



Office of Hon Steven Joyce

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Minister for Regulatory Reform
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Minister for Tertiary Education, Skills and Employment

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

Dear John

Determination of Design of Funding Mechanism: Specialised English for Speakers of Other Languages

I am writing to advise you of the determination of design of funding mechanism that I have made under section 159L of the Education Act 1989 for the Intensive Literacy and Numeracy ESOL Fund and the Intensive Literacy and Numeracy Refugee English Fund.

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

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 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: SPECIALISED ENGLISH FOR SPEAKERS OF OTHER LANGUAGES

PRELIMINARY PROVISIONS

Statutory authority

1. This funding mechanism for Specialised English for Speakers of Other Languages is made under section 159L of the Education Act 1989 (the Act).

Purpose

2. Specialised English for Speakers of Other Languages (ESOL) comprises two funds:
 - a. the Intensive Literacy and Numeracy Fund, ESOL Fund (ILN ESOL Fund); and
 - b. the Intensive Literacy and Numeracy, Refugee English Fund (ILN Refugee English Fund).
3. The purpose of these specialised ESOL funds is to:
 - a. increase opportunities for adults to engage in literacy and numeracy learning, particularly migrants and refugees; and
 - b. raise adults' literacy and numeracy skills to help learners progress onto further study and employment; and
 - c. improve the quality and relevance of provision, including the ability to identify learner need and learning gain.
4. For the avoidance of doubt, the general parameters and conditions included in this funding mechanism apply to both funds unless stated otherwise.

Definition

5. For funding purposes, the term "refugee" covers refugees, protected persons, and people sponsored by a refugee or protected person.¹

On-Plan funding

6. The Tertiary Education Commission (TEC) must pay funding for specialised ESOL under section 159YA of the Act.

¹ For the removal of doubt this includes the thirty Afghan interpreters who worked for the New Zealand-led Provincial Reconstruction team in Afghanistan and their dependants who were granted residency. In addition, this includes those persons who have been recognised as a refugee or a protected person in accordance with Part 5 of the Immigration Act 2009, and whose application for residence is being processed.

PART ONE: THE FUNDING MECHANISM

GENERAL PARAMETERS

Effective period

7. This funding mechanism is to fund specialised ESOL provision delivered from 1 January 2017 to 31 December 2017.
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.

TEC administrative responsibilities

10. If a tertiary education organisation (TEO) receives funding under this funding mechanism that is less than it should have been, or than it was entitled to receive, the TEC must pay the amount of the under-funding as soon as is reasonably practicable.

Geographical areas of provision

11. The TEC must prioritise funding allocated under this funding mechanism to TEOs located in common refugee settlement areas.²

SPECIFIC PARAMETERS

A. THE ILN ESOL FUND

Purpose

12. The purpose of the ILN ESOL Fund is to fund the intensive provision of ESOL learning opportunities within an appropriately structured environment.

Funding rate

13. The TEC must allocate \$18.75 of funding from the ILN ESOL Fund to TEOs per hour of ESOL tuition.
14. The total hours of ESOL tuition delivered per learner by a TEO is expected to be between 20 and 500 hours per year.
15. The ESOL tuition must be delivered at the intensity of 5 to 40 hours per week.
16. The TEC must monitor provision funded under the ILN ESOL Fund to ensure that it is delivered in accordance with paragraphs 14 and 15. TEO performance

² Note that West Auckland, South Auckland, Hamilton, Palmerston North, Wellington (City), Lower Hutt, Porirua, Christchurch, Nelson and Dunedin are the most common refugee resettlement areas, but other refugee resettlement areas may be established from time to time.

in respect of this must be used by the TEC to inform future allocations through this fund.

TEO eligibility

17. The TEC must only fund a TEO from the ILN ESOL Fund if the TEO is:
 - a. one of the following:
 - i. a university;
 - ii. an institute of technology and polytechnic (ITP);
 - iii. a wānanga;
 - iv. a private training establishment (PTE);
 - v. a state school or state integrated school;
 - vi. a rural education activities programme (REAP) provider; or
 - vii. a community organisation; and
 - b. has demonstrated expertise in delivering ESOL to adult refugees and migrants.
18. The TEC must only fund a TEO from the ILN ESOL Fund if the TEO (other than a REAP provider or community organisation) is quality assured by:
 - a. the New Zealand Vice-Chancellors' Committee, if the TEO is a university; or
 - b. the New Zealand Qualifications Authority (NZQA), if the TEO is an ITP, wānanga, or PTE; or
 - c. the Education Review Office, if the TEO is a state school or state integrated school.

Programme eligibility

19. The TEC must only fund a programme of study or training from the ILN ESOL Fund that:
 - a. has English language and literacy outcomes; and
 - b. is taught by appropriately qualified and experienced ESOL educators; and
 - c. is flexible and tailored to respond to the particular needs of adult learners (for example, provision may be delivered at off-peak times for those in employment).

Learner eligibility

20. The TEC must only fund a TEO from the ILN ESOL Fund in respect of a learner who:

- a. is one of the following:
 - i. a refugee as defined in paragraph 5 of this funding mechanism; or
 - ii. a migrant; or
 - iii. a person for whom English is their second language;
- b. is a “domestic student” as defined under section 159 of the Education Act 1989;
- c. meets the following criteria:
 - i. is 16 years of age or over; and
 - ii. has low English language and/or literacy skills.

B. THE ILN REFUGEE ENGLISH FUND

Purpose

- 21. The purpose of the ILN Refugee English Fund is to support refugees to reach a level of English that will allow them to enter employment, or undertake their choice of vocational or degree-level education, through providing fees-free access to programmes leading to an ESOL qualification.

Funding rates

- 22. The TEC must allocate funding to TEOs on the basis of:
 - a. a specified number of fees-free places on programmes leading to ESOL qualifications at Level 3 and above on the New Zealand Qualifications Framework (NZQF); and
 - b. the tuition fees charged for enrolment in programmes leading to ESOL qualifications at Level 3 and above on the NZQF; and
 - c. pastoral care of \$400 per place, to be used for supporting the educational achievement of learners³.

TEO eligibility

- 23. The TEC must only fund a TEO from the ILN Refugee English Fund if the TEO is:
 - a. one of the following:
 - i. a university;
 - ii. an ITP;
 - iii. a wānanga;

³ This pastoral care may also be shared with other refugee learners at the TEO.

- iv. a PTE; and
 - b. experienced in educating refugees.
- 24. The TEC must only fund a TEO from the ILN Refugee English Fund if the TEO is quality assured by:
 - a. the New Zealand Vice-Chancellors' Committee, if the TEO is a university; or
 - b. NZQA, if the TEO is an ITP, wānanga, or PTE.

Programme eligibility

- 25. The TEC must only fund a TEO for a programme of study or training funded from the ILN Refugee English Fund if the programme:
 - a. meets the criteria specified at paragraph 42 of the *Determination of Design of Funding Mechanism: Student Achievement Component – Provision at Level 3 and above of the New Zealand Qualifications Framework*; and
 - b. leads to the award of an ESOL certificate or diploma at Level 3 or above on the NZQF.

Learner eligibility

- 26. The TEC must only fund a TEO from the ILN Refugee English Fund in respect of a learner who:
 - a. is a “domestic student” as defined under section 159 of the Education Act 1989;
 - b. is a refugee as defined in paragraph 5 of this funding mechanism.

PART TWO: FUNDING CONDITIONS

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

Tertiary Education Organisations

- 28. 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 at:
 - a. paragraphs 17 and 18 of this funding mechanism, if the funding is from the ILN ESOL Fund; or
 - b. paragraphs 23 and 24 of this funding mechanism, if the funding is from the ILN Refugee English Fund.

Programmes

29. 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 at:
- a. paragraph 19 of this funding mechanism, if the funding is from the ILN ESOL Fund; or
 - b. paragraph 25 of this funding mechanism, if the funding is from the ILN Refugee English Fund.

Learners

30. 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 continues to meet the criteria specified at:
- a. paragraph 20 of this funding mechanism, if the funding is from the ILN ESOL Fund; or
 - b. paragraph 26 of this funding mechanism, if the funding is from the ILN Refugee English Fund.

TEO responsibilities: ILN ESOL Fund

31. The TEC must attach to funding a condition that a TEO that receives funding from the ILN ESOL Fund 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.⁴
32. The TEC must attach to funding a condition that a TEO that receives funding from the Intensive Literacy and Numeracy, ILN ESOL Fund must only allow a learner to re-enrol in a programme funded through the ILN ESOL Fund, for a period of up to five years in total.

TEO responsibilities: ILN Refugee English Fund

33. The TEC must attach to funding a condition that a TEO that receives funding from the ILN Refugee English Fund must only allow a learner to re-enrol in a programme funded through the ILN Refugee English Fund, for a period of up to three years in total.

Reporting withdrawals to Ministry of Social Development

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

⁴ Including Adult, Youth, Te Ata Hāpara and Starting Points, as appropriate.

Fees

35. The TEC must attach to funding a condition that the TEO must not charge a fee in 2017 to a learner who is participating in an eligible programme for which a TEO receives funding under this funding mechanism.

Subcontracting

36. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must not subcontract delivery of ESOL provision.

No other funding

37. 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 (including a Crown entity or a company wholly owned by the Crown) other than the TEC to fund a programme or training scheme 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 subparagraph (a) of this condition.

Responsible use of funding

38. 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

39. 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.
40. 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

41. 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 has been used or contractually committed towards the purposes for which that funding was

provided, the TEO must treat the unexpended or uncommitted portion of the funding as a debt due to the Crown that is:

- a. 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.