

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>Amendments to the Education and Training Act to change the mechanism for regulating compulsory student services fees</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?

A compulsory student services fee (CSSF) is a fee that tertiary providers can charge to students to support the cost of student services such as student health, clubs and societies, counselling services or sports and recreation. The fee is generally charged to all students to support the provider to fund and offer these services (even if a student does not access the services). Government currently regulates CSSFs 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.

The current legislative framework for CSSFs constrains the extent to which government can regulate CSSFs and does not enable government to adjust the framework over time to respond to broader system changes, such as the Reform of Vocational Education (RoVE). For example, government cannot currently define and specify distinct requirements for different types of students, such as trainees. This limits the government’s ability to ensure that settings strike a balance between protecting fair fee charges for learners, enhancing student voice, supporting high quality services, and managing costs to government (through student loans and fees-free).

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 of Education’s (the Ministry’s) preferred option is to enable government to regulate CSSFs through conditions on funding determinations made under section 419 of the Education and Training Act 2020 (the Act), in the same way that other provider-based fees are currently regulated. This proposal would give government more flexibility to regulate CSSFs, enabling a wider range of options to regulate these fees to support broader government objectives, including protecting fair fee charges for students and enhancing student voice. This would enable the government to consider changes to CSSF requirements that support the key objectives of the Tertiary Education Strategy and Kā Hikitia. It would also support a more durable regulatory framework and enable changes over time in response to broader system shifts.

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 or costs, as the proposal would only change the mechanism for regulating CSSFs, not the requirements themselves. For the government, the proposed change will enable it to make broader future changes to the CSSF framework than is currently possible, particularly in response to RoVE. Giving government greater discretion to regulate these fees will strike a better balance between:

- protecting fair fee charges for learners
- enhancing student voice
- ensuring providers can sufficiently resource quality services for students to support their safety and wellbeing while in study
- managing costs to government (given that students can borrow for CSSFs through student loans and access through fees-free)

Students will benefit from increased ease of creating legislation that will protect them from unfair fees. For example, one change that government could consider following this alteration would be to specify distinct rules for trainees. This could support a fairer and more consistent approach to CSSFs for trainees, preventing them from having to contribute towards services that are less warranted in their circumstances, as they will mainly be in the workplace or off-campus. Employers and industries that contribute towards their trainees' fees may also benefit from the change, with more tailored arrangements for trainees.

During recent consultation on the proposal, students also made a range of suggested changes to CSSF requirements, particularly in relation to student involvement in decision-making on CSSFs. This included more prescriptive arrangements to involve students, including joint-decision making and suggestions to require governance models that involve partnership with students. As part of future work, government could consider alternative ways of encouraging providers that charge a CSSF to involve students in decisions.

The Tertiary Education Commission (TEC) will benefit from the proposed approach to regulate CSSFs through funding conditions under section 419. It will give the TEC a clearer mandate to monitor and enforce these requirements in the same way all other provider-based fees are currently regulated. Regulating CSSFs as conditions on funding would also allow for a better mix of interventions to be used when providers breach the requirements on CSSFs. The TEC's use of conditions on funding is the usual and well-understood mechanism for regulating fees.

Where do the costs fall?

There are no monetised costs with the proposal. This proposal would enable government to make changes to the framework periodically and does not restrict the amount that providers can charge. However, the proposal would mean that the government has discretion to consider a cap on how much providers can charge in CSSFs (for example, to distinct groups of learners). This could create uncertainty for tertiary providers and result in higher compliance costs for tertiary providers. In turn, this could impact on the quality of student services as providers could look to recover costs by reducing the number of support staff or paying support staff less.

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 and students on the requirements for the CSSF framework, as government would have greater discretion to introduce new requirements periodically. This could impact on the ability of providers to plan and invest in ways to improve student services because of concerns that the government may impose requirements that limit how much can be generated from CSSF revenue. These concerns were raised by universities and Universities New Zealand (UNZ) in consultation, which also suggested that the proposal would increase compliance costs for providers and reduce their ability to respond to the diverse needs of their learners.

To mitigate these risks, the government would still be required to consult on any future changes to the CSSF framework for a minimum of 21 days. Changes would also still be subject to a minimum stand-down period before they could take effect. Furthermore, the costs, benefits, and risks of any future changes to the framework would need to be assessed at that time, considering issues such as additional compliance costs or impact on the quality of student services.

Section C: Evidence certainty and quality assurance

Agency rating of evidence certainty?

This Regulatory Impact Statement assesses the proposals for legislative changes relating to CSSF. The proposed changes respond to changes resulting from RoVE, agency and industry feedback, and public consultation (between 21 April and 16 June 2021).

The current legislative framework for CSSFs constrains what requirements government can place on those providers charging a CSSF. These requirements are currently set out in primary legislation and government cannot limit CSSFs, specify distinct rules for different categories of students, or place any additional limits on tertiary providers that charge a CSSF beyond those permitted in the legislation.

For example, in 2021, and proposed for 2022, temporary provisions in the Act prevent tertiary providers from charging a CSSF to trainees. The Ministry's 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.

Feedback from student associations and students in consultation also indicated that the current framework does not do enough to support student involvement in decision-making on CSSFs or fair fee charges for learners.

We are confident in the evidence that is set out in this Regulatory Impact Statement. The costs outlined in Section 2 are subject to some uncertainty, and there is little information about the monetised value of potential benefits and costs.

These proposed legislation changes are constrained by what is feasible and appropriate when considering what is in the primary legislation, and what is appropriate in the secondary instruments.

To be completed by quality assurers:

Quality Assurance Reviewing Agency:

Ministry of Education

Quality Assurance Assessment:

Meets the requirements

Reviewer Comments and Recommendations:

The Ministry of Education's Quality Assurance Panel has reviewed the Regulatory Impact Statement: *Increasing flexibility for government to set requirements on compulsory student services fees* dated 27 July 2021. The panel considers that it meets the Quality Assurance criteria. The Regulatory Impact Statement provides a clear and convincing case for enabling government to regulate Compulsory Student Services Fees (CSSFs) through conditions on funding determinations and for the benefits that providing this increased flexibility to regulate CSSFs will deliver. Stakeholder views on the proposal have been sought through consultation and, while there was limited feedback from some stakeholders, the views of stakeholders are reflected.

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 final decisions to proceed with a policy change to be taken by Cabinet.

1.2 Key Limitations or Constraints on Analysis

As the focus of this proposal is to give government greater flexibility to specify requirements on providers charging CSSFs to support broader government objectives, a limited range of options were considered in the analysis. The preferred option is to regulate CSSFs in the same way other fees are regulated, which provides much more flexibility than the current framework for CSSFs. Rather than reforming the entire fee regulation system, officials have proposed options within the current context of fee regulation.

A key limitation in the analysis is to what extent the ongoing policy work on system changes, such as the Reform of Vocational Education (RoVE), reviewing fee regulation settings, and work on the Code, will impact on CSSFs. While the detail is still being worked through, it is expected that there will be different arrangements for full-time learners and industry trainees.

We were also limited during the public consultation, as work-based learners (trainees and apprentices) are not represented separately by an association, and so we received no feedback from these types of learners. We have undertaken public consultation on the proposal alongside consultation on the Education and Training Amendment Bill No. 2 (2021) and targeted engagement with student associations, including NZUSA and provider peak bodies. While transitional industry training organisations (ITOs) were advised on the proposed change for consultation, they are currently focussed on transitioning their provision to providers and giving feedback on other aspects of system change, such as the design of a new funding system.

1.3 Responsible Manager (signature and date):

James Campbell, 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
27/07/2021

Section 2: Problem definition and objectives

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

What are CSSFs?

A CSSF is a fee that tertiary providers can charge to students to support the cost of student services (such as student health, clubs and societies, counselling services or sports and recreation). The fee is generally charged to all students to support the provider to fund and offer these services (even if a student does not access the services). Many providers charge lower CSSFs to some groups of learners, such as part-time or distance students. Not all tertiary providers charge a CSSF, but all universities and most Te Pūkenga subsidiaries do. 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.

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. International students are also often charged the same CSSF as domestic students.

How are CSSFs currently regulated?

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, providers must 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.

What are some of the problems with current settings?

The current framework restricts the extent to which the government can regulate CSSFs to support broader government objectives, including the Tertiary Education Strategy and Kā Hikitia. Fee regulation settings for CSSFs should support the government to strike a balance between protecting fair fee charges for learners, enhancing student voice, ensuring providers can sufficiently resource quality services for students to support their safety and wellbeing while in study, and managing costs to government (given that students can borrow for CSSFs through student loans and access through fees-free).

There are two significant system changes in tertiary education 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). The current settings do not enable the government to specify distinct rules for trainees that are fair and reflect the value these learners are likely to get from paying these fees.

- *Development of the new Education (Pastoral Care of Tertiary and International Students) Code of Practice 2021* – if the Code results in additional compliance costs to tertiary providers, providers may look to fund these through CSSFs. This would shift these costs onto students (and government through student loans and fees-free support).

What are some of the key issues raised by stakeholders?

In recent years, students, and student representatives (including NZUSA) 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. In the recent consultation carried out for this proposal, most submissions from student associations and students said that the existing requirements do not do enough to require providers to involve students in decisions on CSSFs, and that consultation by providers is often not genuine and takes place after decisions have already been made.

Submissions from NZUSA and University of Canterbury Students' Association (UCSA) pointed to examples of good practice at Lincoln University and University of Canterbury, where there is genuine partnership arrangements between students and providers. However, submissions from students indicated that there is a lot of inconsistency between providers on student involvement in CSSF decisions.

Student associations and students also raised concerns in consultation 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 provide the appropriate mix of interventions to be used when providers breach the requirements on CSSFs.

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 CSSF for full-time students increased by 102% between 2009 and 2010. The CSSF framework helped to slow the rate annual fee increases, with

universities' average CSSF for full-time students increasing by only 3.9% from 2015 to 2016.

In early 2020, the government introduced transitional legislative provisions 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, there was a risk that providers would introduce a pro-rata fee for trainees without adequate consultation with these learners. Government wanted to prevent trainees from facing an additional, unexpected cost when they shift from transitional ITOs to providers. The Education and Training Amendment Bill is seeking 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.

2.3 What is the policy problem or opportunity?

The current legislative framework on CSSFs constrains the extent to which government can regulate CSSFs. This limits the government's ability to ensure that settings strike a balance between the broader objectives of fee regulation, including protecting fair fee charges for learners, enhancing student voice, supporting high quality services, and managing costs to government (through student loans and fees-free). It also does not enable government to adjust the framework over time to respond to broader system changes including RoVE and work on the Code.

Retaining the status quo would mean that providers would continue to have more discretion on decisions around CSSFs, subject to meeting requirements to involve students through consultation or joint decision-making. This would mean individual providers could adopt different approaches to:

- If and how they charge CSSFs to trainees when these learners' transition from ITOs to providers. 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.
- How they involve students in decisions on CSSFs, with a majority opting to consult with student associations, or in some cases, leaving it to student associations to consult with students on changes. This was a key area of concern raised by students and student associations in their submissions on the proposed legislative change.
- The quality of student services provided. There are currently no requirements for providers to report on the quality of student services offered (although students do have consumer protection rights), or for the TEC to monitor this.

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) and tertiary providers.

We have undertaken public consultation on the proposal alongside consultation on the Education and Training Amendment Bill No. 2 (2021) and targeted engagement with student associations, including NZUSA and provider peak bodies. Consultation ran for eight weeks on proposals in the Bill to ensure stakeholders had sufficient time to provide feedback.

Eleven submissions were received on this proposal through consultation. Submissions from three student associations, the TEU and two individual students generally expressed support for the proposal (categorised in the table below as 'students and staff'). Three universities, Universities New Zealand (UNZ) and Te Rito Maioha (Early Childhood New Zealand), opposed the proposed legislative changes (categorised in the table below as 'providers'). Feedback from consultation is summarised below:

	Students and Staff	Providers
Problems with existing CSSF framework	Supported the proposal and indicated the need for greater flexibility for government to set requirements on CSSFs considering broader ongoing reforms.	Considered the existing framework was fit-for-purpose. Concerned that the proposed change was an overreach of government influence, may result in additional compliance costs, be overly prescriptive and reduce the ability of providers to meet the diverse needs of their learners.
Student involvement in CSSF decisions	Students indicated that the current framework does not do enough to ensure that providers involve students in decisions on CSSFs. Students made a range of suggested changes to enhance the involvement in decision-making on CSSFs, which would not be possible under the current framework.	Indicated that current arrangements were sufficient and that there are several examples of good practice whereby students are involved in CSSF decisions. Concerned about additional compliance costs of adhering to more prescriptive requirements on how students are involved in CSSF decisions.
Fair fee charges for learners	Students expressed concerns that current arrangements were unfair on some groups of students, such as part-time or distance students. Also agreed with the need for distinct rules for trainees.	Considered that existing requirements for providers to involve students in decisions on CSSFs were sufficient to ensure fair fee charges to different student groups.

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

The objectives identified in relation to the problem are to enable the government to set CSSF requirements on providers that support broader strategic objectives for tertiary education. This includes striking a better balance between protecting fair fee charges for learners, enhancing student voice, ensuring providers can sufficiently resource quality services for students to support their safety and wellbeing while in study, and managing costs to government (given students can borrow for CSSFs through student loans and access through fees-free). 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 government's ability to put requirements on tertiary providers that charge a CSSF. Under the existing framework and CSSF requirements, individual tertiary providers could make decisions on setting fees for different groups of learners such as trainees, (subject to consultation with students under the current settings) and how they involve students in decisions. The government would not be able to cap or limit CSSFs charged to certain groups of learners. The government also would also have limited levers to regulate CSSFs.

As part of future system changes to fee regulation settings for tuition fees, government would have limited scope to assess and change requirements on CSSFs. 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: Enable CSSFs to be regulated as conditions on funding under section 419 of the Act.

This would give government more flexibility to regulate CSSFs, enabling a wider range of options to regulate these fees to support broader government objectives, including protecting fair fee charges for students and enhancing student voice. For example, government could specify distinct rules for different types of students, such as trainees or prevent specified types of students from being charged CSSFs.

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 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.

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 the current framework for regulating CSSFs under sections 257 and 360 of the Act but expand the ways government can regulate

Government could specify in sections 257 and 360 of the Act that it 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.

However, this would not support government to consider future changes to adapt the framework in response to the broader ongoing system shifts, such as work on fee regulation and the Code, or in response to 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 all other 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 greater flexibility for government to specify requirements on CSSFs by enabling a broader range of options to regulate these fees to support broader government objectives, including protecting fair fee charges for students and enhancing student voice;
- to support a more durable and resilient framework to regulate CSSFs that does not require frequent legislative changes and can maintain integrity over time; and
- to provide sufficient certainty to providers to allow them to plan and make investments.

There is an inherent trade-off between providing flexibility for government and providing certainty to providers.

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

We had considered whether more fundamental change to fee regulation was required, for example, 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 Disputes Resolution process and ultimately the courts, rather than conditions on government tuition subsidy funding. This would be akin to consumer protection.

This option was ruled out before consultation because officials considered that CSSFs should be regulated in the same way as all tuition fees are currently regulated. This would support a simpler, more transparent fee regulation system for students, providers, and the TEC. There are no good reasons to run a separate regulatory framework for CSSFs only. Submissions on the proposal also signalled a preference for the status quo or a change to the preferred option rather than more fundamental changes.

Section 4: Impact Analysis

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)
Increasing flexibility for Government	0	++ This will give government a much broader range of options when considering changes to how CSSFs are regulated to help to strike a better balance between protecting fair fee charges for learners, enhancing student voice, ensuring providers can sufficiently resource quality services, and managing costs to government.	+ This will extend the range of options for government to regulate CSSFs, but this would be limited by whatever specific provisions are added to legislation. This will continue to limit government's options to what is prescribed in the amended legislation.
Durability	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 government making periodic changes to requirements in response to broad system changes or emergent issues.
Certainty for the sector	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.
Overall assessment	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 in the same way that all other provider-based fees are regulated.

This would broaden the range of options available to government when considering changes to the CSSF framework to help to strike a better balance between protecting fair fee charges for learners, enhancing student voice, ensuring providers can sufficiently resource quality services for students to support their safety and wellbeing while in study, and managing costs to government. For example, 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. For example, during consultation, students also made a range of suggested changes to CSSF requirements, particularly on student involvement in decision-making on CSSFs. While this proposal makes no changes to the CSSF requirements, the outcome of the proposal could facilitate further changes. As part of future work, government could consider changes to enhance the involvement of students in CSSF decisions.

The proposed change will give the TEC a clearer mandate to monitor and enforce these requirements in the same way all other provider-based fees are currently regulated. It will also allow for a better mix of interventions to be used when providers breach the requirements on CSSFs. The TEC's use of conditions on funding is the usual and well-understood mechanism for regulating fees.

5.2 Summary table of costs and benefits of the preferred approach

Affected parties	Comment	Impact	Evidence certainty
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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. Additional compliance costs that result from future changes enabled by the proposal.	Low	Medium
Regulators	Implementing CSSF requirements as a condition of funding may result in increased monitoring activities from the TEC	Low (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
Total Monetised Cost	N/A	N/A	N/A
Non-monetised costs	The costs of the proposal would be low, as the existing CSSF requirements would remain unchanged. There may be future costs, but these would be assessed at the time. Significant changes would likely require decisions from Cabinet.	Low	Medium

Expected benefits of proposed approach compared to taking no action

Regulated parties	N/A	N/A	N/A
Regulators	Clearer mandate for the TEC to regulate CSSFs as conditions on funding, in the same way tuition fees are regulated.	Low	Medium
Wider government	N/A	N/A	N/A
Other parties	Benefits to those types of students that government may exclude from paying a CSSF or be subject to separate requirements.	Medium	Medium

	Benefits to students as government would be more able to consider changes to respond to emergent issues, such as concerns with the framework raised by students. For example, to address concerns raised by students in consultation on student involvement in decisions on CSSFs.		
Total Monetised Benefit	N/A	N/A	N/A
Non-monetised benefits	There would be some key benefits from 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?

These proposed legislative changes are expected to be incorporated into the Education and Training Amendment Bill (No. 2), an amendment bill that is proposing a collection of separate legislative proposals to amend the Act. Based on current timelines, if the Bill is passed and a law change is made, it is unlikely the proposals would take effect before 2023.

The preferred approach would be implemented through an existing legislative instrument as a condition on government funding. Under section 419 of the Act, the Minister can specify conditions on funding mechanisms. We would propose to amend the Act so that it is explicit that the Minister can place conditions on funding relating to CSSFs. This would delegate responsibility to the 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 the 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.

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 protections that provide adequate notice of changes. For changes to existing funding mechanisms, these changes would be subject to requirements in section 423 of the Act. This requires changes to take effect at least either three months after decisions, or the following calendar year (whichever is later). For conditions in new funding mechanisms, there is a legitimate expectation that significant changes would require adequate notice and a reasonable period of time in which to accommodate changes.

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. The proposal would mean CSSF requirements are enforced as a condition of government funding by the TEC. Given the proposal is to change how CSSFs are regulated, there would not be a significant immediate impact on providers of students that we can easily monitor or evaluate.

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 monitors the performance of the TEC, including monitoring on the extent to which fee regulation requirements are communicated and enforced. As part of annual changes to fee regulation settings, we will report back to the Minister on how well the CSSF requirements are being monitored and enforced, with any key concerns about non-compliance.

Feedback from learners, industry, employers, Workforce Development Councils, and providers will also inform judgements about performance of the regulatory system. Information will continue to influence and shape any future development of the settings, including any future potential legislative changes that may be required.

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 feedback from students on how students are involved in decisions on CSSFs, implications of the Code and broader future work on fee regulation in 2022. Stakeholders will have ongoing opportunities to raise concerns through any changes to the requirements on CSSFs given that changes to fee regulation settings through conditions on funding are subject to public consultation via the New Zealand Gazette.