



# Fee Capping Policy

JUNE 2020



## **Version Control Statement**

This is a policy about imposing a limit on the fee that an awarding body can charge in connection with the award of an Approved or Designated qualification. This includes any fee that an awarding body charges in relation to those qualifications.

This is Version 2 of the policy published in June 2020, replacing Version 1, which was first published in July 2016. This revised version was published following a review of the policy conducted in 2018-19. We held a public consultation and engaged with awarding bodies on this policy.

In addition to our usual policy review activities, this work was informed by our research into fees charged by awarding bodies as well as our review into the fee information that is made available to purchasers.

We keep our Regulatory Documents under review and welcome feedback at any time. Please send any comments to [policy@qualificationswales.org](mailto:policy@qualificationswales.org).

This document is available in Welsh [here](#).

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## Introduction

1. This policy is prepared in accordance with Section 47 and Schedule 3, Sections 6-11 of the Qualifications Wales Act 2015 and is intended for awarding bodies recognised by us and all users of qualifications in Wales. In accordance with the Qualifications Wales Act 2015 ("the Act"), we have the power to impose a cap on the fees charged by awarding bodies for Approved and Designated qualifications.
2. This policy outlines the approach we aim to take when imposing a Fee Capping Condition on an awarding body for such qualifications. This policy includes the criteria likely to be applied in determining whether or not to impose a Fee Capping Condition and the matters likely to be taken into account by us in determining the limit of the cap. This document also outlines the process of imposing a Fee Capping Condition and reviewing it.

## General principles

3. In accordance with our principal aims as set out in the Act, we must act in a way that we consider appropriate for the purpose of ensuring that qualifications are effective for meeting the reasonable needs of learners in Wales. In doing so, we must have due regard to whether qualifications are provided in a way that secures value for money.
4. We require recognised awarding bodies to comply with our Conditions of Recognition. Our Conditions include requirements related to value for money, which are to:
  - develop, deliver and award qualifications in an effective and efficient way;
  - provide fee information to purchasers that is accessible, up to date and transparent, and
  - notify us if they anticipate any circumstances that might result in an increase in fees<sup>1</sup>.
5. By requiring awarding bodies to publish fee information, we ensure that this information is easily accessible and available to purchasers of qualifications. When a market is working efficiently and effectively, it is expected that purchasers will make informed, reasonable decisions based on the information available to them. However, we recognise that price is only one factor amongst many when purchasing qualifications. In circumstances where purchasers do not have choice or where they do not make active choices, as a regulator of the qualification system, we have a role to play to protect learners and secure value for money in the qualification system.
6. We expect that:
  - fees should represent value for money;
  - fees should not inhibit the ability of purchasers to make effective choices in the best interests of learners;

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<sup>1</sup> Standard Conditions of Recognition A5, F1 and B3.

- relevant fee information should be accurate, kept up to date and clear to a potential purchaser, to enable them to make effective purchasing decisions;
- fees should be proportionate to, or commensurate with, the reasonable costs incurred by awarding bodies in making the relevant products or services available; and
- awarding bodies should undertake the development, delivery and award of qualifications efficiently and effectively, so that any costs reflected in fees are reasonable.

## Scope of this Policy

7. A Fee Capping Condition is a special condition of recognition that Qualifications Wales is able to impose on an awarding body it recognises. Any awarding body that is issued with a special condition of recognition must comply with this Condition in order to continue to be recognised by Qualifications Wales to award regulated qualifications to learners in Wales.
8. A Fee Capping Condition imposes a limit on the fee that an awarding body can charge in connection with the award of an Approved or Designated qualification. This includes any fee that an awarding body charges in relation to those qualifications.
9. We can impose a Fee Capping Condition in respect of Approved and Designated qualifications only, and where the course of education or training leading to the qualification, and undertaken by the person concerned, is publicly funded<sup>2</sup>.
10. For the purposes of this policy, fees relate to any, and all amounts charged by an awarding body in connection with qualifications that are Approved or Designated.

## Criteria likely to be applied to determine whether or not it is appropriate to impose a Fee Capping Condition

11. We will consider imposing a Fee Capping Condition where we believe that a fee does not represent value for money. For the purposes of this policy, value for money is made up of four components which are: Efficiency, Economy, Effectiveness, and Equity<sup>3</sup>. These 4 Es are described as follows:
  - **Efficiency** is the relationship between outputs and the resources used to produce them;
  - **Economy** is minimising the costs of resources used, while having regard to quality;
  - **Effectiveness** is the extent to which objectives are achieved and the relationship between actual and intended impacts of a product or service; and

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<sup>2</sup> For further information regarding Approved and Designated qualifications, please see our [Regulatory Framework and Approach](#)

<sup>3</sup> <https://www.nao.org.uk/successful-commissioning/general-principles/value-for-money/assessing-value-for-money/>

- **Equity** is the extent to which qualifications, and related products or services are available to and reach all people that they are intended to.

## Monitoring and Reviewing Fees

12. We will keep fees under review. We will review fees through a variety of activities including:
  - thematic reviews;
  - sector reviews;
  - research;
  - monitoring and compliance activities; and
  - responding to complaints or whistleblowing disclosures.
13. Where necessary, we may serve a written notice on an awarding body requiring the awarding body to provide data to us about fees.
14. In certain instances, we may undertake additional review activities to ensure that qualifications represent value for money, for example, when we restrict a particular form of qualification, or where a qualification has only one provider.

## Carrying out an investigation

15. When we have a concern, we may decide to carry out an investigation of the relevant fees. This investigation would seek to determine whether or not a fee represents value for money. To do this, we would consider:
  - (a) the fees charged for comparable qualifications, and/or related services or facilities (where these exist), in order to carry out a comparison, whilst noting the circumstances of that specific qualification;
  - (b) the nature of the qualification being provided, and whether the costs borne by the awarding body in providing that qualification, and/or related service or facility, are reasonable. We expect awarding bodies to have appropriate processes in place to allocate costs and a rationale for their fees;
  - (c) any impact that the fee is having on purchasers or the qualification system, whilst noting that purchasers' decisions and ability to pay are influenced by many factors along with fee levels; and
  - (d) whether or not the fee has risen significantly above the rate of inflation<sup>4</sup>.

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<sup>4</sup> In determining the rate of inflation, we will consider a range of measures including, but not limited to Consumer Price Index (CPI).

16. When carrying out an investigation, we will seek to engage with the awarding body throughout that process. As part of this investigation, we envisage that we would require the awarding body to provide information to us. This information is likely to include financial data and the organisation's rationale for the fee level they charge. All relevant data made available will be considered to determine whether or not the fee represents value for money.
17. Following the completion of our investigation, we will decide whether it is appropriate to impose a Fee Capping Condition. The criteria we are likely to apply is outlined in paragraph 5 of this policy. If we deem it appropriate to impose a cap, we will then determine the limit and these criteria are also set out in this policy.
18. These decisions will be communicated to the awarding body through the issuing of a Notice of Intent (please refer to paragraph 20 of this policy).

### **Matters likely to be taken into account in determining the limit specified in a Fee Capping Condition**

19. In determining the limit specified in a Fee Capping Condition, we will consider matters such as the following:
  - (a) the components of value for money as set out in this policy;
  - (b) the interests of learners and the potential impacts of the proposed fee level on their ability to access qualifications, and
  - (c) the ability of the awarding body to recover the reasonable costs incurred in making the qualification available.
20. We will also consider the information provided to us by the awarding body in relation to their fees.

### **Likely Duration of a Fee Capping Condition**

21. When imposing a Fee Capping Condition, we will include details of the likely duration of that Condition.
22. When determining the likely duration of a Fee Capping Condition we will consider the period for which the qualification will be available to learners.

### **Ongoing monitoring and review of a Fee Capping Condition**

23. We will periodically review a Fee Capping Condition, and when we do, we will consider matters such as the following:
  - i. whether the awarding body has complied with the Fee Capping Condition; and

- ii. any changes in circumstance that warrant a review of the cap imposed.
24. Where we review a Fee Capping Condition and conclude that it is appropriate to revise it or remove it, we would write to the awarding body to confirm this.
  25. An awarding body subject to a Fee Capping Condition must report on its compliance to us. We may also ask for additional information from the awarding body, in line with our [Policy Statement on Conducting Reviews of Qualifications and the Qualification System](#), to monitor compliance.
  26. In the event that an awarding body is non-compliant with a Fee Capping Condition, we are able to take other forms of regulatory action, as outlined in our [Taking Action When Things Go Wrong Policy](#).

## Process for imposing a Fee Capping Condition

### Stage 1 – Notice of intent

27. Prior to imposing a fee cap, we will give notice to the relevant awarding body of our intention to do so in writing. The 'Notice of Intention to Impose a Fee Capping Condition' will include:
  - i. the Fee Capping Condition we propose to impose;
  - ii. an explanation of why we propose to impose the Fee Capping Condition;
  - iii. the date by which we propose to decide whether to impose it. (This will be a period of at least 28 days, beginning with the date of the Notice); and
  - iv. an invitation for the awarding body to make representations to us and by when to do so.

### Stage 2: Representations to us before a final decision is made

28. An awarding body that receives a Notice of Intent has the following two options:
  - i. submit representations or objections in writing to us about the proposal to impose the Fee Capping Condition within 28 days. We will give due regard to representations made and then make our decision whether to impose the Fee Capping Condition; or
  - ii. do nothing, in which case, we will wait until the period in the Notice of Intent (being a minimum of 28 days) has expired, and then proceed to make a final decision about imposing the Fee Capping Condition.

### Stage 3 - Fee Capping Condition

29. If we decide to impose a Fee Capping Condition, we will give the awarding body concerned a written notice imposing the fee cap which will specify the following:

- i. the name of the awarding body to whom, the Fee Capping Condition is being imposed;
- ii. the qualification, service or facility to which the Fee Capping Condition relates;
- iii. our rationale for imposing the Fee Capping Condition;
- iv. an upper limit which is the maximum amount that the awarding body is permitted to charge in respect of the relevant qualification, service or facility;
- v. the date on which the Fee Capping Condition will come into effect<sup>5</sup>;
- vi. the likely duration of the Fee Capping Condition, including any review date(s);
- vii. the consequences of non-compliance; and
- viii. the right to request a review of our decision and by when this must be submitted to us.

## Review a Decision

30. An awarding body that is subject to a Fee Capping Condition can request a review of our decision in line with our [Regulatory Appeals Policy](#). The review will be carried out by our independent reviewer(s).
31. The reviewer(s) can uphold the decision in full or can uphold the decision to fee cap but vary the upper limit that is set. The reviewer(s) can also overturn the decision. Whichever outcome applies, we will write to the awarding body to notify them of the decision of the reviewer(s) and if any action is required following the decision.
32. Subject to the outcome of a review, we will normally publish Fee Capping Conditions on our website when appropriate and timely to do so.

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<sup>5</sup> Paragraph 9 of Schedule 3 to the 2015 Act requires this to be a date after the latest date on which a review may be requested.