



Education Report: Proposed minor and technical changes to the Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019

To:	Hon Chris Hipkins, Minister of Education		
Date:	11 February 2021	Priority:	Medium
Security Level:	In Confidence	METIS No:	1249916
Drafter:	Jenni Barrett	DDI:	§ 9(2)(a)
Key Contact:	Kieran Forde	DDI:	§ 9(2)(a)
Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

The purpose of this report is for you to review and approve minor and technical changes to the Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019, to ensure it remains fit for purpose and in line with legislation until its expiry on 1 January 2022.

Summary

The Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019 (the Interim Code) was developed to support the pastoral care of domestic tertiary learners. It was initially intended to be in place for one year, but, due to the impacts of COVID-19 on the tertiary sector, was extended and will be in place until 1 January 2022.

In March and July 2020, the Regulations Review Committee (the Committee) raised issues with the content and design of the Interim Code. In response to the Committee's concerns and to ensure the Interim Code remains fit for purpose until its expiry, the Ministry of Education proposes you approve minor and technical changes to the Interim Code.

If you agree to the proposed minor and technical changes, the Ministry of Education recommends a revised Interim Code be published no later than 31 March 2021. This timeline ensures minor and technical revisions to the Interim Code do not interfere with anticipated sector consultation on the ongoing Code in the coming months.


Recommended Actions

The Ministry of Education recommends you:

- a. **note** that clause 67(3) of Schedule 1 of the Education and Training Act 2020 allows you to make minor and technical changes to the Interim Code without changing its status as the applicable code.
- b. **agree** to the following minor and technical changes for the Interim Code:
- i. Update legislative references to the Education Act 1989 with references to the Education and Training Act 2020, including defining terms according the Education and Training Act 2020 and extending the deadline of the Interim Code from 1 January 2021 to 1 January 2022.
Agree / Disagree
 - ii. Replace clause 33(1) of the Interim Code with a new clause in Part 4 of the Interim Code which details the legislative provisions for entry into student accommodation (that is, section 633 of the Education and Training Act 2020).
Agree / Disagree
 - iii. Clarify that any sharing of personal information will be consistent with the Privacy Act 2020 and its principles.
Agree / Disagree
- c. **note** that on 29 January 2021 your office sent a letter to the Committee informing them of your intent to allow the Committee the opportunity to comment on a draft of minor and technical changes to the Interim Code [METIS 1245064 refers].
- d. **sign and send** the attached letter to the Committee (**annex 1**), along with the draft Interim Code with minor and technical changes (**annex 2**) by 17 February 2021.
Agree / Disagree
- e. **proactively release** this Education Report, once decisions have been made and a revised Interim Code has been issued, with any redactions in accordance with the provisions of the Official Information Act 1982.
Release / Not release


Katrina Sutich
Group Manager
Tertiary Education

11/02/2021


Hon Chris Hipkins
Minister of Education

16/2/2021

Background

Development of the Interim Code and concerns raised by the Regulations Review Committee

1. The Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019 (the Interim Code) was developed to support the pastoral care of domestic tertiary learners. The Interim Code was initially expected to be in place for one year. Due to the impacts of COVID-19 on the tertiary education sector – and the sector’s ability to contribute to the development of the ongoing Code – legislation was changed to extend the expiry date of the Interim Code to 1 January 2022. The Ministry of Education is preparing an ongoing Code to replace the existing Codes of Practice for domestic tertiary and international learners, including the Interim Code. The replacement Code will take effect from 1 January 2022.
2. The Ministry of Education has provided you with information about previous correspondence with the Regulations Review Committee (the Committee) related to the Interim Code [METIS 1245064 refers]. In 2020, the Committee expressed concerns with the design and content of the Interim Code including that:
 - some matters relating to the Code Administrator in Part 4 of the Interim Code might be better placed in primary legislation;
 - there needs to be clarity about whether the Interim Code allows the sharing of personal information in accordance with the Privacy Act 2020;
 - secondary legislation must be within the power delegated to the maker by Parliament;
 - matters of principle and policy should be found in primary legislation while detail and implementation should ordinarily be the domain of delegation; and
 - new legislation should not restate matters already addressed in existing legislation.
3. In response to the Committee’s concerns, you indicated that the Ministry of Education intended to draft minor and technical changes to the Interim Code, which would more clearly lay out the empowering legislation and clarify privacy expectations in accordance with the Privacy Act 2020 [METIS 1245064 refers].
4. Clause 67(3) of Schedule 1 of the Education and Training Act 2020 allows you to make minor and technical changes to the Interim Code without changing its status as the applicable code. The Ministry has outlined a proposed response to the Committee’s concerns, which ensures the Interim Code remains fit for purpose and in line with current legislation [METIS 1245064 refers]. On 29 January 2021, your office sent a letter to the Committee, informing them of your intent to make minor and technical changes to the Interim Code, and offering them the opportunity to comment on a draft revised Interim Code [METIS 1245064 refers].
5. The Ministry of Education has consulted with the New Zealand Qualifications Authority, the Tertiary Education Commission and Education New Zealand on the proposed minor and technical changes to the Interim Code.

Minor and technical changes proposed

6. Legislative references to the Education Act 1989 should be replaced with references to the Education and Training Act 2020 (the Act), including defining terms according to the Act and extending the deadline of the Interim Code from 1 January 2021 to 1 January 2022. The following table provides more detail of the proposed changes:

Interim Code Reference	Education Act 1989 reference	Education and Training Act 2020	Comment
Page 1.	Clause 26(2) Schedule 1	Clause 67 Schedule 1	
Page1.	Education Act 1989	Education and Training Act 2020	Update all references to the Education Act on pages 1, 2, 3, 4, 13
Clause 2.	Expires on 1 January 2021	Expires on 1 January 2022: clause 67(4) of Schedule 1 refers	
Clause 2.	Issued under section 238G	Issued under section 534	
Clause 5.	Code administrator: Appointed under section 238H(1)	Code administrator: Appointed under section 648	
Clause 5.	Code administrator: includes any person or agency delegated by the code administrator under section 238H(8) of the Act	Code administrator: includes any person or agency delegated by the code administrator under section 633(5) of the Act	
Clause 5.	“Provider,” “serious harm,” “student,” “student accommodation” have the same meaning as in section 238D	“Provider,” “serious harm,” “student,” “student accommodation” have the same meaning as in section 10(1)	
Clause 33(1).	Code administrator, in accordance with section 238H(5), may enter...	Code administrator, in accordance with section 633, may enter...	

7. Some of the concerns of the Regulations Review Committee (the Committee) could be resolved by clearly identifying legislative provisions in a separate subclause of the Interim Code. The Ministry therefore proposes that clause 33(1) of the Interim Code be replaced by a new clause in Part 4 of the Interim Code which details the legislative provisions for entry into student accommodation (that is, section 633 of the Act).
8. Changes to the Interim Code should clarify that any sharing of personal information will be consistent with the Privacy Act 2020 and its principles. For the avoidance of doubt, clause 34 should include the additional phrase, “*In accordance with the Privacy Act 2020, the code administrator may ...*”

Next steps

9. After you have approved the proposed minor and technical changes to the Interim Code, we recommend signing and sending the attached letter to the Regulations Review Committee (the Committee) (**annex 1**), along with the revised Interim Code with minor and technical changes (**annex 2**), by 17 February 2021.
10. The Committee should provide their response by 26 February 2021. The Ministry of Education will then incorporate changes, where possible, and send a revised Interim Code for your approval.
11. The Ministry of Education will aim to publish a revised Interim Code no later than 31 March 2021, to ensure that minor and technical revisions to the Interim Code do not interfere with anticipated sector consultation on the ongoing Code in the coming months.

Annexes

- Annex 1:** Draft letter to the Regulations Review Committee outlining proposed minor and technical changes to the Interim Code
- Annex 2:** Revised Interim Code with minor and technical changes

Annex 1: Draft letter to the Regulations Review Committee outlining proposed minor and technical changes to the Interim Code

Chris Penk
Chairperson
Regulations Review Committee
Parliamentary Buildings
Wellington

Dear Mr Penk,

On 29 January 2021, I wrote to you with a response to the Regulations Review Committee's (the Committee) comments about the Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019 (the Interim Code). In that letter, I outlined why and how the Interim Code was developed, the concerns raised by the Committee about the Interim Code and plans to improve the Interim Code to ensure it remains fit for purpose until its expiry on 1 January 2022.

In response to the Committee's concerns, I indicated that the Ministry of Education was drafting minor and technical changes to the Interim Code, which would more clearly lay out the empowering legislation and clarify privacy expectations in accordance with the Privacy Act 2020. I also indicated that the Committee would be provided the opportunity to comment on a draft of the revised Interim Code, once it had been prepared. The present letter is intended to update the Committee on the proposed minor and technical changes to the Interim Code and provide the Committee with opportunity to comment on the draft revised Interim Code.

Proposed minor and technical changes to the Interim Code

A revised Interim Code with minor and technical changes is attached to this letter. In summary, the minor and technical changes proposed by the Ministry of Education to the Interim Code are as follows:

Updating legislative references

Legislative references to the Education Act 1989 should be replaced with references to the Education and Training Act 2020 (the Act), including defining terms according to the Act and extending the deadline of the Interim Code from 1 January 2021 to 1 January 2022. The following table provides more detail of the proposed changes:

Interim Code Reference	Education Act 1989 reference	Education and Training Act 2020	Comment
Page 1.	Clause 26(2) Schedule 1	Clause 67 Schedule 1	
Page1.	Education Act 1989	Education and Training Act 2020	Update all references to the Education Act on pages 1, 2, 3, 4, 13
Clause 2.	Expires on 1 January 2021	Expires on 1 January 2022: clause 67(4) of Schedule 1 refers	
Clause 2.	Issued under section 238G	Issued under Section 534	
Clause 5.	Code administrator: Appointed under section 238H(1)	Code administrator: Appointed under section 648	

Clause 5.	Code administrator: includes any person or agency delegated by the code administrator under section 238H(8) of the Act	Code administrator: includes any person or agency delegated by the code administrator under section 633(5) of the Act	
Clause 5.	“Provider,” “serious harm,” “student,” “student accommodation” have the same meaning as in section 238D	“Provider,” “serious harm,” “student,” “student accommodation” have the same meaning as in section 10(1)	
Clause 33(1).	Code administrator, in accordance with section 238H(5), may enter...	Code administrator, in accordance with Section 633, may enter...	

Detailing legislative provisions for entry into student accommodation

We propose that clause 33(1) of the Interim Code be replaced by a new section in Part 4 of the Interim Code which details the legislative provisions for entry into student accommodation (that is, section 633 of the Education and Training Act 2020).

Clarifying privacy principles

Any sharing of personal information will be consistent with the Privacy Act 2020 and its principles. For the avoidance of doubt, clause 34 should be amended to read “*In accordance with the Privacy Act 2020 and its principles, the code administrator may...*”

Opportunity to comment on the proposed minor and technical changes

I would like to provide the opportunity for the Committee to respond to the proposed minor and technical changes. The Ministry of Education will incorporate your feedback, where possible, and publish a revised Interim Code with minor and technical changes no later than 31 March 2021.

Please provide comment by 26 February 2021 on whether, in your view, the proposed minor and technical changes to the Interim Code are sufficient to address the Committee’s concerns. In the Committee’s response, please note that the Interim Code will need to be fit for purpose until 1 January 2022, on which day the replacement Code will come into effect. Officials are developing a robust replacement Code and undertaking work to ensure that:

- the empowering provisions are fit for purpose;
- the replacement Code better delivers the outcomes sought; and
- the processes that the code administrator will use are adequately supported in legislation and regulation.

Yours sincerely,



Hon Chris Hipkins
Minister of Education

___/___/___

Annex 2: Revised Interim Code with minor and technical changes

Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019

Pursuant to clause ~~26(2)-67 of the~~ Schedule 1 of the Education and Training Act ~~1989~~2020 the Minister of Education makes the following interim code of practice.

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Part 1 Introduction

1. Title

This code is the Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019.

2. Commencement

This code comes into force on 1 January 2020 and expires on 1 January 2022 [\(clause 67\(4\) of Schedule 1 of the Education and Training Act 2020 refers\)](#)¹, or such earlier date on which a code of practice for domestic tertiary students is issued under section [238G-534](#) of the Education [and Training Act 2020](#)¹⁹⁸⁹.

3. Purpose of the code

- (1) The purpose of this code is to ensure, so far as is practicable, that domestic tertiary students can succeed academically in a safe, healthy and supportive learning environment, where –
 - (a) they are accepted and respected; and
 - (b) receive an education that values their identity, language and culture, and those of their family and whānau.
- (2) This code specifies the role of providers in ensuring the organised and formal provision of pastoral care and assistance for domestic tertiary students, and additional outcomes and requirements in relation to domestic tertiary students residing in student accommodation.

4. Scope of the code

- (1) The scope of this code is to prescribe, in relation to the activities and student accommodation provided or arranged by a provider, whether on or off-campus –
 - (a) the outcomes sought from providers for the pastoral care and wellbeing of domestic tertiary students enrolled with a provider; and
 - (b) key processes required of providers to support the wellbeing, achievement and rights of domestic tertiary students, as appropriate and reasonable in the circumstances of each student.
- (2) This code applies in addition to current statutory requirements and relevant guidelines for the health, safety and wellbeing of domestic tertiary students.
- (3) This code requires providers to honour and effectively implement Te Tiriti/The Treaty of Waitangi.

Part 2

How to read this code

5. Definitions

- (1) In this code, unless the context otherwise requires, –

accommodation staff includes all full-time and part-time staff who are employed or contracted to work within the student accommodation

basic needs means the essential material requirements to support wellbeing including housing, food and clothing

code administrator means the person or agency appointed under section [238H\(1\)648](#) of the Education [and Training](#) Act, and includes any person or agency delegated by the code administrator under section [238H\(8\)633\(5\)](#) of the Act

Education [and Training](#) Act means the Education [and Training](#) Act [19892020](#)

education quality assurance agency means an agency authorised by the Education [and Training](#) Act to exercise quality assurance functions in respect of providers

fit and proper person is a person who is of good character who abides by the laws of New Zealand and elsewhere, and is likely to continue to do so while being employed at a student accommodation as a member of the accommodation staff

house rules means the rules and guidelines agreed between students and accommodation providers that meet the requirements in Section 5B of the Residential Tenancies Act 1986

legal guardian means a person who, by court or testamentary appointment, is responsible for the student's wellbeing and financial support, and provides for the care of the student

mana means the intrinsic value and inherent dignity derived from a person's whakapapa (genealogy) and their belonging to a whānau, hapū, iwi, or family group, in accordance with tikanga Māori or its equivalent in the person's culture

parent means the father, mother, legal guardian, or immediate caregiver of the student who is responsible for the student's wellbeing and financial support

pastoral care means a provider's responsibilities for supporting the wellbeing, personal development and educational achievement of students in their learning environment and student accommodation

practices means the policies and processes implemented by the institution to realise the outcomes set out in this code

provider has the same meaning as in section [238D-10\(1\)](#) of the Education [and Training](#) Act

resident means a student who resides in student accommodation

serious harm has the same meaning as in section [238D-10\(1\)](#) of the Education [and Training](#) Act

student has the same meaning as **domestic tertiary student** in section [238D-10\(1\)](#) of the Education [and Training](#) Act

student accommodation has the same meaning as in section [238D-10\(1\)](#) of the Education [and Training](#) Act

student at risk means that the tertiary provider has reasonable grounds to believe that a student or resident is unable to –

- (a) adequately protect themselves against serious harm; or
 - (b) adequately safeguard their personal welfare
- (2) In this code, a reference to the age of a person is a reference to the age of the person on their last birthday.
- (3) A term that is used in this code and defined in the Education [and Training](#) Act but not in this code has the same meaning as in the Education [and Training](#) Act.

Part 3

Pastoral care of students

Provision of pastoral care generally

6. Outcome 1: A safe and supportive learning environment

Students experience a physically safe and mutually supportive learning environment that responds to the needs of all students.

7. Process

- (1) Providers must have practices that enhance student safety, including appropriate practices for –
- (a) a safe learning and communal environments and facilities; and
 - (b) human resources management; and
 - (c) the security of students.
- (2) Providers must have practices that maintain a supportive learning environment and provide opportunities for students to connect, build relationships and support each other.

8. Outcome 2: Assistance for students to meet their basic needs

Students have adequate access to advice, information and services which help them to meet their basic needs.

9. Process: Advice, information and services

- (1) Providers must have practices that assist students to identify and manage their basic needs, including providing information to all students, as soon as reasonably practicable, on –
 - (a) how students, including those who have work and family commitments, can access services on and off-campus that will help them maintain reasonable standards of material wellbeing, within the institution and externally; and
 - (b) how to access suitable accommodation and maintain a healthy life-style.
- (2) If food is made available by the provider on campus or in student accommodation, the provider must ensure that the food available includes a range of healthy food options that is obtainable at a reasonable cost.

10. Outcome 3: Physical and mental health of students

Students are assisted by providers to manage their physical and mental health, and to access support when needed.

11. Process

Providers must have practices which assist students to be physically and mentally healthy, including –

- (a) providing opportunities for students to have experiences that improve their physical or mental health and wellbeing; and
- (b) assisting students to manage their mental health, by –
 - (i) promoting awareness of wellbeing and mental health and practices that support good mental health that are relatable to students; and
 - (ii) providing information about accessing mental health services on campus and in the community; and
- (c) providing staff training on how to recognise and effectively respond to students who may have problems with health or wellbeing; and
- (d) identifying students at risk and having clear pathways for assisting those students to access appropriate health services, including mental health services on campus and in the community; and
- (e) assisting disabled students to access appropriate support where required.

12. Outcome 4: Progress and personal development of students

Students are assisted by providers to transition to tertiary study, progress and achieve in their studies, and to develop knowledge, skills and experience to prepare them for further work or study.

13. Process

Providers must have practices for –

- (a) helping students prepare for, and adjust to tertiary study, and to identify additional learning support needs early; and

- (b) providing access to academic support services and maintaining appropriate oversight of student achievement and engagement; and
- (c) regularly reviewing teaching and learning approaches to respond to the needs of students; and
- (d) providing opportunities for work-integrated learning.

14. Outcome 5: Inclusive learning environment

Students experience an inclusive learning environment where they are accepted and valued, respected, free from racism and discrimination, and connected with social and cultural networks.

15. Process

Providers must have practices for –

- (a) recognising, reducing and responding to discrimination, racism, bullying, and harassment (including sexual harassment), including –
 - (i) assisting students and staff to recognise and respond to discrimination, racism, bullying, and harassment (including sexual harassment); and
 - (ii) reducing harm to students resulting from discrimination; and
- (b) supporting an inclusive environment; and
- (c) providing opportunities for students to connect, build relationships and develop social and cultural networks.

16. Outcome 6: Student voice

The mana of students is upheld in their learning environment and their voices are heard and integrated in decisions around the planning and provision of student support services.

17. Process

Providers must have practices for –

- (a) assisting students to be key partners in developing practices that influence their study, their learning environment, and pastoral care; and
- (b) having appropriate structures in place to give a platform to student perspectives, including, where appropriate, how resources and spaces are used and the content of student rules or codes of conduct; and
- (c) providing students with information and advice which supports positive choices impacting on wellbeing (for example, in relation to drug and alcohol use, safe sex); and
- (d) addressing complaints by students, including providing information to students on –
 - (i) how to use internal complaints processes; and
 - (ii) how to make a complaint to the code administrator if a student is dissatisfied with the outcome or experience of using internal complaints processes.

Pastoral care in tertiary student accommodation

18. Outcome 7: A positive and supportive environment in student accommodation

Students have a positive and supportive residential environment that assists with their learning and wellbeing.

19. Process: Information and promotional activities

(1) Providers must have practices for –

- (a) providing clear, sufficient and accurate information to enable prospective residents to make informed choices about the type and nature of student accommodation and services provided; and
- (b) using information provided by prospective residents at the time of application, to help with their appropriate placement into student accommodation and the development of any transition plans that might be necessary; and
- (c) providing information and tools that help residents understand their responsibilities within a communal living environment, including those relating to diversity and difference; and
- (d) providing residents with learning and peer support, and information on –
 - (i) self-care and positive wellbeing; and
 - (ii) how to access pastoral care services on campus and in the community; and
- (e) providing residents with information and advice on what action to take in an emergency and the mechanisms for reporting incidents and raising health and safety concerns; and
- (f) having clear, reasonable and accessible house rules and guidelines that promote and encourage–
 - (i) resident safety (including drug and alcohol policies); and
 - (ii) a sense of community and association with fellow students, and
 - (iii) learning and personal growth.

(2) The information required by this clause must be readily available and promoted to residents.

20. Process: Accommodation staff

Providers must take all reasonable steps to ensure that –

- (a) accommodation staff receive appropriate training for their role, including on –
 - (i) referral pathways (including to local service providers) and escalation procedures; and
 - (ii) timely reporting of incidents or concerns; and
 - (iii) encouraging healthy life-styles for students; and
- (b) the experience of accommodation staff is appropriate for the type and nature of accommodation that is being provided; and
- (c) the accommodation staff are fit and proper persons; and
- (d) there is managerial oversight of accommodation staff at all times (24 hours a day, 7 days a week) so that issues can be escalated when they occur; and
- (e) the level of live-in accommodation staffing provides appropriate oversight and support for residents based on the type and nature of accommodation (for example, a higher level of staffing for halls of residence primarily intended for first-year students).

21. Process: Risk monitoring and responsive pastoral care

(1) Providers must have risk monitoring and responsive pastoral care practices, including for–

- (a) evaluating the specific needs of residents and planning for how these can be reasonably and practicably met and monitored; and
 - (b) encouraging residents to disclose health or mental health needs so that the provider can proactively offer them support and resources; and
 - (c) requesting that residents supply the name and contact details of a nominated person should their wellbeing or behaviour cause concern; and
 - (d) having clearly defined processes within the student accommodation for referring and responding to instances of resident behaviours that are a risk to self or others; and
 - (e) having appropriate welfare-checks, including –
 - (i) developing and implementing a welfare management plan for residents assessed as being at risk, which could include referral to external services; and
 - (ii) systems to regularly check that residents continue to be active within their student accommodation and, if a resident is identified as being at risk, developing and implementing a welfare management plan; and
 - (iii) appropriate arrangements for residents under 18 including for effective communication with the parent or parents regarding wellbeing; and
 - (iv) information in the house rules advising that staff members are mandated to enter a resident's room without permission for safety and health reasons; and
 - (f) having co-ordinated information channels across the provider to link emerging concerns about residents' wellbeing or behaviour so that they can be connected quickly to the appropriate student services; and
 - (g) keeping a critical incident and emergency procedures manual (specific to the student accommodation) which guides staff involved in an incident for –
 - (i) the immediate actions required; and
 - (ii) the follow-up de-briefing process to support students and staff.
- (2) The practices described in sub-clause (1) must be regularly reviewed and updated to ensure that they remain relevant and fit for purpose.

22. Outcome 8: A supportive residential community

Students in student accommodation live in a communal environment that promotes healthy living and social wellbeing.

23. Process

Providers must take all reasonable steps to create a communal environment in student accommodation that promotes health and social wellbeing, and encourages study and learning by –

- (a) establishing reasonable house rules; and
- (b) supporting health promotion activities; and
- (c) promoting responsible social behaviour and academic success; and
- (d) meeting the cultural needs and aspirations of all groups; and
- (e) developing appropriate initiatives guided by students to build a sense of community.

24. Outcome 9: Accommodation plans, administration and operational policies

The pastoral care needs of residents are met through effective student accommodation contracts and practices of providers.

25. Process: General principles

Providers must ensure that the pastoral care needs of students in student accommodation are met through clear, reasonable and effective practices that include –

- (a) a statement of intent or mission statement, which refers to this code and how it aligns with the wider pastoral care approach of the provider; and
- (b) a human resource strategy that includes –
 - (i) job descriptions that clearly describe the role of accommodation staff in relation to the pastoral care of students; and
 - (ii) relevant competencies and attributes that accommodation staff must demonstrate to be able to fulfil that role; and
 - (iii) the availability of support services to accommodation staff.

26. Process: Student accommodation contracts and self-evaluation

- (1) Providers must ensure that student accommodation contract with a resident –
 - (a) is clear and concise; and
 - (b) sets out the responsibilities of the provider and the resident; and
 - (c) advises residents of the requirements for –
 - (i) information sharing across the provider; and
 - (ii) the regular processes for checking on residents; and
 - (d) is reviewed and updated from time to time to ensure it remains fit for purpose in relation to pastoral care matters, taking into account the views of students and their representative bodies; and
 - (e) sets out the deposit, bond components, fees, refund policy and penalties; and
 - (f) sets out the complaints and disciplinary process.
- (2) Providers must provide prospective residents with a copy of the house rules before they sign the accommodation contract.
- (3) Providers must keep a written log of accommodation complaints received alleging a breach or breaches of this code.
- (4) Providers must regularly review the accommodation practices with reference to the requirements in this code, to ensure that they remain fit for purpose.
- (5) A review under sub-clause (4) must –
 - (a) be carried out annually;
 - (b) include feedback from residents, accommodation staff, and relevant student representatives and student bodies; and
- (6) Providers must, within a reasonable time following a review under sub-clause (4), take appropriate action to–
 - (a) address any deficiencies in accommodation practices; and
 - (b) ensure that the accommodation practices are fit for purpose.

27. Outcome 10: Building facilities and services

Student accommodation facilities and services are maintained to a standard sufficient to support residents' social, mental and physical wellbeing and educational success.

28. Process

- (1) Providers must ensure that student accommodation –

- (a) has appropriate and sufficient communal spaces for social interaction and for resident activities; and
 - (b) responds to the diverse needs and aspirations of residents; and
 - (c) responds to the needs of a student experiencing difficulties and, where practicable, is adjusted as necessary to address those difficulties; and
 - (d) is maintained in a manner that is secure, comfortable, and is conducive to study and a variety of learning styles; and
 - (e) provides utilities, services and other facilities that are adequate and appropriate for the character and size of the residential community (for example, catering, internet access, laundry, computers, leisure, cleaning); and
 - (f) has appropriate insurance cover; and
 - (g) is funded adequately to carry out the statement of intent or mission statement, including repairs, replacement and improvements; and
 - (h) has adequate and appropriate controls in place to ensure accountability for financial processes including –
 - (i) providing receipts for all financial transactions with the resident, and
 - (ii) providing residents with up-to-date information on what they owe to the accommodation provider.
- (2) Providers must ensure that any alterations, maintenance and repairs to student accommodation are undertaken as quickly as possible and in a manner that minimises interference with the quiet enjoyment of the residents.

Part 4

Code Administrator

29. Reporting and publishing obligations

- (1) The code administrator must include in its annual report a report on its activities in administering this code.
- (2) If the code administrator in the course of investigation finds any systemic issue related to education quality or a serious breach of this code, the code administrator must report that issue or breach to education quality assurance agencies and any relevant government agency.
- (3) The code administrator may, for the limited purposes set out in subclause (4), disseminate or otherwise publish a summary of the investigation and outcome of a breach of this code, subject to appropriate safeguards and redactions for protection of privacy.
- (4) The purposes referred to in subclause (3) are –
 - (a) keeping providers, students, and other educational interest groups informed; and
 - (b) demonstrating the process of investigation and decision-making under this code.
- (5) The code administrator must take reasonable steps to publicise this code to providers and to domestic tertiary students, including providing guidelines for providers.

30. Reporting breach of code

- (1) Any person may –

- (a) complain to the code administrator that the code has been breached; or
 - (b) refer any issue relating to an alleged breach of the code to the administrator.
- (2) The code administrator –
 - (a) must publish its processes for receiving and dealing with a complaint or referral; and
 - (b) may prescribe forms for use in making a complaint or referral.

31. Code administrator's response to complaint or referral

- (1) On receiving a complaint or referral under clause 30, the code administrator must decide whether the complaint or referral appears to involve a breach of the code warranting further investigation.
- (2) If the code administrator decides that further investigation is warranted, it must –
 - (a) make a record of, and investigate the alleged breach; and
 - (b) notify the person who made the complaint or referral of the decision to investigate.
- (3) If the code administrator decides that further investigation is not warranted, it must consider the following options and act accordingly –
 - (a) refer the complaint or referral to another agency; and
 - (b) deal with the complaint or referral informally; and
 - (c) terminate the complaint or referral.
- (4) In investigating a complaint or referral, the code administrator may assist the person making the complaint or referral (or refer that person to assistance) if assistance is necessary for facilitating the investigation (for example, assistance to overcome a language barrier).

32. Monitoring compliance with code

- (1) Each tertiary education provider must undertake and document self-reviews (at the frequency specified by the code administrator) of its performance against the required outcomes and processes set out in this code.
- (2) The code administrator must monitor each tertiary education provider's performance against the required outcomes and processes by scrutinising the tertiary education provider's self-review reports and any other information that the code administrator considers appropriate.
- (3) The code administrator may investigate the performance of a tertiary education provider if it is concerned that the tertiary education provider does not comply, or is at risk of not complying, with this code.
- (4) An investigation may be undertaken either on the code administrator's own initiative or as a result of information provided to it, including a complaint or report of a breach of this code.
- (5) An investigation may include (but is not limited to) the following steps by the code administrator, subject to the consent of the provider to each of these steps –
 - (a) making a site visit to the provider's education premises and facilities; and
 - (b) inspecting and obtaining relevant documents held by the provider; and
 - (c) interviewing staff and students as appropriate.
- (6) A provider must comply with reasonable requests by the code administrator in the course of an investigation for access to documents, staff, and students at the provider's education premises and facilities.

33. Entry into student accommodation

- (1) In accordance with section 633 of the Education and Training Act, a code administrator may –
 - (a) enter any student accommodation and inspect the premises and facilities;

- (b) inspect, and make and remove copies of, any information relating to the management of student accommodation;
 - (c) ask any person at any student accommodation to make or provide statements, in whatever form or manner is reasonable in the circumstances, about any matter relating to the safety of students who board at the student accommodation.
- (2) A code administrator may exercise the powers in subclause (1) only for the purposes of monitoring or investigating compliance with the relevant code.
- (3) A code administrator may not enter or inspect the room or sleeping area of a student accommodated at any student accommodation unless—
 - (a) the code administrator believes on reasonable grounds that the entry or inspection is necessary for the purposes specified in subclause (2); and
 - (b) the code administrator gives the student at least 24 hours' written notice of the intended entry or inspection and that notice explains the purpose of the entry or inspection; and
 - (c) the student consents to the entry or inspection, and the student is present during the entry or inspection if being present is a condition of the consent.
- (4) Subclause (3)(c) does not apply if obtaining the student's consent is unreasonable in the circumstances.
- (5) A code administrator may, with the Minister's prior written approval and subject to any conditions that the code administrator or the Minister thinks fit, delegate any or all of the functions, duties, and powers specified in this section to another person or agency (having regard to their knowledge, skills, or experience).
- (6) A tertiary education provider must comply with reasonable requests by the code administrator in the course of an investigation for access to documents, staff, and students at the student accommodation.
- ~~(1) A code administrator may, in accordance with section 238H(5) of the Act, for the purposes of monitoring or investigating compliance with this code—~~
 - ~~(a) enter any student accommodation and inspect the premises and facilities; and~~
 - ~~(b) inspect, and obtain copies of documents held by the tertiary education provider relating to the management of the student accommodation; and~~
 - ~~(c) interview staff and students as appropriate and obtain statements about any matter relating to the safety of students residing at the student accommodation.~~
- ~~(2) A tertiary education provider must comply with reasonable requests by the code administrator in the course of an investigation for access to documents, staff, and students at the student accommodation.~~

34. Information sharing

In accordance with the Privacy Act 2020 and its principles, tThe code administrator may, –

- (a) if practicable and appropriate, consult and share information with education quality assurance agencies and relevant government agencies for the purpose of agreeing interventions for the improvement of the code or compliance with it; and
- (b) receive and consider information provided by education quality assurance agencies and relevant government agencies for the same purpose.