

APPENDIX A

**Report on Research into the Circumstances of Very
Young International Students in New Zealand**

July 2003

**International Policy & Development Unit
Ministry of Education**

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Executive Summary

1. The number of very young international students (aged 13 years and under) studying in New Zealand has grown significantly in recent years. Along with this growth, there have arisen concerns regarding the living circumstances and care of students in this age group, and the adequacy of the policy framework protecting them. This report synthesises the results of research and consultation regarding very young international students, which has been carried out by the Ministry to support its formulation of policy advice on their pastoral care.
2. Information was gathered for this report from schools, private training establishments, community and sector groups, and key informant interviews, including with child development experts.
3. Findings from this report include:
 - The volume of very young international students enrolled with New Zealand providers has increased rapidly over the past few years. In 2003 there are over 4,300 students in this age group, only half of whom reportedly live with a parent while in New Zealand. Ninety percent of all very young international students come from South Korea.
 - There is a recognition among education providers that very young students are vulnerable and require special care. Very young *international* students face particular issues and may be at greater risk than others, because they are far from home during a critical, formative period in their development while in an unfamiliar cultural and linguistic milieu.
 - The Code of Practice of the Pastoral Care of International Students (the Code) has recently been strengthened to improve the pastoral care and welfare of all international students.
 - New Zealand's legislative and policy framework surrounding young children emphasises the primacy of the welfare of the child, and the importance and responsibility of the child's family in ensuring that welfare.
 - There is a body of opinion among providers enrolling very young international students that the Code, as it currently stands, may adequately protect the interest and welfare of these students.
 - In contrast there is a countervailing body of opinion from sector and community groups, and key informants, including experts in child development and family studies, raising concerns about students' pastoral care and support, and the impact of living arrangements and separation from a parental figure on their educational, psychological and social development.
4. The body of evidence and opinion summarised in this report will be considered by the Ministry as it develops further policy advice in relation to the care of very young international students.

Background

Export Education in New Zealand

5. International students are now an established part of the New Zealand education system. In the year to July 2002, the economic impact of international students on New Zealand was estimated by Asia 2000 Foundation to be approximately \$1.7 billion, with the potential to rise to \$4-5 billion within the next 10 years.¹ Moreover, the number of students seeking education outside of their own home country is expected to grow from 1.8 million students in 2000 to 7.2 million by 2025.² The export education sector has grown rapidly with over 80,000 students in the pre-tertiary and tertiary sectors coming to New Zealand in 2002 (represents a 54% increase on 2001 figures). Growth in primary and intermediate schools has been particularly strong.

Very young international students in New Zealand primary and intermediate schools

6. For the purposes of this research report, very young international students are temporary residents aged 13 years and under who have opted to come (or been sent) to New Zealand and attend a New Zealand school (excluding sister school or exchange arrangements).

Legislative context

7. The Education Act 1989 allows schools to enrol international students, providing that in doing so they recover all costs of educating international students and do not displace domestic students. While the Act empowers the enrolment of international students, the responsibility for managing this within the law and government policy lies with school Board of Trustees. There is no age or year restriction set out in law on the enrolment of international students and limited numbers of international students have been enrolled in primary and intermediate schools since the passage of the Act.

Number of very young international students³

8. In recent years the numbers of very young international students enrolled in NZ primary and intermediate schools has increased rapidly. Ministry of Education school roll return data show that in March 2003 there were 4383 FFP students enrolled in Years 1 – 8 of NZ schools. Very young international student enrolments in schools have grown from 507 students in 1999, to 1823 in 2001, and 3396 in 2002.
9. This strong growth can be attributed in part to the recovery of the Asian economy following the economic downturn and the tightening of Australian student visa policy,⁴ but the overwhelming dominant driver appears to have been strong demand from just one market – South Korea.

¹ Asia 2000 Foundation, *The Export Education Industry: challenges for New Zealand*.

² Ibid.

³ Data based on March return by school type. It includes full primary, contributing and intermediate schools and excludes composite and year 7-15 schools.

⁴ Australia prohibits the enrolment of those primary school aged children from countries with a high immigration risk. Up to November 2002 Korea was one of these countries. However, in 2002 Korea's

10. Of the 4383 very young international students enrolled in 2003, 3953 (or 91%) were of South Korean citizenship. Nearly half, (4100 or 48%) of all very young international students in schools were enrolled in Years 7 and 8 (intermediate schools years)
11. Some private English language schools also enrol very young international students usually (but not exclusively) in short-term (up to three months) English language courses in preparation for enrolment in primary school. The full extent of English language school enrolments in this age group is unknown.

Economic Contribution

12. The economic contribution of the enrolment of Year 1 – 8 young international students is estimated to be \$87.7 million.⁵

Country of Citizenship⁶

13. The majority of international students (95.2%) in primary schools in 2002 were of Asian citizenship. Over three-quarters (82.7%) of primary international students in 2002 were of South Korean citizenship. The number of South Korean primary international students has increased significantly over the last few years – by 260% from 1999 to 2001; and, by 111.3% from 2001 to 2002. Thailand provided the next highest proportion of primary international students, with just 83 students (cf. 59 students in 2001), or 2.4% of the total in 2002.

Regional Distribution⁷

14. Over the period 1993 to 2002 the majority of primary international students studied at schools in the Auckland region, accounting for 64% of all primary international students in 2002. The next largest region, Canterbury, accounted for 19% of primary international students in 2002.

School Participation⁸

15. Relatively few primary schools hosted international students during the period 1993 – 2000 but participation increased during 2000 and 2001. By 2001 15% of all primary and intermediate schools had at least 1 international student enrolled and by 2002 this figure had increased to 20% (435 of all schools).
16. Of those schools that enrolled international students in 2002, 22.5% had only one student (a drop from 2001 when nearly 30% of schools enrolled only one

immigration risk was reassessed and Korean children became able to enrol in Australian primary schools.

⁵ Based on March 2003 figure of 4383 students. Note that this figure relates to Year 1 – 8 enrolments only and does not include those students enrolled in English language schools. The figure included revenue from student tuition fees (based on an average of \$7,500.00 p.a.), living expenditure (based on \$10,000 p.a.) and indirect expenditure (a multiplier of 1.25 has been applied to living expenditure) The Ministry of Education does not collect data on English language school enrolments, and data collected from English language schools by Statistics New Zealand do not include any information on the age of students.

⁶ Data based on July return by year of schooling (year 1-8 student). Totals will not necessarily reflect the growth rates on page 4, which relates to school type as opposed to year of schooling.

⁷ Data based on July return by school type. It therefore includes primary and intermediate schools and excludes composite and year 7-15 schools. In this case the data include Ministry of Foreign Affairs & Trade students, the overall numbers of which are around 10% of the total.

⁸ Data based on July return by school type. It therefore includes primary and intermediate schools and excludes composite and year 7-15 schools.

international student). There was an increase of 1.3% in the number of schools that enrolled between 6 and 10 international students.

Very young international students in New Zealand PTEs (including English language schools)

17. Schools are not the only group with an interest in New Zealand's provision of education to young international students within the compulsory sector. Private Training Establishments (PTEs), including English language schools, both complement and compete with the teaching of young international students in schools. Some students attend both mainstream schools and language schools (the latter in the afternoon and evening after the completion of school for the day). The student and their parents hope that the dual approach to learning English will speed their progress.
18. There is no complete data set available of the private training sector in New Zealand, and the data which is available in relation to PTEs, which include English language schools, is limited compared to that for the public sector.

Number of all international students

19. Based on the July statistical returns⁹ for both funded and unfunded providers, there were 169 young international students, which represents 3.5% of all international students enrolled with PTEs.

Country of citizenship

20. The majority (82.8%) of young international students in PTEs in 2002 were of Asian citizenship, with 26.6% having citizenship in Taiwan, 20.7% in South Korea. 17.2% of students had citizenship in French Polynesia.

The Code of Practice for the Pastoral Care of International Students

21. The Code came into effect on 1 October 2002.¹⁰ Institutions and organisations that enrol international students under the age of 18 are currently required to fulfil specific requirements relating to the welfare and accommodation of those students (sections 15 & 16). However, the Code was not developed with primary school-aged international students in mind and does not include provisions specifically for primary aged students. The *Homestay Guidelines* state that:

⁹ The Ministry of Education receives statistical returns, in the same way as for public tertiary institutions, from those PTEs that are in receipt of tuition subsidies from the Ministry and/or are recognised for student loans and allowances. This however only represents a minority of the private training providers. It does not include most English Language schools, for example, which concentrate on foreign students. These providers in general do not qualify for government tuition subsidies or loans and allowances that are only available for students who are New Zealand citizens or permanent residents.

The Ministry sends a questionnaire to all other PTEs registered with the New Zealand Qualifications Authority (NZQA). However, despite a very good response rate, almost a third of the providers report no foreign students at the time of the survey, which is generally a one-week snapshot in July. This may partly reflect the nature of the provider's business, with a number of short courses being offered throughout the year, as opposed to a full year programme.

¹⁰ The Code for the Pastoral Care of International Students came into force in March 2002, with a transition period of six months.

“If signatories enrol children under the age of 13, special consideration should be given to the additional responsibility involved.”

22. This is the only specific reference made to children under the age of 13.
23. Changes made to the Code as part of the 2003 review strengthen the protection of all students under the age of 18 years. For example, by restricting the ability to be a child’s ‘designated caregiver’ to a relative or ‘family friend’. This greater level of protection will, by definition, impact on very young international students. However, the situation remains that the Code as it stands provides no special protection for very young international students.

The Code Review

24. Rapid recent growth in the number of very young international students enrolled in primary and intermit schools, many of whom are not living with their parents, has given rise to concerns about their development, safety and welfare.
25. In response to these concerns, the Minister of Education commissioned research with a small sample of schools, and released a discussion document outlining for change in a number of key areas, one of which were very young international students.¹¹ The Ministry presented three options to the sector for improving the living circumstances and care of very young international students while studying in New Zealand:

Option 1: Providing guidelines and best practice ‘exemplars’ to parents and schools who enrol very young international students, and targeted professional development to assist schools to develop policies for the management and care of very young international students;

Options 2: The provisions described above and, in addition, amending the Code to include more restrictive conditions on the enrolment of very young international students including a key requirements to be living with a parent (or legal guardian);¹² or

Option 3: Requiring international students to have completed the equivalent of Year 8 overseas before enrolling with a New Zealand provider.

26. The Ministry indicated to the sector that *Option 2* was its preferred option.
27. Over 200 submissions commented on the proposed changes in relation to very young international students.¹³ Consultation with the sector raised issues about the evidence base for making changes to the Code. These related primarily to changes in the industry since the Ministry’s study of schools with very young international students was conducted, and the availability of further relevant information. In short, there was a strong call from April submitters that the Ministry undertake further work before any final decisions are made.

¹¹The discussion document was released in April 2003

¹² ‘Parent’ means the father or mother of an international student, and includes a court appointed guardian

¹³ An analysis of submissions received in response to the April consultation is available electronically at www.minedu.govt.nz/goto/international

28. To this end, the Ministry carried out further qualitative and quantitative research. In addition, the Ministry consulted further with other government agencies, sector and community groups, and child development specialists. This report presents the results of this research and consultation.

Methodology

29. This paper synthesises the results of the further research and consultation referred to in the previous section.
30. Both quantitative and qualitative data were collected. More specifically, further research and consultation comprised:
 - A review of the situation in 7 schools previously studied in depth in 2002;
 - A survey of 824 schools;
 - A survey of 277 Private Training Establishments (including English language schools);
 - Consideration of the Education Review Office report on *Foreign Fee Paying Students in New Zealand*, which was released in July;
 - Consultation with the Code Primary & Intermediate Schools Committee;
 - Interviews with sector and community groups;
 - Interviews with key informants;
 - Further analysis of submissions received in response to the Ministry's sector consultation in April and June 2003 on proposed changes to the Code;
 - Consideration of the legislative framework surrounding the care of children in New Zealand;
 - Consideration of Child, Youth and Family policy and requirements for caregivers;
 - Consideration of policy settings in Australia; and
 - Consultation with child development specialists.
31. Both schools and PTEs were sent a questionnaire seeking information about the accommodation and living arrangements of very young international students. In addition, 7 schools, selected for case study in 2002 were revisited and, 13 interviews were held with a diverse range of key informant, sector and community groups. Further analysis was carried out on the submissions the Ministry received during the May Code review process.

Key Findings of Research

Case study of 7 schools - 2002

32. In response to the rapid rise in the number of young international students enrolled in primary and intermediate schools, in 2002 the Ministry commissioned a study of the living circumstances and care of these students.¹⁴ The research was conducted through interviews with staff involved with young international students at seven randomly selected schools.
33. Overall the study indicated that approximately half of very young international students lived without parents/legal guardians and some in situations where their pastoral care and emotional wellbeing needs were not being met. Key findings relating specifically to living circumstances were:
- Approximately half of very young international students lived with at least one parent;
 - The majority of parents living in New Zealand held visitors visas – hence these parents had to return home regularly to renew their visa leaving the child behind; and
 - Problems were most commonly encountered amongst approximately half of the very young international students who lived with a designated caregiver or who reportedly lived unsupervised, with no parental contact, for periods of time.
34. Key concerns for schools in relation to living circumstances of students included:
- Students were being frequently relocated by agents;
 - Too many students living at one address; and
 - Inadequate adult supervision.
35. Schools had concerns about younger students not living with parents, particularly around the suitability and appropriateness of care of these students, and suggested there should be a minimum age requirement.

Drivers of Growth

36. One of the seven schools in the study was engaged in marketing activities and enrolled students directly from overseas. The study indicated that demand for primary school study in New Zealand has been driven from the students' home countries and enrolments were predominantly the result of a parent, relative or agent (contracted by the parent) seeking enrolments with the school directly.

Living Circumstances and Care

37. Approximately half the students in the study lived with one or both parents. Where the child lived with just one parent, the parent may reportedly return often to their home country for periods of time and make alternative living arrangements for their child while they were away. The stability and appropriateness of the care of very young international students due to the

¹⁴ The Ministry commissioned a study of the living circumstances and care of young international students in primary and intermediate schools in mid- 2002.

absence of a parent was of concern to the schools. School staff interviewed in the Ministry study believed that the reason for parents' frequent return to their home country was because their visitor's permit was due to expire. Under visitor's policy, parents are generally limited to a maximum stay of nine months in any 18-month period.

38. Students not living with a parent lived either with relatives (although school staff were often unsure whether the person was an actual blood relative), or were placed in homestays by agents. In some cases, one homestay would house multiple children without an appropriate ratio of caregivers.
39. School staff reported 'home alone' cases, cases of groups of students living without adult supervision, and children moved repeatedly by an agent from one caregiver to another. Schools reported two cases of alleged sexual abuse by caregivers.
40. In general, school staff were concerned that some children were living with people who, in their view, did not look after their emotional safety and wellbeing.

Behavioural Difficulties

41. The study also found that school staff were concerned with behavioural difficulties observed in very young international students. Incidents of behavioural difficulties among these students were reported as occurring with greater frequency than among domestic students.
42. Some staff believed that in some cases children with existing behavioural problems were being brought to New Zealand. In other cases, staff believed behavioural problems were a result of the lack of a parental role model and noted that both this and a lack of regular parental contact impacted negatively upon the child's learning progress and behaviour.

Use of the Code

43. The study revealed that the newly introduced Code was being used by schools to address areas of concern, but that more external support and guidance was needed. Schools appeared to need more direction or guidance on both standards for academic delivery and pastoral care. Schools were slowly developing their international student programmes, sometimes by a "trial and error" process.

Case study schools – 2003 update

44. In June 2003, the sample schools from the 2002 case study research project were revisited to investigate the impact the Code has had on the living circumstances of young international students, and school policy in regard to these students. All schools agreed to participate in the follow up study, and made all staff working with very young international students available for interviews.
45. The follow-up study revealed a heightened awareness of the Code and pastoral care issues for very young international students across all the schools. This could be attributed to greater experience, professional development programmes run by the Ministry, and/or implementation of the Code, but as this tended to

extend to all staff involved in the study, it was possibly partly a result of carrying out the initial study. All staff spoke with more confidence and more knowledgeably about international students. The issues reported by the schools reflected better processes for dealing with these students, and better control by schools.

46. The more serious issues raised in 2002 were not raised in 2003, and the issues raised generally tended to relate to cultural differences or the need to refine school processes, although concerns for younger students in New Zealand without parental support, and for the emotional safety and well-being of these children, remained.

Drivers of Growth

47. The marketing activity remained the same across the sample, with significant marketing activity being undertaken on behalf of one school, and another school reporting some “low key marketing”, which included maintaining links with the local Korean community, and representation of the school on a marketing website. Student numbers had increased in three of the schools, and dropped in four. In the cases where numbers had dropped, in two of the schools this had had a negative impact as a higher number of students had been budgeted for. In one case, the school had introduced a policy limiting numbers of international students due to concerns for these students as a result of observed behavioural problems and unstable living arrangements.

Living Circumstances and Care

48. Of the key concerns raised by schools in 2002 in relation to living circumstances, issues of too many students living at one address, and inadequate adult supervision, were not raised again in 2003. However, four of the schools continued to be concerned that students were frequently relocated and the instability this caused. In addition, concerns relating to students living with designated caregivers remained, although schools reported satisfaction with designated caregiver arrangements in equal numbers.¹⁵
49. One of the schools had students living in school-arranged homestays with a comprehensive selection and monitoring process, or living with parents. The other six schools had a mix of students living with parents and designated caregivers. Two of the six schools made the required home visits to designated caregivers. The remaining four schools reportedly did not undertake, or had yet to undertake, the home visits.¹⁶ However, monitoring of living arrangements was undertaken by staff at school.¹⁷
50. Two of the schools reported difficulty in communicating with parents or caregivers of these students. Two schools were concerned that information given to schools by parents or caregivers (including emergency contact details

¹⁵ The same number of schools were satisfied with designated caregivers arrangements as were dissatisfied.

¹⁶ This seemed to be because these schools did not have designated care staff to do this.

¹⁷ School's did not formally interview students about their home situation. Staff would, for example, ask the students on Monday morning what they did on the weekend as part of their normal class, and follow up any concerns.

and residential address) could not be relied upon. However, overall the schools reported better ongoing communication with parents and caregivers.

Behavioural Difficulties

51. Behavioural issues continued to be of concern for four of the schools (six schools reported significant behavioural issues in the initial study). However, the schools generally reported that the number and nature of behavioural issues and learning difficulties had reduced since the previous year (although in some cases these issues seemed to have been transferred to the “new residents” group). Particular behavioural issues specific to these students included physical violence, and misbehaviour attributed to homesickness and inability to communicate effectively. These issues did not necessarily occur with any greater frequency to issues with domestic students, and diminished as students’ English language improved and they “settled in”. However, in a minority of cases students remained unhappy and continued to exhibit inappropriate behaviour even after being in New Zealand for one or two years.

Option 2

52. Five of the seven schools supported the Ministry’s proposed Option 2, with schools generally reporting that they already applied “a similar approach” through school policy (i.e. only enrolled students who would live with a parent, or a designated caregiver appointed by the parent and known to the student prior to enrolment). However, three of the schools noted that it was difficult to determine the relationship between a prospective student and the person accompanying them to enrolment. Lack of male role models for students living with their mother only continued to be of concern.

Survey of schools and PTEs - 2003

53. In June 2003, the Ministry of Education surveyed 824 primary and intermediate schools and 277 PTEs (including English language schools). These providers of education to very young international students were signatories of the *Code of Practice for the Pastoral Care of International Students* as at the end of the May 2003. The survey aimed to collect information about the enrolment of young international students and their living arrangements in these providers. The key findings from the survey are outlined below.

Prevalence of very young international students in schools

54. There were 391 respondents to the survey by the closing date, out of a total of 824 schools sampled. This represented 47.3% of the sample. 5.6% of respondents reported that they did not have any very young international students.
55. Of those schools that did have very young international students, the median number of young international students was 7, while the mean number was 10.7. The total number of young international students at the respondent schools was 3,607. 42.3% of primary and intermediate schools had five or fewer students.

Prevalence of very young international students in PTEs

56. There were 184 PTEs respondents to the survey by the closing date, representing 66.4% of the sample. 166 (90.2%) of respondents reported that they did not have any very young international students, while 18 (9.8%) of

respondents indicated that they did. All those respondents that did have young international students were English language schools.

57. Of those PTEs that did have very young international students, the median number of students was 3, while the mean number was 4.9 students. The total number of very young international students at the respondent PTEs was 88. 55.6% of PTEs had five or fewer students.

Involvement with very young international students

58. Approximately one fifth of schools have operated an international programme for more than 5 years, compared with more than half of PTEs. Half of all schools reported an increase in the number of very young international students, while a third of PTEs reported an increase. A similar proportion of schools (15.1%) and PTEs (16.7%) reported a decline in student numbers.
59. In the coming year, over one third of PTEs expected the number of very young international students to increase compared to just under a fifth of schools. One fifth of both PTEs and schools did not know whether the number of students would increase or decrease. For schools this can be attributed to the fact that the majority of young international student enrolments result from unsolicited requests. 82.3% of schools do not, either directly or through an agent, market themselves overseas for very young international students.

International students' visa status and future plans

60. Very young international students enrolled with a PTE generally hold a visitors' visa or permit, whereas the majority of students in schools hold a student visa or permit. This reflects that over 80% of very young international students in PTEs stay in New Zealand for less than 3 months. In contrast, 39.6% of young international students in schools stay for between 6 and 12 months (27.2% stay for 1-2 years). Increasingly students in schools are staying longer and spend 1 – 2 years studying in New Zealand.
61. Three quarters of very young international students enrolled with a PTE complete language schooling and then return to their country of origin, whereas 35% of students in schools were reported stay for part of their primary or intermediate schooling, while 11.9% stay on for secondary schooling.
62. Few students in PTEs have school-aged siblings living with them whilst living in New Zealand in contrast to a third of students in schools. Few students in PTEs or schools have other family members living in New Zealand (other than those living with them).

Accommodation and living arrangements

63. There are four possible living arrangements for international students aged under 18 years outlined by the March 2002 Code:
 - Homestay;¹⁸
 - Boarding establishment;¹⁹

¹⁸ For the purpose of the Code, "Homestay" means accommodation provided to an international student in the residence or a family or household where no more than four international students are accommodated.

- Living with a designated caregiver;²⁰ or
- Living with parents.²¹

64. The study indicated that 50.3% of very young international students studying in schools lived with a parents or parents, compared with 15.9% of students studying in PTEs (including English language schools). 19.5% of students in schools lived in a homestay, while 27.6% lived with a designated caregiver. 80.7% of students studying in PTEs lived in either a homestay (69.3%) or with a designated caregiver (11.4%).

Designated caregivers

65. For those very young international students living with a designated caregiver, 56.5% of students enrolled at PTEs and 36.7% of students enrolled at school lived with either an agent or non-family member. 53.9% of school students and 43.5% of PTE students lived with another family member.

Visa status of caregiver or parent

66. The majority of respondent did now know the visa status of their students' key caregivers or parents. Those that did know indicated that the visa status of students' key caregiver or parent fell into two categories; visitors visa or student visa. A third of PTEs reported that the majority of the students key caregiver or parents visa status fell into the category of 'visitors visa', while a third had New Zealand residency.

Methods schools and PTEs used to select accommodation

67. For schools, 54.3% of respondents reported that parents selected designated caregivers for their children, 54.8% of schools said that students must live with parents, while 20.6% of respondents indicated that their school selected homestays. Conversely, 83.3% of PTE respondents reported that they selected homestays, 27.8% said that agents and 22.2% of parents selected homesatys.

Schools and PTE policies

68. Another distinction between PTEs and schools identified by the survey was around the requirement by some providers that very young international students must live with a parent. Whereas over half of the schools surveyed indicated that students could not enrol without living with a parent, this occurred approximately 10% of the time in PTEs. This in part reflects the shorter length of stay in New Zealand by very young international students enrolled in PTEs.

¹⁹ For the purpose of the Code, "Boarding Establishment" means: (a) A school hostel or other hostel that provides boarding accommodation; or (b) Accommodation provided to an international student in the residence of a family or household where five or more international students are accommodated; or (c) Accommodation provided to an international student in a managed domestic residence where five or more international students are accommodated.

²⁰ For the purpose of the Code, "Designated Caregiver" mean a relative or close family friend designated in writing by the parents of an international student as the caregiver and accommodation provider for that student, but does not include a boarding establishment owner, manager, or employee.

²¹ For the purpose of the Code, "Parent" means the father or mother of an international student, and includes a court appointed guardian, or a person who meets the requirements of the proposed New Zealand Immigration Service visitor (guardian) visa/permit.

Monitoring of accommodation and living arrangements²²

69. Over half of schools and almost all PTEs monitored the accommodation and living arrangement of their students through staff employed by the school or PTE. Just under two thirds of schools and a third of PTEs relied on teaching staff to carry out this duty. A third of PTEs used homestay services or agents to monitor the living arrangements of their international students. Very few schools used agents to manage or provide pastoral/welfare care of their international students.
70. There has been no evaluative analysis conducted to assess any difference in quality between schools and agents managing the pastoral/welfare care of international students.

Staff designated as responsible for the welfare/pastoral care of young international students

71. The majority of schools and PTEs had staff designated as responsible for the pastoral care and welfare of international students. These staff were generally part-time, which may in part be attributed to the fact these staff had broader roles within their school or PTE. In addition, this may also reflect the small number of students in each school.
72. It is unclear from the data collected what overlap existed in roles between staff designated as responsible for the welfare/pastoral care of very young international students and those staff charged with monitoring accommodation and living arrangements.

Assisting contact between students and parents

73. Two thirds of PTEs reported that they actively assisted very young international students and their parents living offshore to contact one another. In comparison, less than a third of schools actively assisted in this way. This can be partially explained by the fact that over half of schools required their very young international students to live with a parent.

Contact with parents

74. Both schools and PTEs reported that they had very low or no difficulties in contacting the caregivers or parents of very young international students.

Difficulties experienced with international students

75. Both schools and PTEs reported that they experienced very low or no difficulties with very young international students outside of school or PTE hours. In contrast the in-depth qualitative research undertaken at 7 primary schools last year revealed a number of issues relating to the safety, supervision and quality of care received by very young international students.
76. There could be several possible explanations for this finding. First, at the time the 7-school study was conducted the Code was in an initial stage of implementation. The high number of schools and PTEs reported few problems could reflect the impact of full implementation of the Code and perhaps also the accompanying professional development programme offered to providers.

²² Both schools and PTEs used a number of methods to monitor the living arrangements of young international students. In some instances schools and PTEs used a combinations of methods.

Alternatively, respondents to the survey may have under-reported the difficulties they have had with very young international students in light of the Ministry's proposed options in relation to very young international students.²³ Finally, ERO's recent publication observed that whilst young international students knew who to contact in a school regarding any issues they had about their accommodation or schooling, they seldom did so.²⁴

Importance of family

77. 65.2% of schools and 38.9% of PTEs believed that it was very important or important (respectively) to the educational development of students to have a parent or family member living with them, while 14.5% of schools and 27.8% of PTEs thought that it was not important. Interestingly, 22.2% of PTEs did not respond to this question compared with 1.4% of schools. Again, this may reflect the short length of stay for very young international students enrolled with PTEs (83.9% of students stay for less than three months) and the policy of 50.4% of schools that they require students to live with a parent. How schools implemented this policy is, however, an issue in itself given that current visa policy means that the continuous presence of a parent for a full year is very difficult to achieve.

Education Review Office Evaluation

78. In June 2003, the Education Review Office (ERO) published *Foreign Fee Paying Students in New Zealand Schools*. This report evaluates the extent to which schools are meeting the educational and pastoral needs of international students, including examining any impact international students have on the provision of education to domestic students, and the way in which schools are managed and operated.²⁵

79. Findings included:

- Most schools are providing a satisfactory quality of educational experience to their FFPS;
- All schools sampled had structures and processes in place for monitoring accommodation arrangements of their FFPS;
- FFPS were not found to have a negative impact on the provision of education to domestic students; and
- Most schools had policies in place to ensure that the capability of the schools to provide quality education to both domestic students and FFPS, was able to keep pace with FFPS enrolments.

²³ This view is supported by a submission from the Auckland independent code evaluator.

²⁴ Education Review Office, *Foreign fee paying students in New Zealand Schools*, pp. 21-22 Some international students were unwilling to complain to school personnel about their learning or accommodation arrangements when they were not sure about the confidentiality of their complaints. Some international students were concerned that their problem could be made worse if teachers, homestay carers or their parents were informed.

²⁵ Data for the report was collected from 55 primary and 39 secondary schools during term 4 of 2002 and term 1 of 2003. ERO sent questionnaires to schools seeking information about their provisions for international schools. This was then validated during on-site visits. In combination with questionnaires, ERO selected 10 schools to use as case studies with in-depth interviews with key staff and students (domestic and FFP).

80. One section of ERO's report explored how schools provide for the pastoral needs of international students. ERO reported that in primary schools the person most commonly identified as the person responsible for the pastoral care of international students was the principal, while only a small number of primary schools had a separate position with responsibility for the pastoral/welfare care of their international students.²⁶
81. ERO's evaluation showed that almost all international students were able to identify the person with whom they should discuss any concerns. However, some international students reported issues to ERO that they had not complained about.²⁷ ERO explains:
- "In interviews with FFPS, ERO found evidence that some FFPS were unwilling to complain to school personnel about their learning or accommodation arrangements when they were not sure about the confidentiality of their complaints."*
82. In relation to the accommodation arrangements of international students, ERO's evaluation found that most schools either:
- Employed homestay co-ordinators;
 - Delegated a staff member as responsible for international students accommodation; or
 - Used accommodation agents.
83. In relation to young international students at primary schools ERO noted that a much lower number of these students stayed in a homestay relative to those international students at secondary school. Moreover, 20% of primary schools in the ERO sample, restricted enrolments of young international students to those living with their parents.²⁸ This contrasts with the finding, based on self-reporting, in the Ministry's survey that half of schools required parental presence.
84. In contrast several schools reported that nearly half of the international students were staying with designated caregivers nominated by an overseas agent, rather than by parents themselves.²⁹
85. ERO concludes by suggesting further investigation to ensure that the pastoral needs of international students continue to be met by the current system.
86. In relation to the pastoral care of international students ERO concludes that the quality of pastoral care offered to international students as being 'adequate to high'.³⁰ ERO made three suggestions for further development:

²⁶ Education Review Office, (2003). *Foreign fee paying students in New Zealand Schools*, Education Review Office: Wellington p.21

²⁷ Ibid.

²⁸ 11 out of 55 primary schools surveyed by ERO had policies stating that they would only accept students staying with their parents.

²⁹ Education Review Office, *Foreign fee paying students in New Zealand Schools*, p.26

- Schools being more proactive in providing opportunities for interactions and friendships between international and domestic students;
- Redefining or clarification of the accommodation category that allows international students to live with a designated caregiver;³¹ and
- Schools considering arrangements to provide support for international students in their own language.³²

Sector & Community Groups & Key Informant Interviews

Primary & Intermediate Code Advisory Committee

87. The Ministry has sought advice from the Primary / Intermediate Code Advisory Committee. The Committee was established in 2002 to advise the Code Administrator on issues relevant to their part of the sector.³³ The committee provided input through two meetings and via e-mail, culminating in the following recommendations to the Ministry.

Higher level of monitoring

88. There needs to be a higher level of monitoring adopted for the primary and intermediate area than that applied to the secondary schools area. A specific framework for primary/intermediate schools should be introduced. This should include:

- Requiring schools to check if students are continuing to live with their parents;
- Regular review of how the students are adapting and learning in the New Zealand classroom environment; and
- A more formal pastoral care structure within schools (including a group or network of people as opposed to a single person).

Guidelines

89. Guidelines for the primary/intermediate area should be prescriptive and detailed.

Prior approval

90. The Committee felt that schools should be required to apply to have a programme, and be required to receive individual approval, including a site check, prior to being allowed to enrol young international students (including for short courses).

Age distinctions

91. The Committee considered that the above should apply to all students under the age of 14. The Committee recommended that students aged from 7 to 13 be allowed to live with extended family, but that students under the age of 7 be allowed in New Zealand schools if living with parents only.

³⁰ Ibid, p.28

³¹ The Ministry of Education has addressed this issue during the 2003 Code review.

³² Education Review Office, *Foreign fee paying students in New Zealand Schools*, p.28

³³ This Committee is comprised of primary and intermediate school principals and other representatives nominated by national organisations (including the New Zealand Association of Intermediate and Middle Schools, the New Zealand Principals Federation, and the School Trustees Association).

Key informant & community groups³⁴

92. The Ministry consulted with a diverse range of key informant and community groups over their preferred policy approach to international students under 13 years of age.

Concerns

93. Several reoccurring concerns were raised during the interviews. These concerns included:

- Concerns around the pastoral care and support of mothers in New Zealand;
- Concerns for the pastoral care of children in New Zealand without their parents;
- Concerns around the quality of education offered to very young international students;
- Concerns that persons now sending their children to learn English in New Zealand can not afford to go anywhere else; and
- Concerns about the psychological and social development of very young international students in New Zealand without their parents.

94. Concerns were expressed around the pastoral care and support of mothers in New Zealand while their child is at school here, it was noted that these people were often in a 'solo parent' type situation and the lack of social support while suffering from culture shock and negative emotional experiences.

95. Concerns for the pastoral care of children in New Zealand as international students without their parents led community and sector groups to suggest that counselling from native speakers should be mandatory. A multi-lingual advisory service that would be available to all international students was proposed (to be funded through the Export Education Levy).

96. Community groups also raised concerns about the quality of education offered to very young international students, with the suggestion that all international student programmes be required to meet a certain standard and that fees should be set accordingly.

97. The belief that poor quality of programmes and insufficient prior testing or selection of students has led to a perception of New Zealand as a cheap destination where problem students will be sent was expressed. Part of this view was the concern that the persons now sending their children could not afford to go anywhere else, which could possibly lead to additional problems such as children being left home alone as parents struggle to earn extra money to stay in New Zealand.

98. A number of concerns about the psychological and social development of very young international students in New Zealand without their parents, including

³⁴ Meetings occurred with the following organisations/people: a guardianship/homestay company; a student exchange counselling service; a former international student; a parent of an international student; representatives of community groups; English language school/guardianship service; School Trustees Associations; the Korean Society; a psychotherapist; the Problem Gambling Foundation, and an academic. These groups and individuals were selected on the basis of their knowledge of the issues and their representation of particular groups, including the Korean community.

those with close relatives, were expressed by community and sector groups, and key informants. It is often difficult, even for close family members, to fulfil the role of the child's own immediate family. It was indicated that, in the opinions of informants, a growing number of young international students were seeking professional counselling. Indicators of psychological distress, such as 'Tic' syndrome, were believed to be becoming more prevalent.³⁵

99. In addition to these concerns, it was believed by several groups that the practice of using untrained Korean persons as support people for students should be discouraged. Providers should be required to Police check, contact references and provide training to these people. Moreover, pastoral care staff should be required to have training on Korean culture. This training could, for example, take the form of a half-day workshop or the development of a brochure or training booklet. Pastoral care staff should have access to ongoing support, counselling and training. It was also felt that providers with very young students be required to provide orientation information in the students' first language. It was also deemed necessary to provide information on the New Zealand environment and culture as a standardised brochure for providers to send to parents of prospective students.
100. To fund such initiatives it was suggested that providers be required to dedicate a percentage of their fees they collect to pastoral care.

Proposed solutions

101. Overall, opinions on the preferred policy approach fell into either of the following two areas:
 - Support of the Ministry's proposed Option 3 (e.g., no young international students in New Zealand below Year 8 or the age of 12); or
 - A much more prescriptive and closely monitored framework for young international students.
102. Those persons favouring a more prescriptive and closely monitored framework for very young international students considered that all of the following elements were essential:
 - Individual pastoral care and education programme approval, prior to the arrival of students;
 - Access to native speaking counsellors for international students;
 - Requirements of ongoing parental contact to be facilitated by the education provider between all parties on a regular basis, with a feedback mechanism to check homestay and school performance against parental expectations;
 - Additional training for homestay parents;
 - Prescriptive and detailed guidelines for the pastoral care, in particular setting out the framework or schools to monitor the external (i.e., accommodation) environment of students under 13 years of age;

³⁵ A tic is an involuntary, sudden, rapid, recurrent, non-rhythmic, stereotyped, motor movement or vocalisation.

- Ongoing monitoring of pastoral care and education programmes, including annual site visits of education providers;
 - Monitoring through an anonymous student survey, to determine student experience and progress; and
 - That action be taken when students having continuing behavioural problems, ongoing homesickness, or fail to attain a reasonable academic standard.³⁶
103. It was also suggested that there be tougher entry criteria introduced for very young international students including consideration of prior behavioural and academic achievement.
104. The Korean Society suggested that a register of guardians should be established (in the casual sense, rather than legal). The proposal was to register all guardians/guardianship services through the Korean Society of New Zealand. Advertisements could be placed in Korean newspapers, then the Korean Society would interview all participants together with the Ministry of Education, and register those having the relevant skills and knowledge. Training could also be provided to these people.

Submissions

Analysis of submissions – April 2003

105. In April 2003, the Ministry of Education sought sector comment on proposed amendments to the Code in five main areas, one of which included very young international students. To address the circumstances of very young international students (aged 13 and under) in New Zealand the Ministry proposed, among other options, to place a less than full scale restriction that requires living with a parent/legal guardian to be a condition of enrolment. The majority of submitters did not support this proposal and suggested that further research was necessary.
106. Overall, the majority of submitters supported Option 1.³⁷ A number of those submitters supported Option 1 with extra checks (e.g., verification during ERO reviews; annual reporting to the Ministry; etc.). A third of submitters supported the Ministry's preferred option, Option 2³⁸, in some cases with reservations (e.g., students on group visas to be exempted; the restricted age level should be raise/lowered; the definition of 'guardian' should include extended family). Submitters also argued that the preferred option imposed certain cultural biased judgements about the presence of and supervision by the biological/legal parent.
107. Submissions also commented on the application of Option 2 to schools with boarding establishments. The majority considered that boarding schools should be exempt from the requirements based on an already existing duty of care for

³⁶ For example, sending the young international student home to their country of origin.

³⁷ **Option 1:** Providing guidelines and best practice 'exemplars' to parents and schools who enrol very young international students, and targeted professional development to assist schools to develop policies for the management and care of very young international students.

³⁸ **Option 2:** The provisions described above and, in addition, amending the Code to include more restrictive conditions on the enrolment of very young international students including a key requirements to be living with a parent (or legal guardian).

their students, both international and domestic. Submitters also argued that international students under the age of 13 who visit New Zealand for a short period of time as part of a group of students on school or sister city exchange programme, for example, should be exempt from the requirement to live with a parent or guardian.

Further analysis of submissions – very young international students

108. As part of further research and investigation undertaken by the Ministry in regard to very young international students, some submissions made to the Ministry during the first submissions round of the Code review were analysed in more detail. These submissions generally proposed alternatives or amendments to the Ministry's three options.

109. Key themes in the submissions were:

- Concerns around the Ministry's preferred Option 2.
- Suggestions for more restrictive provisions, targeted at very young students, to be applied by schools through the Code.
- Suggestions for methods of more intensive and targeted monitoring of providers with very young students, through the Code.
- A call for stricter control / regulation of agents and caregivers acting as agents by the Ministry.
- A call for a different age range to be applied (with "young" students generally identified as being aged 9, 10, or 11 to 13 years of age, and "very young" students generally identified as under 9 years of age).

110. A small number of submissions related specifically to boarding school situations. These issues are not been dealt with separately here as the general principles relating to the care and protection of very young students remain the same regardless of the method of delivery of accommodation and pastoral care.

Option 1

111. Key reasons for supporting *Option 1*³⁹ were funding issues and cultural benefits. Schools submitted that they had pastoral care programmes in place that protected the needs of very young students sufficiently. However, perusal of some documentation by Ministry of Education legal team identified potential problems in the programmes of schools claiming comprehensive protection for students.⁴⁰

³⁹ **Option 1:** Providing guidelines and best practice 'exemplars' to parents and schools who enrol very young international students, and targeted professional development to assist schools to develop policies for the management and care of very young international students.

⁴⁰ In particular, it was of concern that some providers attempted to "contract out" of their responsibilities under the Code by having parents or agents sign documents stating that the school would not be liable for care of students outside of school hours; and that providers used documents intended to give legal protection that would not stand up to legal scrutiny.

Option 2

112. Concerns around the Ministry's preferred *Option 2*⁴¹ included the perceived lack of recognition of 'whanau' type living arrangements; concern about the criteria for appointment as a "guardian"; and concerns relating to the possible increase in mothers living in "solo parent" type situations in New Zealand with their children if *Option 2* is implemented.
113. There was concern over who could be appointed as a "guardian" through overseas Court systems. In particular, submitters were concerned that these persons should not be: too young (e.g., under 25); permitted to be a guardian for more than one or two students; or unrelated / unknown to the student. It was submitted that legal guardianship should only be determined by New Zealand law. There was a call for recognition of extended family situations, including allowing close relatives over a specific age to be guardians, and general alignment of accepted guardianship arrangements with accepted domestic student arrangements.
114. Concerns relating to mothers in "solo parent" type situations included:
- This could result in dysfunctional families, and deprive the child (and their siblings) of the opportunity to enjoy a family life by enabling/encouraging one parent to come to New Zealand (promotion of an "astronaut" family).
 - There are not enough opportunities / access to opportunities in the local areas of all schools with foreign fee-paying students to support a policy that encourages mothers to come here alone (e.g., not all schools have a language school locally, which mothers here on their own often attend). Mothers may then be living in an isolated community situation, diminishing their ability to support to their children.
 - Students in New Zealand with their mothers only often have younger siblings who never attend school, which has a detrimental effect on the development of the younger sibling and impacts negatively on the ability of the older sibling to learn English and to integrate at school.
 - Some schools had experienced more problems with students living with mothers than with students with designated caregivers or in homestays.

Proposed visitor (guardian) visa

115. For the above reasons, the proposed visitor (guardian) visa was generally supported as an option but not as a mandatory requirement.

Restriction of living arrangements

116. While the majority of submissions favoured the restriction of living arrangements to parents and designated caregivers, it would appear that this was largely due to the fact that these are the more predominant living arrangements for very young international students in the designated age range, and that some

⁴¹ **Option 2:** The provisions described above and, in addition, amending the Code to include more restrictive conditions on the enrolment of very young international students including a key requirements to be living with a parent (or legal guardian).

boarding and homestay arrangements offer a level of care and protection to students (including communication with parents) that could not be easily differentiated from the first two living situations.

Reasons for coming to New Zealand

117. Concern was expressed as to why some of these students were being sent here in the first place, where students had emotional issues relating to family break-ups and in some cases the family did not expect the children to ever “come home”, particularly in situations where students had been “unsuccessful” in their home country’s education system. It was submitted that many students here have already been labelled academic failures in their own country, or may have learning problems. In addition, risks to students’ emotional, cultural, linguistic, and educational development resulting from disassociation with native culture and the family environment were considered paramount.

Improving living circumstances and care

118. A number of submitters made the following alternative (to the Ministry’s proposed options) suggestions for improving the living circumstances and care of young international students:

- More intensive testing prior to the acceptance of students, to identify any learning or psychological issues that may indicate that enrolment in a New Zealand school is inappropriate. This would include perusal of prior school reports, English testing, discussion of existing behavioural or learning difficulties and general familiarisation with the student in a similar manner to that undertaken with domestic students.
- Requiring better contact between students and parents, including regular e-mail and telephone contact and a requirement for parents to visit students (e.g. six-monthly) while they are at school in New Zealand.
- Regular contact between schools and parents overseas and parents and caregivers in New Zealand (including establishment of contact prior to enrolment).
- Better support mechanisms for international students, including native language counsellors available to every student, 24-hour access by students to a native language speaker resident in New Zealand, and provision of an advocate to speak on behalf of primary age children.
- Facilitation of development and retention of students’ knowledge of their own culture and language.
- Stricter provisions around accommodation, including:
 - (a) processes for allowing students to request inspection of homestay or designated caregiver arrangements by the school if issues arise;
 - (b) parent and guardianship care arrangements to be open to inspection to allow schools to address issues of overcrowding and to monitor temporary absences;

- (c) all compliance checks (of accommodation arrangements) to be undertaken prior to the enrolment of students;
 - (d) Police checks to be mandatory for designated caregivers; and
 - (e) homestay arrangements to include more restrictive conditions on homestay selection, and more ongoing supervisory provisions.
- Having a robust guardianship arrangement as mandatory for each student (in addition to designated caregiver or homestay accommodation arrangements).
 - Closer monitoring of very young international students, including regular individual meetings with students to more closely monitor progress and comfort levels. (e.g., initial daily or weekly meetings, with meetings possibly becoming less frequent as the student becomes more settled. However, note that it was also submitted that daily contact by guardians was desirable for very young students.) Schools to take more responsibility for students outside of school hours.
 - Primary schools to come under a structure (e.g., as with special education) before being allowed to enrol very young international students. (e.g., a primary school could come under the “umbrella” management of a secondary school.)
 - Education of very young international students’ parents as to how children learn, to address the expectation of provision of examples of students’ work (which often do not have relevance to actual learning) including different reporting processes to parents.
 - Removal (and return to home country, in liaison with parents) of students with ongoing homesickness, a continuing inability to “settle in” in New Zealand, or other ongoing issues where intervention is appropriate.

Increased monitoring of education providers

119. The following suggestions related to more intensive monitoring of education providers:

- Mandatory professional development targeted at education providers with very young international students (possibly NZQA approved).
- Individual approval of education and pastoral care programmes (by NZQA or Ministry of Education).
- The inclusion of additional questions related to Code implementation within the ERO annual self-review checklist, and ERO verification of Code requirements during school reviews.
- Annual declarations by Boards of Trustees to verify Code requirements are being met, and inclusion of programme information and financial allocation in annual reports.

- Requirement to have teachers trained to teach cross-culturally, and for teaching mechanisms to be examined. (It was submitted that interrelationships between curriculum delivery and pastoral dimensions of early education should be addressed, and that English language support delivery should be more prescriptive, with the use of teacher aides and teachers with no ESOL qualifications seen as undesirable.)
- Strict adherence to NAG 5 in relation to very young international students (which requires Boards of Trustees to provide a safe physical and emotional environment to students; and to comply with legislation to ensure the safety of staff and students).
- Specific inclusion of the primary school situation in the Code, and annual “re-licensing” under the Code of education providers with very young international students.

Agents

120. There was a call for stricter control/regulation of agents and agents acting as caregivers. However, opinion on this point was divided, with some submitters indicating that (usually Korean) agents take a large amount of the responsibility for the pastoral and outside-of-school care for very young international students enrolled at the submitters institutions, and that this is seen as a desirable way of retaining students’ culture and language. Conversely, submitters were concerned at the way agents have “driven” the process in primary schools, especially by bringing students to New Zealand and then pressuring schools to enrol them without allowing schools time to set up appropriate programmes. In addition, concern was expressed at the financial arrangements between agents and students.⁴²

Analysis of submissions – June 2003

121. In May 2003, the Minister of Education released the *Draft Revised Code (with Commentary)* which provided feedback on the core changes made to the first draft of the Code as a result of submissions and of further consideration by the Ministry and other agencies, and provided an opportunity to comment on the draft revised Code.
122. A total of 45 submissions, from 26 submitters, were made in relation to very young international students in the June submissions round. The themes in these submissions generally reflected those in submissions made in the previous round in April.
123. Twelve submissions reiterated support for Option 1 (eight submissions) or Option 2 (four submissions) as proposed in the original discussion document. Nine submissions proposed alternatives or amendments to the proposed options, including suggestions for more restrictive provisions to be applied by or to schools.

⁴² Schools and parents of international students were concerned that agents charged excessive fees, and sometimes led parents to believe that school fees were higher than what schools were charging, and then kept the balance in addition to their disclosed commission.

124. Nine submissions noted other concerns around very young international students being in New Zealand without their parents. There was a call for extended family living arrangements to be recognised by the Ministry, support for the visitor (guardian) visa as part of a range of options, and a call for more professional development, training, and support for schools.

New Zealand's legislative framework for children

125. The Children, Young Person's and their Families Act 1989 and the Guardianship Act 1968 provide a domestic legislative framework for children in New Zealand.
126. The United Nations Convention of the Right's of the Child also provides a framework for children in an international context.

Child, Young Person's and their Family Act 1989

127. The Children, Young Person's and their Families Act 1989 applies to all children and young people in New Zealand regardless of their immigration status.
128. The object of this Act is to promote the well being of children, young persons, and their families and family groups. Children and young people must be protected from harm, their rights upheld, and their welfare promoted and that the relationship between a child and his or her family should, wherever possible, be maintained and strengthened.
129. The Act reflects the particular vulnerabilities of children in the following ways:
- Children are clearly defined as a separate group from young people and are specified as being aged between 0-13 years inclusive (e.g., as opposed to young people who are specified as being aged between 14-16 years inclusive);
 - The legislation reinforces the need for parents to be responsible for their children and that children are protected from harm (e.g., Section.4(b), (c), & (d));
 - Section 6 of CYP&F Act reinforces that the child's welfare and interests are paramount⁴³; and
 - Section 13 (b) advises that the primary role in caring for and protecting a child lies with the child's family.
130. Throughout the CYP&F Act there are slightly different processes for addressing the needs of children reinforcing that children are different to young people, and therefore are treated differently by New Zealand law.⁴⁴

⁴³ That is, the interests and welfare of the child takes precedence over parents and guardians interests.

⁴⁴ By way of an example, when orders are made such as custody orders these must be reviewed every six months as opposed to annually for young people. In addition, children are not dealt with for their offending in the same way as young people. Child offending is dealt with by the Family Court (instead of the Youth Court) and it is considered that they are offending because they are in need of care and protection and their wellbeing is at risk rather than exhibiting, necessarily, criminal behaviour.

Guardianship Act 1968

131. The Guardianship Act 1968 defines and regulates the authority of parents as guardians of their children, their power to appoint guardians, and the powers of the Courts in relation to the custody and guardianship of children.
132. The legal construct of guardianship provides the tools for adults to care for, have responsibility for, act as a representative of and (for younger children) make decisions for a child. Decisions made under the guardianship legislation must be made with the best interests and welfare of the child as the paramount and overriding consideration. Hence the individual circumstances of the family in question must be examined rather than assuming that a particular type of "family" or caregiving arrangement is preferable.

United Nations Convention on the Rights of the Child⁴⁵

133. The United Nations General Assembly adopted the Convention on the Rights of the Child⁴⁶ (UNCROC) in 1989 and New Zealand ratified in March 1993.⁴⁷
134. The UNCROC views children in the context of their family and the family in the context of its surroundings. It holds that children should not be treated as appendages of, or chattels belonging to the adults whose responsibility they fall. Children should be treated as people in their own right.⁴⁸
135. It is not possible here to enter into a comprehensive review of the Articles of the Convention. Accordingly, it is helpful to consider the Articles relating to:
- Protection;
 - Provision; and
 - Participation.
136. Article 2 of the Convention provides for the non-discrimination of the child, Article 3 provides for the best interests of the child,⁴⁹ while Article 12 means that the views of the child should be taken into account having regard to their age and maturity.⁵⁰
137. Article 5 recognises that children have evolving capabilities and that parents have primary responsibility for and duty to provide care for children (Articles 5 and 18), while Article 20 recognises that children outside their family environment need special care and protection.

⁴⁵ A child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.

⁴⁶ For the history of the Convention see "The United Nations Convention on the Rights of the Child", compiled and edited by Sharon Detrick. Defence for Children International (1992). (See particularly Chapter 1 pp 19-30.)

⁴⁷ It is the most widely supported International Human Rights Convention having been adopted by 191 countries at November 2002.

⁴⁸ "The UN Children's Convention and Australia" - edited by Philip Alston and Glen Brennan. (Human Rights and EO Commission 1991) p 1.

⁴⁹ Need to ensure that the best interests of the child shall be the paramount consideration

⁵⁰ Section 23(2) of the Guardianship Act 1968 and Section 5(d) of the Children, Young Persons and Their Families Act, 1989 both reinforce the need for decision makers to take into account of the child's wishes having regard to the age and maturity of the child.

138. Article 3 includes the following clause:

“State Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.”

139. Article 5 of the of convention supports the rights and duties of parents saying:

“State Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided by local custom, legal guardians or others persons legally responsibility for the child, to provide, in a manner consistent with evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognised in the present Convention.”

140. Article 14 goes on to say:

“State Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.”

141. Further Article 18 says:

“State Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child.”

142. Article 32 protects children from economic exploitation if it negatively impacts on their psychological and social development saying:

“State Parties recognise the right of the child to be protected from economic exploitation ... the is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.”

Education Act 1989

143. Section 77 (a) of the Education Act 1989, says that state school principals must take reasonable steps to ensure that students receive good guidance and counselling.

144. Section 77(b) says that state school principals must take all reasonable steps to ensure that parents are told of matters that in the principal’s opinion are preventing or slowing the student’s progress through school or are harming the student’s relationship with teachers and other students.

145. These requirements imply that school boards and principals will take all reasonable steps to ensure that all students have assistance to remain at school and progress their learning. It is important that schools identify barriers to learning and that schools respond to the pastoral care needs of their students. If educational goals are to be achieved, such a response is imperative.

Being a caregiver: Child, Youth & Family

146. Child, Youth and Family have a legal responsibility to ensure children and young people are safe. To this end, Child, Youth and Family use caregivers to provide appropriate family-like settings in which to care for children and young people, who, for various reasons, cannot live with their own families.
147. Caregivers are people who are trained and approved to have a child or young person placed with them by Child, Youth and Family. Every prospective caregiver is required to complete an application form and agree to:
- A Police check;
 - A full medical report from personal GP; and
 - Provide the names and addresses of two referees.
148. Caregivers provide alternative care to meet the needs of a child or young person unable to live with their own family. Aspects of their role include:
- Give appropriate love, positive messages and acceptance to the child or young person;
 - Provide support, guidance and understanding;
 - Be a positive role model for the young person;
 - Work with schools, doctors and other professionals as appropriate;
 - Encourage sport and recreational interests when appropriate; and
 - Work on behalf of the child or young person.
149. A caregiver is also to provide appropriate discipline within Child, Youth and Family guidance.

Training

150. A Child, Youth and Family caregiver participates in ongoing training supplemented with resource materials and support networks. This training includes:
- A caregiver preparation course run over several evenings;
 - The National Caregiver Training Programme; and
 - Local training initiatives.
151. The selection and approval process and the initial training is completed prior to a child or young person being placed with a caregiver.

International students in Australia

152. The Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) and the Education Services of Overseas Student (ESOS) Act 2000 provide the framework for international student activity in Australia.

Education Services of Overseas Students Act 2000

153. The Education Services for Overseas Students (ESOS) Act 2000 has regulated education and training providers that enrol students studying in Australia on student visas.

154. The ESOS Act puts in place a set of legislative arrangements which significantly affects the way institutions, including schools, market, offer, and provide programmes and services to international students. The Act also places obligations and restrictions on students and on institutions for monitoring and reporting on student progress.

National Code of Practice⁵¹

155. The National Code provides nationally consistent standards for the registration and conduct of registered providers and the conduct of persons who deliver educational services on behalf of registered providers. The Code imposes an obligation on providers to approve accommodation/welfare arrangements for overseas students under the age of 18 years, consistent with Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) requirements (Section 47).

156. Law requires all prospective host families to undertake screening through the Commission for Children and Young Adults, and education providers are obliged to police check prospective homestay parents. The National Code also requires that education providers have a 'student contact officer' available to deal with welfare issues.

157. There is no specific policy for young international students.⁵² Rather, the welfare of all international students under the age of 18 is set in immigration policy, which requires international students who are under the age of 18 to fall into one of two broad categories of accommodation arrangements:

- Parent/legal custodian or parent/custodian nominated accommodation; or
- Education provider-approved care arrangements.

Parent/legal custodian or parent/custodian nominated accommodation

158. Students under this category must live with their parent or legal custodian; or someone who is a relative of the applicant, nominated by the parent/custodian, aged at least 21 years of age and is of good character.

Education provider-approved care arrangements

159. Alternatively, the education provider may submit a signed statement to the Minister (Immigration) by the education provider for the course in which the applicant is enrolled confirming that appropriate arrangements have been made

⁵¹ Established under s37 of ESOS Act 2000

⁵² Although, as in New Zealand they are protected by the domestic legislative and policy framework relating to children and young people.

for the applicant's accommodation, support and general welfare during the applicant's stay in Australia. There are no restrictions regarding the type of care arrangement education providers can approve. However the Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) encourages providers to approve arrangements that are consistent with the strengthened parent/custodian-approved care arrangements. The carers they approve should also be aged at least 21, be of good character, and have permission to reside in Australia until the student turns 18 or their visa expires. Older siblings aged less than 21 are generally not considered to be appropriate carers.

Assessment levels

160. In addition to the welfare provisions for students under 18, DIMIA operates a system of assessment levels determined by the applicant's country of nationality and the education sector for which the student seeks a visa. Assessment levels range from 1 - 5, where level 5 represents the highest level of immigration risk.
161. Assessment levels essentially limit the minimum age for enrolment of some student minors. For example, students from very high-risk (level 5) countries (e.g. People's Republic of China) must have completed Year 9 in their own country. Students from high-risk (level 4) countries (e.g. Fiji) must have completed Year 6. Students from lower risk countries must be at least 6 years of age. This means Australia only accepts primary school students from low or lower risk countries.
162. Until November 2002 Korea (the primary source country for very young student enrolments) was a level 4 country and Korean students were not able to enrol at Australian schools. However, Korea was reassessed and as a result moved to level 3 in November 2002, allowing Korean students of at least 6 years of age to enrol at primary school.

Community and family influences on children's achievement

163. In July 2003 the Ministry of Education released 'The Complexity of Community and Family Influences on Children's Achievement in New Zealand: Best Evidence Synthesis'.⁵³ The ways in which the influences impact upon children and their achievement are complex, reflecting the living social systems in which children respond in unique ways.
164. It is not possible in this paper to cover all the findings identified in the 'Best Evidence Synthesis' (BES). Accordingly, it is helpful to consider elements identified by the BES that most positively or negatively impact on primary school students.
165. Major positive impacts identified include:
 - Active parental support of children's educational development;
 - Stable and caring home-life;

⁵³ Biddulph, F., Biddulph, J., & Biddulph, C. (2003). *The complexity of community and family influences on children's achievement in New Zealand: best evidence synthesis*. Ministry of Education: Wellington.

- Range of quality experiences, activities and interactions at home and beyond;
- Genuine and constructive home/school partnerships/collaborations; and
- Programmes that enhance parental understandings of how to support their children educationally – programmes that empower parents, and respect their dignity and cultural values.⁵⁴

166. Negative impacts include:

- High mobility, but this is usually associated with other adverse factors;
- Unstable home environment;
- Restricted range of quality experiences, activities and internationals at home and beyond; and
- A lack of links between home and school.⁵⁵

167. Peer influences can be both positive and negative. Positive for understanding, support, information and encouragement. Negative for anti-social behaviour and mediocre achievement norms.⁵⁶

Importance of parents and family

168. Specialists in child development interviewed⁵⁷ by the Ministry held the view that very young international students in New Zealand without their parents may experience more negative effects than those students who live with a parent(s).

169. All stressed that child development literature and research highlight the importance of having a parental role model for the psychological, social and educational development of a child, particularly during the early years. Children need guidance and boundaries, but also love and support (e.g., children need parenting).

170. The difficulty in identifying an age when a child might better cope with living away from their parent(s) was noted by all the specialists, as individual children have varying rates of development, capacity and maturity that influence their independence. All specialists believed that children aged 13 years or less should ideally live with a parent.

171. If however, an age distinction was to be made, it was felt that in general, from the age of 10 or 11, children developed a greater degree of independence and were therefore more likely to cope with living apart from their parents. However, it was the view of all specialists consulted that children over 10 years of age should not be living with someone unknown to them, and it was emphasised that these children still needed a parental role model.⁵⁸

172. In the views of the specialists, training was necessary for ‘substitute parents’ to ensure they could appropriately fulfil the parenting role. Understanding the

⁵⁴ Ibid. p. 175, pp. 178-9

⁵⁵ Ibid.

⁵⁶ Ibid. p. 179

⁵⁷ Specialists from Auckland, Otago and Victoria universities were consulted.

⁵⁸ A legal guardian also needs to be well known to the child and able to function in a parenting role.

culture the child comes from was also highlighted as a requirement. Ideally, the parental figure would also be able to communicate in the child's first language. Members of an extended family could be appropriate parent substitutes if they were well known to the child, but again, they would be suitable only if they had the parenting and other skills required for successfully fostering and contributing to a child's development.

173. In the opinion of the specialists schools needed robust support and care systems in place for very young international students, highlighting that the younger a child is the less likely they are to contact someone if they have a problem (albeit at home or at school).
174. It was also argued that it was important for a child living apart from a parent to have a contact person outside of school and their home, and that this person actively engaged with the child to see how they were on a regular basis rather than waiting for the child to go to them when a problem arises. A child's capacity to use a 'complaints' system or process was said to be limited.
175. Two of the experts consulted suggested that in-depth (potentially longitudinal) research with very young international students should ideally be carried out, involving members of the ethnic community of these children. It was also recognised, however, that this could require a timeframe of a year or more and that risks need to be addressed now.

Conclusion

176. We have seen from the presentation of evidence, each stakeholder has a different response and viewpoint based on their experience of very young international students, and based on their particular situation and expertise.

Evolving sector

177. The number of very young international students enrolled in New Zealand providers has increased rapidly over the past few years. Because of the young age of primary and intermediate international students, the existence of language and cultural barriers and their separation, in many cases, from family, very young international students are particularly vulnerable to abuse, neglect and exploitation. This makes it all the more important to ensure that their welfare and interests are adequately met, and that these students receive a quality education whilst staying in New Zealand.

178. The research shows that very young international students are relatively new clients to the majority of primary and intermediate schools, and to a lesser extent, those PTEs (English language schools) catering for this age group. The rapid growth in enrolment of very young international students in the majority of New Zealand's primary and intermediate schools has not, to date, occurred as a result of marketing by New Zealand providers. Demand has been driven from the students' home countries and enrolments have been predominantly the result of a parent, relative or agent (contracted by the parent) seeking enrolments with the school directly. Conversely PTEs, particularly English language schools, exist to meet demand from the international education market, and more usually market their services directly or indirectly through the use of agents. Providing services to international students is their core business, whereas schools exist primarily to educate domestic students.

179. Export education in the primary and intermediate school sector has developed in a somewhat *ad hoc* way. However, since 2002 the newly implemented Code has provided a more fixed framework for the development of processes and policies.

180. While an increasing sophistication in schools' management of international student programmes can be inferred from the evidence, the views of informed observers suggest that risks and difficulties remain.

181. The Ministry's research and consultation have confirmed the relevance of guidelines and good practice exemplars to assist providers who enrol very young international students, and targeted professional development to assist providers to develop policies for the management and care of these students.

Relevance of parental figure and parenting on children's development and education

182. The survey of primary and intermediate schools, and PTEs (including English language schools) revealed that schools more often than PTEs believed that it was very important to the educational development of a student to have a parent or family member living with them, possibly reflecting in part differences in the length of programme in which children are enrolled across these two main provider types.

183. Child development literature highlights the importance of parental role models and active parenting in the psychological, educational and social development of a child. In the opinion of child development specialists interviewed by the Ministry, very young international students should live with a parent, particularly for those under 10 years of age. If this was not possible, it was felt that the 'substitute parent' had to be someone known to the child, someone who understood the child's culture and who had, or could be trained to acquire, the skills to successfully 'foster' a child.
184. The research evidence shows that genuine and constructive home/school partnerships, a stable and caring home-life, active parental support, and a range of related quality experiences, activities and interactions all contribute positively to the educational achievement of primary/intermediate aged children.
185. Concerns relating to students living with designated caregivers were highlighted in consultation carried out with sector and community groups. The Code has recently been strengthened, to improve the welfare and pastoral care of all international students, by restricting the ability to be a child's 'designated caregiver' to a relative or family friend.

Living arrangements

186. The research shows that half of primary and intermediate schools report that they require young international students to live with a parent. A minority of PTEs makes this requirement of their students. How schools implement this policy is, however, an issue in itself given that current visa policy means that continuous presence of a parent (who is usually here on a visitor's visa) for a full school year is very difficult to achieve. Under visitor's policy, parents are generally limited to a maximum stay of nine months in any 18-month period.
187. Although the continuous presence of one of two parents is possible, it would appear likely that in some instances there might be a gap between provider policy and reality.
188. Given that half of the schools surveyed require very young international students to live with a parent, the research also raises questions about the level of support available to parents of these students, in relation to possible adjustment difficulties they experience, whilst living in New Zealand. It is reasonable to assume that an international parent that may be experiencing isolation, homesickness and distress will have a detrimental affect on the educational and emotional development of their child. Some key informants pointed to parental adjustment problems as a significant issue.
189. Key informants and sector groups believed that providers need to take more responsibility for and care of very young international students who lived in a homestay or with a designated caregiver.

Difficulties with young international students

190. The self-reporting by schools and PTEs in the Ministry's survey suggested that they have experienced very few behavioural or other difficulties with their very young international students, in contrast with the findings of the 2002 case study of 7 schools, which raised a number of concerns. A year later these schools

reported having fewer difficulties with their students, although the incidence of concerns was still higher than reported in the Ministry's June 2003 survey. The difference may reflect a maturing of the systems and processes schools now have in place for young international students, and an increased awareness of the Code. In contrast, however, opinions from sector and community groups, and key informants raised a number of significant concerns. These ranged from concerns about students' pastoral care and support, the quality of education received, and their psychological and social development.

191. There could be several possible explanations for this divergence in findings and views. First, at the time the 7-school study was conducted the Code was in an initial stage of implementation. The high number of schools and PTEs reporting few problems could reflect the impact of full implementation of the Code and perhaps also the accompanying professional development programme offered to providers. Alternatively, respondents to the survey may have under-reported the difficulties they have had with young international students in light of the Ministry's proposed options in relation to young international students. Finally, the monitoring systems used by providers may not be effective or extensive enough to capture the extent of concerns and difficulties identified by community and sector groups, and key informants. These informants were also in some cases sceptical of the ability of schools to provide students with adequate support without a more prescriptive policy framework.

Monitoring

192. PTEs use homestay services and agents to monitor the living arrangements of young international students more frequently than schools do. There has been no evaluative analysis conducted to assess any difference in quality between situations in which schools and PTEs directly manage the pastoral care of very young international students and situations in which this is undertaken on their behalf by agents, although the evidence in this area may be expected to emerge through auditing processes associated with the Code.

Policy framework

193. Guidance for policy relating to very young international students can be found in New Zealand's domestic policy framework and the United Nations Convention on the Right's of the Child for the care of children. Decisions made under the Child, Young Persons and Families Act 1989 and the Guardianship Act 1968 must be made with the best interests and welfare of the child as the paramount and overriding consideration. Parents need to be responsible for their children, and the primary role in caring for and protecting a child lies with the child's family. The Convention on the Right's of the Child protects children and supports the rights and duties of parents.
194. Every caregiver used by Child, Youth and Family is trained and approved. Caregivers are checked by Police, have had a full medical report, and have had to provide the name of two referees. The selection and approval process and initial training is completed prior to a child or young person being placed with a caregiver.
195. Although there remains a strong body of opinion among providers currently enrolling very young international students that the Code, as it currently stands,

may adequately protect the interests and welfare of these students, considerable weight is attached by the Ministry to other elements of the research and consultation, including expert opinion, that indicate significant outstanding concerns about the development needs, welfare and pastoral care of very young international students.

196. The Code has recently been strengthened to improve the pastoral care and welfare of all international students. The likely impacts of this change will also be taken into account in any further policy advice to Government in relation to very young students.