

Rules of the Quality Commission Scheme

Rule 1 Establishment of the Quality Commission

There is hereby established a commission to be known as the Quality Commission.

Rule 2 Objects and powers of the Quality Commission

The objects and powers of the Quality Commission are:

- (a) to consider complaints in connection with the provision of education services and related services provided by any Participant.
- (b) to facilitate the satisfaction, settlement or withdrawal of such complaints whether by making of recommendations or awards or by such other means as shall seem expedient.
- (c) to collaborate with government and other authorities on all matters relating to and affecting the education and other services referred to in paragraph (a) and the settlement of complaints in relation thereto.
- (d) after taking into consideration the financial budget for the Quality Commission to retain or employ advisors or employees in connection with the objects of the Quality Commission and to pay them such fees or remuneration as may be thought expedient.
- (e) to levy, charge, collect and receive subscriptions, levies, fees and other payments from Participants and expend the same in furthering all or any of the objects of the Quality Commission or providing for the expenses of the Commission.
- (f) to make payment of reasonable and proper remuneration and out of pocket expenses to any member of the Commission
- (g) to invest any money of the Commission not immediately required in such manner as may be thought expedient.
- (h) to purchase, take on lease, or in exchange, or hire or otherwise acquire any property and any rights or privileges which the Commission shall think necessary or expedient for the purposes of attaining the objects of the Commission or promoting the interests of the Commission and to sell, exchange, mortgage, lend or lease with or without option of purchase, or in any manner dispose of any such property rights or privileges.

- (i) to pay all expenses preliminary or incidental to the formation of the Quality Commission.
- (j) to do all such other lawful things as may be incidental to or conducive to the attainment of any of the above objects.
- (k) in special circumstances the Quality Commission may if it thinks fit mediate between two Participants in relation to the provision by one or both of them of education services; the decision on the appropriateness of such mediation will be for the Commission.

Rule 3 Contribution on winding up

Every Participant undertakes to contribute to the assets of the Quality Commission in the event of the Commission being wound up during the time which it is a Participant or within one year afterwards, for payment of the debts and liabilities of the Quality Commission contracted before the time at which it ceased to be a Participant and for the costs, charges and expenses of winding up, such contribution to be proportionate to the amount of any levy paid or payable pursuant to Rule 9 by each such Participant in the financial year last ended before the commencement of such winding up.

Rule 4 Distribution of Assets on winding up

If upon winding up or distribution of the Quality Commission there remains, after satisfaction of all its debts and liabilities, any property whatsoever, it shall be distributed among Participants at the date of such winding up proportionately according to the amount of any levy paid or payable pursuant to Rule 9 by each such Participant in the financial year last ended before the commencement of such winding up.

Rule 5 Publicising the Quality Commission Scheme

Each Participant will have its own internal complaints procedure (set up as required by the NZAPEP Code of Practice) and undertakes to the Quality Commission to publicise such procedures and the details of the Quality Commission Scheme.

Rule 6 Membership of the Quality Commission

6.1 The Quality Commission shall comprise:

- (a) A Chairperson appointed in accordance with Rule 10.6.a
- (b) Two representatives of Participants appointed by the Board of NZAPEP

- (c) One consumer representative who shall ordinarily be nominated by the Consumer's Institute.
 - (d) One further member co-opted by the Commission as a consumer representative
- 6.2 Commission members in category (a), (c) and (d) shall be appointed initially for a period not exceeding two years; Commission members in category (b) initially for a one year period. Thereafter category (a), (c) and (d) appointments to the Commission shall be on an annual basis (or such longer period as the Quality Commission may determine). Appointments in category (b) shall be on an annual basis or as otherwise determined by the Board of NZAPEP.

Rule 7 Commencement of Participation

- 7.1 Every financial member, apart from Associate members, of the New Zealand Association of Private Education Providers shall, while a member of the Association, be a Participant in the Quality Commission Scheme.
- 7.2 Each Participant shall be bound by any award which, in accordance with the Terms of Reference, is made by the Commission against it and accepted by the other party to the dispute.

Rule 8 Cessation of Participation

- 8.1 The Quality Commission may at any time terminate the participation of any Participant:
- (a) if that provider ceases to be NZQA registered;
or
 - (b) if the Participant has failed to comply with an award made by the Commission in accordance with the Terms of Reference.
- 8.2 If a Participant should be taken over or merged with another education provider, membership shall cease subject to the provisions of Rule 8.3; the new entity may apply for entry on the Register under Rule 7.
- 8.3 Cessation of participation by a provider
- (a) shall not entitle the Participant to repayment of the whole or any part of any levy or subscription previously paid by it;
 - (b) shall be without prejudice to the Participant's liability to pay any levy or subscription which has become due and payable before such cessation; and

- (c) shall be without prejudice to the Participant's obligations in respect of and dispute referred to the Commission before such cessation.

Rule 9 Levies on Participants

- 9.1 Every participating provider shall pay an annual levy based on the number of equivalent full time students at each Participant, to be paid in conjunction with the annual subscription of NZAPEP.
- 9.2 In addition to the annual levy the Quality Commission may at any time and from time to time obtain money for the purposes of the Quality Commission by raising a special levy from each participating provider.
- 9.3 The Quality Commission shall cause to be served on each Participant a notice requesting payment of any special levy to be raised from that Participant, giving particulars of the total amount of the levy to be raised and the amounts payable by each Participant.
- 9.4 Each levy will be due and payable by each Participant four weeks after the notice requesting it has been served.

Rule 10 Proceedings of the Quality Commission

Quality Commission meetings

- 10.1 The members of the Quality Commission may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- 10.2 Three members of the Quality Commission and the appointed secretary, must, on the requisition of three members, convene a meeting of the Quality Commission
- 10.3 Commission decisions are to be decided by a majority of votes of members present and voting and any such decision is for all purposes deemed a decision of the Quality Commission.
- 10.4 In the event of there being an equality of votes, the chairman of the meeting, in addition to his or her deliberative vote, has a casting vote.

Quorum for meetings of the Quality Commission

- 10.5 At meetings of the Quality Commission, the number of members whose presence is necessary to constitute a quorum is three, provided there is present at any such meeting a person appointed pursuant to Rule 6.1

- (b) and a person appointed pursuant to either Rule 6.1 (c) or Rule 6.1 (d).

Chairperson of the Quality Commission

- 10.6 (a) The first Chairperson of the Quality Commission shall be appointed by the Board of the NZAPEP and thereafter the Quality Commission (including the current Chairperson of the Quality Commission) shall be entitled to appoint one person as Chairperson and as a member in place of the first or other subsequent Chairperson of the Quality Commission.
- (b) The Chairperson shall hold that office for a period as set out in Rule 6.2.
- (c) When a meeting is held of the Quality Commission and the Chairperson is not present within ten minutes from the time appointed for the meeting the members present must elect one of their number to chair the meeting.

Written Resolution by the Quality Commission

- 10.7 If all the members of the Quality Commission have signed a document containing a statement that they are in favour of a resolution of the Quality Commission in the terms set out in the document, a resolution in those terms is deemed to have been passed at a meeting of the Quality Commission held on a date on which the document was last signed by a member of the Quality Commission.
- 10.8 For the purposes of Rule 10.7, two or more separate documents containing statements in identical terms signed by one or more members of the Quality Commission are together deemed to constitute one document containing a statement in those terms signed by those members on the respective dates on which the separate documents are signed.

Meetings

- 10.9 For the purposes of these Rules, a meeting of the Quality Commission means:
 - (a) A meeting of members assembled in person on the same day and at the same time and place; or
 - (b) The members communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion notwithstanding that they (or one or more of them) are not physically present at the same place;

and a member of the Quality Commission participating in a meeting pursuant to Rule 10.9 (b) is deemed to be present (including for the purpose of constituting a quorum) and is entitled to vote at the meeting.

- 10.10 (a) Except as otherwise provided by these Rules, a member shall not vote at a meeting of the Quality Commission on any resolution concerning a matter in which he or she has, directly or indirectly, an interest which is material and which conflicts or may conflict with the interests of the Quality Commission.
- (b) Members shall not be counted in the quorum present at a meeting in relation to a resolution on which he or she is not entitled to vote.
- (a) The Quality Commission may by ordinary resolution suspend or relax to any extent, either generally or in respect of any particular matter, any provision of the rules prohibiting a member from voting at a meeting.
- (d) If a question arises at a meeting as to the right of a member to vote, the question may, before the conclusion of the meeting be referred to the Chairperson and his or her ruling in relation to a member other than him or herself shall be final and conclusive.

Expenses

- 10.11 Members shall be entitled to be paid such travelling, hotel and other expenses as are reasonably and properly incurred by them in connection with the business of the Commission.

Minutes

- 10.12 The Quality Commission must cause minutes to be made
- (a) of the names of members present at all meetings of the Quality Commission; and
- (b) of all proceedings of annual meetings_and of other meetings of the Quality Commission

and cause those minutes to be entered within one month after the relevant meeting is held in the minute book.

10. 13 The minutes must be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

Rule 11: Secretary

- 11.1 The Quality Commission may appoint any person to act as Secretary to the Commission on such terms, at such remuneration and upon such conditions as it thinks fit.
- 11.2 The Quality Commission shall have the power to suspend or remove the Secretary.
- 11.3 The Quality Commission may vest in the Secretary such powers, duties and authorities as it may from time to time determine and the Secretary must accept all such powers and authorities subject at all time to the control of the Quality Commission.

Rule 12 Inspection of records

The Quality Commission may determine whether and to what extent, at what times and places and under what conditions, the accounting records and other documents of the Quality Commission or any of them will be open to the inspection of Participants, and a Participant does not have the right to inspect any document of the Quality Commission except as provided by law, or authorised by the Quality Commission.

Rule 13 Annual Meetings

- 13.1 The Quality Commission must, in addition to any other meeting held by it, hold a meeting to be called the Annual Meeting at least once in every calendar year to coincide with the NZAPEP Annual Conference and shall at that meeting present the Annual Report of the Commission and approve a financial budget for the Quality Commission for the succeeding year.
- 13.2 Any Participant may attend and speak at any Annual Meeting through a representative appointed by that Participant.

Rule 14 Powers and Duties of the Quality Commission

- 14.1 The powers and duties of the Quality Commission shall be as contained in the Terms of Reference which shall apply equally to Members of the Commission and any person appointed in terms of Rule 2.(d).
- 14.2 All cheques and other negotiable instruments and all receipts for money paid to the Quality Commission shall be signed or otherwise executed in such manner and by such persons as the Quality Commission determines from time to time.

Rule 15 Confidentiality

- 15.1 Except as provided in Rule 15.2 or as required by any competent authority or as otherwise required by law or as properly and reasonably required in connection with any legal proceedings, instituted by or against the Commission or any of its officers, no member of the Commission shall disclose to any person (other than another member of the Commission or any of its officers) any information concerning a complaint referred to the Commission from which it would or might be possible to identify the Complainant or any Participant named in the complaint or any other information of a confidential nature or any matter relating to the handling of complaints by the Commission.
- 15.2 In terms of Rule 15.1 any competent authority includes the New Zealand Qualifications Authority, the International Education Appeal Authority or any other relevant statutory authority.
- 15.3 Rule 15.1 shall not prohibit the disclosure of any information to any Participant named in a complaint.

Rule 16 Changes to the Rules

These Rules and any Terms of Reference may at any time be altered, added to, rescinded or replaced by the Board of NZAPEP provided that the Board shall give sixty clear days notice of its intention to the Quality Commission. Where any such change is the result of a request by the Quality Commission the period of notice shall be twenty clear days or such lesser period as is agreed between the NZAPEP Board and the Quality Commission.

Rule 17 Notices

- 17.1 A notice may be given by the Quality Commission to any Participant or other person receiving notice under these Rules either by serving it personally or by sending it by post, telex or facsimile transmission at the address as shown in the register or supplied to the Quality Commission for the giving of notices.
- 17.2 A notice sent by post is deemed to be effected by properly addressing, prepaying and posting a letter containing a notice, and the notice shall be deemed to have been served two days after the date of its posting.
- 17.3 A notice sent by telex or facsimile is deemed to have been served in the case of a facsimile on the date following its despatch and in the case of a telex on the date following receipt by the sender of the answerback of the addressee.

Person entitled to notice of Annual Meeting.

- 17.4 Notice of every Annual Meeting of the Quality Commission must be given in the manner authorised by Rule 17.1 to:

- (a) Every Participant;
- (b) Every Member of the Quality Commission;
- (c) The Chairperson of the NZAPEP Board;
- (d) The Auditor.

17.5 No other person is entitled to receive notices of Annual Meetings.

Rule 18 Realisation of Assets on Winding up

If the Quality Commission Scheme is wound up the Commission may proceed to realise the property of the Commission or set such value as it considers fair upon any property to enable it to satisfy any outstanding debts or liabilities and to divide the then remaining property to and among the Participants in accordance with Rule 4.

Rule 19 Indemnity

Every member, auditor or agent of the Quality Commission is hereby indemnified out of the property of the Quality Commission against any liabilities incurred by him or her in his or her capacity as Member, auditor or agent notwithstanding any irregularity of informality arising out of the pursuance of the lawful activities of the Quality Commission except that such indemnity shall not extend to protect such Member, auditor or agent from any damage or loss arising out of wilful neglect or default on their part.

Rule 20 Definitions

20.1 In these Rules unless the context otherwise requires:

"Rules" means these Rules as amended from time to time, and a reference to a particular rule has a corresponding meaning.

"Financial year" means the year ending 31 December each year

"Participant" means an education provider for the time being entered in the Register as a participating member of the Quality Commission.

"Member" means a member of the Quality Commission

"Register" means the register of the Quality Commission in which a list of education providers who have become Participants is recorded.

"Terms of Reference" means the regulations established from time to time by the Board of the New Zealand Association of Private

Education Providers (NZAPEP) which constitute and govern the powers and duties of the Quality Commission.

20.2 Interpretation

- (a) words importing the singular include the plural and vice versa
- (b) a reference to a statute (or to a provision of a statute) means the statute or provision as modified or amended and in operation for the time being, or any statute or provision enacted in lieu thereof and includes any regulation or rule for the time being in force under the statute or provision.

20.3 Headings to these Rules do not affect their construction.