



Education Report: Revised letter of delegation for Workforce Development Councils

To:	Hon Chris Hipkins, Minister of Education		
Date:	27 May 2021	Priority:	Medium
Security Level:	In Confidence	METIS No:	1255922
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Messaging seen by Communications team:	No	Round Robin:	No

Purpose

This report recommends you agree to an amended letter of delegation for Workforce Development Councils.

Recommendations

The Ministry of Education recommends you:

- a. **agree** to delegate the approval of Workforce Development Council establishment plans to the Tertiary Education Commission

Agree / **Disagree**

- b. **note** that the attached letter (Annex One) gives TEC the discretion to determine the appropriate timelines by which WDCs must approve their establishment plans, but that these timelines must be no later than 90 days after the respective Workforce Development Council is appointed by the process outlined in the respective Order in Council
- c. **note** that Cabinet agreed to a fiscally neutral adjustment of \$6 million to support the transition from interim Workforce Development Councils Establishment Boards serviced by an Establishment Unit to the formal establishment and operations of Workforce Development Councils
- d. **agree** to extend the letter of delegation to 30 June 2023, to provide certainty to Workforce Development Councils and the Tertiary Education Commission

Agree / Disagree

- e. **sign** the attached letter delegating authority to administer funding for Workforce Development Councils to the Tertiary Education Commission
- f. **agree** this paper will be proactively released in accordance with the provisions of the Official Information Act 1982

Agree / Disagree



Katrina Sutich
Group Manager Tertiary Education
Te Ara Kaimanawa



Chris Hipkins
Minister of Education

27/05/2021

2 / 6 / 2021

Background

1. In 2020, Cabinet appropriated funding for Workforce Development Councils (WDCs) through the COVID-19 Response and Recovery Fund [CAB-20-MIN-0219.27 refers]. You signed a letter delegating authority to the Tertiary Education Commission (TEC) to administer this funding on 17 June 2020 [METIS 1230195 refers].
2. Funding for WDCs sits in two appropriations:
 - a. Funding for the WDC Interim Establishment Boards (iEBs) and the TEC to support the establishment of WDCs sits in the Tertiary Sector / Industry Collaboration Projects appropriation of Vote Tertiary Education.
 - b. Funding for established WDCs is in the Workforce Development Councils appropriation.
3. In December 2020, you agreed to the formation of an Establishment Unit, hosted by the TEC, which would carry out establishment activities on behalf of the WDC iEBs and established WDCs. You signed an amended delegation letter allowing the TEC to utilise \$4 million of funding to support the Establishment Unit, which was appropriated to support WDCs to perform establishment activities [METIS 1245624 refers].
4. We have worked with the TEC over how to support WDCs to stand up, now the Order in Council process is likely to result in the first WDC Councils meeting in July. We are able to offer greater clarity about the pace and duration of the establishment plans expected of WDCs, so that they are focussing their attention most effectively in this initial period.
5. This paper outlines the changes that are proposed to the delegation letter, and recommends that you sign the revised letter delegating authority to the TEC to administer funding for WDCs.

Approval of Establishment Plans

The attached letter delegates approval of WDC establishment plans to the TEC

6. Cabinet agreed that the approval of a WDC establishment plan by the Minister of Education would trigger the release of a grant of up to \$7 million to the Establishment Board of that WDC [CAB-20-MIN-0219.27].
7. You agreed that an establishment plan agreed with the TEC would trigger the release of funding to WDCs [METIS 1218242 refers].
8. The previous letter of delegation stated that the TEC Reform of Vocational Education (RoVE) Programme must provide guidance on the expected content of these establishment plans. The TEC has planned for the establishment plans to be approved by the TEC Board, after they had been approved by the WDCs.
9. We recommend that the TEC is officially delegated the role of approving establishment plans, as we have not explicitly sought your agreement to this delegation before. We have included a clear delegation to the TEC in the letter attached (Annex One).
10. The TEC would still consult with your office on the content of the plans, and raise any issues to your attention, as required. This would allow you to maintain the necessary oversight of the transition.

The attached letter enables the TEC to have discretion over when WDCs must approve their establishment plans

11. The previous letter of delegation stated that establishment plans must “outline the activities their respective WDCs will undertake in their first 90 days”.
12. The TEC wants to empower WDCs to approve their establishment plans as soon as possible after establishment, to hasten their development to fully functioning entities. These plans will cover their activities until June 2022. From July 2022, it is expected that WDCs will submit a plan each year.
13. In the attached letter (Annex One), we have explicitly given the TEC the discretion to determine the appropriate timelines by which WDCs must approve their establishment plans, while also stating that these timelines must be no later than 90 days after the respective WDC council is appointed by the process outlined in the respective Order in Council. This is to ensure this occurs before the transition of functions from transitional industry training organisations (ITOs) in October 2021.
14. WDCs will be undertaking their functions during this 90 day period, including building their organisations, networks, and links into industry.

Funding for the Establishment Unit

The Establishment unit will continue to support the iEBs through their transition to WDCs

15. The Establishment Unit has been working closely with WDC iEBs. The Establishment Unit has successfully engaged with transitional ITOs, the New Zealand Qualification Authority (NZQA) and iEBs through a series of workshops to inform design of the operating model (including organisation structures), the development of requirements for technology, and the determination of key establishment activities e.g. location, insurance, tax, legal entities. These activities by nature are iterative and are endorsed and approved by the iEBs and the Steering Group (made up of the iEB Chairs).
16. WDC Orders in Council are expected to be approved in June. Once approved, we expect there will be another transition period, as WDCs approve their establishment plans and begin to undertake the activities within them. During this period, we expect the Establishment Unit will support the WDCs to procure and work with a technology partner to implement the interim ICT strategy, to recruit staff for the WDCs, and to transfer functions and supporting information/data from transitional ITOs/NZQA to the WDCs. The Establishment Unit will support the WDCs through the provision of a secretariat to support governance and the provision of support services e.g. payroll, while the shared services model is being implemented.
17. On 6 April 2021, Cabinet agreed to transfer \$6 million from the WDC appropriation to Tertiary Sector / Industry Collaboration Projects appropriation [CAB-21-MIN-0096.20]. This funding will allow the Establishment Unit to continue to support the WDCs as they are established in the 2021/22 financial year. Unused funding from this amount will be transferred back into the WDC appropriation, to reflect the hand-over of activities as the WDCs take on these activities.
18. We expect the Establishment Unit will work with WDCs to hand over establishment activities once establishment plans have been approved. This is expected to occur before the end of the calendar year.
19. The attached delegation letter (Annex One) authorises the TEC to administer the additional funding for the Establishment Unit in the 2021/22 financial year.

Timeframe of the letter of delegation

We recommend extending the letter of delegation until July 2023

20. Since the letter of delegation was first signed in June 2020, the establishment timeframes for WDCs have changed. Their first full year plan is expected to be in place between July 2022 and June 2023, after their initial period of establishment.
21. We recommend extending the letter of delegation to cover the expected duration of this first yearly operational plan, following the initial establishment. This would mean this first plan period would be governed by the letter of delegation, giving the TEC and WDC greater certainty over the funding framework, and reduce the number of plans the WDC would need to submit to the TEC. Alternatively, WDCs would need to submit two plans, one from July 2022 - December 2022 and one from January 2023 - June 2023.
22. This approach will also more closely align with the development of WDCs, with initial development covered by the letter of delegation, and a funding model coming in when they are fully established.

Next steps

23. If you sign the proposed letter of delegation attached as Annex One, this should then be sent to the Chair of the TEC Board.
24. We recommend this report and letter are proactively released.
25. A funding framework for WDCs in the long term is on the Ministry's work programme. We will align this work so the enduring framework can be agreed in time for the end of this delegation letter.

Annexes

Annex One – Amended letter of delegation for Workforce Development Councils

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

Dear Jenn

Delegation to fund Workforce Development Council Interim Establishment Boards and Workforce Development Councils

I am writing to advise you of changes to my delegation to fund Workforce Development Council Interim Establishment Boards and Workforce Development Councils (WDCs) during their development period before the end of June 2023. WDCs are a foundational component of the Reform of Vocational Education (RoVE) and will provide greater industry leadership across all aspects of the vocational education and training system. For the avoidance of doubt, the entire delegation is outlined in this letter, including my amendments.

Establishment of WDCs has been enabled by the appointment of six WDC Interim Establishment Boards, one for each WDC. The Interim Establishment Board members were appointed by the TEC, and each Interim Establishment Board had a primary responsibility for recommending to me the establishment its respective WDC through Orders in Council. Once established under an Order in Council, I expect WDCs to work at pace to fulfil their functions as described in the Education and Training Act 2020 and the Orders in Council.

WDC Interim Establishment Boards

The WDC Interim Establishment Boards, hosted by TEC, have the key responsibility for setting up their respective WDCs by Order in Council. WDC Interim Establishment Boards formed through the TEC-led appointment process will be eligible for funding from this part of the delegation. Interim Establishment Boards will work to deliver on the activities stipulated in their Terms of Reference.

I expect the WDC Interim Establishment Boards to be funded for those activities directly related to establishing individual WDCs, as stated in the Terms of Reference. Funding will not be given directly to the Interim Establishment Boards. The TEC will administer the funding to cover costs relating to:

- Interim Establishment Board member fees paid in accordance with the Cabinet Office Fees Framework for bodies for which the Crown has an interest (CO 19/1). Members will be entitled to claim a daily fee of \$750. The Chair, in recognition of the additional responsibilities, is entitled to claim a daily fee of \$1,100;

- Reasonable and out-of-pocket expenses incurred in the course of undertaking WDC business for travel, meals, and accommodation on presentation of GST receipts;
- Work carried out, or commissioned by the Interim Establishment Board in order to deliver their activities as per the Terms of Reference, with agreement from the TEC; and
- Secretariat support for the Interim Establishment Boards.

Interim Establishment Boards must draft an establishment plan outlining the activities that their respective WDC will undertake. The TEC has discretion to determine the appropriate time frames by which WDCs must approve their establishment plans, but they must be approved no later than 90 days after the WDC is appointed. Establishment plans must include:

- how WDCs will support their industries in the immediate term in light of COVID-19; and
- demonstrate broad industry support for their plans.

The TEC RoVE Programme must provide guidance on the expected content of these establishment plans, however I will have final approval of the establishment plans.

Though the Interim Establishment Boards can negotiate these plans on behalf of incoming WDC Boards, the incoming boards must review and approve their respective establishment plan. The TEC must only enter into funding arrangements for the WDC, with the established WDC board itself.

The TEC must be satisfied that Interim Establishment Board members are adhering to the terms of their appointments as stipulated by their Terms of Reference.

Interim Establishment Boards may be funded until handover to their respective WDC is complete.

The TEC may also use funding for establishment activities done on behalf of Interim Establishment Boards and incoming WDC Boards. These activities may include, but are not limited to:

- the appointment of the first WDC Boards
- arranging a secretariat function
- the provision of technology and other supporting services
- the design of operating models and analysis of people requirements including roles; and
- identifying options for head / regional office locations and premises.

To support these activities:

- up to \$5.7 million can be used from the Tertiary Sector/Industry Collaboration Projects appropriation within Vote Tertiary Education in the 2020/21 financial year; and
- up to \$6 million can be used from the Tertiary Sector/Industry Collaboration Projects appropriation within Vote Tertiary Education in 2021/22 financial year.

I expect any funding underspent from these amounts to be identified and proposed to be transferred to the Workforce Development Council appropriation within Vote Tertiary Education through a baseline update process.

I delegate to the TEC under section 409(1)(j) of the Education and Training Act 2020 authority to administer and pay funding:

- to cover the costs relating to the activities mentioned in this section of the delegation;
- of up to \$5.7 million in total in the 2020/21 financial year; and
- of up to \$6 million in the 2021/22 financial year.

Established WDCs

WDCs that are established by an Order in Council under section 363 of the Education and Training Act 2020 are eligible for funding described in this part of this delegation.

Once established, WDCs will receive funding agreements from the TEC for the length of time their plan reflects. I expect that after an establishment plan, WDCs will develop a further plan or plans laying out their strategic and operational direction up to the end of June 2023. The TEC must ensure that all plans demonstrate industry support, and describe how each WDC will support their industries in light of the ongoing effects of COVID-19.

The TEC must negotiate with each WDC about its proposed further plans and activities and base a final allocation of funding on activities, key deliverables and milestones agreed with the WDC, with the aim of WDCs being highly performing as soon as possible. The TEC must ensure funding takes into account the anticipated level of fixed costs for WDCs. The TEC must also take into account, when negotiating plans, the scale of the industries covered by each WDC, and other factors that the TEC considers relevant.

The TEC will utilise funding up to the amounts appropriated to the Workforce Development Council appropriation within Vote Tertiary Education to fund WDCs.

I delegate to the Tertiary Education Commission under section 409(1)(j) of the Education and Training Act 2020 authority to pay funding:

- To WDCs established under section 363 of the Education and Training Act 2020;
- For the activities agreed to by the TEC in their lodged plans; and
- Using funding up to the amounts appropriated to the Workforce Development Council appropriation with Vote Tertiary Education.

TEC must require WDCs to participate in cost-benchmarking exercises throughout their development.

I expect the TEC to:

- give effect to Te Tiriti o Waitangi and its principles as required by sections 4(d) and 9 of the Education and Training Act 2020 in the exercise of this delegation;
- report to me on the progress of Interim Establishment Boards regularly;

- report to me on established WDCs quarterly, including the progress of negotiations and any issues that may arise;
- publish information on the work of Interim Establishment Boards and WDCs regularly, including a public list that itemises each Interim Establishment Board and WDC that is funded and the amount of funding they have received. The Interim Establishment Board list may cease upon completion of handover to WDCs. For WDCs, I expect their plans to be published publicly;
- identify any underspends from the \$6 million appropriated from Tertiary Sector/Industry Collaboration Projects appropriation and propose they be transferred to the Workforce Development Council appropriation within Vote Tertiary Education through a baseline update process; and
- work to ensure that WDCs are collaborating with each other and demonstrating how they are maximising efficiency and effectiveness for the use of Government funding.

This delegation applies from the date of this letter until 30 June 2023.

The TEC may exercise any of its administrative functions outside of those dates as required to give effect to this delegation.

Yours sincerely

Chris Hipkins
Minister of Education