

Hon Jan Tinetti

Minister of Education
Minister for Women
Minister for Child Poverty Reduction



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

Dear Jenn,

Determination of Design of Funding Mechanism: English Language Teaching

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 English Language Teaching (formerly Specialised English for Speakers of Other Languages, or ESOL).

The new determination is set out in the appendix to this letter. The determination covers the funding of English Language Teaching provision delivered from 1 January 2024. The new determination includes a 5.0 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 black ink, appearing to read 'J. Tinetti'.

Hon Jan Tinetti
Minister of Education

DETERMINATION OF DESIGN OF FUNDING MECHANISM: ENGLISH LANGUAGE TEACHING

PRELIMINARY PROVISIONS

Statutory authority

1. This funding mechanism for English Language Teaching (formerly known as Specialised English for Speakers of Other Languages, or ESOL) is made under section 419 of the Education and Training Act 2020 (the Act).

Purpose

2. English Language Teaching (ELT) comprises two funds:
 - a. the Intensive Literacy and Numeracy Fund, ELT Fund (ILN ELT Fund); and
 - b. the Intensive Literacy and Numeracy, Refugee English Fund (ILN Refugee English Fund).
3. The general parameters and conditions included in this funding mechanism apply to both funds unless stated otherwise.
4. The purpose of these specialised ELT 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.

On-Plan funding

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

PART ONE: THE FUNDING MECHANISM

GENERAL PARAMETERS

Effective period

6. This funding mechanism is to fund ELT provision delivered from 1 January 2024.
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 ELT FUND

Purpose

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

Funding rate

12. The TEC must allocate \$21.18 of funding from the ILN ELT Fund to TEOs per hour of ELT tuition that is delivered to the learner.
13. The total hours of ELT 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. ELT tuition must be delivered at the intensity of 5 to 40 hours per week.
15. The TEC must monitor provision funded under the ILN ELT 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 ELT 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);
 - iii. a wānanga;
 - iv. a private training establishment (PTE);
 - v. a State school or State-integrated school;

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.

- vi. a rural education activities programme (REAP) provider; or
 - vii. a community organisation; and
- b. has demonstrated expertise in delivering ELT to adult refugee-background learners and migrants.
17. The TEC must only fund an organisation from the ILN ELT Fund if the organisation (other than a community organisation²) is quality assured as follows:
- a. if the TEO is a wānanga, Te Pūkenga, or a registered PTE (including REAP providers that are registered providers³) the TEO must be quality assured by the New Zealand Qualifications Authority (NZQA);
 - b. if the TEO is a State or State-integrated school, the TEO is quality assured by the Education Review Office; or
 - c. if the TEO is a university, the TEO is quality assured by the New Zealand Vice-Chancellors' Committee (Universities NZ).

Programme eligibility

18. The TEC must only fund a programme from the ILN ELT Fund that:
- a. has English language and literacy outcomes;
 - b. is taught by appropriately qualified and experienced ELT 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 ELT 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.
20. The TEO must only re-enrol a learner in provision funded under the ILN ELT Fund for a period of no more than five years or 60 months (the maximum period). These enrolments of an individual learner may be non-consecutive, with the sum total duration of enrolments being no more than the maximum period, unless prior approval is granted by the TEC.

² Some REAPs are community organisations.

³ Some REAPs are community organisations.

B. THE ILN REFUGEE ENGLISH FUND

Purpose

21. 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 ELT programmes at Level 3 or above on the New Zealand Qualifications and Credentials Framework (NZQCF).

Funding rates

22. The TEC must allocate funding to TEOs on the basis of:
- a. a specified number of fees-free places in ELT programmes at Level 3 and above on the NZQCF;
 - b. the tuition fees charged for enrolment in ELT programmes at Level 3 and above on the NZQCF; and
 - c. pastoral care of \$453 per place, to be used for supporting the educational achievement of learners.⁴

TEO eligibility

23. For the purposes of the ILN Refugee English Fund, an organisation is a TEO if it:
- a. is one of the following:
 - i. a university;
 - ii. Te Pūkenga;
 - iii. a wānanga; or
 - iv. a PTE; and
 - b. is experienced in educating refugee-background learners.
24. The TEC must only fund an organisation from the ILN Refugee English Fund if the organisation is quality assured as follows:
- a. if the TEO is a wānanga, Te Pūkenga, or a registered PTE, the TEO must be quality assured by NZQA; or
 - b. if the TEO is a university, the TEO is quality assured by Universities NZ.

Programme eligibility

25. The TEC must only fund a TEO for a programme funded from the ILN Refugee English Fund if the programme:

⁴ This pastoral care may also be shared with other refugee-background learners at the TEO.

- a. is a programme or course at Level 3 or above on the NZQCF that supports ELT learners with English, and can include skills in preparation for further study; and
- b. has been quality assured by either NZQA or Universities NZ (as appropriate).

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 10(1) of the Act; and
 - b. has either:
 - i. a refugee background, as defined in paragraph 28 of this funding mechanism; or
 - ii. other special circumstances, related to their transition to residence in New Zealand, as outlined in paragraph 29 of this funding mechanism.
27. The TEO must only re-enrol a learner in provision funded under the ILN Refugee English Fund for a period of no more than three years or 36 months (the maximum period). These enrolments of an individual learner may be non-consecutive, with the sum total duration of enrolments being no more than the maximum period, unless prior approval is granted by the TEC.
28. For learner eligibility, the term “refugee-background” covers:
- a. refugees or protected persons⁵; and/or
 - 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.⁶
29. 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-class visa. This group also includes residence-class visa holders who are a family member of a living person, where that living person is:
- a. the holder of a Christchurch Response Visa; or
 - b. a New Zealand citizen who:

⁵ 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.

⁶ 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.

- i. was a resident visa holder under the Immigration Act 2009 on 15 March 2019 and was eligible for a Christchurch Response Visa; or
 - ii. would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009 on 15 March 2019; or
 - iii. would have been eligible for a Christchurch Response Visa had they not already been a New Zealand citizen on 15 March 2019; or
 - iv. was granted New Zealand citizenship after holding a Christchurch Response Visa; or
- c. the holder of a permanent resident visa under the Immigration Act 2009 who:
- i. was a resident visa holder under the Immigration Act 2009 on 15 March 2019 and was eligible for a Christchurch Response Visa; or
 - ii. would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009 on 15 March 2019; or
- d. the holder of a resident visa under the Immigration Act 2009, who held the resident visa on 15 March 2019 and who was eligible for a Christchurch Response Visa.

PART TWO: FUNDING CONDITIONS

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

Tertiary Education Organisations

31. 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 ELT Fund; or
 - b. paragraphs 23 and 24 of this funding mechanism, if the funding is from the ILN Refugee English Fund.

Programmes

32. 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 ELT Fund; or
 - b. paragraph 25 of this funding mechanism, if the funding is from the ILN Refugee English Fund.

Learners

33. 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 continues to meet the criteria specified at:
 - i. paragraph 19 of this funding mechanism, if the funding is from the ILN ELT Fund; or
 - ii. paragraph 26 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 ELT Fund

34. The TEC must attach to funding a condition that a TEO that receives funding from the ILN ELT 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.
35. The TEC must attach to funding a condition that a TEO that receives funding from the ILN ELT Fund must only allow a learner to re-enrol in a programme funded through the ILN ELT Fund if that enrolment will not exceed the maximum period specified in paragraph 20.

TEO responsibilities: ILN Refugee English Fund

36. 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 if that enrolment will not exceed the maximum period specified in paragraph 27.
37. 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 support the educational achievement of each learner.

Reporting withdrawals to Ministry of Social Development

38. 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 each withdrawal. This is to enable student loans and student allowances to be cancelled as soon as possible.

Fees

39. 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

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

No other funding

41. 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 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

42. 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

43. 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.
44. 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

45. The TEC must attach to funding a condition that if, in accordance with clause 16 of 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.