



Education Report: Student support access for refugee learners

To:	Hon Chris Hipkins, Minister of Education		
Date:	8 November 2021	Priority:	Medium
Security Level:	In Confidence	METIS No:	1272077
Drafter:	9(2)(a)	DDI:	9(2)(a)
Key Contact:	9(2)(a)	DDI:	9(2)(a)
Messaging seen by Communications team:	No	Round Robin:	No

Purpose and summary

This paper seeks your agreement to progress changes to student loans and allowances (student support) and Fees Free eligibility criteria for those with refugee or protected person status granted while living in New Zealand. This will provide the same level of access to these financial supports as other refugee groups.

This paper proposes changes to eligibility criteria for student support and Fees Free to extend access to:

- a. those determined to have refugee or protected person status onshore prior to applying for or gaining a resident visa; and
- b. the immediate family in New Zealand of the group outlined above and can transition to residency with the person holding refugee or protected person status.

Changes to Fees Free can be implemented by 1 January 2022, through the delegation for Fees Free Tertiary Education and Training that you issue. Changes to student loans and allowances will require Cabinet agreement and will have a later implementation date in 2022, depending on timeframes for Cabinet processes.

Recommended actions

The Ministry of Education recommends you:

- a. **agree** to extend eligibility from 1 January 2022 to Fees Free Tertiary Education and Training to those who gain refugee or protected person status while living in New Zealand, prior to applying for or gaining a New Zealand resident visa, and their immediate family who can transition to residency with them
- b. **agree** to seek Cabinet approval to extend eligibility for student loans and student allowances to those who gain refugee or protected person status while living in New Zealand, prior to applying for or gaining a New Zealand resident visa, and their immediate family who can transition to residency with them
- c. **note** that the Ministry of Social Development (MSD) is working through potential implementation dates for changes to student support, as this depends on when Cabinet processes, including regulatory amendments have been completed
- d. **note** that the eligibility changes to student support and Fees Free are minor and in-line with existing policy intent to support refugees' access to student financial support
- e. **note** that the estimated cost of these proposed eligibility changes to Fees Free and student support, including additional operational costs and flow-on expenditure estimated by the MSD can be met within baselines
- f. **agree** to forward this paper to the Minister for Social Development and Employment and the Minister of Revenue
- g. **proactively release** this paper, with any redactions in line with the provisions of the Official Information Act 1982 after decisions have been made.

Agree / Disagree

Agree / Disagree

Agree / Disagree

Release / Not release


Kieran Forde
Acting Senior Manager,
Tertiary Education Policy


Hon Chris Hipkins
Minister of Education

08/11/2021

1 / 12 / 21

Background

1. In March 2021, we provided you with advice regarding gaps in refugees' access to tertiary education [METIS 1251157]. You agreed to extend domestic tertiary student status to the immediate family of those with refugee status from April 2021, so these family members could also access subsidised tuition and domestic fees, as whole families that come to New Zealand through the refugee quota do.¹ Individuals who claim and held refugee status themselves were already considered domestic tertiary students. We also signalled further potential changes to student support.
2. New Zealand is committed to helping refugees successfully resettle here. However, refugees who are determined to have refugee or protected person status while *onshore* in New Zealand cannot currently access student support or Fees Free Tertiary Education until they have a resident visa, which can take around two years to obtain. For immediate family members who can transition to residency with them (such as their partner or child), the delay is an additional three years of holding a resident visa, as many may not have refugee status themselves.
3. Stakeholder groups have raised concerns about inconsistent eligibility settings for different refugee groups in relation to access to student support, including student loans and allowances, and Fees Free.² This includes the Asylum Seeker Support Trust, who the Ministry met with last year in developing changes, and the Asylum Seekers Equality Project.

There is inconsistent access to student support and Fees Free for different groups of refugee-background learners

4. Eligibility for student support, including student loans and allowances, and Fees Free is set in line with Government's expectations that those able to access these supports have demonstrated commitment to working and living in New Zealand. This involves:
 - a. residency status; and
 - b. a residence requirement period, requiring residency to be held for three years while living in New Zealand.

Those who gain refugee status through the refugee quota process have immediate access

5. Those with refugee status or protected person status, and their families, who come into New Zealand under the refugee quota process are all refugees under the Immigration Act 2009 and have a resident visa prior to their arrival into New Zealand. This group,

¹ 'Immediate family' is used as defined by the Domestic Tertiary Students Notice 2021 (2)(c) as including the partner and any child in New Zealand of a person recognised as a refugee or protected person, or if the person recognised is a dependent child, their parents and any siblings in New Zealand.

² All references to Fees Free in this paper relate to the Fees Free policy introduced in 2018, which supports students to get their first year of provider-based study, or first two years of an apprenticeship or traineeship, fees-free. The Targeted Training and Apprenticeship Fund is programme-targeted and anyone classified as a domestic student is eligible to access these programmes fees-free.

and those that hold a Refugee Family Support Resident Visa, do not need to have held a resident visa for three years to access student support or Fees Free.³

6. These eligibility settings and exemptions to the three-year residence requirement support refugee settlement outcomes and reflect the different circumstances refugees gain residency under, compared to general skilled migrants. These learners still need to meet all other eligibility criteria for student allowances, including personal, parental and partner income tests, and the performance test related to successfully completing previous study.

Those granted refugee status while in New Zealand have delayed access to student support

7. Those who gain refugee status while in New Zealand do not benefit from the same access to student financial support as groups from the annual refugee quota. Table 1 overleaf outlines the differences in access to study and financial support for different refugee-groups. The difference is the result of two immigration settings for those gaining refugee status while in New Zealand. These are:
 - a. those granted refugee status onshore must subsequently apply for New Zealand residency (rather than being granted residency at the same time as their refugee status decision)⁴; and
that refugee status is only conferred to the individual who made the claim and not extended to their immediate family, such as children, even though they can transition to a resident visa through the refugee and protection category as a family group.⁵
8. These settings result in delays for these refugee groups in accessing financial support for students, of around two years for those with refugee status, and up to five years for their immediate family members that can transition to residency with them. More detail on current settings and delays is included in the table in Annex 1.

³ Similar changes were agreed to by Cabinet in November to exempt Afghan evacuees that gain an Afghan Emergency Resettlement Residency Visa to access student support without three years of residency [METIS 1273894 refers].

⁴ Claims for refugee or protected person status while in New Zealand are first considered by the Ministry of Business, Innovation and Enterprise (MBIE), but are also considered and granted on review by the Immigration and Protection Tribunal, administered by the Ministry of Justice and led by a District Court Judge. Given this process can involve other entities approving refugee status, MBIE subsequently determine residency applications from those who are granted refugee status.

⁵ The assessment of refugee status concerns the circumstances of each *individual* claimant on return to their country of origin. Sometimes a whole family claim and are granted refugee status, and other times only one member makes a claim and is granted refugee status. This means this group is not exempt from the three-year residence requirement like other refugee learners, further delaying student support access.

We recommend changes that remove inconsistent access for refugee groups

9. We recommend progressing changes to grant eligibility for student support and Fees Free to:
 - a. those determined to have refugee status onshore prior to applying for or gaining a resident visa; and
 - b. the immediate family members of those with refugee status that can transition to residency with their family member holding refugee or protected person status.
10. These proposed changes would:
 - a. remove delays to accessing student financial support for refugee groups; and
 - b. ensure clear, consistent, and fair eligibility settings for all refugee groups, removing inconsistencies between refugee groups (as outlined in Table 1), and aligning settings with recent domestic tertiary student changes that extended tuition subsidies from those with refugee status to also include their immediate family.
11. Domestic tertiary student status also includes a group in New Zealand who claim, but have not yet been granted, refugee status. We do not propose to extend other student financial support to this group, as a high portion of refugee claims are not successful.

We are also not proposing changes to immediate family members of refugees who are not part of their initial settlement in New Zealand.⁶

Estimated impact of these proposed changes

12. Over the five financial years ending June 2020, on average around 450 people per year claim refugee status while in New Zealand, and 130 people per year gain refugee or protected person status. Since June 2020, the arrival of non-residents is limited with COVID-19 border limitations, but there have been 460 refugee claims in this financial year as at July 2021 from people already in New Zealand (and 102 people have been determined to have refugee status over this period).
13. Those who are determined to be refugees while onshore in New Zealand, and their immediate family members who do not have refugee status themselves,⁷ are very likely to transition to New Zealand residence. Most people with refugee status will obtain New Zealand residence within two years, however, timeframes vary considerably for individual circumstances and very few people do not gain a residence visa.
14. Given tertiary participation rates and age estimates for this group, we estimate that the change will provide support to approximately 31 additional learners initially, with the number of learners impacted decreasing after two years. Annex 3 provides more detail.

⁶ For example, changes would not cover subsequent family, such as partners that arrive in New Zealand 10 years later and gain residency through the family category. The same student support and Fees Free settings that apply to all partners of New Zealand Citizens or residents would apply – which includes having a residence visa for three years in New Zealand.

⁷ Data from the Ministry of Business, Innovation and Employment estimates this to be around 1 additional family member for every 3 people granted refugee status.

15. While the changes proposed to eligibility affect a small population group but can make a significant difference to their ability to study and career pathways, especially for children of those with refugee status who complete secondary school in New Zealand. Without changes, they may have to wait five years to gain access to student support. The children would need to be in year 8 or below when their family member gained refugee status to be eligible for access to student support and Fees Free when they complete Year 13.

Financial Implications

16. The financial impact is small, for a fixed period, and can be met within baselines. This includes additional operational costs estimated by MSD.⁸ We have advised Treasury of this approach, and they had no concerns. The financial impact would be over the 2021/22 to 2026/27 financial years. Annex 3 provides more detail.

Implementation approach

Change to eligibility for Fees Free Tertiary Education and Training

17. Fees Free eligibility changes can be introduced from 1 January 2022 through amendments to the Fees Free Tertiary Education and Training delegation which will be provided to you in early November with this proposed change [METIS 1274706 refers].
18. The proposed eligibility changes related to refugee groups is small, and in-line with the policy intent to enable access to Fees Free for refugees when they start residing in New Zealand. We propose that you make this change in the 2022 delegation without seeking Cabinet agreement. This group of refugees could also potentially already access Fees Free support under exceptional circumstances provisions, due to their refugee-background.

Student support changes

19. Student support changes are in-line with the existing policy intent for access to student support for refugees, however, Cabinet agreement will be required to implement the changes. Student loan eligibility settings are implemented based on Cabinet minutes, and Cabinet agreement to the policy change applying to student allowances is required, as well as amendments to the Student Allowances Regulations 1998.
20. MSD are working through a potential implementation date for changes to student support and student allowances. This is likely to be after the 1 January date for Fees Free changes, owing to the different process, and will be impacted by Cabinet policy decisions and subsequent Student Allowance Regulations amendments. This will be confirmed in time for lodgement of the Cabinet paper. As this is a small change, we will look to include it as part of a planned Cabinet paper for other tertiary education issues.
21. For most groups impacted by the change, eligibility for student support and Fees Free is clear from existing documentation, however, education agencies, MSD, and MBIE

⁸ MSD estimated costs will be finalised in time for the lodgement of the Cabinet paper.

are working to identify processes for confirming eligibility for a small group for whom this is less clear.

22. The differing implementation timeframes for Fees Free and student support during 2022, will create a small inconsistency, due to the decision and implementation processes. If the Fees Free change was delayed to align with student support timeframes, learners who start study in 2022, prior to the changes, may undertake study that could impact their subsequent eligibility for Fees Free, based on prior study criteria.

Next steps

23. Subject to your agreement to these changes, we will:
 - a. **Fees Free tertiary education and training:** Seek your agreement to issue the 2022 Fees Free delegation including these changes to take effect from 1 January 2022.
 - b. **Student loans and student allowances:** Seek Cabinet agreement to eligibility changes to student loan and student allowances (student allowances will also require approval from Cabinet Legislation Committee, which approves changes to the Student Allowances Regulations 1998 on the recommendation of the Minister for Social Development and Employment).
24. As this is a small change, we propose that Cabinet agreement for student support changes is progressed through an existing Cabinet commitment. Draft content that could be included in another Cabinet papers is attached as Annex 1. An option is inclusion in the proposed Cabinet paper reporting back on tertiary education demand pressures by the end of 2021 if these decisions are confirmed prior to finalising the Cabinet report-back.

Annex List

Annex 1: Current support for tertiary study for refugee groups

Annex 2: Draft Cabinet paper text

Annex 3: Detailed estimates of additional learners and financial implications

Annex 1: Current support for tertiary study for refugee groups

Group	Domestic tertiary student status	Fees Free Tertiary Education and Training	Student Support
Refugees through the annual quota, including whole families (arrive on a permanent Resident Visa)	Access as residents	Access on arrival, not subject to three-year period on resident visa	Access on arrival, not subject to three-year period on resident visa
Refugee or protected person status gained onshore in NZ (without residency, subsequently apply)	Access as gazetted category	Access when granted resident visa, unless able to gain exceptional circumstances related to refugee-background	Access when granted resident visa (usually around two years from refugee status)
Immediate family of refugee or person with protected person status gained onshore in NZ, residing in New Zealand and yet to gain residency	Access as gazetted category	No access until they have held a resident visa for three years as they do not have refugee status (usually five years from when family member gained refugee status)	No access until they have held a resident visa for three years as they do not have refugee status (usually five years from when family member gained refugee status)

Annex 3: Detailed estimates of additional learners and financial implications

The number of additional learners benefiting from entitlements will be small

MBIE data indicates that, as of 31 August 2021, there are around 300 people who have pending applications for a resident visa under the Refugee or Protection category. These are the people with refugee status granted onshore and their family members that have applied for a resident visa. We estimate that from this cohort, around 200 would be between 18 and 50 years old, that is, age groups likely to undertake tertiary study. There would also be further groups of additional immediate family members aged 18 to 50 years who have gained residency but have not held the resident visa for three years (estimated at another 35 people).

We estimate that, of this group aged 18-50 years old and based on average rates of participation in tertiary education, the change would extend student financial support to approximately 31 people per year (17 people gaining refugee status per year and 14 additional immediate family members per year).

The proposed change would give those with refugee status eligibility for student support and Fees Free approximately two years earlier, assuming average residency transition rates of two years, while their immediate family who gain residency with them would gain eligibility five years earlier (two years to gain residency and then three years on residence visa in New Zealand).

The financial impact of additional groups gaining access to student support or Fees Free is time limited. Additional cohorts of learners with refugee status would gain access in 2022 (those who gained refugee status in 2021 and 2022), in addition to those from 2020 who can gain access under the current settings. In two years, from 2024, there would only be one additional annual cohort group with refugee status per year who gains access (the 2024 group would become eligible in 2024, as opposed to current settings where the 2022 group would become eligible in 2024), as is currently the case.

This time-limited pattern would be the same for immediate family members of those gaining refugee status who transition to residency with the person with refugee status. However, the period with additional learners having access would be five years. Over 2022-2026, additional cohorts would gain eligibility, but from 2027, only one cohort per year would gain eligibility (the 2027 cohort would become eligible in 2027, rather than the 2022 cohort which would become eligible in 2027 under current settings).

Given this time-limited impact, the costs of the change cover the 2021/22 to 2026/27 financial years only. We have assumed that learners each year access a mix of fees-free support from Fees Free and student loans, and all gain living costs from student allowances.⁹ We estimate additional costs from 1 January 2022 to 30 June 2027 to be:

- a. Fees Free payments of \$0.385 million;
- b. capital borrowing for student loans of \$0.330 million;
- c. operating costs for student loan borrowing of \$0.120 million; and

⁹ It is difficult to estimate the numbers of additional people who will take up tertiary education and financial support, or the precise cost of these proposed changes. This is because there is limited information on the circumstances for this group (eg. their prior tertiary study patterns for Fees Free eligibility, or their income levels for eligibility for student allowances).

- d. student allowance costs of \$1.240 million (if all students access student allowances).

These estimated costs are very small and well within the normal variability of the Student Loan Scheme and student allowances forecasts, and within Fees Free payment baselines. We therefore propose that these costs can be met within existing baselines. We have advised Treasury of this approach, and they had no concerns.

MSD has estimated there will be additional operational costs to implement this change, as well as flow-on expenditure costs for other benefit support that can be met within baselines. These costs will be finalised in time for the lodgement of the Cabinet paper.

There is a risk that costs are uncertain for the expansion of eligibility for onshore refugees, as it is not possible to predict the number of people and their families who will claim refugee status while onshore. However, we do not anticipate that this is a significant risk as historically there are very few people per year who claim refugee or protected person status onshore.