Briefing note: Update on the development of an interim Code of Practice for the pastoral care of domestic students

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<th>Hon Chris Hipkins, Minister of Education</th>
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Purpose of briefing note

This briefing note updates you on the development of the interim Code of Practice for the pastoral care of domestic students including our discussions with the sector advisory group who are working with us on the development of the interim Code.

Attached for your consideration and comment is a work-in-progress draft of the proposed interim Code (refer attached). This draft reflects input from sector advisory group members at their 12 November meeting, but has not yet been reviewed by the Ministry’s Legal team or incorporated sector or officials’ feedback following that meeting. A third sector advisory group meeting is scheduled for Tuesday 19 November, which will review a later draft Code.

The timelines agree with your office are for a draft Cabinet paper seeking policy approval of the Code on 20 November and a second draft Cabinet paper (and revised interim code) by 22 November for ministerial consultation.

We seek your feedback on the work-in-progress draft at the agency meeting on Monday 18 November. We suggest the following areas to focus review of the draft:

- **The balance between an outline of the general duty of pastoral care, and more specific expectations for accommodation services.** The current drafting establishes the high level outcomes and processes for the general duty (consistent with the framework in the Bill), but does not set specific requirements for providers. Some of the more specific requirements proposed for accommodation providers may eventually sit better in the section of the Code relating to the general duty.

- **Our use of the Government’s Child and Youth Wellbeing Strategy outcomes to frame the elements of the general duty.** We consider this approach enables the duty to be consistent with wider government objectives, and with your priorities for the Education portfolio. However, we have received feedback from sector group members that it is important to recognise that many students are mature adults.

- **The extent to which we have drawn from and updated relevant links to the 2004 Voluntary Code for student accommodation and the current International pastoral care code.** The content of these two codes, where relevant, has been used to inform the logic of the draft Interim Code, but much of the language and the specific expectations have been adjusted either to fit current practice or in response to sector group feedback.
We also seek your views on future engagement with peak bodies on the draft Interim Code before it is issued. We recommend engaging with peak bodies on a confidential basis either (recommended) during the Ministerial consultation period (22 to 27 November), before Cabinet decisions; or following Cabinet decisions, during the week of 9 December.

Julie Keenan
Policy Director,
Graduate Achievement,
Vocations and Careers

14/11/2019

Hon Chris Hipkins
Minister of Education

18/11/19
Background

1. The Education (Pastoral Care) Amendment Bill (the Bill) contains proposals that empower the Minister of Education to create a mandatory Code of Practice for pastoral care in tertiary education with an interim code to be in place from 1 January 2020.

Structure and approach to of a draft Interim Code

2. The structure of the proposed draft interim Code has been shaped by the scope of the Code set out in Cabinet agreements and the Bill. These are:
   - Any Code issued under the proposals in the Bill must prescribe:
     - outcomes sought from providers and key processes required of providers to support well-being, achievement and rights of students.
     - Cabinet agreed the scope of the interim Code is limited to:
       - identifying a general duty of pastoral care which will be developed in the ongoing Code
       - specific interim responsibilities for providers who operate or contract student accommodation (within section 5B of the Residential Tenancies Act 1986).

3. There are constraints on the drafting of the interim code because of the short time before implementation, limited scope for sector and learner engagement, and its temporary nature. To manage these constraints, we have assumed that legislation will enable an interim code to be issued in December, and that an interim Code and its implementation will:
   - avoid, as much as possible, setting requirements that affect contracts and facilities that are already in place for 2020 delivery. This will include: current staff contracts, contracted service provision, and physical buildings.
   - incorporate the key elements of the 2004 voluntary code for student accommodation, updated to reflect current regulatory and sector practice informed by TEC’s work with TEIs and a sector advisory group
   - reflect relevant expectations from the Code of Practice for Pastoral Care of International Students, particularly for student safety and well-being
   - not set expectations beyond the 2020 year, as it expires at the end of 2020
   - allow providers a ‘grace period’ to meet any Code requirements that require change, so long as providers are clearly taking steps to meet those requirements

The content of the draft Interim Code

General duty of pastoral care

4. The general duty of pastoral care for providers is set out in six outcomes adapted from the Child and Youth Wellbeing strategy outcomes. The outcomes of this strategy are designed to capture the full range of wellbeing contexts and are underpinned by core principles and extensive engagement, research and alignment with other key frameworks including wellbeing models for Māori and Pacific young people. Cabinet has previously agreed that this strategy will provide an overarching framework for policy development.

5. For the purposes of the draft interim Code we have removed explicit references to children and young people from these outcomes, recognising that tertiary students may be young
or mature adults. In the draft interim Code’s section on the general duty, six outcomes are supported by process requirements which set out some of the ways in which the outcome can be met. It will be up to the provider to demonstrate that they meet these process requirements.

6. The process requirements proposed for the Interim Code’s general duty are very high level. We would anticipate that these will be filled out further in development of the ongoing code, and some of the more detailed requirements currently set out for student accommodation may in future apply more generally to all pastoral care.

Student accommodation
7. The draft interim Code’s specific responsibilities for tertiary student accommodation drew initially on the existing 2004 Voluntary Code of Practice for tertiary student accommodation providers.

8. The 2004 Voluntary Code, however, is very provider focused providing specific expectations for administration standards and facilities (e.g. house rules, deposits, refunds and maintenance) and less specific guidance on student health and wellbeing.

9. In the drafting of the interim Code we have incorporated the scope and domains covered in the 2004 Code, but shifted the focus to the learner with a greater emphasis on student wellbeing. In doing so we identified some key outcomes that should apply to the pastoral care of all domestic tertiary education students living in provider based student accommodation drawing on the Child and Youth Wellbeing strategy, overseas literature, the international pastoral care Code of Practice and input from the sector Advisory group.

10. The process requirements proposed for the interim code’s student accommodation section are more specific than those for the general duty. We would anticipate that these would be revised, and there is potential for more specific process requirements to be added (for example processes that might require providers to amend existing contractual arrangements with staff or service providers), in an ongoing code.

Overview of input from Sector Advisory Group

11. We and New Zealand Qualifications Authority (NZQA) are working with several sector experts, nominated by peak provider and learner bodies, to develop the interim code. We have had two meetings with the group (on 7 and 12 November) and have a final meeting scheduled for 19 November.

12. The purpose of the advisory group is to ensure that work to develop an interim Code draws on insights from providers and learners into pastoral care, especially in student accommodation. This is reflected in the make-up of the advisory group that includes individuals with industry experience, learner experience and understanding of how pastoral care is delivered especially in student accommodation.

13. Members of the advisory group are asked to inform officials’ drafting of the Code, drawing on their own expertise, and without an expectation of reaching consensus on all matters. They are not operating as representatives of the organisations that nominated them, and have agreed to be bound by confidentiality until announcements.
14. The sector advisory group has engaged openly and frankly with the work, and has significantly enhanced the preparatory work officials had done. Some key points of feedback we have noted to date include that the draft interim Code should:

- be a positive and mana enhancing document aimed at assisting students to succeed in tertiary education
- focus on providing best practice guidance but this needs to be balanced against the range and level of services that should be made available to students
- not impose overly intrusive processes on students who are adults, recognising that for many providers most students are mature adults
- not contain overly prescriptive requirements on providers because of the diversity of student needs, the different types of provider arrangements, and variety of circumstances that a code would cover
- recognise that students bear some responsibility for ensuring their health and well-being and that the code’s requirements for tertiary providers should therefore be a contribution to the outcomes that the Government seeks.

15. The sector advisory group has also identified the following risks associated with the implementation of a mandatory code:

- compliance costs for tertiary providers (particularly for smaller providers) which would be passed on to students (there was a question of who would be meeting these costs)
- perverse incentives for providers to refuse to enrol or accommodate students who are perceived as having high needs
- uncertainties about existing and future relationships with third-party accommodation providers.

Next steps and feedback

16. We seek your feedback on the work-in-progress draft at the agency meeting on Monday 18 November. We suggest the following areas to focus review of the draft:

- The balance between an outline of the general duty of pastoral care, and more specific expectations for accommodation services. The current drafting establishes the high level outcomes and processes for the general duty (consistent with the framework in the Bill), but does not set specific requirements for providers. Some of the more specific requirements proposed for accommodation providers would eventually sit better in the section of the Code relating to the general duty (and the sector advisory group feedback is that risk management requirements should be in the general duty), but for the purposes of this draft interim code we have left those requirements in the more specific accommodation section.

- Our use of the Government’s Child and Youth Wellbeing Strategy to frame the elements of the general duty. We consider this approach enables the duty to be consistent with wider government objectives, and with your priorities for the Education portfolio. However, we have received feedback from sector group members that it is important to recognise that many students are mature adults.

- The extent to which we have drawn from and updated relevant links to the 2004 Voluntary Code for student accommodation and the current International pastoral care code. The content of these two codes, where relevant, has been used to inform the logic