



Education Report: Unappropriated Expenditure on Support for Tertiary Students Affected by Provider Failure – (Section 26C)

To:	Hon Chris Hipkins, Minister of Education		
Date:	10 September 2020	Priority:	High
Security Level:	In Confidence	METIS No:	1237950
Drafter:	Rowena Zurbito	DDI:	9(2)(a)
Key contact and number:	Mark Flintoff, Chief Financial Officer	DDI:	
Messaging seen by Communications team:	No		

Purpose of report

1. This report informs you of historical unappropriated expenditure for departmental output expense Stewardship of the Tertiary Education System MCA: Research, Data Analysis and Monitoring in Vote Tertiary Education in relation to the Export Education Levy (EEL) payments to international tertiary students affected by failure of Private Training Establishments (PTEs). This unappropriated expenditure will appear in the Appropriation (Confirmation and Validation) Act for 2019/20 to be validated by Parliament.
2. This report also seeks your approval of the draft explanation of the unappropriated expenditure.

Background

3. Cabinet historically appropriated funding to support the long-term development of the export education industry by the Ministry of Education [CAB Min (02) 12/8 (51) para 103 refers]. The EEL related appropriations both departmental and non-departmental sit with the Ministry. All appropriations are fiscally neutral overtime as they are recovered through the Export Education Levy.
4. The Ministry of Education incurs departmental costs on behalf of EEL such as administration costs for levy collection and policy work, audit fee, dispute resolution service, student wellbeing (prior to 2015) and support for students affected by failure of providers. Non-departmental costs include:
 - a. Code of Practice through the New Zealand Qualifications Authority (NZQA)
 - b. Promotion, marketing and professional development projects through Education New Zealand (ENZ)

These costs are then reimbursed from the EEL Fund each month.

5. From 1 July 2015, a change was made to pay directly from the EEL Fund the payments for international students following collapse of PTEs. ENZ and NZQA processes remained unchanged. The rationale for the 2015 change was driven by a desire to simplify and considered the EEL legislation and other factors.
6. Unfortunately, the 2015 change failed to correctly consider appropriation requirements. Appropriations are required for the levy expenditure and any other cost, including that from the EEL. The EEL legislation whilst stating its purpose, is not sufficient approval of appropriated expenditure alone. Once the payments were made direct from the EEL Fund, they were no longer appropriated.
7. In late 2019, Finance reviewed the EEL processes and accounting treatment which lead to the discovery of the incorrect treatment of EEL expenditure. This is a technical funding issue and that services were delivered as expected.
8. The issue was resolved during the 2019/20 Supplementary Estimates for the 2019/20 financial year and outyears by an increase to non-departmental output expense appropriation International Education Programmes to support international tertiary students affected by failure of PTE and have claims against the EEL in 2019/20 and outyears [CAB-20-MIN-0153.14 initiative 12419 refers]. This aligned the expense within a non-departmental appropriation which was considered more appropriate for the nature of this expenditure. However, the Ministry has to disclose the historical unappropriated expenditure in the 2020 Annual Report for the four financial years 2016-2019 which was unable to be resolved.
9. Consequently, unappropriated expenses have been incurred since 2015 when the change was made. These unappropriated expenses require validation by Parliament under section 26C of the Public Finance Act 1989. Treasury requires that we report the last four years of unappropriated expenditure. Based on the figures from EEL's Annual Reports, the unappropriated expenditure for those years were as follows:

Financial year	Unappropriated Amount (in \$m)
2015/16	0.009
2016/17	0.908
2017/18	3.214
2018/19	0.816

10. This approach was discussed and agreed with the Treasury and the Ministry's auditors Ernst & Young.

Authorisation Process

11. This unappropriated expenditure requires approval by Parliament under validating legislation under section 26C of the Public Finance Act as the adjustment is retrospective.
12. There is no requirement to submit a Cabinet Paper as Treasury will incorporate this into an omnibus Cabinet paper setting out the contents of the Appropriation (Confirmation and Validation) Bill and section 26C report to Minister of Finance. The details of the additional unappropriated expenditure have to be provided to Treasury by 18 September with the Minister's explanation.

Recommended Actions

13. The Ministry of Education recommends you:

- a. **note** that unappropriated expenses have been incurred in departmental output expense Stewardship of the Tertiary Education System MCA: Research, Data Analysis and Monitoring in Vote Tertiary Education;
- b. **note** that the unappropriated expenditure in relation to the Export Education Ley (EEL) payments to international tertiary students affected by failure of PTEs in previous years will be included in validating legislation in compliance with Section 26C of the Public Finance Act;
- c. **note** the following unappropriated expenditure from 2015/16 to 2018/19;

Financial year	Unappropriated Amount (in \$000)
2015/16	0.009
2016/17	0.908
2017/18	3.214
2018/19	0.816

- d. **sign** the attached Certification of Unappropriated Expenses and Capital Expenditure and Capital Injections for 2019/20 on or before 18 September 2020; and
- e. **agree** not to proactively release this report until the 2019/20 annual accounts of the Ministry are finalised.


Mark Flintoff
Chief Financial Officer

04/09/20



Hon Chris Hipkins
Minister of Education

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Certification of Unappropriated Expenses and Capital Expenditure and Capital Injections for 2019/20

PROFORMA CERTIFICATION OF SCHEDULE OF UNAPPROPRIATED EXPENSES AND CAPITAL EXPENDITURE AND CAPITAL INJECTIONS

I hereby certify that the explanations provided for the unappropriated expenses in Vote Tertiary Education for which I am responsible are correct, and agree that these explanations are suitable for inclusion in the *Report on Unappropriated Expenses and Capital Expenditure* for tabling in the House of Representatives.



Hon Chris Hipkins
Minister of Education

Date: 17/09/20

Template for Section 26C Validation

- (1) Fill this table out if your Minister is seeking validation of unappropriated expenditure or capital injections.
- (2) Please submit the completed details and associated documentation to Treasury as outlined in the circular – the template itself does not need to be signed off by Cabinet or joint Ministers.

Has the Minister responsible for the appropriation been informed and certified the reason for the expenditure?	Yes
Has the use of Imprest been approved by Cabinet (or Joint Ministers, if a delegation is in place)?	No
Does this return include any expenditure outside the scope of an existing appropriation?	No
Are the titles of the appropriations consistent with the Estimates?	Yes

Vote	Description	Amount (\$ million)	
Tertiary Education	Departmental Output Expense Stewardship of the Tertiary Education System MCA: Research, Data Analysis and Monitoring	\$0.009	2015/16
		\$0.908	2016/17
		\$3.214	2017/18
	The Ministry was appropriated to support the long-term development of the export education industry. The Export Education Levy (EEL) related expenses were paid by the Ministry's departmental and non-departmental baselines which were then reimbursed from the EEL Fund each month.	\$0.816	2018/19
	<p>From 1 July 2015, a change was made to pay directly from the EEL Fund the payments for international students following collapse of Private Training Establishments (PTEs). Other payment processes remained unchanged. The 2015 change failed to correctly consider appropriation requirements. The EEL legislation whilst stating its purpose, is not sufficient approval of the expenditure alone. Once the payments were made direct from the EEL Fund, they were no longer appropriated.</p> <p>The issue was resolved for the 2019/20 financial year and future years during the 2019/20 Supplementary Estimates by an increase to the International Education Programmes baseline. This aligned the expense within a non-departmental appropriation, which was considered most appropriate given the nature of this expenditure. However the historical unappropriated expenditure for the four financial years 2015-2019 was unable to be resolved.</p>		