



Consultation Document

Risk-rated premium options for the Export Education Levy

Deadline for submissions: 5pm, Tuesday 25 June 2019

Contents

Introduction	4
Why further change is needed	4
All providers will still contribute	5
Holding providers responsible for failure	5
The EEL balance remains difficult to predict	5
Three proposed changes to the EEL	5
1: Risk-rated premium for PTEs.....	6
2: Financial security for all PTEs.....	7
3. Indexing the EEL rates.....	7
Providing feedback	8
Purpose of feedback.....	8
How to provide feedback	8
Submission form	9
Annex 1: EEL-funded activities (non-reimbursement expenditure)	13

Key information:

- **Purpose of the consultation:** The Ministry of Education is seeking input from the international education sector peak bodies and individual providers on options to introduce a risk-rated premium to the Export Education Levy (EEL), and other structural changes to the levy. The Minister of Education is required by the Education Act 1989 to consult with providers before changing the Education (Export Education Levy) Amendment Regulations 2017 which set the amount of the levy.
- **Reason for changing the EEL settings:** The 2018 changes to EEL rates addressed the immediate financial pressure on the EEL balance at that time caused by closure-related reimbursements to international students (the 2018 consultation document, which provides full background information, remains available on the Ministry of Education website). We are now considering further changes to improve the fairness of the EEL rates, and to ensure the long-term sustainability of the account. Increased fairness and risk-rated premiums were called for by many submitters, including providers, during the 2018 EEL consultation.
- **What we are seeking from the sector:** We would like to hear your feedback on three proposed changes to how we determine how much EEL is owed annually by all providers. While all providers will continue to pay the EEL, these changes aim to ensure that those PTEs most likely to cause draw-down on the EEL make the largest contribution:
 - **Risk-rated premium** – This would identify specific risk categories, and require higher EEL contributions from PTEs falling into a defined risk profile (non-PTEs will continue to pay a base amount, but all PTEs will pay an additional amount).
 - **Financial security** – This would be a specified amount to be deposited in advance each year by all PTEs. The deposit would be forfeited in cases of closure and would contribute to reimbursement costs.
 - **Indexing EEL rates** – This would mean that the EEL rates would change periodically for all providers, linked to the level of reimbursement expenditure in the previous period. The formula for indexing would also take into account a minimum target balance for the EEL account, and our continuing need to repay the Crown advance arranged in 2018 to cover reimbursement costs.
- **Deadline for feedback:** The deadline for responses is **5pm, Tuesday 25 June 2019**.
- **How to provide feedback:** You may access the online submission form at <https://www.surveymonkey.com/r/7JBCB6Q> or email a written submission to EEL.consultation@education.govt.nz using the form at the back of this document. We will also be holding targeted meetings during the consultation period (please refer to <https://www.education.govt.nz/export-education-levy-consultation> for more information).
- **Questions:** You may also submit any questions you have about the consultation process through the email address EEL.consultation@education.govt.nz.
- **Outcome of consultation:** The consultation feedback will inform decisions about the introduction of a risk-rated premium and other changes related to annual EEL payments, to be confirmed later in the year.

Introduction

The changes introduced to the Export Education Levy (EEL) rates in 2018 were aimed at balancing the interests of international education providers with the need to promote the sector and address failures when they occur. The 2018 changes introduced a new element of fairness to the EEL by weighting the contributions made by Private Training Establishments (PTE). The introduction of differential rates means that PTEs pay more than non-PTEs to account for their closure-related reimbursement coverage by the EEL.

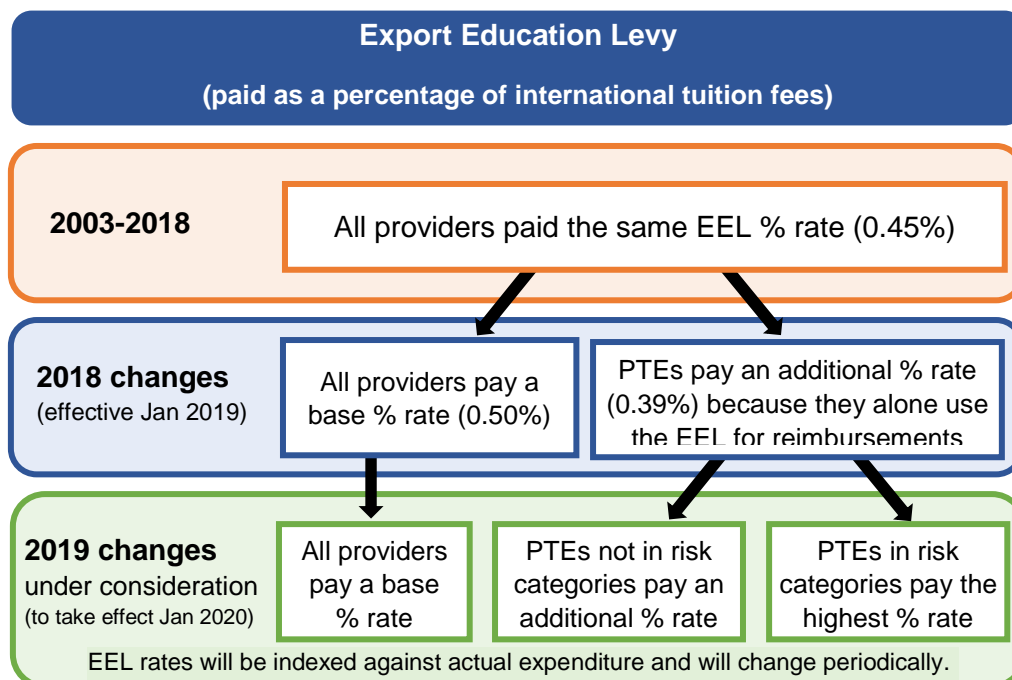
We indicated in 2018 that further work would be undertaken to establish the sustainability of the EEL longer-term, increase fairness within the PTE sector, protect our reputation as a study destination, and facilitate the continuing repayment of the Crown loan advanced to the EEL account in 2018 to cover reimbursement costs.

Why further change is needed

The current settings do not align well with the International Education Strategy as they do not incentivise or reward quality provision and responsible behaviour by owners and providers. Consultation feedback we received last year made this point as well, with a number of submissions calling specifically for a risk-rated premium among PTEs, so that high-performing PTEs would not be paying the same amount as PTEs falling into risk categories.

The figure below shows the 2018 changes (the current settings) and the changes now under consideration aimed at placing the burden of generating EEL revenue to cover reimbursements costs on those PTEs most likely to cause EEL closure-related expenditure.

Figure 1: 2018 EEL changes and 2019 proposed changes



Note that we are also considering requiring a security deposit from PTEs.

All providers will still contribute

All education providers with international students (including non-PTEs) will still pay the EEL, as the core annual expenditure benefits all providers (see Appendix for a list of expenditure categories). All PTEs will pay an additional amount above other provider types, as all PTEs benefit from the “insurance” provided by the EEL reimbursement function. These 2019 proposals are aimed at shifting the relative weighting of the PTE levy charge towards those providers in risk categories (that is, those that are more likely to create drawdown on the EEL), while ensuring long-term sustainability and repayment of the Crown loan.

Holding providers responsible for failure

The failure of a provider is not the fault of its students and we do not want to see them disadvantaged financially or educationally. We are committed to improving the mechanisms for holding providers and owners accountable for failure. For example, the implementation of a new NZQA Rule requires PTEs to cover the costs of any programme closures, including reimbursements to impacted students, if they remain otherwise operational. Failure to comply with this Rule may result in the removal of registration. This Rule has so far resulted in the closure of one PTE in relation to regulatory action that began as a programme closure. While the move from programme closure to full provider closure could potentially increase the number of students needing fee reimbursement (this did not occur in relation to the PTE mentioned, as the additional students were transferred to another provider), we believe this messaging is correct and well-aligned with the International Education Strategy’s emphasis on quality by removing an irresponsible provider from the market altogether.

In addition to this, we have considered requiring PTEs to carry Directors and Officers Insurance as a way to hold directors of failed PTEs financially responsible and to give the Ministry an avenue to recover some of the EEL reimbursement costs from them. However, the fact that the Ministry has no direct contract with providers continues to complicate this option. Advice from the Insurance Council of New Zealand is that this type of insurance is expensive and difficult to secure, as it requires a financial soundness profile and outlook that some of our PTEs would be unlikely to meet, and would thus be unable to operate. It is also unlikely that insurance companies would be keen to insure parties in a sector with high-profile failures.

The EEL balance remains difficult to predict

It is difficult to forecast the level of reimbursement expenditure that will be necessary in any given year, due to the high number of variables involved and the complexities of regulatory action. EEL revenue is likewise difficult to predict due to fluctuations in student enrolments in a highly sensitive global market, including market responses to regulatory shifts in New Zealand and elsewhere.

To cope with the unpredictability of EEL revenue and expenditure, we propose indexing the EEL rates each year against previous expenditure, as discussed further below.

Three proposed changes to the EEL

We have carefully considered overseas models and mechanisms for dealing with provider closures and related costs. We would like your feedback on three possible changes to the EEL:

1. Risk-rated premium
2. Financial security
3. Indexing rates against actual closure-related expenditure

We believe that the first two could work effectively in combination to incentivise and reward quality in the PTE sector, but have made no decision yet to combine them, and we are seeking your input on each. The third change above (indexing) would provide a tool to cope with variable EEL revenue and expenditure more effectively. Legislative or regulatory changes may be required depending on final decisions made.

1: Risk-rated premium for PTEs

As suggested above, risk-rated premiums will incentivise quality provision and reward good provider and owner behaviour. This was called for by a number of public submissions in 2018.

Identifying appropriate risk categories

We believe that there is no single indicator or proxy for risk in the PTE sector in New Zealand that would serve well for calculating the EEL rate. The External Evaluation and Review (EER) category alone is not a reliable indicator of risk of failure because it occurs too infrequently (every 4 years for those in Category 1) to register more rapid decline. However, we think the EER category can contribute to effective analysis of risk when combined with other indicators identified by NZQA, drawing on regulatory experience and evidence.

We would like to receive your feedback on these factors and discuss with you how often they would be reviewed. The table below identifies six possible risk factors to use for assigning EEL risk ratings, though we believe using all six would create a system too complex for our small sector. We aim to identify 2-4 risk factors that could work well together to provide a robust assessment of potential risk.

Table 1: Possible risk factors to use for calculating a risk-rated EEL

Risk factor	How measured
EER category ranking	NZQA administrative data
Financial viability	TEC or NZQA administrative data
Rapid growth or contraction	EEL data
Unsatisfactory programme monitoring	NZQA administrative data
Previous/current statutory action	NZQA administrative data
Students predominantly (more than 80%) from one country	EEL data

The list above is similar to that used in Australia for the same purpose, which includes: payment in arrears, length of operation, volatility in overseas student enrolments, maximum overseas source country concentration, and non-compliance history. However, their system is much larger with significantly higher administration costs.

Potential Impact of RRP on providers

The reduction in EEL payments for low-risk PTEs under a risk-rated premium system is unlikely to be large, due to the small size of the sector. The EEL payments for PTEs falling into risk categories could be substantially higher than current rates. We think this differential between PTEs in risk categories and those which are not, would incentivise quality provision and reward responsible owner behaviour. The distribution of the costs would depend on the number of PTEs falling into the risk categories at the time risk ratings are determined.

2: Financial security for all PTEs

We believe some form of financial security required of PTEs that would be forfeited in cases of programme or provider closure would combine effectively with a risk-rated premium to incentivise responsible owner behaviour. It would primarily represent “skin in the game” to hold owners responsible for their performance. When forfeited, it could also be viewed as a fine for poor quality provision leading to closure. In cases of closure, the security would be used to cover reimbursement expenditure before calling on the EEL for that purpose.

The required deposit would not cover the full amount of potential reimbursement costs, as this would require that the entire fee amount be held until qualifications are awarded, which would not be possible for most providers.

It is possible that this financial security could be managed through changes to the current *Student Fee Protection Rules 2013*, which require all PTEs, including those that do not enrol international students, to have a mechanism in place to protect student fees. The staged draw-down of tuition fees implemented by the Student Fee Protection scheme prevents a provider from closing without refunding any tuition fees to students.

However, the shortcoming of the Student Fee Protection scheme in this context is that it assumes that the education delivered up to the point of closure retains the value paid for it. The Student Fee Protection scheme is not designed to remedy a situation where the provision is deemed to be of such low quality that it is not recognised. In these situations, impacted students need a refund of the *entire cost* of the programme, and not just the remaining portion (this is where fee protection turns into a consumer guarantee of full money back)¹.

Some security could be required of all PTEs, or required only of those in the risk categories, or reserved for PTEs in multiple risk categories. We seek your feedback on this.

3. Indexing the EEL rates

To better manage the on-going uncertainty in both EEL revenue and EEL closure-related expenditure, we propose indexing the EEL rates payable each year so that they fluctuate against actual expenses of the preceding year. The indexing calculation would include a target minimum balance deemed sufficient to cover potential closure-related expenditure. It may be possible to link the calculation of this target balance amount to the level of risk apparent across the system each year. Detailed modelling to develop the indexing formula will be undertaken following consultation. The formula should ensure that the EEL balance will never accumulate unreasonably, and that the sector will benefit when closure-related costs are low.

¹ The only other country to offer this “full money back” guarantee is Canada (the province of Ontario), but this occurs only when no other institution is available to take on the student and is not related to quality monitoring.

Providing feedback

Purpose of feedback

Your feedback will enable us to make better informed decisions about increasing the EEL levy percentage rate. We will take your comments into account when developing the most appropriate way forward.

Please be assured that any feedback you provide will be confidential to those involved in analysing the consultation data and no individuals will be identified in the final analysis and report writing. If you provide us with contact details below, we may seek further clarification on your perspective. Submissions may be subject to an Official Information Act request, but we would withhold information that would identify a specific submitter, and other information in accordance with the Act.

How to provide feedback

The deadline for feedback and comments is **5pm Tuesday 25 June 2019**. The easiest way to provide feedback is through the online submission form found at <https://www.surveymonkey.com/r/7JBCB6Q>. The questions on this online survey are the same as the questions below.

You can also download this document and electronically fill out the questions and email your feedback to EEL.consultation@education.govt.nz (in Microsoft Word format), or fill out the questions below manually and mail the form back to us at

International Division
Ministry of Education
PO Box 1666
Wellington 6011

Please allow time for your submission to arrive by the deadline.

If you have any questions, or would like more information on the proposed changes to the EEL, please contact EEL.consultation@education.govt.nz.

Submission form

Submitter details

1. Are you submitting as an individual or on behalf of a provider, peak body, or other organisation?

- Individual Name: _____
- Provider Name of provider: _____
- Peak body Name of peak body: _____
- Other organisation Name of organisation: _____

Please indicate your contact details. We will only use this information to contact you if there are aspects of your feedback that we would like to clarify with you. Personal information will be protected according to the Privacy Act 1993.

Contact person (if organisation or peak body): _____

Contact email: _____

2. If submitting on behalf of a provider, please specify:

- State or state-integrated school
- Private school
- Private Training Establishment
- Institute of Technology / Polytechnic
- University
- Student organisation
- Other (please specify) _____

3. If submitting as an individual, please indicate whether you are a:

- International student or parent of a student
- Staff member working with international students
- Other staff member
- Education agent
- Other (please specify) _____

4. Please indicate your region

- | | |
|---|-------------------------------------|
| <input type="checkbox"/> Northland | <input type="checkbox"/> Wellington |
| <input type="checkbox"/> Auckland | <input type="checkbox"/> Nelson |
| <input type="checkbox"/> Waikato | <input type="checkbox"/> Canterbury |
| <input type="checkbox"/> Bay of Plenty | <input type="checkbox"/> West Coast |
| <input type="checkbox"/> Hawkes Bay | <input type="checkbox"/> Otago |
| <input type="checkbox"/> Taranaki | <input type="checkbox"/> Southland |
| <input type="checkbox"/> Manawatu-Whanganui | |

If international, please indicate your country: _____

Questions on proposed changes to EEL rates

5. Do you agree with the introduction of risk-rated EEL premiums for PTEs?

- Yes
- No

Please comment:

<https://www.surveymonkey.com/r/7JBCB6Q>

6. Do you agree with the proposal to introduce two levels of risk among PTEs (risk and no risk)?

- Yes
- No

Please comment:

7. Please indicate whether you support the usage of the following as risk factors for the purpose of identifying those PTEs in the “risk” category for calculating EEL rates, and provide comments as appropriate, particularly in relation to how the risk factor would be measured.

Factor	Support?	
	Yes	No
EER category ranking		
Financial viability		
Rapid growth or contraction		
Unsatisfactory programme monitoring		
Previous/current statutory action		
Students predominantly (more than 80%) from one country		
Other proposed risk factor or proxy:		
Comments on risk factors:		

8. Do you agree with the proposal to index EEL rates against the previous year’s actual EEL expenditure, combined with a target balance to cover potential closure-related expenditure?

- Yes
- No

Please comment:

9. Do you support the requirement for PTEs to pay some form of financial security?

Yes

No

Please comment, including on the type and amount of the deposit:

Additional feedback

10. Please provide any further feedback you may have on the EEL rates below.

Thank you for your response. Your feedback will inform final decisions about changes to the EEL rates, which will be announced later in the year.

Annex 1: EEL-funded activities (non-reimbursement expenditure)

Promotion and marketing (\$3.27 million in 2017/18)

Education New Zealand (ENZ) is partly funded through the EEL to manage and implement the international education industry work programme. The EEL contributes \$3.2 million of ENZ's total funding (around 10%) for international education programmes. The remaining \$29.8 million comes from the Crown through Vote Tertiary Education.

Code of Practice Administration (\$0.82 million in 2017/18)

NZQA administers the Code of Practice for the pastoral care of international students. NZQA quality assures the implementation of the Code by just under 1,000 Code signatories at all levels of education.

International Student Dispute Resolution Scheme Administration (\$0.22 million in 2017/18)

The Dispute Resolution Scheme (DRS) was set up in July 2016 as an independent way to resolve financial and contractual disputes between international students and their education providers in a timely, cost-effective and fair manner. FairWay Resolution Limited is the contracted operator of the DRS, under the name iStudent Complaints.

International Student Wellbeing Strategy (\$0.67 million in 2017/18)

The International Student Wellbeing Strategy was released in 2017, and since that time, funding has been allocated from the EEL to support projects that contribute to international student wellbeing.

Programme or provider closure-related expenditure (\$3.2 million in 2017/18)

When a PTE or programme at a PTE is closed following statutory action, where international students are enrolled, NZQA works with students and the provider to determine the best outcome for the students. If the provider does not pay costs related to reimbursing students, or transferring them to another provider, then the EEL can be used to do so. Providers wishing to remain in operation following a programme closure must cover these expenses or they may be de-registered. Transfer costs can include tuition fees at the new provider, remedial learning, or reassessment. These reimbursement or transfer costs make use of any remaining fees in the provider's Student Fee Protection (SFP) trust account, before the EEL account is called on.



We **shape** an **education** system that delivers
equitable and **excellent outcomes**

He mea **tārai** e mātou te **mātauranga**
kia **rangatira** ai, kia **mana taurite** ai ōna **huanga**