



Office of Hon Steven Joyce

Minister for Economic Development
Minister of Science and Innovation
Minister for Tertiary Education, Skills and Employment
Associate Minister of Finance

23 SEP 2014

John Spencer
Chair
Tertiary Education Commission
PO Box 27-048
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Dear John

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

I am writing to advise you of the new funding determination that I have made under section 159L of the Education Act 1989 for specialised ESOL.

The new determination is set out in the appendix to this letter. The determination covers the period 1 January 2015 to 31 December 2016.

This determination includes two substantial changes from the previous determination, the alteration of time limits within both the Intensive Literacy and Numeracy (ILN) ESOL fund, and the ILN Refugee English Fund, and additional provision of \$400 per learner place for pastoral care for learners in the ILN Refugee English Fund.

These changes will allow the courses to better meet refugee learner needs. I expect the Tertiary Education Commission to effectively monitor the implications from these changes to ensure provision continues to make effective use of Government funds.

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 these determinations.

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 determination, which is made under section 159L of the Education Act 1989 (the Act), specifies the design of the funding mechanism for Specialised English for Speakers of Other Languages (funding mechanism).

Purpose

2. Specialised English for Speakers of Other Languages (ESOL) comprises two funds:
 - a. the Intensive Literacy and Numeracy Fund, ESOL Fund; and
 - b. the Intensive Literacy and Numeracy, 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 person¹.

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.

PART ONE: THE FUNDING MECHANISM

GENERAL PARAMETERS

Effective period

7. This funding mechanism is to fund specialised ESOL provision delivered from 1 January 2015 to 31 December 2016.
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.

SPECIFIC PARAMETERS

A. THE INTENSIVE LITERACY AND NUMERACY FUND, ESOL FUND

Purpose

10. The purpose of the Intensive Literacy and Numeracy, ESOL Fund is to fund the intensive provision of ESOL learning opportunities within an appropriately structured environment.

Funding rate

11. The TEC must allocate funding at a fixed rate to be calculated on the basis of a tertiary education organisation (TEO) providing an average of 200 hours of ESOL tuition per learner within a 10 to 26 week period.
12. The TEC must monitor the provision under the Intensive Literacy and Numeracy, ESOL Fund to ensure an average of 200 hours of ESOL tuition per learner is achieved. TEO performance in respect of this must be used by the TEC to inform future allocations through this Fund.

TEO eligibility

13. The TEC must only fund a TEO from the Intensive Literacy and Numeracy, 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.
14. The TEC must only fund a TEO from the Intensive Literacy and Numeracy, 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, 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.

Geographical areas of provision

15. The TEC must prioritise funding from the Intensive Literacy and Numeracy, ESOL Fund to TEOs located in common refugee settlement areas².

Programme eligibility

16. The TEC must only fund a programme of study or training from the Intensive Literacy and Numeracy, ESOL Fund that:
- a. has English language and literacy outcomes; and
 - b. is taught by appropriately qualified and experienced 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

17. The TEC must only fund a TEO from the Intensive Literacy and Numeracy Fund, 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 his or her second language;

² Note that West Auckland, South Auckland, Hamilton, Palmerston North, Wellington (City), Lower Hutt, Porirua, Christchurch and Nelson are the most common refugee resettlement areas.

- b. meets the following criteria;
 - i. is a New Zealand citizen or resident; and
 - ii. is 16 years of age or over; and
 - iii. has low English language and/or literacy skills.

B. THE INTENSIVE LITERACY AND NUMERACY FUND, REFUGEE ENGLISH, FUND

Purpose

18. The purpose of the Intensive Literacy and Numeracy, 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

19. 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

20. The TEC must only fund a TEO from the Intensive Literacy and Numeracy, Refugee English Fund if the TEO is:
- a. one of the following:
 - i. a university;
 - ii. an ITP;
 - iii. a wānanga;
 - iv. a PTE; and
 - b. experienced in educating refugees.

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

21. The TEC must only fund a TEO from the Intensive Literacy and Numeracy, 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. the New Zealand Qualifications Authority, if the TEO is an ITP, wānanga, or PTE.

Programme eligibility

22. The TEC must only fund a TEO for a programme of study or training funded from the Intensive Literacy and Numeracy, Refugee English Fund if the programme:
- a. meets the criteria specified at paragraph 38 of the *Determination of Design of Funding Mechanism: Student Achievement Component – Provision at Level 3 and above of the New Zealand Qualifications Framework*⁴; and
 - b. leads to the award of an ESOL certificate or diploma at level 3 or above on the NZQF.

Learner eligibility

23. The TEC must only fund a TEO from the Intensive Literacy and Numeracy, Refugee English Fund in respect of a learner who:
- a. is a New Zealand citizen or resident; and
 - b. is a refugee as defined in paragraph 5 of this funding mechanism.

⁴ The criteria specified within at paragraph 38 of the *Determination of Design of Funding Mechanism: Student Achievement Component – Provision at Level 3 and above of the New Zealand Qualifications Framework* is that funding can only be used for a course that:

- a. is part of a programme that:
 - i. leads to the award of a qualification at level 3 to 10 on the NZQF; and
 - ii. if offered by a PTE, comprises 40 or more credits; and
 - iii. has been quality assured by either NZQA or the New Zealand Vice-Chancellors' Committee (where appropriate); or
- b. is part of a training scheme that:
 - i. leads to an award that is not a qualification listed on the NZQF; and
 - ii. has been quality assured by either NZQA or the New Zealand Vice-Chancellors' Committee (where appropriate).

PART TWO: FUNDING CONDITIONS

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

Tertiary Education Organisations

25. 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 13 and 14 of this funding mechanism, if the funding is from the Intensive Literacy and Numeracy Fund, ESOL Fund; or
 - b. paragraphs 20 and 21 of this funding mechanism, if the funding is from the Intensive Literacy and Numeracy Fund, Refugee English Fund.

Programmes

26. 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 16 of this funding mechanism, if the funding is from the Intensive Literacy and Numeracy, ESOL Fund; or
 - b. paragraph 22 of this funding mechanism, if the funding is from the Intensive Literacy and Numeracy, Refugee English Fund.

Learners

27. 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 17 of this funding mechanism, if the funding is from the Intensive Literacy and Numeracy, ESOL Fund; or
 - b. paragraph 23 of this funding mechanism, if the funding is from the Intensive Literacy and Numeracy, Refugee English Fund.

TEO responsibilities: Intensive Literacy and Numeracy, ESOL Fund

28. The TEC must attach to funding a condition that a TEO that receives funding from the Intensive Literacy and Numeracy, ESOL Fund must have in place an effective assessment process for identifying a learner's literacy and numeracy gains agreed by the TEC, for example the use of the Literacy and Numeracy for Adults Assessment Tool (Starting Points).
29. The TEC must attach to funding a condition that a TEO that receives funding from the Intensive Literacy and Numeracy, ESOL Fund must only allow a learner to re-enrol in a programme funded through the Intensive Literacy and Numeracy, ESOL Fund, for a period of up to five years in total.

TEO responsibilities: Intensive Literacy and Numeracy, Refugee English Fund

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

Fees

31. The TEC must attach to funding a condition that the TEO must not charge a fee in 2015 to a learner who is participating in an eligible programme for which a TEO receives funding under this funding mechanism.
32. Any limits on fees for 2016 will be determined by way of a supplementary funding mechanism to be issued the preceding year. It is likely that this funding will continue to remain fees-free.

Subcontracting

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

33. 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

34. 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

35. 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.
36. 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

37. 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.

TEC administrative responsibilities

38. If the 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.