

**Agenda**

1. Preparing for Cabinet discussion of 100-day agenda policies for tertiary education:
  - Fees free tertiary education
  - Increasing student support

**Purpose of this meeting**

1. We are meeting with you at 8.30am on 31 October to discuss:
  - a. Preparation for Cabinet discussion of your approach to implementing the two tertiary education 100 days commitments.
  - b. Options for an implementation path, including decisions on eligibility and delivery approaches
  - c. Eligibility options
  - d. Assessing the costs and impacts of change
  - e. Potential legislative or regulatory changes
  - f. Next steps for the work programme, including establishment and initial meetings of the proposed Ministerial subgroup

**Preparation for Cabinet, 31 October**

2. Your paper proposes a Ministerial subgroup to enable you to develop proposals with a focussed subgroup of Ministers.
3. Key points about the subgroup are:
  - a. Its membership is the main operational portfolio Ministers (you, and the Ministers of Social Development and Revenue), plus the Minister of Finance to manage links to the Budget process. This keeps a tight focus on a delivery solution. If asked, you could expand the group to other portfolio Ministers (with a policy or stakeholder interest in the work), or identify other mechanisms to keep those Ministers informed (such as verbal updates at Cabinet).
  - b. It has a specific task and short duration to deliver. You expect to be back to Cabinet within two weeks (this timeframe is driven by MSD advice on IT system deadlines for the \$50 increase initiative). We expect the Ministerial group may want to meet once or twice a week during its time.
  - c. Cabinet has oversight and decision rights on the solution for 2018 and later years.
4. You also provide your colleagues with an outline of the issues to be considered within the

policies. If there is an initial discussion of these issues, we suggest you highlight that:

- a. The fees-free policy will be implemented in two or three stages: an interim solution for 2018, a lasting solution from 2019, and additional years of free study from 2021.
- b. Officials have identified that there are feasible options for fees-free in 2018. Decisions about design for 2018 will be a careful balance of practicality and delivery on the vision, as existing administrative, funding and information systems may not be able to deliver the full set of changes. More changes will be possible in outyears than for 2018.
- c. The Ministerial subgroup will be driving officials to develop an implementation channel that is practical for 2018, can be delivered, and supports the Government's policy intent to a significant degree. Decisions about policy scope and delivery approach should proceed together, rather than deciding scope before delivery approach.
- d. The \$50 increase commitment needs choices about managing incentives between the benefit and student allowance systems, links to how students receive accommodation support, and detailed choices about abatements and students with secondary income or dependents.

#### **Potential implementation paths for Fees Free in 2018**

5. Officials are assessing two possible implementation paths for fees free provider-based tertiary education in 2018. These are:
  - a. Student Loans Scheme reimbursement: Students would borrow to pay fees, and eligible students would later have this amount repaid by Government on their behalf.
  - b. Provider Payment: Government would pay providers the fees for students claiming to be eligible. Students' eligibility would be checked, and if found ineligible would need to repay (for example, by loading fees onto Student Loans or raising debts).
6. Both options would adapt existing systems, and involve operational design challenges, limitations and risks that lead agencies are working through to present to the Ministerial subgroup.
7. If Ministers wish to implement a fees-free policy for Industry Training in 2018, a different mechanism will be needed as industry trainees do not access Student Loans, fees are not regulated in the same way, students usually contribute through training wages and may not pay fees, and costs are shared with employers. Officials are developing options to target NZ Apprentices and others undertaking larger training plans.

#### **Options for Eligibility – Who, What, How Much, When?**

8. We are developing advice on eligibility choices for fees-free in 2018, to work through with you and the Ministerial subgroup in the next ten days. These choices are interlinked with delivery options, so that some eligibility choices may shape the delivery approach. This will cover:
  - a. Who is eligible – characteristics of students
  - b. What types of courses and what kind of fees are covered

- c. Options for defining the amount of study, and the maximum value of fees covered.

### Indicative costings

9. Your office requested further information on initial cost estimates, which you could share with the Minister of Finance. We provided a briefing note on 30 October: Costing Assumptions: Implementation of the 100 days Tertiary Education Commitments.
10. The key point is that these estimates are preliminary. We are starting a cross-agency scrutiny of the assumptions and approach to costing. Some assumptions also need discussion and refinement, for example: assumptions about behavioural change, and eligibility assumptions.
11. You may wish to discuss the information provided.

### Likely legislative and regulatory implications

12. The two potential Fees Free implementation paths for 2018 have different legislative implications, based on our preliminary assessment. A fuller regulatory impact assessment will be undertaken once policy parameters are more certain.
- a. If the Student Loans Scheme is used to repay students after they have paid their fees, amendments to the Student Loans Scheme Act 2011 are required, either:
    - i. Urgently – if Inland Revenue is to write off students' 2018 fee debt. The Government would otherwise be committing to the policy without legal authority to implement it this way, or
    - ii. Later in 2018 – if the Government instead repays students' 2018 fee debt on their behalf. An amendment is likely needed to prevent students from later drawing out the Government's repayments in cash.
  - b. If Government pays providers for eligible students' fees, no legislation is likely required, but regulatory changes would be required. The Minister would likely need to:
    - i. consult on a proposal to set zero fees (for 21 days after issuing a Gazette notice)
    - ii. set up a new funding mechanism and issue a funding determination under s159L of the Education Act 1989 instructing TEC how funds are to be allocated; and
    - iii. consult on and then issue a supplementary determination for provision under existing Investment Plans, with a new condition of funding requiring zero fees to be charged
    - iv. Providers' contracts with students and government agencies will need to allow for fees to be charged against Student Loans later, if students are found to be ineligible
13. As the \$50 increase will change Student Allowance Regulations, a regulatory impact assessment will be completed for the proposals, and an exemption to the 28 day rule for regulations will be sought.
14. Legislation would also likely be needed if, as part of an interim solution, the Government wished



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to target eligibility for fees-free tertiary education by age or other student characteristics that raised issues of potential discrimination under the Bill of Rights Act and Human Rights Act.

15. Preliminary assessments indicate it may be desirable to remove uncertainty by amending governing legislation (the Student Loan Scheme Act, and possibly other legislation) to be clear about the use of student loan systems (such as repayments, information sharing to determine eligibility, or using loans to raise debts for ineligible students) in the fees-free policy, and specifically enabling information exchange.

#### **Next Steps**

16. After Cabinet consideration we will work with your office to establish the Ministerial subgroup for a meeting later this week, and to provide support for communication of the Cabinet decisions.