

04 MAR 2020



Education report: Revised Cabinet Paper - Extending eligibility to student support to people who were affected by the Christchurch mosques terror attack

To:	Hon Chris Hipkins, Minister of Education		
Date:	4 March 2020	Priority:	High
Security Level:	In Confidence	METIS No:	1222450
Drafter:	Mary Kuepper	DDI:	s 9(2)(a)
Key Contact:	John Brooker	DDI:	
Messaging seen by Communications team:	N/A	Round Robin:	No

Summary

Attached is the revised Cabinet paper *Extending eligibility to student support to people who were affected by the Christchurch mosques terror attack (annex 1)* that reflects feedback provided through Ministerial consultation. This paper is due to be lodged by 10am, Thursday, 5 March, to go to Cabinet Social and Wellbeing Committee (SWC) on 11 March, and Cabinet on 16 March.

Following your feedback, we have updated the paper to include two alternative approaches for funding costs incurred through the changes to student loans and allowances: first, for all costs to be picked up through the standard forecast process; and second, to meet operating costs from the between-Budget contingency and charge capital costs as a pre-commitment against the Multi-Year Capital Allowance (Treasury recommended).

Subject to Cabinet agreement to this paper, the Student Allowances Regulations will need to be updated and changes approved by Cabinet Legislation Committee and Cabinet through a separate Cabinet paper to give effect to this policy change. The Ministry of Social Development is currently working on this paper. We need to progress the attached Cabinet paper ahead of the regulatory policy paper, however, to ensure Cabinet can agree to the proposed changes before the Budget moratorium commences on 30 March 2020.

Eligibility changes for Fees Free tertiary education and training can be implemented immediately once Cabinet approval is provided and you have issued an updated letter of delegation to the Tertiary Education Commission. Eligibility changes to student loans and student allowances will be implemented and will take effect from 1 June 2020.

Recommended actions

The Ministry of Education recommends you:

- note** the attached revised Cabinet paper *Extending eligibility to student support to people who were affected by the Christchurch mosques terror attack*, due to be lodged at 10am, Thursday, 5 March

- b. **note** that we will provide an aide memoire to your office on Friday, 6 March, to support your presentation of this item at SWC on 11 March
- c. **sign** the attached updated letter of delegation to the Chair of the Tertiary Education Commission, subject to Cabinet's agreement to extend Fees Free support to those affected by the Christchurch mosques terror attack
- d. **proactively release** this education report within 30 days of Cabinet decisions being made, with any redactions in line with the provisions of the Official Information Act 1982

Release / Not Release



Andy Jackson
Group Manager
Tertiary Education
04/03/2020



Hon Chris Hipkins
Minister of Education

4/3/20

Background

1. The attached Cabinet paper is due to be lodged by 10am, Thursday, 5 March. This will allow it to be considered by Cabinet Social and Wellbeing Committee on 11 March and by Cabinet on 16 March.
2. The Cabinet paper seeks approval to waive the three year residence stand-down period for student loans, student allowances and Fees Free tertiary education and training (Fees Free) for:
 - a. people on a Christchurch Response (2019) Permanent Resident Visa (Christchurch Response Visa); and
 - b. people who would have been eligible for a Christchurch Response Visa, but were already holding another residence visa.
3. The Cabinet paper also seeks approval to exclude financial gifts or donations made to a person affected by the Christchurch mosques terror attack from the student allowances personal, parental, and partner income tests. This will provide certainty that this type of financial support will not affect their entitlement to student support financial assistance.

We have updated the paper following Ministerial consultation

4. The paper now includes two alternative approaches for funding costs incurred through the changes to student loans and allowances: first, for all costs to be picked up through the standard forecast process (to align with the Ministry of Social Development's (MSD) Cabinet paper)¹; and second, to meet operating costs from the between-Budget contingency and charge capital costs as a pre-commitment against the Multi-Year Capital Allowance (Treasury recommended).

The process for implementing these changes has a number of steps that differ for each component changed

The Tertiary Education Commission (TEC) can work with newly eligible students immediately once Cabinet approval is provided and an updated letter of delegation issued

5. The Fees Free policy is administered through a letter of delegation to the TEC issued under sections 159F(1)(e) and 159I(1) of the Education Act 1989 (the Act). We have attached an updated version of the delegation which reflects the proposed changes to the Fees Free eligibility criteria (**annex 2**).
6. If Cabinet agrees to exclude the people who meet the criteria outlined in paragraphs 2a and 2b from the three year residence stand-down requirement for Fees Free, we recommend you sign the attached delegation so that TEC can start to communicate and implement these changes as soon as possible.

The MSD will implement eligibility changes to student loans and student allowances at the same time to take effect from 1 June 2020

7. If Cabinet agrees to the eligibility changes for student allowances, the Student Allowances Regulations 1998 (the Regulations) will need to be updated. This requires a separate Cabinet paper seeking agreement to the amended Regulations, to be led by MSD and the Honourable Carmel Sepuloni, Minister for Social Development.

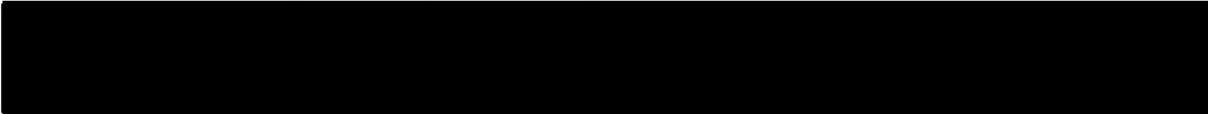
¹ MSD's Cabinet paper is seeking agreement to permanently exempt financial gifts and donations received by people affected by the Christchurch mosques terror attack from social security income and cash asset testing. It was scheduled to be considered by SWC today (4 March 2020).

8. It is important to progress the attached Cabinet paper, ahead of the regulatory policy paper, to ensure Cabinet can agree to the proposed changes before the Budget moratorium commences on 30 March 2020.
9. Once the Regulations changes have been agreed by Cabinet Legislation Committee and Cabinet, MSD can implement the changes. The amended Regulations will be implemented and come into force from 1 June. Changes to the student loan residence setting will be implemented by and take effect from 1 June as well.

There are ways of supporting students to study ahead of student loans and allowances eligibility changes taking effect from 1 June

10. Additional time is needed to amend the Regulations and for MSD to implement the policy changes. Eligibility changes to student allowance and loans for those affected by the Christchurch mosques terror attack will only take effect from 1 June 2020.
11. During the period between Cabinet agreeing to the policy change, and this group being able to access student support, students will have to access other support for fees and living costs.
12. In terms of living costs, this group of students would be able to seek living costs support through income support from MSD due to the existing waiver for benefit stand-down periods. This could include the accommodation supplement or Emergency Benefit, if they meet other criteria for these benefits.
13. In terms of support for fees, those that meet the Fees Free eligibility criteria will also be able to receive this support for fees when you issue the updated delegation to fund Fees Free. Students from this group of residents affected by the Christchurch mosques terror attack, who start study before 1 June 2020 and who do not meet the Fees Free eligibility criteria due to having prior study, will not be able to access student loans and will have to use their own or community support to meet the fee payments.
14. However, this group of residents could also be considered for Fees Free under exceptional circumstance provisions. This would relate to them being affected by the Christchurch mosques terror attack, and currently unable to access student loans for a period of time, as the agreed policy change is yet to be implemented.
15. The TEC has discretion to determine that a student who does not meet all of the criteria is eligible for Fees Free tertiary education, after considering the student's exceptional personal circumstances. The TEC has previously applied exceptional circumstance provisions in reviewing Fees Free eligibility appeals from residents affected by the Christchurch mosques terror attacks, prior to this policy change to remove the residency period taking effect.

Annexes

- Annex 1: Revised Cabinet paper – Extending eligibility to student support to people who were affected by the Christchurch mosques terror attack
 - Annex 2: Updated letter of delegation on Fees Free tertiary education training to the Chair of the Tertiary Education Commission
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In Confidence

Office of the Minister of Education

Chair, Cabinet Social Wellbeing Committee

EXTENDING ELIGIBILITY TO STUDENT SUPPORT TO PEOPLE WHO WERE AFFECTED BY THE CHRISTCHURCH MOSQUES TERROR ATTACK

Proposal

1. I am seeking Cabinet approval to waive the three year residence stand-down period for student loans, student allowances and Fees Free tertiary education and training (Fees Free) for:
 - 1.1. people with a Christchurch Response (2019) Permanent Resident Visa (Christchurch Response Visa); and
 - 1.2. people who would have been eligible for a Christchurch Response Visa, but were already holding another residence visa.

Executive Summary

2. In May 2019, the Government waived the two-year residence stand-down period applicable to the main benefits (i.e., Jobseeker Support, Sole Parent Support and Supported Living Payment) for the two groups of people outlined in paragraphs 1.1 and 1.2. This was to ensure that those affected by the Christchurch mosques terror attack, and their families, were able to access income support.
3. Student financial support was not considered at the time. This is because Cabinet was looking at the immediate income support needs for affected families when making these changes.
4. Currently, a residence stand-down period of three years applies for people with a residence visa before they become eligible for student loans and allowances as well as Fees Free payments.
5. Under current policy settings, if the groups of residents, outlined in paragraph 1, accessed tertiary study, they would be eligible for domestic tuition fees but could not have any fees met through the Fees Free policy, or fees and living costs met through student loans or allowances, because of the stand-down. They may, however, be eligible to receive income support from the Ministry of Social Development (MSD).
6. I propose extending the Government's decision to waive the residence stand-down period for these groups to student support and Fees Free payments, to be consistent with the approach taken for income support. Waiving the three year residence stand-down period for these two groups will provide further targeted support for those affected by the terror attack. It will also help many of these affected people achieve their tertiary education and career goals more quickly.

7. From an education perspective, these changes will significantly improve these residents' settlement outcomes, and increase their ability to actively participate in and contribute to New Zealand society and economy in the long term.
8. I also propose to exclude financial gifts or donations made to a person affected by the Christchurch mosques terror attack from the student allowances personal, parental, and partner income tests. This will provide certainty that this type of financial support will not affect their entitlement to student support financial assistance.
9. Making these changes will have student support costs but these will be small and their impact time-limited, as this eligibility change is limited to a very small group of people, who would most likely be eligible for this support after three years. A very high estimate is 30 additional people per year over 2020-2022 entering into tertiary education that may be eligible for student loans and allowances and Fees Free payments as a result of the proposed changes.
10. The impact on Fees Free payments can be met within existing baselines within Vote Tertiary Education.
11. I propose that the operating costs associated with student loans and allowances and the student loan capital costs between 2020 and 2022 be picked up through the standard forecast process.
12. The Treasury recommends that funds be appropriated to meet time-limited additional student loan and student allowance costs. The Treasury recommends for the operating costs associated with student loans and student allowances between 2020 and 2022 to be met from the between-Budget contingency established at Budget 2019, and for the student loan capital costs to be charged as a pre-commitment against the Multi-Year Capital Allowance.

Background

13. After the attack on Masjid Al Noor and Linwood Masjid on 15 March 2019, Cabinet established the Christchurch Response Visa, which became open for applications on 24 April 2019 [CAB-19-MIN-121 and CAB-MIN-0172 refers].
14. Its purpose is to make permanent residence available through an accelerated process (for a limited period)¹ to people who were present during the terror attack and their immediate families (if they did not already have New Zealand residence). Specifically, this visa is available to people who were already living in New Zealand at 15 March 2019 and are:
 - 14.1. the immediate family member of an individual who died in the Christchurch mosques terror attack; or
 - 14.2. an individual who was injured in the attack, or their immediate family member; or

¹ Eligible affected individuals must submit their applications by 24 April 2021, which is two years from the opening of the visa category. Some people may want to take time out in their home country before returning to New Zealand.

- 14.3. an individual who was present in the mosques at the time of the attack, or their immediate family member.
15. The objective of the visa category is to ensure certainty of immigration status for those who had chosen to make New Zealand their home but had not yet secured residence, including those whose pathway to permanent residence might have been affected by the Christchurch mosques terror attack.
16. In total, Immigration New Zealand has approved 150 people for a Christchurch Response Visa from June to 30 November 2019. At that time, they had another 30 applications on hand, where decisions were yet to be made.
17. These numbers are likely to be the majority of those eligible for this immigration category, as there has been a focus from Immigration New Zealand on getting applications in and processed quickly. These figures reflect the government's estimate when the Christchurch Response Visa was established that 188 people would be eligible.

Government also improved access to the main benefits for those affected by the Christchurch mosques terror attack

18. In May 2019, Cabinet waived the two-year benefit stand-down period² required to receive Jobseeker Support, Sole Parent Support and Supported Living Payment, for those affected by the terror attack [CBC-19-MIN-0021 and CAB-19-MIN-0225]. This was to ensure that affected people were able to access income support. Specifically, the exemption applies to the two groups outlined in paragraphs 1.1 and 1.2.

However, a three year residence stand-down period still applies to student support

19. When changes were made to the benefits system, Cabinet was looking at the immediate income support needs for affected families in the aftermath of the attack. Student financial support was not considered at the time.
20. Currently, residents holding a Christchurch Response Visa, and those already with a residence visa, who would have been eligible for a Christchurch Response Visa but have not yet fulfilled the residence requirement, are eligible for domestic tuition fees if they access tertiary study. However, they are not eligible for student loans, student allowances and Fees Free due to an insufficient residence period. This means they could not have any fees met through Fees Free payments, or fees and living costs met through student loans or allowances because of the stand-down.
21. The purpose of the three year residence stand-down period is to provide some confidence that those with New Zealand resident visas will stay in New Zealand long-term after they complete study. The stand-down period for student loans, student allowances and Fees Free has three aspects. To be eligible to these types of student financial support a person, who is not a citizen, and not covered by refugee or protected persons status or sponsored by a refugee, must:

² Under the settings of the Social Security Act 2018, to receive Jobseeker Support, Sole Parent Support and Supported Living Payment, a person must generally be a New Zealand citizen or New Zealand Permanent Resident, and have resided continuously in New Zealand for a period of at least two years after becoming a citizen or resident.

- 21.1. be entitled to reside indefinitely in New Zealand (in practice this means they have a residence visa);
 - 21.2. have held this visa and lived in New Zealand for at least three years; and
 - 21.3. be ordinarily resident in New Zealand.
22. Over time, more people affected by the Christchurch mosques terror attack may look to access study and face a barrier, especially for fee payments. I note that the Tertiary Education Commission (TEC), which administers Fees Free, has already received in 2020 four appeals from individuals impacted by the Christchurch mosques terror attack for a review of eligibility to Fees Free payments.
23. The TEC has discretion around eligibility for exceptional circumstances but must apply this in line with the policy intent of Fees Free.

I seek Cabinet's agreement to waive the student support stand-down requirement to be consistent with the equivalent changes made to the benefit residence settings

24. I propose to waive the three year residence stand-down period for student loans, student allowances and Fees Free payments for the following two groups of people:
- 24.1. people holding a Christchurch Response Visa; and
 - 24.2. people who would have been eligible for a Christchurch Response Visa but were already holding another residence visa.
25. This exclusion would remove the two eligibility requirements described in paragraphs 21.2 and 21.3 for the groups outlined in paragraph 24 above. This means these two groups would be eligible for student loans, student allowances and Fees Free from the date these changes become effective (provided they meet other eligibility requirements).
26. Waiving the three year residence stand-down period for student support for these residents would provide consistency between income support through the benefit system and student financial support.
27. This proposal would also provide further targeted support for those most affected by the terror attack. It would recognise that they need both an immediate compassionate response to their income support needs, and a longer term compassionate response to their tertiary education and career needs and goals. It would also help them settle in New Zealand and support their long-term contribution to and participation in New Zealand's society and economy.

In the wake of the Christchurch mosques terror attack, communities have been providing financial support to victims and their families

28. Following the event of 15 March 2019, individuals, communities, international governments and businesses have been providing financials donations and funds to assist affected people. Much of this financial support has been collected through crowd funding platforms, such as givealittle and launchgood. People are continuing

to provide help. I am informed that at the time of preparation of this Cabinet paper, the largest donations include:

- 28.1. The Victim Support fund on givealittle, which has raised over \$10.9 million;
 - 28.2. The Christchurch Foundation fund “Our People, Our City”, which has raised over \$11 million in pledges and cash; and
 - 28.3. The New Zealand Islamic Information Centre fund on launchgood, which raised over \$2.7 million.³
29. There have also been various other appeals on givealittle and other similar websites, all raising substantial amounts of money to assist those affected. These funds will be provided to individuals and families as well as the affected community as a whole. The various donation pages have stated that donations received will be used to provide support and resources for people affected by the Christchurch mosques terror attack and their family members.
30. In addition to waiving the two-year benefits stand-down period, gifts or donations made to a person affected by the Christchurch mosques terror attack are exempted from cash assets and income testing for 12 months by the Social Security Regulations 2018 [CAB-19-MIN0134 refers]. This includes payments referred to in paragraph 28. The Minister of Social Development has reported back to Cabinet seeking approval to extend this period.

I also propose to also exclude income in the form of gifts or donations from the student allowance income tests

31. Student allowances provide a higher level of subsidy for tertiary education to help students from low-income families, and those most in financial need. An income test is used at the time of application to ensure that student allowances are targeted to those most in need.⁴
32. A payment, such as a financial gift or donation, may be income under the current definitions and therefore affect people’s entitlement to student allowances. I consider it unfair to people who are affected by the events in Christchurch to have their student support entitlements reduced in this way.
33. I therefore propose excluding income in the form of gifts or donations made to a person affected by the Christchurch mosques terror attack from all income testing for student allowances (i.e., personal, parental and partner income testing). This approach will provide certainty that this type of financial support will not affect entitlement to student allowances.⁵

³ This campaign has since been closed.

⁴ All student allowance recipients undergo a personal income test. Tertiary students under 24 years of age receiving the student allowance undergo an additional parental income test. Student allowance rates are also subject to a partner income test if the student and their partner are both over 24 years of age or are supporting a child. If a student’s circumstances change, such as a change in income, they are required to let MSD know.

⁵ However, any income derived from such a payment, such as through investments, will be included as income and could reduce student allowance entitlements.

These proposals are unlikely to establish a precedent as they are a response to an isolated situation

34. This decision may establish a precedent for waiving the three year residence criteria when emergency situations arise. The purpose of this criterion is to strike a balance between the contributions new residents have made and will make to New Zealand and the student support they receive. It provides confidence that residents will stay in New Zealand and contribute to New Zealand society. Students, to whom the stand-down period applies, qualify for and are supported to study through domestic student fees which are heavily subsidised by the Government.
35. Establishing a precedent may mean that other groups in emergency situations may propose similar exemptions. For example, a recent migrant to New Zealand may lose their job and decide to take up tertiary education to up/reskill. They may consider it inequitable that they cannot immediately apply for student loans, student allowances and Fees Free.
36. However, any concern about establishing a precedent should be balanced against the exceptional circumstances of the Christchurch mosques terror attack and the specific nature of this exemption. The exemption only affects the three year residence requirement. It is not a wider exemption that would allow other people on temporary visas not affected by the Christchurch mosques terror attack to access student support, or to remove any other eligibility requirements from student support that New Zealand citizens would have to meet.

The process for implementing these changes has a number of steps that differ for each component changed

37. The process for implementing the changes differs for Fees Free, student loans and allowances. If Cabinet agrees to exclude those outlined in paragraphs 1.1 and 1.2 from the three year residence stand-down requirement for:
 - 37.1. Fees Free, I can approve an updated Fees Free delegation (see attached), which can take effect immediately.
 - 37.2. student loan borrowing, MSD (who administer student loans) will implement the changes alongside the student allowance changes.
 - 37.3. student allowances and the exclusion of gifts and donations from income testing, Cabinet will need to provide authority for the Minister for Social Development to instruct the Parliamentary Counsel Office to draft the necessary changes to the Student Allowances Regulations 1998 (the Regulations).
38. The TEC will communicate this change, with respect to Fees Free, and work with newly eligible students immediately once Cabinet approval is provided. This will be reflected in the Fees Free delegation I will issue to the TEC to administer Fees Free payments.
39. Changes to the student loan residence setting for this group will be implemented by and take effect from 1 June. This means that that living costs can only be paid for

study from this date, including where that course of study commenced before this date. However, where fees have already been paid, as the study was not covered by the Fees Free policy, they cannot be paid from a student loan. Course-related costs can be paid, up to the maximum entitlement, from that date.

40. Once the Regulations changes have been agreed by Cabinet Legislation Committee and Cabinet, MSD (who administers student allowances) can implement the changes. The amended Regulations will be implemented by and come into force from 1 June. This timeframe includes an agreement to waive the 28-day rule to enable students to benefit from these changes as soon as possible. Without a waiver of the 28-day rule, the changes would not come into force until 11 June.
41. This means that payments for study can only be made for study from 1 June, including where that course of study commenced before this date. It also means that income in the form of gifts or donations received from this date will be excluded from the student allowance income tests.
42. I note that study at the majority of tertiary providers has resumed for the 2020 calendar year. Eligibility for student allowances will commence once changes have come into effect and there will be no back payment. However, due to the existing waiver for benefit stand-down periods, students from this group of residents, who may otherwise seek access to student allowances, may have to delay their study for a small period of time and, if required, may seek income support through MSD.

Consultation

43. The Ministry of Education consulted with the TEC, Inland Revenue, the Ministry of Business, Innovation and Employment, the Treasury and the Department of Prime Minister and Cabinet (Policy Advisory Group) on this paper.
44. MSD was involved in the development of the paper and will lead the work on the Regulations changes for student allowances.

Financial Implications

Making these changes will have student support costs but these will be small as eligibility is ring-fenced and the effect is time-limited

45. While it is difficult to estimate the numbers who will take up tertiary education, or the precise cost of these proposed changes, all the estimated student support costs are small and the impact time-limited. There is limited information on the circumstances for this group, for example their prior tertiary study patterns for Fees Free eligibility, or their income levels for eligibility for student allowances. It is also uncertain whether this group would take up further study if they had the financial support to do so.
46. However, the numbers within this group, that will study and seek student support or Fees Free payments prior to meeting the three year residence period (that they would currently have to meet), are expected to be very small, as the total population affected is small.

47. Of the Christchurch Response Visa applications processed by November 2019, 78 people are between 20 and 40 years of age, the group most likely to access tertiary education. If we take a very high estimate of this group's tertiary participation rate (40%), this would be 30 additional people in tertiary education per year over the three years, from 2020 until the end of 2022.⁶

Costs of student financial support

48. Waiving the three year residence requirement for student support means that students who were affected by the Christchurch mosques terror attack could access student loans for living costs or student allowances, if they meet other eligibility criteria.
49. The additional capital borrowing for the student loan fees and course-related costs components is estimated to be \$0.306 million from 1 January 2020 to the end of December 2022. The operating costs for student loan borrowing during this period is estimated to be \$0.110 million.
50. In the year to August 2019, 52,300 people accessed Fees Free payments. A small increase in Fees Free learners will not significantly affect costs. An estimate of the total fiscal impact on Fees Free payments would be \$0.298 million from 1 January 2020 to the end of December 2022.
51. It is technically possible that there may be some offsetting savings within Vote Social Development from any income support payments these residents may have otherwise received instead of student support (due to the existing waiver for benefit stand-down periods). However, given the limited information on the characteristics of those gaining eligibility to student support and if they would otherwise be receiving income support, MSD cannot robustly estimate the offsetting savings.
52. For costing, the maximum option of all 30 students accessing student allowances, with no offsetting savings, has been provided. The additional student allowance costs (gross and including accommodation benefit) are estimated at \$0.312 million per year from 1 January 2020 to the end of December 2022.
53. There are no additional financial implications as a result of excluding financial donations and gifts to people affected by the Christchurch mosques terror attack from the student allowance income tests.
54. MSD advise that they will absorb the small additional cost of implementing a system change required to deliver the policy changes for student loans and student allowances.

⁶ Those granted the Christchurch Response Visa in late 2019 would likely be eligible for student support and Fees Free payments by 2023 under current policy settings. Note that it will be longer than three years for anyone who goes overseas to live and then returns to live in New Zealand, as the three year count stops while they are living overseas.

Source of funding

55. The additional costs for Fees Free payments are minimal, and this can be met from existing funding for Fees-free payments within the Tertiary Tuition and Training Multi-Category Appropriation.
56. The impact of the proposed eligibility change on student support costs are minimal and time limited, and would not be significant enough to revise the forecast parameters for student support. This change may increase the study volume from those who are eligible for student support by up to 30 students a year. In 2019 total tertiary total tertiary study volumes were over 200,000 equivalent full-time students. An additional 30 students a year would make minimal impact on student support costs for all tertiary students.

There are two ways of funding the proposed changes

57. I propose that the financial operating costs associated with student loans and allowances and the student loan capital costs between 2020 and 2022 be picked up through the standard forecast process.
58. The Treasury recommends that the financial costs for student support operating costs within Vote Social Development (student allowances) and Vote Revenue (student loans) be met from the between-Budget contingency established at Budget 2019. The Treasury recommends that student loan capital costs within Vote Social Development be charged as a pre-commitment against the Multi-Year Capital Allowance.

Legislative Implications

59. If Cabinet agrees to amend the Student Allowances Regulations 1998, Parliamentary Counsel Office will be instructed to draft the changes to the Regulations. A paper seeking agreement to the draft Regulations will be taken to Cabinet by the Minister for Social Development.

Regulatory impact and compliance cost statement

60. The Treasury Regulatory Quality Team has determined that the decisions sought in this paper are exempt from the Regulatory Impact Analysis requirements on the grounds that they will have no or only minor impacts on businesses, individuals or not-for-profit entities.

Human Rights

61. These proposals will improve the position of certain groups relative to the status quo under the student support system. Members of the groups being advantaged will generally be Muslim, but this is not the reason to distinguish them from other groups who are not also being advantaged. The proposed exemptions apply to people in, or connected to, Masjid Al Noor and Linwood Masjid. The exemptions do not require the person to be a member of a religious community, or exclude other religious groups. We do not consider there is any unlawful discrimination in this context and therefore consider the proposals to be consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Gender Implications

62. There are no specific gender implications in the proposals in this paper.

Disability Perspective

63. There are no specific disability considerations in the proposals in this paper.

Publicity

64. If the changes are agreed to, officials will work with my office to develop a communications strategy for appropriately and sensitively communicating the changes to those newly eligible for student financial support.

Proactive Release

65. I propose that this paper is proactively released within 30 days of Cabinet decisions having been made, with any redactions in line with the provisions of the Official Information Act 1982.

Recommendations

I recommend that Cabinet:

1. **note** that after the Christchurch mosques terror attack, Government created the Christchurch Response (2019) Permanent Resident Visa, providing special permanent residence to an estimated 188 people who were affected by the attack
2. **note** that Government exempted Christchurch Response (2019) Permanent Resident Visa holders and New Zealand Permanent Residents, who would have been eligible for the Christchurch Response (2019) Permanent Resident Visa, from the two year residence requirement for main benefits under the Social Security Act 2018
3. **note** that a three year residence stand-down period applies before residents become eligible for student loans, student allowances and Fees Free tertiary education and training payments

Eligibility changes to student loans and allowances

4. **agree** to remove the requirement to have held a residence visa and have lived in New Zealand for at least three years and the requirement to be ordinarily resident in New Zealand for both student loans and allowances from 1 June, for:
 - 4.1. people with a Christchurch Response (2019) Permanent Resident Visa; and
 - 4.2. people who would have been eligible for a Christchurch Response (2019) Permanent Resident Visa, but were already holding another residence visa.

5. **agree** to exclude financial gifts or donations made to a person affected by the Christchurch mosques terror attack from personal, parental and partner income tests for student allowances, for payments received from 1 June, the effective date of the Student Allowances Regulations 1998 changes
6. **agree** that the Minister for Social Development will instruct the Parliamentary Counsel Office to draft the necessary changes to the Student Allowances Regulations 1998, as set out in recommendations 4 and 5

Eligibility change to Fees Free tertiary education and training settings

7. **agree** to remove the requirement to have held a residence visa and have lived in New Zealand for at least three years and the requirement to be ordinarily resident in New Zealand for Fees Free tertiary education and training, effective from the date approved by Cabinet, for:
 - 7.1. people with a Christchurch Response (2019) Permanent Resident Visa; and
 - 7.2. people who would have been eligible for a Christchurch Response (2019) Permanent Resident Visa, but were already holding another residence visa

Financial Recommendations

8. **note** that costs associated with recommendations 4 and 7 will be small and their effect time-limited as these changes are limited to a very small group of people, who would, under current settings, be eligible for this support after three years on a resident visa in New Zealand
9. **note** that officials cannot robustly estimate any offsetting savings from a reduction in income support payments, due to the uncertainty about who will benefit from the policy change

EITHER

10. **agree** that the financial costs (\$1.046m in operating expenses and \$0.306m in capital costs from 1 January 2020 to the end of December 2022) incurred under recommendation 4 above be picked up through the standard forecast process

OR (Treasury recommended)

11. **approve** the following changes to appropriations to give effect to the policy decision in recommendation 4 above, with a corresponding impact on the operating balance and net core Crown debt:

	\$million – increase/(decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 & Out-years
Vote Social Development					
Minister for Social Development					
<i>Benefits or Related Expenses:</i>					
Student Allowances	0.156	0.312	0.312	0.156	-
Minister of Revenue					
<i>Non-Departmental Capital Expenditure:</i>					
Student Loans	0.038	0.096	0.115	0.057	-
Vote Revenue					
Minister of Revenue					
<i>Non-Departmental Other Expenses:</i>					
Initial Fair Value Write-Down relating to Student Loans	0.014	0.034	0.041	0.021	-
Total Operating	0.170	0.346	0.353	0.177	-
Total Capital	0.038	0.096	0.115	0.057	-

12. **agree** that the proposed changes to appropriations for 2019/20 above be included in the 2019/20 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply
13. **agree** that the operating expenses incurred under recommendation 11 above be charged against the between-Budget contingency established as part of Budget 2019, and that the capital expenditure incurred under that recommendation be charged as a pre-commitment against the Multi-Year Capital Allowance
14. **note** that the funding implications of recommendation 4, by Vote are:

	\$m - increase / (decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 & Out-years
Vote Social Development					
Operating balance impact	0.140	0.280	0.280	0.140	-
Debt Impact (loans)	0.038	0.096	0.115	0.057	-
No Impact	0.016	0.032	0.032	0.016	-
Vote Revenue					
Operating balance impact	0.013	0.033	0.037	0.015	(0.006)
Debt Impact (loans)	-	-	-	-	-
No Impact	-	-	-	-	-
Operating balance impact	0.153	0.313	0.317	0.155	(0.006)
Debt Impact (loans)	0.038	0.096	0.115	0.057	-
No Impact	0.016	0.032	0.032	0.016	-

15. **note** that there are no financial implications associated with recommendation 5 to exclude financial gifts or donations made to a person affected by the Christchurch mosques terror attack from personal, parental and partner income tests for student allowances
16. **note** that the additional costs for Fees Free payments to give effect to the decision in recommendation 7 are minimal and can be met within the existing Fees Free payments category of the Tertiary Tuition and Training Multi-Category Appropriation (MCA) in Vote Tertiary Education

Authorised for lodgement

Hon Chris Hipkins

Minister of Education

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

Dear Jenn,

Updated delegation to fund Fees Free tertiary education and training in 2020

1. I am writing to advise you of an updated delegation to administer funding for the Fees Free Tertiary Education and Training policy for 2020. This replaces the delegation to fund Fees Free tertiary education and training in 2020 dated 22 October 2019 and implemented from 1 January 2020.
2. The purpose of the Fees Free policy, which was introduced on 1 January 2018, is to make the first year of tertiary education described in paragraph 12 ("**provider-based**") fees-free or the first two years of industry training funded through the Industry Training Fund ("**industry training**") fees-free for new students or trainees.
3. In November 2017, Cabinet agreed to the parameters of the Fees Free policy, including eligibility criteria and a delivery system led by the TEC [CAB-17-MIN-0515 refers]. In August 2018, Cabinet agreed to minor changes to the Fees Free policy from 1 January 2019 [CAB-18-MIN-0401 refers]. In August, I agreed that no changes should be made to the existing Fees Free policy settings [METIS 1186515 refers].
4. This policy supports the Government's commitment to make tertiary education and training affordable for all by:
 - a. improving affordability and reducing debt levels;
 - b. expanding access and participation, especially for those who have not previously studied or those for whom finance has been a real barrier to participation;
 - c. supporting lifelong learning;
 - d. ensuring the benefits of tertiary education for New Zealanders, including residents with an ongoing commitment to New Zealand, are shared through a highly-skilled population contributing to a strong society and thriving economy.

Delegation to determine eligibility for Fees Free tertiary education and training

5. I delegate to the TEC, under sections 159F(1)(e) and 159I(1) of the Education Act 1989 (the Act), the authority to determine whether a student or trainee is eligible for Fees Free tertiary education provision by applying the criteria set out below.

Citizenship or residency criteria

6. To be eligible for Fees Free in provider-based tertiary education a student must be one of the following:
- a. a New Zealand citizen; or
 - b. a holder of the Christchurch Response (2019) Permanent Resident Visa; or
 - c. a holder of a residence class visa who would have been eligible for the Christchurch Response (2019) Permanent Resident Visa; or
 - d. ordinarily resident in New Zealand and:
 - i. have been living in New Zealand for at least 3 years while holding a residence class visa; or
 - ii. a refugee or protected person; or
 - iii. sponsored into New Zealand by someone in their family who, at the time of sponsorship, was a refugee or protected person.
7. To be eligible for Fees Free industry training, a trainee must be legally entitled to reside and work in New Zealand.

Prior study criteria

8. To be eligible for Fees Free for provider-based tertiary education and industry training, a student or trainee must have either:
- a. been enrolled in a school in or after 2017,¹ other than as an adult student; or
 - b. not undertaken more than half a year of equivalent full-time tertiary education (0.5 equivalent full-time student (EFTS) units or 60 credits) at Level 3 or above on the New Zealand Qualifications Framework (NZQF), including tertiary education at an equivalent level undertaken in any country.
9. The following credits must not be included in measures of prior tertiary education in paragraph 8 to determine eligibility for Fees Free:
- a. any tertiary education undertaken while enrolled in school prior to 1 January 2019 (except for tertiary education undertaken as an adult student); and
 - b. any tertiary courses undertaken as part of the student's or trainee's school learning programme or secondary-tertiary programme on or after 1 January 2019; and

¹ This includes those enrolled in a school who have a certificate of exemption under section 21 of the Act.

- c. any credits achieved as part of any industry training programme that consists of fewer than 120 credits that are reported after 1 January 2018.
10. For the purposes of paragraphs 8a and 9a, an adult student, under the Act, is any student whose 19th birthday occurred before 1 January of the current year. This definition does not apply to students deemed to require special education under Section 9 of the Act.

Eligible courses or programmes

11. To be eligible for Fees Free for provider-based tertiary education, a student must be enrolled in an eligible course.
12. An eligible course for provider-based tertiary education is a course that is:
- a. funded by the TEC from either:
 - i. the SAC Level 3 and above fund; or
 - ii. grants under section 321 of the Act for tertiary provision that is part of a qualification or training scheme on the NZQF at Level 3 or above; or
 - iii. the Youth Guarantee fund and leads to the award of a qualification on the NZQF at Level 3 or above; and
 - b. not part of a school learning programme or secondary-tertiary programme.
13. For the purposes of paragraph 12(a)(i) and (iii), the TEC must not pay any amount in respect of fees where the fees are met under another funding arrangement (such as from the Youth Guarantee Fund or Māori and Pasifika Trades Training funding).
14. To be eligible for Fees Free in industry training, a trainee must be enrolled in a programme that is:
- a. at NZQF Level 3 or above; and
 - b. approved by NZQA; and
 - c. comprised of at least 120 credits (which includes all New Zealand Apprenticeships); and
 - d. not part of a school learning programme or secondary-tertiary programme.

Delegation to make payments for Fees Free tertiary education and training

15. I delegate to the TEC, under sections 159F(1)(e) and 159I(1) of the Act, the authority to make payments in respect of eligible Fees Free students and trainees as set out below.

Fees Free entitlement limits

16. The TEC will pay no more than \$12,000 (GST incl.) total to all tertiary education organisations (TEOs) in respect of any individual student or trainee eligible for Fees Free provider-based tertiary education or industry training.

17. Individual students or trainees who received any Fees Free support in prior calendar years are to receive no more than 1 EFTS unit of Fees Free support in total or 24 months of industry training.
18. The TEC must calculate a trainee's 24 month entitlement:
 - a. from the start date of the first programme in which the eligible trainee is enrolled; and
 - b. by only including the months in which the trainee received industry training in an eligible programme or programmes.
19. The TEC must develop operational rules to assess entitlement limits and consumption by individuals who combine both industry training and provider-based study, taking into account the intent of the Fees Free policy.

Payments for provider-based tertiary education

20. I delegate to the TEC the authority to:
 - a. if the TEO is not a private training establishment (PTE), pay the TEO in respect of fees on behalf of an eligible student in accordance with paragraphs 16-18; or
 - b. if the TEO is a PTE, compensate the PTE in respect of an eligible student in accordance with paragraphs 16-18 for fees forgone as the result of a condition imposed on the PTE's funding.
21. For the purposes of paragraph 20, "fees" are defined as:
 - a. compulsory tuition fees; and
 - b. compulsory course costs, which may only include:
 - i. examination fees; and
 - ii. material charges; and
 - iii. costs of field trips; and
 - iv. costs associated with the compulsory purchase of equipment or books through the TEO with which the student is enrolled; and
 - v. other charges associated with a course; and
 - c. compulsory student services fees.
22. The TEC must only make a payment to a TEO in respect of an eligible student's compulsory tuition fees and compulsory course costs if:
 - a. the fee charged by the TEO is equal to, or less than, the fee that is recorded in Services for Tertiary Education Organisations (STEO); and

- b. the TEO charges that fee to every student in the same circumstances (whether or not they are eligible for Fees Free tertiary education) who is enrolled in the same course; and
 - c. the fees comply with all fee regulation requirements imposed as conditions on the TEO's funding.
23. The TEC must only make a payment to a TEO in respect of an eligible student's compulsory student services fee, if that fee is consistent with the Ministerial direction on Compulsory Student Services Fees in effect.
24. The TEC must not make any retrospective payments in 2020 relating to the fees paid by students who, despite meeting the eligibility criteria in 2018 or 2019, were not determined by the TEC to be eligible for Fees Free tertiary education in 2018 or 2019. This does not apply if the student was not determined to be eligible in 2018 or 2019 through no fault of the student.

Payments for industry training

25. I delegate to the TEC the authority to make fee payments to TEOs on behalf of an eligible trainee (or their employer) in accordance with paragraphs 16-18.
26. For the purposes of paragraph 25, "fee" means fees for training and assessment, including fees paid to organisations eligible for funding under the Industry Training Fund, paid directly to training and assessment providers, or paid as part of fees charged by group training schemes.
27. The TEC must not make any retrospective payments in 2020 relating to the fees paid by trainees (or their employers) who, despite meeting the eligibility criteria in 2018 or 2019, were not determined by the TEC to be eligible for Fees Free tertiary education in 2018 or 2019. This does not apply if the trainee was not determined to be eligible in 2018 or 2019 through no fault of the trainee.

Consumption

28. If an eligible student or trainee was enrolled in an eligible course or eligible programme in or after 2018, the eligible student or trainee has received (consumed) all or part of their Fees Free entitlement (whether or not the TEC made payments to a TEO in respect of that student or trainee).
29. The TEC must develop processes to determine the amount of their Fees Free entitlement that each eligible student or trainee has consumed.

Carry-over

30. If an eligible student or trainee was enrolled in an eligible course or an eligible programme in or after 2018 but did not consume their maximum Fees Free entitlement within the first calendar year of commencing an eligible course or industry training programme (as specified in paragraphs 16-18), the TEC must develop a mechanism to enable that student or trainee to carry-over the remaining portion of their Fees Free entitlement.
31. For the purposes of paragraph 30, an eligible student's or trainee's maximum Fees Free entitlement that may be carried-over is any amount payable until one of the following occurs:

- a. the TEC has paid \$12,000 (GST incl.) to TEOs in respect of the student's or trainee's fees; or
- b. the student has consumed 1 EFTS unit; or
- c. the student or trainee has been enrolled in 24 months of an eligible industry training programme or apprenticeship, calculated in accordance with paragraph 18; or
- d. the student or trainee (if combining both industry training and provider-based tertiary education) has consumed their Fees Free entitlement in accordance with the operational rules developed under paragraph 19.

Operationalising the policy

- 32. The TEC will work with the sector and other government agencies to support the implementation of the Fees Free policy, and to advise me of any significant issues that arise.
- 33. The TEC must determine arrangements with TEOs for the operation of provider-based Fees Free tertiary education.
- 34. The TEC must determine arrangements with TEOs funded through the Industry Training fund for the operation of Fees Free tertiary education based on the following principles:
 - a. eligible trainees and their employers will not be charged by TEOs or any provider contracted by the TEOs for training and assessment costs; and
 - b. the TEC will pay TEOs the identified actual and reasonable cost, as determined by the TEC, of the fees (with the proposed fees and charges in the previous year as the baseline for establishing payment); and
 - c. TEOs will be required to ensure that trainees fully benefit from the Fees Free policy – ensuring that employers and training/assessment providers do not charge trainees for costs covered by the payment to TEOs (whether as explicit training and assessment fees, or as part of a broader fee, or by deductions from wages).

Exceptional circumstances

- 35. The TEC may use discretion to determine that a student or trainee who does not meet all of the criteria is eligible for Fees Free tertiary education after considering the student's or trainee's exceptional personal circumstances.
- 36. The TEC may use discretion to write-off all, or a portion of, an eligible student's or trainee's consumption of their Fees Free entitlement after considering the student's or trainee's exceptional personal circumstances.
- 37. In determining cases of exceptional personal circumstances, the TEC should take into account the intent of the Fees Free policy.

Time period for this delegation

38. This delegation applies to payments for the Fees Free tertiary education policy from the date of this letter until the end of the 2020/21 financial year. The TEC may exercise any of its administrative functions as required to give effect to this delegation outside of these dates.

Yours sincerely

Hon Chris Hipkins
Minister of Education