



## **Rules of the Quality Commission Scheme for Independent Tertiary Providers**

### **Rule 1 Establishment of the Quality Commission for Independent Tertiary Providers**

There is hereby established a commission to be known as the Quality Commission, an independent body that acts as a public statement about confidence in the quality of private tertiary education providers' services.

### **Rule 2 Objects and powers of the Quality Commission**

#### **1. Complaints resolution service for students**

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) to make payment of reasonable and proper remuneration and out of pocket expenses to any member of the Commission
- (e) to do all such other lawful things as may be incidental to or conducive to the attainment of any of the above objects
- (f) 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 to determine
- (g) to refer complaints from international students to iStudent Complaints, a dispute resolution scheme for international students. iStudent Complaints may refer the complaint to the Quality Commission if the dispute is not contractual and/or financial.

## **2 Management of the ITENZ awards for excellence and speaking proposals**

### 2.1 ITENZ awards of excellence

- a) to manage and administer the awards on behalf of ITENZ for a number of award categories that acknowledge and celebrate excellence in diverse areas of private tertiary education
- b) to provide explicit criteria for each award category and to review criteria on a regular basis to ensure currency and fit for purpose
- c) to provide general information, nomination, application forms and other relevant information as required in order to facilitate and enhance nominations and applications, and for these to be updated annually
- d) to collaborate with Ako Aotearoa, other government authorities; and to be familiar with current international practices relating to tertiary education organisational, teaching and learning success and excellence
- e) to appoint a panel of adjudicators that consists of at least three panel members, comprising Quality Commissioners, Ako Aotearoa representatives and/or other independent qualified assessors
- f) to make the assessment process and all relevant information to the adjudicating panel in a timely manner
- g) to ensure impartiality and professionalism a Conflict of Interest declaration shall be used. The Conflict of Interest shall exist if a panel member is employed by the same organisation as a nominee, has assisted in the preparation of a portfolio/application, provided advice to a nominee, or has a close or regular contact with the person.

### 2.2 Speaking proposals

In addition the Quality Commission is involved in judging speaker proposals for the ITENZ Conference. Its objects are:

- a) to oversee a panel for the purpose of judging speaking proposals that align with ITENZ Conference topics; that the panel shall consist of at least three members comprising Quality Commissioners, Ako Aotearoa representatives and and/or other independent qualified
- b) to provide criteria to the judging panel on an annual basis that is fit for purpose
- c) to ensure that the judging process and relevant information is made available to the panel in a timely manner

- d) to ensure the impartiality and professionalism of the panel through a Conflict of Interest declaration.

### **Rule 3 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 become the property of Independent Tertiary Education New Zealand (ITENZ) (formerly the New Zealand Association of Private Education Providers).

### **Rule 4 Publicising the Quality Commission Service**

Each Participant will have its own robust internal complaints procedure and undertakes to the Quality Commission to publicise such procedures and the details of the Quality Commission Service.

Each Participant will have its own internal procedures to encourage and enable nominations to be put forward towards the ITENZ awards.

Each Participant can publicise award winners, which will include award category and year the award was conferred, in its marketing, nationally and internationally.

### **Rule 5 Membership of the Quality Commission**

5.1 The Quality Commission shall comprise:

At least two Quality Commissioners, representatives of Participants appointed by the Board of Independent Tertiary Education New Zealand (ITENZ) plus the Chief Executive of ITENZ who will take on the role of the Secretary to the Quality Commission.

5.2 Commissioners shall be appointed for a period not exceeding three years to a maximum of three terms by the ITENZ Board and shall be eligible for reappointment.

5.3 The Commission shall appoint one of its members annually as the Chairperson.

5.4 The Commission shall appoint an investigating officer when necessary in order to adjudicate a complaint in the event of a Conflict of Interest by the Commissioners.

### **Rule 6 Participation**

6.1 Every financial member of Independent Tertiary Education New Zealand (ITENZ) (formerly the New Zealand Association of Private Education Providers), apart from Affiliate members, shall, while a member of the Association, be a Participant in the Quality Commission Scheme.

- 6.2 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 7 Cessation of Participation**

- 7.1 The Quality Commission may at any time terminate the participation of any Participant:
- (a) if that provider ceases to be NZQA registered;
  - (b) if the Participant has failed to comply with an award made by the Commission;
  - (c) if that provider ceases to be a member of ITENZ; or
  - (d) if that provider is deemed by the Quality Commission to cause any action that might bring the private sector into disrepute.
- 7.2 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 any dispute referred to the Commission before such cessation.

## **Rule 8 Levies on Participants**

- 8.1 Every participating provider shall pay an annual ITENZ membership subscription fee based on the number of equivalent full time students at each Participant. The Quality Commission levy is included in ITENZ subscription fee.
- 8.2 In addition to the annual levy the ITENZ Board 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.
- 8.3 The ITENZ Board 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.
- 8.4 Each levy will be due and payable by each Participant four weeks after the notice requesting it has been served.

## **Rule 9 Proceedings of the Quality Commission**

### Quality Commission meetings

- 9.1 The members of the Quality Commission shall meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- 9.2 Commission decisions are to be decided by a majority of votes of members present and any such decision is for all purposes deemed a decision of the Quality Commission.

### Quorum for meetings of the Quality Commission

- 9.3 At meetings of the Quality Commission, the number of members whose presence is necessary to constitute a quorum is two.

### Written Resolution by the Quality Commission

- 9.4 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. A resolution refers to the determination by the Quality Commission for complaints and excellence awards.

### Meetings

9.5 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 9.5 (b) is deemed to be present (including for the purpose of constituting a quorum) and is entitled to vote at the meeting.

- 9.6 (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.

## Expenses

- 9.7 (a) 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.
- (b) Members of the Commission shall be obliged to meet in person twice a year. One of those occasions shall coincide with the annual conference.
- (c) When an investigating officer is required to adjudicate they shall be entitled to reasonable remuneration appropriate to the length and complexity of the complaint.

## Minutes

- 9.8 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
- 9.9 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 10 Secretary**

- 10.1 The role of Secretary of the Quality Commission shall be carried out by the Chief Executive of ITENZ.

## **Rule 11 Annual Meetings**

- 11.1 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 ITENZ Annual Conference and shall at that meeting present the Annual Report of the Commission.
- 11.2 any Participant may attend and speak at any Annual Meeting.

## **Rule 12 Powers and Duties of the Quality Commission**

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.

### **Rule 13 Confidentiality**

- 13.1 Except as provided in Rule 13.2 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.
- 13.2 In terms of Rule 13.1 any competent authority includes the New Zealand Qualifications Authority, iStudent Complaints (international students only) or any other relevant statutory authority.
- 13.3 Rule 13.1 shall not prohibit the disclosure of any information to any Participant named in a complaint.

### **Rule 14 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 ITENZ 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 ITENZ Board and the Quality Commission.

### **Rule 15 Notices**

- 15.1 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 mail, facsimile or email at the address as shown in the register or supplied to the Quality Commission for the giving of notices.
- 15.2 A notice sent by mail, facsimile or email is deemed to have been served on the date following its despatch.

#### Persons entitled to notice of Annual Meeting

- 15.3 Notice of every Annual Meeting of the Quality Commission must be given in the manner authorised by Rule 15.1 to:
- (a) Every Participant;

- (b) Members of the Quality Commission;

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

## **Rule 16 Indemnity**

The liability of every member or agent of the Quality Commission is limited to and cannot exceed the assets of the Quality Commission and they are entitled to be indemnified by the Quality Commission against any liabilities incurred by them in their capacity as Member or agent notwithstanding any irregularity of informality arising out of their lawful activities except that such limitation or indemnity shall not protect such Member or agent from any damage or loss arising out of their willful or gross neglect or default.

## **Rule 17 Definitions**

17.1 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 Independent Tertiary Education New Zealand (ITENZ) (formerly the New Zealand Association of Private Education Providers) which constitute and govern the powers and duties of the Quality Commission.

For the purpose of clarity: all ITENZ members are automatically members of the Quality Commission.

17.2 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.

17.3 Headings to these Rules do not affect their construction.