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Hon Hipkins

# Education Report: Changes to the Export Education Levy – consultation feedback and recommendations

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| **To:** | Hon Chris Hipkins, Minister of Education | | |
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| **Drafter:** | Jonathan Flockton, Policy Analyst | **Round robin:** | No |
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| **Messaging seen by Communications team:** | N/A | | |

## Purpose of report

This paper provides a summary of key themes from the consultation on the Export Education Levy (EEL) 2019 and seeks agreement on proposed changes.

## Summary

The EEL is payable by any education provider who enrols international fee-paying students and is used to fund a broad range of activities and projects that benefit the sector. It has an average income of approximately $5 million per annum.

The Ministry of Education consulted with the international education sector on three proposals to ensure the fairness and ongoing sustainability of the EEL and its alignment to the International Education Strategy. This follows changes made in 2018, including creating differential EEL rates for Private Training Establishments (PTEs) (0.89%) and Non-PTEs (0.50%) and reducing EEL expenditure.

The 2019 proposals focused on PTEs and were: a risk-rated premium, a financial security and indexing EEL rates. Of the three proposals, only indexing EEL rates received majority sector support. A full summary of submissions is found in Annex 1.

We consider a risk-rated premium will not adequately drive quality provision or reduce risk. Modelling by PricewaterhouseCoopers indicated any reduction in levy rate for high quality PTEs from a risk-rated premium would be minimal, if introduced. This modelling also identified several significant limitations to introducing a risk-rated premium which would stymie its effectiveness, including a lack of suitable data, high costs and overly burdensome administrative requirements.

The financial security proposal was received poorly by the sector, who felt it would not target risk effectively and could force high quality providers out of the market. We agree and do not recommend proceeding with the proposal.

We recommend progressing with indexing of EEL rates on a 3 yearly basis, starting on 1 January 2022 (three years after the rates were last changed). Indexing would allow more active management of the EEL balance, meaning the balance would not grow unnecessarily or could react quicker to financial strain.

Consultation feedback also included frustration at a lack of sector input into the EEL's governance and expenditure. We intend to establish an EEL Advisory Group that will provide stakeholder input into the strategic direction of the EEL.

We propose to use Education New Zealand (ENZ)'s EEL funding to meet the agreed expenditure reduction of $300,000 either from this financial year or 2020/21, and propose to further reduce their funding by $700,000 post 2021. This would return the additional $1 million funding allocated to ENZ in 2017 when the EEL balance was high and expected to rise.

The EEL balance is still under significant pressure and has not sufficiently recovered since 2018. This proposed reduction would ease the EEL's high susceptibility to financial risk resulting from unexpected closures and ensure repayment of the Government loan. This expenditure reduction, coupled with the introduction of indexing and improving overall quality of the sector, should also see EEL rates for all providers decrease over time.

A balance sheet for the EEL is provided in Annex 2. The EEL un-audited income to 30 June 2019 was $6,456,918 and had a net surplus of $562,135. NZQA has indicated a potential liability of $3.5 million in reimbursement payments for 2019/2020. This will put significant pressure on the EEL, however the Government loan is still forecast (all things remaining equal) to be paid by the agreed 2023/24.

## Proactive release

**Agree** that this Education Report is proactively released after final decisions have been made.

**Agree / Disagree**

## Recommended Actions

The Ministry of Education recommends you:

a. **note** the Ministry of Education consulted on three proposals to improve the ongoing sustainability of the EEL and its alignment with the International Education Strategy.

**Noted**

*Proposal 1: Risk-rated premium*

b. **note** that we did not receive unified agreement on what categories should determine a risk rated premium and that its operation would be administratively burdensome.

**Noted**

c. **note** that NZQA have concerns regarding the methodological appropriateness of using the EER rating as the sole factor to determine a risk-rated premium as it was not designed to determine provider risk.

**Noted**

d. **agree** to one of the following risk-rated premium options:

**Status Quo.** Keep rates as 0.50% for non-PTEs and 0.89% for PTEs (preferred).

**Agree / Disagree**

*or*

**Option 1: EER only.** PTEs with an EER rating of 1 or 2 would pay a lower EEL rate to providers with an EER rating of 3.

**Agree / Disagree**

*or*

**Option 2: Multiple variables.** Risk ratings would be calculated using the EER and a to-be-determined variable.

**Agree / Disagree**

*Proposal 2: Financial Security*

e. **agree** that a financial security would not selectively target risk and should not be progressed.

**Agree / Disagree**

*Proposal 3: Indexing of rates*

f. **note** that indexing would be based on the previous period's expenditure and would ensure the EEL balance is more responsive to changes in the PTE market.

**Noted**

g. **agree** to a 3 yearly indexing term to commence on 1 January 2022.

**Agree / Disagree**

I will re-consider this in 3 years depending on the rate of provider failure at that time.

**Additional themes**

*Advisory Group*

h. **note** that Ministry of Education will establish an advisory group for the EEL that will provide stakeholder input into the strategic direction of the EEL spend.

**Noted**

*EEL Expenditure*

i. **note** that you agreed to an expenditure reduction of $300,000 in 2018.

**Noted**

j. **note** that reduced expenditure will help mitigate the EEL account's high susceptibility to financial risk in the event of further PTE closures.

**Noted**

k. **agree** to Education New Zealand's EEL funding be used to meet the expenditure reduction of $300,000, either from:

a. The current financial year

**Agree / Disagree**

*or*

b. The 2020/21 financial year.

**Agree / Disagree**

l. **agree** to an additional reduction of $700,000 from ENZ's EEL funding post 2021 to further reduce financial pressure on the EEL and reduce provider rates.

**Agree / Disagree**

**Other EEL matters**

m. **note** that you have sought additional advice on visa-related costs resulting from the KITE closure.

**Noted**

n. **agree** that visa-related costs for the KITE closure will be funded by either

a. the students (status quo)

**Agree / Disagree**

*or*

b. the EEL (will incur $75,000)

**Agree / Disagree**

*or*

c. Crown funding (would require MBIE's agreement).

**Agree / Disagree**

o. **note** if funding were to come from the EEL it would put additional pressure on the EEL.

**Noted**

p. **agree** that MoE and MBIE will provide advice on how these costs will be covered going forward. '

**Agree / Disagree**

**Financial position of the Education Export Levy**

q. **note** that the EEL account as at 30 June 2019 (un-audited) has a net surplus of $562,135, and despite forecast reimbursements of $2.5 - $3.5 million, the Government loan of $6 million is still forecast (all things remaining equal) to be paid by 2023/24.

**Noted**

r. **agree** to forward a copy of the Export Education Levy Dashboard to the Minister of Finance.

**Agree / Disagree**

I want further advice on how the regulatory scheme is being strengthened to reduce the incidence of provider failure in the future.

Belinda Himiona
**Group Manager International Education**
**Graduate Achievement, Vocations and Careers**

30/08/2019

Hon Chris Hipkins
**Minister of Education**

17/9/19

## Background

1. The Education Export Levy (EEL) is payable by any education provider who enrols international fee-paying students. The EEL is administered by the Ministry of Education (the Ministry) and is used to fund a broad range of activities that benefit the international education sector, including:
   a. administration of the Education (Pastoral Care of International Students) Code of Practice,
   b. International Student Contract Dispute Resolution Scheme,
   c. administration of the EEL,
   d. International Student Wellbeing Strategy funding, and
   e. support for Education New Zealand's marketing and promotion activities.

2. The EEL also funds the reimbursement of international students and Crown agencies for direct expenses related to programme and provider closures (including transferring students to another provider to complete their studies).

3. Following public consultation in 2018, you made changes to the EEL to address immediate financial pressure on the EEL balance caused by closure-related reimbursements to international students (METIS 1175029 refers). These changes included:
   a. An increased EEL rate for Private Training Establishments (PTEs) from 0.45% to 0.89% of international student tuition fees, and from 0.45% to 0.50% for universities, Institutes of Technology and Polytechnics (ITPs); and
   b. A reduction in annual EEL expenditure commitments of $300,000.

**2019 EEL Consultation**

4. The consultation focused on Private Training Establishments (PTE) and contained three separate proposals:
   a. **Risk-rated premium** – PTEs falling into specific risk categories would pay higher EEL contributions than other PTEs.
   b. **Financial security** – PTEs would be required to deposit a specified amount in advance each year. The deposit would be forfeited in cases of closure and would contribute to reimbursement costs.
   c. **Indexing EEL rates** – This would link EEL rates to the level of actual reimbursement expenditure in the immediately preceding period. It would both cover costs and avoid the development of a large balance in the EEL account when reimbursement costs are low.

5. Consultation took place from 14 May to 25 June 2019, with submissions received online and via email. Targeted workshops were held for representatives of Independent Tertiary Education New Zealand, Quality Tertiary Institutes, and English New Zealand, as well as for the general public. The workshops were attended by the New Zealand Qualifications Authority (NZQA) and Education New Zealand (ENZ) (for two of the three workshops).

## Policy options, sector feedback and analysis

6. In total, 19 submissions were received, alongside the feedback gathered from the sector workshops. Of the submissions, nine were from English New Zealand members, one from a non-PTE and two from PTEs with an External Evaluation and Review (EER) rating[1] of 2 or less. A full summary of submissions is found in Annex 1.

**Proposal 1: Risk-rated premium**

7. Most submitters agreed that more should be done so those who are most likely to draw-down on the EEL account through reimbursement costs contribute more. However, there was only limited support for the use of a risk-rated premium to achieve this.

8. None of the six risk factors presented in the discussion document gained unanimous support. Of the factors:
   a. 'Rapid growth or contraction' and 'previous/current statutory action' had the most support, however many questioned how each would be defined.
   b. The EER results had muted support due to concerns about the perception of subjectivity involved in NZQA's evaluations.
   c. Financial viability was the least agreeable factor across submissions.

9. The complexity, timing and cost-effectiveness of modelling risk factors were concerns raised by submitters (i.e., use of independent evidence, the administrative cost of modelling and the appropriateness and expertise held by the Ministry to model risk). The contestable nature of a risk-rated premium may also create extra administrative burden, if a provider is unconvinced by their rating.

10. Submitters often misconstrued the purpose of a risk-rated premium as a means of defining and addressing risk across the sector, rather than a tool that utilises existing risk measures to define differential EEL rates. This resulted in many submissions focusing on wider regulatory settings for quality provision. For example, submissions queried NZQA's quality monitoring and the fairness of requiring quality PTEs to cover the expenditure caused by the failure of a few low-quality PTEs. This often hindered constructive dialogue on factors presented in the consultation document.

*PwC Analysis*

11. The Ministry contracted PricewaterhouseCoopers (PwC) to undertake a theoretical modelling exercise for the development of a risk-rated premium levy system.

12. This exercise considered how the introduction of a risk-rated premium levy would impact the levy amount paid by PTEs of different risk categories. PwC modelled two options to compare against the status quo levy rates:

[1] NZQA's external evaluation and review (EER) reaches statements of confidence on quality of educational performance capability in self-assessment within tertiary education organisations. Once EER is completed a Category of 1 – 4 is assigned.

*Table 1: Options for PTE risk-premium classifications*

| Status Quo: | Option 1: EER only | Option 2: Multiple variables |
|---|---|---|
| • Base levy (charged to non PTEs) | • Base levy | • Base levy |
| • PTE levy | • Category 1 & 2 levy (charged to PTEs with Category 1 and 2 EER rating ) | • Category 1 & 2 levy |
| | • Category 3 (charged to PTEs with Category 3 EER rating) | • Category 3 without 'X' levy (charged to Category 3 PTEs without the arbitrary risk factor 'X') |
| | | • Risk factor X levy (charged to Category rating 3 PTEs with arbitrary risk factor 'X'). |

13. Currently, only EER data measures the quality (but not risk) of international education providers. The risk factor 'X' is included for illustrative purposes only. The purpose of the analysis completed by PwC was to show how a risk-rated premium system could theoretically be constructed, as opposed to showing the exact levy rate and amount charged to each provider.

*Table 2: Theoretical levy rates (amount paid per $1m in international student revenue*)*

| **Levy rates*** | **Status Quo** | **Option 1** | **Option 2** |
|---|---|---|---|
| Non-PTEs | 0.50% *($5,000)* | 0.43% *($4,300)* | 0.43% *($4.300)* |
| PTEs | 0.89% *($8,900)* | 0.79% *($7,900)* | 0.79% *($7,900)* |
| PTEs with an EER rating of 3 | | 1.71% *($17,000)* | 1.40% *($14,000)* |
| PTEs with an EER rating of 3, and an arbitrary risk factor "X" | | | 2.02% *($20,200)* |

**There were a number of arbitrary assumptions used in the modelling that impact the levy rates and amount charged to each provider, so the exact levy rates provided in the table above should not be relied upon.*



14. The levy rates shown in Table 2 illustrate how rates would increase depending on a provider's risk categorisation. In 2018, of the 163 PTEs, 63 (39%) had an annual international student revenue of $1 million and over. There were 13 PTEs with an EER rating of 3, 7 (54%) of which had an annual international student revenue of $1 million and over.

15. In options 1 and 2, non-PTEs and PTEs in a low risk category would pay a lower rate to what they do now. This is because the PTEs with an EER category of 3 would be paying high levy rates to account for the increased risk they present regarding reimbursement costs.

16. The highest risk providers in Option 1 (PTEs with EER rating of 3) would pay over double the rate of lower risk providers. In Option 2, the extra risk factor results in the highest risk providers paying over two and a half times that of the lowest risk PTEs.

*Ministry response*

17. The modelled rates contain significant caveats that would need to be addressed before implementation. These include issues of data availability and suitability, and the ease of cost-effective analysis and application. Table 3 presents comments on the three options

*Table 3: Pros and cons of the potential Risk rated premium options*

| Option | Comment | Implementation |
|---|---|---|
| *Status quo* | **Pros**<br>Retaining the status quo would recognise the data limitations and probable costs of introducing a risk-rated premium.<br>**Cons**<br>Some PTEs will feel they are still covering for poor providers. | N/A |
| One<br>*Use of EER as only risk rated component* | **Pros**<br>The data for the EER is available and has an established mechanism for providers to contest their rating. It also clearly ties the risk-rating to regulatory action.<br>**Cons**<br>Its use would likely be met with hostility from the PTE sector, who feel it is not fit for purpose due to its four year review cycle and assessment framework. NZQA also consider it is not a reliable indicator of risk of failure because:<br>1. It looks at education performance and self-assessment across the Tertiary Education Organisations (TEO) through sampling.<br>2. It does not give close consideration to a TEO's financial viability.<br>3. EERs reflect a snapshot in time and are informed by available evidence at that time. | Earliest 1 Jan 2020. Note – a January introduction date could force the closure of PTEs |
| Two<br>*Risk rating using 2-3 variables* | **Pros**<br>Using more factors will provide greater accuracy and distribute cost more effectively.<br>**Cons**<br>The administrative cost of collating the data and the impact this increased accuracy will have on levy rates may not warrant the increased effort. This will also require the development of framework to allow providers to contest their premium rating | Post 2021.<br>There are significant data gaps that will need to be addressed |

18. Based on this analysis, we recommend the Status Quo. While we believe that the theory underpinning the use of a risk-rated premium has merit, the practicalities of its implementation make it unsuitable. Option 1 is constrained by the methodological limitations of the EER, as identified by NZQA (who administers it) and the sector. The cost of Option 2 would be significant, due to new data collection and collation requirements. We consider this cost would most likely outweigh any benefit.

19. Provider interest in a risk-rated premium was based on a potential reduction in their EEL rate. A risk-rated premium would redistribute cost, rather than reduce expenditure – especially over the short term. This means if a risk-rated premium forced providers out of the market, higher quality providers would end up covering the cost of draw downs on the EEL.

20. The majority of submissions called for greater emphasis on mitigating risk before reimbursement from the EEL would be required. We agree, and this is why the International Education Strategy has placed emphasis on moving from 'quantity to quality'. NZQA has also made changes to reduce risk, for example:
    a. Robust entry level for new PTE registrations,
    b. strengthened programme approval processes,
    c. targeted monitoring of programme delivery in view of risk, and
    d. continued review of NZQA Rules to tighten up on areas of risk and poor quality, such as Rule 18 (English language requirements for international students).

**Proposal 2: Financial Security**

21. The vast majority of submissions were against a financial security requirement. Many felt that this represented further punitive action against PTEs, which would have serious implications on cash-flow and their ongoing viability.

22. As with risk-premiums, the issue of regulatory failure was raised in this context. Many submitters expressed frustration at perceived inaction by Government and continuation of policy development that punished good providers.

*Ministry Response*

23. We do not recommend progressing Proposal 2 as it would not adequately target poor education providers or promote best practice.

24. PTEs often run on tight margins and tight cash flow, due in part to tuition fees being held in Student Fee Protection scheme arrangements. A financial security would further tighten margins, and its blunt application may limit the viability of providers, regardless of their quality.

25. The Financial Security proposal was not received favourably in the sector, nor is there a comparative measure in any other industry e.g. the adventure tourism and outdoor sector.

**Proposal 3: Indexing EEL rates**

26. Feedback on indexing was generally positive. Submitters saw the increased responsiveness provided by indexing as a key benefit, but were concerned how operational matters (such as timing of indexing and the target balance) would affect their current business practices.

27. The timing of indexing will determine the scale of any rate changes, as well as its acceptability to the sector. We heard that providers do not want to maintain a high EEL balance, nor do they want frequent rate changes as this would adversely affect their business planning. Many providers highlighted that fees and budgets for 2020 are already set, and introducing change at this time in the year would heighten the impact they would experience.

Ministry response

28. We recommend progressing indexing on a 3 yearly basis, with the first revision occurring in 2022 (3 years after they were last changed). The EEL currently has a relatively high cash balance due to the $4 million Government loan, so there is little urgency to increase the levy rate in the short term. A 3 yearly review will ensure the balance of the levy does not build up, while maintaining a reasonable cash balance to cover any closure costs.

29. PwC modelling has shown that under the current levy rates (0.50% for non-PTEs and 0.89% for PTEs) it is unlikely (though not impossible) that the EEL cash balance will become negative prior to the next levy reset date. If there are unexpectedly high reimbursement costs during this period, the debt facility could still be used to address any cash flow issues which would then be incorporated into the next period's rate.

30. Progressing the indexing proposal will require an amendment to the Education (Export Education Levy) 2011 Regulations by 1 January 2022.

## Feedback and analysis of additional themes

31. Governance and expenditure emerged as key themes in the consultation feedback that were not directly related to any of the specific proposals.

**Governance**

32. Submissions indicated there was a lack of adequate sector oversight, influence and input over how the EEL was managed and spent. The wider international education work programme has mechanisms to facilitate sector input (i.e the international education stakeholder group), yet there is no such governance mechanism specifically for the EEL. This arrangement puts the EEL at odds with comparative levies administered by the Government.

33. Prior to Education New Zealand becoming a Crown Entity in 2011, a range of reference groups were administered by the Education New Zealand Trust. These groups assisted the Trust's development and implementation of their EEL work programme. The reference groups were:
    a. Professional development,
    b. Research,
    c. Quality Assurance, and
    d. Promotion.

*EEL Advisory Group*

34. The Ministry of Education intends to establish an Advisory Group made up of representatives from providers who contribute to the EEL, as well as organisations who support its management. The purpose of the group would be to provide stakeholder input into the strategic direction of the EEL. It would not hold decision-making authority.

**EEL expenditure**

35. Following the 2018 consultation it was agreed that EEL expenditure would be reduced by $300,000. This reduction will not affect core funding and was initially achieved through a known underspend in International Student Wellbeing Strategy funding (METIS 1175029 refers). A decision on the source of the expenditure reduction for out-years is yet to be made.

36. Submitters called for a further reduction in the annual (non-closure related) expenditure from the EEL account, with many identifying Education New Zealand's funding as a potential source. Currently ENZ receives $3,266,000 per annum for marketing and promotion activities. This funding includes an additional $1 million allocated to ENZ in 2017 when the EEL account balance was high and predicted to rise.

*Ministry response*

37. The EEL account has not sufficiently recovered since the Government loan was required in 2018. While forecasts indicate the loan will be repaid by the agreed 2023/24, any further closures will put significant pressure on the EEL account once more. NZQA suggests this is possible.

38. An expenditure reduction would reduce financial risk and further ensure the account is returned to surplus. The sector has strongly endorsed a reduction in expenditure against the EEL.

39. We propose to reduce ENZ's EEL funding to meet the agreed annual expenditure reduction of $300,000. We considered using the International Student Wellbeing Strategy (ISWS) Funding, however deemed this would significantly limit the ongoing success of the ISWS as the EEL is its only funding source.

40. ENZ are concerned that this reduction would impact existing contracts. We have identified two timing options for the expenditure reduction for your consideration:
    a. *The current financial year (Ministry preference)*
       This reduction has been well signalled to ENZ and would immediately reduce financial risk, as well as be well-received by EEL contributors. This will put pressure on ENZ's baseline funding.
    b. *2020/2021 financial year (ENZ preference)*
       This would allow ENZ more time to budget for the expenditure reduction, potentially reducing its impact on existing contracts. This would mean the expenditure reduction for 2019/20 would not occur, placing further strain on the EEL balance.

41. We propose a further reduction of $700,000 of ENZs EEL funding from 2021 onwards (a net reduction of $1 million per annum). This would return ENZ's EEL funding to 2017 levels. ENZ expressed further reservation about this proposal, and suggested a staggered approach to allow for budget planning.

42. If you wish to proceed with these reductions, officials will include the $300,000 reduction in the March Baseline Update and work with ENZ to develop options to offset the proposed further reduction of $700,000.

## Other EEL matters

**Student visas**

43. You have sought additional advice on payment for visa-related costs incurred by students at KITE.

44. Prior to 2017, Immigration New Zealand covered students' visa-related costs arising from a provider or course closure. INZ has provided informal advice that previous visa-related issues from closures cost them $500,000. Students are now expected to meet visa change costs themselves. The recent closure of the Kiwi Institute of Training and Education (KITE) has highlighted this change.

45. Immigration New Zealand's business model is to pass on costs. Costs that result from INZ processes are therefore covered by the student. The visa change costs incurred by students are a result of government decisions to close the provider. The visa change required is the replacement of provider name. Other agencies such as NZQA absorb the costs that result from such closures.

46. Previously it was decided not to cover visa-related costs from the EEL because of its financial position and to reimburse INZ would require legislative change. A change to support students' visa-related costs for all future closures would put additional pressure on the EEL as the financial position of the Levy has not yet improved.

47. There are three options for managing the visa costs relating to the KITE closure:

    a. We can leave things as they are and the students incur any visa change costs.
    b. We could fund student costs out of the levy while we work with MBIE to find an enduring solution. We anticipate it would cost $75,000 to cover the upcoming visa change costs for the KITE closure.
    c. The third option is Crown funding (would require MBIE's agreement) to cover these costs while we work with MBIE to find a long term solution.

48. These options are relevant to the immediate KITE situation. We will provide advice within the next month on options for ongoing management of these costs.

**Financial position of the EEL**

49. In September 2018, you directed the Ministry to report to you biannually on the progress and sustainability of the EEL (SWC-18-MIN-0116 refers). A dashboard of the current position of the EEL account is in Annex 2.

50. In 2018, a total of 110,790 international students studied in New Zealand. The total un-audited income balance to 30 June 2019 was $6,456,918 and expenditure of $5,894,783 - a net surplus of $562,135. Increased expenditure was caused by provider and programme closure.

51. NZQA has confirmed one closure (KITE) for the 2019/2020 financial year and has one other provider currently under review. These have a forecast reimbursement cost of $2.5 - $3.5million for 2020. Such cost would put significant pressure on the EEL, but the Government loan is still on track to be paid back in full by 2023/2024.

52. The Ministry produces an EEL Annual Report which provides a detailed analysis of the EEL spend. The next report will be provided in early November 2019.

## Conclusion

53. Incentivising quality provision and reducing risk across the PTE sector is integral to ongoing success. The purpose of the EEL is to fund initiatives that drive quality, however its ability to directly mitigate risk is limited.

54. We consider that a risk-rated premium will not adequately drive quality provision or reduce risk. The introduction of indexing (Proposal 3) and expenditure reductions, coupled with improving the overall quality of the sector, should see EEL rates for all providers decrease over time.

## Next steps

55. We will publish the summary of submissions and let key stakeholders know of your decisions.

## Proactive release

56. It is intended that this Education Report is proactively released as per your expectation that information be released as soon as possible. Any information which may need to be withheld will be done so in line with the provisions of the Official Information Act 1982.

## Annexes

Annex 1: Summary of submissions

Annex 2: EEL Dashboard

MINISTRY OF EDUCATION
TE TĀHUHU O TE MĀTAURANGA

Annex 1: Summary of Submission

# Export Education Levy Summary of Submissions

2019 sector consultation on risk-rated premium options

## Introduction

The Export Education Levy (EEL) is paid by all providers enrolling international students, as percentage of total tuition fee. The EEL is used to support a broad range of activities and projects related to export education, including:

- Promotion and marketing
- Administration of the Code of Practice, the Dispute Resolution Scheme, and the Levy
- Funding to organisations through the International Student Wellbeing Strategy to support wellbeing initiatives.

The EEL also funds the reimbursement of international students and Crown agencies for direct expenses related to programme and provider closures (including transferring students to another provider to complete their studies).

The EEL rate is set by the Minister of Education through the Education (Export Education Levy) Regulations 2011. The Education Act 1989 requires the Minister of Education to consult with education providers before changing the amount of the EEL.

Following changes made to the EEL in 2018, the Ministry of Education sought input from the international education sector peak bodies and individual providers on three proposals to further improve the ongoing sustainability and fairness of the account. These included:

a. Risk-rated premiums
b. Financial security
c. Indexing rates.

Consultation ran from 14 May to 25 June 2019. A consultation document was published on the Ministry of Education's website and feedback was received through written submissions, as well as during sector consultation workshops held in Auckland. The workshops were held for representatives of Independent Tertiary Education New Zealand and Quality Tertiary Institutes, English New Zealand, and for the general public. These were attended by the New Zealand Qualifications Authority (NZQA) and Education New Zealand (for two of the three workshops).

**Respondent profile**

In total, the Ministry received 19 written submissions (16 online survey responses and 3 email submissions). Of the 19 submissions received, 9 were from English New Zealand members, 2 from peak bodies and one from a non-private training establishment. Two submissions were received from providers with an External Evaluation Rating[2] (EER) of two or less.

The Ministry also gathered feedback from workshops held in Auckland.

[2] Through the EER process, NZQA periodically checks and reports on the quality of education delivered by non-university tertiary education organisations (including PTEs). For more information, see: www.nzqa.govt.nz

## Proposal submissions

The consultation presented three proposals:

1. **Risk-rated premium –** PTEs falling into specific risk categories, would pay higher EEL contributions than other PTEs (non-PTEs will continue to pay a base amount, but all PTEs will pay a higher amount than non-PTEs).
2. **Financial security –** PTEs would be required to deposit a specified amount in advance each year. The deposit would be forfeited in cases of closure and would contribute to reimbursement costs.
3. **Indexing EEL rates –** This would mean that the EEL rates could change for all providers, linked to the level of actual reimbursement expenditure. The formula for indexing would also take into account a minimum target balance for the EEL account, and our continuing need to repay the Government loan arranged in 2018 to cover reimbursement costs.

**Proposal 1: Risk-rated premium**

Most submitters agreed that more should be done so those who are most likely to draw-down on the account contribute more. However, many questioned if a risk-rated premium could effectively target the source and responsibility for risk.

*Risk factors*

Table 2 summarises specific feedback on the proposed factors:

| Table 2: Feedback on proposed Risk-rated premium factors | |
|---|---|
| **1. EER category rating** | There was mixed support for the use of EER. Many submitters called for a better defined relationship between regulatory action (ie. NZQA quality assurance) and the EEL – especially when considering the reimbursement function. Those who were concerned about the appropriateness of using the EER cited issues of timing and assessment validity:<br>*"EER ranking takes 3-4 years to change and is in itself problematic. It is the opinion of people who are looking for issues"*<br>*"EER Category: Poor reflector of quality. Flawed evaluation process. Based on perceptions not reality"* |
| **2. Financial viability** | Many questioned the viability of this option, as required data is not currently collected. |
| **3. Rapid growth or contraction** | This was perceived to be a poor calculator of risk because this is dependent on policy (e.g. immigration policy changes). The sector questioned the definition of rapid-growth, specifically how it will deal with small provider growth and when growth is coupled with good management (e.g. tutors, resources, classrooms). |
| **4. Programme monitoring** | We heard this was the least consistent of the RRP options and that programme monitoring is not a good way to calculate risk unless NZQA changes the process. Responses also cited issues of effectiveness of timing:<br>*"Moderation is an opinion of the moderators and can be/has been successfully debated."*<br>*"Moderation is after the event."*<br>*"We do not support the use of EER results as a suitable indicator of risk. The EER is of only moderate validity and have very low reliability."* |

| | |
|---|---|
| **5. Previous/current statutory action** | Submitters questioned the definition of 'previous' action. |
| **6. Students predominantly (more than 80%) from one country** | We heard that this risk is more to do with market than with quality, and that some programmes attract a particular market. Poor business strategy was considered a greater risk than single market dependency. |

*Other risk factors*

We heard that the sector identifies agent fees (commission rates), tuition fees, student numbers and resources, and business strategy as the biggest risk factors. We heard that there should be further analysis on the factors leading to provider closure, with a view to understand the prediction of risk rather than the response to risk. Offering a qualification was also identified as a risk, as this was seen as a major contributing factor to draw downs on the EEL account in the event of course, or provider closure. The use of the New Zealand Qualifications Framework as a measure was mooted.

Meeting attendees suggested holding a workshop to determine PTE risk factors, which representatives of each sector could attend. This workshop would help develop an overall picture and plan for risk that the EEL could utilise, if needed.

*Calculating risk*

Submitters raised concerns about complexity, timing and cost-effectiveness of modelling risk factors (i.e. use of independent evidence, how we ensure rating contestability, the administrative cost of modelling and the appropriateness and expertise held by the Ministry to model risk).

*Regulatory failure*

Some submitters argued that the responsibility for risk should lie with NZQA – they saw the cause of risk, in the first instance, as a product of regulatory failure by NZQA. They argued that if more regulatory action was taken up front then there would be minimal need to use the EEL to reimburse the students of failed providers.

> *"Risk-rated premiums are an example of the tail wagging the dog."*
>
> *The failures of PTEs reflect badly on the supervisory role of NZQA - these failed colleges should never been allowed to reach these positions of collapse.*
>
> *"The consultation document identifies a systemic failure, rather than a financial one. The solutions must therefore be systemic, not a band aid through a financial levy."*
>
> *"[Organisation] supports a risk-weighted EEL; however, this would still be inequitable as it fails to completely address the causes of the problems that have arisen and subsequently required the use of the EEL."*

Many 'good' providers resented the additional rate imposed on PTEs[3], and felt they were being forced to cover losses of their competitors: both through the higher EEL rates and through general taxes for non-PTEs. Some providers, specifically members of English New Zealand, felt they should pay lower EEL rates and be excluded from risk-ratings due their low probability of failure.

> *"These premiums are just another way of taxing providers for the Government's short comings."*

[3] Differential rates were introduced to the EEL in January 2019, where non-PTEs pay 0.50% and PTEs pay 0.89%

Furthermore, some submitters said the reimbursement function of the EEL incentivised poor education provision:

- *"...the levy pay out also ENCOURAGES high risk providers and their agents to send students there, so in fact DAMAGES NZ's reputation by incentivising students/agents to choose those schools."*

**Proposal 2: Financial Security**

The majority of submissions were against the financial security proposal. Reasons included:

- Any form of financial security would be a major financial burden on private businesses. It would significantly affect cash flow, and reduce the viability of all PTEs
- It would not effectively target poor providers
- Could create a significant drawdown on the EEL over a short period of time, as it would force good players out of the market as well as increase the likelihood of closures from high risk performers.

More broadly, it was seen by many as further discriminatory action against the PTE sector, who already have high compliance costs.

There was concern amongst the sector that the suggestion of this financial security could be an admission that the Student Fee Protection scheme is a failure. It was suggested that adjusting the SFP settings could be a better way to manage full refund value.

One respondent supported Proposal 2, with the comment that any financial security should be dependent on their rating/factors as per indicators above [RRP] and a scaled security payment for low risk PTEs.

We heard that if such a requirement were to be introduced, then presumably it would only apply to providers with programmes leading to qualifications. We heard that if this was the case then the amount of the deposit would be so high that it would be unfair to good providers.

Like the risk-factors, the issue of regulatory failure was raised - many submitters expressed frustration at perceived inaction by Government and continuation of policy development that punished good providers.

**Proposal 3: Indexing EEL rates**

Feedback on indexing was generally positive. However, it was suggested its success would be dependent on the sector's contribution to its planning and setting.

Some submitters gave their provisional support, which was dependent on decisions on how often indexing would be reviewed and what the target balance would be. Some thought that a yearly interval would be too narrow, as it would not allow enough time for business planning and budgeting:

> "...*[A] one-year timeframe does not provide a suitable or fair ability to budget for any increase a provider might need to bear even if they are not part of the course failure/drawdown. It should be based on the two years prior.*"

A governance board with representation from the PTE sector was suggested as a mechanism to enable greater sector input into decisions about management and spending of the fund (to avoid overspend of sector money). This could be done in conjunction with, or instead of, indexing.

## General themes

The following themes ran across the submissions and proposals:

| Theme | Feedback |
|---|---|
| **Governance** | • The sector is unhappy with the governance and spend of the EEL, and Private Training Establishments (PTEs) would like a voice over decision-making and strategy of the EEL.<br>• Suggested the administrative processes of EEL could be aligned better to other levies, such as those covered under the Commodity Levies Act 1990. |
| **Equity** | • PTEs do not feel as though they benefit from the EEL relative to what they pay, specifically from the marketing and promotion function of the EEL.<br>• The PTE sector, particularly English New Zealand, is averse to the reimbursement function of the EEL as they perceive it as a penalty or tax on good providers who have to cover the shortcomings and bad practices of poor quality providers.<br>• It was suggested those PTEs who do not offer qualifications should be classified differently, due to a supposed difference in EEL drawdown.<br>• Some providers felt that students should shoulder some of the responsibility for risk. |
| **Transparency** | • Many questioned how EEL revenue was spent and felt not enough was being done to show contributors how their money was being spent. Of particular concern was Education New Zealand's expenditure.<br>• We heard that NZQA's monitoring process is not transparent, and that the tighter monitoring since 2016 has led to PTEs going under. |
| **Risk** | • Many felt that the EEL was too late in the process to determine risk, and more needed to be done up front.<br>• Some suggested that students needed to hold some responsibility of provider selection. |

## Other feedback

| | |
|---|---|
| Rule18 changes | Noted that Fiji is one of the lowest risks for English language as they study in English yet a new rule requires Fijian students to take a test (e.g. IELTS) – the sector sees this as a lack of understanding of the markets. |
| INZ attitude to visas | We heard that the process for dealing with visas has become conservative and risk-based; the current attitude towards international students is to see them as risky and the sector sees this as offensive. Agreed that there needs to be better use of intelligence to see where the 'bad practice' and 'risk' is in the sector. |

# Export Education Levy Dashboard: August 2019

This Dashboard provides an update on the progress and ongoing sustainability of the Export Education Levy.

## Key Points

- In 2018, a total of 110,790 international students were enrolled in 781 learning institutes across New Zealand.
- Total un-audited income to 30 June 2019 was $6,456,914 and is expected to decrease to $5,902,000 in 2020.
- The total un-audited expenditure to 30 June 2019 was $5,894,783 and is expected to increase to $8,321,596.
- The account has surplus of $562,135 but net assets have decreased from $5.5 million in 2016 to $2.3 million 2019 (a $3.2 million reduction in 3 years). This is forecast to decrease to circa 600,000 in 2020.
- There has been a voluntary PTE deregistration and NZQA has one under review. They have forecast a worst-case reimbursement cost of $2.5 - $3.5 million for 2020.
- The extra reimbursement cost will put significant pressure on the EEL, but the Government loan is still on track to be paid in full by 2023/2024.
- The agreed funding reduction of 300,000 has been included in the 2020 forecast, but has not been appropriated.

**Table 1: EEL Income, Expenditure and Assets**

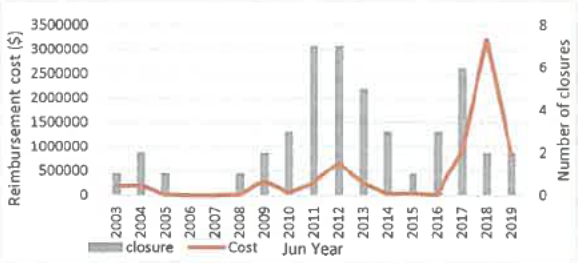
| | Forecast Jun-20 | (Provisional) Jun-19 | Audited Jun-18 | Audited Jun-17 |
|---|---|---|---|---|
| **Total Income** | **$5,902,000** | **$6,456,914** | **$5,092,113** | **$5,576,944** |
| **Expenditure** | | | | |
| Audit Fee | $10,152 | $10,152 | $8,100 | $8,100 |
| Code of Practice - NZQA | $723,000 | $723,000 | $723,000 | $823,000 |
| ENZ - Marketing, promotions and other | $3,266,000 | $3,266,000 | $3,265,000 | $4,185,504 |
| Student Wellbeing Initiatives | $750,000 | $709,726 | $527,420 | $0 |
| Dispute Resolutions Services and IEAA | $222,444 | $222,444 | $220,145 | $316,126 |
| Operating Cost - MOE | $150,000 | $147,458 | $145,702 | $147,543 |
| Support for students affected by failure of providers | $3,500,000 | $816,004 | $3,214,443 | $908,182 |
| Agreed funding reduction of $300,000 (source TBC) | -$300,000 | | | |
| **Total Expenditure** | **$8,321,596** | **$5,894,783** | **$8,103,810** | **$6,388,455** |
| **Net Surplus/(Deficit)** | **-$1,719,596** | **$562,135** | **-$3,011,697** | **-$811,511** |
| Cash At bank and term deposits | $5,856,176 | $5,208,992 | $2,647,518 | $7,760,263 |
| Accounts receivable | $1,200,000 | $2,844,676 | $1,447,227 | $1,287,288 |
| **Total Current Assets** | **$7,065,176** | **$8,053,668** | **$4,094,745** | **$9,047,551** |
| Accounts Payable | -$500,000 | -$1,768,896 | -$2,372,108 | -$4,313,217 |
| MOE - loan | -$6,000,000 | -$4,000,000 | $0 | $0 |
| **Total Current liabilities** | **-$6,500,000** | **-$5,768,896** | **-$2,372,108** | **-$4,313,217** |
| **Net Assets** | **$565,176** | **$2,284,772** | **$1,722,637** | **$4,734,334** |

## PTE closure information

Figure 1 shows the number of closures and reimbursement costs from June 2003 to 2019.

Since the introduction of dedicated NZQA programme monitoring in 2016, the majority of closures have been due to poor quality of assessment, meaning previous achievement is not recognised and students have to start their studies from the beginning. This has resulted in the need for full refund of fees.

**Figure 1: PTE reimbursement cost and closures – Jun 2003 to 2019**




## Year-end contribution by sector

Table 2 shows the funding distribution of the EEL by sector

The distribution is comparable with previous years. The number of students is down and tuition fee income is higher on previous years

**Table 2: Export Education Levy (GST Excl) collected by sector, year-end 2018**

| Sector | No of Providers | No of students | Tuition Fees | Levy | % income by sector |
|---|---|---|---|---|---|
| School | 618 | 21,670 | $193,932,471 | $987,026 | 19% |
| Universities | 8 | 24,760 | $513,376,356 | $2,300,356 | 43% |
| ITPS | 16 | 18,730 | $185,829,003 | $831,981 | 16% |
| Funded PTEs | 80 | 12,155 | $119,953,365 | $530,003 | 10% |
| Unfunded PTEs | 83 | 34,255 | $150,532,214 | $677,395 | 13% |
| **Total** | **781** | **110,790** | **$1,163.623,409** | **$5,326,761** | **100%** |

*Note: For universities, ITP and funded PTEs, provider's students are counted in each sub-sector they enrol in, so the sum of the various sub-sectors may not add to the total.*