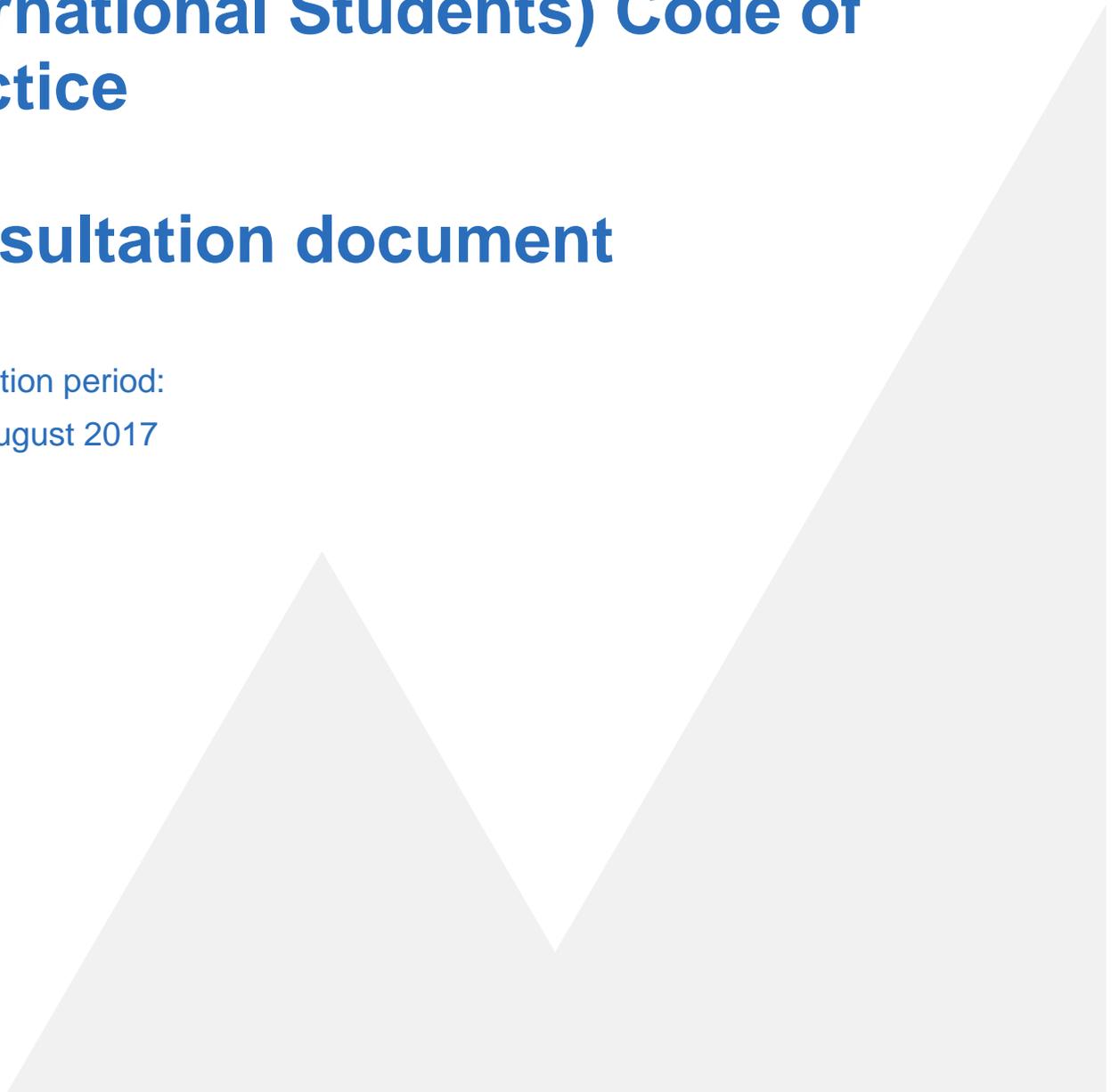




# Consultation on proposed changes to the Education (Pastoral Care of International Students) Code of Practice

## Consultation document

Consultation period:  
1 – 29 August 2017



# Introduction

## Background

Following a comprehensive review, the Education (Pastoral Care of International Students) Code of Practice (the Code of Practice) replaced the earlier Code of Practice for the Pastoral Care of International Students on 1 July 2016. The purpose of the Code of Practice is to support the Government's objectives for international education by requiring Code signatories to take all reasonable steps to protect international students, and ensuring, as far as is possible, that international students in New Zealand have a positive experience that supports their educational achievement. The Code of Practice sets out the outcomes and key processes Code signatories are required to deliver for their international students.

## Issues for consultation

Since the new Code of Practice took effect, some Code signatories and sector bodies have raised concerns about aspects of the Code of Practice:

- retaining Code of Practice signatory status
- safety checks for residential caregivers and other adults
- clarifying the role of designated caregiver
- hosting young group visitors.

The Ministry of Education wants your views on these issues and possible ways to address concerns.<sup>1</sup>

In addition to this consultation document, you may also find the following documents useful:

- the [Code of Practice](#)
- the [Guidelines for the Education \(Pastoral Care of International Students\) Code of Practice 2016 - Schools](#)

## Providing feedback

**When reporting findings no individuals will be identified, however please note that submissions associated with this consultation are subject to the Official Information Act 1982, and may be released to a third party in line with this Act. Personal information will be protected according to the Privacy Act 1993.**

The deadline for submissions is **29 August 2017**.

We are also interested in hearing the views of international students, and encourage providers to engage their international learners in this process.

Please use the online questionnaire at <https://www.research.net/r/CodeofPracticeAug2017>. You may also provide feedback by email [international.division@education.govt.nz](mailto:international.division@education.govt.nz), or post a written submission to:

Consultation on the Code of Practice  
International Division  
Ministry of Education  
PO Box 1666  
WELLINGTON 6140

We thank you for your time and effort.

<sup>1</sup> The Education (Tertiary Education and Other Matters) Amendment Bill includes proposals to amend the Act to allow schools to apply stand-down, suspension, exclusion and expulsion to international students for misconduct outside of school, as appropriate. The Bill is currently before the Education and Science Select Committee.

# Issues for consultation

## A Code signatory's capability to comply with the Code of Practice if no international students are enrolled for an extended period of time

Any education provider intending to enrol international students must be a signatory to the Code of Practice.

Education providers need to meet the following criteria to be approved by the Code Administrator (NZQA) as Code signatories:

- the applicant is a provider
- the applicant provides, or is intending to provide, educational instruction
- the applicant has acceptable financial management practices and performance
- the applicant has policies and procedures in place that will enable it to achieve the outcomes sought and processes required by this Code of Practice
- the Code Administrator does not otherwise consider the applicant to be unsuitable for approval as a signatory to the Code of Practice

There is no legal requirement for a Code signatory to enrol international students at any time after becoming a Code signatory. We know there are some providers (especially schools) which have become Code signatories, but not immediately enrolled any international students, or not enrolled any international students in recent years. In 2016, 159 Code signatory schools had not enrolled international students in the past two years.

When Code signatories do not enrol international students for some time, their capability to meet the requirements of the Code of Practice may have reduced, or at least not been recently tested. Staff with appropriate skills and knowledge may leave, and policies and procedures to ensure compliance with the Code of Practice may become out of date. This may mean that students do not receive an appropriate level of pastoral care to support their wellbeing.

### **Proposed strengthening of monitoring processes**

NZQA, as the Code Administrator, could strengthen the monitoring of Code signatories which have not enrolled international students for a period of time once they commence enrolling international students. This could include requiring Code signatories:

- to state in their annual attestation the number of international students they have enrolled during the attestation period and indicate if they intend to enrol any during the next period.
- to advise NZQA at the time they enrol new international students, if they have not had international students in the previous period. NZQA would then request a copy of the current annual self-review report from the education organisation and may undertake on-site monitoring to confirm compliance with the Code of Practice.

Strengthened monitoring could provide additional support to Code signatories who haven't enrolled international students for a period of time, to ensure that they still have appropriate policies and procedures in place. If a Code signatory still does not enrol international students, their Code signatory status would lapse, in line with the proposed amendment to the Code of Practice below.

## **Proposed amendment to the Code of Practice**

We propose allowing automatic lapsing of Code signatory status after a period of not enrolling any international students. Education organisations would be required to reapply for Code signatory status before enrolling international students. This would provide all potential international students, and the wider export education sector, with confidence that all Code signatories are capable of meeting their obligations under the Code of Practice.

### **Consultation Questions**

1. Do you agree that NZQA, as the Code Administrator, should strengthen their monitoring of Code signatories that have not enrolled international students for a period of time?
2. Do you agree that the Code of Practice should be amended to allow automatic lapsing of signatory status after a period of not enrolling any international students?
3. If you agree, what do you think would be an appropriate period of time before Code signatory status lapses?
  - 1 year
  - 2 years
  - 3 years
  - other (please specify)
4. Do you have any other comments or suggestions regarding the proposed changes?

## Safety checking for residential caregivers and other adults sharing the accommodation

### Safety checks for residential caregivers

The Code of Practice requires signatories to, “as far as practicable, ensure that international students live in a safe environment” (Outcome 6: safety and well-being).

The accommodation processes under the safety and well-being outcome require Code signatories to “ensure that an appropriate safety check has been completed for a residential caregiver” of an international student under 18 years old (Clause 26 (1) (b)). The *Guidelines for the Education (Pastoral Care of International Students) Code of Practice 2016*, developed by NZQA, include more details on appropriate safety checks in support of the required Outcome 6. However, not including the details of a safety check in the Code of Practice itself could result in some Code signatories not conducting some necessary steps for the safety checks, for example a Police vet.

### Proposed amendment

We propose that the Code of Practice be amended to specify the requirements of an appropriate safety check, in line with the requirements currently in the Guidelines:

- a Police vet
- confirmation of identity, e.g. sighting passport or driver’s license
- home visit
- character references
- interviews with host family members.

### Consultation questions

5. Do you agree that the Code of Practice should specify exactly what is required for an appropriate safety check for residential caregivers (i.e. a Police vet; confirmation of identity; home visit; character references; interviews with host family members)?
6. Do you have any other comments or suggestions about appropriate safety checks for residential caregivers?

## Safety checks for other adults sharing the accommodation with young international students

The Code of Practice only requires the residential caregiver to be safety checked, and not other adults who are living in the house. This means Code signatories and residential caregivers need to make a judgement call about what, if any, safety checks are necessary and appropriate.

### Possible amendment

The Code of Practice could be amended to specify what, if any, checks should be undertaken on other people over 18 years old sharing the accommodation with young international students under 18.

### Consultation questions

7. Do you think that adults (other than residential caregivers) over 18 living in the accommodation with an international student under 18 should be subject to a certain level of safety check?
8. Do you think that other adults over 18 **living permanently** (more than three months) in accommodation with an international student under 18 should be:
  - subject to the same level of safety check as residential caregivers?
  - subject to a reduced level of safety check?
  - not subject to a safety check?
9. If you think adults over 18 **living permanently (more than three months)** in accommodation with an international student under 18 should be subject to a reduced safety check, what do you think this should include?
  - a Police vet
  - confirmation of identity, e.g. sighting passport or driver's license
  - home visit
  - character references
  - interviews by Code signatories
  - other (please specify)
10. Do you think that other adults over 18 **living temporarily (less than three months)** in accommodation with an international student under 18 should be:
  - subject to the same level of safety check as residential caregivers?
  - subject to a reduced level of safety check
  - not subject to a safety check

11. If you think adults over 18 **living temporarily (less than three months)** in the accommodation with an international student under 18 should be subject to a reduced safety check, what do you think this should include?
- a Police vet
  - confirmation of identity, e.g. sighting passport or driver's license
  - home visit
  - character references
  - interviews by Code signatories
  - other (please specify)
12. Do you think that other adults over 18 **staying temporarily (less than two weeks)** in accommodation with an international student under 18 should be:
- subject to the same level of safety check as residential caregivers?
  - subject to the same level of safety check as other adults over 18 living temporarily (under three months) in the same accommodation as an international student under 18?
  - subject to the same level of safety check as other adults over 18 living temporarily?
  - not subject to a safety check?
13. Do you have any other comments or suggestions around a check on other people living or staying in the same accommodation as an international student under 18?

## Clarification around the role of designated caregivers

The Code of Practice defines a designated caregiver as “a relative or close family friend designated in writing by a parent or legal guardian of an international student under 18 years as the caregiver and accommodation provider for that student”. A designated caregiver is a category of residential caregiver.

Code signatories are currently able to approve the overseas parents’ choice of designated caregiver, but once approved, the Code signatory isn’t responsible for the student when they’re outside of school. Clause 26 (1) (e) specifies that “the signatory is not responsible for the student’s care when the student is in the custody of the designated caregiver”. This is to allow parents overseas to choose someone they know and trust to look after their children in New Zealand. The designated caregiver is primarily responsible for any issues outside of school.

Although the Code signatory doesn’t have responsibility for the student’s care and support outside school if the student has a designated caregiver, the signatory still needs to monitor the student’s living situation, communicate effectively with parents about any issues, and manage any issues that arise (Clauses 26 (1) (c) and (d) ).

### **Option A - Enhancing the clarity of Code signatories’ responsibilities over designated caregivers by providing more information in the *Guidelines***

This option would not require changes to the Code of Practice. Instead, the *Guidelines for the Education (Pastoral Care of International Students) Code of Practice 2016* could be amended to clarify that Code signatories are able to make a judgement call on the appropriateness of the designated caregiver proposed by parents, and that the Code signatory’s ongoing approval of the designated caregiver is required and confirmed through monitoring. Code signatories can also notify the parents/legal guardians if they become aware of any issues regarding the designated caregiver through their monitoring, and take action if issues of health and wellbeing arise from a student’s accommodation or connected with it. Schools would not be able to take disciplinary action or set behavioural expectations for conduct outside of school. This would mean no change to current signatory responsibilities.

### **Option B - Amending 26 (1) (e)**

The Code of Practice could be amended to remove “...and that the signatory is not responsible for the student’s care when the student is in the custody of the designated caregiver” (part of clause 26 (1) (e)). This would make it clearer that Code signatories still have responsibilities to monitor the student’s living situation, communicate effectively with parents about any issues arising, and manage any issues that arise, consistent with Clauses 26 (1) (c) and (d). It would mean that signatories have full responsibility at all times, in the same way as for a student living with a homestay family.

## Consultation Questions

14. To clarify Code signatories' responsibilities over international students under 18 living with designated caregivers, do you think:

- A) the Code *Guidelines* should be amended to clarify that signatories still have responsibility for approval, monitoring and addressing any issues with designated caregivers
- B) clause 26 (1) (e) of the Code should be amended to remove "...and that the signatory is not responsible for the student's care when the student is in the custody of the designated caregiver"
- both A) and B) are necessary
- neither A) nor B) are necessary (no change is necessary)

15. Do you have any other suggestions about the role of Code signatories in relation to designated caregivers?

## Young group visitors

Under the current legislation (Section 238EA of the Education Act 1989), schools can host short-term visitors without enrolling them if the visit is for less than two weeks (14 calendar days), and no money is received for tuition or education services. This is intended to facilitate cultural and sports exchanges between New Zealand and overseas schools, and enable children from overseas to have a short-term visit to New Zealand schools to experience New Zealand education and lifestyle. As these visitors are not here for formal school education and their visit is very short (under 2 weeks), they do not need to enrol as a student. The school receiving these short-term visitors therefore does not need to be a signatory to the Code of Practice.

If the 'visit' is for longer than two weeks, and/or the school receives money for tuition or education services, the students are international students and must be enrolled in a Code signatory school and covered by the Code of Practice.

We have heard that some non-Code signatory schools are being contacted by agents offering a 'donation' for 'visits' of groups of students instead of "tuition fees". If the "donation" is for education tuition, these students should be enrolled as international students.

There are concerns that:

- schools and agents are calling tuition fees "donations" to circumvent the need to enrol foreign children as international students
- non-Code signatory schools may be ill-equipped to provide appropriate pastoral care to ensure the students' wellbeing during their visit in New Zealand (even though visits are under 2 weeks).

We are seeking information on this issue to clarify these concerns, and we welcome schools' input, especially empirical evidence, to help us define the problem and then construct solutions. We want to find out more information about this issue and if it's a problem. We welcome your input about numbers of children, ages, frequency of visits and any other data you have.

### Consultation Questions

16. Has your school had any short visits (up to two weeks) from children from overseas?

17. If yes, how long do these visits usually last?

- 1-2 days
- 3-4 days
- 5-6 days
- 7-8 days
- 9-10 days

18. What is the main purpose of their visit to New Zealand?

19. Do these visitors receive the same tuition/education services as other students?

20. Has your school received any financial benefit from these visits?

21. Do you have any other comments about young group visitors?

# Other matters

## Additional feedback

Thank you for taking the time to provide feedback. If you want to make any other comments on the Code of Practice, please use the open feedback section at the end of the survey.

The Education (Tertiary Education and Other Matters) Amendment Bill includes proposals to amend the Act to allow schools to apply stand-down, suspension, exclusion and expulsion to international students for misconduct outside of school, as appropriate. The Bill is currently before the Education and Science Select Committee.

## Next steps

The consultation period ends on 29 August 2017.

Following an analysis of the feedback provided, we will report to Ministers on results of the consultation with recommendations on whether and what changes to the Code of Practice are needed.

We will post a summary of the consultation feedback on the Ministry of Education website.