

Education Report: Consulting on tertiary fee regulation settings for 2021

To:	Hon Chris Hipkins, Minister of Education		
Date:	22 July 2020	Priority:	High
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Purpose of Report

This paper seeks your agreement to consult via Gazette notice on:

- setting the Annual Maximum Fee Movement (AMFM) for 2021 at 1.1 percent, in line with forecast inflation for 2021 (as agreed in December 2019);
- clarifying that the existing AMFM settings apply to all courses that are part of a Student Achievement Component level 3 and above (SAC L3+) funded qualification, including those that are also part of a training scheme or, in the future, a micro credential; and
- regulating fees for SAC L3+ funded micro-credentials (excluding components that are composed of existing courses) by setting a \$60 per credit cap, with an exceptions process for fees to be set above this.

Summary

As part of the usual annual process, we are seeking your agreement to consult via Gazette notice on the AMFM rate for 2021. Alongside this, we recommend expanding the scope of fee regulation to include training schemes and micro-credentials funded through SAC L3+. We propose that you consult on:

- Clarifying that all courses are subject to existing fee regulation settings:** training schemes are generally made up of SAC L3+ funded courses that lead to a qualification. We recommend clarifying that all SAC L3+ courses that are part of a qualification are subject to the same fee regulation settings, whether the student is enrolled in the whole qualification, just the course or in the course as part of a training scheme or micro-credential.
- Regulating micro-credential fees by setting a \$60 per credit cap:** for micro-credentials that are not composed of existing courses, we recommend putting in place a \$60 per credit fee cap – or \$2,400 for a 40 credit micro-credential (the maximum credit value of a micro-credential). The Tertiary Education Commission (TEC) will administer an exceptions process for TEOs to set fees above the cap where the micro-credential has high costs and strong industry support.

The Ministry is also working with the TEC to improve oversight of the categories of fees that tertiary providers are charging students. We have identified cases where TEOs are charging students 'other' compulsory fees, such as programme fees or enrolment fees, which are not currently subject to fee regulation processes. This poses a risk to the affordability of tertiary education and training, and costs to government through the Student Loan Scheme. We propose that the Ministry and TEC engage with tertiary providers to get more information about these 'other' compulsory fees and provide you further advice on this work in 2021.

We considered whether industry training fees should also be subject to fee regulation, but we do not recommend this for 2021. Given the complex nature of industry training fees and that there is currently limited fee information available, we do not consider that it is feasible to put in place robust processes to regulate these fees from next year. s 9(2)(f)(iv)

Recommended Actions

The Ministry of Education recommends you:

- a. **note** that in order for fee regulation settings to be implemented as a condition of Student Achievement Component level 3 and above funding for 1 January 2021, you need to start consultation on settings by early August and confirm settings by the end of September 2020.

Consult on an Annual Maximum Fee Movement in line with forecast inflation

- b. **note** that in November 2019 you agreed to consult on an Annual Maximum Fee Movement at the rate of forecast inflation for 2021 as at the Budget Economic and Fiscal Update 2020 [METIS 1209987 refers], which is 1.1 percent
- c. **note** that setting an Annual Maximum Fee Movement higher than 1.1 percent for the 2021 calendar year would require additional funding through Budget processes and delay consultation, which may not be enough time to confirm settings by the end of September 2020
- d. **agree** to consult via Gazette notice on setting the Annual Maximum Fee Movement at 1.1 percent for the 2021 calendar year

Agree Disagree

Regulate fees for training schemes and micro-credentials

- e. **agree** to consult on expanding current fee regulation settings so that these apply to all Student Achievement Component level 3 and above funded courses that are part of a qualification, including where these courses are part of a training scheme or micro-credential

Agree Disagree

- f. **agree** to consult on setting a \$60 per credit cap on micro-credentials (excluding components made up of existing SAC L3+ funded courses), with an exceptions process managed by the Tertiary Education Commission for fees to be set above this cap

Agree Disagree

Further work on 'other' compulsory fees

- g. **note** that we have identified cases where tertiary providers are charging students 'other' compulsory fees, such as programme fees or enrolment fees, which are not currently subject to fee regulation processes
- h. **agree** that the Ministry and the Tertiary Education Commission engage with tertiary providers to get more information about these 'other' compulsory fees in late 2020

Agree Disagree


Next steps

- i. **approve** the proposed Gazette notice attached in Annex 3, *The Tertiary Education (2021 Fee Maxima) Notice 2021*, to consult on the proposed fee regulation settings for 2021 (subject to a final legal review)
- j. **note** that we will provide advice in late August on any submissions received after the 21 day consultation period, ahead of you making a final decision on fee regulation settings for 2021
- k. **agree** to proactively release this Education Report after decisions on fee regulation settings for 2021 have been made, with any redactions in line with the Official Information Act 1982.

Agree Disagree


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Ministry of Education

22/07/2020


Hon Chris Hipkins
Minister of Education

25/ 7 /2020

Background

1. Section 159M(1)(b) of the Education Act 1989 (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. Consultation is triggered by way of a notice in the New Zealand Gazette and submissions are open for 21 days following publication. You must then consider any submissions before making a decision on fee regulation settings.
2. This paper seeks your agreement to consult on fee regulation settings for 2021, including the Annual Maximum Fee Movement (AMFM). The AMFM sets the maximum percentage that TEOs may increase their domestic tuition fees by each year for existing courses. The AMFM is implemented as a condition on funding in the Student Achievement Component level 3 and above (SAC L3+) funding determination.
3. The AMFM rate and fee regulation settings are generally confirmed by August so that these can be reflected in funding conditions for TEOs for the following year. This provides certainty for students and the sector on fee increases and gives TEOs time to consider fee changes and make budgeting decisions. As changes to fee regulation settings also constitute a variation of funding conditions under section 159OA of the Act, there is also a three month stand-down period before these changes can take effect. This means that you need to have consulted on and confirmed fee regulation settings for 2021 by the end of September 2020 in order for them to take effect on 1 January 2021.
4. We would usually seek your agreement to fee regulation settings for the following year by late June. However, this year we have also needed to consider broader emerging issues in relation to fee regulation in response to work on the Government's response to COVID-19. This includes, for example, the new Targeted Training and Apprenticeship Fund (TTAF), which came into effect on 1 July, and upcoming advice to support more short training options [METIS 1227146 refers].

Setting the AMFM for 2021

5. In November 2019 you agreed that you would consult on an AMFM for 2021 at the rate of forecast inflation [METIS 1209987 refers]. This would be based on Treasury's forecast of Consumer Price Index (CPI) (excluding cigarettes and tobacco products) in the Budget Economic and Fiscal Update in May 2020. Treasury's forecast indicates this will be 1.1 percent.
6. Our advice in November 2019 noted that CPI was forecast to be 1.9 percent for 2021, which was close to the two percent AMFM rate of the last four years (2017-2020). While a CPI forecast of 1.1 percent is notably lower than what was forecast in November last year, we still recommend you consult on setting the AMFM at this rate.

We still recommend that AMFM be set in line with CPI

7. We consider that an AMFM in line with forecast CPI for 2021, at 1.1 percent, continues to strike a balance between:
 - a. **Protecting the affordability of tertiary education:** providing certainty for students and their families that fee increases are capped at inflation, at a time when we expect domestic student participation to increase due to the economic impacts of COVID-19.
 - b. **Allowing tertiary education providers to increase revenue:** giving some flexibility for TEOs to increase revenue through domestic fee increases to help cover increasing costs. This is alongside an increase to tuition subsidy rates of 1.6 percent.

- c. **Managing fiscal cost to the Crown:** fee increases lead to increased costs to the Crown through student loans, Fees Free payments and TTAF. You would need to seek additional funding for a higher AMFM through Budget processes for increases to student loan borrowing.¹ This would delay your ability to set the AMFM, which may not meet timeframes for decisions to be made by the end of September.

There are some risks to this approach, but these can be managed

8. TEOs are likely to expect the AMFM to be set at two percent again in 2021, given it has been set at two percent for the last four years. An AMFM of 1.1 percent will likely draw criticism from TEOs as it will be seen as a further reduction in revenue on top of the significant loss of international student fee revenue due to COVID-19. However, we do not consider fee increases above inflation as an appropriate way to manage COVID-19 related impacts faced by TEOs. You have already taken a number of steps to help minimise the impact on COVID-19 on TEOs. For example, you have confirmed that the Tertiary Education Commission (TEC) will not recover allocated 2020 funding. TEOs can also expect increased domestic enrolments in 2021 and Budget 2020 allocated additional funding to manage this increase in demand.
9. There is uncertainty on the scale of the impact COVID-19 will have on international student enrolments and international fee income for TEOs in 2021. However, increasing domestic fees by a slightly higher percentage will not offset these possible impacts. For example, the hardest hit private training establishments (PTEs) that rely significantly on international student fee revenue are unlikely to benefit significantly from a higher AMFM if they have a relatively low number of domestic students.
10. Students may consider any increase in fees is inappropriate at this time, particularly in the COVID-19 environment, but many are likely to welcome an AMFM that is lower than previous years. Many students will also benefit from fees support through TTAF. This is additional to Fees Free support for eligible first time tertiary students and access to interest free, income contingent student loans for eligible New Zealand-based borrowers.

Regulating fees for training schemes and micro-credentials

11. The AMFM policy and fee setting regulations for new courses (the 75th percentile rule²) only currently relate to *courses that lead to a qualification* on the New Zealand Qualifications Framework (NZQF). This means that training schemes³ and micro-credentials⁴ funded through SAC L3+ are not subject to fee regulation, as they do not lead to a qualification on the NZQF.

Clarifying that all courses are subject to AMFM settings

12. Training schemes are generally composed of courses that are already part of a qualification on the NZQF. We therefore propose you put in place the same fee regulation settings for courses that are part of a training scheme. This would mean that courses that lead to the award of a

¹ The Student Loan Scheme already accounts for an annual increase in borrowing for fees by CPI. Government funding for the Fees Free policy and TTAF is not forecast based.

² This caps the maximum fee for a new course at the upper quartile of similar courses, as determined by TEC.

³ A training scheme is defined under section 159 of the Act as 'study or training that leads to an award but does not, of itself, lead to a qualification listed on the NZQF.' Training schemes can be at any level on the NZQF and can provide learning opportunities in a range of academic or vocational areas.

⁴ Micro-credentials are a subset of training schemes. These certify achievement of a coherent set of skills and knowledge and must have evidence of need by industry, employers, iwi and/or the community. They are smaller than a qualification (5-40 credits) and focus on skill development opportunities not currently catered for. All micro-credentials do not currently duplicate other quality assured learning, and so are not made up of existing courses that lead to the award of a qualification.

qualification, whether the student is enrolled in the course by itself, or as part of training scheme or a qualification, would be subject to the AMFM and existing fee regulation settings for new courses. We do not recommend putting in place separate fee regulation settings for the same courses.

13. We are currently working on advice about supporting flexible training as part of the COVID-19 response, including proposals to support more short and responsive training options [forthcoming METIS 1227146]. As part of this work, we will also look to make it clearer to TEOs that individual course enrolments for qualifications on the NZQF are eligible for TEC funding. Some TEOs are currently packaging courses into training schemes to meet perceived funding requirements. By clarifying that individual courses that lead to a qualification are already eligible for tuition subsidies, this may reduce the number of training schemes over time. The New Zealand Qualifications Authority (NZQA) is also reviewing the role of training schemes alongside qualifications and micro-credentials.
14. There do not appear to be any micro-credentials that are currently made up of existing courses that lead to the award of a qualification. However, NZQA is looking to approve micro-credentials that can be 'stacked' towards a qualification. In future, micro-credentials may be composed of existing SAC L3+ funded courses that lead to a qualification. Where this is the case, we propose that these courses are also subject to the same fee regulation settings that currently apply.

Regulating fees for micro-credentials

15. As at June 2020, there are approximately 100 NZQA-approved micro-credentials, and 34 that are approved for TEC funding in 2020. Twenty of these are SAC L3+ funded, with the remainder funded through the Industry Training Fund (ITF). We expect the number of micro-credentials to increase as part of our work to support more short training options that are responsive to the needs of learners and industry, including for re-training needs as part of COVID-19. We will shortly be providing you with advice that recommends taking a more flexible approach to regulating and funding short training options, such as micro-credentials [METIS 1227146].
16. We had not previously included micro-credentials as part of fee regulation requirements as they were new and restricted to a low portion of a TEOs delivery. Market forces incentivise TEOs to set fees at a price that learners or employers are willing to pay. This is because learners are not eligible to borrow for fees for micro-credentials through the Student Loan Scheme. Additional to this, while learners are able to access Fees Free for micro-credentials funded through SAC L3+, most people undertaking micro-credentials are not first year tertiary students and therefore not eligible for Fees Free.
17. As the number of micro-credentials increases, the case for regulating these fees to support student access becomes stronger. We therefore recommend making fees for micro-credentials that are funded through SAC L3+ subject to fee regulation conditions. This will help to:
 - a. **Protect learners from facing significant cost barriers:** since learners cannot borrow for fees for micro-credentials through the Student Loan Scheme, learners may face cost barriers to these shorter training options. This could restrict access, which may encourage more displaced workers to undertake a whole qualification to upskill and return to the workforce, when a shorter training option could have been sufficient.
 - b. **Manage the costs to government:** government will be making a more significant investment in micro-credentials through tuition subsidies and fees-free initiatives (including TTAF and the Fees Free policy) as the number of micro-credentials increases. If micro-credentials are not subject to fee regulation, then TEOs could significantly increase fees for those micro-credentials where the full fee costs are met by the government, such as through TTAF.

Recommended approach to regulate fees for micro-credentials

18. For micro-credentials that are not made up of existing courses, or where components of a micro-credential are not part of existing courses, we recommend a different approach to fee regulation. We do not recommend regulating these fees through existing fee regulations that apply to SAC L3+ courses (the AMFM and the 75th percentile rule) because:
- a. **The AMFM policy would lock in fees and limit increases:** fees for micro-credentials will mainly be new and so applying the AMFM will incentivise TEOs to set higher fees initially to avoid getting locked into charging a lower fee for future intakes.
 - b. **There is less need to regulate fee increases for micro-credentials:** a significant component of the AMFM is to protect students undertaking whole qualifications from steep annual fee increases. There is less need to regulate fee increases for micro-credentials between intakes because they are one-off short training programmes.
 - c. **Many micro-credentials have limited comparable provision to inform fee rates:** as many micro-credentials may involve new types of innovative provision with different costs, using existing course fee data through the 75th percentile rule to inform what the maximum fee is would be problematic

We propose a more flexible approach to regulating fees for micro-credentials

19. We propose that you consult on setting a \$60 cap per credit (or \$7,200 per EFTS) for micro-credentials funded through the SAC L3+, excluding components made up of existing courses. This would be \$2,400 for a 40 credit micro-credential (the maximum possible credit value of a micro-credential). TEOs would have flexibility to set their fees anywhere within this cap and change fees between intakes of students, so long as the fee remained within the cap.
20. This approach is clear and transparent, and gives more flexibility to TEOs, while also managing the costs to government through fees-free initiatives. Annex 1 provides the rationale for some of the more detailed decisions and trade-offs that support this recommended approach, including why we recommend setting the cap at \$60.
21. We also propose that the TEC manage an exceptions process whereby TEOs can seek an exemption to the cap, similar to how existing exemptions from fee regulation settings for new courses work. The TEO would need to provide evidence that the micro-credential meets all of the following criteria:
- a. **Higher actual and reasonable costs:** the TEO would need to demonstrate that the fee cap makes it financially unsustainable to offer the micro-credential and that there are no satisfactory alternatives to limit costs. § 9(2)(f)(iv)
 - b. **Strong industry need:** 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. § 9(2)(f)(iv)
22. We propose that the TEC will have discretion to determine how much a TEO can set fees for any new courses granted an exception. We do not recommend putting a maximum cap on this

discretion as this may incentivise TEOs to seek an exemption for their fee to be set at the higher cap, rather than limiting it to the actual and reasonable costs they will incur.

23. There are some risks with this proposal, but we consider that these are relatively small and can be managed (as shown in the table in Annex 2). We also consider the risks of the status quo, or expanding current fee regulation settings to micro-credentials, outweigh this risks of the proposed \$60 per credit fee cap.
24. Given that micro-credentials are a relatively small part of the system, and will remain so even as we fund more, we see this as an opportunity to trial a new approach to regulating these fees that could better meet the needs of learners, TEOs and government. We will signal to the sector in communications that this will be an interim approach for 2021 and that we will assess its performance. This could include future increases to the cap, in line with AMFM increases.

Regulating *all* compulsory fees

25. Through the implementation of the Fees Free policy, we have identified a number of cases where TEOs are charging separate compulsory fees to students in provision funded through SAC L3+ that are additional to tuition fees, course-related costs and compulsory student services fees (CSSFs). For example, this includes 'programme fees' not attached to courses, or administrative charges such as enrolment fees. These fees are not currently reported to or monitored by the TEC as part of fee regulation.
26. We consider that the policy intent of fee regulation is to ensure that *all* compulsory fees charged by TEOs are subject to fee regulation. Otherwise, this would risk undermining fee regulation and permit providers to create other fees to pass costs onto learners and the government. We do not currently have sufficient information to determine the extent of these 'other' compulsory fees in the tertiary system. We only have information on these fees where a TEO has sought to have them met through Fees Free payments and TEC has questioned whether the fee is a tuition fee, compulsory course costs or a CSSF.
27. An example of a compulsory administrative fee is Massey University's enrolment fee of \$65.80 per academic year which is charged in addition to tuition fees and compulsory course cost fees. s 9(2)(f)(iv)
[REDACTED] There is also a financial risk to government that compulsory fees not subject to fee regulation may be met through student loans.

We will progress further work to identify these 'other' fees

28. To manage the risks around these 'other' compulsory fees, the Ministry will work with the TEC to engage with tertiary providers on instances where these 'other' compulsory fees are being charged. We will then look to improve the definition of fees that are subject to fee regulation, to ensure that all compulsory fees are part of an approved fee category and subject to fee regulation. We will provide further advice on the progress of this work in 2021 alongside advice on the fee regulation settings for 2022.

Industry training fees

29. We do not currently regulate fees for provision funded through the Industry Training Fund (ITF). We considered whether to recommend making fees charged by transitional industry training organisations (ITOs) subject to the AMFM from 2021. This would not only help manage the risks of covering unregulated fees through TTAF, but also to protect the affordability of industry

training during the Reform of Vocational Education (RoVE) transition. However, we do not consider this would be feasible for 2021 because:

- a. **Industry training has complex fee arrangements:** fees for ITF-funded provision are much more complicated than arrangements in place for SAC L3+ delivery. The AMFM has regulated increases for SAC L3+ provision for a significant period of time where fees are less complex as they are generally charged by one entity, the provider, to the learner. For industry training, fees can be charged to learners by different entities, such as assessors, and fees to learners vary by how they gain their learning (e.g. off-job learning).
- b. **We do not have robust industry training fee data:** as industry training fees are currently not regulated, we have limited fee information to inform fee regulation settings, especially for programmes outside of apprenticeships.
- c. **It places unrealistic expectations on transitional ITOs:** given the transition of ITO roles to organise training will shift to tertiary providers, making significant changes to fees and reporting requirements would not support the focus of transitioning responsibility for supporting work-based training.

30. s 9(2)(f)(iv), s 9(2)(g)(i)

The Targeted Training and Apprenticeship Fund

31. s 9(2)(g)(i)

To manage this risk for 2020, we included provisions in the TTAF delegation that TEC has discretion to not pay fees for industry training programmes where it considers that the fees are not reasonable, having regard to the fee charged for comparable provision across the tertiary system. s 9(2)(g)(i)

s 9(2)(f)(iv)

32. s 9(2)(f)(iv)

Next steps

- 33. We have attached (in Annex 3) the proposed fee maxima notice setting out the proposed AMFM of 1.1 percent for 2021 and other changes proposed in this paper. Note that this Gazette notice is subject to a final legal review. Subject to your agreement, the notice will be published in the New Zealand Gazette as soon as possible. We will also publish a link to the notice on the Ministry of Education and TEC websites with further information on the proposed changes.
- 34. If the Gazette notice is published in late July, consultation would finish in mid-August (21 days following publication). We will provide advice on submissions in late August, so that you can consider and confirm the fee regulation settings for 2021. Following this, we will communicate your decisions and include these conditions in the SAC L3+ funding determination for 2021.

Annex 1: Detailed decisions on proposed fee cap mechanism for micro-credentials

Why is the fee cap set per credit?

We propose that the cap operate on a per credit basis. 120 credits equals one EFTS unit. This will mean that TEOs will be able to charge higher fees for larger credit programmes and lower fees for shorter credit programmes. A micro-credential must be between 5 and 40 credits.

Rationale

- NZQA advises that the credit value of a programme represents the notional learning hours. One credit is equivalent to 10 notional learning hours.
- Based on current course fee data, there is a strong correlation between fees charged and the credit value of a course (i.e. higher credit courses have higher fees).
- The costs of teaching a programme clearly correlate with the duration of a programme and the hours of teaching involved.
- Capping fees by credit is consistent with how the tertiary funding system currently funds TEOs per EFTS.

Should there be one fee cap, or several different bands?

We propose there be one cap per credit for all levels and fields of study.

Rationale

- There is no clear correlation between fees and levels for courses between level 3 and 7 on the NZQF (the levels that all micro-credentials currently sit at).
- While there are some fields of study that notably have higher fees, most fees have a wide range within each broad field of study.
- In the absence of a clear link between fees and level or fields of study, a single cap for all of these programmes is much simpler to administer and monitor.
- It avoids making difficult decisions on picking which fields can charge higher fees, when most fields of study can and do have higher or lower costs within fields.

How much should the fee cap per credit be?

We propose that the fee cap is \$60 per credit (or \$7,200 per EFTS). This means that a 40 credit micro-credential would be capped at \$2,400.

We also considered putting the fee cap at \$50 (\$6,000 per EFTS) or \$70 per credit (\$8,400 per EFTS).

Rationale

- The proposed cap is slightly above the 75th percentile fee across all level 3-7 courses in 2019, which was approximately \$6,900 per EFTS. Due to economies of scale, we expect micro-credentials have higher costs so consider a cap set above the 75th percentile is justified.
- We estimate that most micro-credentials will have fees within this cap. Approximately 85 percent of current sub-degree courses at levels 3 to 7 are less than \$60 per credit. By subsector this is 95 percent of courses at subsidiaries of the NZIST, 68 percent of courses at PTEs, 87 percent of university courses and 99 percent of courses at wānanga.

Should we have exceptions to the cap? If so, how should this be managed?

We propose an exceptions process managed by the TEC. This will give TEC discretion to approve fees above the cap for micro-credentials.

Rationale

- There are likely to be some cases where a higher fee may be justified, because there are particularly high costs involved in a programme, for example, the use of high cost equipment. However, given the potential costs to students and government, we consider there needs to be a high threshold to be granted an exception.
- TEOs will need to provide evidence that the micro-credentials cannot be taught without incurring significantly higher costs and that there is strong industry support for the micro-credential.

Annex 2: Risks and mitigations fee cap mechanism for micro-credentials

Risk	Likelihood	Impact	Mitigations
<i>TEOs may choose to set all their fees for micro-credentials at the cap.</i>	Moderate	<p>This may see some lower cost micro-credentials have higher fees that are out of alignment with the value or cost. This could make some micro-credentials less affordable.</p> <p>This is also a more significant risk for TTAF-funded micro-credentials, as the government is covering the cost of all fees for micro-credentials that fall in one of the target areas.</p>	<p>For micro-credentials not funded through TTAF, market forces will still be at play and incentivise TEOs to set fees at a rate that learners or employers are willing to pay.</p> <p>There are quality assurance requirements, and industry relevance requirements for micro-credentials, as part of funding decisions that will help to ensure that micro-credentials provide learners with in demand skills.</p>
<i>Some micro-credentials currently funded through SAC L3+ would need to lower their fees or seek an exemption to the cap. There are at least six micro-credentials with fees currently above the cap.</i>	High	<p>Some micro-credentials may risk losing a significant part of their revenue from domestic fees because of this fee cap.</p> <p>This may mean that continuing to offer some micro-credentials becomes financial unsustainable for TEOs.</p>	<p>TEOs can apply for an exception if their programme meets specified criteria and can justify charging a higher fee.</p> <p>Where a TEO cannot show evidence that a higher fee is justified or that a programme has strong industry support, then the government should not be permitting TEOs to charge higher fees to learners.</p>
<i>Some TEOs may see the fee cap as limiting the range of innovative, higher cost micro-credentials they can deliver and the exception process may be seen as a significant administrative barrier.</i>	Moderate	<p>This may discourage some TEOs from creating new, higher cost micro-credentials that could support in demand skills.</p> <p>This may limit the availability of high-cost micro-credentials.</p>	<p>We consider that most TEOs will see the cap as reasonable. Of the 27 micro-credentials we currently hold fee information on, six are above the proposed cap, with five significantly above the cap.</p> <p>The exceptions process will mitigate this risk as it will enable TEOs to set fees above the cap, so long as they show good evidence that the higher cost is justified and that there is strong industry support for the micro-credential.</p>

Annex 3: The Tertiary Education (2021 Fee Maxima) Notice 2021

The Tertiary Education (2021 Fee Maxima) Notice 2021

Under sections 159L(3)(d) and 159M(b) of the Education Act 1989 (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 2021.

Notice

1. **Title** — This notice may be cited as the Tertiary Education (2021 Fee Maxima) Notice 2020.
2. **Commencement** — The proposed conditions outlined in this notice apply for the 2021 calendar year only.
3. **Interpretation** — In the conditions set out in this notice, unless the context otherwise requires, —
 - (a) **Course** means part of a programme of study that leads to the award of a qualification, 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
 - (b) **Stand-alone training scheme** means a training scheme (excluding micro-credentials) that is not composed of existing courses that are part of a programme of study that leads to a qualification; and
 - (c) **Stand-alone micro-credential** means a micro-credential that is not composed of existing courses that are part of a programme of study that leads to a qualification; and
 - (d) **Mixed-model micro-credential** means a micro-credential that is composed of a combination of existing courses that are part of a programme of study that leads to a qualification and components that are not existing courses; and
 - (e) **Fees** means tuition fees, compulsory course costs, examination fees, other charges associated with a programme of study, material charges, cost of field trips and any compulsory purchase of equipment or books through the organisation; and
 - (f) **TEOs**, as defined in section 159B of the Act, means tertiary education institutions (TEIs), private training establishments (PTEs) and rural education activities programme providers (REAPs).
4. **Proposal** — I propose to specify the following conditions under section 159L(3)(d) of the Act that the Tertiary Education Commission (TEC) must attach to funding provided under the funding mechanism for Student Achievement Component funded provision at level 3 or above on the New Zealand Qualifications Framework (SAC L3+):
 - (a) The annual limits by which tertiary education organisation (TEOs) can increase fees charged to domestic students for courses or stand-alone training schemes; and
 - (b) Conditions on fees charged to domestic students by TEOs for new courses or stand-alone training schemes; and
 - (c) Conditions that cap the fees charged to domestic students by TEOs for stand-alone micro-credentials, or components of mixed-model micro-credentials that are not courses, with exceptions criteria administered by the TEC for fees to be set above this cap; and
 - (d) The other conditions in relation to fees that the TEC must attach to the SAC L3+ funding mechanism.
 - (e) 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] and The Tertiary Education Fees-Free (Levels 1 and 2) Conditions Notice [2016].

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 to:

Annual Maximum Fee Movement Submissions
Tertiary Education Policy
Ministry of Education
PO Box 1666
Wellington 6140
Email: tertiary.strategy@education.govt.nz

6. **Date for submissions** — All submissions must be received by __ **August 2020**.

Dated at Wellington this day 25 July 2020
HON Chris Hipkins, Minister of Education.



Proposed conditions

General

1. These conditions apply to fees charged by all TEOs for provision funded through SAC L3+.
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 SAC L3+ funded courses or stand-alone training schemes.
4. For 2021, the Minister proposes that the AMFM is set at 1.1 percent. This would permit a 1.1 percent increase on the fees (GST exclusive) charged in 2020 to domestic students for SAC L3+ funded courses or stand-alone training schemes (excluding micro-credentials).
5. The proposed 1.1 percent AMFM is in line with forecast inflation for 2021 as determined in the Budget Economic and Fiscal Update in May 2020.
6. The AMFM applies to any new courses or stand-alone training schemes established by a TEO in substitution for an existing course or stand-alone training scheme dealing with the same or similar subject matter, at a same or similar level on the NZQF, for which SAC L3+ funding can be used.

Exceptions to the Annual Maximum Fee Movement

7. A TEO may apply for an exception from the 2021 AMFM on the basis of exceptional circumstances. Any exception granted will not exceed an additional 1.1 percent increase over and above the permitted 1.1 percent increase.
8. 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 stand-alone training scheme while remaining financially viable; and
 - (b) where the course is part of a qualification at levels 3 to 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.
 - (c) the TEO can demonstrate that the course is in some way unique or special, for example, that there are no available local alternatives to the course; 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.
9. An application must satisfy all criteria to gain an exception.

Low or Zero Fee Courses

10. If the fees for a course or stand-alone training scheme funded through SAC L3+ are less than \$511.11 (GST inclusive) (\$444.44 (GST exclusive)) per equivalent full-time student (EFTS) in 2020, then for 2021, 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 stand-alone training scheme by 1.1 percent, whichever is the greater.

Fee setting limits for new courses

11. The fees for a new course or stand-alone training scheme established by a TEO and funded through SAC L3+ must be no more than the 75th percentile from the range of fees charged for similar courses. The TEC will specify how similar courses will be determined.

12. The above fee setting limits apply to any new courses funded through SAC L3+, except where the course is in substitution for an existing course dealing with the same or similar subject matter, at a same or similar level on the NZQF. Substitute courses are subject to the AMFM as specified in paragraph 6.

Exceptions to fee setting limits for new courses

13. A TEO may apply for an exception from the fee setting limits for new courses on the basis of exceptional circumstances (listed below in paragraphs 13 (a)-(d)).
14. In considering whether or not there are exceptional circumstances, the TEC must only have regard to the following criteria:
- (a) the course is part of a programme of study that would be financially unviable without a higher fee; and
 - (b) where the course is part of a qualification at levels 3 to 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.
 - (c) the TEO can demonstrate that the course is in some way unique or special, for example, there are no or very few similar courses to compare fees with; and
 - (d) the course is aligned to Government priorities as set out in the Tertiary Education Strategy.
15. The TEC must only grant an exception if it is satisfied that the TEO meets all of the above criteria.
16. The TEC will have discretion to determine how much a TEO can set fees for any new courses granted an exception.

Fee capping limits for micro-credentials

17. The fees for micro-credentials are subject to the following conditions:
- (a) for a stand-alone micro-credential the fees must be no more than \$60 (GST inclusive) per credit.
 - (b) for a mixed-model micro-credential, the fees for the components made of existing courses will be subject to the AMFM and fee setting limits for new courses, while the fees for components that are not part of existing courses must be no more than \$60 (GST inclusive) per credit.
 - (c) for a micro-credential that is wholly composed of existing courses that also lead to the award of a qualification and are funded through SAC L3+, the fees will be subject to the AMFM and fee setting limits for new courses.

Exceptions to fee capping limits for micro-credentials

18. A TEO may apply for an exception from the fee capping limits for a stand-alone micro-credential (or components of a mixed-model micro-credential that are not made up of existing courses) on the basis of exceptional circumstances (listed below in paragraphs 19 (a)-(b)).
19. 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 and that there are no satisfactory alternatives to limit costs
 - (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
20. The TEC must only grant an exception if it is satisfied that the TEO meets both of the above criteria.
21. The TEC will have discretion to determine how much a TEO can set fees for any micro-credential granted an exception.

Note: Effect of this Notice

These notes do not form part of this notice, but are intended to indicate its general effect.

- A. Section 159L(3)(d) of the Act provides that the Minister, when determining the design of a funding mechanism, may specify the conditions that the TEC must attach to funding provided under the mechanism, including conditions that limit the fees that an organisation may charge domestic students.*
- B. Under section 159M(b) of the Act, the Minister may not specify conditions that set limits on the fees that organisations may charge domestic students until:*
 - i. the Minister has published a notice in the Gazette that –*
 - (A) states that the Minister proposes to specify such conditions;*
 - (B) sets out the proposed conditions; and*
 - (C) invites submissions on the proposed conditions; and*
 - (D) specifies the date by which submissions must be received, which must be a date no later than 21 days after the date of the New Zealand Gazette notice; and*
 - ii. the date by which submissions must be received has passed.*
- C. The conditions setting limits on fees subsequently specified by the Minister in accordance with section 159L(3)(d) of the Act must be imposed as conditions on funding payable by the TEC to an organisation under section 159YA and 159ZC of the Act.*
- D. Under sections 227(1A) and 234A of the Act, TEIs and PTEs respectively must not charge domestic students a fee that exceeds the maximum specified as a condition on funding approved by the TEC under section 159YA and section 159ZC of the Act.*