



NEW ZEALAND QUALIFICATIONS AUTHORITY
MANA TOHU MĀTAURANGA O AOTEAROA

Student Fee Protection Policy

Index

Structure	4
Part One – Student Fee Protection Policy	4
Purpose	4
Legislative authority	4
Who does the policy apply to?	5
What does the policy apply to?	5
Course Closure Event	5
Principles	5
Criteria	6
Fees paid to agents in respect of international students	8
Options for fee protection	8
Withdrawal and refund policy	8
Exemptions	9
Monitoring by the Qualifications Authority	9
Implementation date	10
Privacy issues	10
Student records	10
Accreditation	10
Notification of changes	10
Cost of monitoring student fee protection	11
Evaluation of the policy	11

Part Two – Student Fee Protection Options	12
Independence rules	12
Options and detailed criteria	13
1 Trust accounts (standard and static)	13
1(a) Standard trust	13
1(b) Static trust	14
2 Company or parent body guarantees	14
3 Bank bonds	15
4 Deferred payment	16
6 Student-based insurance	16
7 Collaborative arrangements	17
Part Three – Implementation of the Policy	19
Implementation date	19
Transition arrangements	19
Withdrawal of fee protection by a student fee protection supplier	20
Failure of a PTE to comply with the student fee protection policy	20
Sanctions	20
Failure of a student fee protection supplier to comply with the policy	21
First Schedule	22
Information the student fee supplier must provide to the Qualifications Authority	22

STUDENT FEE PROTECTION

Structure

1. This document is in three parts. The first sets out the revised student fee protection policy. The second deals with specific information about options that are considered able to meet the principles and criteria of the policy. The third provides information about the implementation of the policy.

Part One – Student Fee Protection Policy

Purpose

2. The purpose of this student fee¹ protection policy is to protect the interests of students, both domestic and international, in all circumstances that result in a registered private training establishment (PTE) ceasing to offer a course in which a student is enrolled. This protection covers all payments made to a PTE by or on behalf of a student and includes accommodation and living expenses, where applicable.

Legislative authority

3. Under section 253(1) of the Education Act 1989 (the Education Act), the Qualifications Authority has the function of establishing policies and criteria for the registration of PTEs. The Qualifications Authority has established a specific policy that requires all PTEs to put in place acceptable arrangements for the protection of student fees in the event that the course or the provider ceases to operate.
4. The Qualifications Authority has also established a policy that requires PTEs to have acceptable financial management practices and performance. One of the elements of acceptability is having provision for the protection of student fees in the event that the PTE ceases to offer a course in which the student is enrolled.

1 'Student fee' means, in relation to a student, the total tuition and other course costs and other financial commitments directly associated with the course for which the student has enrolled and which are payable by the student, together with any other commitments that are required to be paid by the student to a PTE.

For the purposes of this policy, the student fee also includes (where applicable) any costs that are paid to a PTE where the PTE is acting as an agent for collection of those monies for the passing to a third party, such as homestay/accommodation payments. Where a PTE transfers homestay monies to an accommodation supplier owned or controlled by the PTE, then these monies must also be protected in accordance with the requirements of the student fee protection policy. Student fees also include any funds held by the PTE on behalf of the student, such as living costs or any funds held for the payment of health or travel insurance.

5. Please note that the requirements of the policy are in addition to the student withdrawal provisions required under section 236A of the Education Act, that is, all PTEs must have a trust account operated by an independent person in line with section 236A of the Education Act regardless of the type of fee protection mechanism they use.

Who does the policy apply to?

6. The policy applies to all registered PTEs.

What does the policy apply to?

7. The policy protects the fees and academic records of students in a course closure event.

Course Closure Event

8. A course closure event is defined as when the Qualifications Authority determines the PTE is no longer delivering or capable of delivering the course for which students are enrolled. Should the provider's own refund policies fail then the student fee protection mechanism(s) will be triggered. This includes students who have enrolled and paid but have not yet started the course.
9. The Qualifications Authority requires PTEs to have withdrawal and refund policies that cover both student and course or PTE withdrawal. Therefore, in cases where a PTE voluntarily closes, or ceases to offer a course in which students are enrolled, the PTE is expected to make a pro rata refund. If a refund is not made or able to be made, the Qualifications Authority may withdraw accreditation and/or registration, which would then trigger the student fee protection mechanism.
10. Other circumstances that give rise to a course closure event are;
 - a. any other regulatory closure of the PTE,
 - b. insolvency of PTE, and
 - c. withdrawal of accreditation or course approval by the Qualifications Authority for other reasons.

The policy does not apply to situations where a student voluntarily withdraws from the course outside the refund provisions of the Education Act. The policy does not apply to situations where a student voluntarily withdraws from the course or when the student is expelled.

Principles

11. The student fee protection principles are as follows
 - a. Student fee protection is a requirement of PTE registration. As such, it is the PTE's responsibility to ensure a compliant student fee protection arrangement is in place at all times.

- b. PTEs must make arrangements to protect the interests of students in all events that lead to withdrawal of a course for which those students are enrolled.
- c. Students must have the ability to choose between alternative providers (where available) or receiving a pro-rata refund in a course closure event.
- d. Any risk regarding the financial viability of student fee protection suppliers² must be minimised.
- e. Any student fee protection system must be manageable, and PTEs and student fee protection suppliers must provide the Qualifications Authority with timely, quality and robust information on a quarterly basis.
- f. All funds held on behalf of students must be managed prudently.

Criteria

12. All student fee protection arrangements made by PTEs must meet the following general criteria:

- a. Arrangements must cover every fee-paying student (domestic or international) on every course, except where an exemption approved in writing by the Qualifications Authority applies. It is acceptable for a PTE to have more than one arrangement in order to cover all students.
- b. All situations where the PTE ceases to offer a course in which the student is enrolled must be covered.
- c. The un-expired portion of fees determined on a pro-rata basis relating to the time elapsed in the course must be covered unless an alternative is approved in writing by the Qualifications Authority. Any Accommodation Expenses paid to the PTE can be paid by a PTE to an Accommodation Supplier up to a month in advance. Living expenses can be paid by the PTE to the student as arranged between the PTE and Student.
- d. Students must be free to choose between alternative replacement providers provided those alternative providers have the requisite accreditation.
- e. PTEs must inform students of the provisions in place prior to enrolment, including the process for settlement of any claim. The minimum information to be provided includes who the student should contact, a list of any documents they will require, instructions to attend any meetings arranged for students and a recommendation that they consult

² A student fee protection supplier is a provider of a student fee protection arrangement – for example a bank, insurance company, trustee or central administrator of a collaborative arrangement.

the Qualifications Authority's website a course closure event. PTEs may also choose to provide a link to the website of their fee protection supplier.

- f. With standard trust accounts, it is expected that the student will pay all funds direct into the trust account. If funds are paid to PTEs by or on behalf of the student (e.g. over the counter), the funds must be put into the trust account by the close of the following business day.
- g. The payment process must begin immediately upon a course closure event. All practicable steps must be taken to ensure payment is made within 15 working days of course closure.
- h. Student Fee Protection suppliers must provide appropriate information directly to the Qualifications Authority, confirming PTEs' compliance with the student fee protection policy (refer First Schedule at the back of this document).
- i. Student Fee Protection suppliers may not negotiate the provision of alternative arrangements at rates lower than those paid by existing students at the new provider³.
- j. Any refund of fees made under the requirements of this policy shall be paid wherever possible, to the person or organisation that made the original payment, or otherwise directly to the student, or to an alternative provider as directed by the student, or to the Ministry of Social Development in the case of student loans.
- k. There must be appropriate independence between the Student Fee Protection supplier and the PTE.
- l. A trust must be used to provide protection for homestay or accommodation payments.

³ Payment by the student fee protection supplier must be not less than the aggregate of any gross Tuition Fees, Accommodation Expenses, Travel and Health Insurance and Living Expenses, paid or on behalf of the Student to the PTE – less any amount that may be lawfully retained by the PTE or paid by the Trustee to the PTE in accordance with the terms and conditions of the Deed entered into by them, and as set out below:

- a. Prior to the ninth day after the start of the Course the PTE may retain from the aggregate of any payments received from the student, the lesser of \$500 or 10% of the Tuition Fees, or as the case may be, paid by the Trustee to the PTE immediately upon receipt of those funds.
- b. An amount (other than the amount above) limited to 15% of remaining Tuition Fee may be paid by the trustee to the PTE on the ninth day of the course.
- c. Remaining tuition fees are paid to the PTE pro rata in arrears in relation to the time elapsed in the course unless otherwise approved in writing by the Qualifications Authority.
- d. Accommodation Expenses may be paid up to a month in advance if agreed in writing with the student.
- e. Living Expenses may be paid as agreed in writing with the student.

Fees paid to agents in respect of international students

13. Section 236(A)(2) of the Education Act requires PTEs to place into trust, with an independent person as approved by the Qualifications Authority, the sum of any payment or payments (whether described as fees or otherwise howsoever) made to the establishment in respect of the student's enrolment or participation in the course.
14. The amount of fees to be put in trust is indicated by the amount received by the PTE and advised to the New Zealand Immigration Service. This amount will be,
 - a. the amount paid by the student to the PTE, or
 - b. the amount paid by the student to an agent (if the student paid the PTE via an agent), or
 - c. the recommended retail price of the course by the PTE (as long as it is not less than the amount paid by the agent or student to the PTE), and any accommodation expenses, living expenses and health and travel insurance paid by, or on behalf of, the student to the PTE.
15. If the recommended retail price is to be the amount covered in the student fee protection arrangement, and that is more than the amount paid to the PTE, then the PTE must top up the amount being deposited into the trust account to ensure the recommended retail price is in trust. The student must be advised of the amount covered under student fee protection.

Options for fee protection

16. The specific options that would meet the policy are detailed in part two of this document.

Withdrawal and refund policy

17. Providers must have policies and procedures relating to refunds (for student withdrawal within the first eight days, or within two or five days if delivering courses of less than three months to international students), as required by the Education Act.
18. PTEs will also be required to have policies and procedures relating to refunds in the case of
 - a. student withdrawal after the first eight days (or two or five days where applicable pursuant to Section 236(1)(d)(iv) of the Education Act).
 - b. a PTE voluntarily withdrawing its course or courses.
19. In the case of policies relating to the withdrawal by students after the first eight days (or two or five days where applicable), the circumstances when a refund would or would not be given must be clearly set out.

Exemptions

20. A PTE is eligible for an exemption for a course if,
 - a. the course is of five days, or a maximum of 50⁴ hours duration or less, or
 - b. the total student fees (see footnote 1) amount to \$500 or less, or
 - c. there are no course fees e.g. courses are completely funded by Government,
 - d. the course is completely funded by third parties (e.g. a business),
21. A PTE is also eligible for an exemption for an individual student if the total student fees (see footnote 1) paid in relation to that student amount to \$500 or less.
22. Student Fee Protection is required where a third party pays the fees for an individual student (as opposed to funding all students on the course), either in part or in full, and the total fees paid are over \$500.
23. Where a PTE believes there are grounds for exemption, they should write to the Group Manager, Approvals, Accreditation and Audit, detailing the grounds for exemption. A written exemption is required to ensure that all parties are clear whether or not an exemption has been granted. This allows a distinction to be made between a non-compliant PTE and one that has been formally exempted. For exemptions on a student basis the PTE will also need to keep records of who is exempt.
24. A suitable Student Fee Protection mechanism needs to be in place until written notification of approval of exemption has been received by the PTE from the Qualifications Authority

Monitoring by the Qualifications Authority

25. The act of deeming a PTE's student fee protection arrangement as acceptable does not mean that the Qualifications Authority will be responsible to any party for the failure of such an arrangement to achieve its intended objectives. PTEs remain responsible at all times for the implementation of a student fee protection arrangement that complies with the requirements of this policy.
26. The following disclaimer will be used whenever a provider is advised of the acceptability of the student fee protection arrangement:

"The New Zealand Qualifications Authority is satisfied that the fee protection arrangements proposed by [PTE] meet the requirements of the Qualifications Authority's student fee protection policy. While every practicable step will be taken by the Qualifications Authority to ensure the arrangement's ongoing

⁴ The hours of a course include all directed teaching including that undertaken by distance. For the purposes of this policy, consecutive enrolments in modules will be considered an enrolment in a single course.

compliance with the student fee protection policy, the parties entering into this arrangement are responsible for the student fee arrangement ultimately achieving its intended objectives."

27. Unless otherwise agreed by the Qualifications Authority, a PTE or supplier of student fee protection may only use the following words to describe the acceptability of its student fee protection arrangements:

"This arrangement has been accepted by the New Zealand Qualifications Authority as meeting the requirements of its student fee protection policy."

Implementation date

28. This policy became effective on 31 May 2004.

Privacy issues

29. The information required by the Qualifications Authority to fulfill its monitoring role may raise issues of privacy. In line with the Privacy Act, students must be advised of the potential use of the information by the Qualifications Authority. This is the responsibility of the PTE in conjunction with the student fee protection supplier.

Student records

30. The student fee protection policy requires that all PTEs have policies and procedures in place to protect student records (e.g. enrolment, attendance, and progress or achievement records.) This will include developing a provisional closure memorandum that indicates where records are held, how often they are updated and how to gain access to them. This information, together with ownership of the student records themselves will pass to the Qualifications Authority on behalf of affected students if a closure event occurs.

Accreditation

31. Any PTEs offering alternative tuition to students must have the requisite course approval beforehand, unless exceptional circumstances apply. It is anticipated that this would only be in the situation where there is no other existing provider with the necessary accreditation, or that existing providers are not in the position to take on additional students.

Notification of changes

32. PTEs must advise the Qualifications Authority immediately whenever they propose a change to their student fee protection arrangements.

Cost of monitoring student fee protection

33. The annual fee that all PTEs pay will meet the cost of general on-going monitoring. The cost of follow-up of specific non-compliance will be charged to the PTE concerned, where appropriate.

Evaluation of the policy

34. This policy will be monitored and reviewed as the need arises. The Qualifications Authority will consult with the sector on any potential changes as a result of this monitoring, prior to the implementation of those changes. Options may be added or removed if they no longer continue to meet the criteria of the student fee protection policy, or the student fee protection supplier withdraws their product/service. PTEs will be advised of any such changes as they occur.

Part Two – Student Fee Protection Options

Independence rules

35. Whatever student fee protection option a PTE chooses, the requirements of section 236A of the Education Act must be met. This may require the use of an eight day trust account for courses of three months or more in length (as per the Education Act). All trust accounts, whether they are an eight-day trust accounts or trust accounts for student fee protection purposes must have an independent trustee.
36. Independence means that the trustee must not be a person (or body corporate) that is
- the PTE itself
 - a person who is a director or officer of, or shareholder in, the PTE
 - a body corporate
 - in which the PTE holds shares or
 - that owns the PTE or holds shares in the PTE which is the body corporate, or
 - that is a subsidiary of such a body corporate.
37. The Institute of Chartered Accountants (ICANZ) code of ethics defines independence as
- a. *“independence of mind – the state of mind that permits the provision of an opinion without being affected by influences that impair professional judgment, allowing an individual to act with Integrity and exercise objectivity and professional skepticism.*
 - b. *independence of appearance – the avoidance of facts and circumstances that a reasonable and informed third party, having knowledge of all relevant information, would reasonably conclude a firm's or a member's integrity, objectivity, or professional skepticism had been impaired.”*
38. Therefore, any chartered accountant acting as a trustee for student fee protection purposes must maintain independence by not providing any professional services to the PTE.
39. The Rules for Professional Conduct for Barristers and Solicitors state:
- “Rule 1.03 A practitioner must not act or continue to act for any person where there is a conflict of interest between the practitioner on the one hand, and an existing or prospective client on the other hand.”*

Options and detailed criteria

A student fee protection option must first meet the general principles and criteria outlined in the student fee protection policy. It must also meet the specific criteria relating to each option as detailed in the relevant box as follows:

1 *Trust accounts (standard and static)*

1. Must be held by a professional trustee company (the Public Trust or a trustee company defined under the Trustee Companies Act 1967), a chartered accountant in public practice, or a lawyer with a current practicing certificate. The Qualifications Authority approved trust deeds must be used;
2. The trustee will be responsible for ensuring they hold sufficient information about individual students to enable them to carry out their role as trustee;
3. There are prudent investment rules in place that guide the investment of funds by the trustee;
4. Appropriate reporting arrangements are in place that allow the Qualifications Authority to assess, on short notice, that the appropriate level of funds are held in trust;
5. The trustee has the appropriate level of independence from the PTE in line with ICANZ's or the Law Society's respective independence criteria; in the case of professional trustee companies, in line with the Master Deed.

1(a) *Standard trust* (where individual student fees are drawn down in arrears)

1. The Qualifications Authority approved trust deeds also include the following terms:
 - a. An amount up to \$500 or 10% of the tuition fee, whichever is the lesser, allowed by s236A of the Act, may be paid by the trustee to the PTE on day one of the course;
 - b. An amount (other than the amount above) limited to 15% of the remaining tuition fee may be paid by the trustee to the PTE on the ninth day of the course;
 - c. The monies are held in trust for individual students rather than as a group;
 - d. Where accommodation costs are collected from the student, then the trustee may pay this cost to the PTE, the student or a

nominated accommodation provider on a pro-rata basis up to a month in advance;

- e. Where living costs are collected from the student, then the trustee may pay this allowance to the student on a pro-rata basis in advance or otherwise agreed in writing with the student;
- f. There must be a payment schedule that indicates the dates and amounts of payments to be made, signed by both the PTE and the student.

Under this option the Qualifications Authority has entered into umbrella agreements with Public Trust and Perpetual Trust that meet all of the above criteria.

The Qualifications Authority has a standard trust deed which must be used if the trustee is a chartered accountant or solicitor.

1(b) *Static trust*

(where an amount equal to the maximum liability is held in trust)

1. The trust must hold an amount that covers the maximum liability⁵ the PTE could experience should it close.
2. The maximum liability must be externally reviewed by an independent chartered accountant on an annual basis as part of the audit of the student fee protection mechanism.
3. A static trust may be used to provide protection for homestay or accommodation payments and living expenses.

The Qualifications Authority has a standard trust deed, which must be used if the trustee is a chartered accountant or solicitor.

2 *Company or parent body guarantees*

1. Guarantees will be considered on a case-by-case basis taking into account inter alia:
 - a. Clear evidence that the proposed guarantor entity is financially sound and is demonstrably in a position to provide protection to the PTE for the maximum liability in a course closure event;
 - b. further support in respect to the financial viability of the

⁵ The maximum liability is defined as the highest amount of students' fees that could be paid out at any one time. What individual students are 'paid out' will be based on an amount calculated using the Guidelines set out in footnote 3.

- proposed guarantor as indicated by a financial security rating to the standard required of insurance or bond companies;
 - c. The existence of a formal guarantee and its recognition in the financial statements of the respective parties;
 - d. There is adequacy of security for the amount of the guarantee;
 - e. Clear evidence that the proposed guarantor can provide financial support to the PTE in a timely manner.
2. Guarantees from companies registered outside of New Zealand and personal guarantees will not be acceptable as a student fee protection mechanism.
 3. A trust account must be in place where this is required under section 236A of the Education Act.
 4. A trust must be used to provide protection for homestay or accommodation payments and living expenses.

3 *Bank bonds*

1. Must be from a bank.⁶
2. Must be for an amount that covers the maximum liability⁷ the PTE could experience during the term of the bank bond.
3. Must be expressed to be in the favour of the trustee, not the PTE.
4. There must not be a default clause for non-disclosure that allows the bank to decline cover due to non-disclosure by a PTE.
5. The maximum liability must be externally reviewed by a chartered accountant on an annual basis and be attested to as being an appropriate amount.
6. Must be held by an independent trustee being either a professional trustee company (the Public Trust or a trustee company defined under the Trustee Companies Act 1967), or a chartered accountant in public practice or a lawyer with a practicing certificate.
7. A trust account must be in place where this is required by section 236A of the Education Act.

⁶ This means a registered bank, as defined in the Reserve Bank Act 1989 and limited to New Zealand registered banks, whose Long Term Debt is rated by either S&P or Moodys as not less than A.

⁷ The maximum liability is defined as the highest amount of Tuition fees that could be paid out at any one time. What individual students are 'paid out' will be based on an amount calculated using the Guidelines set out in footnote 3.

8. A trust must be used to provide protection for homestay or accommodation payments and living expenses.

Under this option, a provider will need to discuss this with their bank and then present the proposed bond to the Qualifications Authority for approval. The Qualifications Authority has a Bank Bond Deed that must be used.

4 *Deferred payment*

Students pay in arrears of the tuition (e.g. weekly, fortnightly, monthly).

5 *Student-based bonds*

1. Each individual bond covers the total amount (100%) of tuition fees.⁷
2. The policy must not have any non-disclosure clause(s) that could be used by the bond provider to declare the policy void and to prevent payment of claims.
3. The bond provider and its reinsurer have a credit rating no lower than A from Standard and Poors, or B+ from AM Best.
4. A trust account must be in place where this is required under section 236A of the Education Act.
5. Payments to students or alternative providers in the event of a course closure are made at the level reflecting the full amount of student fees determined on a pro-rata basis relating to the tuition still to be delivered.
6. A trust must be used to provide protection for homestay or accommodation payments and living expenses.

6 *Student-based insurance*

1. All events that could lead to the withdrawal of a course must be covered.
2. The policy must not contain any non-disclosure clause(s) relating to non-disclosure by the PTE that could be used by the insurer to declare the policy void and to prevent payment of

claims.

3. The policy must cover the full amount (100%) of tuition fees.⁷
4. A trust account must be in place where this is required under section 236A of the Act.
5. Payments to students or alternative providers in the event of a course closure are made at the level reflecting the un-expired portion of fees determined on a pro-rata basis relating to the tuition still to be delivered.
6. A trust must be used to provide protection for homestay or accommodation payments and living expenses.
7. The insurance supplier and its reinsurer have a credit rating no lower than A from Standard and Poors, or B+ from AM Best.

7 Collaborative arrangements

1. There must be a formal agreement signed by each member.
2. The agreement must indicate which courses the arrangement covers.
3. Tuition fees must be covered by the collaborative arrangement. All non-tuition funds must be covered by an appropriate trust arrangement.
4. Where a PTE that is party to the collaborative arrangement has courses not covered by the tuition assurance element, the PTE must have an approved alternative student fee protection arrangement for students enrolled in these courses.
5. PTEs must have a plan in place that outlines how the additional students will be absorbed into the new PTE without adversely affecting students already enrolled with that PTE.
6. Information provided to students must clearly indicate all members of the collaborative arrangement where the student may be placed.
7. There must be a trust fund or bank bond to allow a pro-rata refund of fees or payment to the alternative provider if students who, having been offered a choice of continued tuition with a member PTE, choose to continue their study elsewhere, or to cease their study. This trust fund or bank bond must cover 80% of the pro-rata amount (equivalent to a trust paying the fees a month in arrears with a \$500 or 10% payment on day one and a 15%

payment on day nine of the course) of the fees paid by the PTE with the largest amount of student fees covered by the collaborative arrangement.

8. In the case of the trust fund or bank bond above not covering any refund of fees or payments to alternative providers outside of the collaborative arrangement, it must be recognised that in the case of a closure event, other signatories to the collaborative arrangement are liable for any refund of fees.
9. There must be a mechanism to top up the trust or bond above immediately if needed in the case of a closure event.
10. Any collaborative arrangement must appoint a central administrator. The administrator will be responsible for:
 - a. acting as the liaison point with the Qualifications Authority;
 - b. keeping accurate records of the form of cover for each PTE and course, and advising the Qualifications Authority of these; and,
 - c. informing the Qualifications Authority of any members who join or withdraw from the collaborative arrangement.

Collaborative arrangements will be considered on a case-by-case basis.

Part Three – Implementation of the Policy

Implementation date

40. This policy came into effect on 31 May 2004. It replaces the previous student fee protection policy dated May 2003.

Transition arrangements

41. PTEs had to ensure their student fee protection arrangements met the 10 May 2004 policy according to the following timeframes:

Existing arrangement/situation	Transition timeframe
PTE's existing student fee protection arrangement is compliant with the new policy	No transition necessary
PTEs who currently have no arrangements	Immediately
PTEs who chooses to move from one compliant (with this student fee protection policy) student fee protection option to another compliant option	At time of move
PTE decides to retain its existing arrangement but the arrangement needs to be amended to reflect new policy	By 31 August 2004. ⁸
PTE's current arrangement is not compliant (with this student fee protection policy) and PTE moves to a bond, insurance or guarantee	By 31 August 2004. ⁸
PTEs with non-trust arrangements that move to a trust arrangement	By 31 December 2004. ^{8 & 9}

42. PTEs that currently have no arrangements in place must immediately enter into an arrangement that complies with this policy. As occurs now. New providers applying for registration must have an arrangement in place before registration will be granted

⁸ Student-based bonds that are signed under the previous policy will be allowed to complete their term up until 30 June 2005 unless the student fee protection supplier withdraws the option.

⁹ On a case-by-case basis, and upon application to the Qualifications Authority, an extension to this timeframe may be considered on the grounds of hardship. In any event, no extension will be given beyond 30 June 2005.

Withdrawal of fee protection by a student fee protection supplier

43. PTEs should note that although the options described in the first schedule of this policy may continue as options, individual fee protection suppliers may at any time make business decisions to exit the fee protection market. Should a student fee protection supplier withdraw its product from the market, or cease to provide the service to the PTE, PTEs will need to move immediately to put in place an alternative arrangement that complies with this policy. If they are unable to do so they should contact the Qualifications Authority to discuss a possible transitional arrangement.

Failure of a PTE to comply with the student fee protection policy

44. Should an individual PTE fail to implement a student fee protection mechanism in a manner that meets the purpose, principles and criteria of this policy, the PTE will be directed by the Qualifications Authority to arrange an alternative student fee protection mechanism that meets the requirements of this policy. In this case, the Qualifications Authority may also limit the range of student fee protection options available to that PTE or impose conditions limiting the number of students, or both.

Sanctions

45. The Qualifications Authority's preference is to work with the PTE to put in place an arrangement that meets the student fee protection policy. However, if this approach fails, then one or more approaches could be taken by the Qualifications Authority, including:
- a. undertaking a special purpose audit at the PTE's expense. This could result in the audit cycle being revised which could also have cost implications for the annual fee charged to that PTE;
 - b. imposing a specific condition on a PTE under section 236AA of the Education Act. This condition could range from limiting the number of students or sites, not allowing further enrolments, or requiring a PTE to adopt a particular student fee protection arrangement;
 - c. advising the Code of Practice¹⁰ administrator that the PTE does not comply with the Code of Practice, which could lead to a cancellation of signatory status and a consequential inability to recruit overseas students (as New Zealand Immigration Service will not grant visas);
 - d. issuing a notice under section 237 of the Education Act, which could ultimately lead to cancellation of registration;
 - e. issuing a compliance notice under section 255A of the Education Act, requiring the PTE to carry out a particular action in relation to its registration. A PTE that receives such a notice must comply with it within the time period specified. If the PTE does not comply, the Qualifications Authority could immediately cancel the registration of that PTE.

¹⁰ The Code of Practice for the Pastoral Care of International Students can be found on the Ministry of Education website <http://www.moe.govt.nz/>

Failure of a student fee protection supplier to comply with the policy

46. Should an individual student fee protection supplier fail to implement a student fee protection mechanism in a manner that meets the purpose, principles and criteria of this policy, the Qualifications Authority may immediately withdraw approval of their student fee protection arrangement. Should this occur, PTEs using the affected student fee protection supplier will be required to take immediate steps to move to an alternative supplier.

First Schedule

Information the student fee supplier must provide to the Qualifications Authority

The Qualifications Authority requires, upon initial approval of a student fee protection arrangement, and quarterly thereafter, an attestation from student fee protection suppliers attesting 'by PTE and by student' that the supplier has, or is able to calculate, the information below:

- a. PTE name
- b. Student names
- c. Course start date
- d. Course end date
- e. Total fees paid (showing tuition and non-tuition separately)
- f. Percentage of tuition delivered against fees remaining
- g. All PTEs within arrangements (if arrangement covers multiple PTEs)
- h. Total of student numbers, average course length, average fees paid and total amount still held in trust, by PTE
- i. Non-active accounts, i.e. those who have signed up with this service but are not using it
- j. PTEs who have withdrawn or notified their intention to do so

The Qualifications Authority requires an annual audit report that the arrangement is being managed appropriately by both the PTE and the student fee protection supplier.