



MP for Rimutaka

Minister of Education

Minister of State Services

Leader of the House

Minister Responsible for Ministerial Services

26 OCT 2018

Nigel Gould
Chair
Tertiary Education Commission
PO Box 27-048
Wellington 6141

Dear Nigel

Determination of Design of Funding Mechanism: Adult and Community Education

I am writing to advise you of the new determination of design of funding mechanism that I have made under section 159L of the Education Act 1989 (the Act) for Adult and Community Education. The new determination is set out in the appendix to this letter.

Under section 159O of the Act, it is the Commission's responsibility to develop the operational policy and practices needed to implement my determinations of the design of funding mechanisms. This includes working with tertiary education organisations (TEOs) if there is any impact upon existing operations. 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.

Delegation to pay Immigration Levy funding

I delegate to the Commission (under section 159F(1)(e) of the Act) authority to pay Immigration Levy funding allocated by Cabinet for ESOL provision for adult migrants to TEOs. In allocating this funding, the Commission must apply the eligibility criteria for TEOs, programmes, and learners that currently apply to Adult and Community Education.

This delegation is effective until 31 December 2018. The Commission may exercise any of its administrative functions as required to give effect to this delegation outside of these dates. From 1 January 2019, Immigration Levy funding allocated by Cabinet for ESOL provision for adult migrants is covered by the appended determination of design of funding mechanism for Adult and Community Education.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Chris Hipkins'.

Chris Hipkins
Minister of Education

DETERMINATION OF DESIGN OF FUNDING MECHANISM: ADULT AND COMMUNITY EDUCATION

PRELIMINARY PROVISIONS

Statutory authority

1. This funding mechanism for adult and community education is made under section 159L of the Education Act 1989 (the Act).

Purpose

2. This funding determination covers the Adult and Community Education (ACE) Fund, which includes Immigration Levy funding allocated by Cabinet for ESOL provision for adult migrants.
3. The purpose of the ACE Fund is to purchase provision that provides adults with community-based education, foundation skills, and pathways into other learning opportunities that meet community learning needs.

On-Plan funding

4. The TEC must pay funding for ACE under section 159YA of the Act.

PART ONE: THE FUNDING MECHANISM

GENERAL PARAMETERS

Effective period

5. This funding mechanism is to fund ACE provision delivered from 1 January 2019.
6. The TEC may exercise any of its administrative functions as required to give effect to this funding mechanism before this date.

Available funding

7. The total amount of Government funding that can be allocated under this funding mechanism will be set through the Government's annual budget processes.

TEC administrative responsibility in the case of under-funding

8. If a tertiary education organisation (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 pay the amount of the under-funding as soon as is reasonably practicable.

SPECIFIC PARAMETERS

TEO eligibility

9. The TEC may only fund a TEO under this funding mechanism for ACE provision if the TEO is one of the following:
 - a. an institute of technology and polytechnic (ITP);
 - b. a wānanga;
 - c. a private training establishment (PTE) that specialises in foundation learning;
 - d. a rural education activities programme (REAP) provider;
 - e. a community organisation; or
 - f. a state or state integrated school.

TEO quality assurance

10. To be eligible for ACE funding under this funding mechanism, a TEO (other than a community organisation) must be quality assured by:
 - a. the New Zealand Qualifications Authority (NZQA), if the TEO is an ITP, a wānanga, a PTE, or a REAP provider; or
 - b. the Education Review Office, if the TEO is a state or state integrated school.

ITPs and wānanga - funding formula and rate

11. The TEC must measure ACE enrolments at ITPs and wānanga in units of equivalent full-time students (EFTS). One (1.0) EFTS unit is defined as the learner workload that would normally be carried out by a learner enrolled full-time in a single academic or calendar year.
12. The TEC must allocate funding for ACE provision at a fixed rate of \$4,444.44 per EFTS (GST exclusive).

ITPs and wānanga - funding priorities

13. When allocating ACE funding to ITPs and wānanga, the TEC must:
 - a. take into account each ITP's or wānanga's overall portfolio of ACE provision; and
 - b. prioritise funding for ACE provision that primarily focuses on:
 - i. the learning of foundation skills; and
 - ii. the re-engagement of learners whose previous learning was not successful; and

- iii. ensuring the progression of learners into formal tertiary education.

PTEs, REAP providers, and community organisations - funding formula and rates

14. The TEC must determine the appropriate total amount of funding for a PTE, REAP provider or community organisation to be funded for ACE provision.

PTEs, REAP providers, and community organisations - funding priorities

15. When allocating ACE funding to PTEs, REAP providers and community organisations, the TEC must:
 - a. take into account each PTE's, REAP provider's or community organisation's overall portfolio of ACE provision; and
 - b. prioritise funding for ACE provision that primarily focuses on:
 - i. literacy, digital literacy, and/or numeracy; or
 - ii. English language, including English for Speakers of Other Languages (ESOL); or
 - iii. New Zealand Sign Language; or
 - iv. Te Reo Māori.

State schools and state integrated schools - funding formula and rates

16. The TEC must allocate funding for ACE provision to state schools and state integrated schools at a fixed hourly rate (\$7.27 per hour) for a minimum number of hours of ACE provision per learner.

State schools and state integrated schools - funding priorities

17. When allocating funding for ACE provision to state schools and state integrated schools, the TEC must:
 - a. take into account each school's overall portfolio of ACE provision; and
 - b. ensure that each school will prioritise learners with the highest need. It is expected that at least 50% of the learners enrolled in the school's funded ACE provision will:
 - i. identify as having English language needs; or
 - ii. have low or no formal qualifications; or
 - iii. identify as Māori or Pasifika; and
 - c. prioritise funding for ACE provision that primarily focuses on:
 - i. literacy, digital literacy, and/or numeracy; or

- ii. English language, including ESOL; or
- iii. New Zealand Sign Language; or
- iv. Te Reo Māori.

Eligible programmes

18. The TEC must require a TEO to ensure that it only receives ACE funding for an eligible learner enrolled in a programme of study or training that is designed to:
- a. target learners whose previous learning was not successful; and
 - b. raise foundation skills; and
 - c. strengthen social cohesion, enhancing a learner's ability to participate in society and economic life.
19. A programme of study or training does not have to meet all of the criteria specified in paragraph 18 if it is a programme of study or training in ESOL, New Zealand Sign Language, or Te Reo Māori.

Learner eligibility

20. The TEC must require a TEO to ensure that it only receives ACE funding for a learner enrolled in an ACE programme who is:
- a. a domestic student¹; and
 - b. 16 years of age or over; and
 - c. not a full-time secondary school student.
21. A TEO may receive funding for ACE provision for a learner who does not meet the criteria specified in paragraph 20 only if that learner is:
- a. under the age of 16 years and he or she participates with adults in family-based provision; or
 - b. a full-time secondary school student:
 - i. who is 16 years of age and over; and
 - ii. who receives ACE provision outside of normal school hours; and
 - iii. who has obtained approval from the relevant school principal; and
 - iv. for whom the TEO has obtained approval from the TEC.

¹ As defined in section 159 of the Education Act 1989.

PART TWO: FUNDING CONDITIONS

Conditions that the TEC must attach to funding

22. The TEC must attach the following specific conditions to funding paid under this funding mechanism:

Tertiary Education Organisations

23. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must, for the length of the funding period, continue to meet the criteria specified in paragraphs 9 and 10 of this funding mechanism.
24. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must:
- a. not subcontract any of the funded activities without the prior written consent of the TEC; and
 - b. comply with any conditions imposed by the TEC on a consent to subcontract; and
 - c. ensure that a subcontracted party does not further subcontract any functions; and
 - d. remain accountable for the use of the funding.

Programmes

25. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must ensure that a programme in which an eligible learner is enrolled continues to meet the criteria specified in paragraph 18 or 19 of this funding mechanism.

Learners

26. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must ensure that each learner who is enrolled in a programme of study or training funded under this funding mechanism meets and continues to meet the criteria specified in paragraphs 20 or 21 of this funding mechanism.

TEO responsibilities

27. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must work with local organisations, peak bodies, groups, and communities, including other TEOs involved in ACE, to identify and meet community learning needs.
28. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must provide the TEC with access to its premises, employees, and information for the purposes of:

- a. inspecting the records that the TEO must keep; or
 - b. auditing the TEO's compliance with funding conditions and requirements in the Act.
29. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism:
- a. must design and provide ACE programmes of study or training that:
 - i. if the TEO is an ITP or wānanga, align with the priorities specified in paragraph 13(b); or
 - ii. if the TEO is a PTE, REAP provider, or a community organisation, align with the priorities specified in paragraph 15(b); or
 - iii. if the TEO is a state school or state integrated school, align with the priorities specified in paragraph 17(b) and (c); and
 - b. must not use ACE funding to provide programmes of study or training to a group or class of secondary school students, even if the programme of study or training is provided outside school hours; and
 - c. must not use ACE funding to provide professional development courses for ACE teachers and tutors.

Fees

30. 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 programme²; and
 - b. in relation to the provision of essential equipment, including computers, 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.
31. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must:
- a. ensure that the level of fees it sets for ACE programmes of study or training does not prevent individuals from enrolling in those programmes; and
 - b. charge the same fee to all learners participating in an ACE programme of study or training funded under this funding mechanism.

² 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.

No other funding

32. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism:
- a. must 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. must notify the TEC immediately if it becomes aware of any circumstances that might result in a breach of subparagraph (a) of this condition.

Responsible use of funding

33. 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

34. 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.
35. 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.

Repayment of funding following revocation of funding approval

36. The TEC must attach to funding a condition that if, in accordance with section 159YG of the Act, the TEC suspends or revokes some or all of a TEO's funding paid under this funding mechanism before that funding provided has been used or contractually committed towards the purposes for which that funding was provided, then the TEO must treat the unexpended or uncommitted portion of the funding as a debt due to the Crown and:
- 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.

Specific condition that the TEC must attach to funding for TEIs funded under this funding mechanism

Enrolment

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