

Hon Chris Hipkins

MP for Remutaka

Minister of Education

Minister of Police

Minister for the Public Service

Leader of the House



Jenn Bestwick
Chair
Tertiary Education Commission
PO Box 27-048
Wellington 6141

Dear Jenn,

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

I am writing to advise you of a determination of the design of a funding mechanism, under section 419 of the Education and Training Act 2020 (the Act), for Specialised English for Speakers of Other Languages.

The new determination is set out in the appendix to this letter. The determination covers the funding of Specialised English for Speakers of Other Languages provision delivered from 1 January 2023. The new determination includes a 2.75 percent increase to all funding rates specified in the determination.

Under section 422 of the Act, it is the Tertiary Education Commission's (TEC) responsibility to develop the details needed to implement my determinations of the design of funding mechanisms.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'CH', written over a light blue horizontal line.

Chris Hipkins
Minister of Education

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 419 of the Education and Training Act 2020 (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.
4. For the avoidance of doubt, the general parameters and conditions included in this funding mechanism apply to both funds unless stated otherwise.

On-Plan funding

5. The Tertiary Education Commission (TEC) must pay funding for specialised ESOL under section 425 of the Act.

PART ONE: THE FUNDING MECHANISM

GENERAL PARAMETERS

Effective period

6. This funding mechanism is to fund specialised ESOL provision delivered from 1 January 2023.
7. The TEC may exercise any of its administrative functions as required to give effect to this funding mechanism before this date.

Available funding

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

TEC administrative responsibility in the case of under-funding

9. 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

10. The TEC must prioritise funding allocated under this funding mechanism to TEOs located in common refugee settlement areas.¹

SPECIFIC PARAMETERS

A. THE ILN ESOL FUND

Purpose

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

Funding rate

12. The TEC must allocate \$20.17 of funding from the ILN ESOL Fund to TEOs per hour of ESOL tuition.
13. The total hours of ESOL tuition delivered per learner by a TEO is generally expected to be between 20 and 500 hours per year, acknowledging some learners have a need for more or fewer hours.
14. ESOL tuition must be delivered at the intensity of 5 to 40 hours per week.

¹ Note that West Auckland, South Auckland, Hamilton, Palmerston North, Wellington (City), Lower Hutt, Porirua, Christchurch, Nelson, Dunedin and Invercargill are the main refugee resettlement areas, but the areas have been expanded to support the increase in the number of refugees being resettled in New Zealand. These new areas include: Ashburton, Blenheim, Levin, Masterton, and Timaru.

15. The TEC must monitor provision funded under the ILN ESOL Fund to ensure that it is delivered in accordance with paragraphs 13 and 14. The TEC must use the outcomes of its monitoring of a TEO's performance to inform future allocations through this fund.

TEO eligibility

16. For the purposes of the ILN ESOL Fund, an organisation is a TEO if it:
- a. is one of the following:
 - i. a university;
 - ii. Te Pūkenga – New Zealand Institute of Skills and Technology (Te Pūkenga)²;
 - 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 refugee-background learners and migrants.
17. The TEC must only fund an organisation from the ILN ESOL Fund if the organisation (other than a community organisation³) is quality assured as follows:
- a. if the funding is for delivery by Te Pūkenga or one or more of the subsidiaries of Te Pūkenga, Te Pūkenga or the relevant subsidiaries of Te Pūkenga are quality assured by the New Zealand Qualifications Authority (NZQA);
 - b. if the TEO is a wānanga, or a PTE (including REAP providers that are registered providers⁴) the TEO is quality assured by NZQA; or
 - c. if the TEO is a State or State integrated school, the TEO is quality assured by the Education Review Office; or
 - d. If the TEO is a university, the TEO is quality assured by the New Zealand Vice-Chancellors' Committee.

Programme eligibility

18. The TEC must only fund a programme of study or training from the ILN ESOL Fund that:

² Unless context otherwise requires, references to "Te Pūkenga" includes any Te Pūkenga subsidiary as defined in section 10(1) of the Act.

³ Some REAPs are community organisations

⁴ Some REAPs are community organisations.

- a. has English language and literacy outcomes;
- 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

19. The TEC must only fund a TEO from the ILN ESOL Fund in respect of a learner who:
- a. is a person for whom English is not their first language;
 - b. is a “domestic student” as defined under section 10(1) of the Act;
 - c. is 16 years of age or over; and
 - d. has low English language and/or literacy skills.

B. THE ILN REFUGEE ENGLISH FUND

Purpose

20. The purpose of the ILN Refugee English Fund is to support those with a refugee-background, or other special circumstances related to their transition to residence in New Zealand, to reach a level of English that will allow them to enter employment or undertake their choice of vocational or degree-level education, by providing fees-free access to ESOL programmes at Level 3 or above on the New Zealand Qualifications and Credentials Framework (NZQCF).

Funding rates

21. The TEC must allocate funding to TEOs on the basis of:
- a. a specified number of fees-free places in ESOL programmes at Level 3 and above on the NZQCF;
 - b. the tuition fees charged for enrolment in ESOL programmes at Level 3 and above on the NZQCF; and
 - c. pastoral care of \$431 per place, to be used for supporting the educational achievement of learners.⁵

TEO eligibility

22. For the purposes of the ILN Refugee ESOL Fund, an organisation is a TEO if it:
- a. is one of the following:
 - i. a university;

⁵ This pastoral care may also be shared with other refugee-background learners at the TEO.

- ii. Te Pūkenga;
 - iii. a wānanga; or
 - iv. a PTE; and
- b. is experienced in educating refugee-background learners.
23. The TEC must only fund an organisation from the ILN Refugee English Fund if the organisation is quality assured as follows:
- a. if the funding is for delivery by Te Pūkenga or one or more of the subsidiaries of Te Pūkenga, Te Pūkenga or the relevant subsidiaries of Te Pūkenga are quality assured by the NZQA;
 - b. if the TEO is a wānanga or a PTE, the TEO is quality assured by NZQA; or
 - c. if the TEO is a university, the TEO is quality assured by New Zealand Vice-Chancellors' Committee.

Programme eligibility

24. 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. is a qualification or course at Level 3 or above on the NZQCF that supports ESOL learners with English, and can include skills in preparation for further study; and
 - b. has been quality assured by either NZQA or the New Zealand Vice-Chancellors' Committee (where appropriate).

Learner eligibility

25. 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 10(1) of the Act; and
 - b. has either:
 - i. a refugee-background, as defined in paragraph 26 of this funding mechanism; or
 - ii. other special circumstances, related to their transition to residence in New Zealand, as outlined in paragraph 27 of this funding mechanism.
26. For learner eligibility, the term “refugee-background” covers:
- a. refugees or protected persons⁶; and/or

⁶ This includes those resettled by the government in New Zealand as refugees and those who gained refugee status or protected person status while living in New Zealand. For the avoidance of doubt, this includes people who have gained refugee status or protected person status and are yet to gain a residence visa as they are refugee-background and still meet the definition of domestic students.

- b. those who gained the Afghan Emergency Resettlement Visa, and the partner and/or children of members of these groups; or
 - c. other family that gained a New Zealand residence class visa due to their relationship to a refugee, protected person, or those holding an Afghan Emergency Resettlement Visa.⁷
27. For learner eligibility, “other special circumstances, related to their transition to a residence visa” includes those directly affected by the Christchurch mosques terror attack and their family members. This group are holders of the Christchurch Response Visa, or those who would have been eligible for this visa but were already holding another residence visa, and family members who hold residence visas through their relationship to holders of a Christchurch Response Visa (or those who would have been eligible but were already holding another residence visa). These resident visa types for family members include:
- a. Partner of New Zealander resident visa;
 - b. Dependent child resident visa;
 - c. Parent resident visa; or
 - d. Resident visa granted by discretion under Section 61 of the Immigration Act.

PART TWO: FUNDING CONDITIONS

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

Tertiary Education Organisations

29. 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 16 and 17 of this funding mechanism, if the funding is from the ILN ESOL Fund; or
 - b. paragraphs 22 and 23 of this funding mechanism, if the funding is from the ILN Refugee English Fund.

Programmes

30. 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 18 of this funding mechanism, if the funding is from the ILN ESOL Fund; or

⁷ For the avoidance of doubt, refugee-background will also include the Afghan interpreters who worked for the New Zealand-led Provincial Reconstruction team in Afghanistan and their dependants who were also granted residence visas.

- b. paragraph 24 of this funding mechanism, if the funding is from the ILN Refugee English Fund.

Learners

- 31. The TEC must attach to funding a condition that an organisation that receives funding under this funding mechanism must:
 - a. ensure that each learner who is enrolled in a programme of study or training continues to meet the criteria specified at:
 - i. paragraph 19 of this funding mechanism, if the funding is from the ILN ESOL Fund; or
 - ii. paragraph 25 of this funding mechanism, if the funding is from the ILN Refugee English Fund; and
 - b. verify the identity of each learner enrolled in a programme to confirm the learner's eligibility, in accordance with the requirements developed by the TEC.

TEO responsibilities: ILN ESOL Fund

- 32. 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 determining the literacy and numeracy needs of eligible learners and provider support to ensure those learners progress in line with the guidelines provided by TEC.
- 33. The TEC must attach to funding a condition that a TEO that receives funding from the 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 unless the TEO has received prior written approval from the TEC to enrol a learner outside of the five-year timeframe.

TEO responsibilities: ILN Refugee English Fund

- 34. 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.
- 35. The TEC must attach to funding a condition that an organisation that receives funding from the ILN Refugee English Fund must provide pastoral care services that supports the educational achievement of each learner.

Reporting withdrawals to Ministry of Social Development

- 36. The TEC must attach to funding a condition that a TEO that receives funding from the ILN Refugee English Fund must report the withdrawal of learners 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.

Fees

37. The TEC must attach to funding a condition that the TEO 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

38. 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

39. 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 micro-credential 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

40. 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 funding

41. 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.
42. 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

43. The TEC must attach to funding a condition that if, in accordance with clause 16, Schedule 18 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:

- 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.