

Education Report: Consultation on 2024 funding determinations and approval of Workforce Development Councils funding delegation

To:	Hon Jan Tinetti, Minister of Education		
Cc:	Hon Kelvin Davis, Associate Minister of Education (Māori Education)		
Date:	7 June 2023	Priority:	High
Security Level:	In Confidence	METIS No:	1309258
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Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

1. This report seeks your approval to begin sector consultation on the 12 funding determinations to be varied for 2024.
2. We are asking for your feedback by Wednesday 14 June, to enable the determinations to undergo necessary consultation in parallel with proposed fee regulation changes and to be finalised well before the general election.
3. This report also seeks your agreement to renew a delegation of authority to the Tertiary Education Commission to administer funding for Workforce Development Councils until June 2024.

Summary

1. The Minister of Education provides instructions about tertiary education funding to the Tertiary Education Commission (TEC) in the form of determinations issued under section 419 of the Education and Training Act 2020 (the Act). Once issued, these determinations can only be varied after consultation with organisations that will be affected by the changes.
2. We are proposing changes to 12 existing funding determinations, mostly minor and technical in nature. We are seeking your agreement to consult with tertiary education providers and other interested stakeholders on the draft determinations. Following consultation, proposed changes will be progressed for your approval in August 2023.
3. Changes to fee regulation settings, while also implemented through funding determinations, are required to go through a different consultation process. These

settings will be excluded from consultation on the determinations, and a separate paper will provide you with advice on proposed adjustments to fee regulation [METIS 1310304 refers].

4. Additionally, we seek your agreement to renew a delegation to the TEC for the funding of Workforce Development Councils (WDCs), which currently expires on 30 June 2023. Given WDCs are still newly formed, we consider it appropriate to extend the existing funding arrangement until 30 June 2024. This will allow more time for them to focus on their core functions and expectations. Longer-term funding arrangements will be considered in 2024.

Recommended Actions

1. The Ministry of Education recommends you:

Varied funding determinations

- a. **note** that variations to funding determinations give effect to Budget 2023 decisions on funding rate increases, update terminology, clarify policy, and address minor and technical issues
- b. **note** that the proposed variations also give effect to decisions on:
 - i. when performance expectations must be set for TEOs that receive learner component funding under the unified funding system, and how this funding is affected by performance [METIS 1305735 refers]
 - ii. increasing the number of first year undergraduate medical student places funded annually from 539 to 589 (pending confirmation of this decision)
 - iii. expanding the criteria for family members of Christchurch Response Visa holders to be eligible for Refugee English funding, to align with clarifications to student support eligibility [METIS 1311784 refers]
- c. **agree** to consult the sector on the proposed variations to funding determinations (**Annexes 1-12**), subject to any minor proofing changes, as required under section 423 of the Education and Training Act 2020, over a four-week period

Agree Disagree

Workforce Development Councils delegation of funding

The Ministry of Education recommend that you:

- d. **agree** to renew the existing funding approach for WDCs [METIS 1218242 refers] until 30 June 2024
- e. **sign** the attached Letter of Delegation, delegating authority to the TEC to administer funding for WDCs under section 409(1)(j) of the Education and Training Act 2020, and setting out associated TEC reporting obligations (**Annex 13**)
- f. **note** that officials will explore the suitability of a funding model for beyond June 2024

Agree Disagree

Proactive release

- g. **agree** that the Ministry of Education release this paper in full once it has been considered by you, subject to any redactions under the Official Information Act 1982

☒ **Agree** ☐ **Disagree**



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07/06/2023



Hon Jan Tinetti
Minister of Education

11/06/2023

Background

Funding determinations

1. The Minister of Education provides instructions about tertiary education funding to the Tertiary Education Commission (TEC) in the form of determinations issued under section 419 of the Education and Training Act 2020 (the Act). Each fund typically has its own determination, which sets the funding rates for different areas of provision and the rules and conditions associated with the allocation of funding. Once the Minister has issued a funding determination, the TEC develops operational details of how to implement the determination. Funding determinations are varied or reissued from time to time to reflect changes in Government policy, or if they are time limited and expire.
2. We note that the Secondary Legislation Act 2021 clarified funding determinations as secondary legislation, on the basis that they were deemed to have significant legislative effect. This emphasizes the importance of following all procedural requirements to ensure that they withstand Regulations Review Committee scrutiny. Notably this includes consultation with affected parties before varying a determination, including minor and technical variations, as per section 423 of the Act.
3. Fee regulation settings are also implemented through funding determinations, but the Act requires that these are consulted on via the New Zealand Gazette which requires a separate process.
4. Last year the Minister of Education approved the introduction of five new funding determinations, with the majority of these relating to the introduction of the Unified Funding System (UFS) for vocational education and training. Additionally, a new determination was introduced for Te Tahua o Te Reo Kairangi, which supports the growth of high proficiency and immersion te reo Māori programmes.
5. We do not propose to introduce any new funding determinations for 2024, but are recommending variations to 12 existing determinations which give effect to Budget 2023 decisions on funding rates, update terminology, clarify policy, and address minor and technical issues.

Workforce Development Council delegation of funding

6. On 3 June 2020, the Minister of Education agreed to delegate authority to the TEC to fund Workforce Development Councils (WDCs) to perform their statutory functions and fulfil their duties as outlined in the Education and Training Act 2020 and in their respective Order in Council.
7. WDCs are funded by the TEC on an annual basis, with the funding agreements requiring performance measures and specified deliverables (six-monthly progress reports, an annual operational plan, and advice to the TEC). An existing 'Delegation to fund Workforce Development Council Interim Establishment Boards and Workforce Development Councils' authorises the TEC to administer and pay funding appropriated for that purpose. This delegation is in effect until 30 June 2023, and a new arrangement is now required for the TEC to continue funding WDCs.

Consultation on funding determinations

8. The legal requirement under the Act is that before varying an existing funding determination, you must consult with “all organisations that would be affected by a variation that the Minister proposes” (s423(3)(a)).
9. Because we are proposing to vary a large number of existing determinations which cover the majority of available funding, and because many organisations will be affected by multiple variations, we propose to make the draft determinations available to all organisations in the tertiary sector, including providers and learner representative groups.
10. We are therefore seeking your agreement to consult the sector on the variations proposed below. Consultation will provide an opportunity for affected organisations to comment on any proposed changes, with TEOs invited to participate using TEC’s contact system. Information and draft determinations will be made available on the Ministry’s website.
11. We recommend opening consultation on 19 June 2023. This accommodates the Minister of Health’s announcement of an increase to the number of first year undergraduate medical students that are funded annually, which is featured in the relevant funding determination (**Annex 4**). The Minister of Health intends to announce this increase at Auckland University on 16 June.
12. This consultation is planned to happen in parallel with consultation on proposed changes to fee regulation, which require a separate consultation process through the New Zealand Gazette [METIS 1310304 refers]. To accommodate the different consultation requirements, sections relating to fee regulation have been removed from the draft determinations for the purposes of this consultation. After both consultations close and any changes are approved, the relevant sections will appear in the final funding determinations.
13. We are proposing to prepare final determinations for approval in August so that the process is concluded well ahead of the general election on 14 October. In order to meet this timeframe, we ask for your approval to consult on the attached draft determinations by 14 June.

Variations to funding determinations

Updates to all determinations

14. We have updated the tertiary funding rates across all of the relevant funding determinations according to Budget 2023 decisions, with a 5 percent increase to rates across the board and the first step of a phased increase in funding for te reo Māori and mātauranga Māori provision.
15. We have also made a number of minor and technical updates across all relevant determinations, including:
 - a. updates to terminology, which include removing references subsidiaries of Te Pūkenga (as these have now been absorbed into the single organisation) and standardising the use of the terms ‘programme’, ‘qualification’, ‘credential’ and ‘micro-credential’;

- b. minor corrections to align with current policy and practice;
 - c. clarifying existing clauses or adding detail to clarify policy intent; and
 - d. improving the consistency of similar clauses across different determinations.
16. The following determinations are varied only for minor changes and clarifications, without significant policy change:
- a. *Adult Community Education (ACE)* – **Annex 1**
 - b. *Equity Funding* – **Annex 6**
 - c. *Performance-Based Research Fund (PBRF)* – **Annex 9**
 - d. *Strategic Component of the Unified Funding System* – **Annex 10**
 - e. *Te Tahua O Te Reo Kairangi* – **Annex 11**

Delivery at levels 1 and 2 (DQ1-2) – Annex 2

17. This funding determination covers two streams of funding: the provision of teaching and learning for foundation education (Levels 1 and 2 on the New Zealand Qualifications and Credential Framework [NZQCF]), and special supplementary grant funding for what has previously been known as 'special education'.
18. 'Special education' is an outdated term. NZQA replaced the term with 'inclusive education' after a review of the relevant standards in 2019, to reflect the language used by the sector. Following this example, we recommend replacing all references to 'special education' with 'inclusive education' in this funding determination. As 'special education' is a term defined and used in the Act, we have added a footnote to specify that for the purposes of this determination 'inclusive education' has the same meaning as 'special education' as defined in the Act.

Delivery at levels 3-7 non-degree and all industry training (DQ3-7) – Annex 3

19. This determination covers funding for both the delivery and learner components of the UFS for vocational education and training. We are proposing substantial additions to this determination relating to performance expectations for learner component funding. Paragraphs 51 to 63 outline how performance expectations are to be set, and how funding is affected by performance for TEOs that receive different amounts of learner component funding. These additions give effect to your decisions on how expectations will be applied to PTEs with smaller numbers of learners [METIS 1305735 refers].
20. Table 1 and Table 2 in the appendix have been updated to include the new classification and funding category for 'Mātauranga Māori and Te Reo Māori' (replacing 'Te Reo Māori' and 'Tikanga Māori').

Reinstating 'EFTS' as a common unit of measure

21. As part of bringing together funding for two previously separate groups of learners (provider-based and work-based learners), the Unified Funding System (UFS) replaced the previous separate units of learning ('Equivalent Full-Time Student' (EFTS) for provider-

based study and Standard Training Measure (STM) for work-based training) with a single, more inclusive, term: an Equivalent Full-Time Learner' (EFTLs). This reflected the broader shift in terminology from 'student' to 'learner' and that work-based learners were generally not referred to as 'students'. All of these units equate to 120 credits of learning.

22. The 2023 funding determination for DQ 3-7 introduced the use of the term EFTL, on the basis that it would eventually replace the use of both EFTS and STMs across tertiary education. However, as we move further into the implementation of the UFS, it is becoming increasingly apparent that the use of EFTL is likely to create confusion across the tertiary system. Shifting from EFTS to EFTL for higher education would create further confusion and administrative costs, and for very little benefit to learners. Embedding a shift to EFTL would also likely have required both legislative and operational changes relating to the Ministry of Social Development's student support systems.
23. We therefore propose to revert to using EFTS (rather than EFTL) across the tertiary system, with STMs to be phased out once the new data system is implemented from 2025. This change is reflected in the attached draft determination. The use of the term is primarily administrative, and it is not critical that it aligns with the use of 'learner' terminology across the tertiary system. We anticipate this change will be welcomed by the sector and will require minimal administrative change for TEOs.

Delivery at levels 7 and above (DQ7+) – Annex 4

24. This funding determination supports the provision of teaching and learning services for courses at Level 7 and above. As part of limits on the funding of high-cost provision, the determination defines a set number of first year undergraduate medicine enrolments that can be funded each year. Cabinet has recently considered a proposal to raise the number of first year undergraduate medical students funded annually from 539 to 589 students [SWC-23-MIN-0059 refers]. Although we have not yet received confirmation of Cabinet's decision, the attached draft of this determination includes this proposed increase (paragraph 40(c)) in anticipation of Cabinet approval. We will update this number when a decision is confirmed, and before opening consultation.
25. Table 1 and 2 in the appendix of this determination, which detail delivery classification and funding category codes, have been updated to align with the current Qualification Delivery Guide and include the 'Mātauranga Māori and Te Reo Māori' category.

English Language Teaching (ELT) – Annex 5

26. This funding determination is currently titled 'English for Speakers of Other Languages' (ESOL), however this terminology is considered outdated in its emphasis of the 'other' or outsider element. NZQA now refer to the subject as 'English Language'. Following this example, and to avoid setting an expectation that providers should use outdated terminology, we recommend a shift to 'English Language Teaching' (ELT) as the name for this determination.
27. Paragraph 29 of this determination relates to the Christchurch Response Visa and eligibility for the Refugee English Fund. We have been working with the Ministry of Social Development to clarify the student support eligibility criteria for family members of people who hold this visa (who can be eligible for funding and student support access). This is to ensure the policy intent is met with respect to the waiver of the three-year residency stand-down rules for eligibility to student loans, student allowances and Fees Free [METIS

1311784 refers]. The proposed changes (paragraph 29) set out the clarified parameters for this group with respect to Refugee English funding and entail a small broadening of how eligible family members are defined, in line with the clarifications for student support eligibility.

Literacy and Numeracy (LN) – Annex 7

28. This determination covers three funds which collectively have the purpose of raising adult literacy and numeracy skills across different settings. As such, the delivery funded under this determination is focused on specific outcomes and may sit alongside other learning. Most changes proposed to this determination are minor or clarifying.
29. A more substantial change is the inclusion of REAP Aotearoa as eligible for funding under the Workplace Literacy and Numeracy Fund. This organisation is a peak body for Rural Education Activities Programmes (REAPs) and has an interest in organising consortia through which organisations can be funded to provide literacy and/or numeracy education to their employees. To facilitate this, we propose including REAP Aotearoa as a TEO for the purposes of this fund (paragraph 33), alongside employers who meet the criteria in the determination, and have included specific conditions in paragraph 42(e) which REAP Aotearoa must meet to be eligible for funding.

Māori and Pasifika Trades Training (MPTT) – Annex 8

30. The main change recommended for this determination is to change the criteria for micro-credentials to be eligible for MPTT funding, requiring them to be valued at between 20 and 40 credits (paragraph 29[a]) rather than 40 to 45 credits. The minimum value for micro-credentials delivered at Levels 1 and 2 is 20 credits, to ensure it contains sufficient foundational learning, and we consider that similar considerations apply to the target learners for MPTT funding (namely Māori and Pacific learners aged 16-40 years old and entering pre-trades training). 40 credits is the expected upper limit, and also the minimum value for a qualification.

Youth Guarantee (YG) – Annex 12

31. The three funding determinations that provide for delivery on the New Zealand Qualifications and Credentials Framework (DQ1-2, DQ3-7 and DQ7+) include a clause requiring the TEC to ensure that funding paid under those mechanisms is not used for a programme of study that primarily relates to health and safety or regulatory compliance learning. The Youth Guarantee mechanism does not have an equivalent clause.
32. It is not intended that Youth Guarantee funding displace the responsibility of employers to provide appropriate health and safety training. We propose to add the standardised paragraph developed for the three other funding determinations listed above as paragraph 32 of the Youth Guarantee determination. This brings the same conditions to all of these sources of funding.
33. We have also included a requirement (paragraph 36), and a required condition of funding (paragraph 41), for TEOs to develop a pathway plan for connecting learners to higher level learning and/or employment.

Delegation to fund Workforce Development Councils

34. WDCs have now been operational for almost a year. You have recently received the TEC's second monitoring report, providing a high-level summary and assessment from the Tertiary Education Commission (TEC) and New Zealand Qualifications Authority (NZQA) of the WDCs' activities and performance in the six months from October 2022 to March 2023 (B-23-00399 refers).
35. As WDCs are still newly formed, we consider it appropriate to renew the current funding arrangement for a further 12 months, allowing WDCs more time to operate at full-scale. This will provide us with more information about their operations and business, and will allow us to make a more informed decision regarding funding arrangements going forward.
36. We propose to extend the current funding of \$65m to 30 June 2024, to allow more time for the six WDCs to deliver on their core functions and expectations. This funding has been appropriated for this purpose.
37. The extension of this delegation does not require consultation, and WDCs have been notified by the TEC that their funding will remain the same for the next fiscal year. We recommend you agree to extend the current arrangement and sign the attached letter of delegation (**Annex 13**), which would then come into effect on 30 June 2023 and ensure continuous funding.

Next Steps

Variations to funding determinations

38. We are asking for your approval to consult on the draft determinations by 14 June 2023, to enable consultation to open the following week. This will allow us to provide advice on the results of consultation, and final drafts for your signature, in mid-August in advance of the general election.
39. The timetable for consultation and finalising the determinations would be as follows:

Date	Milestone
19 June 2023	Consultation opens
20 June 2023	Optional opportunity for sector to meet with officials
17 July 2023	Consultation closes
10 August 2023	Final determinations to Minister for approval
1 January 2024	Variations come into effect

WDC delegation of funding

40. Following your approval of the recommendations and signing of the annexed letter of delegation, your office will provide the letter to the TEC who will continue to administer this funding until June 2024.

Annexes

The following are annexed to this paper:

- Annex 1:** Determination of Design of Funding Mechanism: Adult and Community Education
- Annex 2:** Determination of Design of Funding Mechanism: Delivery on the New Zealand Qualifications and Credentials Framework at Levels 1 and 2
- Annex 3:** Determination of Design of Funding Mechanism: non-degree delivery at levels 3-7 on the New Zealand Qualification and Credentials Framework and all industry training
- Annex 4:** Determination of Design of Funding Mechanism: Delivery at level 7 (degree) and above on the New Zealand Qualifications and Credentials Framework
- Annex 5:** Determination of Design of Funding Mechanism: English Language Teaching
- Annex 6:** Determination of Design of Funding Mechanism: Equity Funding
- Annex 7:** Determination of Design of Funding Mechanism: Literacy and Numeracy Provision
- Annex 8:** Determination of Design of Funding Mechanism: Māori and Pasifika Trades Training
- Annex 9:** Determination of Design of Funding Mechanism: Performance-Based Research Fund
- Annex 10:** Determination of Design of Funding Mechanism: strategic component of the unified funding system for vocational education and training
- Annex 11:** Determination of Design of Funding Mechanism: Te Tahua O Te Reo Kairangi
- Annex 12:** Determination of Design of Funding Mechanism: Youth Guarantee
- Annex 13:** Delegation to fund Workforce Development Councils