



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

16 DEC 2013

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 (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 literacy and numeracy provision.

The new determination is set out in the appendix to this letter. The determination covers the period 1 January 2014 to 31 December 2014.

An important change from the previous funding mechanism for specialised ESOL literacy and numeracy funds is a shift in expectations from 200 *minimum* number hours of provision for the Intensive Literacy and Numeracy ESOL fund, to an *average* of 200 hours per learner, over a period of 10 to 26 weeks.

This change is designed to provide an appropriate level of flexibility for providers to meet learner needs. I expect that the Tertiary Education Commission will monitor provider performance in this respect to ensure that provision through this fund retains appropriate intensity. I expect that the Commission will take account of provider performance in this respect in future allocation decisions.

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 (ESOL)

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 (ESOL) (funding mechanism).

Purpose

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

On-Plan and Off-Plan funding

6. The Tertiary Education Commission (TEC) must pay funding for specialised ESOL under section 159YA of the Act in relation to tertiary education organisations (TEOs) funded via an investment plan.
7. The TEC must pay funding for literacy and numeracy provision under section 159ZC of the Act in relation to an organisation that is exempt under section 159U of the Act from submitting a proposed investment plan.

PART ONE: THE FUNDING MECHANISM

GENERAL PARAMETERS

Effective period

8. This funding mechanism is to fund specialised ESOL provision delivered from 1 January 2014 to 31 December 2014.
9. The TEC may exercise any of its administrative functions as required to give effect to this funding mechanism outside those dates.

Available funding

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

TEO quality assurance

11. To be eligible for funding under this determination, a TEO must be 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 institute of technology or polytechnic (ITP), wānanga, or private training establishment (PTE).

SPECIFIC PARAMETERS

A. THE INTENSIVE LITERACY AND NUMERACY FUND, ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL) FUND

Purpose

12. The purpose of the Intensive Literacy and Numeracy, English for Speakers Other Languages Fund is to fund the intensive provision of ESOL learning opportunities within an appropriately structured environment.

Funding rates

13. The TEC must allocate funding at a fixed rate to be calculated on the basis of a TEO providing an average of 200 hours of ESOL tuition per learner within a 10 to 26 week period.
14. The TEC will 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. Provider performance in respect of this will be used by the TEC to inform future allocations through this fund.

TEO eligibility

15. 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 ITP;
 - iii. a wānanga;
 - iv. a PTE;
 - v. a state school or state integrated school;
 - vi. a rural education activity programme (REAP); or
 - vii. a community organisation; and
 - b. has demonstrated expertise in delivering ESOL to adult refugees and migrants.

Geographical areas of provision

16. The TEC must prioritise funding from the Intensive Literacy and Numeracy, ESOL Fund to TEOs located in common refugee settlement areas¹.

Programme eligibility

17. 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 experience 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 seasonal workers).

Learner eligibility

18. 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;

¹ Note that West Auckland, South Auckland, Hamilton, Palmerston North, Wellington (City), Lower Hutt, Porirua, Christchurch and Nelson are the most common refugee resettlement areas.

- ii. a migrant; or
 - iii. a person for whom English is his or her second language; and
- b. is a New Zealand citizen or permanent resident; and
 - c. is 16 years of age and over; and
 - d. has low English language and/or literacy skills.

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

Purpose

19. 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

20. 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.

TEO eligibility

21. 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.

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 paragraphs 11 to 19 of the Determination of Design of Funding Mechanism: Student Achievement Component; 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 permanent resident²; and
 - b. meets the definition of a "refugee" as set out in paragraph 5 of this funding mechanism.

PART TWO: FUNDING CONDITIONS

General Conditions for off-Plan funding

24. The TEC may impose any conditions on funding paid under this funding mechanism under section 159ZC that it considers necessary for ensuring that funding will achieve the purpose for which it has been allocated.

Conditions that the TEC must attach to funding (on- and off-Plan)

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

Tertiary Education Organisations

26. The TEC must attach to funding a condition that a TEO that receives funding for specialised ESOL provision under this funding mechanism must, for the length of the funding period, continue to meet the criteria specified at:
 - a. paragraph 15 of this funding mechanism, if the funding is from the Intensive Literacy and Numeracy Fund, English for Speakers of Other Languages (ESOL) Fund; or
 - b. paragraph 21 of this funding mechanism, if the funding is from the Intensive Literacy and Numeracy Fund, Refugee English Fund.
27. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must continue to meet the relevant quality assurance criteria as specified in paragraph 11 of this funding mechanism.

² 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.

Programmes

28. The TEC must attach to funding a condition that a TEO that receives funding for specialised ESOL provision 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 17 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

29. The TEC must attach to funding a condition that a TEO that receives funding for specialised ESOL provision 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 18 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 Fund, English for Speakers of Other Languages (ESOL) Fund

30. The TEC must attach a condition to funding that a TEO that receives funding from the Intensive Literacy and Numeracy, ESOL Fund must:
 - a. have in place an effective assessment process for identifying a learner's literacy and/or numeracy gains agreed by the TEC, for example the use of the Literacy and Numeracy for Adults Assessment Tool (Starting Points); and
 - b. only allow a learner to re-enrol in a programme funded through the Intensive Literacy and Numeracy, ESOL Fund, within a period of up to three years from his or her first enrolment.

TEO responsibilities: Intensive Literacy and Numeracy Fund Refugee English Fund

31. The TEC must attach a condition to funding 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, within a period of up to three years from his or her first enrolment.

Fees

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

Subcontracting

33. The TEC must attach a condition to funding that a TEO that receives funding under this funding mechanism must not sub-contract delivery of ESOL provision.

No other funding

34. 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 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 this condition.

Responsible use of funding

35. 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

36. 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.
37. 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.

TEC administrative responsibilities

38. If the 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.