MINISTRY OF EDUCATION
TE TĀHUHU O TE MĀTAURANGA

Education Report: Consulting on fee regulation settings for 2023

To:	Hon Chris Hipkins, Minister of Education		
Date:	16/06/2022	**Priority:**	Medium / High
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Purpose of Report

This paper seeks your agreement to consult via Gazette notice on fee regulation settings for the 2023 calendar year. This includes a proposed Annual Maximum Fee Movement (AMFM) rate of 2.75 per cent, along with changes to reflect how fee regulation settings apply in the unified funding system. This paper also includes an update on Te Pūkenga's programme unification and fee alignment process. We seek your feedback by Thursday 23 June.

Summary

As part of the annual fee regulation process, we are seeking your agreement to consult via Gazette notice on fee regulation settings for 2023. We recommend consulting on an AMFM rate of 2.75 per cent in 2023. In November 2019 you agreed to treat the AMFM as a forecast change in line with inflation, rather than an annual Budget bid [METIS 1209987 refers]. The rate of forecast inflation for the 2023 calendar year as at the Budget Economic and Fiscal Update 2022 is 4.1 per cent.

Matching the AMFM with forecast inflation for 2023 would result in a much higher AMFM rate than in recent years (with the highest AMFM since 2018 at 2 per cent) and would see more of the cost of tertiary education shifted towards learners, compared to government. We recommend consulting on an AMFM rate of 2.75 per cent, which matches the government's increase to across-the-board tuition subsidies for 2023 and keeps the balance of costs of tertiary education between government and learners the same. Alternatively, if you are concerned with the cost pressures faced by providers, you could choose to consult on an AMFM rate of 4.1 per cent, in line for forecast inflation for 2023.

Te Pūkenga is undertaking a process to align fees across its network alongside its work to unify its programmes. In some cases, Te Pūkenga will look to develop new qualifications and courses. In this situation, the existing fee regulation settings would apply the 75th percentile rule. However, in other cases, it intends to unify programmes by rolling out an existing programme across its network. The existing AMFM settings could reduce Te Pūkenga's ability to set course fees at a reasonable level that takes account of various course fees across its network. The existing settings could also incentivise Te Pūkenga to roll out programmes with the highest course fees, impacting affordability for learners across Te Pūkenga. We propose

to clarify in fee regulation conditions that where Te Pūkenga unifies a programme by rolling out an existing programme across its network, the fee setting limits for new courses (the 75^{h} percentile rule) apply. Officials are working closely with Te Pūkenga so that the maximum course fees for their unified programmes are clear for 2023.

We have considered whether to apply fee regulation requirements to work-based programmes currently funded through the Industry Training Fund. However, on balance we do not think this is necessary and that trying to regulate these fees in 2023 is unlikely to be very effective. Most tertiary education providers taking on the arranging training functions of transitional industry training organisations (TITOs) are likely to keep fees for these programmes at around current levels in 2023 and ensure they are not a barrier for employers or learners. There are also significant administrative challenges to applying fee regulation requirements to these programmes, particularly limits on increases, due in part to the way fees are charged, with fees varying for learners in the same programme based on their individual needs or region.

Recommended Actions

The Ministry of Education (the Ministry) recommends you:

Annual Maximum Fee Movement

a. **note** that in November 2019 you agreed to treat the AMFM as a forecast change by consulting on an AMFM rate in line with forecast inflation (excluding cigarettes and tobacco products) [METIS 1209987 refers]

Noted

b. **note** that an AMFM rate of 4.1 per cent, in line with forecast inflation for 2023 at the Budget Economic and Fiscal Update 2022, would be significantly higher than other AMFM rates in the past five years and could result in cost shifting onto learners

Noted

EITHER

c. **agree** to consult via Gazette notice on setting the AMFM at 2.75 per cent for the 2023 calendar year, in line with across-the-board tuition subsidy increases for 2023 [*recommended*]

Agree / Disagree

OR

d. **agree** to consult via Gazette notice on setting the AMFM at 4.1 per cent for the 2023 calendar year, in line with forecast inflation

Agree / Disagree

Te Pūkenga fee harmonisation

e. **note** that Te Pūkenga is undertaking a multi-year process to align fees across its network alongside its work to unify its programmes, with some programmes moving to a unified fee from 2023

f. **agree** to consult via Gazette notice that for 2023 where Te Pūkenga unifies programmes by rolling out an existing programme across its network, that the fee setting limits for new courses (the 75th percentile rule) will apply

Agree / Disagree

g. **note** that officials at the Ministry, the Tertiary Education Commission and the New Zealand Qualifications Authority are working closely with Te Pūkenga to support their programme unification process

Fee regulation settings for work-based learning

h. **note** that fees charged for provision funded through the Industry Training Fund are not subject to fee regulation, and so updated fee regulation settings need to consider how these apply in the Unified Funding System from 2023

EITHER

i. **agree** to exclude fee regulation requirements from applying to work-based programmes that were previously funded through the Industry Training Fund for 2023 [*recommended*]

Agree / Disagree

OR

j. **agree** to consult via Gazette notice on regulating fee increases for work-based programmes that were previously funded through the Industry Training Fund for 2023 in line with the agreed AMFM rate

Agree / Disagree

k. **note** that the Gazette notice (Appendix A) will be amended to reflect your decisions on this paper and is subject to a final legal review

Noted

Proactive release

l. **agree** that the Ministry of Education release this briefing once it has been considered by you, with appropriate redactions for policy still under active consideration under section 9(2)(iv) of the Official Information Act 1982.

Agree / Disagree.

James Campbell
Senior Policy Manager
Tertiary Education

16/06/2022

Hon Chris Hipkins
Minister of Education

2 / 7 / 2022

Background

1. Section 420(1)(b) of the Education and Training Act 2020 (the Act) requires you to consult on any proposed conditions on funding that limit the fees a tertiary education organisation (TEO) can charge to domestic students or employers. Consultation is triggered by way of a notice in the New Zealand Gazette and submissions are open for a minimum of 21 days following publication. Fee regulation settings are then implemented as a condition on funding in funding determinations.

2. Currently, fee regulation applies to the Student Achievement Component (SAC) level 3 and above (SAC3+) funding determination[1], and no fee regulation is applied to the Industry Training Fund (ITF) funding determination. However, with the implementation of the unified funding system (UFS) from 2023, elements of the SAC and ITF funding systems for vocational education and training (VET) are being combined. This will result in new funding determinations for the UFS and for degree level and above provision. This has implications on how fee regulations for 2023 apply across the new funding determinations.

3. The Ministry is currently undertaking targeted engagement to develop long-term options for fee regulations and employer contributions for VET [METIS 1281678 refers], which we intend to be in place from the start of 2024. We have considered how fee regulation settings work in 2023 to minimise disruption on providers before long-term settings are implemented in 2024.

Annual maximum fee movement for 2023

4. The AMFM rate is set annually to regulate how much tertiary providers can increase their fees for domestic students. In November 2019 you agreed to treat the AMFM as a forecast change and to consult on an AMFM at the rate of forecast inflation [METIS 1209987 refers]. As a result, for the 2022 calendar year you set the AMFM at 1.7 per cent, in line with forecast inflation as at the Budget Economic and Fiscal Update (BEFU) 2021, following consultation.[2]

5. An AMFM set at or below forecast inflation does not require additional funding through a Budget process. This is because the Student Loan Scheme already accounts for an annual increase in borrowing for fees by the Consumer Price Index (CPI). Fee increases also impact Fees Free payments for first year Fees Free and the TTAF; however, these costs are met within the existing Fees Fee payments baseline.

6. Government contributes to the growing cost of providing tertiary education by increasing tuition subsidy rates and by contributing to the cost of tuition fees through the Student Loan Scheme, Fees Free and the Targeted Training and Apprenticeship Fund (TTAF) (although the latter will stop at the end of 2022). At Budget 2022, the Government announced a 2.75 per cent increase to tertiary tuition and training subsidies for 2023, up from a 1.2 per cent increase for 2022.

7. The rate of forecast inflation for the 2023 calendar year as at the BEFU 2022 is 4.1 per cent (noting that this differs from the headline inflation forecast reported in BEFU, which is calculated on a financial year basis). If the AMFM rate for 2023 matched forecast

[1] Note that compulsory student services fees are subject to separate requirements regarding how the fee is set and used and is not capped like tuition fees and compulsory course costs.

[2] Actual CPI for 2022 is currently tracking far higher than forecast as at BEFU in 2021. Currently, it is forecast at 6.1 per cent, compared to 1.7 per cent at BEFU 2022. This is one of the risks of relying on forecast CPI to set the AMFM. However, we would expect these variations to balance out somewhat over time, with actual CPU sometimes being lower than forecast.

inflation, this would represent a significant increase on AMFM rates from the past five years. The AMFM rate has remained at or below 2 per cent since 2018, and the highest AMFM rate for any year is 4 per cent.

There are conflicting impacts of cost pressures on learners, providers and government in 2023

8. While an AMFM rate of 4.1 per cent in 2023 would maintain current fee maxima in 'real' (i.e., inflation adjusted) terms, it would shift the balance of the costs of tertiary education towards learners, given that relative cost increases for tertiary education would be lower for government (2.75 per cent) than for learners (4.1 per cent). Although this shift would be marginal, it may raise issues of fairness and potentially impact on learner participation if affordability is impacted (including the perception of affordability), particularly among priority learner groups.

9. We also note that while the AMFM for 2022 is below actual inflation, over the longer term the AMFM has substantially outpaced inflation. Between 2011 (when the AMFM was introduced) and 2021, the cumulative impact of AMFM increases resulted in a maximum tuition fee increase of 37.1 per cent, while actual inflation only increased by 18.5 per cent. Since 2017, when AMFM increases have remained at 2 per cent or lower, AMFM rate increases remained above actual inflation until 2021.

10. Tertiary Education Organisations (TEOs) are facing increased cost pressures during this period of high inflation, which they will likely look to offset through fee increases. A higher AMFM rate may allow TEOs to offset some or all of their increased costs through higher fee increases. A lower AMFM rate means that TEOs may need to absorb higher costs or look for opportunities to cross-subsidise.

11. The cost pressures TEOs will be facing in 2023 differ according to the subsector. TEC reporting indicates that universities' financials remain strong and Te Pūkenga will benefit from increased funding rates for work-based training in 2023 and increasing demand for work-based training, reducing their need for larger tuition fee increases. Wānanga typically generate a smaller proportion of their revenue from fees compared to other providers and as such are less reliant on tuition fee increases to cover their costs. PTEs will likely face greater cost pressures than other providers in 2023, as they are most affected by decreases to provider-based tuition subsidies in the UFS and have faced significant challenges due to the closure of the international border.

12. The reopening of the border to international students from 31 July 2022 will help to offset declines in revenue for many providers, although it will take some time for this market to recover. Changes to post-study work rights as part of the immigration rebalance may also limit the extent to which PTEs and Te Pūkenga can rebuild their international student numbers.

13. We have also considered this issue from a Te Tiriti perspective, including the rights and interests of Māori learners and institutions. We have determined that AMFM settings do not raise any significant or direct implications from a Te Tiriti perspective. As we have identified earlier, we do not think the AMFM rate will have a significant impact on Wananga as they generally run a low fees model. The AMFM rate also applies equally to all fee-paying students and will therefore not have a disproportionate impact on Māori learners. Through consultation we will test these assumptions and provide further advice if submissions from wānanga or Māori raise concerns.

14. On balance, given the conflicting impacts of cost pressures on learners, TEOs and the Government, we therefore recommend consulting on an AMFM rate for 2023 at 2.75 per cent. This strikes a balance between:

a. **Protecting the affordability of tertiary education**: providing certainty for students and their families that fee increases are not excessive, at a time when other cost pressures are increasing significantly for learners.

b. **Allowing tertiary education providers to cover increasing costs**: giving some flexibility for TEOs to increase revenue through domestic fee increases to help cover increasing costs. This is in addition to the 2.75 percent increase in tuition subsidy rates from 2023 and additional funding to manage increased demand for work-based learning.

c. **Managing fiscal cost to the Crown**: fee increases lead to increased costs to the Crown through student loans and Fees Free payments in 2023. However, as the Student Loan Scheme factors in an annual cost increase at the rate of CPI, an AMFM for 2023 at 2.75 per cent will result in a theoretical cost saving (although this will not be realised and is immediately returned to the centre), which is fiscally prudent in this period of constrained spending. For Fees Free, an AMFM rate below CPI will make it easier to manage costs within the funding that we currently have.

15. If you are concerned with the financial pressures faced by providers and do not wish to set the AMFM at 2.75 per cent, you could alternatively set the AMFM at 4.1 per cent, in line for forecast inflation for 2023.

16. We expect that TEOs will raise concerns with a proposed AMFM rate of 2.75 per cent through the Gazette process, especially given that the 2022 AMFM rate is significantly below forecast inflation. However, we also expect that learners would raise concerns with an AMFM rate of 4.1 per cent, given the high cost of living increases they are currently facing.

Supporting Te Pūkenga's programme unification process

17. Te Pūkenga is undertaking a process to align fees across its network alongside its work to unify its programmes. The Ministry and the TEC have been working with Te Pūkenga to support this process. This includes ensuring policy and operational settings enable Te Pūkenga to align course fees for its unified programmes, while maintaining affordability for learners and managing costs to government.

18. Te Pūkenga's programme unification process will be a multi-year project that phases out existing programmes at individual subsidiaries. Different cohorts of programmes will be unified over the next several years and open to new enrolments with a single fee. To provide certainty and continuity for learners, existing enrolments will continue to remain in their programme in its current format and fee structure.

19. Te Pūkenga has recently opened consultation on unifying its nursing and social work degree programmes from 2023. It also intends to unify fees for Business-related qualifications along with a range of other level 1 to 6 and non-degree level 7 programmes in 2023 and 2024.

Alignment with ongoing review of fee regulation

20. In 2021, you agreed for officials to undertake targeted engagement on moving to a fee capping mechanism for VET as part of a review of fee regulation. This would cap fees charged to learners at different rates per equivalent full-time learner (FTEL) by subject area, based primarily on similar cost, without any limits on fee changes. [METIS 1267229]. Generally, feedback received to date from across the sector, including Te Pūkenga, has supported this more flexible approach to fee regulation.

21. Such a fee capping mechanism would give Te Pūkenga flexibility to align the fees for its unified programmes without getting 'locked in' to this fee structure due to the AMFM. Subject to further work, Cabinet agreement and public consultation, this new approach to regulate fees for VET would start from January 2024. It would not apply to its degree-level and above provision, as this is not currently in scope for the review of fee regulation.

Existing fee setting requirements for new courses can support Te Pūkenga's fee alignment for 2023

22. We now have a greater understanding on Te Pūkenga's approach to unify programmes and align its course fees for these programmes:

    a. **In some cases, Te Pūkenga will look to develop new qualifications and courses.** In this situation the existing fee regulation settings would apply the 75th percentile rule.

    b. **In other cases, Te Pūkenga may look to unify programmes by rolling out an existing qualification and set of courses from a subsidiary across its network**. In this situation, the AMFM settings could prevent Te Pūkenga from moving to a unified fee that takes account of the various course fees charged form the same programme across its network. It also could result in Te Pūkenga rolling out the programme with the highest course fees for programmes, resulting in a cost shift to learners and costs to government through student loans and Fees Free.

23. We propose consulting on changes to fee regulation settings to clarify that where Te Pūkenga unifies a programme by rolling out an existing programme across its network, the fee setting limits for new courses (the 75th percentile rule) will apply to the courses in this programme. This balances the need for Te Pūkenga to have flexibility to set fees with the need to protect the affordability of study for learners and manage costs to government.

24. Historically providers have indicated that the rules of fee setting for new courses are not transparent and do not support planning and programme development. This has informed our proposed approach to move to more transparent fee caps from 2024. To provider greater transparency and support Te Pūkenga's planning, we will work with the TEC to provide Te Pūkenga with the maximum fee they are permitted to charge under the 75th percentile rule.

25. For 2024, the proposed fee capping mechanism for VET will support Te Pūkenga's fee alignment for its unified programmes. 9(2)(f)(iv) [redacted]

Whether to apply fee regulation settings to work-based training in 2023

26. We previously signalled that we would provide further advice on whether to extend the AMFM to work-based programmes funded through the ITF in 2023 while the broader review of fee regulation work is underway [METIS 1281678 refers]. This would help to mitigate the risk of providers raising fees excessively for work-integrated learners while the broader review of learner and employer contributions is underway.

27. As part of our work on fee regulation and employer contributions, we are still considering options that include introducing fee regulation for work-based programmes from 2024.

We will be providing a summary of these engagements and further advice in July to support decisions on the next steps for this work.

We do not recommend consulting on extending the AMFM to fees for work-based programmes in 2023

28. Following further consideration, we do not recommend that fees for work-based programmes previously funded through the ITF become subject to fee regulation requirements, including the AMFM, in 2023. This is based on our assessment that the risk of significant fee increases is low and that there would be significant administrative complexity in implementation.

There is a low risk of significant fee increases for work-based programmes in 2023

29. The evidence that fee regulation is needed in 2023 to mitigate the risk of significant fee increases for work-based programmes is not strong. Providers will be incentivised to ensure fees do not result in barriers to work-based training, particularly with TTAF ending and given these learners cannot access student loans. Unreasonable fee increases or cost-shifting would likely result in some employers and learners seeking alternative training options or disengaging from the VET system, which ultimately will have a negative impact on providers in terms of both their funding and fee revenue.

30. Providers are likely to continue setting fees at reasonable levels to retain high levels of participation in work-based training, especially those with a strong history of work-based training who are aware of the cost/benefit ratios. The significant increases in funding for work-based programmes through the UFS also reduces the need for providers to increase fees.

31. Furthermore, providers that have taken on – or are yet to take on – the arranging training functions of transitional ITOs, particularly Te Pūkenga, are still in the process of considering how to enhance these programmes in the context of increased funding through the UFS. Improving pedagogical expertise, wellbeing support and support for employers will be a multi-year process. Our engagements with Te Pūkenga and their work-based learning subsidiary suggest that for the most part, these programmes will continue to be delivered in their existing format in 2023. Te Pūkenga has indicated that it intends to continue to retain existing fee structures for its work-based programmes in 2023, with changes following the implementation of new fee regulation settings in 2024.

There is significant administrative complexity and difficulty implementing AMFM for work-based programmes in 2023

32. While the TEC holds fee data on programmes funded through the ITF through the implementation of the Fees Free policy and TTAF, these fees are not reported in such a way that would enable the TEC to easily and effectively monitor fee increases from 2023. Given this, it would also not be possible to apply the 75 h percentile rule for new work-based programmes. Any attempt to require providers to report these fees in a consistent format to regulate for 2023 would be administratively complex. This would place a significant compliance burden on providers, at a time where there is already significant change occurring through the introduction of the UFS.

33. Even with adequate fee reporting mechanisms, due to the nature of how fees are charged for work-based training, it would still be very difficult to regulate fee increases for work-based programmes. As shown through Fees Free and TTAF fee data,

transitional ITOs will often tailor their work-based programmes to meet the training needs of different learners and employers. This means that learners in the same programme may have different fees charged, making it difficult to regulate fee increases for programmes. Some fees charged by transitional ITOs are also set by third parties and vary regionally, such as fees for contracted assessors, making it difficult to capture and regulate these.

Alternatively, we could consult on applying the AMFM to work-based programmes as a transitional measure in 2023

34. While our view is that it is unlikely that providers will significantly increase fees for work-based programmes in 2023, you could consult on extending the AMFM rate to applying to work-based programmes in 2023. Doing so would signal the expectation on providers to not significantly change fees and would provide the TEC with power to manage down fees where providers have clearly increased them significantly.

35. The TEC would have limited means of monitoring and enforcing the AMFM requirements for these programmes, given the issues discussed in paragraphs 25-26, and so it would be open to exploitation. TEC have been able to implement some limits on fee increases through the implementation of TTAF, but this is because the TEC have been applying these limits on the fees that it pays to transitional ITOs or providers.

36. We would not be able to introduce fee regulations requirements for new programmes in 2023, although it is unlikely that there will be many new programmes established in 2023. We would expect to see greater programme development for work-based training from 2024, with WDCs taking a stronger role in standard and qualification development.

37. 9(2)(g)(i) [redacted]

Financial Implications

Annual Maximum Fee Movement

38. The decisions in this paper have no fiscal implications that require additional funding. While increases to tuition fees do result in increased costs to government, these increased costs have already been accounted for through a forecast appropriation.

39. Under a baseline forecast of a 4.1 per cent AMFM increase, the government is forecast to lend $759 million in fees (net of refunds) for student loans in 2023. If the AMFM rate was set at 2.75 per cent, the reduction in lending would be $10.3 million, with an estimated cost reduction to government of $4.5 million. Over a five-year forecast horizon, this would result in a cost reduction of $22.7 million. However, any ‘savings’ are not realised and are immediately returned to the centre.

Te Pūkenga's programme unification process

40. Te Pūkenga's programme unification process and alignment of course fees across its programmes from 2023 will have financial implications, given the flow-on impact to student loan borrowing and Fees Free payments. Given that Te Pūkenga is only intending to unify fees for a relatively small number of their programmes in 2023, and that the range of fees for these programmes is relatively flat, the implications are likely to be small. Some of these costs would also be offset if you agree to a 2.75% AMFM, but this would mean less 'savings' are returned to the centre.

Next steps

41. We seek your feedback on this advice by Thursday 23 June. This is to enable us to complete consultation via the Gazette notice process and provide advice to you on our recommended settings in concert with the new funding determinations for the delivery component of the UFS and for degree level and above in 2023. Currently, there is a very tight timeline for the funding determinations for the UFS and higher education to be finalised in July 2022. We have been aiming to finalise these determinations in July to give the TEC ample time to communicate any new funding conditions with providers in advance of the 2023 calendar year.

42. Subject to your agreement, the notice (attached in Appendix A) will be published in the New Zealand Gazette as soon as possible to start the consultation. We will also publish a link to the notice on the Ministry and TEC websites with further information on the proposed changes and contact key stakeholder groups. Note that this Gazette notice is subject to a final legal review before publication.

43. If the Gazette notice is published in late-June, consultation would finish in mid-July (21 days following publication). We will provide advice on submissions immediately following consultation, so that you can consider and confirm the fee regulation settings for 2023. These settings will then be reflected in the new funding determinations for the UFS and degree level and above.

44. We have also been undertaking targeted engagement on compulsory student services fee settings for apprentices and trainees in 2023. We will update you on the outcomes of targeted engagement and a preferred option to take for public consultation in July, as part of the paper regarding final decisions on 2023 fee regulation settings.

Appendix A: Gazette notice

The Tertiary Education (2023 Fee Regulation Settings) Notice 2022

Under sections 419(3)(d) and 420(1)(b) of the Education and Training Act 2020 (the Act), the Minister of Education (the Minister) gives notice of the proposed conditions setting limits on fees that tertiary education organisations (TEOs) may charge to domestic students in 2023.

Notice

1. **Title** — this notice may be cited as the Tertiary Education (2023 Fee Regulation Settings) Notice 2021.

2. **Commencement** — the proposed conditions outlined in this notice apply for the 2023 calendar year only.

3. **Interpretation** — in the conditions set out in this notice, unless the context otherwise requires, —

   Course means part of a programme of study that leads to the award of a qualification on the New Zealand Qualifications Framework (NZQF), including a certificate, diploma, degree, or postgraduate qualification. For the avoidance of doubt, this includes a course that is part of a qualification where the student is not enrolled in the qualification (for example, where a student is only enrolled in the course or where the student is undertaking the course as part of a training scheme or micro-credential); and

   Training scheme means study or training that leads to an award but does not, of itself, lead to a qualification listed on the NZQF, but excludes micro-credentials; and

   Micro-credentials are a sub-set of training schemes that certify achievement of a coherent set of skills and knowledge and that have evidence of need by industry, employers, iwi and/or the community; and

   Fees means:

   (a) tuition fees; and

   (b) compulsory course costs that are charged to all students enrolled in a course, which includes (but are not limited to) the following: any compulsory costs associated with enrolment, examinations (including reporting of credits to the New Zealand Qualifications Authority), field trips, and any compulsory purchase of equipment or books through the TEO; and

   (c) excludes any administrative fees or charges (other than tuition fees of compulsory course costs) for additional services that are payable as a result of the specific circumstances of a student, which includes (but are not limited to) the following: reassessment or remarking of examination results, examination relocation fees, fees associated with recognition of prior learning or fees associated with an application for selected entry programmes.

   TEO means tertiary education organisation as defined in section 10 of the Act.

   Qualification delivery level 3-7 (QD3-7) means all programmes funded at levels 3-7 (non-degree) on the NZQF but excludes industry training (programmes previously funded through the Industry Training Fund)

   Qualification delivery level 7 and above (QD7+) means all programmes funded at level 7 (degree level) and above on the NZQF

4. **Proposal** — I propose to specify the following conditions under section 419(3)(d) of the Act that the Tertiary Education Commission (TEC) must attach to funding provided under the funding mechanisms for QD3-7and for QD7+:

   (a) the annual limits by which TEOs can increase fees charged to domestic students for courses or training schemes; and

(b) the conditions on fees charged to domestic students by TEOs for new courses or training schemes; and

(c) the conditions that cap the fees charged to domestic students by TEOs for micro-credentials; and

(d) other conditions in relation to fees that the TEC must attach to these funding mechanisms.

The proposed conditions do not apply to fees for courses that are at level 1 and 2 on the NZQF, which remain subject to the conditions as set out in the Tertiary Education Fees-Free Conditions Notice 2015 (New Zealand Gazette*,* 28 May 2015, Issue No. 58, Notice No. 2015-go3051) and The Tertiary Education Fees-Free (Levels 1 and 2) Conditions Notice 2016 (New Zealand Gazette, 16 June 2016, Issue No. 54, Notice No. 2016-go3430).

5. **Call for submissions** — Any student, student organisation, TEO or any other person, body or organisation having an interest in the matter, is invited to make a submission on the proposed fee regulation conditions set out in this notice.

All submissions should be sent either by email to:

tertiary.strategy@education.govt.nz

Or by post to:

Fee Regulation Settings Submissions
Tertiary Education Policy
Ministry of Education
PO Box 1666
Wellington 6140

6. Date for submissions — All submissions must be received by **[xx] July 2022.**

Dated at Wellington this day [xx] June 2022

HON Chris Hipkins, Minister of Education.

Proposed Conditions

General

1. These conditions apply to fees charged by all TEOs for provision funded through the QD3-7 and QD7+ funding determinations.

2. The fees charged by a TEO are subject to these conditions if the TEO is the sole source of the item to which the fee relates.

The Annual Maximum Fee Movement

3. The Annual Maximum Fee Movement (AMFM) sets the maximum percentage that TEOs may increase their domestic tuition fees by each year for all QD3-7 and QD7+ funded courses or training schemes.

4. For 2023, the Minister proposes that the AMFM is set at 2.75 percent. This would permit a 2.75 percent increase on the fees (GST exclusive) charged in 2022 to domestic students for QD3-7 and QD7+ funded courses or training schemes.

5. The proposed 2.75 percent AMFM is not in line with forecast inflation for 2023, as determined in the Budget Economic and Fiscal Update in May 2022. At 4.1 percent, forecast inflation is high. Matching the AMFM with forecast inflation would result in cost being shifted on to learners. An AMFM rate of 2.75 percent strikes a balance between protecting the affordability of tertiary education, providing tertiary education providers with some flexibility to cover increasing costs, and managing fiscal costs to the Crown.

6. The AMFM applies to any new courses or training schemes established by a TEO in substitution for an existing course or training scheme dealing with the same or similar subject matter, at a same or similar level on the NZQF, for which QD3-7 and QD7+funding can be used, except where the provisions in clause 7 below apply.

7. For courses or training schemes delivered by a subsidiary of Te Pūkenga that are part of Te Pūkenga's process to unify similar programmes, and where Te Pūkenga delivers this course or training scheme across its network, the fees for these courses or training schemes are not subject to the AMFM limits, but the fee setting limits for new courses outlined below in clauses 12-17.

Exceptions to the Annual Maximum Fee Movement

8. A TEO may apply for an exception from the 2023 AMFM on the basis of exceptional circumstances. Any exception granted will not exceed an additional 2.75 percent increase over and above the permitted 2.75 percent increase.

9. In considering exceptional circumstances, the TEC must only have regard to the following criteria:
   (a) the TEO is unable to support the course(s) or training scheme while remaining financially viable; and
   (b) where the course is part of a qualification at levels 3-8 on the NZQF that has been delivered previously, the qualification has a cohort-based completion rate that meets or exceeds the median performance benchmark for that NZQF group in the previous year; and
   (c) the TEO can demonstrate that the course or training scheme is in some way unique or special, for example, that there are no available local alternatives; and
   (d) not allowing an exception will prevent the TEO from making a significant contribution to the achievement of one or more of the Government's priorities, as set out in the current Tertiary Education Strategy.

10. An application must satisfy all criteria to gain an exception.

Low or Zero Fee Courses or Training Schemes

11. If the fees for a course or training scheme funded through QD3-7 and QD7+ are less than $511.11 (GST inclusive) ($444.44 (GST exclusive)) per equivalent full-time student (EFTS) in 2022, then for 2023, the TEO may increase the fee to up to $511.11 (GST inclusive) ($444.44 (GST exclusive)) per EFTS, or can increase the fee for the course or training scheme by 2.75 percent, whichever is the greater.

Fee Setting Limits for New Courses or Training Schemes

12. The fees for a new course or training scheme established by a TEO and funded through QD3-7 and QD7+ must be no more than the 75th percentile from the range of fees charged for similar courses or training schemes. The TEC will specify how similar courses or training schemes will be determined.

13. The above fee setting limits apply to any new courses or training schemes funded through QD3-7 and QD7+, except where the course or training scheme is in substitution for an existing course or training scheme dealing with the same or similar subject matter, at a same or similar level on the NZQF. Substitute courses or training schemes are subject to the AMFM.

Exceptions to Fee Setting Limits for New Courses or Training Schemes

14. A TEO may apply for an exception from the fee setting limits for new courses or training schemes on the basis of exceptional circumstances.

15. In considering whether or not there are exceptional circumstances, the TEC must only have regard to the following criteria:
    (a) the course or training scheme would be financially unviable without a higher fee; and
    (b) where the course is part of a qualification at levels 3-8 on the NZQF that has been delivered previously, the qualification has a cohort-based completion rate that meets or exceeds the median performance benchmark for that NZQF group in the previous year; and
    (c) the TEO can demonstrate that the course or training scheme is in some way unique or special, for example, there are no or very few similar courses or training schemes to compare fees with; and
    (d) the course or training scheme is aligned to Government priorities as set out in the Tertiary Education Strategy.

16. The TEC must only grant an exception if it is satisfied that the TEO meets all of the above criteria.

17. The TEC will have discretion to determine how much a TEO can set fees for any new courses or training schemes granted an exception.

Fee Capping Limits for Micro-credentials

18. The fees for a micro-credential must be no more than $60 (GST inclusive) per credit (excluding components made up of courses that also lead to the award of a qualification and are funded through QD3-7 and QD7+.

19. Where a micro-credential is wholly or partly comprised of courses that also lead to the award of a qualification and are funded through QD3-7 or QD7+, the fees for those courses must be equal to, or less than, the maximum fee permitted for the course under the AMFM and fee setting limits for new courses or training schemes. The fees for the components that are not part of existing courses must be no more than $60 (GST inclusive) per credit.

Exceptions to Fee Capping Limits for Micro-credentials

20. A TEO may apply for an exception from the fee capping limits for a micro-credential (or components of a micro-credential that are not made up of existing courses) on the basis of exceptional circumstances.

21. In considering whether or not there are exceptional circumstances, the TEC must only have regard to the following criteria:

    (a) the TEO can demonstrate that the fee cap makes it financially unsustainable to offer the micro-credential, in terms of the costs of delivering the micro-credential and taking into account the total income that the micro-credential would receive (including government funding and fees), and that there are no satisfactory alternatives to limit costs; and

    (b) the TEO must provide evidence that there is strong support from industry and/or employers to deliver the micro-credential and that this clearly meets industry and/or employer needs.

22. The TEC must only grant an exception if it is satisfied that the TEO meets both of the above criteria.

23. The TEC will have discretion to determine how much a TEO can set fees for any micro-credential granted an exception.