



Mana Tohu Mātauranga o Aotearoa
New Zealand Qualifications Authority

Delegation to the New Zealand Vice Chancellors Committee of Code Administrator functions for the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021

Date:	22 March 2023	NZQA Priority:	Medium
Security Level:	In confidence	Report No.	OC00112

	Action Sought	Deadline
Minister of Education	<p>a. Note that under section 535A(6) of the Education and Training Act 2020 (the Act) the Code Administrator may, with the Minister's prior written approval and subject to any conditions that the Code Administrator or the Minister thinks fit, delegate any or all of the functions, duties, and powers specified in section 535A of the Act.</p> <p>b. Note that on 1 March 2021, with the Minister of Education's approval, NZQA delegated functions related to the administration of the Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019 (the Interim Code) to the New Zealand Vice Chancellors' Committee, trading as Universities New Zealand (UNZ).</p> <p>c. Note that a new delegation is needed as the Interim Code has been replaced with the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021 ('the Code') as of 1 January 2022.</p> <p>d. Note that on 27 August 2021 the Minister of Education agreed in principle that NZQA was able to delegate similar responsibilities for code administration of universities to UNZ as it has delegated in relation to the Interim Code.</p> <p>e. Approve under section 535A(6) of the Act NZQA delegating to UNZ the role of monitoring each university's compliance with the Code, as described in the attached delegation and conditions.</p> <p>e. Note that under the new delegation:</p> <ol style="list-style-type: none">I. UNZ will be responsible, through its Committee on University Student Pastoral Care (CUSPaC), for monitoring each university's compliance with the Code by considering self-review reports and other relevant information to ascertain how universities are giving effect to the Code and the steps they are taking to improve	As soon as possible

	<p>their giving effect to the Code, and undertaking periodic reviews in order to assess the extent to which the purposes of the Code are being met.</p> <p>II. UNZ will report to NZQA on a quarterly basis and annually, to contribute to NZQA's reporting requirements set out in clause 86 of the Code.</p> <p>III. UNZ will report to NZQA concerns about Code breaches, including any potential breaches that may warrant investigation, within 4 days of it or CUSPaC identifying the concern.</p> <p>f. agree/disagree that this report is proactively released as part of the next publication of documents.</p>	
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Enclosure/Appendix: Yes

Round Robin No

Contact for Telephone Discussion (if required)

Name	Position	Telephone	Cellphone	1 st Contact
Eve McMahon	Deputy Chief Executive Quality Assurance	(04) 463 4374	██████████	√

The following departments/agencies have seen this report:

- Ministry of Education
 Tertiary Education Commission
 Other (specify)

Minister's Office to Complete:

- Noted
 Seen
 Approved
 Needs change
 Withdrawn
 Overtaken by Events
 See Minister's comments
 Declined

Referred to:

Comments:

Delegation to the New Zealand Vice Chancellors Committee of Code Administrator functions for the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021

Executive Summary

The Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021 (the Code) supports the wellbeing of tertiary and international learners enrolled with New Zealand education providers. It sets out the requirements that education providers must meet for the wellbeing and safety of their learners.

This report seeks your approval for the New Zealand Qualifications Authority (NZQA) to delegate to the New Zealand Vice Chancellors Committee, trading as Universities New Zealand (UNZ), the role of monitoring each university's compliance with the Code.

Recommended Action

It is recommended you:

- a. **Note** that under section 535A(6) of the Education and Training Act 2020 (the Act) the Code Administrator may, with the Minister's prior written approval and subject to any conditions that the Code Administrator or the Minister thinks fit, delegate any or all of the functions, duties, and powers specified in section 535A of the Act.
- b. **Note** that on 1 March 2021, with the Minister of Education's approval, NZQA delegated functions related to the administration of the Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019 (the Interim Code) to the New Zealand Vice Chancellors Committee, trading as Universities New Zealand (UNZ).
- c. **Note** that a new delegation is needed as the Interim Code has been replaced with the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021 ('the Code') as of 1 January 2022.
- d. **Note** that on 27 August 2021 the Minister of Education agreed in principle that NZQA was able to delegate similar responsibilities for code administration of universities to UNZ as it has delegated in relation to the Interim Code.
- e. **Approve** under section 535A(6) of the Act NZQA delegating to UNZ the role of monitoring each university's compliance with the Code, as described in the attached delegation and conditions.

APPROVED / NOT APPROVED

- f. **Agree** that under the new delegation:
 - I. UNZ will be responsible, through its Committee on University Student Pastoral Care (CUSPaC), for monitoring each university's compliance with the Code by considering self-review reports and other relevant information to ascertain how universities are giving effect to the Code and the steps they are taking to improve their giving effect to the Code, and undertaking periodic reviews in order to assess the extent to which the purposes of the Code are being met.
 - II. UNZ will report to NZQA on a quarterly basis and annually, to contribute to NZQA's reporting requirements set out in clause 86 of the Code.

- III. UNZ will report to NZQA concerns about Code breaches, including any potential breaches that may warrant investigation, within 4 days of it or CUSPaC identifying the concern.

AGREED / NOT AGREED

Proactive Release Recommendation

- a. **disagree** that this report is proactively released as part of the next publication of documents.



Dr Grant Klinkum
Chief Executive
22 March 2023



Hon Jan Tinetti
Minister of Education
..26./03./2023

Delegation to the New Zealand Vice Chancellors' Committee of Code Administrator functions for the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021

Purpose of Report

1. This report seeks your approval for the New Zealand Qualifications Authority (NZQA) to delegate to the New Zealand Vice Chancellors Committee, trading as Universities New Zealand (UNZ), the role of monitoring each university's compliance with the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021 (the Code). This monitoring role includes undertaking periodic reviews of how universities are giving effect to the Code in order to assess the extent to which the purposes of the Code are being met, as described in the attached delegation.
2. The delegation outlines the parameters of the delegated responsibilities and reporting requirements. Your approval of, or changes or additions to, these conditions are sought.

Background

3. The Code supports the wellbeing of tertiary and international learners enrolled with New Zealand education providers. It sets out the requirements that education providers must meet for the wellbeing and safety of their learners.
4. Section 535A(6) of the Education and Training Act 2020 (the Act) provides that the Code Administrator may, with the Minister's prior written approval and subject to any conditions that the Code Administrator or the Minister thinks fit, delegate any or all of the functions, duties, and powers specified in section 535A to another person or agency (having regard to their knowledge, skills, or experience).
5. On 14 October 2020, the Minister of Education provided written approval for NZQA to formally delegate some of its functions, duties, and powers for the administration of the Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019 (the Interim Code) in the university sector to UNZ, for the purpose of enhancing the pastoral care provided to university learners [METIS 1210805 and CR21026 refer]. This delegation has ceased with the expiry of the Interim Code on 1 January 2022.
6. On 27 August 2021, the Minister of Education appointed NZQA as the administrator of the current Code and agreed in principle that, after obtaining written approval and agreement for conditions of delegation, NZQA would be able to delegate similar responsibilities for code administration of the university sector to UNZ as it has delegated for the Interim Code, with a focus on examining university self-reviews to promote ongoing improvement in practices [METIS 1264426 refer]. On 25 August 2022, following amendments to the Act that came into force on 1 August 2022, the Minister of Education reappointed NZQA as Code Administrator.

Comment

Purpose of delegating to UNZ

7. UNZ acted in its delegated role of monitoring the Interim Code from 1 March 2021 to 1 January 2022 and has been working closely with NZQA to develop its knowledge, skills, and experience of the delegated administrator role.
8. Overall, the delegation functioned adequately, with UNZ engaging regularly with NZQA, establishing suitable high-level roles and processes, and completing the required

reporting. UNZ reported that there is a range of good practice initiatives underway across all universities.

9. The delegation to UNZ is administered through its Committee of University Student Pastoral Care (CUSPaC) which was established in 2020 under the Interim Domestic Code. Before delegating some administrative functions of the current Code to UNZ, NZQA wanted assurance there were robust, documented processes in place to support this delegation.
10. In 2022, UNZ provided this assurance through documenting the role of CUSPaC's Chair and the composition of CUSPaC's membership (including expanded learner representation). The Vice Chancellors Committee appointed a new CUSPaC Chair effective from July 2022. CUSPaC's processes were documented in the CUSPaC Handbook and were approved by NZQA following the CUSPaC meeting in November 2022.
11. NZQA considers that delegating responsibilities for administration of the Code in the university sector to UNZ and having UNZ continue to monitor the universities' self-review process will promote a higher level of consistency across the universities and encourage the implementation of improvements and the sharing of good practice between universities.
12. NZQA will work closely with UNZ when concerns around the Code or its implementation arise. One concern for universities is the reporting of complaints and critical incident data, which is a Code requirement (clause 10(3)(g)). NZQA and the Ministry of Education have worked closely with UNZ to understand these concerns and to find a pragmatic solution.

Parameters of the delegation

13. UNZ will be responsible for monitoring the extent to which universities comply with the Code, as set out in section 535A(3)(b)(i) of the Act, and undertaking periodic reviews of how universities are giving effect to the Code in order to assess the extent to which the purposes of the Code are being met. This monitoring of universities' compliance with the Code will involve universities providing regular reporting to UNZ on Code matters and sharing good practice. UNZ will escalate concerns about a university's compliance to NZQA.
14. NZQA will remain responsible for investigations of Code breaches, issuing performance improvement notices, imposing sanctions, taking any offence or pecuniary penalty proceedings, and entering and inspecting student accommodation where required. Routine monitoring of student accommodation is being undertaken in conjunction with UNZ.
15. UNZ will report to NZQA on a quarterly basis and annually to contribute to the reporting requirements set out under section 86 of the Code. This will include robust and timely information on the findings from monitoring and any follow up actions required.
16. UNZ will manage conflicts of interest that may arise in relation to it exercising its powers, duties and functions under the delegation, through clear and robust processes which, when necessary and as new situations arise, will be updated in the CUSPaC Handbook.

Operation and performance of the delegation

17. NZQA will retain the right to exercise the delegated responsibilities for universities if and when required, as well as for other providers. NZQA will be accountable for the overall operation and performance of the delegation.
18. UNZ will exercise its delegation in regard to universities. UNZ will be accountable to NZQA for the functions and responsibilities delegated to it.
19. NZQA will monitor the performance of the delegation through acting as an observer on CUSPaC and receiving quarterly reporting from UNZ. It also provides assurance CUSPaC's processes are working in the manner intended.
20. The delegation will be reviewed annually. Through this process NZQA will consider the effectiveness of UNZ's monitoring processes and whether changes to the delegation are needed. If changes to the delegation are proposed, NZQA will seek your written approval.
21. If NZQA has concerns about the performance of the delegation that may result in risk to learner wellbeing and safety, NZQA will exercise its right to undertake the delegated responsibilities for universities. NZQA can rescind the delegation if it has serious concerns about its operation.

Communications plan

22. NZQA will announce and publish the delegation when it is finalised.
23. NZQA and UNZ will agree on a communication plan to ensure consistency of messaging, and to ensure students and key stakeholders are appropriately informed of monitoring activities and outcomes, and progress and outcomes regarding any investigation.

Financial Implications

24. NZQA allocates \$275,000 (GST exclusive) annually to UNZ as delegated code administrator from its baseline.

Attachment

25. Delegation from NZQA to UNZ.

Delegation from Code Administrator to the New Zealand Vice Chancellors' Committee

Acting in its role as Code Administrator, and with the written approval of the Minister of Education **dated x**, the New Zealand Qualifications Authority delegates to the New Zealand Vice Chancellors' Committee, trading as Universities New Zealand ('UNZ'), the role within section 535A(3)(b)(i) of the Education and Training Act 2020 of monitoring the extent to which each university is complying with the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021 ('the Code') and the role within section 535A(3)(b)(iv) to undertake periodic reviews of how universities are giving effect to the Code in order to assess the extent to which the purposes of the Code are being met. UNZ may consider any information (including self-reviews of learner wellbeing and safety practices) that it considers appropriate. In carrying out this monitoring role UNZ will focus on promoting ongoing improvement in practices.

The conditions on which this monitoring and periodic review role as delegated are set out in Appendix 1.

This delegation is made under section 535A(6) of the Education and Training Act 2020.

Signed by the NZQA Chief Executive, Dr Grant Klinkum, under delegated authority from the NZQA Board in item 4 of Table 17 of NZQA's Statutory Delegations Register dated 1 August 2022.

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Date:

Appendix 1

Conditions applying to this delegation of functions, duties and powers

This delegation is subject to the following conditions.

1. UNZ will carry out this delegated role through a formal UNZ delegation to its Committee on University Student Pastoral Care (CUSPaC) under clause 6 of Schedule 12 of the Education and Training Act 2020.
2. UNZ will have regard to any performance standards and priorities for code administrators set by the Minister of Education in the performance of its delegated role.
3. UNZ will exercise and perform its delegated role in a manner that honours Te Tiriti o Waitangi and supports Māori-Crown relationships.

4. *Monitoring the extent to which universities are complying with the Code, with a focus on promoting ongoing improvement in practices*

4.1. UNZ will ensure the following are in place and implemented:

- 4.1.1. A process for ensuring that, when representatives are appointed to the Committee for University Student Pastoral Care (CUSPaC):
 - 4.1.1.1. diverse national students' associations are represented
 - 4.1.1.2. the student representatives receive adequate support, training, and if appropriate, remuneration to enable their equitable engagement in CUSPaC processes.
- 4.1.2. A process for monitoring universities' performance in relation to clause 89(1)(a) and (b) of the Code, which includes:
 - 4.1.2.1. being consistent with NZQA's expectations for interpreting and applying the Code and for effective self-review, as set out in NZQA guidelines, toolkits, and other published advice
 - 4.1.2.2. adapting, developing, and updating good practice guidelines and tools for universities' use, ensuring that these align with NZQA's high-level Code Administrator expectations, advice, guidelines, and toolkits for the sector as a whole
 - 4.1.2.3. keeping abreast of NZQA's Code monitoring in the wider tertiary education sector and, where appropriate, assuring consistency in terms of approach, focus areas, activities, and information considered
 - 4.1.2.4. agreeing with NZQA the key issues to focus on in relation to monitoring. This will usually be on a yearly basis but may be modified in response to emerging risks or issues identified through monitoring activities

- 4.1.2.5. considering appropriate information, including but not limited to the information listed within clause 89(2) of the Code
- 4.1.2.6. identifying and appropriately reporting Code compliance concerns, systemic issues, and/or significant weaknesses in pastoral care practices
- 4.1.2.7. sharing good practice and opportunities for improvement to encourage consistent high standards of pastoral care across universities
- 4.1.2.8. engaging with learners and with Māori.
- 4.1.3. A process for working with universities when issues that may be in the public interest arise, that:
 - 4.1.3.1. facilitates resolution at the lowest level appropriate
 - 4.1.3.2. provides transparency to learners, stakeholders, the public and agencies as appropriate.
- 4.1.4. A process for passing any complaints or referrals received by UNZ regarding Code compliance to NZQA.

4.2. UNZ will meet the following planning and reporting requirements:

- 4.2.1. Planning requirements:
 - 4.2.1.1. UNZ will ensure an annual monitoring plan and schedule are developed to ensure the delegated monitoring role is being carried out effectively. The annual monitoring plan and schedule will be subject to the approval of NZQA.
 - 4.2.1.2. The Terms of Reference for CUSPaC and the process for considering information appropriate for the delegated monitoring role will be detailed in the CUSPaC handbook. The CUSPaC handbook and any substantive changes to the handbook will be subject to the approval of NZQA.
- 4.2.2. Reporting requirements:
 - 4.2.2.1. Findings from CUSPaC carrying out the delegated monitoring activities will be reported to NZQA by 31 May and published on the UNZ and NZQA websites by 31 August annually.
 - 4.2.2.2. The findings report will:
 - comment on the universities' effectiveness in meeting all relevant outcome areas of the Code
 - clearly demonstrate how, where, and to what extent a diverse range of learners' and other relevant stakeholders' voices have been incorporated into the development, review and improvement of learner wellbeing and safety strategic goals, strategic plans, and practices at individual universities
 - outline any actions to be undertaken by universities as a result of the findings report.

4.2.2.3. The implementation of any actions from the findings report, including ongoing activities in monitoring the actions, will be reported to NZQA on a quarterly basis no later than the 10th working day following the end of September, December, March and June.

4.2.2.4. Any systemic issues, significant weaknesses in pastoral care practices, or Code compliance concerns identified by either CUSPaC or UNZ, including any significant potential breaches that may warrant investigation, will be reported to NZQA within 4 working days of first identifying the concern.

5. Quarterly and Annual Reporting

5.1. UNZ will report quarterly to NZQA on CUSPaC's monitoring activities, the actioning of findings, systemic issues identified or risks requiring escalation.

5.2. UNZ will provide the information set out in clauses 4.2.2.2, 4.2.2.3, 4.2.2.4 and 5.1 to NZQA, at an aggregate level where relevant, annually by 31 May for inclusion in NZQA's Annual Report.

6. Sharing information

6.1. NZQA will be included in CUSPaC as an observer, with full access to documents presented to or produced by CUSPaC.

6.2. Upon request, UNZ will supply to NZQA a copy of the information used to monitor a university's performance.

6.3. UNZ and NZQA will consult and share appropriate information for the purpose of agreeing interventions for the improvement of the Code or compliance with it.

6.4. UNZ will work in collaboration with NZQA and DRS operators when a DRS operator seeks information relevant to a dispute from a university, or when obtaining information from a DRS operator to consider actions required by a university to support learner wellbeing and safety.

6.5. UNZ will support the promotion of the Code to universities and learners.

7. Performance of the delegation

7.1. UNZ will advise NZQA how it will manage any conflicts of interest that arise, or may arise, in relation to this delegated monitoring role. UNZ and NZQA will meet quarterly, following the submission of UNZ's findings report for that quarter, to discuss any emergent issues arising from the delegation, the university and CUSPaC review processes or findings, or other issues as requested by either party.

7.2. UNZ will engage with NZQA to review the performance of the delegation in October annually unless otherwise agreed between NZQA and UNZ. The review will include:

- the effectiveness of CUSPaC's monitoring processes

- consistency of CUSPaC's monitoring approach with the approach taken by NZQA across the non-university tertiary education sector (see 4.1.2 for specific requirements)
- the effectiveness of the information sharing and reporting arrangements of the delegation
- concerns relating to any of the conditions of delegation including planning and reporting requirements, management of conflicts of interest, and the functioning of CUSPaC.

7.3. NZQA will seek feedback directly from CUSPaC to inform the review.

Changes to the conditions of delegation may be proposed as a result of the review.

7.4. The operation of the delegation will be a standing agenda item at the Joint Consultative Group (JCG).

7.5. The delegation can be revoked, or amended by NZQA in consultation with UNZ and the Ministry of Education, and seeking any Ministerial approval that may be necessary.