Education Report: Options for when to review compulsory student services fee regulation

To: Hon Chris Hipkins, Minister of Education
    Hon Tracey Martin, Associate Minister of Education

Date: 14 February 2018
Priority: High

Security Level: In Confidence
METIS No: 1105834

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Messaging seen by Communications team: No
Round Robin: No

Purpose of Report

This paper proposes to defer work on possible changes to the regulation of compulsory student services fees (CSSFs), in the context of the fees-free policy and other work programme priorities. A decision on this is needed now because if you wish to include changes to CSSF regulation in the 2018 omnibus Education Legislation Bill, your report on this Bill to the Cabinet Social Wellbeing Committee next week will need to seek agreement to a consultation process.

Summary

- In discussions with officials in late 2017 you raised questions about whether CSSF regulation is fit-for-purpose, and whether this could be usefully included in Education Act amendments in 2018.

- We recommend deferring work on possible legislative changes concerning the regulation of CSSFs. This can then be considered as part of the broader question of how best to regulate all tertiary fees in the context of an expanding fees-free policy. While current CSSF arrangements raise some issues and concerns, major problems are not evident. We will have better evidence later this year on how providers are responding to recent CSSF rule changes and how the fees-free policy may affect CSSFs. Deferring possible legislative change would free up resources for other priorities on your agenda, and would allow for fuller consultation and engagement with sector stakeholders.

- If, however, you wish to seek legislative changes for CSSF regulation in 2018, this will need to be included in the omnibus Education Legislation Bill. You have received a draft Cabinet paper setting out the content and stakeholder engagement process for this Bill. We have drafted a section to insert if you wish, outlining a fast-track two-stage engagement and consultation process on CSSF regulation.
Recommended Actions

The Ministry of Education recommends you:

a. EITHER

   i. agree to consider changes to the CSSF regulation when further evidence on the impact of fees-free on the CSSF regulatory framework is available, likely in late 2018 (recommended)

   Agree / Disagree

   OR

   ii. agree to consider legislative change to CSSF regulation through the omnibus education bill (Education Legislation Bill) in 2018 (not recommended)

   Agree / Disagree

AND

b. agree that this Education Report is not proactively released at this time as final decisions are still to be made by Ministers and Cabinet.

   Agree / Disagree


Andy Jackson
Group Manager
Tertiary Education

14/2/2018

Hon Chris Hipkins
Minister of Education
25/2/18
Current fee regulation arrangements

1. Tertiary education providers can charge two kinds of compulsory fees to students:
   a. Tuition fees cover a student’s tuition costs and
   b. Student services fees help fund services to students, such as health and counselling services, careers advice, sports, recreation and cultural activities.

2. The Government regulates fees seeking to strike a balance between:
   a. ensuring study remains affordable for students,
   b. allowing providers to cover rising costs and ensure the quality of provision, and
   c. managing fiscal cost to the Government from increased borrowing through student loans and the fees-free tertiary education policy.

3. Tuition fees are regulated through the Annual Maximum Fee Movement (AMFM). This sets the maximum percentage increase in domestic tuition fees each academic year. This provides certainty on tuition fee increases for students, and manages increased costs to the student loan scheme and fees-free policy through tuition fee increases.

4. The current AMFM policy effectively locks in long-established differences in fees between providers. The AMFM policy’s effect on fee differences across providers are subject to ongoing debate in the sector (including in the Productivity Commission’s 2017 report), and will need careful consideration as the Government’s fees-free policy is implemented and extended.

5. Compulsory student services fees (CSSFs) are regulated differently to tuition fees. Instead of determining how much CSSFs can increase by each year, the Government regulates the process providers must follow to set these fees and how they are spent. This provides flexibility for providers to charge a higher CSSF for services that students agree are of high value.

6. CSSFs are regulated through a Ministerial Direction under section 227A of the Education Act 1989, which specifies that tertiary providers charging a CSSF must:
   a. provide an annual report describing the student services provided, the fee income and expenditure for each type of service, the fee per equivalent full time student (EFTS), and how the provider is complying with accounting requirements.
   b. ensure that the CSSF supports the delivery of 10 categories of services:
      - Advocacy and legal advice
      - Careers information
      - Counselling services
      - Employment information
      - Financial support and advice
      - Health services
      - Media
      - Childcare services
      - Clubs and societies
      - Sports, recreation and cultural activities
   c. ensure students form part of the decision-making process, establishing adequate arrangements for decisions to be made jointly, or in consultation with the students enrolled at the tertiary provider on setting the CSSF.
   d. account for the income and expenditure associated with the CSSF.
7. The Minister responsible for tertiary education can set the amount and type of CSSF an individual provider can charge, if that individual provider does not clearly comply with these requirements. This ministerial power has not been exercised to date.

8. The CSSF rules aim to ensure that providers and students work together to set fees and determine what services are delivered. They aim to ensure accountability in the use of CSSFs and discourage unwarranted increases.

Is CSSF regulation still fit-for-purpose?

9. When the CSSF was introduced in 2011, there were concerns that providers were circumventing tuition fee regulations by increasing student services levies excessively. Universities’ average student services levy for full-time students increased by 102% between 2009 and 2010 – from $194 to $392 (GST inclusive).

10. CSSF regulation has worked to limit annual fee increases, which slowed to an average of 3.9% per year from 2015 to 2016. Universities’ average CSSF was $619.61 in 2016. The increase was slightly above the 3% AMFM increase for tuition fees in 2016. Figure 1 shows universities’ yearly CSSF increases between 2014 and 2016.

Figure 1: CSSF dollar increases by year at universities

11. At Institutes of Technology and Polytechnics (ITPs) CSSFs increased on average by 10.0% between 2015 and 2016. However, ITPs’ CSSFs are generally much lower than those of universities, averaging $265.81. Figure 2 shows ITPs’ yearly CSSF increases between 2014 and 2016.

12. Across the 12 PTEs that report on charging a CSSF, the average CSSF charged in 2016 was $457.79.

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1 CSSF dollar amounts provided are per EFTS unit and based on the figures reported annually to TEC. Five universities did not provide the CSSF amounts in 2014 and so these figures are not provided.
13. A 2015 review of the CSSF policy found that student involvement in decision-making about their CSSF needed considerable improvement—in part because students did not know how to get involved. Officials have worked to strengthen student voice in the CSSF decision-making process, engaging with the New Zealand Union of Students’ Associations (NZUSA) on this work.

14. The TEC also notes that the Government has no recourse should a provider increase (or start charging) a CSSF but offer low quality services. The regulation instead aims to ensure students form part of the decision-making process to set the CSSF, and to make providers accountable to students for the quality of the services offered.

**Introduction of fees-free**

15. Under the fees-free policy, approximately one in five tertiary students (70,000) will get their first year of provider-based study fees-free in 2018; this ratio will increase when the policy is extended to two years in 2021 and three years in 2024. The Government will pay tertiary education providers the tuition fee and CSSF for students eligible for fees-free tertiary education.

16. The current regulation of CSSFs may be tested by providers’ behavioural responses to the fees-free policy. We will need to carefully monitor how the fees-free policy may affect the behaviour of tertiary providers in 2018 and 2019 in setting fees.

17. As the fees-free policy is extended to the full three years and a higher proportion of students access fees-free, the fiscal risk associated with the CSSF increases. The Government also already covers approximately 40 cents of every dollar borrowed for CSSFs through the cost of lending under the student loan scheme.

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2 CSSF dollar amounts provided are per EFTS unit and based on the figures reported annually to TEC. One ITP did not provide the CSSF amount in 2014, NorthTec did not charge a CSSF in 2014, and Tai Poutini Polytechnic introduced a CSSF in 2015 and have not finalised their 2016 annual report.
18. The future design and delivery model of the fees-free policy has yet to be determined, and may look quite different to the model adopted for implementation in 2018. Different future options will have different implications for the regulation of fees charged by providers— including both tuition fees and student services fees.

19. It is unlikely that providers will significantly increase CSSFs in response to the fees-free policy in the short-term, as the current regulations will constrain this and most students will continue to pay for CSSFs, either through student loans or directly.

Options to consider change

Considering changes after monitoring the effect of fees-free in late 2018

20. We recommend deferring the consideration of changes to CSSF regulation until further evidence on the impact of fees-free on future CSSF levels is available, likely in late 2018. This would mean progressing any legislative change in 2019. This will provide us with the opportunity to observe the impact that fees-free has on CSSF regulation before considering changes.

21. Putting CSSF regulation changes on hold will also allow us to consider the changes alongside broader fee regulation in the context of fees-free. Since CSSFs make up, on average, approximately 10% of the compulsory fees a provider charges domestic students, we consider it would be better to consider changes to the CSSF regulation alongside changes to the regulation of tuition fees. The fees-free policy will also provide more visibility of CSSFs due to fees-free reporting in 2018.

Considering changes through 2018 omnibus education bill

22. If you prefer to consider legislative change this year, the available vehicle for this is the omnibus Education Legislation Bill in 2018. We propose a two-stage process to consult with stakeholders. In early March we would seek views on how the CSSF regulation may interact with fees-free. Should you wish to progress work to strengthen CSSF regulation, the second stage would commence in April. We would outline options for change and seek comment. We have prepared text to include in your Cabinet paper proposing content and stakeholder consultation for the omnibus bill if you wish to include CSSF changes in this bill.

23. However, considering changes to the CSSF regulation in the 2018 omnibus education bill will mean that there will be limited opportunity to engage with stakeholders on the extent of the problem. There will also be limited evidence on the impact that fees-free will have on the CSSF regulatory framework. This means that any changes would be based on speculation, rather than evidence that CSSF regulation is no longer fit-for-purpose in the context of fees-free.

Next steps

24. When we have received your feedback we will either:
   a. provide further advice on the impact of fees-free on future CSSF levels when evidence is available in late 2018 (if you choose to consider changes to CSSF regulation later in the year); or
   b. provide supporting text for inclusion in your Cabinet Committee paper on the proposed content and stakeholder engagement for the 2018 omnibus bill.

25. We recommend this Education Report is not proactively released at this time because final decisions are still to be made by Ministers and Cabinet.