**Education report: Sector engagement on introducing a property disposal threshold for Tertiary Education Institutions and on the risk assessment criteria**

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<tr>
<th>To</th>
<th>Hon Chris Hipkins, Minister of Education</th>
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<td>Date:</td>
<td>18 April 2018</td>
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<td>Priority:</td>
<td>Medium</td>
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<td>Security Level:</td>
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<td>METIS No:</td>
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<td>Drafter:</td>
<td>Mary Kuepper</td>
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<td>Key Contact:</td>
<td>John Brooker</td>
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<td>Communications team:</td>
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<td>Round Robin:</td>
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**Purpose of report**

We have prepared the sector engagement material on introducing a threshold for Tertiary Education Institutions (TEIs) to dispose of property (land or buildings) without the approval of the Secretary of Education. Before we release this material, we are seeking your agreement to strengthen the requirements that TEIs must meet to use the proposed property disposal threshold.

**Executive summary**

In December 2017, you agreed for the Ministry of Education to consult with TEIs on introducing a threshold to dispose of property (land or buildings) without the approval of the Secretary of Education [METIS 1098508 refers].

Currently, the Ministry of Education, the Tertiary Education Commission (TEC) and TEIs spend a lot of time and effort on disposals of low-value assets. This time and effort is an unnecessary transaction cost and is a barrier to TEIs’ efficient use of assets. Introducing a property disposal threshold will reduce these costs and time delays, while managing the risks associated with larger transactions.

We have now prepared the sector engagement material. Before we release this material, we are seeking your agreement to strengthen the requirements within the proposed property disposal threshold. The proposed change would require TEIs to meet specific ratings in the TEC’s Financial Monitoring Framework, before they can use the disposal threshold (the change is described in paragraphs 6 to 12). The TEC supports the strengthened requirements.

At the same time, we also propose to consult with TEIs on the risk assessment criteria that are used to assess whether an institution is at risk in a way that might warrant a statutory intervention. There is a statutory requirement for the Secretary of Education to review these criteria. We want to consult with the sector on these issues together, as they both relate to TEI autonomy and the Financial Monitoring Framework.
Recommended actions

The Ministry of Education recommends you:

a. note that we will consult with TEIs on introducing a property disposal threshold and on the risk assessment criteria

   Noted

b. note that the TEC and the Ministry of Education recommend strengthening the requirements TEIs must meet to use the proposed property disposal threshold, as outlined in recommendations c. and d. below

   Noted

c. agree to strengthen the existing requirements that TEIs must meet to use the proposed property disposal threshold by using the Financial Monitoring Framework, as described in paragraph 8

   Agree / Disagree

d. agree to add a baseline threshold of $300,000 to allow TEIs that do not meet the Financial Monitoring Framework requirement to dispose of low-valued property without needing the approval of the Secretary of Education

   Agree / Disagree

e. proactively release this report following the beginning of sector engagement

   Release / Not release

Andy Jackson
Group Manager
Tertiary Education

Hon Chris Hipkins
Minister of Education

18/4/18
12/5/18
Background

Sector engagement on introducing a property disposal threshold for TEIs under section 192 of the Education Act 1989

1. In December 2017, you agreed for the Ministry of Education (the Ministry) to consult with TEIs on introducing a threshold to sell or dispose of property (land or buildings) [METIS 1096508 refers]. Introducing a property disposal threshold means that TEIs can undertake small transactions without the approval of the Secretary of Education (the Secretary).

2. Because of the variation in size of TEIs, we proposed four tiers based on TEI equity, with a fixed amount threshold for each tier. These thresholds are around 5% of a TEI’s equity. Larger transactions would still require the Secretary’s approval.

3. In recent years, the Ministry, the TEC and TEIs have spent a lot of time and effort on disposals of low-value assets. This time and effort is an unnecessary transaction cost and is a barrier to TEIs’ efficient use of assets. Introducing a property disposal threshold will reduce these costs and time delays, while managing the risks associated with larger transactions. It also recognises TEI autonomy under section 161 of the Education Act 1989 (the Act).

4. To ensure that the benefits from the threshold are balanced against the risk to the Crown’s ownership interest, we proposed three requirements TEIs must meet to use the threshold. A TEI must:
   a. ensure the disposal is consistent with their Capital Intentions Plan,
   b. have a recent valuation of the property by a registered valuer (within the last year), and
   c. meet at least a ‘core’ rating in their most recent independent Capital Asset Management (CAM) Maturity Assessment by an Independent Assessor. This is a measure of the processes a TEI uses to manage assets, but it does not measure financial performance [METIS 1096508 refers].

5. The proposed threshold would not affect existing responsibilities of TEIs when disposing of property. TEIs would still be expected to confirm they are the owner of the property and to satisfy Treaty of Waitangi obligations, Public Works Act 1981 requirements, any right of first refusal, and any obligations from an earlier Crown asset transfer to TEIs.

Reconsideration of the proposed property disposal threshold

We are seeking your agreement to strengthen the requirements for the property disposal threshold

6. In preparing the material for sector engagement, we reconsidered the requirements a TEI must meet to use the threshold. We now think the requirements should also take account of the Financial Monitoring Framework (FMF) operated by the TEC.

7. The FMF speaks to a TEI’s financial circumstances. The CAM Maturity Assessment and the FMF are driven by different factors and together account for different aspects that contribute to responsible decision-making about property.

8. We consider that measures from both the CAM Maturity Assessment and the FMF should inform the requirements for TEIs to use the proposed threshold. We are now recommending that, in order to use the threshold, a TEI must either:
a. have both:
   i. a 'core' rating in their most recent independent CAM Maturity Assessment,¹ and
   ii. a 'low' rating in their most recent FMF report,² or

b. have both:
   i. an 'intermediate' rating in their most recent independent CAM Maturity Assessment, and
   ii. a 'moderate' rating in their most recent FMF report.

9. This strengthened requirement is in addition to the other two existing requirements. That is, to use the threshold a TEI must ensure that the disposal is consistent with their Capital Intentions Plan, and have a recent valuation of the property to be disposed of.

We are also seeking your agreement to add a baseline threshold

10. The policy aim of introducing a property disposal threshold is to help achieve a balance between TEI autonomy and risk to the Crown, and to reduce unnecessary compliance and administration costs, and time delays, particularly for small transactions.

11. Some TEIs will not meet the strengthened requirements but we think they should still be able to dispose of very low-value property.

12. We recommend that if a TEI does not meet the 'low' or 'moderate' FMF rating, but fulfills all other requirements (see Annex One), the TEI can still dispose of property valued below $300,000 without needing the approval of the Secretary. This ensures that the original policy intent is upheld.

The TEC supports the proposed changes to the property disposal threshold

13. In preparing this proposal, we have worked with the TEC. The TEC supports the proposed changes. We have attached the proposed threshold with the updated requirements in Annex One.

Sector engagement on the risk assessment criteria review under section 195A of the Education Act 1989

14. Alongside sector engagement on introducing a property disposal threshold for TEIs, we also propose to consult with TEIs on the risk assessment criteria. The risk assessment criteria are used to assess whether a TEI's operation and long-term viability, and the

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¹ Based on the CAM Maturity Assessment, TEIs are given a rating of 'aware', 'minimum', 'core', 'intermediate' or 'advanced'. The TEC requires all TEIs to achieve at least a 'core' rating in their CAM Maturity Assessment. A 'core' rating means that a TEI illustrates acceptable capital asset management practices. An 'intermediate' rating is better than a 'core' rating, and means that a TEI illustrates good capital asset management practices.

² Based on the FMF, TEIs are given a rating of 'low', 'moderate' or 'high'. The rating illustrates a TEI's level of financial risk and informs the level of financial reporting and monitoring required over the following year. A 'low' rating in the FMF is the best rating a TEI can achieve for its financial performance. A 'moderate' rating means that a TEI is at higher financial risk than a low-rated TEI, but is not at high risk.
educational performance of students enrolled at institutes of technology and polytechnics, are at risk to the extent that a statutory intervention is warranted.

15. Section 196A of the Act requires the Secretary to review the risk assessment criteria at least once every two years following the date of their publication by Gazette notice. The risk assessment criteria were last gazetted on 22 January 2015.

We are also preparing advice on other capital policy issues

16. 

Next steps

17. We have prepared the sector engagement material and provided it to your office. Should you agree to the proposed changes, we intend to email the material to the Chief Executives of the TEIs on Monday 30 April 2018. The deadline for submitting feedback would be Friday 8 June 2018.

18. Following the deadline, we will provide you with advice on any adjustments to the proposed threshold, under section 192(5) of the Act. We will also make any necessary adjustments to the current risk assessment criteria, as this is within the delegation of the Secretary.

Proactive Release

19. We recommend that this Education Report is proactively released following the beginning of sector engagement (anticipated to be on Monday 30 April). 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 One: Proposed threshold for property disposal by TEIs with updated requirements
Annex One: Proposed threshold for property disposal by TEIs with updated requirements

The table below outlines the proposed threshold for property disposal by TEIs. The table separates TEIs into tiers by the size of their equity. To determine what tier a TEI is in, the group equity value of the TEI will be taken from its most recent annual report.

The middle column displays the threshold that is then applied for each tier. We have used fixed amounts rather than percentages, because they are easy to understand and stable year-to-year.

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<tr>
<th>Group equity value of TEI (taken from the most recent annual report of the TEI)</th>
<th>Maximum market value of property the TEI can dispose of without the approval of the Secretary</th>
<th>Disposal threshold as a percentage of TEI equity</th>
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</thead>
<tbody>
<tr>
<td>less than $60 million</td>
<td>$1,000,000</td>
<td>less than 5% of equity (excluding Tai Poutini)</td>
</tr>
<tr>
<td>between $60 million and $100 million</td>
<td>$3,000,000</td>
<td>less than 5% of equity</td>
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<tr>
<td>between $100 million and $250 million</td>
<td>$5,000,000</td>
<td>less than 5% of equity</td>
</tr>
<tr>
<td>over $250 million</td>
<td>$15,000,000</td>
<td>less than 6% of equity</td>
</tr>
</tbody>
</table>

For TEIs to dispose of property under the proposed threshold, they would need to meet the following criteria

To use the threshold, a TEI must:

a. ensure the disposal is consistent with their Capital Intentions Plan,

b. have a recent valuation of the property by a registered valuer (within the last year), and

c. either:
   
   i. have a 'core' rating in their most recent independent Capital Asset Management (CAM) Maturity Assessment by an Independent Assessor, and a 'low' rating in their most recent Financial Monitoring Framework (FMF) report,

   or

   ii. have an 'intermediate' rating in their most recent independent CAM Maturity Assessment by an Independent Assessor, and a 'moderate' rating in their most recent FMF report.

If a TEI doesn't meet criteria (c) (i) or (ii), but fulfils criteria (a) and (b) listed above, the TEI can still dispose of property valued below $300,000 without needing the approval of the Secretary.
The introduction of a threshold for property disposal would not affect existing management practices and responsibilities of TEIs

Under section 181 of the Act, it is the duty of the council of an institution to ensure that the institution operates in a financially responsible manner that ensures the efficient use of resources and maintains the institution's long-term viability.

We would expect TEIs to continue operating with appropriate internal delegations and make decisions that are consistent with their investment and capital plans. In disposing of property, TEIs would be expected to confirm they are the owner of the property and to satisfy Treaty of Waitangi obligations, Public Works Act 1981 requirements, any right of first refusal, and any obligations from an earlier Crown asset transfer to TEIs.
30 April 2018

Tēnā koutou,

I am writing to you today to seek your organisation’s views on two projects the Ministry of Education is working on, these being:

1. a proposal to allow tertiary education institutions (TEIs) to dispose of property (land or buildings) without needing the approval of the Secretary of Education (the Secretary) under section 192 of the Education Act 1989 (the Act), and
2. a review of the risk assessment criteria (the criteria) as required under section 185A of the Act.

Attached are two discussion papers and accompanying submission forms. We are seeking your organisation’s feedback on a number of discussion points.

Discussion paper A
This paper discusses the introduction of a threshold for property disposal by TEIs under section 192 of the Act.

Why is a threshold for property disposal by TEIs being introduced?
As TEIs, you own considerable property portfolios. Currently, when you want to sell or dispose of property (land or buildings) that you own you are required to ask for approval from the Secretary (under section 192(4) of the Act). A TEI still needs the approval of the Secretary regardless of the value of the property.

To balance the risk to the Crown with preserving and enhancing TEI autonomy, the Minister of Education is able to set a threshold below which TEIs can dispose of their property without seeking approval from the Secretary (under section 192(5) of the Act). Currently, there is no such threshold in place which creates unnecessary administrative costs for the government, and compliance costs and time delays for TEIs when you want to dispose of low-value pieces of property.

We are proposing to introduce a threshold similar to the threshold that was introduced for borrowing many years ago to lower compliance and administrative burdens. This new threshold would allow you to dispose of or sell property, which is below the given values, without seeking the approval of the Secretary.

We are seeking:
- your feedback on the proposed thresholds, and
- any other comments you would like to make regarding the introduction of a threshold for property disposal by TEIs.
Discussion paper B

This paper discusses the review of the risk assessment criteria (the criteria) under section 195A of the Act.

Why are the risk assessment criteria being reviewed?

The criteria are used to assess whether a TEI is at risk to the extent that a statutory intervention is warranted. The criteria are supported by the Financial Monitoring Framework (FMF), investment plans, the borrowing consent process (under section 192 of the Act), and the external evaluation and review process. These sources provide the necessary information for the assessment of provider performance against the criteria.

The Act requires the criteria to be reviewed at least once every two years. The criteria were last gazetted on 22 January 2015, so they need to be reviewed and re-gazetted.

We are seeking your views on whether:

- the current criteria are adequately linked to risks to the operation and/or long-term viability of the institution, and the educational performance of students at institutes of technology and polytechnics, and
- the mandatory two-yearly review of the criteria should be replaced with a longer or more flexible review requirement.

This is not a review of the wider performance monitoring system or the FMF.

How do I provide feedback?

The attached discussion papers provide a detailed overview of the background, Crown’s objectives and discussion points that form the consultation.

You can provide feedback by completing the respective submission form attached to the discussion papers. You can return your responses via email to the Tertiary Strategy Mailbox [Tertiary.Strategy@education.govt.nz] or post them to:

Consultation on section 192/section 195A
Access and Participation Policy
Ministry of Education
PO Box 1666
WELLINGTON 6140

The deadline for responding is Friday 8 June 2018.

Next steps

Following the deadline on 8 June 2018, we will consider all the submissions.

We will then provide advice to the Minister on any adjustments to the proposed threshold, under section 192 of the Act. We will also make adjustments to the current risk assessment criteria.

Should there be any substantial changes to the proposed threshold or the risk assessment criteria, or a new threshold/new criteria proposed, we will consult you again. Otherwise, we will notify you of the outcomes and any minor changes, before the threshold and the reviewed criteria will be published by Gazette notice.
Who do I contact if I want to discuss these matters in more detail?
If you would like to discuss the introduction of a threshold for property disposal by TEIs, or the risk assessment criteria review in more detail, please contact either:

- Mary Kuepper – Graduate Policy Analyst, Tertiary Policy (Ministry of Education):
  - O s 9(2)(a) OIA or
  - O mary.kuepper@education.govt.nz, or

  - O s 9(2)(a) OIA or
  - O edward.scrimgeour@education.govt.nz.

We thank you for your time and effort.
Nāku noa, nā

Andy Jackson
Group Manager
Tertiary Education

/ / /
Introduction of a threshold for property disposal by TEIs

Background

As TEIs, you own considerable property portfolios. Currently, when you want to sell or dispose of property (land or buildings) that you own you are required to ask for approval from the Secretary of Education (the Secretary) under section 192(4) of the Education Act 1989 (the Act). This applies regardless of the value of the property.

Under section 192(5), the Minister of Education may set a threshold to limit the applications that require approval from the Secretary. A threshold allows TEIs to make transactions valued below the threshold without getting approval of the Secretary. Presently, there is no such threshold in place for the disposal of property.

The Ministry of Education, in collaboration with the Tertiary Education Commission (TEC), is proposing a threshold based on the equity owned by a TEI. Tiered categories were used to recognise the range in size of TEIs.

Before we introduce any threshold, we are seeking feedback from your organisation to confirm whether the proposed threshold is appropriate for TEIs.

The Crown’s objectives

The policy objective of introducing a threshold for property disposal by TEIs is to help achieve a balance between TEI autonomy and the risk to the Crown, and to reduce unnecessary compliance costs and time delays.

TEIs can already make decisions to invest in large new construction projects without the Secretary’s or Minister’s approval (if a TEI needs to borrow, the borrowing may need approval under section 192(4)). Additionally, thresholds currently exist to dispose of some non-property assets,¹ to grant leases of property,² and to borrow funds without the approval of the Secretary.³

Given the other decisions TEIs can make, it is an inconsistency that they need to get approval from the Secretary to dispose of low-value property. The lack of a threshold for property disposal by TEIs is inconsistent with existing expectations of TEI responsibilities, and creates unnecessary administrative costs for the government, and compliance costs and time delays for TEIs when you want to dispose of low-value property.

² The threshold for granting leases is set out in the legislation (Education Act 1989, section 192(5)(b)).
Description of the proposed threshold

The table below outlines a proposed threshold for property disposal by TEIs. The table separates TEIs into tiers by the size of their equity. To determine what tier a TEI is in, the group equity value of the TEI will be taken from its most recent annual report. The middle column displays the threshold that is then applied for each tier. We have used fixed amounts rather than percentages, because they are easy to understand and stable year-to-year.

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<td>over $250 million</td>
<td>$15,000,000</td>
<td>less than 6% of equity</td>
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For TEIs to dispose of property under the proposed threshold, they would need to meet the following criteria, these being to:

a. ensure the disposal is consistent with their Capital Intentions Plan,

b. have a recent valuation of the property by a registered valuer (within the last year), and

c. either:

i. have a ‘core’ rating in their most recent independent Capital Asset Management (CAM) Maturity Assessment by an Independent Assessor, and a ‘low’ rating in their most recent Financial Monitoring Framework (FMF) report, or

ii. have an ‘intermediate’ rating in their most recent independent CAM Maturity Assessment by an Independent Assessor, and a ‘moderate’ rating in their most recent FMF report.

If a TEI doesn’t meet the ‘low’ or ‘moderate’ FMF rating, but fulfils all other criteria listed above, the TEI can still dispose of property valued below $300,000 without needing the approval of the Secretary.

The introduction of a threshold for property disposal would not affect existing management practices and responsibilities of your organisation. Under section 181 of the Act, it is the duty of the council of an institution to ensure that the institution operates in a financially responsible manner that ensures the efficient use of resources and maintains the institution’s long-term viability. We would expect you to continue operating with appropriate internal delegations and make decisions that are consistent with your investment and capital plans. In disposing of property, TEIs would be expected to confirm they are the owner of the property and to satisfy Treaty of Waitangi obligations, Public Works Act 1981 requirements, any right of first refusal, and any obligations from an earlier Crown asset transfer to TEIs.
Scope of the discussion

We are seeking:

- your feedback on the proposed threshold, and
- any other comments on introducing a threshold for property disposal by TEIs.

Questions

We are interested in your views on the following questions. Please provide your responses on the attached submission form:

(1) Are the proposed thresholds set at the right level? Please explain why the threshold might be too high or too low if you have any concerns.

(2) Are there risks from setting a threshold that need to be considered?

(3) Are there any other comments you would like to make regarding the introduction of a threshold for property disposal by TEIs?

How to provide feedback

You can provide feedback by completing the attached submission form. You can return your responses via email to the Tertiary Strategy Mailbox [Tertiary.Strategy@education.govt.nz] or post them to:

Consultation on section 192
Access and Participation Policy
Ministry of Education
PO Box 1666
WELLINGTON 6140

The deadline for responding is Friday 8 June 2018.

If you would like to discuss the introduction of a threshold for property disposal by TEIs in more detail, you may contact either:

- Mary Kuepper – Graduate Policy Analyst, Tertiary Policy (Ministry of Education):
  - s 9(2)(a) OIA
  - mary.kuepper@education.govt.nz

  - s 9(2)(a) OIA
  - edward.scrimgoeur@education.govt.nz
Next steps

Following the deadline on 8 June 2018, we will consider all the submissions.

We will then provide advice to the Minister on any adjustments to the proposed threshold, under section 192 of the Act.

Should there be any substantial changes, or a new threshold proposed, we will consult with you again. Otherwise, we will notify you of the outcomes and any minor changes, before the threshold for property disposal by TEIs will be published by Gazette notice.
Submission form A (section 192)

Introduction of a threshold for property disposal by TEIs

When reporting findings no individuals will be identified. However, please note that submissions associated with the introduction of a threshold for property disposal by TEIs are subject to the Official Information Act 1982. Submissions may be released to a third party in line with this Act. Personal information will be protected according to the Privacy Act 1993.

Contact details

In order to contact you following the submission deadline (of 1 June 2019), please provide the following details. This information will only be used to contact you with regards to this consultation.

Name:

Contact number:

Contact email:

Institution:

Questions

We are interested in your views on the following questions. Please type your responses below the respective questions.

(1) Are the proposed thresholds set at the right level? Please explain why the threshold might be too high or too low if you have any concerns.

(2) Are there risks from setting a threshold that need to be considered?

(3) Are there any other comments you would like to make regarding the introduction of a threshold for property disposal by TEIs?

Thank you for taking the time to provide feedback.
Discussion paper B (section 195A)

Review of the risk assessment criteria

Background
Section 195A of the Education Act 1989 (the Act) outlines the risk assessment criteria (the criteria). The criteria are used to assess the level of risk to the operation and long-term viability of tertiary education institutions (TEIs). They are also used to assess the level of risk to the educational performance of students enrolled at institutes of technology and polytechnics (ITPs).

The Chief Executive of the Tertiary Education Commission (TEC) and the Minister of Education consider the criteria, when assessing whether an institution is at risk in a way that might warrant a statutory intervention, in accordance with sections 195B to 195D for universities and wānanga, and sections 222A to 222F for ITPs.

The criteria are supported by a number of sources. These include the Financial Monitoring Framework (FMF), investment plans, the borrowing consent process (under section 192 of the Act), and the New Zealand Qualifications Authority’s (NZQA) external evaluation and review process. These sources provide the necessary information for the assessment of provider performance against the criteria.

Section 195A of the Act allows the Secretary of Education (the Secretary) to determine the criteria after consulting institutions’ councils. The Secretary is required to publish the determined criteria in the Gazette. The current criteria are attached in Annex One.

Section 195A of the Act also requires the Secretary to review the criteria at least once every two years following the date of their publication. The criteria were last gazetted on 22 January 2015.

The Crown’s objectives
The policy objective in managing the Crown’s ownership interest in TEIs is to ensure the autonomy of TEIs is preserved and enhanced, while safeguarding the public interest (both financial and educational) in TEIs.

Statutory intervention is only used when other levers have been unsuccessful. Other levers include the consent process for borrowing approvals under section 192 of the Act, the investment planning process, or the performance consequences framework, which includes the ability to recover or suspend funding.

The Chief Executive of the TEC and the Minister use the criteria to identify when a statutory intervention is appropriate to ensure that interventions only occur after other measures have been explored. An effective interventions system facilitates timely interventions while limiting agencies’ powers to the minimum power necessary to be effective. It also keeps compliance costs to TEIs and administrative costs to the government at an appropriate level for the risks involved (either in size or likelihood). It is important to assess whether the criteria are contributing to an effective interventions system.
**Scope of the review**

In the context of the current risk assessment criteria, this review is examining whether:

- the current criteria are adequately linked to risks to the operation and/or long-term viability of TEIs, and the educational performance of students at ITPs, and
- the mandatory two-yearly review of the criteria should be replaced with a longer or more flexible review requirement.

This is not a review of the wider performance monitoring system or the FMF.

**Questions**

We are interested in your views on the following questions. Please provide your responses on the attached submission form. We would appreciate if you could provide explanations for your responses:

1. Are the current criteria, as attached in Annex One, appropriate for assessing the risk to the operation and/or long-term viability of the institutions? Do you propose any changes?

2. Some of the criteria draw on specific information from a number of sources (e.g. the FMF, NZQA’s external evaluation and review process, or borrowing consent agreements). Is the information that the criteria use available and accurate at the appropriate time, to enable timely and sound decisions on statutory interventions to be made?

3. A key risk to the long-term viability of a TEI is if poor internal risk management is occurring. Do the current criteria appropriately recognise the risk of poor internal risk management? Are any new criteria needed specifically related to this risk?

4. Do you think the mandatory two-yearly review of the criteria should be replaced with a longer or more flexible review requirement?

In addition to the questions above, we ask ITPs to provide feedback on the following question:

5. Are the current criteria appropriate for assessing the educational level of risk to the operation and/or long-term viability of ITPs?
How to provide feedback

You can provide feedback by completing the attached submission form. You can return your responses via email to the Tertiary Strategy Mailbox [Tertiary.Strategy@education.govt.nz] or post them to:

Consultation on section 195A
Access and Participation Policy
Ministry of Education
PO Box 1666
WELLINGTON 6140

The deadline for responding is Friday 8 June 2018.

If you would like to discuss the review of the risk assessment criteria in more detail, you may contact either:

- Mary Kuepper – Graduate Policy Analyst, Tertiary Policy (Ministry of Education):
  - s 9(2)(a) OIA or
  - mary.kuepper@education.govt.nz, or

  - s 9(2)(a) OIA or
  - edward.scrimgeour@education.govt.nz.

Next steps

Following the deadline on 8 June 2018, we will consider all the submissions.

We will then make adjustments to the current risk assessment criteria. Should there be any substantial changes, or new criteria proposed, we will consult you again. Otherwise, we will notify you of the outcomes and of any minor changes, before the reviewed risk assessment criteria will be published by Gazette notice.
Annex One: Risk assessment criteria for tertiary education institutions

Organisational

1. The council has not fulfilled, and continues not to fulfil, its statutory functions and duties under the Education Act 1989.

2. The council has failed, and continues to fail, to ensure the institution maintains adequate systems and processes for effective planning, and for the effective management of the financial and educational performance and infrastructure of the institution.

3. The council has failed, and continues to fail, to meet a material obligation under the Education Act 1989, Crown Entities Act 2004 or Public Finance Act 1989.

Financial

4. The institution is, or is at risk of being, unable to pay its debts as they become due in the normal course of business.

5. The institution has breached any of the conditions set by the Secretary for Education in a borrowing consent under section 192(7) of the Education Act 1989, and the breach has not been remedied.

6. The institution is in default under any loan or other facility agreement with a bank or other commercial lender, or the Crown, and the default has not been remedied.

7. The institution has an overall rating of Moderate Risk or High Risk in the most recent financial performance assessment carried out under the FMF operated by the TEC from 1 January 2010. The overall financial performance assessment under the FMF covers the dimensions of the shorter term financial viability and longer term sustainability of an institution.

8. The institution has a rating of Moderate Risk or High Risk under the financial viability criteria in its most recent financial performance assessment carried out under the FMF operated by the TEC from 1 January 2010. The financial viability criteria under the FMF focus on the shorter term financial performance of the institution.

Educational

9. The polytechnic has failed to meet the educational performance commitments in the investment plan agreed by the TEC.

10. The external evaluation and review of the polytechnic carried out under the auspices of the New Zealand Qualifications Authority has resulted in an assessment of educational performance that is "not yet confident" or "not confident".

4
Submission form B (section 195A)

Review of the risk assessment criteria

When reporting findings no individuals will be identified. However, please note that submissions associated with review of the risk assessment criteria are subject to the Official Information Act 1982. Submissions may be released to a third party in line with this Act. Personal information will be protected according to the Privacy Act 1993.

Contact details
In order to contact you following the submission deadline (of 8 June 2018), please provide the following details. This information will only be used to contact you with regards to this consultation.

Name:
Contact number:
Contact email:
Institution:

Questions
We are interested in your views on the following questions. Please type your responses below each question. We would appreciate if you could provide explanations for your responses:

(1) Are the current criteria, as attached in Annex One, appropriate for assessing the risk to the operation and/or long-term viability of the institutions? Do you propose any changes?

(2) Some of the criteria draw on specific information from a number of sources (e.g. the FMF, NZQA’s external evaluation and review process, or borrowing consent agreements). Is the information that the criteria use available and accurate at the appropriate time, to enable timely and sound decisions on statutory interventions to be made?

(3) A key risk to the long-term viability of a TEI is if poor internal risk management is occurring. Do the current criteria appropriately recognise the risk of poor internal risk management? Are any new criteria needed specifically related to this risk?

(4) Do you think the mandatory two-yearly review of the criteria should be replaced with a longer or more flexible review requirement?

Please turn over

5
In addition to the questions above, we ask ITPs to provide feedback on the following question:

(1) Are the current criteria appropriate for assessing the educational level of risk to the operation and/or long-term viability of ITPs?

Thank you for taking the time to provide feedback.