

# Regulatory Impact Assessment: Increasing flexibility for Government to set requirements on compulsory student services fees

Advising agencies	<i>Ministry of Education</i>
Decision sought	<i>Cabinet approval to consult with stakeholders on a government discussion document</i>
Proposing Ministers	<i>Hon Chris Hipkins, Minister of Education</i>

## Summary: Problem and Proposed Approach

**Problem Definition**  
**What problem or opportunity does this proposal seek to address? Why is Government intervention required?**

The current legislative framework on compulsory student services fees (CSSFs) constrains the extent to which government can specify and adjust requirements on CSSFs. Specifically, government cannot define and specify distinct requirements for different types of student, such as trainees or extramural students. It also does not enable government to adjust the framework over time to respond to broader system changes and emergent issues, such as concerns raised by students or tertiary providers.

**Summary of Preferred Option or Conclusion (if no preferred option)**  
**How will the agency’s preferred approach work to bring about the desired change? Why is this the preferred option? Why is it feasible? Is the preferred approach likely to be reflected in the Cabinet paper?**

The Ministry’s preferred option is to remove the current provisions on CSSFs from sections 257 and 360 of the Education and Training Act 2020 (the Act) and instead enable government to regulate CSSFs through conditions on funding under section 419 of the Act, the same way that all other provider-based fees are currently regulated. This preferred approach will also be recommended by the proposing Minister to Cabinet.

This proposal would support a more durable regulatory framework by giving government discretion to make changes to the CSSF framework over time in response to broader system shifts. This includes the responsibility for arranging industry training moving from transitional industry training organisations (ITOs) to tertiary providers. It would also enable the Government to adapt the framework to ensure it is not impeding achievement of wider tertiary sector goals, such as removing barriers to access or enabling stronger student voice.

# Section B: Summary Impacts: Benefits and costs

## Who are the main expected beneficiaries and what is the nature of the expected benefit?

The proposed change will not have any immediate monetised benefits, as the proposal would only change the mechanism for regulating CSSFs, not the requirements themselves.

The proposed change will enable government to make broader future changes to the CSSF framework than what is currently possible. One likely change would be to specify distinct rules for trainees, such as limiting what services a provider can charge them for. This could benefit trainees and prevent them from having to contribute towards some services that are less warranted in their circumstances, especially as they will mainly be in the workplace or off-campus.

It will also support government to adapt the CSSF framework in response to emerging issues, such as concerns raised by students. For example, in recent years, student representatives have raised concerns that providers are not doing enough to involve students in decisions on CSSFs. As part of future work, the Government could consider more prescriptive requirements on providers charging a CSSF to encourage greater student involvement in decisions.

Policy work on system changes is ongoing, such as work on fee regulation and a new Code of Practice for Pastoral Care (the Code). This may impact fee settings and so a more durable regulatory framework for CSSFs will support further adaptation over time.

The proposed approach to regulate CSSFs through funding conditions under section 419 of the Act will also give the Tertiary Education Commission (TEC) a clearer mandate to monitor and enforce these requirements in the same way all other provider-based fees are currently regulated. The TEC's use of conditions on funding is the usual and well-understood mechanism for regulating fees.

## Where do the costs fall?

As above, there are no monetised costs with the proposal. This proposal would enable government to make changes to the framework periodically. This could create uncertainty for tertiary providers, and potentially result in higher compliance costs for tertiary providers.

## What are the likely risks and unintended impacts? how significant are they and how will they be minimised or mitigated?

There is a risk that there will be less certainty for providers on the requirements for the CSSF framework, as government would have greater discretion to introduce new requirements periodically. However, this is mitigated by the process that would be required to change CSSF requirements as conditions of funding related to fees, including consultation requirements and a stand-down period before changes can be introduced. We also will have an opportunity to address concerns from the sector through targeted consultation on proposals in the Education and Training Amendment Bill.

There is a risk that the future changes to the framework, enabled by this proposal, result in a drop in revenue for tertiary providers that receive CSSFs (for example, if the Government limited which types of students could be charged a CSSFs). This could impact on the quality of student services. The costs, benefits, and risks of any future changes to the framework would need to be assessed at that time.

# Section C: Evidence certainty and quality assurance

**Agency rating of evidence certainty?**

The Ministry is confident that the problems identified are real and significant. The current legislative framework for CSSFs constrains what requirements that the Government can place on those providers charging a CSSF. These requirements are currently set out in primary legislation and so government cannot place any additional conditions on tertiary providers that charge a CSSF beyond those permitted in the legislation.

For 2021, and proposed for 2022, the Government has included temporary provisions in the Act to restrict tertiary providers from charging a CSSF to trainees. The Ministry and TEC’s monitoring activities indicate that many providers have started to charge their distance students a CSSF in recent years, which suggests that if permitted to, providers would charge trainees a comparable fee.

*To be completed by quality assurers:*

<b>Quality Assurance Reviewing Agency:</b>
Ministry of Education
<b>Quality Assurance Assessment:</b>
Meets the requirements
<b>Reviewer Comments and Recommendations:</b>
The panel assessed that it meets the requirements, it reads well and covers the bases. The panel had a few suggestions or questions:  In section 2.3 – do we know if providers charge all their students, trainees etc a standard CSSF or is there already some variation within institutions?  In section 2.4 - the panel thought that it might help if you put up front that there has not been any specific consultation on the proposals but this section described the anticipated the views of stakeholders based on something (e.g. previous engagements).  When you say on page 9 that you plan to obtain stakeholder views “as part of consultation on the proposed legislative change” does this mean through the select committee process or is some other consultation planned. If it is can you describe what is planned?

# Impact Statement: Increasing flexibility for Government to set requirements on compulsory student services fees

## Section 1: General information

### 1.1 Purpose

The Ministry of Education is solely responsible for the analysis and advice set out in this Regulatory Impact Statement. This analysis and advice have been produced for the purpose of informing stakeholders to be consulted on a government discussion document. Final decisions to proceed with a policy change are to be taken by Cabinet.

### 1.2 Key Limitations or Constraints on Analysis

The evidence of constraints on government’s ability to specify requirements on CSSFs is clear in the current legislation. This is why the Government had to put in place transitional provisions to prevent trainees from being charged a CSSF (we are currently progressing legislative changes to extend this provision for another year until the end of 2022). The current framework did not enable this change.

There is strong evidence that tertiary providers have increased CSSF amounts more significantly in recent years and started to charge more to part-time or distance students, which supports the rationale for government to have more direct oversight of CSSFs.

The proposed change will enable government to make future changes to the CSSF framework. Policy work on system changes is ongoing, such as the Reform of Vocational Education (RoVE), work on fee regulation settings and work on the Code. This work is expected to impact on CSSFs. Should the Government consider future changes to the CSSF requirements, enabled by this proposed change, then this would need to be considered by Cabinet.

As part of consultation on earlier changes to the current CSSF requirements in 2019, students and student representatives indicated that the framework did not do enough to ensure students were involved in decisions on CSSFs or that providers were complying with the requirements. Students suggested the Government consider more prescriptive ways of requiring providers to involve students in decision on CSSFs, but this was not enabled by the current framework.

We will consult with students (including trainees), student representatives and providers on the proposed change to the CSSF framework to test the proposal.

### **1.3 Responsible Manager (signature and date):**

Julia Cronin, Acting Senior Manager

Funding and Fees Policy Team, Tertiary Education Policy

Te Ara Kaimanawa | Graduate Achievement, Vocations and Careers

Te Tāhuhu o te Mātauranga | Ministry of Education

1/4/2021

## Section 2: Problem definition and objectives

### 2.1 What is the current state within which action is proposed?

CSSFs are fees that can be charged by tertiary providers to all students as part of their enrolment. Most domestic students are supported by government to meet these fees through student loans or fees-free initiatives – including first-year Fees Free and the Targeted Training and Apprenticeship Fund (TTAF) – while some students pay CSSFs themselves. Not all tertiary providers charge a CSSF, but all universities and most Te Pūkenga subsidiaries do. The CSSFs are used to support the range of services offered to students, such as health services, sports and recreation services, or clubs and societies. The average CSSF charged for full-time students by universities in 2020 was nearly \$800 per year and for subsidiaries of Te Pūkenga it was \$340. There is significant variation on CSSF amounts between providers depending on the range of services offered.

The Government currently regulates CSSFs through a Ministerial Direction enabled by sections 257 and 360 of the Act. CSSFs are regulated differently to tuition fees. Instead of determining how much CSSFs can increase by each year, government regulates the process providers must follow to set these fees and how they are spent. For example, this requires providers to consult with students on setting CSSFs or on changes to the services delivered. This aims to ensure that tertiary providers are accountable to students and work with students to set CSSFs and determine what services are delivered.

In recent years, students and student representatives (including the New Zealand Union of Students' Association) have raised concerns that tertiary providers are not taking reasonable steps to involve students in decisions on CSSFs, as required by the current ministerial direction. Students consider that there is a power imbalance between themselves and their providers. They have also raised concerns that there are not clear consequences for providers that breach the CSSF requirements. The TEC also considers that the current legislative framework for CSSFs does not do enough to encourage compliance with requirements.

The Ministry and TEC's monitoring activities indicate that CSSFs have increased at a significantly faster rate in recent years. Between 2014 and 2017, CSSFs increased by an average of 2.5 percent per year at universities and 3 percent at institutes of technology and polytechnics (ITPs), which was broadly in line with the limit on tuition fee increases through the Annual Maximum Fee Movement (AMFM). Between 2017 and 2020, CSSFs increased by an average of 7 percent per year at universities and 7.5 percent at ITPs / subsidiaries of Te Pūkenga.

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

- *RoVE* – this will result in the responsibility for arranging industry training for all trainees and apprentices moving from transitional ITOs to tertiary providers by 2023. When these learners have transitioned to tertiary providers, they could be charged a CSSF by their tertiary provider (once temporary provisions in legislation that prevent this expire).
- *Development of the new Code* – if the Code results in additional compliance costs to tertiary providers, it is possible that providers may look to fund these through CSSFs,

which would shift these costs onto students (and to government through student loans and fees-free support).

## 2.2 What regulatory system(s) are already in place?

Currently the scope of the Minister of Education's and government's ability to regulate CSSFs is limited by sections 257 and 360 of the Act. These provisions were introduced in 2011 to increase accountability to students and to help ensure tertiary providers were transparent with students when setting, changing, and administering CSSFs.

The Minister can currently:

- specify the categories of services that tertiary providers can fund through the CSSF;
- require providers to make decisions on CSSFs in consultation or jointly with students (the Minister cannot specify one over the other);
- require providers to publish information on the involvement of students;
- require providers to account for CSSFs separately; and
- require providers to report income and expenditure for CSSFs.

While the Ministry and the TEC monitor compliance with the current requirements on CSSFs, the framework was designed to be largely self-monitored. When the current CSSF framework was introduced in 2011, there were concerns that providers were circumventing tuition fee regulations by increasing CSSFs excessively. For example, universities' average student services levy for full-time students increased by 102% between 2009 and 2010. The CSSF framework initially worked to limit annual fee increases, which slowed to an average of 3.9% per year from 2015 to 2016.

In early 2020, transitional legislative provisions were introduced to prevent tertiary providers from charging trainees a CSSF when the responsibility of transitional ITOs shifts to providers. Given tertiary providers have recently started to charge and increase CSSFs to distance and part-time students, we considered it likely that many providers would charge a pro-rata fee for trainees. We wanted to prevent trainees from facing an additional, unexpected cost when they shift from transitional ITOs to providers. We are currently progressing work to extend this transitional provision by a year, ending 31 December 2022 so that officials have time to consider future arrangements on CSSFs for trainees.

The Ministry's initial view is that trainees should be subject to separate requirements on CSSFs because of the distinct characteristics of these learners. Trainees are often in full-time work and are less likely to require access to all student services offered by providers (such as health-related services, or sports and recreational activities). A similar case could be made for part-time or extramural students. As the Government cannot currently specify

distinct conditions on CSSFs for different categories of learners, legislative change is needed to enable this.

### **2.3 What is the policy problem or opportunity?**

Maintaining the status quo would continue to limit the scope of government's ability to regulate CSSFs. It would prevent the government from changing the settings over time to respond to the broader system shifts happening across the tertiary system, including RoVE, the future work on fee regulation for vocational education and training, and work on the Code. These broader system changes may also have unintended consequences for CSSFs and government would not easily be able to resolve issues that arise. For example, if the Code results in additional compliance costs to tertiary providers, it is possible that providers may shift these onto students (and to government through student loans and fees-free support) through increases to CSSFs.

In the short-term, if the status quo was maintained, then following the current system changes related to RoVE (trainees shifting from transitional ITOs to tertiary providers) it is likely that tertiary providers would charge trainees a CSSF when the transitional provisions preventing them from doing so end. It is likely that many providers would charge trainees the same fee charged to distance or part-time students, which have increased at a faster rate in recent years. More providers have started to charge distance and part-time students a more substantial CSSF in recent years, although this is usually less than what is charged to full-time students. Given trainees cannot access student loans to borrow for fees, this would result in an additional cost for this type of student that could create an up-front financial barrier to access. The government would also pay more in CSSFs through any fees-free support policies in place.

## 2.4 What do stakeholders think about the problem?

The key stakeholders are students (including trainees who will become students when they transition to a tertiary provider), tertiary providers, and employers (as some employers meet the cost of trainee fees and are involved in decisions for their employees to enrol in learning as a trainee or apprentice).

The Ministry has not yet consulted with stakeholders on this specific legislative proposal; however, we have engaged with students, student groups and providers on CSSFs frequently in recent years. Most recently we consulted stakeholders on minor changes to the CSSF framework in 2019 and we received feedback on a range of issues which has informed the anticipated sector views below.

Students interests likely vary across different types of student. For example, many full-time provider-based students are likely to be focussed on retaining access to high-quality student services while also keeping CSSFs at a reasonable level. In recent years, student representatives have also expressed concerns that providers are not doing enough to involve students in decisions on CSSFs. Students are likely to support the proposal and may advocate for future changes to support stronger student involvement in decisions on CSSFs.

Trainees, part-time students or distance students may be less likely to require access to some student services, particularly if they are in full-time work, and so may be more concerned with keeping costs down (particularly trainees and some part-time students who are not eligible to borrow for fees through the Student Loan Scheme). These types of students are likely to support changes that enable the Government to specify distinct rules for them.

Tertiary providers primary concern is likely to be making sure that it is possible to generate sufficient revenue to support access to high-quality student services. Tertiary providers may not support the proposal to change how the CSSF framework is administered, as there will be less certainty for them on what the requirements on CSSFs are. This would also enable government to make changes to the framework periodically and so this could create more compliance costs for tertiary providers and potentially limit the revenue that providers generate from CSSFs, if there are changes to groups of students that can be charged CSSFs.

We have not previously engaged with employers on their views on CSSFs, but they are likely to be focussed on keeping costs to trainees (and potentially themselves if they support their trainees to meet fee payments) at a reasonable level.

We will have an opportunity to consult with all stakeholders on the proposal as part of consultation on the proposed legislative change. Subject to Cabinet's agreement, this will involve publication of a discussion document setting out the proposal and rationale for the change. Consultation will run for eight weeks on proposals in the Bill to ensure stakeholders have sufficient time to provide feedback on the proposals. Discussion document material will be published on the Ministry's and TEC's website. There will also likely be a press release from the Minister on the Bill, targeted communications to student associations, tertiary providers and peak bodies.

## **2.5 What are the objectives sought in relation to the identified problem?**

We are seeking a more flexible approach to regulating CSSFs that provides greater durability by giving government greater discretion to specify requirements on CSSFs. Given the Government's commitment to barrier free access to education and that it supports students to meet CSSF payments through student loans and fees-free initiatives, there is a strong interest from students and government in regulating these fees. Of particular concern, given timeframe for RoVE system changes, is what ongoing arrangements are put in place for trainees. The Government cannot currently specify distinct arrangements for different types of students.

With the ongoing system changes across the tertiary system, including work on fee regulation and the Code, we need a more durable and resilient regulatory framework for CSSFs that can be improved over time.

## Section 3: Option identification

### 3.1 What options are available to address the problem?

#### *Option 1: Status quo*

This would continue to limit the Government's ability to put requirements on tertiary providers that charge a CSSF. Under the existing framework and CSSF requirements, individual tertiary providers could choose to start charging trainees a CSSF from 1 January 2023, subject to consultation with students and other requirements under the current settings.

As part of any future system changes to fee regulation settings for tuition fees, the Government would have limited scope to assess and change requirements on CSSFs, or to respond to emergent issues, such as concerns raised by students or tertiary providers. The Government would also have limited scope to adapt CSSF requirements considering changes, and flow-on impacts, that result from the Code or other future system changes.

#### *Option 2: Repeal sections 257 and 360 of the Act and enable CSSFs to be regulated as conditions on funding under section 419 of the Act.*

This would broaden the range of options available to government when considering changes to the CSSF framework and give government greater oversight of CSSFs. For example, the Government could specify distinct rules for different types of students, such as trainees or prevent specified types of students from being charged a CSSF.

This would support a more durable regulatory framework by giving government discretion to make changes to the CSSF framework over time in response to broader system shifts, such as any future work on fee regulation and work on the Code. It would also enable government to consider changes to the CSSF framework in response to emergent issues, such as concerns raised by students or tertiary providers.

This proposed change would support one of the key principles that guide the Ministry's regulatory stewardship: that regulatory systems are durable, resilient, and flexible. Furthermore, it would utilise an existing mechanism for fee regulation under section 419 so that all provider-based fees are regulated in the same way.

#### *Option 3: Retain sections 257 and 360 of the Act and specify that the Government has more discretion to specify requirements on CSSFs.*

The Government could specify in sections 257 and 360 of the Act that government can define categories of students and specify distinct rules for different types of students. This would respond to the immediate issue regarding CSSF arrangements for trainees and enable distinct rules for other types of students (such as part-time students or distance students). It would also give more certainty to tertiary education providers and students on what requirements government could place on providers that charge a CSSF.

This would not support government to consider future changes to adapt the CSSF framework in response to the broader ongoing system shifts, such as any work on fee regulation and the Code, or in response to other emergent issues. This would continue to limit the scope of government's ability to regulate CSSFs. It would also mean that CSSFs continue to be regulated through a separate mechanism to two main fees (i.e. tuition fees and compulsory course costs).

### **3.2 What criteria, in addition to monetary costs and benefits have been used to assess the likely impacts of the options under consideration?**

The key criteria for the proposal are:

- to support a more durable and resilient framework to regulate CSSFs framework, in line with one of the principles that guide the Ministry's regulatory stewardship; and
- to support greater flexibility for government to specify requirements on CSSFs.

These two criteria will come at the expense of certainty for providers, as government will be able to make broader periodic changes to CSSF requirements.

Future changes to the framework will need to balance the principles of fee regulation, including affordability for students, costs to government and the quality of student services to meet expectations of their students. Trade-offs for these principles will need to be considered as part of decisions on any future changes to the CSSF framework.

### **3.3 What other options have been ruled out of scope, or not considered, and why?**

We had considered enabling government to regulate CSSFs through regulations issued through Order in Council. This could also give government more flexibility to specify broader requirements on tertiary providers that charge CSSFs. It may also provide more certainty for providers on settings. This would mean CSSF requirements could be enforced through the Disputers Resolution process and ultimately the courts, rather than conditions on government tuition subsidy funding. This would be akin to consumer protection.

We ruled this option out because we considered that CSSFs should be regulated through the same approach that the other main tuition fees are currently regulated. This would support a simpler, more transparent fee regulation system for students, providers, and the TEC. We do not consider there is good reason to run a separate regulatory framework for CSSFs only. We intend to look at opportunities to improve the overall fee regulation framework as part of any broader future work on fee regulation.

We have not considered non-regulatory options. Government regulation of all compulsory tertiary fees (including CSSFs) is required because tertiary education provision is not a normal competitive market. Given students can access interest-free student loans with income-contingent repayments (or first years can access Fees Free) to meet CSSF payments, there is less 'consumer resistance' to fee increases. Without fee regulation, many in the sector would see considerable price increases with little incentive for efficiency and value for students or taxpayers. Some fees would likely rise beyond the point where they create significant affordability and debt-aversion barriers to access and equity in tertiary education.

## Section 4: Impact Analysis

**Marginal impact: How does each of the options identified in section 3.1 compare with taking no action under each of the criteria set out in section 3.2? Add or subtract columns and rows as necessary.**

Criterion	No action ( <i>option 1 – status quo</i> )	Option 2 (regulating CSSFs as conditions on funding)	Option 3 (expanding the scope of the current CSSF framework)
<b>Durability</b>	0	++ This will enable government to adapt the CSSF framework over time to respond to broad system changes that may impact on CSSFs or emergent issues, such as concerns raised by students.	0 - This would not enable government to change how these fees are regulated beyond the specific provisions added. This may prevent the government making periodic changes to requirements in response to broad system changes or emergent issues.
<b>Increasing flexibility for Government</b>	0	++ This will give government a much broader range of options when considering changes to how CSSFs are regulated.	+ This will extend the range of options for government to regulate CSSFs through the amended legislation. This will continue to limit government's options to what is prescribed in the amended legislation.
<b>Certainty for the sector</b>	0	- Students and providers will have less certainty on future changes to the CSSF framework, as government would have the ability to introduce new requirements periodically.	0 – The extent of the government's abilities to set requirements on CSSFs would continue to be specified in the legislation, providing a similar level of certainty as the current framework.
<b>Overall assessment</b>	0	++	+

### Key:

- ++ much better than doing nothing/the status quo
- + better than doing nothing/the status quo
- 0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo
- much worse than doing nothing/the status quo

# Section 5: Conclusions

## 5.1 What option, or combination of options is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?

The Ministry's preferred option is to remove the current provisions on CSSFs from sections 257 and 360 of the Act and instead enable government to regulate CSSFs through conditions on funding under section 419 of the Act. This would mean that the Minister would require the TEC to regulate CSSFs through the same approach as all other provider-based fees are regulated.

This would broaden the range of options available to government when considering changes to the CSSF framework and give the government greater oversight of CSSFs. For example, the Government could specify distinct rules for different types of students, such as trainees. It would also support a more durable and flexible regulatory framework by giving government discretion to make changes to the CSSF framework over time in response to broader system shifts.

This proposal would also support government to adapt the CSSF framework in response to emergent issues, such as concerns raised by students or tertiary providers. For example, in recent years, student representatives have raised concerns that providers are not doing enough to involve students in decisions on CSSFs. As part of future work, government could consider more prescriptive requirements on CSSFs to ensure student involvement in decisions.

Consultation has not yet taken place on the proposal. We will consult with stakeholders on the proposal through the legislative process. Some tertiary providers may be concerned that government will have broader options to regulate CSSFs. Any changes to the CSSF requirements would still need to go through a consultation process prescribed by section 420 of the Act.

## 5.2 Summary table of costs and benefits of the preferred approach

<b>Affected parties</b> ( <i>identify</i> )	<b>Comment:</b> <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks</i>	<b>Impact</b> <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts</i>	<b>Evidence certainty</b> <i>(High, medium or low)</i>
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### Additional costs of proposed approach compared to taking no action

Regulated parties	Uncertainty for tertiary providers and students on future requirements on CSSFs	Low	Medium
Regulators	Implementing CSSF requirements as a condition of funding may result in increased monitoring activities from the TEC	Costs from monitoring activities would be met within operational baselines.	Medium
Wider government	N/A	N/A	N/A
Other parties	N/A	N/A	N/A
<b>Total Monetised Cost</b>	N/A	N/A	N/A
<b>Non-monetised costs</b>	The costs of the proposal would be low, as the existing CSSF requirements would remain unchanged. There may be future costs, related to the ability to make other changes, but these would be assessed at the time.	Low	Medium

### Expected benefits of proposed approach compared to taking no action

Regulated parties	N/A	N/A	N/A
Regulators	Clearer mandate for TEC to regulate CSSFs as conditions on funding, the same approach to the way other tuition fees are regulated.	Low	Medium
Wider government	N/A	N/A	N/A

Other parties	Benefits to those types of students that the Government may exclude from paying a CSSF, or be subject to separate requirements.  Benefits to students as the government would be more able to consider changes to respond to emergent issues, such as concerns with the framework raised by students or tertiary providers.	Medium	Medium
<b>Total Monetised Benefit</b>	N/A	N/A	N/A
<b>Non-monetised benefits</b>	There would be medium benefits of the proposal. There are likely to be more significant benefits to students (such as types of students with distinct requirements), but this is subject to future decisions enabled by this proposal.	Medium	Medium

### 5.3 What other impacts is this approach likely to have?

Future changes to the CSSF framework enabled by this proposal could impact on costs or benefits to government through student loans and fees-free payments. This would be subject to future decisions.

# Section 6: Implementation and operation

## 6.1 How will the new arrangements work in practice?

The preferred approach would be implemented through a legislative vehicle. Under section 419 of the Act, the Minister can specify conditions on funding mechanisms. We would propose to amend section 419 so that it is explicit that the Minister can place conditions on CSSFs. This would delegate responsibility to TEC to monitor and enforce CSSF requirements as a condition of funding. The TEC is currently monitoring the CSSF framework, but this change will make it more explicit that TEC is responsible for monitoring and enforcing CSSF requirements. The TEC supports our preferred approach and is already well placed to monitor and enforce CSSF requirements, as they do for all other fee regulation settings.

The new arrangements would take effect immediately, as the proposal is to change the mechanism through which CSSFs are regulated, not the requirements themselves.

## 6.2 What are the implementation risks?

There is a risk that there will be less certainty for providers on the requirements for the CSSF framework, as government would have greater discretion to introduce new requirements. However, this is mitigated by the process that would be required to change CSSF requirements as conditions of funding, including consultation requirements and a stand-down period before changes can be introduced. We will have an opportunity to address concerns from the sector on proposals through targeted consultation with the sector on proposals in Bill.

# Section 7: Monitoring, evaluation and review

## 7.1 How will the impact of the new arrangements be monitored?

The CSSF framework is already monitored by the TEC, and the Ministry has oversight of the performance of the framework. Given the proposal is to change how CSSFs are regulated, there would not be a significant immediate impact on providers or students that we can easily monitor or evaluate. The Ministry will assess impacts of future changes enabled by this proposal.

The proposal would mean CSSF requirements are enforced as a condition of government funding by TEC. The Ministry will continue to work with TEC to evaluate the effectiveness of this way of regulating fees as part of future work on fee regulation.

The TEC is also currently considering ways to improve the visibility of CSSF requirements, improve processes for enforcement and improve data collection processes on CSSFs. This work was already occurring and is not a result of the proposed changes.

## 7.2 When and how will the new arrangements be reviewed?

The Ministry will undertake work in late 2021 to establish ongoing arrangements for trainees, subject to the proposal going ahead. The Ministry will also assess the need for changes to the CSSF framework in light of work on the Code and future fee regulation in 2022. Stakeholders will have ongoing opportunities to raise concerns through any changes to the requirements on CSSFs. This is because any changes to fee regulation settings through conditions on funding are subject to public consultation via the New Zealand Gazette.