



Education Report: 2023 funding determinations and student services fee requirements – approval to consult

To:	Hon Chris Hipkins, Minister of Education		
Cc:	Hon Kelvin Davis, Associate Minister of Education		
Date:	21 July 2022	Priority:	High
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Purpose of Report

This report seeks your approval to start sector consultation on the 2023 funding determinations. This includes:

- five new funding determinations,
- six varied funding determinations, and
- changes to student services fee requirements, to be consulted on via a Gazette notice and given effect via the final funding determinations.

We are asking for your feedback by **28 July**, to enable the funding determinations to be consulted on and finalised before 30 September, allowing the settings to take effect from 1 January 2023.

Summary

We have prepared a number of new and varied funding determinations giving effect to tertiary funding policy settings for 2023. Five of these funding determinations are new, with four giving effect to changes associated with the introduction of the Unified Funding System (UFS). Most of the funding determinations associated with the introduction of the UFS are substantially different from the previous funding determinations governing funding for vocational education and training. Therefore, rather than varying the existing determinations under section 423 of the Education and Training Act 2020 (the Act), we recommend you revoke the current funding determinations, and issue new funding determinations for the unified funding system.

We also propose some minor policy changes associated with the UFS funding determination, in particular, to align flexible funding provisions for private training establishments with other tertiary education organisations and to limit apprenticeship status to people in an employment relationship (i.e. excluding contractors), consistent with approach proposed by MBIE and a tripartite working group on Better Protections for Contractors. While this will not have direct implications for tuition subsidies, it will effect eligibility for Apprenticeship Boost payments. We

propose to grand-parent existing contractors who are supported by Apprenticeship Boost payments.

The other new funding determination establishes Te Tahua o Te Reo Kairangi (the High Proficiency Fund). Te Tahua O Te Reo Kairangi is a fund that supports high proficiency of te reo Māori by providing targeted funding towards the development and/or delivery of new programmes, or the expansion of an existing programme that promotes and establishes higher levels of proficiency, and/or is delivered in immersion settings. Budget 2022 provided \$10 million across four years, to establish Te Tahua O Te Reo Kairangi as a part of the broader initiative Māori Language Education Funding to Support Provision and Growth [CAB-22-MIN-0129 – Initiative ID 14544 refers].

We have prepared exposure drafts of the new funding determinations for consultation with the sector. While there is no legal requirement to consult on new funding determinations, we recommend consulting on them alongside the varied funding determinations because they replace existing funding determinations and because of the significant implications for the sector associated with their introduction.

We propose to consult on variations to a further six determinations. The majority of the changes are minor drafting changes providing better clarity to the sector. The funding determinations for Youth Guarantee (YG) and Delivery at levels 1 & 2 (formerly SAC level 1-2) have been changed to reflect recent policy decisions taken by you [METIS 1287767 refers]. We also propose to address operational difficulties associated with collecting and reporting National Student Numbers (NSNs) for Adult Community Education (ACE) by making this optional from 2023, and mandatory from 2024.

Finally, we have updated the cover letter that accompanies Performance-Based Research Fund (PBRF) determination to reflect the new date of the Quality Evaluation (QE) that you have recently agreed to [METIS 1290268 refers] and to clarify the legal status of your expectations outlined in the letter.

We are also proposing changes to the way student services fees are regulated, which needs to be reflected in the relevant funding determinations. As the Education and Training Amendment Bill (no. 2) (ETAB 2) proposes to treat student services fees as conditions on funding, any changes to student services fee settings following the passage of the bill require public consultation through a Gazette notice under section 420 of the Act. Subject to enactment of the ETAB 2 (which we understand is expected to receive Royal Assent by the end of July 2022), we propose to consult on introducing existing student services fee settings into relevant funding determinations and introducing an opt-in model for apprentices and trainees.

Recommended Actions

The Ministry of Education recommend you:

New funding determinations

- a. **Note** that changes associated with the unified funding system and the introduction of Te Tahua O Te Reo Kairangi are given effect via new funding determinations
- b. **Note** that while there is no statutory requirement to consult on new funding determinations, we propose to consult the sector due to significant implications for the sector associated with their introduction
- c. **Agree** to consult on exposure drafts of the new funding determinations (**Annexes 1-5**), alongside consultation on variations to existing funding determinations
Agree / Disagree
- d. **Agree** to apply the same formula used to calculate flexible funding for tertiary education institutions to private training establishments
Agree / Disagree
- e. **Agree** that the funding mechanism for the UFS should define an apprenticeship as requiring an employment relationship, consistent with advice from MBIE and a tripartite working group that contractors not be eligible to be apprentices
Agree / Disagree
- f. **Note** that contractors and other non-employees would still be eligible for UFS funding but would no longer be counted as New Zealand Apprentices or be eligible for Apprenticeship Boost payments.
- g. **Agree** that existing apprentices as at 31 December 2022 be grand-parented for the purpose of maintaining eligibility for Apprenticeship Boost payments until the end of their apprenticeship (while the Apprenticeship Boost Initiative remains in place)
Agree / Disagree

Varied funding determinations

- h. **Note** that variations to funding determinations give effect to Budget decisions on funding rate increases, address minor and technical issues, and give effect to policy decisions recently taken by you [METIS 1287767 refers]
 - i. **Agree** to making collection of National Student Numbers (NSNs) from ACE learners optional for 2023
Agree / Disagree
- 1 **Agree** to extend eligibility to fees-free ESOL to holders of the Christchurch Response Visa (or those who would have been eligible but were already holding another residence visa) as well as for family members who are also residing permanently in New Zealand with them

Agree / Disagree

- j. **Agree** to consult on the varied funding determinations (**Annexes 6-11**) to the sector for consultation via email, as required under section 423 of the Education and Training Act 2020

Agree / Disagree

Performance-Based Research Fund

- k. **Agree** to sign the attached letter which confirms the new Quality Evaluation date and has updated language (**Annex 12**)

Agree / Disagree

Student service fees

- l. **Note** that following the passage of the Education and Training Amendment Bill (No. 2) (ETAB 2) expected in late July, all requirements relating to student services fees will be able to be regulated as conditions of funding under relevant funding determinations issued in accordance with section 419 of the Act
- m. **Agree**, subject to the enactment of ETAB 2, to consult via Gazette notice (**Annex 13**) on incorporating existing student services fee requirements (from the most recent Ministerial direction on compulsory student services fees) into conditions on funding for the following funding determinations: Delivery at levels 1 and 2, Delivery at levels 3-7 (non-degree) and Delivery at level 7 (degree) and above

Agree / Disagree

- n. **Note** that during targeted engagement on student services fee settings for apprentices and trainees, stakeholders were largely in favour of an opt-in model
- o. **Agree** to consult via the Gazette notice on including an opt-in model for apprentices and trainees into student services fee settings, following the expected passage of ETAB 2

Agree / Disagree

Proactive release

- p. **Agree** that the Ministry of Education release this briefing in full once it has been considered by you.

Agree / Disagree



James Campbell
Senior Manager, Funding and Fees Policy
Te Puna Kaupapahere
Ministry of Education

Hon Chris Hipkins
Minister of Education

___/___/___

21/07/2022

Background

- 2 The Minister of Education provides instructions about tertiary education funding to the Tertiary Education Commission (TEC) in the form of determinations issued under section 419 of the Education and Training Act 2020 (the Act). Once the Minister has issued a funding determination, the TEC develops operational details of how to implement the determination. Funding determinations are reissued from time to time to reflect changes in Government policy, or if they are time limited and expire.
- 3 We note that the Secondary Legislation Act 2021 clarified the status of various legislative instruments across the statute book. Funding determinations were among the instruments to be classified as secondary legislation, on the basis that they were deemed to have significant legislative effect. This came into effect on 28 October 2021. This emphasizes the importance of following all procedural requirements, to ensure that they withstand Regulations Review Committee scrutiny, including consultation with affected parties on variations as per section 423 of the Act (including minor and technical variations).

New funding determinations

- 4 We have prepared five new funding determinations to come into effect from 1 January 2023. Four of these are associated with the introduction of the unified funding system. These funding determinations incorporate the decisions made by Cabinet, as well as more detailed decisions made by you. These are:
 - a. Delivery at levels 3-7 (non-degree) on the New Zealand Qualification Framework (NZQF) and all industry training (note: this comprises the delivery and learner components of the unified funding system) (**Annex 1**)
 - b. Strategic component of the unified funding system for vocational education and training (**Annex 2**)
 - c. Delivery at levels 7 (degree) and above on the NZQF (**Annex 3**)
 - d. Equity Funding (with funding for levels 3-7 (non-degree) now removed) (**Annex 4**).
- 5 These replace four previous funding determinations:
 - a. Student Achievement Component – Provision at Level 3 and above on the NZQF
 - b. Industry Training Fund
 - c. Equity Funding
 - d. Qualification Development Fund
- 6 Most of the funding determinations associated with the introduction of the unified funding system are substantially different from the previous funding determinations governing funding for vocational education and training. Therefore, rather than varying the existing determinations under section 423 of the Education and Training Act 2020, we recommend you revoke the old funding determinations, and issue new funding determinations.
- 7 Section 423 of the Act requires you to consult on variations to funding determinations, but not on creating new determinations. However, given that these new determinations replace existing funding determinations, and because of the significant implications for

the sector associated with their introduction, we propose to consult on drafts of these determinations before they are finalised. This will allow affected organisations to review and provide comment on the detail of these determinations, including funding conditions that will be applied by the TEC. It will also allow us to better meet our Treaty obligations, particularly in consulting with the wānanga before the new determinations come into effect.

- 8 We expect there to be substantial feedback on the new funding determinations for the unified funding system. This would be in line with the response from the sector generally to the introduction of the unified funding system. To mitigate this, we will prepare material accompanying the funding determinations outlining what has already been agreed to by yourself and Cabinet and encouraging submitters to focus on how those decisions have been given effect via the funding determinations.
- 9 In particular, we expect there will be some concern from the sector about wording to enable the TEC to recover funding based on delivery compared to providers' commitments regarding subject areas and modes of delivery, which you agreed to include in May [METIS 1287493 refers]. This was an area of concern during recent consultation on legislative amendments to support improvements in the tertiary education investment framework [METIS 1290985 refers].

We propose removing the distinction between private training establishments (PTEs) and other tertiary education institutions in the formula for calculating flexible funding

- 10 The flexible funding policy was introduced in 2016, as part of policy changes to support the TEC to make effective and flexible use of tertiary education funding, so funding can better follow demand. The policy allows some providers to be over-allocated funding (up to 102% of their agreed allocation) in the expectation that actual expenditure will be within budget by the end of the year.
- 11 When this policy was introduced, PTEs were approved to carry a large amount of unfunded over-delivery. This was a grandparenting arrangement from when the system was uncapped. The funding methodology for PTEs took this into account, with their 102% calculated including their unfunded over-delivery.
- 12 Over time, the TEC has managed down the amount of approved unfunded delivery carried by PTEs. There is now no need to treat them differently to other tertiary education institutions. Therefore, we recommend removing the distinction between the calculations for PTEs and TEIs and treat PTEs like other institutions (with their allocation calculated based on funded delivery). The TEC advised that the impact of this is likely to be very limited, as most PTEs now do not carry large amounts of unfunded over-delivery.

We will provide further advice on how the funding determination should deal with contractors being considered apprentices

- 13 Contractors are currently able to access tuition subsidies for industry training as apprentices if they are "working in New Zealand under an arrangement with an organisation in the nature of employment". TEC data suggests up to 486 (of nearly 75,000) apprentices could be contractors.
- 14 We understand that MBIE will shortly advise the Minister of Workplace Relations and Safety that contractors should no longer be eligible for apprenticeship status and that this report will be forwarded to you. The MBIE report responds to a recommendation from a tripartite working group on Better Protections for Contractors, including CTU and BusinessNZ.

- 15 Consistent with the approach proposed by MBIE and the tripartite working group, we propose that the funding determination define 'New Zealand Apprenticeships' as requiring an employment relationship. While there is no impact on tuition subsidies (given that these have been broadened to capture contractors and will not differentiate between trainees and apprentices), it will mean that Apprenticeship Boost will no longer be paid to the "employers" of contractors from January 2023.
- 16 We propose a grandparenting clause in the funding determination (clause 66(c)(ii)) protecting existing apprentices to the end of their apprenticeship while Apprenticeship Boost is in place. This will allow employers of current contractors who are apprentices to continue to receive Apprenticeship Boost payments, supporting the contractor to finish their programme of study. However, no new contractors undertaking industry training from 1 January 2023 will trigger Apprenticeship Boost payments.

We note that some concerns have been raised about teaching qualifications within the UFS

- 17 We are aware of concerns from some providers about the impact of UFS rates on a small number of qualifications that have previously been funded at the 'I' rate for initial teacher education (ITE) qualifications and some specialist qualifications for teachers. The 'I' rate is set significantly higher than the standard 'A' rate for Arts qualifications (e.g. \$11,325 compared to \$6,589 per EFTS for sub-degree and degree level qualifications), reflecting the increased costs associated with the practical components of these qualifications. The vast majority of this provision is at degree-level or above, in particular in Bachelors of Teaching and Post-Graduate Diplomas in Teaching.
- 18 We have identified a small number of qualifications that are currently funded at the 'I' rate within the UFS, including some diploma level qualifications that are designed to be credited to a Bachelor of Teaching and a very small number of courses aimed at retraining qualified teachers, such as the University of Canterbury's Certificate in Māori Language and Pedagogies, which aims to support qualified teachers to transition from English-medium to Māori-medium teaching. These programmes would instead be funded at the F1 category as Arts qualifications under the UFS – a funding decrease of approximately 50% on the 'I' rate.
- 19 While it would be possible to increase the funding rate for some or all of this provision within the UFS (e.g. to F2 or F3), we do not recommend making such a change at this time. It does not appear that these qualifications strictly meet the definition of a Teaching qualification as set out in the Delivery Classification Guide (which is intended to be limited to degree and post-graduate qualifications) and it is unclear whether they necessarily involve the significant practical component that was the original rationale for the increased funded rate. We expect to engage further with relevant providers on this issue and will provide you with further advice following the consultation on the funding determinations if a change appears justified.

One new non-UFS funding determination

Te Tahua O Te Reo Kairangi (Annex 5)

- 20 Budget 2022 provided \$10 million across four years, to establish Te Tahua O Te Reo Kairangi as a part of the broader initiative Māori Language Education Funding to Support Provision and Growth [CAB-22-MIN-0129 – Initiative ID 14544 refers]. We have worked closely with the Tertiary Education Commission (TEC) to develop the funding determination to ensure that it empowers TEC to be able to support the type of provision this fund is to target, and to ensure that there is a reasonable amount of discretion to allow for TEC to engage with the sector on elements such as immersion or proficiency levels.

- 21 Te Tahua O Te Reo Kairangi is a fund that supports high proficiency of te reo Māori by providing targeted funding towards the development and/or delivery of new programmes, or the expansion of an existing programme that promotes and establishes higher levels of proficiency and/or is delivered in immersion settings. Programmes that are eligible for this fund must be at or above level 5 of the New Zealand Qualifications Framework (NZQF) unless delivered as a part of a programme, micro-credential, or qualification at level 5 and above.
- 22 Te Tahua O Te Reo Kairangi supports the revitalisation and intergenerational language transmission of te reo Māori. This fund is specifically targeted at supporting the higher levels of proficiency and the Tau Mai outcome of Tau Mai Te Reo. It will also contribute to the Governments overall goals outlined in Maihi Māori, Maihi Karauna, Ka Hikitia, Tau Mai Te Reo, the Tertiary Education Strategy and the National Education Learning Priorities. It will contribute to the growth of Māori Medium Education across the education sector and support the establishment of pathways for all learners to progress into higher education within Māori Medium or immersion settings.
- 23 Like the UFS funding determinations, this is a new determination following Budget 2022. This means you do not have a legislated duty to consult. However, we think it would be beneficial to issue an exposure draft to the sector to provide an opportunity for them to comment on the design of the fund and to allow them to familiarise themselves with the fund and how they will be able to use it.

Variations to funding determinations

*Literacy and Numeracy (**Annex 6**), Māori and Pacific Trades Training (MPTT) (**Annex 7**)*

- 24 We have updated funding rates according to Budget decisions, and made minor drafting changes to the Literacy and Numeracy and Māori and Pacific Trades Training (MPTT) funding determinations in consultation with the TEC. These minor drafting changes improve the clarity and consistency of wording and do not contain any policy changes.
- 25 The drafting changes are:
- altering references to SAC funds to reflect new UFS terminology
 - following the passage of the Education and Training Amendment Bill (No 2) (ETAB 2) there are changes to the NZQF name
 - replacing the term 'training scheme' with the word 'micro-credential'.
- 26 These funding rate adjustments and drafting changes have also been applied across the other varied funding determinations.

*Adult Community Education (ACE) (**Annex 8**)*

- 27 We recommend making collection of National Student Numbers (NSNs) from ACE learners optional for 2023.
- 28 You previously agreed to defer collecting NSNs from ACE providers until 1 January 2023, due to the additional administrative and reporting requirements, as well as needing to develop processes that make it easier for learners without a current NSN to participate [METIS 1267256 refers].
- 29 We are still working with the TEC and the sector on how to implement this in a way that minimises compliance costs and IT system changes. We therefore propose that

this requirement is optional for next year, but mandatory from 2024, to give another year for full implementation.

Specialised English for Speakers of Other Languages (ESOL) (Annex 9)

- 30 The Refugee English Fund is a specialised fund established by the ESOL funding determination, providing higher level ESOL fees-free for refugee-background learners, including their family members. The fund includes a component for pastoral care to support students' learning needs. This is a separate fees-free entitlement, that is not counted towards the prior study limit for first-year Fees Free payments.
- 31 The definition of refugee-background learner is broad in this fund and can include the Afghan interpreters and their families from 2013, and those on the Afghan Emergency Resettlement Visa, even though they were not recognised as refugees.
- 32 It does not, however, include the group affected by the Mosques terror attack. Given that this group has other special circumstances that supported their permanent residence in New Zealand, we recommend extending eligibility to fees-free ESOL funded through the Refugee English Fund (REF) for holders of the Christchurch Response Visa (or those who would have been eligible but were already holding another residence visa) as well as for family members who are also residing permanently in New Zealand with them, including those that have come to aid in their recovery.
- 33 The family members that were not granted a Christchurch Response Visa because they did not meet this visa eligibility, such as being in New Zealand on the day of the mosques terror attack, would need to hold another residence visa to be domestic tertiary students. They would have likely gained a residence visa through the following resident visa types:
- i. Partner of New Zealander resident visa
 - ii. Dependent child resident visa
 - iii. Parent resident visa
 - iv. Resident visa granted by discretion under Section 61 of the Immigration Act, Minister granted residence due to links to family member affected by Christchurch mosques terror attack.
- 34 The expanded eligibility to those directly affected by the Christchurch mosques terror attack and their family members can be met within existing REF baselines. As over 300 people access REF funding a year, and there is an underspend of \$1.032m in 2021, this can be met within baselines. REF places have been lower due to the decrease in refugee-background groups coming to New Zealand due to the COVID border restrictions and high employment.

Youth Guarantee (YG) (Annex 10)

- 35 We recently provided you with advice on changes to the YG Fund. [METIS 1287767 refers]. We have updated the funding determination to reflect the proposed changes and it is ready for consultation. The main changes made are:
- a. Lowering the credit value from 100 to 80 credits per Equivalent Full-Time Student (EFTS) at Levels 1 and 2 to better reflect learning profiles and ensure better alignment with expectations in schools.

- b. Extending the YG upper age limit to include learners up to 24 years of age to support a bigger cohort of young learners.
- c. Enabling part-time enrolment to support flexible arrangements and learner needs.
- d. Increasing the pastoral care subsidy from \$537 to \$2,000 per EFTS to ensure adequacy of funding.
- e. Renaming the pastoral care subsidy as 'wellbeing and pathways support subsidy' to signal a broader purpose of this funding.
- f. Making the pastoral care subsidy non-recoverable to ensure funding security for providers.
- g. Increasing the transport assistance subsidy from \$860 to \$1,000 per EFTS to better enable providers to support their learners' transport needs.

Delivery at levels 1 and 2 (DQ1+2) (Annex 11)

- 36 You received a paper on Delivery at levels 1 and 2 on the NZQF (previously known as SAC1-2) [METIS 1287767 refers]. Following your agreement to this paper, the funding determination has been updated accordingly and is ready for consultation. The proposed change is:
- a. fund all Level 1 and 2 education programmes delivered in prisons (including te reo and tikanga Māori as well as English for Speakers of Other Languages (ESOL) programmes) at the Delivery at levels 1 and 2
- 37 We have also made changes relating to student services fee settings which are discussed below.

Performance-Based Research Fund (PBRF)

- 38 You recently agreed to delay the Quality Evaluation (QE) for a year [METIS 1290268 refers]. The paper stated that the Ministry of Education would provide you with further advice should any amendments to the PBRF funding determination be necessary.
- 39 No changes to the funding determination are needed as this expectation was set via the cover letter to the funding determination rather than the determination itself. This means that we do not need to carry out consultation or provide an exposure draft to the sector.
- 40 We have updated the cover letter that accompanies the determination to reflect the new date of the QE (**Annex 12**). We have also updated the wording in the letter to better reflect the legal status of the letter, noting that these are your expectations rather than a formal direction (which would need to meet the procedural requirements set out in the Crown Entities Act 2004).

Student Services Fees

- 41 The Education and Training Amendment Bill (No. 2), currently scheduled for its third Reading on 26 July, amends the regulation of student services fees (previously referred to as compulsory student services fees). The bill allows these fees to be regulated as conditions of funding under relevant funding determinations issued in accordance with section 419 of the Act. This change was proposed, in part, to allow

for a differentiated approach to regulating student services fees for apprentices and trainees.

- 42 Currently, temporary legislative provisions in the Education and Training Act 2020 prevent tertiary providers from charging a compulsory student services fee to apprentices and trainees. However, these provisions expire at the end of 2022, which means that apprentices and trainees could be charged a compulsory fee for student services by their provider from 2023 onwards.
- 43 In March 2022, you agreed for the Ministry of Education to undertake targeted engagement on student services fee settings for apprentices and trainees, alongside targeted engagement on fee regulation and employer contributions for vocational education and training¹ (METIS 1281678 refers). This engagement covered the extent to which learners in work-based learning are likely to access student services, and the feasibility of operationalising separate requirements for these learners.

Targeted engagement summary

- 44 Through our targeted engagement on student services fee settings, there was strong support from transitional ITOs and providers taking on arranging training functions (including Te Pūkenga) for an opt-in model for apprentices and trainees. This would effectively continue current provisional legislation that prevents apprentices and trainees from being charged compulsory fees for student services.
- 45 There were concerns from transitional ITOs that, in the absence of further changes, apprentices and trainees could face compulsory charges for student services fees from 2023 onwards. This could introduce a financial barrier to access, particularly as compulsory charges could be high relative to many work-based programmes with low fees and given these learners cannot access student support. Transitional ITOs also commented that apprentices and trainees were much less likely to access many of the student services on offer, given they are often in full-time work.
- 46 NZUSA did not support the opt-in model, and had concerns that, under an opt-in approach, few apprentices or trainees were likely to opt-in to pay student services fees. NZUSA were concerned of the impact that this might have on the affordability of student services fees for other learners who face compulsory charges, and the fairness around apprentices and trainees not paying for services that they may still be able to access. NZUSA preferred adopting a reduced fee model, whereby apprentices and trainees are charged a reduced proportion of student services fees relative to full-time provider-based students.
- 47 Provider's raised concerns that a reduced fee model could be difficult to implement at short notice for 2023 given the level of change already occurring to the system. They were also concerned that a reduced fee model would set an arbitrary limit on what these learners can pay in student services fees. Providers and transitional ITOs also noted that with future improvements to how work-based learners are supported, including greater pedagogical and wellbeing support, there may be a stronger justification for compulsory charges for student services fees for apprentices and trainees in the future.

¹ The Ministry of Education will report back separately on the findings of targeted engagement on fee regulation and employer contributions for vocational education and training by 25th July

- 48 Unfortunately, we were unable to get any feedback from work-based learners through targeted engagement despite attempts to engage with representatives, although there is still limited work-based learner representation at providers.

Proposed options for public consultation

- 49 Subject to enactment of ETAB 2, we recommend consulting on including student services fee provisions in the funding determinations for Delivery at levels 1 and 2 on the NZQF, Delivery at levels 3-7 (non-degree) on the NZQF, and Delivery at level 7 (degree) and above on the NZQF. These are the only funding determinations that fund volume and allow providers to charge a compulsory fee. As per the legislative requirements for fee regulations, this consultation would occur via a Gazette notice.
- 50 For provider-based study, the proposed student services fee settings represent a continuation of the status quo, as existing settings currently regulated through a ministerial direction will be shifted into relevant conditions on funding.
- 51 For apprentices and trainees, we recommend consulting on continuing the opt-in model. This will give these learners the choice as to whether or not they want to access and pay for student services, or pay fees to access specific services. Under the proposed opt-in model for apprentices and trainees, providers will still be required to comply with all of the requirements on student services fees where optional fees are charged, including the requirement to involve students in decision making when setting fees and all reporting requirements.
- 52 The TEC is undertaking further work to consider changes to the way they monitor and regulate student services fees moving forward. Given that the proposed student services fees will become conditions on funding, this will provide the TEC with more direct levers to influence provider decisions.
- 53 There are several key risks and mitigations with the proposed approach to consult on the student services fee 'opt-in' model for trainees and apprentices summarised below.

Table 1: Risks and mitigations of proposed consultation on student services fees

Risks	Mitigations
Our recommended approach is not informed by feedback from work-based learners (apprentices and trainees).	To ensure that the perspectives of affected learners are included in the public consultation, the Ministry of Education will develop a survey for providers to share with their work-based learners to provide feedback on the proposed changes.
Work-based learners could still be able to access some student services that they are not contributing towards, which could raise compulsory fee charges for other learners.	It is unlikely that the cost of providing student services will rise significantly as a result of apprentices and trainees not opting in, as a majority of these learners are unlikely to access student services. Furthermore, some student service providers will be able to prevent access to those who haven't opted in (e.g., subsidised health services, gyms).
Two transitional ITOs indicated that they provide wellbeing-related services for apprentices and trainees (such as access to the Employee Assistance Programme)	Under the opt-in arrangement, providers will need the agreement of learners (or employers, if they are paying fees) for part of a fee to go towards providing wellbeing

and wrap up the cost of these services into course fees. These transitional ITOs raised concerns that the opt-in approach for student services fees would prevent them from charging learners for these services through course fees, and that this could result in vulnerable learners missing out on wellbeing services.

services. If it is a service that learners or employers value, then it is likely they will be willing to contribute towards the cost of it. Providers can also opt to use government funding to cover the cost of access to these services.

The TEC will work closely with providers moving forward to ensure that their fees are charged and reported in such a way that we are able to monitor compliance with the proposed opt-in requirements.

- 54 The Ministry of Education will also look at other potential changes to student services fee settings in the future. Student associations have long raised concerns with inadequacy of provisions on student involvement in student services fees decision making, the need for distinct settings for part-time and distance learners and concerns that the student service fee category definitions are too broad. We will also need to revisit student service fee arrangements alongside decisions on the broader review of fee regulation and employer contributions for vocational education and training from 2024.

Next Steps

Funding determinations

- 55 We are asking for your feedback by 28 July, to enable consultation to occur for the month of August. Consultation in August enables us to provide advice on the result of consultation, and final drafts for your signature, in September. For these settings to be in place for 1 January 2023, we will require your final agreement to these settings by 30 September 2022.

Student services fees

- 56 Subject to your agreement – and following the expected passage of ETAB 2 in late July – we will publish the attached notice (**Annex 13**) in the New Zealand Gazette to consult on these proposed conditions for student services fees, as per the new legislative requirements under section 420 of the Act.
- 57 We will provide further advice in early September summarising feedback from consultation and seeking your agreement to include these conditions in the relevant funding determinations for 2023. This advice will also seek your approval to revoke the current ministerial direction on compulsory student services fees.

Annexes

- Annex 1: Non-degree delivery at levels 3–7 on the New Zealand Qualification Framework and all industry training (DQ3-7)
- Annex 2: Strategic component of the unified funding system for vocational education and training
- Annex 3: Delivery on the New Zealand Qualification Framework at levels 7 (degree) and above (DQ7+)
- Annex 4: Equity funding
- Annex 5: Te Tahua O Te Reo Kairangi funding determination
- Annex 6: Literacy + Numeracy funding determination
- Annex 7: Māori and Pacific Trades Training (MPTT) funding determination
- Annex 8: Adult and Community Education (ACE) funding determination
- Annex 9: English for Speakers of Other Languages (ESOL) funding determination
- Annex 10: Youth Guarantee (YG) funding determination
- Annex 11: Delivery on the New Zealand Qualifications Framework at Levels 1 and 2 (DQ1-2)
- Annex 12: Performance-Based Research Fund cover letter [for signature]
- Annex 13: Proposed Gazette notice for public consultation