Hon Chris Hipkins

MP for Rimutaka

Minister of Education
Minister of State Services

Leader of the House
Minister Responsible for Ministerial Services

18 SEP 2018

Nigel Gould
Chair
Tertiary Education Commission
PO Box 27-048
Wellington 6141

Dear Nigel,

Delegation to fund Fees-Free tertiary education and training in 2019

1. I am writing to advise you of a delegation to administer funding for the Fees-Free Tertiary Education and Training policy from 1 January 2019. This replaces the Tertiary Education Commission's (TEC's) delegation to administer the Fees-Free policy in 2018.

2. The purpose of the Fees-Free policy, which was introduced on 1 January 2018, is to make the first year of tertiary education or training fees-free for new students or trainees.

3. In November 2017, Cabinet agreed to the parameters of the Fees-Free policy, including eligibility criteria and a delivery system led by the TEC [CAB-17-MIN-0515 refers]. In August 2018, Cabinet agreed to minor changes to the Fees-Free policy from 1 January 2019 [CAB-18-MIN-0401 refers].

4. This policy supports the Government's commitment to make tertiary education and training affordable for all by:

   a. expanding access and participation, especially for those who have not previously studied or those for whom finance has been a real barrier to participation;

   b. improving affordability and reducing debt levels;

   c. supporting lifelong learning;

   d. ensuring the benefits of tertiary education for New Zealanders, including residents with an ongoing commitment to New Zealand, are shared through a highly-skilled population contributing to a strong society and thriving economy.

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Delegation to determine eligibility for Fees-Free tertiary education and training

5. I delegate to the TEC, under section 159F(1)(e) of the Education Act 1989 (the Act), the authority to determine whether a student or trainee is eligible for Fees-Free tertiary education provision by applying the criteria set out below.

Citizenship or Residency Criteria

6. To be eligible for Fees-Free in provider-based tertiary education (at a university, institute of technology and polytechnic, wānanga, or private training establishment (PTE)), a student must be one of the following:

   a. a New Zealand citizen; or

   b. ordinarily resident in New Zealand and:

      i. have been living in New Zealand for at least 3 years while holding a residence class visa; or

      ii. a refugee or protected person; or

      iii. sponsored into New Zealand by someone in their family who, at the time of sponsorship, was a refugee or protected person.

7. To be eligible for Fees-Free industry training, a trainee must be legally entitled to reside and work in New Zealand.

Prior Study Criteria

8. To be eligible for Fees-Free for provider-based tertiary education and industry training, a student or trainee must have either:

   a. been enrolled in a school in or after 2017,[1] other than as an adult student; or

   b. not undertaken more than half a year of equivalent full-time tertiary education (0.5 equivalent full-time student (EFTS) units or 60 credits) at Level 3 or above on the New Zealand Qualifications Framework (NZQF), including tertiary education at an equivalent level undertaken in any country.

9. The following credits must not be included in measures of prior tertiary education in paragraph 8 to determine eligibility for Fees-Free:

   a. any tertiary education undertaken while enrolled in school prior to 1 January 2019 (except for tertiary education undertaken as an adult student); and

   b. any tertiary courses undertaken as part of the student's or trainee's school learning programme or secondary-tertiary programme on or after 1 January 2019; and

   c. any credits achieved as part of any industry training programme that consists of fewer than 120 credits that are reported after 1 January 2018.

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[1] This includes those enrolled in a school who have a certificate of exemption under section 21 of the Act.

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10. For the purposes of paragraphs 8a and 9a, an adult student, under the Act, is any student whose 19th birthday occurred before 1 January of the current year. This definition does not apply to students deemed to require special education under Section 9 of the Act.

Eligible courses or programmes

11. To be eligible for Fees-Free for provider-based tertiary education, a student must be enrolled in an eligible course.

12. An eligible course is a course that is:

    a. funded by the TEC from either:

        i. the SAC Level 3 and above fund; or

        ii. grants under s321 of the Act for tertiary provision that is part of a qualification or training scheme on the NZQF at Level 3 or above; or

        iii. the Youth Guarantee fund and leads to the award of a qualification on the NZQF at Level 3 or above; and

    b. not part of a school learning programme or secondary-tertiary programme.

13. For the purposes of paragraph 12(a)i and iii, the TEC must not pay any amount in respect of fees where the fees are met under another funding arrangement (such as from the Youth Guarantee Fund or the Māori and Pasifika Trade Training funding).

14. To be eligible for Fees-Free in industry training, a trainee must be enrolled in a programme that is:

    a. at NZQF Level 3 or above; and

    b. approved by NZQA; and

    c. comprised of at least 120 credits (which includes all New Zealand Apprenticeships); and

    d. not part of a school learning programme or secondary-tertiary programme.

Delegation to make payments for Fees-Free tertiary education and training

15. I delegate to the TEC, under section 159F(1)(e) of the Act, the authority to make payments in respect of eligible Fees-Free students and trainees as set out below.

Fees-Free entitlement limits

16. The TEC will pay no more than $12,000 (GST incl.) total to all tertiary education organisations (TEOs) in respect of any individual student or trainee eligible for Fees-Free tertiary education or training.

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17. Individual students or trainees who received any Fees-Free support in prior calendar years are to receive no more than 1 EFTS of Fees-Free support in total or 24 months of industry training.

18. The TEC must calculate a trainee's 24 month entitlement:

    a. from the start date of the first programme in which the eligible trainee is enrolled; and

    b. by only including the months in which the trainee received industry training in an eligible programme or programmes.

19. The TEC must develop operational rules to assess entitlement limits and consumption by individuals who combine both industry training and provider-based study, taking into account the intent of the Fees-Free policy.

SAC Level 3+ and section 321 grants

20. I delegate to the TEC the authority to:

    a. if the TEO is not a PTE, pay the TEO in respect of fees on behalf of an eligible student in accordance with paragraphs 16-18; or

    b. if the TEO is a PTE, compensate the PTE in respect of an eligible student in accordance with paragraphs 16-18 for fees forgone as the result of a condition imposed on the PTE's funding.

21. For the purposes of paragraph 20, "fees" are defined as:

    a. compulsory tuition fees; and

    b. compulsory course costs, which may only include:

        i. examination fees; and

        ii. material charges; and

        iii. costs of field trips; and

        iv. costs associated with the compulsory purchase of equipment or books through the TEO with which the student is enrolled; and

        v. other charges associated with a course; and

    c. compulsory student services fees.

22. The TEC must only make a payment to a TEO in respect of an eligible student's compulsory tuition fees and compulsory course costs if:

    a. the fee charged by the TEO is equal to, or less than, the fee that is recorded in Services for Tertiary Education Organisations (STEO); and

    b. the TEO charges that fee to every student in the same circumstances (whether or not they are eligible for Fees-Free tertiary education) who is enrolled in the same course; and

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c. the fees comply with the Annual Maximum Fee Movement requirements.

23. The TEC must only make a payment to a TEO in respect of an eligible student's compulsory student services fee, if that fee is specified on the TEO's website in accordance with the Act and is consistent with the Ministerial Direction on Compulsory Student Services Fees in effect.

24. The TEC must not make any retrospective payments in 2019 relating to the fees paid by students who, despite meeting the eligibility criteria in 2018, were not determined by the TEC to be eligible for Fees-Free tertiary education in 2018. This does not apply if the student was not determined to be eligible in 2018 through no fault of the student.

Industry Training

25. I delegate to the TEC the authority to make fee payments to TEOs on behalf of an eligible trainee (or their employer) in accordance with paragraphs 16-18.

26. For the purposes of paragraph 25, "fee" means fees for training and assessment, including fees paid to ITOs, paid directly to training and assessment providers, or paid as part of fees charged by group training schemes.

27. The TEC must not make any retrospective payments in 2019 relating to the fees paid by trainees (or their employers) who, despite meeting the eligibility criteria in 2018, were not determined by the TEC to be eligible for Fees-Free tertiary education. This does not apply if the trainee was not determined to be eligible in 2018 through no fault of the trainee.

Consumption

28. If an eligible student or trainee was enrolled in an eligible course or eligible programme in 2018, the eligible student or trainee has received (consumed) all or part of their Fees-Free entitlement (whether or not the TEC made payments to a TEO in respect of that student or trainee).

29. The TEC must develop processes to determine the amount of their Fees-Free entitlement that each eligible student or trainee has consumed.

Carry-over

30. If an eligible student or trainee was enrolled in an eligible course or an eligible programme in 2018 but did not consume their maximum Fees-Free entitlement in 2018 (as specified in paragraphs 16-18), the TEC must develop a mechanism to enable that student or trainee to carry-over the remaining portion of their Fees-Free entitlement.

31. For the purposes of paragraph 30, an eligible student's or trainee's maximum Fees-Free entitlement that may be carried-over is any amount payable until one of the following occurs:

a. the TEC has paid $12,000 (GST incl.) to TEOs in respect of the student's or trainee's fees; or

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b. the student has consumed 1 EFTS units; or

c. the student or trainee has been enrolled in 24 months of an eligible industry training programme or apprenticeship, calculated in accordance with paragraph 18; or

d. the student or trainee (if combining both industry training and provider-based study) has consumed their Fees-Free entitlement in accordance with the operational rules developed under paragraph 19.

Operationalising the policy

32. The TEC will work with the sector and other government agencies to support the implementation of the Fees-Free policy, and to advise me of any significant issues that arise.

33. The TEC must determine arrangements with TEOs (for the operation of provider-based Fees-Free tertiary education for the 2019 calendar year.

34. The TEC must determine arrangements with TEOs funded through the Industry Training fund for the operation of Fees-Free tertiary education for 2019 calendar year based on the following principles:

    a. eligible trainees and their employers will not be charged by TEOs or any provider contracted by the TEOs for training and assessment costs; and

    b. the TEC will pay TEOs the identified actual and reasonable cost, as determined by the TEC, of the fees (with the proposed fees and charges in 2019 as the baseline for establishing payment); and

    c. TEOs will be required to ensure that trainees fully benefit from the Fees-Free policy – ensuring that employers and training/assessment providers do not charge trainees for costs covered by the payment to TEOs (whether as explicit training and assessment fees, or as part of a broader fee, or by deductions from wages).

Exceptional circumstances

35. The TEC may use discretion to determine that a student or trainee who does not meet all of the criteria is eligible for Fees-Free tertiary education after considering the student's or trainee's exceptional personal circumstances.

36. The TEC may use discretion to write-off all, or a portion of, an eligible student's or trainee's consumption of their Fees-Free entitlement after considering the student's or trainee's exceptional personal circumstances.

37. In determining cases of exceptional personal circumstances, the TEC should take into account the intent of the Fees-Free policy.

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Time period for delegation of Fees-Free tertiary education in 2019

38. This delegation applies to payments for the Fees-Free tertiary education policy from the date of this letter until the end of the 2019/20 financial year. The TEC may exercise any of its administrative functions as required to give effect to this delegation outside of these dates.

Yours sincerely

Hon Chris Hipkins
Minister of Education

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