

Ref: OI/20/00178

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15 April 2020

s9(2)(a)

Dear s9(2)(a)

Thank you for your request for the following information under the Official Information Act 1982 (the Act). Your request was transferred from the Minister of Education, the Honourable Chris Hipkins, on 16 March 2020 under section 14(b)(ii) of the Act as the information requested is closely connected with the functions of the Tertiary Education Commission (TEC). Your request was for the following information:

*Please can we have a breakdown the 473 number:*

- *What institutions they were/are enrolled at*
- *What courses they were doing*

*Please also tell us what enforcement or disciplinary action has been taken against the 473, and what agency detected the fraud.*

*Has the information been provided to law enforcement agencies? If not, why not?*

*Has the information been provided to the tertiary institutions for disciplinary actions? If not, why not?*

### **General information about Fees Free and statutory declarations**

The Minister of Education has delegated authority to administer and fund the Fees Free tertiary education initiative to the TEC. The Minister's letter of delegation requires the TEC to determine whether an individual is eligible, and only make payments to tertiary education organisations (TEOs) in respect of eligible individuals. It is important to note that under the policy, learners do not receive Fees Free payments, which are paid to TEOs on their behalf. Any Fees Free payments made to TEOs can be recovered.

The TEC does not hold information to determine the eligibility of all individuals to access Fees Free, for example if a learner has previously studied overseas. In these cases the TEC relies on the learner submitting a statutory declaration.

Statutory declarations are required to be signed as true and correct; the person signing is the only person responsible for and able to ensure the information they attest to is correct. The learner is also required to sign the declaration in front of an authorised person.



The TEC determines whether a learner meets the eligibility criteria by considering the information provided in the statutory declaration. A statutory declaration is intended to ensure that individuals are aware and understand the criteria before declaring their eligibility. It is therefore reasonable for the TEC to rely on statutory declarations and initially determine a learner's eligibility based on the information contained in that statutory declaration.

In requiring a statutory declaration, the TEC has sought to balance having appropriate measures to ensure the integrity of the policy against the barriers to accessing Fees Free tertiary education.

### **Your request**

With the above information provided, please find a response to your request, broken down below:

#### *1. Please can we have a breakdown the 473 number:*

- *What institutions they were/are enrolled at*
- *What courses they were doing*

It is important to note that, when determining their eligibility status, a prospective learner is not required to specify the type of course or institution in which they have enrolled; rather, they are only required to identify whether they intend to enrol with a provider or an industry training organisation. This is because the TEC acknowledges that many prospective learners:

- change the type or level of course in which they enrol; or
- seek to determine whether they are eligible for Fees Free before deciding the type of course in which they will enrol.

Requiring prospective learners to provide such information would add an administrative burden on the learner (and it may be information they are unable to provide at the time), and may also result in delays in the TEC determining eligibility.

Therefore we cannot provide the information requested as it is not information gathered through the Fees Free process.

#### *2. Please also tell us what enforcement or disciplinary action has been taken against the 473, and what agency detected the fraud.*

The Minister of Education has delegated authority to administer and fund the Fees Free tertiary education initiative to the TEC<sup>1</sup>. Therefore it is the TEC's role to determine eligibility and to monitor Fees Free. This includes identifying potentially false statutory declarations.

Since Fees Free came into existence from 2018, 473 statutory declarations have been identified as false, as the individuals in question do not meet one or more of the eligibility criteria.

Once a statutory declaration has been identified as being false, the learner is made ineligible for Fees Free. The normal process is to recover any Fees Free payment that has been allocated on behalf of an ineligible learner from the relevant TEO. Of the 473 statutory declarations, the TEC sought to recover the payments made for 469 of the learners. The TEC made the decision not to recover the payments in four cases due to exceptional circumstances.

The TEC takes a graduated approach to responding to false statutory declarations. All false statutory declarations identified receive a caution. Further investigation may result in a learner receiving an additional caution, a formal warning or, in a small number of cases, potential prosecution.

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<sup>1</sup> Section 159F(1)(e) of the Education Act 1989; also see [Delegation to fund Fees-Free tertiary education and training in 2019](#).

*3. Has the information been provided to law enforcement agencies? If not, why not?*

The TEC is the agency responsible for investigating, and prosecuting learners who we identify as submitting a false statutory declaration in order to access Fees Free tertiary education.

*4. Has the information been provided to the tertiary institutions for disciplinary actions? If not, why not?*

Once the learner is made ineligible, the TEO is notified and the normal process is to recover the fees from the TEO for that learner. What action the TEO takes regarding the learner's debt is at their discretion.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

The TEC intends to publish its response to this request on our website with your personal details removed. Consistent with the Act, we are publishing responses in the interests of transparency and accountability, and to improve access to official information.

Nāku noa, nā



Tim Fowler  
Chief Executive