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NEW ZEALAND QUALIFICATIONS

AUTHORITY



NEW ZEALAND QUALIFICATIONS AUTHORITY
MANA TOHU MĀTAURANGA O AOTEAROA

How To Maintain Registration
as a Private Training Establishment

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Introduction

Once a private training establishment (PTE) has been registered, it is required under section 236AA(1) of the Education Act to demonstrate it continues to comply with the statutory policies and criteria for ongoing registration. These are established by NZQA under section 253(1)(ca) and presented in **Appendix I**.

NZQA requires PTEs to supply all of the information outlined in this document to establish whether each PTE meets the policies and criteria for ongoing registration,

Summary of requirements for PTEs

Each registered PTE is required to submit by the due date:

- an Annual Return – Statutory Declaration and Chartered Accountant Professional Attestation;
- a quarterly student fee protection attestation;¹
- an annual audit of student fee protection trust arrangements.

In addition, PTEs are required to:

- maintain the information in their *Tertiary Education Organisation Profile*;
- advise changes to sites;
- advise changes of directors and owners, as approval may be required;
- provide information, as requested, for the purposes of external evaluation and review, concerning complaints, other investigations, evidence of suitability of directors, and ownership, where there is a change. 

¹ Unless no fees are received from students and the PTE is therefore exempt from the requirement.



Annual Return

Each year, a registered PTE is required to submit the Annual Return, by the due date.

Method of completion

A Statutory Declaration and a Chartered Accountant Attestation must be submitted in the prescribed forms.

The NZQA template for the Statutory Declaration is available as **Appendix 2**. The NZQA template for the Chartered Accountant Professional Attestation is available as **Appendix 3**.

Due date

The Annual Return is required to be submitted within 90 days following the last day of the PTE's financial year, as declared on its *Tertiary Education Organisation Profile*.

Validation of returns

NZQA will select a sample of approximately 10 percent of Annual Returns each year for further validation. The PTEs selected in the sample will be required to provide NZQA with the evidence they hold which supports the Annual Return.

Failure to comply

Failure to comply will result in NZQA applying one of the available statutory levers. If there is evidence the PTE has made a false declaration, NZQA may take legal action against the signatory.

Costs for validating Annual Returns

The cost of validating the Annual Returns will be built into the Annual Fee as a way of ensuring the system is reliable and valid.

However, if a PTE is found to be non-compliant with PTE registration requirements through the validation process, then the ensuing investigative and follow-up work would be charged to the PTE in accordance with the published fee structure. 



Student Fee Protection

To maintain its registration a PTE must meet the requirements of NZQA's Student Fee Protection policy. Student fee protection covers all payments made to a PTE by, or on behalf of, a student. If paid to a PTE, these will include:

- fees (including course-related costs);
- accommodation;
- living expenses.

NZQA's student fee protection policy protects the interests of domestic and international students. The policy comes into effect if a PTE stops offering a course in which students have enrolled (i.e. 'course closure').

The requirements of the student fee protection policy for PTEs to maintain their ongoing registration are summarised below. The full student fee protection policy is available on the NZQA website at <http://www.nzqa.govt.nz/for-providers/aaa/docs/studfeeptopol.doc>

Quarterly student fee protection attestation

PTEs are required to attest quarterly to their student fee protection trustee with regard to their student fee protection arrangements. The trustee then must attest to NZQA about the PTE's attestation and other information they must reasonably have.

The templates and timetable for quarterly attestation are available on the NZQA website.

Audit of student fee protection arrangements

PTEs are required to submit an annual audit of the operation of standard, static and bank bond trust operations as detailed in the trust deed. The approved NZQA forms for audit opinion/auditor engagement letters are available on the NZQA website.

Student fee protection options

NZQA's student fee protection policy allows a number of options to be used. These are detailed in part two of the student fee protection policy on the website and include:

- trust accounts (standard or static);
- bank bonds;
- insurance (student-based insurance or bonds);
- company or parent body guarantees;
- deferred payment;
- collaborative arrangements.

4 How to Maintain Registration as a Private Training Establishment

PTEs may use the option most suitable for their circumstances, provided NZQA gives prior approval. They may also use more than one option as long as the fees of all students are covered to the satisfaction of NZQA. If the PTE's student fee protection mechanism is one of the above, the PTE will need to use the relevant NZQA-approved trust deed, available on the NZQA website at <http://www.nzqa.govt.nz/for-providers/aaa/financial/sfp/setup.html>

Standard Trust Deed

The standard NZQA trust account is one where individual student fees are drawn down in arrears. The *Standard Trust Deed for Chartered Accountant and Solicitor Trustees* template is available on the NZQA website, along with *Guidance Notes for PTEs and Trustees* and separate *Guidance Notes for Students*.

Static Trust Deed

A static trust is where an amount equal to the maximum liability the PTE would have in the event of course closure is held in trust. The static trust does not rely on student fees being paid into the trust account and there are no periodic draw-downs. (This arrangement is Option 2 (b) of the Student Fee Protection Policy). The *Static Trust Deed* template is available on the NZQA website, along with *Guidelines for the Calculation of the Entitled Student Amount* and *Guidance Notes for PTEs and Trustees*.

Bank Bond Trust Deed

A bank bond is where the PTE arranges for a bank to cover the maximum liability the PTE would have in the event of a course closure. The bond arrangement must include a trust process for the distribution of funds to students (as per Option 4 of the Student Fee Protection Policy). A Bank Bond Trust Deed template is available on the NZQA website, along with *Guidelines for the Calculation of the Entitled Student Amount* and *Guidance notes for PTEs and Trustees*.

Additional information regarding trust deeds is available in **Appendix 4**.

Memorandum of Understanding

A Memorandum of Understanding is for PTEs who do not use a standard or static trust for their full student fee protection, but are required to protect student fees under section 236A(2) of the Education Act 1989. A *Trustee's Memorandum of Understanding Form* template and *Guidelines* are available on the NZQA website.

Exemption from student fee protection arrangements

PTEs must have a student fee protection mechanism in place that complies with NZQA policy. However, PTEs that meet the exemption criteria in the student fee protection policy can apply to be formally exempted.

A PTE is eligible for exemption from the student fee protection policy if:

- the course is of five days, or a maximum of 50 hours duration or less;
- total student fees amount to \$500 or less;

- there are no course fees, e.g. courses are completely funded by Government; or
- the course is completely funded by third parties, e.g. a business or businesses.

If a PTE believes it has grounds for exemption, it should write with details to:

*Deputy Chief Executive
Quality Assurance Division
New Zealand Qualifications Authority
PO Box 160
Wellington 5011*

A written exemption ensures that all parties know that an exemption has been granted. For exemptions on a student basis, a PTE will also need to keep records of who is exempt.

A student fee protection mechanism must be in place until NZQA provides written approval of exemption. Course hours cover all directed teaching, including distance teaching. Consecutive enrolments in modules are treated as an enrolment in a single course.

Student fee protection information to students

At a minimum, students should be advised:

- the amount of fees protected;
- the type of fee protection arrangement in place and details of the trustee;
- people or organisations to contact if their course or PTE closes;
- to attend meetings arranged for students affected by a closure;
- to consult the NZQA website (www.nzqa.govt.nz).

Specific issues with regard to PTE obligations regarding international student fee protection are outlined in **Appendix 5**. 

NZQA actions in response to quality concerns

There are a range of actions NZQA can use in response to a complaint, or an indication a PTE may not be complying with the policies and criteria for PTE registration. This includes failure to meet the requirements of the student fee protection policy.

Such quality concerns may be identified by an external evaluation and review, or other mechanisms such as the Annual Return.

In the first instance, NZQA will initiate an investigation which may be paper-based or involve a focused review. The investigation will seek to identify, in relation to learner outcomes, whether:

- the PTE is adequately self-managing in its compliance and whether there is evidence the PTE addresses non-compliance;
- compliance concerns exist that warrant further action;
- there is serious non-compliance and/or risk to learners. Indicators might include failure to supply compliance information, a poor credit/debt ratio indicating insolvency or severe financial difficulty, insufficient trust funds to meet NZQA's student fee protection policy, students being in real or imminent danger or criminal activity on site.

The NZQA response to any non-compliance will depend on the scope, complexity and seriousness of the findings and may involve:

a. **An Action Plan**

NZQA and the PTE may negotiate and agree a plan of action to address agreed issues.

b. **Application of statutory provisions**

The range of statutory compliance levers that can be used include:

compliance notices – directed action where compliance is sought by legal means if agreement is not forthcoming or the PTE has a history of failing to meet its obligations. A compliance notice may also be issued as an immediate response to prevent harm or if the matter is too serious for other courses of action;

placing conditions on PTE registration and/or on course approval and/or accreditation;

withdrawal of one or more course approvals and /or accreditation to deliver the approved course and/or accreditation to assess against standards for the NQF;

withdrawal of registration in the case of ongoing poor educational quality or non-compliance. 

Appendix I: Policies and Criteria for Ongoing Registration as a PTE²

CRITERION	POLICIES
<p>I. GOVERNANCE AND MANAGEMENT</p> <p>Governance and management functions are distinct, support academic integrity and are undertaken in the best interests of the PTE and its learners.</p>	<p>Goals and purposes</p> <p>I.1 The primary focus of the PTE's activities must be the achievement of its goals and purposes relating to education and training.</p> <p>I.2 The PTE contributes positively to the goals of the Tertiary Education Strategy and the objects³ of tertiary education in the Education Act 1989.</p> <p>Ownership</p> <p>I.3 The body corporate status of the PTE or its governing body must be current and the organisation compliant with all legal requirements.</p> <p>I.4 The conduct of the PTE's officers and directors must not be likely to bring the PTE into disrepute nor conflict with its educational goals and purposes.</p> <p>I.5 Arrangements with shareholders, trust beneficiaries, related companies and other bodies must not conflict with the PTE's educational focus or be incompatible with its education and training purposes and goals.</p> <p>I.6 The PTE incorporates relevant principles of the Treaty of Waitangi into its culture and activities.</p> <p>Change of ownership</p> <p>I.7 Where ownership is changed as a result of a sale or transfer of the PTE's assets or operating activities to a body that is not a PTE registered under the Education Act 1989, the new owner must apply for new registration and, where applicable, accreditation.</p> <p>I.8 Where ownership of the enterprise is changed as a result of a sale or transfer of shares, the purchaser or transferee must apply to have the PTE's current registration confirmed under the new ownership.</p>

¹ Established by NZQA under section 253 (ca) of the Education Act 1989

² i.e. "objectives".

CRITERION	POLICIES
<p>I. GOVERNANCE AND MANAGEMENT</p> <p>Governance and management functions are distinct, support academic integrity and are undertaken in the best interests of the PTE and its learners.</p>	<p>Management</p> <p>I.9 The people who are responsible for day-to-day management must have skills and experience appropriate to the PTE's educational goals and purposes, its specific characteristics, its distinctive contribution to the tertiary education sector and the services it provides to learners and other stakeholders.</p> <p>I.10 The PTE must comply with all applicable legal and regulatory requirements.</p> <p>I.11 The PTE must submit annually such documents as are required by NZQA to monitor the PTE's continued satisfaction of the statutory requirements of registration and compliance with the NZQA Policies and Criteria for Ongoing Registration.</p> <p>I.12 Public information about the PTE and the education and other services it provides must be accurate, clear and not misleading.</p> <p>I.13 A PTE cannot associate its registration status with courses not approved under the Education Act 1989 section 258 or qualifications not registered on the National Qualifications Framework.</p> <p>I.14 Personnel policies and procedures for all staff should comply with New Zealand laws, be reviewed regularly, and should meet the needs of the PTE.</p> <p>I.15 A PTE must ensure its records are managed to ensure their accuracy, integrity and compliance with relevant statutory requirements.</p> <p>Quality management</p> <p>I.16 The PTE applies a coherent quality management system across all aspects of its business.</p> <p>I.17 Every PTE should have a risk management plan appropriate to the PTE and its special characteristics. The risk management plan should identify, analyse and evaluate risks across the PTE's business activities, including education provision. The PTE should have policies and procedures to mitigate the likelihood and consequence of some risks.</p>

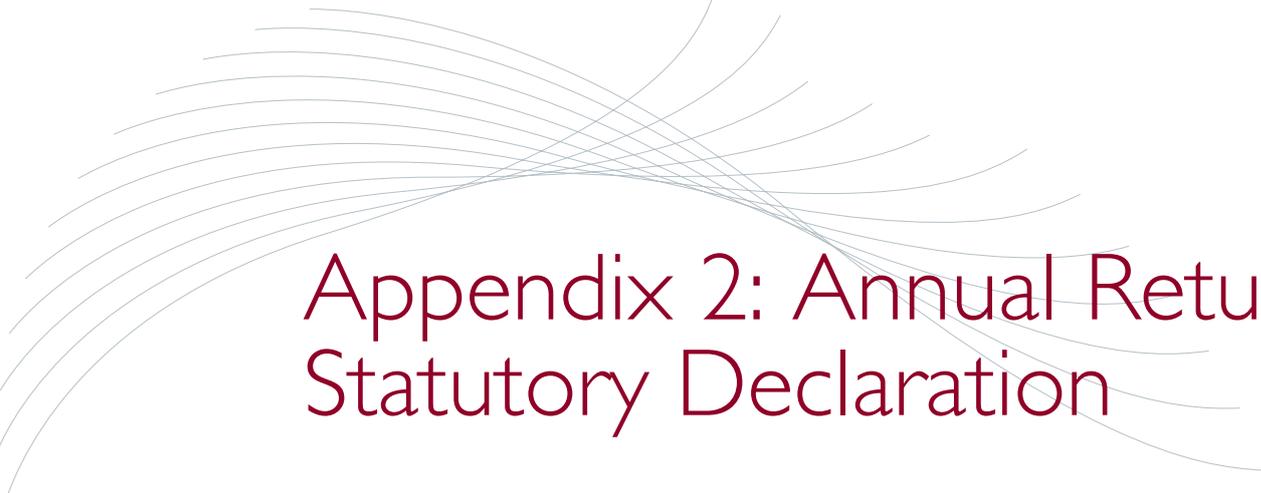
CRITERION	POLICIES
<p>2. FINANCES</p> <p>Financial management uses sound practices and achieves acceptable financial performance to recognised professional standards.</p>	<p>Accounting</p> <p>2.1 All financial records are kept up-to-date and follow accepted accounting principles.</p> <p>2.2 The PTE has an adequate system of internal controls which is reviewed annually.</p> <p>Financial reporting</p> <p>2.3 Financial statements are prepared according to Generally Accepted Accounting Practice and comply with all financial reporting standards in New Zealand.</p> <p>Financial viability</p> <p>2.4 A PTE must be financially sustainable and able to meet its financial commitments.</p>
<p>3. RESOURCES</p> <p>Physical and learner resources support good educational practice and are current, available and relevant to the learners.</p>	<p>Premises</p> <p>3.1 All premises used for the purposes of teaching and training must be of a sufficient size for the number of learners, suitable to the learners' needs, and appropriate for the courses being taught.</p> <p>3.2 All premises must comply with regulations relevant to the purposes for which they are used.</p> <p>3.3 A PTE should take reasonable steps to ensure off-site learning is undertaken in conditions which are equal to on-site learning conditions.</p> <p>Learning resources</p> <p>3.4 Learners can access and use learning resources and equipment that are current and appropriate.</p> <p>3.5 Learners can access independent learning services, such as library, study aids, electronic aids, where these are needed to achieve good learning outcomes.</p> <p>3.6 The PTE takes all reasonable steps to ensure equipment used during the course of education and training is safe to use and is used safely.</p>

CRITERION	POLICIES
<p>4. STAFF</p> <p>Recruitment, management and development of staff ensure sufficient personnel with the necessary skills, experience and knowledge.</p>	<p>4.1 A PTE must use appropriate recruitment and selection practices to make sure it has enough personnel with:</p> <ul style="list-style-type: none"> (a) teaching and subject knowledge; (b) assessment and moderation expertise; (c) educational management expertise; (d) quality management expertise; (e) student support skills; (f) financial and administration expertise. <p>4.2 The PTE's policies and procedures for ensuring the recruitment, management and development of teaching staff ensure there are sufficient personnel with the skills, experience and knowledge necessary to provide high quality teaching and learning.</p> <p>4.3 A PTE must implement staff development and management processes to ensure teaching skills and subject knowledge are current and relevant to the needs of learners and other stakeholders.</p>
<p>5. COURSES</p> <p>Development, design and delivery of courses respond to the demonstrated needs of learners and relevant parties and are consistent with the goals and purposes of the private training establishment.</p>	<p>Development, Design and Approval</p> <p>5.1 The PTE designs, develops and approves courses/programmes that:</p> <ul style="list-style-type: none"> (a) are based on the needs of learners and other relevant parties, including potential employers and communities; (b) incorporate requirements of any funding or standard-setting bodies; (c) specify the learning outcomes and expected standards of achievement; (d) ensure the learning outcomes are achievable within the timeframe of the course/programme; (e) have appropriate content, teaching and learning strategies, resources and assessment activities; (f) are current with latest industry or unit standards; (g) integrate any off-site practical or workplace components. <p>Delivery and Evaluation</p> <p>5.2 The effectiveness of a course, its delivery and its value to learners and other relevant parties is evaluated as part of the PTE's ongoing self-assessment.</p> <p>5.3 The results of self-assessment of courses/programmes are used to improve learning outcomes and achievement.</p>

CRITERION	POLICIES
<p>6. LEARNERS</p> <p>Learner support, information and entry ensure appropriate learning pathways, a safe learning environment and a reasonable chance of successful achievement.</p>	<p>Learner support</p> <p>6.1 The PTE deals with students in a fair and equitable manner.</p> <p>6.2 The PTE has an approach to well-being that encompasses taha whānau (social/cultural), taha wairua (spiritual), taha hinengaro (emotional/mental) and taha tinana (physical) dimensions to encourage and enable progress.</p> <p>6.3 Learners have access to educational and non-educational support and guidance services that meet their individual needs.</p> <p>6.4 There is a clear process for receiving and responding to student complaints which is accessible by students and which refers to NZQA's complaints process.</p> <p>6.5 The PTE must comply with NZQA's Student Fee Protection Policy.</p> <p>Learner information and entry</p> <p>6.6 Students and prospective students receive clear information on the PTE, its courses and other educational services to enable them to make informed choices about their course of study.</p> <p>6.7 Written information on entry and selection criteria and total course costs and other financial commitments is provided to students before enrolment.</p> <p>6.8 The PTE has a clear set of rules for student participation in courses and on-site behaviour which are enforced through a fair and equitable disciplinary policy.</p> <p>6.9 The PTE implements systems for gathering, recording, maintaining and storing student information. Student records are accurate and accessible by students and the integrity of the information is protected.</p>

CRITERION	POLICIES
<p>7. ASSESSMENT</p> <p>Assessment of learner achievement and moderation ensures that assessment tasks, methods and decisions are fair, reliable and valid and that moderation and reporting comply.</p>	<p>Assessment and moderation</p> <p>7.1 The PTE has systems of assessment and moderation for assessing learners against the expected outcomes of programmes which:</p> <ul style="list-style-type: none"> (a) ensure assessment processes and decisions are open, systematic and consistent; assessment methods are appropriate, fair, manageable and integrated with work or learning and evidence is valid, authentic and sufficient; (b) provide for internal moderation of assessment materials and judgements; (c) comply with external moderation requirements of NZQA and national standard-setting agencies; (d) ensure learners are assessed only against those unit standards or qualifications registered on the National Qualifications Framework for which the provider has accreditation. <p>Reporting</p> <p>7.2 A PTE adequately and appropriately reports on learner achievement, reporting learner achievement of National Qualifications Framework credits to NZQA accurately, as soon as practicable after assessment has taken place, and only in relation to the scope of accreditation granted.</p>

CRITERION	POLICIES
<p>8. QUALITY ASSURANCE</p> <p>Quality assurance is based on an evaluative approach that judges the quality, value and importance of educational outcomes and key contributing processes.</p>	<p>8.1 The PTE's quality assurance focuses on educational outcomes and key processes contributing to the achievement of those outcomes as set out in Quality Assurance Policies established by NZQA.</p> <p>8.2 The PTE must:</p> <ul style="list-style-type: none"> (a) undertake ongoing self-assessment of its performance; (b) ensure the results of this self-assessment are used to monitor and continuously improve the PTE's performance and the quality of educational and other outcomes for learners and other interested parties, including their potential employers and communities; (c) be subject to periodic external evaluation and review by NZQA. <p>8.3 The PTE is required to achieve and maintain levels of at least Confident in their educational performance and capability as a result of its external evaluation and review.</p> <p>8.4 NZQA staff will be given access to all premises, equipment, records, data and information, staff and students:</p> <ul style="list-style-type: none"> (a) with reasonable notice, for quality assurance purposes, including financial and compliance audits, complaints investigation and external evaluation and review; (b) without notice where NZQA has information there is or is likely to be a threat to the welfare or safety of staff, students or visitors.



Appendix 2: Annual Return Statutory Declaration

NZQA requires each private training establishment (PTE) seeking to maintain registration to complete and return to NZQA an Annual Return, within 90 days following the end of the organisation's financial year.

An authorised person from each PTE must make a statutory declaration stating that the information stated in the Annual Return is true. The Chairperson of the Board would normally be the authorised person to make the declaration.

The level of evidence required is described in the *Policies and Criteria for the Ongoing Registration of Private Training Establishments* available on www.nzqa.govt.nz

Each requirement in the declaration must be attributed with either a YES or NO in the right-hand column. For any criterion where the attribution is NO, the PTE must provide an explanation for the non-compliance and attach the remedy plan and submit it to NZQA with the declaration.

The declaration can be made in front of anyone authorised to take a statutory declaration. These include:

- barristers and solicitors of the High Court of New Zealand;
- Justices of the Peace;
- notary publics;
- Registrars and Deputy Registrars of the Supreme Court, Court of Appeal, High Court and District Courts.

For full information see sections 8 and 9 of the Oath and Declarations Act 1957.

All signatories should note that it is an offence under section 111 of the Crimes Act to make a false declaration where that declaration would amount to perjury if made on oath in a judicial proceeding. If there is evidence the PTE has made a false declaration, NZQA may take legal action against the signatory.

Common errors

Some common errors to avoid when drafting statutory declarations are:

- declarations not being dated;
- declarations not being witnessed by an authorised person;
- witnesses not recording their name and qualification at the foot of the declaration;
- original declarations not being provided.

I [name]

as [authorised person]

of [PTE]

confirm compliance with the following criteria, established under section 253 (1)(ca), in order to maintain the registration of

[name of PTE]

as a private training establishment:

1	Governance and management functions are distinct and undertaken in the best interests of the organisation and its learners, and support academic integrity	YES / NO
2	Financial management practices are sound and achieve acceptable financial performance to recognised professional standards	YES / NO
3	Recruitment, management and development of staff ensures sufficient personnel with the necessary skills, experience and knowledge	YES / NO
4	Physical and learner resources support good educational practice, are current, available and relevant to learners	YES / NO
5	Learner information, entry and support services ensure appropriate learning pathways, a safe learning environment and a reasonable chance of success for learners	YES / NO
6	Development, design and delivery of courses is responsive to the demonstrated needs of students and other stakeholders and consistent with the establishment's goals and objectives	YES / NO
7	Assessment of learner achievement and moderation are fair, reliable and valid and comply with the requirements of NZQA and relevant standard setting bodies	YES / NO
8	Quality assurance is based on an evaluative approach which judges the quality, value and importance of educational outcomes and key contributing processes	YES / NO
9	The TEO provider profile, including full time equivalent student numbers, is maintained and updated in accordance with the schedule, all compliance requirements have been met and required changes advised	YES / NO
10	Documentary evidence to support the statements in this declaration is available as required and in accordance with the policies and criteria for maintaining registration as a PTE, which are established by NZQA under s253(ca) of the Education Act. Such evidence is required to be retained by the PTE for a period of at least 5 years.	YES / NO
11	An explanation of the non-compliances identified with a NO above and the plan of action to address the issues is attached and will be submitted to NZQA with the declaration.	YES / NO

I, [full name],

of [location],

[occupation],

solemnly and sincerely declare that the information supplied in this Annual Return is true.

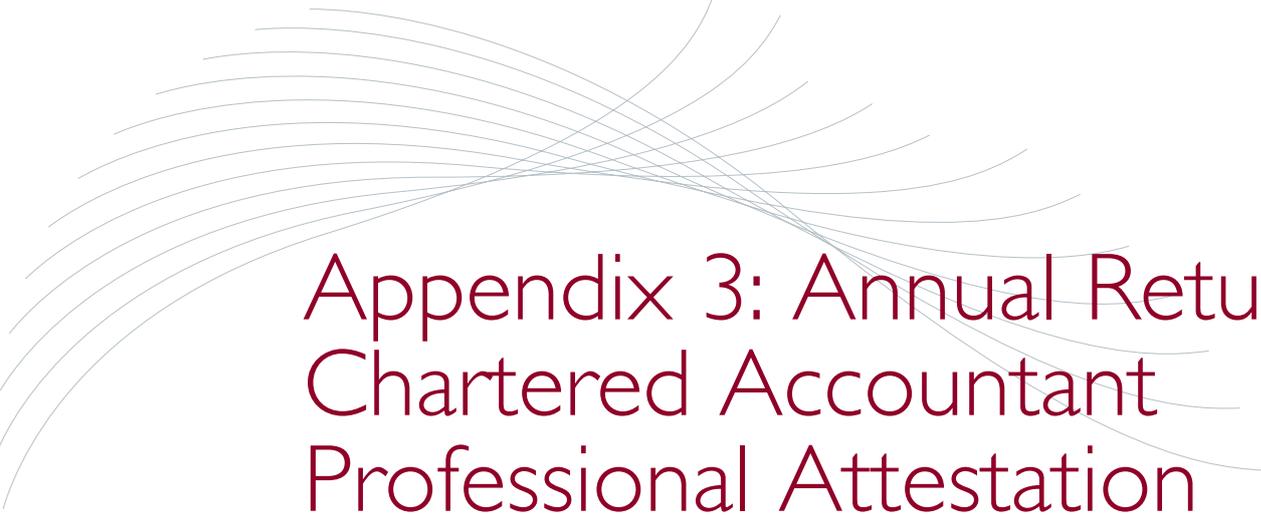
And I am making this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Signed: [signature of person authorised to sign declaration]

I. Declared this [date] day of [month] [year].

Signed: [signature of person authorised to witness a declaration]

[occupation of person authorised to witness declaration] signed



Appendix 3: Annual Return Chartered Accountant Professional Attestation

To be completed for all private training establishments (PTEs) by an external independent chartered accountant with reference to the Professional Engagement Standards as issued by the New Zealand Institute of Chartered Accountants.

Forward this form to your chartered accountant to complete the relevant sections.

1. I have reviewed the latest financial statements of [name of entity]:

for [period]:

which was prepared for the purpose of the New Zealand Qualifications Authority's financial management assurance programme for private training establishments.
(Delete if organisation has not yet commenced operation.)

2. I have reviewed the forecast financial statements of [name of entity]:

for [period]:

which was prepared for the purpose of the New Zealand Qualification Authority's financial management assurance programme for private training establishments. *(For use when the organisation has not yet commenced operating.)*

3. A review was conducted in accordance with the Statement of Review Engagement Standards as issued by the New Zealand Institute of Chartered Accountants (RS-1)
4. A review is limited primarily to enquiries of company personnel and analytical review procedures applied to financial data and thus provides less assurance than an audit. I have not performed an audit and, accordingly, I do not express an audit opinion.

Based on my review, nothing has come to my attention that causes me to believe that the financial statements, so far as the accounting policies and calculations are concerned have not been:

- a) properly compiled on the footing of the assumptions as set out in the appendix attached; and
- b) presented on a basis consistent with the accounting policies normally adopted by the entity named above.

Based on my review, nothing has come to my attention that causes me to believe that the above entity is insolvent as at the date of signing this report or will be unable to continue as a going concern for the next 12 months.

This report has been prepared for distribution to the New Zealand Qualifications Authority for the purpose of their financial management assurance programme for private training establishments. I disclaim any assumption of responsibility for any reliance on this report to any person other than to the New Zealand Qualifications Authority or for any purpose other than that for which it was prepared.

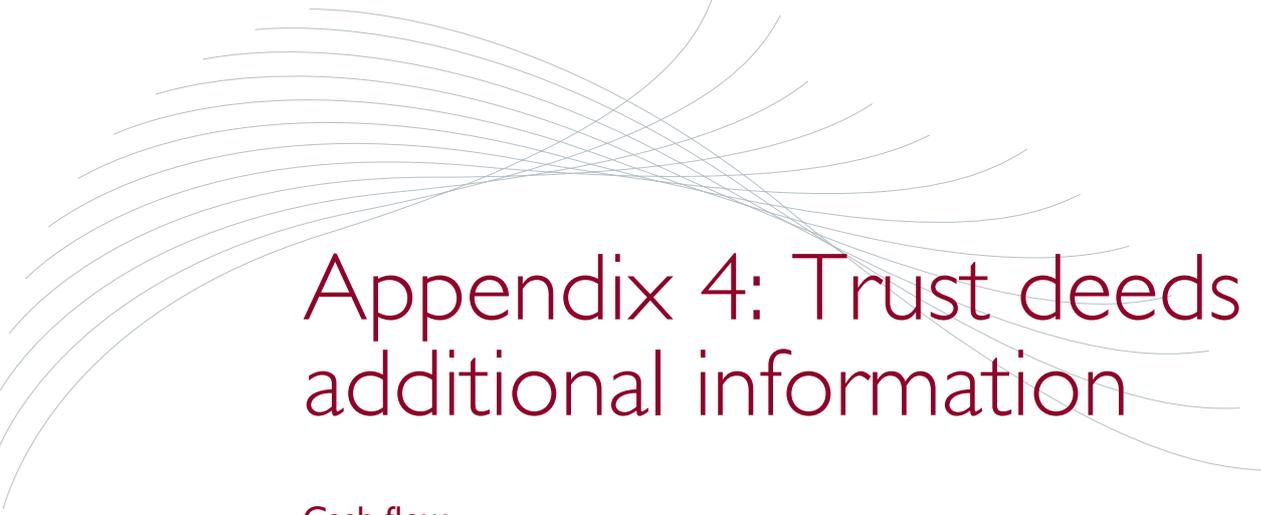
My work was conducted in accordance with the Professional Engagement Standards issued by the New Zealand Institute of Chartered Accountants.

I have no relationship with the private training establishment other than in my role as an independent chartered accountant (including where applicable an auditor role) undertaking this professional attestation, other than as disclosed (provide explanatory comments below).

Signed:	Date
----------------	-------------

External independent chartered accountant/firm name:

Address:



Appendix 4: Trust deeds – additional information

Cash flow

For tuition and course-related costs, the student fee protection policy allows for an up-front payment from the trustee to the PTE of \$500 or 10 percent per student, whichever is the lesser amount, on day one of the course. A further 15 percent of remaining payments is allowable on day nine. PTEs can structure the payment schedule to receive weekly, fortnightly or monthly payments in arrears.

A similar calculation is to be used when calculating the maximum liability amount (MLA) for a static trust or bank bond.

Accommodation monies can be drawn down up to one month in advance, provided the PTE immediately passes this money in its entirety to the accommodation provider e.g. homestay.

Living expenses can be drawn down and paid to a student as per a schedule agreed and signed by the student or their assigned guardian if under 18 years of age.

GST

Payments from the trustee to the PTE can be treated as successive supplies for GST purposes, if the trust account is set up in a certain way. This enables PTEs to account for GST at the time payments are received from the trustee rather than when students are invoiced.

NZQA has structured the Standard Trust Deed to take advantage of the non-binding ruling made in relation to the Public Trust arrangement. PTEs are advised to seek professional advice if not using Public Trust.

Refund period

If a PTE uses an option other than a trust, it must still meet the eight-day refund period. The eight-day rule satisfies two purposes. First, it allows students to withdraw from a course without penalty (apart from a deduction of the lesser of \$500 or 10 percent). Second, fee indemnification protects students who have made up-front payments for a course that subsequently closes. 



Appendix 5: Specific issues for international student fees

Agents' fees

Fee protection includes agents' fees. The amount of fees to be put in trust is the amount received by the PTE and advised to the New Zealand Immigration Service. This amount will be the greater of either:

- the amount paid by the student to the PTE;
- the amount paid by the student to an agent (if the student paid the PTE via an agent); or
- the recommended retail price for the course (as long as it is not less than the amount paid by the agent or student to the PTE).

The recommended retail price may be more than the amount paid by the agent to the PTE. In that case, the PTE must top up the amount deposited into the trust account to ensure the recommended amount is in trust. The student must be advised of the amount covered.

Homestay fees

Homestay fees are also protected. Experience has shown that all money paid by students to a PTE is at risk in a closure. Unless the PTE is also the accommodation provider, monies paid by the student to the PTE for safe-keeping and passing on to a third party should not be treated as part of the PTE's operating funds.

Where a PTE transfers homestay monies to an accommodation company owned or controlled by the PTE, these monies must also be protected.

Living expenses

Living expenses are protected by the student fee protection policy. Monies paid by the student to the PTE for living expenses should not be treated as part of the PTE's operating funds.

Where a PTE transfers living expenses to another company owned or controlled by the PTE, these monies must be protected.

For every mechanism other than standard or static trusts or bank bonds, a separate trust account must be used to protect homestay fees and living expenses, as this money is never intended to be the PTE's.

Code of Practice for the Pastoral Care of International Students

Both NZQA's registration policies and criteria and the Code of Practice for the Pastoral Care of International Students require protection of student fees. The NZQA requirement relates to PTEs, whereas the Code of Practice relates to all providers delivering to international students. Therefore, the Code applies to schools, polytechnics and universities as well as PTEs. NZQA requirements are more specific than Code of Practice requirements. Under an agreement with the Code of Practice administrator, PTEs that deliver courses to international students can meet the Code's requirements by obtaining NZQA approval. 

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NEW ZEALAND **QUALIFICATIONS** AUTHORITY
MANA TOHU MĀTAURANGA O AOTEAROA

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