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19 DEC 2016

John Spencer
Chair
Tertiary Education Commission
PO Box 27-048
Wellington 6141

Dear John

Determination of Design of Funding Mechanism: Student Achievement Component – Qualifications at Levels 1 and 2 of the New Zealand Qualifications Framework (Competitive Allocation)

I am writing to advise you of a determination of the design of a funding mechanism, under section 159L of the Education Act 1989 (the Act), for the Student Achievement Component-funded provision at Levels 1 and 2 on the New Zealand Qualifications Framework which is competitively allocated.

The new determination is set out in the appendix to this letter. The determination covers the period from 1 January 2017 to 31 December 2018.

Under section 159O of the Act, it is the Commission's responsibility to develop operational policy and practices needed to implement my determinations of the designs of funding mechanisms. I expect that the Commission will set appropriate measures as part of its Statement of Service Performance in order to report to me on its performance in giving effect to this determination.

Yours sincerely

Steven Joyce
Minister for Tertiary Education, Skills and Employment

DETERMINATION OF DESIGN OF FUNDING MECHANISM: STUDENT ACHIEVEMENT COMPONENT - QUALIFICATIONS AT LEVELS 1 AND 2 OF THE NEW ZEALAND QUALIFICATIONS FRAMEWORK (COMPETITIVE ALLOCATION)

PRELIMINARY PROVISIONS

Statutory authority

1. This funding determination for student achievement component (SAC) provision for qualifications at levels 1 and 2 on the New Zealand Qualifications Framework (NZQF) that is allocated through a competitive allocation process (funding mechanism)¹. This determination is made under section 159L of the Education Act 1989 (the Act).

Purpose

2. SAC funding contributes to the provision of teaching and learning services for enrolled students at tertiary education organisations (TEOs).
3. The SAC comprises the following two funds:
 - a. provision at levels 1 and 2 on the NZQF; and
 - b. provision at levels 3 and above on the NZQF.
4. The objectives of foundation level tertiary education (levels 1 and 2 on the NZQF) are to:
 - a. provide people who do not already have essential foundation skills with access to a low cost way to gain those skills; and
 - b. provide progression to higher level study and skilled employment; and
 - c. build the literacy and numeracy skills of eligible students; and
 - d. enable students to learn English or Te Reo Māori; and
 - e. encourage those TEOs that are best able to meet the needs of foundation education students.
5. The purpose of the competitive allocation process for provision at levels 1 and 2 on the NZQF is to:
 - a. ensure the purchase of good quality provision that reflects the government's objectives for foundation-level tertiary education; and

¹ For the requirements regarding the funding of provision at levels 1 and 2 on the NZQF which is not allocated competitively, refer to the "*Determination of design of funding mechanism: Student Achievement Component – provision at levels 1 and 2 of the New Zealand Qualifications Framework (non-competitive allocation)*".

- b. provide more certainty that the funding rates accurately reflect the costs of delivery.

On-plan funding

6. The Tertiary Education Commission (TEC) must pay funding allocated under this funding mechanism under section 159YA of the Act.

PART ONE: THE FUNDING MECHANISM

General parameters

Effective period dates

7. This funding mechanism is to fund provision from 1 January 2017 to 31 December 2018.
8. The TEC may exercise any of its administrative functions as required to give effect to this funding mechanism outside those dates.

Available funding

9. The total amount of Government funding that can be allocated under this funding mechanism will be set through the Government's annual budget processes. Up to 100% of funding for SAC level 1-2 provision can be allocated under this funding mechanism.

Allocation process and priorities

10. The TEC must establish a process for competitively allocating the funding available under this funding mechanism that reflects the Government's priorities for foundation-level tertiary education.
11. When allocating funding through the competitive allocation process, the TEC must give explicit consideration to provision of English for Speakers of Other Languages (ESOL), Te Reo Māori, special needs education, and prisoner education.

TEC administrative responsibilities in the case of under-funding

12. If a TEO receives funding under this funding mechanism that is less than it should have been, or that it was entitled to receive, the TEC must treat the amount of the under-funding as a credit and pay the amount of the under-funding as soon as reasonably practicable.

Funding formula and rates

13. The TEC must calculate SAC funding paid under this funding mechanism based on a metric comprising:
 - a. the number of valid domestic student enrolments, measured in equivalent full-time students (EFTS); and
 - b. the qualifications in which students are enrolled.

Valid domestic enrolments

14. For the purpose of calculating SAC funding paid under this funding mechanism, the term "valid domestic enrolment" refers to the enrolment of a student who is:
 - a. a domestic student²; and
 - b. either
 - i. aged 16 years and over; or
 - ii. aged under 16 years and meets the criteria determined by the TEC; and
 - c. studying in New Zealand, unless the student meets criteria established by the TEC.
15. The TEC must establish criteria for determining under which circumstances a student can be considered to be a valid domestic enrolment where he or she is aged under 16 years.
16. The TEC must establish the requirements that TEOs must comply with to verify each student's identity, and confirm that a student is a valid domestic enrolment.

Invalid domestic enrolments

17. Even if a student meets the criteria specified in paragraph 14, the enrolment is not a valid domestic enrolment for the purposes of this funding mechanism if it has been secured by way of an inducement.
18. An inducement may include a financial incentive or on-going personal possession of physical items where they induce a student to enrol.
19. The TEC must establish criteria for determining what constitutes an inducement.

The metric

Measurement of enrolments

20. The TEC must measure valid domestic enrolments in units of EFTS. One (1.0) EFTS unit is defined as the student workload that would normally be carried out by a student enrolled full-time in a single academic or calendar year.
21. The EFTS value of a qualification represents the TEC's assessment of the normal minimum time for a successful full-time student to complete the qualification. In addition, the credit value assigned to the qualification by either the New Zealand Qualifications Authority (NZQA) or the New Zealand Vice-Chancellors Committee must be a part of the EFTS metric.

² For the definition of domestic student, refer to section 159 of the Education Act 1989.

22. The TEC must consider qualifications that the TEO has disaggregated into component courses. The TEC must assign each course an EFTS factor that represents the proportion of the whole qualification that the course constitutes.

Funding rates

23. As part of the process for competitively allocating the funding available under this funding mechanism, the TEC must ensure that each TEO specifies a funding rate per EFTS, which takes into account that provision will be delivered fees-free to the learner.

Performance-linked funding

24. There will be a performance-linked funding element that is applied to the SAC-funded provision for qualifications at level 1 and 2. This is set out in a separate funding mechanism.

TEO eligibility

25. The TEC may only fund a TEO under this funding mechanism if the TEO is one of the following:
- a. an institute of technology and polytechnic (ITP);
 - b. a wānanga;
 - c. a university; or
 - d. a private training establishment (PTE).
26. When establishing the competitive process to allocate funding under this funding mechanism, the TEC may develop other TEO eligibility criteria including a TEO's previous NZQA external evaluation and review results, or a minimum or maximum level of funding per TEO.

TEO quality assurance

27. To be eligible for funding under this funding mechanism, a TEO must be quality assured by:
- a. the NZQA, if the TEO is an ITP, a wānanga or a PTE; or
 - b. the New Zealand Vice-Chancellors' Committee, if the TEO is a university.

Eligibility of students

28. The TEC must ensure that the funding that is allocated to a TEO under this funding mechanism is only used for valid domestic student enrolments, as defined by paragraph 14.
29. The TEC must take into account a TEO's enrolment practices for students with prior qualifications, as set out in paragraph 30.

Students with prior qualifications

30. Up to 10% of a TEO's enrolments can have already achieved a qualification at level 2 or higher on the NZQF (a prior qualification).
31. The TEC must measure the limit on enrolments with a prior qualification:
 - a. collectively across a TEO's enrolments in SAC level 1-2 provision funded through the funding mechanisms for the competitive allocation (this funding mechanism) and the non-competitive allocation³; and
 - b. by excluding enrolments in qualifications in ESOL or Te Reo Māori; and
 - c. by excluding qualifications achieved five years or more prior to the current enrolment; and
 - d. in-line with other methodology set by the TEC.
32. For TEOs that exceed the prior qualification limit, specified in paragraph 30, the TEC must require TEOs from 2017 to:
 - a. provide further information about their enrolment processes or the students enrolling with prior qualifications; and/or
 - b. develop a plan to work towards meeting the limit on enrolments with prior qualifications.
33. For 2018 delivery, the TEC must take into account the TEO's proportion of enrolments above the prior qualification limit, and may recover funding.

Qualifications

Eligible qualifications

34. The TEC must ensure that funding allocated under this funding mechanism is only used for provision that:
 - a. meets the objectives of foundation-level tertiary education (as set out in paragraph 4 above); and
 - b. leads to:
 - (i) a full qualification (of 40 credits or more) at level 1 or 2 on the NZQF; or
 - (ii) National Certificate of Educational Achievement (NCEA) at level 2 that is aligned with one or more of the Vocational Pathways; and
 - c. includes embedded literacy and numeracy provision (except for qualifications in ESOL or Te Reo Māori); and

³ "Determination of design of funding mechanism: Student Achievement Component – provision at levels 1 and 2 of the New Zealand Qualifications Framework (non-competitive allocation)".

- d. includes an assessment process, under which students are assessed using the Literacy and Numeracy for Adults Assessment Tool (except for qualifications taught predominantly in Te Reo Māori); and
- e. involve synchronous learning (delivered in real-time to the student); and
- f. may be delivered extramurally, with prior approval of the TEC; and
- g. is provided by tutors who are appropriately qualified⁴.

Ineligible qualifications

- 35. The TEC must ensure that SAC funding paid to a TEO under this funding mechanism is not used for qualifications where the TEC considers on reasonable grounds that a majority of the qualification relates to health and safety or regulatory compliance.

PART TWO: FUNDING CONDITIONS

Conditions that the TEC must attach to funding

- 36. The TEC must impose the following specific conditions on funding provided to each TEO under this funding mechanism.

Tertiary Education Organisations

- 37. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must meet, and for the length of the funding period, continue to meet all the eligibility criteria specified in paragraphs 25 to 27 of this funding mechanism.
- 38. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must not subcontract any of its activities funded under this funding mechanism.

Students and enrolments

- 39. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must ensure that each eligible student meets and continues to meet the criteria specified in paragraph 28 of this funding mechanism.
- 40. The TEC must attach to funding a condition that a TEO must not:
 - a. restrict enrolment in eligible qualifications funded under this funding mechanism on the basis of private advantage (for example, enrolment being restricted to the TEO's employees only); or
 - b. secure or seek to secure a valid domestic enrolment through offering of an inducement.

⁴ The appropriateness of qualified tutors relates to the foundation education qualification being delivered, including specialist areas, such as ESOL, Te Reo Māori and supported learning, as well as capability around the delivery of embedded literacy and numeracy, for relevant provision (see paragraph 34c).

41. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism limits enrolments with prior qualifications, as specified in paragraphs 30 and 31.
42. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must verify a student's identity, and confirm that a student is a valid domestic enrolment in accordance with the requirements developed by the TEC.

Reporting withdrawals to Ministry of Social Development

43. The TEC must attach a condition of funding that a TEO that receives funding under this mechanism report the withdrawal of students to the Ministry of Social Development within five working days. This is to enable student loans and student allowances to be cancelled as soon as possible.

Qualifications

44. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must ensure that a qualification in which an eligible student is enrolled meets and continues to meet the criteria specified in paragraph 34 of this funding mechanism.
45. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism, for provision as set out in paragraph 34(d), must have in place an effective assessment process for identifying a learner's initial literacy and numeracy needs, and measure their progress, using the most appropriate version of the Literacy and Numeracy for Adults Assessment Tool.⁵
46. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must ensure that a majority of the qualification in which an eligible student is enrolled does not include health and safety or regulatory compliance learning.

Fees and associated course costs

47. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must not charge a fee to a student enrolled in a qualification that is funded under this funding mechanism.
48. For the purposes of this condition, the term "fee" includes the following items: tuition fees, compulsory course costs, examination fees, costs of materials, costs of field trips, costs associated with the compulsory purchase of equipment or books through a TEO, and other charges associated with a course that is part of a qualification.
49. For the purposes of this condition, the term "fee" does not include compulsory student services fees or fees for student identification cards.
50. Any change to the limits on fees in respect of funding allocated under this funding mechanism will be determined by way of a supplementary funding mechanism.

⁵ Including Adult, Youth, Te Ata Hāpara and Starting Points, as appropriate.

51. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism:
- a. must pay for the necessary equipment, infrastructure and hardware required to deliver a particular course or qualification⁶; and
 - b. in relation to the provision of essential equipment, including computers, diving hardware, and chainsaws, must not require the costs to be met through the "course-related costs" component of the Student Loan Scheme, as a condition of enrolment for students.

Compulsory student services fee (CSSF)

52. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism and who charges a compulsory student services levy, must at the beginning of each year, publish on their website:
- a. basic CSSF information for the year, including the amount charged per EFTS and a description of the student services the fee supports;
 - b. a description of the current year's CSSF decision making process – including a description of how the current fee and services offered were determined, how consultation with students occurred and what the decisions were; and
 - c. a description of how students can be involved in CSSF decisions for the following year – how TEOs propose to consult with their students and what issues might be considered.

TEO responsibilities

53. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must meet minimum performance standards specified by the TEC.

No other funding

54. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must:
- a. not (without the TEC's prior written consent) seek or obtain funding from any Crown source other than the TEC to fund provision which is funded under this funding mechanism; and
 - b. notify the TEC immediately if it becomes aware of any circumstances that might result in a breach of sub-paragraph (a) of this condition.

⁶ The phrase "equipment, infrastructure and hardware" refers to those items that can be used by successive intakes of students. It does not include personal items which are provided for individual student use and which the TEO does not retain for the next intake of students.

Responsible use of funding

55. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must use the funding:
- a. lawfully, responsibly, and for the purposes for which it is provided; and
 - b. in a manner consistent with the appropriate use of public funds.

Recovery of over-funding

56. The TEC must attach to funding a condition that if a TEO receives funding under this funding mechanism that is greater than it should have been, or that it was not entitled to receive, the TEO must treat the amount of the over-funding as a debt due to the Crown that:
- a. is repayable on demand; and
 - b. may be set-off against all or any funding, or any sum of money payable by the TEC to the TEO.
57. The TEC must provide the TEO with reasonable notice before exercising its right to demand repayment or set-off the debt against all or any funding.
58. For the purposes of this condition, a TEO will have received funding that was "greater than it should have been" if the total dollar value of the provision funded under this funding mechanism that is delivered by a TEO within a funding year is less than 99% of the total dollar value for the provision paid to the TEO under this funding mechanism.
59. In that situation, the percentage of funding that is repayable is equal to the difference between the bottom of the tolerance band (99%) and the percentage value of the provision that was delivered.

Employment outcomes of tertiary education information

60. The TEC must attach to funding a condition that a TEO consents for the purposes of section 37A(a) of the Statistics Act 1975, to Statistics New Zealand disclosing information to the Ministry of Education and the TEC from its Integrated Data Infrastructure that identifies, or may identify, the TEO.
61. The TEC must inform TEOs that the Statistics Act 1975 does not constrain the ongoing use or sharing of the TEO-level data once it is disclosed.

Specific conditions that the TEC must attach to Tertiary Education Institutions (TEIs) funded under this funding mechanism

62. The following specific conditions must be attached to funding provided to TEIs under this funding mechanism.

Enrolment

63. The TEC must attach to funding a condition that a TEI must keep accurate and up-to-date records of valid domestic enrolments in accordance with the requirements developed by the TEC.

Benchmarking

64. The TEC must attach to funding a condition that a TEI must participate as appropriate in benchmarking, including:
 - a. providing the vendor with financial and performance information as requested, in a timely manner; and
 - b. engaging with the vendor over follow-up questions and related quality assurance processes, in a timely manner.