



NEW ZEALAND QUALIFICATIONS AUTHORITY
MANA TOHU MĀTAURANGA O AOTEAROA

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Consultation Part C: General changes to NZQA Rules

April 2017

Consultation on proposed changes to NZQA Rules

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Quality Assurance (including External Evaluation and Review (EER)) Rules 2016

<http://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/eer-rules/external-evaluation-rules-2016/1/>

Rule 7.5 – Process for and participation in EER

Current Rule:

Following the scheduling of an EER, NZQA will notify the institution or ITO of the compulsory scope items set out in Rule 7.6, consult the institution or ITO about the remaining scope of the EER and, after taking into account any submissions from the institution or ITO and any other relevant information, NZQA will set the scope for the review.

Proposed change:

Add a rule to allow NZQA to change the agreed scope of an EER before, during or after an EER visit, where concerns are identified in an area not part of the original scope. The TEO would be informed of any such change.

Reason for change:

NZQA has encountered situations where information obtained prior, during or after an EER visit indicates concerns about a TEO's performance in an area that is not part of the agreed scope. NZQA has an obligation, in terms of quality assurance and the public interest, to consider and fully evaluate these aspects even if they are not part of the original scope.

Impact on TEOs:

This change may only affect TEOs where previously unknown concerns are identified after the original scope is set. The TEO would be informed of any change to the scope.

Rule 10.2 - Fees

Current Rule:

Where there is a finding in a reconsideration that there was a process failure in finalising the report or there were errors of fact or judgement, and the finalised report is amended as a result, no fee will be payable for the reconsideration.

Proposed change:

Amend the Rule to specify that no reconsideration fee would be charged only in cases where an identified process failure or errors of fact or judgement result in one or both of the statements of confidence is changed as a result.

Reason for change:

NZQA expects that errors of fact or judgement will be identified during the drafting of the EER report, when TEOs have the opportunity to comment on the findings. Requests for reconsideration of finalised reports are generally rare but can be very time consuming. NZQA considers that the cost associated with the reconsideration can be waived only where the identified process failures or errors of fact or judgement are significant enough to warrant a change to the statements of confidence.

Impact on TEOs:

This change would only impact TEOs that apply for reconsideration and where the statements of confidence do not change as a result.

Rule 13.6(a)– Restrictions on the assessment and moderation of student work by Category 3 and 4 institutions**Current Rule:**

Where an institution has not appointed any necessary Category 1 or 2 institution in accordance with Rules 13.2 and 13.5, and NZQA has not approved a longer period for the appointment under Rule 13.2,-

a. NZQA may appoint a suitable Category 1 or 2 institution, or where NZQA is unable to find a suitable Category 1 or 2 institution, NZQA may appoint one or more suitably qualified persons, so that students can continue to be assessed in their study or training without necessary disruption.

Proposed change:

Remove the wording "...or where NZQA is unable to find a suitable Category 1 or 2 institution".

Reason for change:

There are situations where it is appropriate for NZQA to appoint one or more suitably qualified persons in the first instance. This may be the case when there is considerable urgency in making the appointment or when the particular circumstances of the Category 3 or 4 institution, such as scope of delivery, are not suited to the appointment of another institution.

Impact on TEOs:

No impact on TEOs.

Rule 14 – Applications by Category 3 and 4 institutions for statutory permissions¹**Current Rule:**

14.1 A Category 4 institution will not be granted new statutory permissions until the institution improves its statements of confidence to at least Confident both in educational performance and in organisational capability in self-assessment at its next EER.

14.2 Where there are outstanding concerns over the quality of the provision of particular kinds of study or training of a Category 3 institution, or over non-compliance issues relating to the Act or Rules, NZQA will not grant new statutory permissions in those particular kinds of study or training until the institution improves its statements of confidence to at least Confident both in educational performance and in organisational capability in self-assessment at its next EER.

¹ For example, programme approvals, accreditation, consent to assess against standards on the directory of assessment standards, etc.

14.3 Despite the lack of confidence in the institution as a result of its EER Report, where NZQA is satisfied that a Category 3 or 4 institution is fully competent to provide particular kinds of study or training or where extenuating circumstances apply, NZQA may consider granting new statutory permissions.

Proposed change:

Amend Rule 14 to apply to ITOs as well.

Reason for change:

NZQA considers that where significant concerns exist about the performance of an institution that result in a Category 4 EER status, no further approvals are to be granted. The institution must focus on improving its performance within its existing scope of delivery, before it can be allowed to expand it.

The same applies to Category 3 institutions, but only in areas where there are concerns or non-compliance issues.

NZQA proposes that the same restrictions should apply to Category 3 or 4 ITOs².

Rule 14.3 will continue to provide the option to approve additional statutory permissions for Category 3 or 4 institutions or ITOs where the circumstances allow or require it.

Impact on TEOs:

This change would only impact Category 3 or 4 ITOs that want to apply for further statutory permissions.

Appendix 2, clause 2 – The integrated framework for evaluative quality assurance

Current clause:

The high level policy expectations for the evaluative quality assurance framework are set out in the NZQA policy “Evaluative Quality Assurance Policy Framework” published on NZQA’s website.

Description of change:

Remove reference to the specific document, which no longer exists. Current information on the high-level expectations and underpinning principles of the Evaluative Quality Assurance Framework is available on the NZQA website.

Reason for change:

The document in question is outdated and is no longer available on the NZQA website. It is not advisable for specific guidance documents to be referenced within the Rules as any changes to the documents would then also require changes to the Rules. This is the case here. Extensive guidance on the evaluative quality assurance framework and its processes is available on the NZQA website.

² For ITOs, statutory permissions include programme approval and consent to assess against standards on the Directory of Assessment Standards.

Impact on TEOs:

None. There is no change in requirements, and information continues to be available on the NZQA website.

New Rule**Proposed Rule:**

Require all institutions and ITOs to submit an annual statutory declaration to attest to their compliance with the Education Act 1989 and NZQA Rules.

Reason for change:

TEOs (other than PTEs) are currently required to attest to their compliance with the Education Act 1989 and NZQA Rules prior to an EER. For some TEOs, however, this may be only once every four years.

Only PTEs are currently required (*under the Private Training Establishment Registration Rules 2013*) to submit an annual statutory declaration. However, a number of recent cases of serious non-compliance have involved TEOs other than PTEs.

NZQA therefore considers an annual statutory declaration from all institutions and ITOs will assist both NZQA and the TEOs in managing risks in terms of non-compliance.

If this Rule change is implemented, the annual statutory declaration will remove the need for the EER compliance declaration currently required under Rule 7.2(b). This Rule would therefore be revoked. The requirement to supply the annual statutory declaration under Rule 5.1.3(a) of the Private Training Establishment Registration Rules 2013 would also be revoked.

Impact on TEOs:

TEOs will be required to submit a statutory declaration annually, instead of prior to an EER. NZQA would provide a template.

New Rule**Proposed change:**

Insert a Rule to prohibit Category 4 institutions from enrolling new students.

Reason for change:

A Category 4 EER rating represents very low levels of confidence by NZQA in an institution's educational performance and/or capability in self-assessment. While Category 4 outcomes are rare, NZQA considers that allowing further enrolments into those institutions is not in the students' best interest.

Immigration New Zealand already has regulations that do not allow the issuing of visas for Category 4 institutions. NZQA considers that the same protections should be extended to domestic students.

Impact on TEOs:

This change would only affect Category 4 providers. Depending on the TEO's size, programme or training scheme duration, and ability to improve its performance, the change could have an impact on business viability.

NZQF Programme Approval and Accreditation Rules 2013

<http://www.nzqa.govt.nz/assets/About-us/Our-role/Rules/Prog-App-Accred-Rules.pdf>

Rule 4.1, Criterion 4 – Criteria for approval of programmes for institutions under section 249 of the Act

Current criterion:

There is a written summary of the consultation undertaken, the views expressed, and consideration of the views. The consultation and summary must articulate the need for and acceptability of the programme to the relevant communities (including ākonga, whānau, hapū, iwi and where appropriate, hāpori Māori) and other key stakeholders (including any relevant academic, employer, industry, professional and other bodies).

Proposed change:

Add “qualification developers” to the list of key stakeholders.

Reason for change:

To add further clarity to the criterion.

Impact for TEOs:

No impact, the requirements have not changed as consultation with the qualification developer has always been expected.

Rule 6.1, Criterion 1 – Criteria for the accreditation of institutions to provide approved programmes or parts of approved programmes under section 250 of the Act

Current Rule:

The institution has the capability and capacity to ensure assessment materials and decisions are fair, valid, consistent and appropriate, given the stated learning outcomes.

Proposed change:

Add “for the level” following “appropriate”.

Reason for change:

To add further clarity to the criterion.

Impact for TEOs:

No impact, the requirements have not changed.

Rule 12.2 – Requirements to be met to maintain accreditation

Current Rule:

To continue to maintain accreditation to provide an approved programme or part of an approved programme leading to a degree or post-graduate qualification at levels 7 to 10 institutions (other than universities) must:

- a. ensure the criteria specified within Rule 6.1 continue to be met.
- b. undertake self-assessment.
- c. provide the programme (or part) as it was approved, including adhering to the programme regulations, unless a specific change has been approved in writing by NZQA.
- d. participate in external evaluation and review.
- e. participate in monitoring, which will consist of either:
 - i. annual visits to the institution by the NZQA appointed monitor, reports by the monitor on the implementation of the programme, and reviews of the first graduating years of programmes by the institution; or
 - ii. where NZQA permits, self-monitoring in accordance with any conditions imposed by NZQA.

Proposed change:

Amend the Rule to include Level 7 Diplomas. These are currently included in Rule 12.1 instead.

Reason for change:

Level 7 Diplomas are at the same NZQF level as bachelor degrees. As such, NZQA considers that they warrant the same regulations and monitoring scrutiny as other Level 7 programmes currently included in Rule 12.2.

Impact for TEOs:

TEOs delivering Level 7 Diplomas would need to ensure that they comply with the requirements of Rule 12.2.

Rule 17.1 – Use of sub-contractors by institutions other than universities to provide approved programmes or parts of approved programmes

Current Rule:

Where an institution (other than a university) proposes to use a sub-contractor to provide an approved programme or part of an approved programme on the institution's behalf, and the institution and the sub-contractor are both accredited to provide the programme (or part), the institution must notify NZQA of the sub-contracting arrangement prior to the programme (or part) being provided.

Proposed change:

Amend the Rule to specify that certain information must be provided with the notification. This includes the sub-contracting agreement outlining the responsibilities and obligations of each party; the duration of the arrangement; the reason for the arrangement; confirmation that any advertising and other information provided to students would clearly show that the study is offered through a sub-contracting arrangement.

Reason for change:

Even though Rule 17.1 does not require TEOs to apply for approval, it is important that any sub-contracting is conducted within set parameters and with clear delineation of responsibilities and accountabilities between the two parties.

Impact on TEOs:

TEOs notifying NZQA of sub-contracting arrangements with another TEO that holds the same accreditation would need to provide the required information to NZQA and to ensure that the arrangement is appropriately maintained on an ongoing basis, as outlined in the sub-contracting agreement.

Rule 17.2 and 17.4 – Use of sub-contractors by institutions other than universities to provide approved programmes or parts of approved programmes**Current Rule:**

17.2 Where an institution (other than a university) proposes to use a sub-contractor to provide an approved programme or part of an approved programme on the institution's behalf, and the sub-contractor does not itself hold accreditation, the institution must apply to NZQA for approval to engage the sub-contractor prior to any provision of the programme (or part) by the contractor.

17.4 NZQA will grant approval to an application under rule 17.2 where it is satisfied that:

- a. the institution remains responsible for the sub-contractor meeting all of the institution's obligations that are relevant for the accreditation.*
- b. the sub-contractor will meet all relevant obligations in the Act and in rules made under section 253 of the Act in relation to the provision of the programme.*
- c. there is a formal documented arrangement between the holder and the sub-contractor that includes provisions to ensure that NZQA is able to exercise its quality assurance and enforcement powers and functions in respect of the acts or omissions of the sub-contractor relating to the provision of the programme.*
- d. the information and advertising for the study or training clearly states that it is through a sub-contracting arrangement.*
- e. all student enrolments are through the institution, and the institution maintains all student enrolment and academic information.*

Proposed change:

Introduce a Rule to specify that the holder of an approval to sub-contract approved programmes (or part), has an ongoing responsibility to ensure that the sub-contracting is conducted in accordance with the requirements of Rule 17.4. Failure to do so may result in the withdrawal of the sub-contracting approval.

Reason for change:

To ensure that sub-contracting arrangements approved under Rule 17.4 are appropriately maintained and monitored.

Impact on TEOs:

No impact on TEOs. Sub-contracting approval holders are already expected to continue to comply with the sub-contracting requirements. Adding a specific Rule would clarify this expectation.

Training Scheme Rules 2012

<http://www.nzqa.govt.nz/assets/About-us/Our-role/Rules/Training-Scheme-Rules-2012.pdf>

Rule 4 – Criteria for approval of training schemes

New criterion

Proposed change:

Insert a criterion requiring institutions to have an adequate process for the ongoing review of training schemes (in terms of content and currency) and for monitoring the outcomes for trainees and other stakeholders.

Reason for change:

This change would ensure that training schemes are regularly reviewed to ensure that they remain fit for purpose and achieve the intended outcomes for trainees.

Impact on TEOs:

TEOs that apply for training scheme approval will be required to demonstrate that they have an appropriate self-assessment process for the review of training schemes. TEOs that already hold training scheme approval will be required to put in place appropriate self-assessment policies for the review of training schemes.

Rule 12.2 – Use of sub-contractors to provide training schemes

Current Rule:

Where an institution proposes to use a sub-contractor to provide a training scheme on the institution's behalf, and the institution and the sub-contractor have both been granted approval to provide the training scheme, the institution must notify NZQA of the sub-contracting arrangement prior to the training scheme being provided.

Proposed change:

Amend the Rule to specify that certain information must be provided with the notification. This includes the sub-contracting agreement which outlines the responsibilities and obligations of each party; the duration of the arrangement; the reason for the arrangement; confirmation that any advertising and other information provided to students would clearly show that the training is offered through a sub-contracting arrangement.

Reason for change:

Even though Rule 12.2 does not require TEOs to apply for approval, it is important that any sub-contracting is conducted within set parameters and with clear delineation of responsibilities and accountabilities between the two parties.

Impact on TEOs:

TEOs notifying NZQA of sub-contracting arrangements with another TEO that holds the same training scheme approval would need to provide the required information to NZQA and to ensure that the arrangement is appropriately maintained on an ongoing basis, as outlined in the sub-contracting agreement.

Rule 12.3 and 12.5 – Use of sub-contractors to provide training schemes

Current Rule:

12.3 Where an institution proposes to use a sub-contractor to provide a training scheme that the institution has been approved to provide, and the sub-contractor has not itself been granted approval, the institution must apply to NZQA for approval to engage the sub-contractor.

12.5 NZQA will grant approval to an application under rule 12.3 where it is satisfied that:

- a. the institution remains responsible for the sub-contractor meeting all of the institution's obligations that are relevant for the training scheme.*
- b. the sub-contractor will meet all relevant obligations in the Act and in rules made under section 253 of the Act in relation to the provision of the training scheme.*
- c. there is a formal documented arrangement between the holder and the sub-contractor that includes provisions to ensure that NZQA is able to exercise its quality assurance and enforcement powers and functions in respect of the acts or omissions of the sub-contractor relating to the provision of the training scheme.*
- d. the information and advertising for the training clearly states that it is provided through a sub-contracting arrangement.*
- e. all student enrolments are through the institution, and the institution maintains all student enrolment and academic information.*

Proposed change:

Introduce a Rule to specify that the holder of an approval to sub-contract the delivery of a training scheme has an ongoing responsibility to ensure that the sub-contracting is conducted in accordance with the requirements of Rule 12.5. Failure to do so may result in the withdrawal of the sub-contracting approval.

Reason for change:

To ensure that sub-contracting arrangements approved under Rule 12.5 are appropriately maintained and monitored.

Impact on TEOs:

No impact on TEOs. Sub-contracting approval holders are already expected to continue to comply with the sub-contracting requirements. Adding a specific Rule will clarify this expectation.

New Rule

Proposed change:

Introduce a rule equivalent to Rule 18 of the *NZQF Programme Approval and Accreditation Rules 2013* to set out the mandatory English language proficiency requirements for enrolment of international students into a training scheme.

Reason for change:

Even though training schemes do not lead to qualifications on the NZQF, they do lead to an award, and are approved to a specified level of the NZQF. NZQA considers that it is important to ensure that all international students, regardless of whether they enrol in a

programme or a training scheme, have a sufficient level of English to successfully complete their study or training.

Impact for TEOs:

This change would only affect TEOs that enrol international students in training schemes. These TEOs would have to update their admissions criteria, process and any marketing material to ensure that international students are aware of and meet the English language requirements for the level they are enrolling in, prior to commencing their training.

NZQF Qualification Listing and Operational Rules 2016

<http://www.nzqa.govt.nz/assets/About-us/Our-role/Rules/Prog-App-Accred-Rules.pdf>

Rule 4.1(g) – Qualification details listed on the NZQF for all qualifications

Current Rule:

The details of all qualifications to be listed on the NZQF are:

(g) the name, contact details, and legal status of the appointed qualification developer

Proposed change:

Remove requirement for the contact details and legal status of the qualification developer to be included in the qualification listing.

Reason for change:

These details are no longer included in qualification listings.

Impact on TEOs or qualification developers:

Reduces requirements.

Rule 5.3(c) – Further details for qualifications listed at levels 1 to 6

Current Rule:

For the purposes of Rule 5.2(e) mandatory conditions include:

(c) any standards critical to achieving the outcomes in the graduate profile

Proposed change:

Clarify that “standards” in this context refers to standards on the Directory of Assessment Standards.

Reason for change:

Clarifies the Rule.

Impact on TEOs or qualification developers:

No impact on TEOs. The requirements remain the same.

Rule 6.2 – Use of te reo Māori in listing qualifications

Current Rule:

Where the qualifications are listed in te reo Māori, the listing details in Rule 4.2(c) and (d)(i) will contain an English equivalent.

Proposed change:

Correct referencing error – there is no Rule 4.2. The correct reference is Rule 4.1(c) and (d).

Reason for change:

Corrects previous drafting error.

Impact on TEOs or qualification developers:

No impact on TEOs. The requirements remain the same.

Rule 10.5 – Content and process for applications for approval to list qualifications on the NZQF**Current Rule:**

NZQA may release the applicant from all or part of the requirements in Rule 10.3(d) or (e), where the applicant satisfies NZQA there is good reason to do so.

Proposed change:

Add a reference to Rule 10.2(a) to enable NZQA to release qualification developers from the requirement to apply for approval to develop a qualification, when there is good reason to do so.

Reason for change:

In practice, there are circumstances when there is clear need for a qualification and it is therefore appropriate to release the qualification developer from the requirement to first apply for approval to develop. For example, if a new qualification is needed as a result of a qualification review or due to regulatory requirements, the developer may be able to apply directly for approval of the qualification.

Impact on TEOs or qualification developers:

No impact on TEOs. It may simplify the process for qualification developers in some circumstances.

Private Training Establishment Registration Rules 2013

<http://www.nzqa.govt.nz/assets/About-us/Our-role/Rules/Prog-App-Accred-Rules.pdf>

Rule 5.1.3(ac) – Business management

Current Rule:

Where the PTE is a signatory to the Code of Practice for the Pastoral Care of International Students under Part 18A of the Act and does not receive any funding from the Tertiary Education Commission under Part 13A of the Act, that PTE must electronically transmit to the Ministry of Education from its student management system the student and other information, by the method and from the date, as set out in Appendix 1.

Proposed change:

Replace reference to the Code of Practice for the Pastoral Care of International Students with “the Code made under part 18A of the Act”.

Reason for change:

In July 2016, the Education (Pastoral Care of International Students) Code of Practice 2016 replaced the Code of Practice for the Pastoral Care of International Students. Amending the Rule to refer to the code made under Part 18A of the Act without referring to its current title, would ensure that the Rules would not require a change in future, should the title of the code change again.

Impact on TEOs or qualification developers:

No impact on TEOs. Requirements remain the same.

Rule 5.1.9(a)

Current Rule:

Undertakes on-going self-assessment and participates in EER in accordance with EER requirements

Proposed change:

Specify that the self-assessment undertaken by the PTE has to be effective.

Reason for change:

It is important to ensure that self-assessment is not only carried out on an ongoing basis, but that it is also done effectively. The quality of the self-assessment will then be evaluated during EER.

Impact on PTEs:

No impact on PTEs. No new requirements are introduced.

Rule 5.1.9(b) – Participation in self-assessment and EER

Current Rule:

Where, as a result of an EER undertaken by NZQA, the PTE receives statements of confidence below Confident, the PTE immediately undertakes improvement actions, has a clear plan for compliance with any applicable sanctions, and implements that plan.

Proposed change:

Amend the Rule so that the PTE is required to immediately prepare an improvement plan and to follow it.

Reason for change:

In these circumstances, PTEs do not need a plan for compliance since compliance is externally specified for them. They do, however, need to put in place their own improvement plan to lift the overall performance of the organisation.

Impact on PTEs:

Only for Category 3 and 4 PTEs. This change aligns the Rules with established practice for the management of Category 3 and 4 PTEs.

NZQF Industry Training Programme Approval Rules 2012

<http://www.nzqa.govt.nz/assets/About-us/Our-role/Rules/NZQF-Industry-Training-Programme-Approval-Rules-2012.pdf>

Rule 5.1(c) – Criteria for approval of industry training programmes under section 249 of the Act

Proposed change:

Add a criterion under 5.1(c) for industry training programme approval applications to specify how the industry training organisation (ITO) will monitor and assure the consistency of qualification achievement by students.

Reason for change:

The proposed change aligns the Rules with the consistency process in which ITOs already participate.

Impact on TEOs:

Only affects ITOs when they apply for industry training programme approval. While this is a new criterion in terms of inclusion in the Rules, the monitoring of consistency is already an established practice in the sector. Therefore, the impact is not considered significant.

Rule 8.1(d) – Requirements to be met by industry training organisations to maintain approval

Proposed change:

Add a requirement under 8.1(d) requiring ITOs to also participate and cooperate in the process of assuring consistency, and when reporting graduate achievement, to provide sufficient evidence to demonstrate the consistency of graduate outcomes effectively.

Reason for change:

The proposed change aligns the Rules with the consistency process in which ITOs already participate.

Impact on TEOs:

While this is a new requirement in terms of inclusion in the Rules, the monitoring of consistency is already an established practice in the sector. Therefore, the impact is not considered significant.

Directory of Assessment Standards Listing and Operational Rules 2011

<http://www.nzqa.govt.nz/assets/About-us/Our-role/Rules/standards-listing-rules-11-14.pdf>

Rule 5 – Status of standards

Proposed change:

Add a new sub-Rule to specify that a last date for assessment shall be applied to superseded versions of a standard up to a maximum of 4 years from the approval date of the new version.

Reason for change:

Currently superseded versions of standards do not expire and there is evidence that these continue to be offered by TEOs, despite the availability of a more up-to-date version. The proposed change would encourage providers to transition to the most current version.

Impact on TEOs:

The change would provide for a substantial transition period (up to 4 years) to allow TEOs sufficient time to action programme changes where necessary and to finalise resources required to transition to the new version.

Consent to Assess against Standards on the Directory of Assessment Standards Rules 2011

<http://www.nzqa.govt.nz/assets/About-us/Our-role/consent-to-assess-rules-09-11.pdf>

Rule 8.1 – Use of sub-contractors

Current Rule:

Where an applicant for a consent to assess against standards, or a holder of a consent, proposes to use a sub-contractor which itself is the holder of a consent to assess against those particular standards, the applicant or holder must notify NZQA of the relevant details prior to using the sub-contractor.

Proposed change:

Amend the Rule to specify what the “relevant details” are. These include the sub-contracting agreement which outlines the responsibilities and obligations of each party; the duration of the arrangement; the reason for the arrangement; confirmation that any advertising and other information provided to students would clearly show that the study or training is offered through a sub-contracting arrangement.

Reason for change:

The Rule currently lacks clarity. Even though Rule 8.1 does not require TEOs to apply for approval, it is important that any sub-contracting is conducted within set parameters and with clear delineation of responsibilities and accountabilities between the two parties.

Impact on TEOs:

TEOs notifying NZQA of sub-contracting arrangements with another TEO that holds the same consent to assess would need to provide the required information to NZQA and to ensure that the arrangement is maintained appropriately on an ongoing basis, as outlined in the sub-contracting agreement.

Rule 8.2 and 8.3 – Use of sub-contractors

Current Rule:

8.2 Where an applicant for a consent to assess against standards, or a holder of a consent, proposes to use a sub-contractor which does not itself hold a consent to assess against those particular standards, the applicant or holder must apply to NZQA to engage the sub-contractor.

8.3 NZQA will only grant approval to an application under rule 8.2 where it is satisfied that:

- (a) the holder remains responsible for the sub-contractor meeting all of the holder's obligations in relation to the consent; and*
- (b) the sub-contractor will meet all relevant obligations in the Act and in rules made under section 253 of the Act in relation to the consent; and*
- (c) there is an agreement between the holder and the sub-contractor that includes provisions to ensure that NZQA is able to exercise its quality assurance and enforcement powers and functions in respect of the acts or omissions of the sub-contractor relating to the consent; and*

(d) the information and advertising for the study or training clearly states that it is provided through a sub-contracting arrangement; and

(e) all student enrolments are through the holder, and the holder maintains all student enrolment and academic information; and

(f) the holder will report credits for the learners and pay the relevant credit reporting fee.

Proposed change:

Introduce a Rule to specify that holders of a consent to assess that have been granted approval to sub-contract to a party that does not hold consent to assess, have an ongoing responsibility to ensure that the sub-contracting is conducted in accordance with the requirements of Rule 8.3. Failure to do so may result in the withdrawal of the sub-contracting approval.

Reason for change:

To ensure that sub-contracting arrangements approved under Rule 8.2 are appropriately maintained and monitored.

Impact on TEOs:

No impact on TEOs. Sub-contracting approval holders are already expected to continue to comply with the sub-contracting requirements. Adding a specific Rule would confirm this expectation.

Student Fee Protection Rules 2013

<http://www.nzqa.govt.nz/assets/About-us/Our-role/Rules/SFP-Rules.pdf>

Rule 3.1 – Interpretation, ‘Course closure event’

Current interpretation:

Course Closure Event means:

- (a) the provider is no longer delivering or capable of delivering the Course for which students are Enrolled;*
- (b) any regulatory closure of the Provider;*
- (c) insolvency of the Provider;*
- (d) the Provider ceases to operate or loses its body corporate status;*
- (e) any cancellation by NZQA of the Provider’s registration;*
- (f) any withdrawal by NZQA of the Provider’s accreditation to provide a programme; or*
- (g) any withdrawal by NZQA of the Provider’s training scheme approval:*

Proposed change:

Expand the definition of a ‘Course closure event’ to include a provider’s loss of signatory status for the Education (Pastoral Care of International Students) Code of Practice under section 238G of the Education Act 1989.

Reason for change:

If a provider has its Code of Practice signatory status removed under section 238G of the Education Act 1989, the provider cannot continue to have international students enrolled. Since this situation is not currently defined as a ‘Course closure event’ in the Student Fee Protection Rules 2013, there is risk that international students affected by the loss of signatory status at a provider may not qualify for a refund of the unused portion of their fees, as other students would in a course closure event.

The proposed change would ensure that affected international students are not disadvantaged in the event that their provider loses its Code of Practice signatory status.

Impact on TEOs:

TEOs that have their Code of Practice signatory status removed under section 238G of the Education Act 1989 would be required to refund to affected international students the unused portion of their fees as per the standard provisions for course closure events in the Student Fee Protection Rules 2013.