualification developer), industry and providers would collaborate on an ongoing basis to ensure it remains relevant and responsive to changing industry needs, without needing to review the qualification itself on such a frequent basis.

This 'national curriculum' would meet the intent of training packages but the content would be embedded in the qualification itself rather than as a separate product.

Each provider would use this 'national curriculum' to inform its specific teaching, learning and assessment approach. Providers would continue to be responsible for the delivery of the qualification - the *how* of teaching and learning, and for developing teaching and learning resources to meet their learners' needs. There is an opportunity for Te Pūkenga or other

[11] An example of successful collaboration is the common programme that has been jointly developed by Engineering New Zealand and the providers of the Level 6 New Zealand Diploma in Engineering.

provider to take a leadership role for the development of training and learning resources with other providers for shared use.

Providers would still be required to seek accreditation from NZQA to deliver a qualification.

NCEA is not impacted by this proposal as there is no requirement for providers to develop a programme leading to the award of NCEA or to be accredited to deliver a programme leading to NCEA. Schools delivering other New Zealand qualifications would deliver the 'national curriculum' as specified in the qualification, along with other providers. This means that school students could start their vocational qualification in a school setting and continue it through a tertiary education provider. Alongside achievement standards and unit standards, the new skill standards will be able to contribute to the NCEA.

This proposal would require changes to Immigration New Zealand's policies and instructions, to remove references to programmes as applicable.

Summary of Option B – further simplification of the qualifications system

Qualification components would remain the same. Qualifications would include a 'national curriculum' or mandatory and elective skill standards for vocational qualifications, specifying what learning or training would be delivered. Accredited providers would be able to determine how to deliver it.

Programmes would be phased out and eventually removed from the system. WDC endorsement function for programmes would consequently also be removed.

Skill standards would be retained as a key new feature of the system. Please refer to option A for a more detailed description.

Micro-credentials would remain as smaller quality-assured packages of learning to meet industry needs (*see Proposal 2 regarding training schemes*).

Training packages would be removed as no longer necessary if the 'national curriculum' comes into effect.

Appraisal of options A and B

The key features of the proposals in this document are outlined below, with a summary of the identified advantages and disadvantages of options A and B in Proposal 1.

	Option A – Status Quo	Option B – Further simplification
Qualifications	Components remain the same.	Components remain the same with the addition of a 'national curriculum' specifying what should be taught as part of the qualification.
Programmes	Remain a key feature of the system. These will be developed by providers and endorsed by WDCs before being approved by NZQA.	The 'national curriculum' would remove the need for programmes. Providers would seek accreditation directly for the qualification. Providers can decide how the qualification would be delivered within the parameters of the 'national curriculum'.
Skill Standards	Set by WDCs, these will include learning and assessment outcomes and would be the core components of vocational education delivery by providers including schools. They will replace unit standards over time.	
Training schemes and micro-credentials	Could be developed by WDCs[12] or providers.	

[12] See Proposal 2 for more information.

Training packages	Developed by WDCs, these include core teaching and learning activities and resources. Their use may be made mandatory by WDCs.	The 'national curriculum' would remove the need for training packages. Providers delivering the same qualification may work collaboratively together to develop teaching resources.
Impact Assessment		
Meeting employer needs *Employers tells us that the system, as it has functioned until now, with a number of different programmes leading to a qualification, creates inconsistencies in what graduates know and can do.*	The use of skill standards in vocational qualifications will lead to greater consistency in the skills taught. This may meet the needs of employers for greater consistency of graduate skills and knowledge. Employers would be able to work with providers locally to develop the programmes of study and training for learners in their region. WDCs will represent the needs of industry in the development of skill standards and qualifications. Regional Skills Leadership Groups will communicate regional intelligence about the needs of employers and industries.	The removal of programmes and the addition of mandatory qualification content through a national curriculum would lead to more consistent graduate outcomes. The needs of employers and industry will be represented through WDCs in the development of skill standards, national curricula and qualifications. WDCs will work with Regional Skills Leadership Groups to determine regional needs. Employers, iwi and community organisations would be able to rely on the qualification providing students with the core skills and knowledge that they, the end-users, are looking for. Under this option, employers, iwi and communities would only need to be engaged in the development and review of qualifications and skill standards (and not in programme development) which would result in productivity gains and more focused engagement.

Meeting learner needs *Programmes have been a key feature of the qualification system to date. Programme structure and content are developed by providers and come in many different shapes.* *It has been difficult for learners to transition from one provider to another when they move and wish to continue their studies elsewhere, as the recognition of the previous learning is an expensive and often difficult process.* *The transitions between work-based and provider-based study are also difficult because the programmes tend to be quite different, even when they lead to the same qualification. This results in duplication of learning and lost productivity across the system.* *"Meeting learner needs" in this context refers to the portability of learning.*	The mandatory use of skill standards in vocational qualifications would assist learners to transition more easily between different providers and different modes of learning.	The 'national curriculum' would set out compulsory components – skill standards and other content – that would allow learners to transfer seamlessly between work-based learning and provider-based study, and between providers (including secondary-tertiary transitions) for any qualification.
Meeting regional needs	Providers will continue to develop programmes towards WDC-developed qualifications that would	Under this option, it is envisaged that most regional and learner needs could be met through the contextualisation of the 'national curriculum' and varying approaches to teaching and learning.

	meet the regional needs by tailoring programme components accordingly. Regional Skills Leadership Groups will communicate regional intelligence about the needs of regional employers and industries.	Regional Skills Leadership Groups will have and important role in communicating regional skill needs. Any content-specific regional or learner needs could be met through micro-credentials. For example, a hospital porter qualification could include a micro-credential in working in a mortuary if not all the DHBs required their porters to undertake this work. Alternatively, if necessary a qualification could include some optional standards for providers to tailor to their local needs~~.~~ WDCs would determine if that is necessary during the qualification development process.
Advantages	Provides flexibility for providers and regions in the development of programmes that best meet their and their learners' needs. Does not require legislative change, has been well considered through the consultation process for RoVE and may be less disruptive at a time of sector-wide reform. May result in a reduction of the programmes that lead to a single qualification, thus improving learner transitions and graduate consistency.	Allows for more influence by industry in the delivery of education. Would lead to greater consistency in education and training which would more directly meet employer needs for graduates with more consistent skills, while at the same time enabling seamless transitions for learners between providers and different modes of study. The reduction in the range of education products and the stronger focus on consistency within the

	Maintains consistency with other qualifications at different levels on the NZQF such as degrees.	qualification would enable further simplification of the regulatory environment for providers. Would lead to greater cost savings over the longer term (*see cost-implications below*).
Disadvantages	More than one programme per qualification would remain likely, which may not allow learners to transfer as easily and may continue to result in variations in what graduates know and can do. If programmes continue, employers will need to be engaged multiple times in the development and review of programmes at a provider level. Providers bear the cost of programme development and the possibility that it is not endorsed by a WDC or approved by NZQA. Providers will have to invest time and resources over time into changing programmes to use skills standards.	Requires further legislative change and a longer implementation timeline. Adds a further layer of change at a time of many other sector transformations. The requirement for collaboration between WDCs, industry and providers may impact on 'time to market' for education products. Providers will have to invest time and resources into adjusting their delivery to the new qualification system.

Cost implications	Providers will have to invest time and resources into changing programmes to use skill standards. The use of skill standards may over time lead to greater efficiency and cost savings for providers as it would simplify programme design. Skill standards will support enhanced learning transitions which would remove duplication and the associated loss of productivity and costs to learners and the system.	The development of a 'national curriculum' for each qualification would require a significant system investment. However, the longer-term productivity gains would also be significant across the system by: • Saving employer time spent in education product development and review. • Enhancing learner transitions so that costs of learning duplication are removed in terms of cost to the learner, funding and lost productivity. This option removes the cost of programme development for providers, including schools, allowing additional providers to deliver qualifications more easily.

Proposal 1: Consultation questions

Consultation question 1.1:

Under proposal 1, do you support Option A (implementing the current legislative provisions) or Option B (further simplification) or another option? Please tell us the reasons for your response.

Consultation question 1.2:

For Option A, are there improvements that could be made, or issues that need to be addressed?

Consultation question 1.3:

For Option B, do you have any comments about how the WDCs and providers could collaborate on a 'national curriculum' (or core content) for specification in the qualification?

Consultation question 1.4:

For Option B, do you have any comment on how this option may work for non-WDC developed New Zealand qualifications at levels 1 – 7 on the NZQF (e.g. those developed by NZQA, regulatory bodies, government training establishments, and providers)? What would the impact with regards to those qualifications be on providers (both schools and tertiary education providers), industry and communities, including iwi and hapū?

Consultation question: 1.5:

For Option B, what would the impact be on your organisation and others? (for example, on tertiary learners, school students, providers (including universities, wānanga, Te Pūkenga, PTEs, schools), industry, and communities).

Consultation question 1.6:

For Option B, what do you see as the implementation challenges?

Consultation question 1.7:

What impacts do you foresee arising from Option B? Are there costs that need to be considered? Impacts could be on tertiary learners, school students, providers (including universities, wānanga, Te Pūkenga, PTEs, and schools), industry, and communities. How could these impacts be measured?

Consultation question 1.8:

Are there any risks we have not anticipated under Option B?

Consultation question 1.9:

Are there any costs that we have not anticipated under Option B?

Consultation question 1.10:

How could the system encourage greater collaboration by providers, for example developing shared teaching and learning resources for use by all?

Consultation question 1.11:

Do you have anything else you would like to say about this proposal?

Proposal 2: Training schemes and micro-credentials

Objective

This proposal seeks to simplify the quality assured credentials (non-NZQF qualifications) landscape so that it is easier for learners and employers to navigate.

Opportunity definition

There is an opportunity to simplify the range of credential options which are not currently well differentiated. This has led to confusion which affects the value and portability of these credentials for users. The term 'training scheme' has been in place since 2011 but is not widely understood and as a result, there has been limited uptake of these credentials by providers. Having more easily understood terminology – like a micro-credential – which also has greater international recognition as an education product, may better satisfy the demand for smaller packages of learning that meet the needs of learners and industry.[13]

Proposal

It is proposed that training schemes are replaced by micro-credentials in the legislation. Training schemes are a type of training which results in an award but do not, of themselves, lead to a qualification listed on the NZQF. Micro-credentials are a type of training scheme. are a more recent feature of the education system and are currently a sub-set of training schemes.

Stakeholders[14] have told us that there are too many educational products that are not well-differentiated and whose purpose is unclear.

We therefore propose that the need for industry-informed smaller packages of learning (i.e. less than 40 credits) is met through micro-credentials and that training schemes are phased out.

Under this proposal, training schemes would be replaced by micro-credentials in the legislation and the current legislated definition of training schemes would apply to micro-credentials instead. The majority of approved training schemes appear to show significant alignment with the requirements for micro-credentials, and this proposal would enable substantial simplification of the overall system.

Existing training schemes that do not meet the requirements for micro-credentials would be "deemed" to be micro-credentials in grandparenting provisions to minimise the impact on providers and learners.

[13] Refer to page 14 of this document for a current description of both training schemes and micro-credentials.
[14] Through the engagement on Proposal 1, Option B described on page 12

NZQA will work to review the requirements for the approval of new micro-credentials to ensure that they enable the development of credentials without higher costs or a more arduous process than what is currently in place for training schemes. The sector will be consulted on this at a later stage.

Summary of Proposal 2

We propose that micro-credentials replace all training schemes. This will simplify the education products landscape and make it easier for learners and employers to engage in it and understand the value of smaller packages of learning.

Implementation

This proposal requires legislative changes. If it is progressed, the change will come into effect with the next Education and Training Amendment Act, expected in late 2021. The implementation is not expected to have an impact on existing training schemes beyond the change of terminology (they would then be called micro-credentials).

NZQA will also work to review the requirements for new micro-credentials in NZQA Rules and the sector will be consulted on any proposals as part of that process.

Anticipated costs

We do not anticipate providers to incur any costs in relation to existing training schemes that would become micro-credentials.

In terms of future applications, providers would need to ensure that their systems are updated to comply with the requirements applicable at the time in relation to the design of new micro-credentials. However, we would be better able to anticipate these costs when the NZQA Rules regarding the future requirements for micro-credentials are developed. The sector would be consulted again at that stage and more specific cost impacts would be established.

Proposal 2: Consultation questions

Consultation question 2.1:

Do you support replacing training schemes with micro-credentials? Please give us the reasons for your response.

Consultation question 2.2:

What impacts do you foresee for your organisation or other arising from the proposed changes? This could include consideration of impacts for tertiary learners, school students, wānanga, schools, providers, universities, industry, community.

Consultation question 2.3:

Are there any risks we have not anticipated?

Consultation question 2.4:

Are there any costs that we have not anticipated associated with replacing training schemes with micro-credentials?

Consultation question 2.5:

Do you have anything else you would like to say in relation to training schemes and micro-credentials?

Proposal 3: Enabling micro-credentials to be developed by WDCs for providers to deliver

Objective

This proposal seeks to allow WDCs to develop micro-credentials[15] for providers' use. It seeks to separate the approval of micro-credentials' content from providers' accreditation to deliver them.

Opportunity definition

This proposal seeks to remove unnecessary duplication in the future approval process for micro-credentials.

Under the current legislation, training scheme approval and accreditation have to be done together. Only providers can seek approval for micro-credentials because it is tied in with their delivery. This means that an application for micro-credential approval has to include all necessary information about its design even if the exact same content has previously been approved for another provider. This leads to inefficiencies, productivity loss and duplication.

While the 2020 Act states that WDCs can develop micro-credentials, another part of the 2020 Act specifies that only institutions that want to deliver a micro-credential can apply for NZQA approval. Since WDCs are not providers, they cannot deliver micro-credentials and NZQA therefore cannot approve their micro-credentials.

If WDCs can seek NZQA approval for a micro-credential as a "central product" available for providers to use, this would remove an unnecessary approval layer from the system by allowing providers to apply only for accreditation for a WDC-developed micro-credential. Providers will also continue to be able to develop and deliver their own micro-credentials.

Furthermore, this change would remove the disconnect in the Act between the provisions allowing WDCs to develop and maintain training schemes, and the provisions which currently prevent WDCs from gaining approval for these products so they can be used by multiple providers.

Proposal

We propose that the Act is clarified to ensure that WDCs can seek NZQA approval for micro-credentials. This can be done by separating the approval of micro-credential content from provider accreditation. Providers would then be able to apply to NZQA for accreditation to deliver WDC-developed micro-credentials.

[15] If Proposal 2 goes ahead, micro-credentials would replace training schemes in the legislation. If not, this proposal would equally apply to training schemes. For ease of reading, this proposal refers only to micro-credentials but it can be read as referring to training schemes as well.

Providers would continue to be allowed to seek approval for micro-credentials that they develop. We would expect the relevant WDC to be consulted as stakeholders as part of the standard NZQA approval process.

Without this change, WDCs would still be able to develop micro-credentials, but only providers would be allowed to seek approval for them. This means that only some providers who partner with WDCs would use those micro-credentials, or, if shared widely by WDCs, multiple providers would have to apply and seek approval for the exact same content leading to duplication and inefficiencies across the system.

Summary of Proposal 3

We propose changes that would allow WDCs to develop micro-credentials for providers to use (with NZQA approval). This would lead to greater efficiency, remove duplication and would better meet industry demand.

Implementation

This proposal requires legislative changes. If it is progressed, the change will come into effect with the next Education and Training Amendment Act, expected in late 2021. Subsequent changes would also be required to NZQA Rules to update the applications and approval process for micro-credentials. The sector would be consulted on those changes.

Anticipated costs

We do not expect this proposal to have cost implications for learners, employers or providers. However, it may result in cost savings and productivity gains for providers who would be able to use WDC-developed micro-credentials.

Proposal 3: Consultation questions

Consultation question 3.1:

Do you support further legislative change separating approval from accreditation of micro-credentials, which will enable WDCs to develop micro-credentials for use by providers?

Consultation question 3.2:

What impacts do you foresee for your organisation and others arising from the proposed changes? This may include the impact for tertiary learners, school students, wānanga, schools, providers, universities, industry, and communities, including iwi and hapū.

Consultation question 3.3:

Do you think other non-providers (e.g. WDCs) should be able to seek NZQA approval of micro-credentials for providers to deliver (subject to NZQA accreditation)?

Consultation question 3.4:

Are there any risks we have not anticipated?

Consultation question 3.5:

Are there any costs that we have not anticipated associated with this proposal?

Consultation question 3.6:

Do you have any comments on how micro-credentials could play a greater role in supporting the intent of RoVE?

Consultation question 3.7:

Do you have anything else you would like to say in relation to training schemes and micro-credentials?

A muri ake – Next Steps

How you can respond to the proposals in this document

We look forward to hearing your views about the proposals in this document.

To provide feedback, you can:

- Send us an email at rove@nzqa.govt.nz
- Write to us at:
  RoVE Qualifications Review
  Quality Assurance Division
  NZQA
  PO Box 160
  Wellington 6015

The consultation is open from 21 April until 16 June.

If you have any questions about the consultation or the consultation process, you can send an email to rove@nzqa.govt.nz or give us a call on 0800 697 296.

What will happen next

We will thoroughly consider any views expressed and feedback received as part of this consultation.

If legislative change proposals arise from this process, they would be subject to further public consultation as part of the legislation drafting process.

If no legislative changes are required, there may still be a need for amendments to NZQA Rules and/or Gazette Notice(s), for example to fully reflect the intended scope of WDC programme endorsement. There would also be an opportunity for further engagement through those processes.

Appendix 1: Example of a draft skill standard

NZQA is working with experts on proposals for the structure and content of skills standards. This example of a draft skill standard is for your information only. This draft represents our current thinking but is subject to further development, particularly

with input from the WDCs when they are established. We expect to consult the sector on the composition of skill standards later in 2021 or early 2022, depending on the timing of the establishment of WDCs.

Skill Standard Title	**Select and use simple measuring devices and marking-out equipment used in mechanical engineering workshops**
NZQF ID	
Standard Setting Body	
DAS classification	Mechanical Engineering
Level	2
Credits	10
Purpose	This standard is intended for people working in or intending to work in mechanical engineering workshops. People awarded this standard will have the skills required to complete basic mechanical engineering measurement and marking-out tasks.
Entry requirements	Open.
Delivery	This standard is practical. It can be delivered in the workplace or in a provider environment. Learners must have access to all mechanical engineering devices and equipment identified in this standard. Underpinning knowledge required: • SI system including naming conventions, base units and derived units • Conversion between metric and imperial systems.
Assessment	Assessment is individual and practical (group assessment and simulation are not permitted).
Resources	Health and Safety at Work Act 2015. The International System of Units (SI), 9th edition. Culley, R (2017). *Fitting and Machining*. TAFE Publishing. Useful links https://www.measurement.govt.nz/metrology/measurement-in-daily-life/ https://www.worksafe.govt.nz/laws-and-regulations/acts/hswa/

Definitions	

Learning outcome 1: Select and use simple measuring devices used in mechanical engineering

Skills		Level of performance
1	**Select and use simple measuring devices to complete defined measurement tasks.**	Measurement tasks must be completed in accordance with current Health and Safety legislation, workplace procedures, and accepted industry practice. At least six different devices must be selected and used to complete at least three different types of measurement. The devices selected must be the most suitable for the task, including the magnitude of measurement and tolerances. Examples of measuring devices may include – rules, steel tapes, spring callipers, friction callipers, Vernier callipers, external and depth micrometers, protractors, dial test indicators (DTI), spring balances, stopwatches, spirit levels, plumb bobs, fixed gauges. *Defined measurement tasks* may include but are not limited to technical specifications, assembly instructions, and drawings. *Accepted industry practice* refers to approved codes of practice and standardised procedures, accepted by the wider mechanical engineering industry as examples of good practice. *Workplace procedures* include but are not limited to standard operating procedures, safety procedures, codes of practice, quality management practices and standards, and procedures to comply with legislative and local body requirements.
1.1	Verify measuring devices are calibrated and fit for use and report any faults.	
1.2	Complete defined measurement tasks.	
1.3	Maintain the integrity and condition of the object being measured and the measuring device during measurement.	
1.4	Validate all measurements are within tolerances.	
1.5	Record measurements in accordance with task requirements and accepted industry practice.	

1.6	Store measuring devices in accordance with workplace procedures.

Learning outcome 2: Select and use marking-out equipment and materials used in mechanical engineering

Skills		Level of performance
2	**Select and use marking-out equipment and materials to complete defined marking out tasks.**	Marking-out tasks must be completed in accordance with current Health and Safety legislation, workplace procedures, and accepted industry practice. At least six different items of marking out equipment must be selected and used to complete at least three different types of marking-out task. The devices selected must be the most suitable for the task, including tolerances. Examples of marking-out equipment and materials may include – marking-out tables, engineer's squares, rules, straight edges, scribing blocks, height gauges, trammels, protractors, scribers, vee blocks, parallels, angle plates, dividers, centre punches, marking blue or spirit blue (engineer's blue), chalk. *Defined marking-out tasks* may include but are not limited to technical specifications, assembly instructions, and drawings. *Accepted industry practice* refers to approved codes of practice and standardised procedures, accepted by the wider mechanical engineering industry as examples of good practice. *Workplace procedures* include but are not limited to standard operating procedures, safety procedures, codes of practice, quality management practices and standards, and procedures to comply with legislative and local body requirements.
2.1	Verify marking-out equipment is fit for use and report any faults.	
2.2	Complete defined marking-out tasks.	
2.3	Maintain the integrity and condition of the object being marked and the marking-out equipment.	
2.4	Validate marking-out is within tolerances.	

2.5	Store the marking-out equipment and materials in accordance with accepted industry practice and workplace procedures.

Appendix 8: Discussion document: Proposed changes to amend the Education Review Office's mandate

Have your say about amending the Education Review Office's (EROs) mandate to enable it to review professional learning and development accessed by schools, kura and early learning services

Proposal

High quality professional learning and development (PLD) is an important lever to support teachers, kaiako, teacher-aides and leaders to strengthen their individual and collective capabilities throughout their careers, respond to emerging needs within the system and make a difference for every ākonga and their whānau.

PLD is provided through a range of mechanisms. Most is funded by the government, but schools, kura and early childhood settings also resource some PLD directly themselves.

We would like a better understanding of how PLD provision helps to improve teaching practice and enhance student learning.

To do this, the government is proposing to expand ERO's functions to enable it to review the quality of the PLD accessed by schools, kura and early learning services.

Currently, the Education and Training Act 2020 sets the scope of ERO's functions as being to review every education service owned, operated or funded by government, other than services provided only to students over 16 who are not enrolled in a State school. Therefore, the Act would need to be amended to allow ERO to review professional learning and development accessed by schools, kura and early learning services.

Background

There is clear evidence that teaching practice makes a significant difference to student engagement, learning, and progress, and that teachers can improve and develop their practice throughout their careers. High quality professional learning and development is an important way to support teachers, kaiako, teacher-aides and educational leaders to develop the skills, knowledge and dispositions needed to meet each learner's needs and contribute to wider system goals.

The current situation

Current role and mandate of the Education Review Office

The Education Review Office is the New Zealand government department that, as per section 463 of the Act evaluates and reports on the education and care of students in schools and early learning services. Section 463 gives the Chief Review Officer (CRO) the power to administer reviews, and section 622 enables review officers to conduct inspections or make inquires of applicable organisations. Under section 463, the CRO must report to the Minister on these reviews. ERO publishes its findings on the provision of education to all young New Zealanders where that education service is owned, operated or funded by government, other than services provided only to students over 16 who are not enrolled in a State school.

As well as reviewing schools and early learning services, ERO carries out research and evaluation that looks at how the education system supports learners to achieve positive outcomes. Under section 465, the CRO designates 'suitably qualified persons' as review

officers to review schools and early learning services, as well as specialists in Kura Kaupapa Māori, and Pacific Bilingual Education.

Current provision of professional learning and development to schools, kura and early learning services

Professional learning and development for educators is provided through a range of mechanisms. Most is funded by government either through the Ministry of Education, other government agencies or schools' operational grants. Alongside this, schools, kura, and early childhood settings resource some PLD directly themselves.

Quality assurance of professional learning and development

To quality assure government-funded PLD, providers are selected based on their proven ability to deliver PLD services in a sustainable, user-focused manner that meets government priorities and those of individual early learning services, schools and kura.

PLD providers employ facilitators who have appropriate subject expertise. The Ministry has developed a refreshed process to assure quality in the PLD workforce for English and Māori medium settings, in consultation with PLD providers and other representative groups. This is currently being implemented. Additionally, the Teacher Refresher Course Committee helps Networks of Expertise, subject associations, and other peer-to-peer networks to deliver quality professional learning and development for educators.

We are working to strengthen our approaches to the review of PLD through impact reporting in contractual arrangements and the frameworks for schools, kura and early learning services to self-assess their growth within the Ministry's PLD platform.

While each of these helps assure that PLD providers are meeting quality standards, we don't have good information about how PLD provision works with other parts of the education system to improve teaching practice and improve learner outcomes –either at a national level, or within individual schools, kura or early learning services.

Question:

Do you agree it would be good to have a centrally organized way of looking at how the PLD accessed by schools, kura and early learning services impacts on teaching practice and student learning?

Proposed solution – extending ERO's mandate to review education services accessed by schools, kura and early learning services

We are proposing to expand ERO's mandate in the Education and Training Act 2020 to enable it to review professional learning and development accessed by schools, kura and early learning services, and thereby improve the quality and coherence of these services.

ERO is well-placed to review PLD accessed by schools, kura and early learning services as it has a strong understanding of best teaching practice in its current role of reviewing these places of learning. ERO may need to develop new evidence-based evaluation indicators but is experienced in developing these in partnership with communities and stakeholders. Reviewing PLD would also fit with ERO's system evaluation function.

Types of issues ERO could look at are:

- how PLD providers contribute to improving teacher practice in delivering parts of the curriculum (e.g. science | putaiao, mathematics | pāngarau)
- how PLD providers contribute to improving teacher practice with different groups of students (e.g. culturally responsive practice)
- how well PLD provision on a specific curriculum area or priority is being implemented across the country
- which PLD providers are most effective in helping improve teaching practice, and which need more support

This change would not allow ERO to review Initial Teacher Education (ITE), or any other tertiary education courses or programmes that sit within the New Zealand Qualifications Framework because other mechanisms are in place for quality assuring tertiary education provision.

ERO would be able to make recommendations, but the contracting decisions would remain with schools and the Ministry of Education.

There is a risk that spreading ERO's capability across a new area could draw resources from its core function of reviewing schools and early learning services. ERO proposes to manage this by incorporating this new function into its existing school, kura, and early learning service reviews.
Initially, ERO would review the impact of PLD provision as part of the Te Ihuwaka - Education Evaluation Centre work that ERO already conducts with schools, kura and early learning centres. In the future ERO could review a specific provider if concerns were raised about its PLD provision through these evaluations.

We want to hear your views on whether there is a need for a more systematic arrangement of quality assurance for professional learning and development accessed by schools, kura and early learning services, whether ERO is the agency best placed to do this, advantages and disadvantages of this proposed solution, and other suggestions you may have.

Questions:

Q1. Do you agree with the proposed solution? Why or why not?

Q2. How would the expansion of ERO's mandate to review professional learning and development impact on you?

Q3. Are there other options for ensuring systematic review of PLD accessed by schools, kura and early learning services?

How to have your say

We are seeking your views on the proposal to extend ERO's mandate to review professional learning and development accessed by schools, kura and early learning services. You can email your submissions to legislation.consultation@education.govt.nz or write to:

Education Consultation
Ministry of Education
PO Box 1666
Wellington 6140
New Zealand

Submissions close on 16 June 2021 and will inform advice to the Minister and Associate Minister of Education on final policy proposals that would be submitted to Cabinet.

Purpose of feedback

We are seeking your views on the suggested changes discussed above. Your feedback will enable us to make better informed decisions about possible changes to enable ERO to review professional learning and development accessed by schools, kura and early learning services.

Please be assured that any feedback you provide will be confidential to those involved in analysing the consultation data. We will not identify any individuals in the final analysis and report writing unless you expressly give permission for this. However, submissions, including submitters' names, and documents associated with the consultation process may be subject to an Official Information Act 1982 request.

CAB-21-MIN-0131

Cabinet

Minute of Decision

Report of the Cabinet Social Wellbeing Committee: Period Ended 16 April 2021

On 19 April 2021, Cabinet made the following decisions on the work of the Cabinet Social Wellbeing Committee for the period ended 16 April 2021.

Out of scope

SWC-21-MIN-0048	**Paper One: Education and Training Amendment Bill (No 2) Proposals: Approval to Consult** Portfolio: Education	CONFIRMED

Out of scope

Out of scope

Michael Webster
Secretary of the Cabinet

SWC-21-MIN-0048

Cabinet Social Wellbeing Committee

Minute of Decision

Paper One: Education and Training Amendment Bill (No 2) Proposals: Approval to Consult

Portfolio **Education**

On 14 April 2021, the Cabinet Social Wellbeing Committee:

1 **noted** that an Education Amendment Bill is proposed for inclusion on the 2021 Legislation Programme with a Category 4 priority (refer to select committee in 2021), which will amend the Education and Training Act 2020 (the Act);

2 **noted** that the policy proposals in the submission under SWC-21-SUB-0048 are intended to:

2.1 ensure all education workers who are required to be Police vetted are vetted under the Act prior to beginning work in licensed ECE services and schools;

2.2 improve the equity and fairness of the order of priority for offers of enrolment to out-of-zone students at schools with enrolment schemes;

2.3 strengthen Teaching Council processes regarding disciplinary proceedings and issuing practising certificates;

2.4 repeal sections 257 and 360 of the Act and authorise compulsory student services fees charged by tertiary education providers to be regulated as conditions of funding mechanisms issued under section 419 of the Act;

2.5 enable National Student Numbers to be used to support work-based learning;

2.6 remove the requirement that NZQA must cancel a Private Training Establishment's registration if that establishment is convicted under section 352(1) of the Immigration Act 2009;

2.7 simplify New Zealand qualifications and credentials;

2.8 specify a new function of the Education Review Office to review professional learning and development services accessed by schools, kura and early learning services;

3 **noted** that the intended period of public consultation will be eight weeks, from 21 April to 16 June 2021;

4 **noted** that the Minister of Education intends to seek Cabinet approval to final policy proposals from Cabinet in August 2021;

5 **agreed** to the release of the following documents, attached under SWC-21-SUB-0048, for public consultation, subject to any minor editorial, formatting and layout changes required:

5.1 *Proposed changes for Police vetting of non-teaching and unregistered employees*;

5.2 *Proposed changes to the priority categories for school enrolment schemes*;

5.3 *Strengthening Teaching Council processes*;

5.4 *Proposed changes to how compulsory student services fees are regulated*;

5.5 *Proposed changes to using the National Student Number to support workplace-based learning*;

5.6 *Proposed changes to NZQA cancellation of PTE (Private Training Establishment) registration for immigration breaches*;

5.7 *Consultation on Simplifying New Zealand qualifications and other credentials*;

5.8 *Proposed changes to expand the Education Review Office's mandate*.

Rachel Clarke
Committee Secretary

Present:
Rt Hon Jacinda Ardern
Hon Grant Robertson
Hon Kelvin Davis
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Carmel Sepuloni (Chair)
Hon Andrew Little
Hon Poto Williams
Hon Peeni Henare
Hon Willie Jackson
Hon Jan Tinetti
Hon Dr Ayesha Verrall
Hon Priyanca Radhakrishnan

Officials present from:
Office of the Prime Minister
Office of the SWC Chair
Officials Committee for SWC