

Hon Chris Hipkins

MP for Remutaka

Minister for COVID-19 Response

Minister of Education

Minister for the Public Service

Leader of the House



1 October 2021

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

Dear Jenn

Determination of Design of Funding Mechanism: Industry Training Fund

I am writing to advise you of a determination of the design of a funding mechanism, under section 419 of the Education and Training Act 2020 (the Act), for the Industry Training Fund.

The new determination is set out in the appendix to this letter. The determination covers the funding of industry training provision delivered from 1 January 2022.

The new determination includes two increases to all funding rates specified in the determination: an increase of 1.2 percent reflects the annual cost adjustment to help providers manage increased costs; an additional 5 percent increase will better support work-integrated learning through the transition to the new unified funding system in 2023.

Under section 422 of the Act, it is the Tertiary Education Commission's (TEC) responsibility to develop the details needed to implement my determinations of the design of funding mechanisms.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'CH', representing Chris Hipkins.

Chris Hipkins
Minister of Education

DETERMINATION OF DESIGN OF FUNDING MECHANISM: INDUSTRY TRAINING FUND

PRELIMINARY PROVISIONS

Introduction and statutory authority

1. This determination of the design of the funding mechanism for the Industry Training Fund (the ITF) is made under section 419 of the Education and Training Act 2020 (the Act).
2. The ITF authorises the Tertiary Education Commission (TEC) to fund the following tertiary education organisations (TEO):
 - a) transitional ITOs recognised under clause 44, Schedule 1 of the Act to carry out the activities specified in clause 45(3), Schedule 1 of the Act;
 - b) providers to whom responsibility is transferred pursuant to a transition plan approved by the TEC under clause 52, Schedule 1 of the Act;
 - c) providers of education and training under training agreements (see the definition of “training agreement” in section 10(1) of the Act;
 - d) providers carrying out any of the apprenticeship training activities listed in section 376(2) of the Act; and
 - e) eligible organisations participating in the ITF direct funding scheme, as defined in paragraphs 26 and 27 of this funding determination.

Purpose

3. The ITF covers:
 - a) industry training;
 - b) New Zealand Apprenticeships; and
 - c) industry training-related projects.
4. The purpose of the ITF is to
 - a) subsidise TEOs involved in formal, structured employment-based training linked to qualifications, predominantly at Levels 1 to 4 on the New Zealand Qualifications Framework (NZQF);
 - b) encourage structured training by supporting eligible organisations participating in the ITF direct funding scheme in their management of on- and off-job training; and
 - c) fund TEOs for industry training-related projects.

On-Plan and Off-Plan funding

5. The TEC must pay funding from the ITF under section 425 of the Act in relation to a TEO funded via an approved plan.

6. The TEC must pay funding from the ITF under section 428 of the Act in relation to a TEO that is exempt under clause 9, Schedule 18 of the Act from the requirement to submit a proposed plan.
7. The TEC must pay funding from the ITF to a TEO for industry-training related projects under section 428 of the Act.

PART ONE: THE FUNDING MECHANISM

General parameters

Effective period

8. The ITF relates to funding for activities from 1 January 2022.
9. The TEC may exercise any of its administrative functions as required to give effect to the ITF before this date.
10. The TEC may continue to fund activities that commenced prior to 1 January 2022 from the ITF.

Available funding

11. The total Government funding that can be committed or paid under section 425 or section 428 of the Act under the ITF will be set through the Government's annual budget process.

Flexible funding

12. The TEC must establish criteria, based on minimum thresholds for organisational and educational performance, for determining under which circumstances a TEO qualifies for the additional funding described in paragraph 14 (a "qualifying TEO").
13. The TEC must allocate funding, in addition to the amount specified in the funding approval for a plan, to a qualifying TEO if the value of New Zealand Apprenticeship training arranged by the TEO, as measured in dollars, is greater than the value of the TEO's approved funding for New Zealand Apprenticeship training.
14. If a qualifying TEO meets the condition specified in paragraph 12, the TEC must pay the TEO up to the following limits, either:
 - a) 2% of the qualifying TEO's approved funding allocation for New Zealand Apprenticeships for a year; or
 - b) 10 standard training measures (STMs) for New Zealand Apprenticeships, whichever is greater.
15. The TEC may establish criteria to allocate funding above the additional funding limits specified in paragraph 14, provided the TEC has assessed whether the funding available is sufficient for the TEC to provide funding above these limits.

Funding formula and rates

16. The TEC must allocate ITF funding (other than project funding) to a TEO based on the number of industry trainees (including New Zealand Apprentices) validly registered with the TEO, measured in STMs.
17. A STM is defined as the amount of training that is required for an industry trainee or New Zealand Apprentice to achieve 120 NZQF credits.

Formula for funding

18. The TEC must use the following formula to calculate the number of STMs for which a TEO is entitled to receive funding:

$$\text{funded STMs} = \frac{\text{number of enrolled industry trainees or New Zealand Apprentices} \times \text{credits per industry trainee or New Zealand Apprentice per year}}{120}$$

19. The TEC must determine the maximum number of credits for which a TEO can apply the funding in respect of an industry trainee or New Zealand Apprentice in each year.

Funding rates

20. The funding rate for a single STM for industry training (as defined in paragraph 17) is:
 - a) \$3,517.00 (GST exclusive) for training arranged by a TEO; or
 - b) \$3,165.00 (GST exclusive) for training arranged by an eligible organisation accessing the ITF through the direct funding scheme.
21. The funding rate for a single STM for New Zealand Apprenticeships (as defined in paragraph 17) is:
 - a) \$5,716.00 (GST exclusive) for a New Zealand Apprenticeship arranged by a TEO; or
 - b) \$5,143.00 (GST exclusive) for a New Zealand Apprenticeship arranged by an eligible organisation accessing the ITF through the direct funding scheme.

Performance standards

22. The TEC must set minimum performance standards, including credit achievement standards.

TEO eligibility

23. The TEC must not fund a transitional ITO under the ITF to deliver training itself.
24. The TEC may only fund an eligible organisation under the ITF direct funding scheme if the organisation satisfies the eligibility and assessment criteria for participation in the ITF direct funding scheme.

25. The TEC may fund TEOs that are not eligible for the ITF but may only fund them for industry training-related projects.

Criteria for eligible organisations to participate in the ITF direct funding scheme

26. The TEC must use the following general criteria to select eligible organisations to participate in the ITF direct funding scheme. An eligible organisation must:
- a) be one of the following:
 - i. an employer; or
 - ii. a group of employers or industry associations that are part of a consortium arrangement; and
 - b) have either:
 - i. at least 40 industry trainees each year who:
 - a. are actively training towards one or more of the qualifications and programmes set out in paragraph 31; and
 - b. meet the industry trainee eligibility criteria set out in paragraph 29; or
 - ii. at least 40 New Zealand Apprentices each year who meet the industry training eligibility criteria set out in paragraph 29 and the New Zealand Apprentice eligibility criteria set out in paragraph 39.
27. The TEC may determine if any additional criteria are needed to select eligible organisations to participate in the ITF direct funding scheme and apply those criteria in the assessment process.

Industry trainee eligibility

28. The TEC must not fund a TEO under the ITF for a learner who does not meet the criteria to be an "industry trainee".
29. For the purposes of the ITF, an "industry trainee" is:
- a) one of the following:
 - i. an employee who is employed and working in New Zealand and has a training agreement with their employer;
 - ii. a self-employed contractor working in New Zealand under an arrangement with an organisation in the nature of employment, who has a training agreement with that organisation and meets any additional criteria determined by the TEC; or
 - iii. a person volunteering in New Zealand under an arrangement with an organisation in the nature of employment, who has a training agreement with that organisation and meets any additional criteria determined by the TEC; and

- b) 16 years of age or over (unless the industry trainee meets additional eligibility criteria determined by the TEC).
30. The TEC must establish the requirements that TEOs must comply with to verify each industry trainee's identity.

Programme eligibility

31. Funding paid from the ITF may be used for the purpose of arranging industry training as follows:
- a) a programme of training leading to a National or New Zealand Certificate;
or
 - b) a programme of training leading to a National or New Zealand Diploma; or
 - c) a Limited Credit Programme that:
 - i. is designed to encourage entry into a full qualification;
 - ii. has a minimum of 20 credits and a maximum of 70 credits;
 - iii. is composed of skill and/or unit standards drawn from a programme that leads to a qualification for which the TEO has TEC funding approval; and
 - iv. meets any other criteria as specified by TEC; or
 - d) a Supplementary Credit Programme that:
 - i. is designed to provide post-qualification skill development;
 - ii. has a minimum of 20 credits and a maximum of 70 credits; and
 - iii. is composed of skill and/or unit standards drawn from a programme that leads to a qualification for which the TEO has TEC funding approval; or
 - e) a training arrangement or micro-credential of between 5 and 40 credits, composed of skill and/or unit standards for which the TEO has consent to assess, that, according to criteria set by the TEC, has been adequately quality assured.
32. In providing funding from the ITF to a TEO under this funding mechanism, the TEC must require the following:
- a) that the TEO meets any quality assurance requirements of the New Zealand Qualifications Authority (NZQA); and
 - b) that a majority of training occurs on-job.
33. A programme leading to a qualification at Level 1, 2, or 3 on the NZQF must include embedded literacy and numeracy.

34. A TEO must use the Literacy and Numeracy for Adults Assessment Tool to identify the literacy and numeracy needs of each industry trainee for whom funding is provided and to measure the industry trainee's progress, as required by the TEC.
35. The TEC must restrict funding as follows:
 - a) for industry training that does not lead to a listed qualification, by developing criteria limiting the funding eligibility of this training; and
 - b) allocating a maximum of 10% of the total ITF to training at level 5 and above on the NZQF.

Health and safety and regulatory compliance learning may not be funded

36. The TEC must not provide funding under this ITF for learning that can be defined as one or more of the following:
 - a) a programme designed primarily to equip a participant with the skills and knowledge they need to carry out a given task or function in a manner that complies with a specific health and safety or regulatory compliance requirement; or
 - b) learning that displaces the responsibility of employers to provide training necessary to mitigate health and safety, and legal risks.
37. The TEC must not provide funding for a programme containing health and safety and regulatory compliance learning if it considers it likely that most enrolments will lead only to completion of the health and safety or regulatory compliance components, rather than the whole qualification.¹

New Zealand Apprenticeships

38. The TEC may provide funding from the ITF to fund New Zealand Apprenticeships. These are programmes of training that:
 - a) provide an entry point into an occupation to set a person up for a career in an industry;
 - b) meet any regulatory requirements for entry into an occupation;
 - c) contain a strong theoretical component to support further learning, as well as a practical element;
 - d) are directly related to the intended career; and
 - e) lead to either:
 - i. a qualification at Level 4 on the NZQF that has a minimum of 120 credits and, if approved by the TEC, additional qualifications at Level 3 or level 4 on the NZQF; or

¹ Subject to paragraph 36, health and safety and regulatory compliance learning may comprise part of a larger programme that includes an appropriately wide range of skills.

- ii. multiple qualifications that together have at least 120 credits, provided those qualifications are at Level 3 and level 4 on the NZQF, and at least 60 credits are at level 4 on the NZQF; and
 - f) meet any additional criteria set by the TEC to ensure that the programme is focussed on Level 4 outcomes on the NZQF.
39. In addition to the eligibility requirements for an industry trainee in paragraph 29, a New Zealand Apprentice must be:
- a) employed in the occupation for which the apprentice is training;
 - b) supported by a training plan agreed by the apprentice, the employer, and the TEO arranging the training, throughout the programme of training; and
 - c) enrolled in a New Zealand Apprenticeship.
40. TEC funding for a TEO for an eligible New Zealand Apprentice must be at the rates specified in paragraph 21.
41. The TEC must approve, and maintain, a register of all New Zealand Apprenticeships, and may withdraw approval, with effect for new enrolments after a reasonable notice period.

Activities eligible for funding from the ITF

Arranging training

42. The TEC may fund a TEO under the ITF to arrange training in respect of an industry trainee or New Zealand Apprentice:
- a) in an industry for which the transitional ITO is recognised by the Minister under the Act; or
 - b) in an arrangement approved by the TEC consistent with the industry coverage of a transitional ITO or a Workforce Development Council
43. The TEC may fund an eligible organisation participating in the ITF direct funding scheme from the ITF to arrange training.
44. To receive funding for arranging training for any industry trainee, the TEO must keep a record of evidence that the industry trainee has a formal training agreement with their employer that is intended to lead to the completion of one or more of the programmes set out in paragraph 31.
45. To receive funding for arranging training for a New Zealand Apprentice, the TEO must keep a record of evidence that the New Zealand Apprentice has a formal apprenticeship training agreement with their employer that is intended to lead to the completion of one or more of the programmes set out in paragraph 31.

Industry training-related projects

46. The TEC may, fund industry training-related projects from the ITF for the following purposes:

- a) to support the organisation of vocational skills competitions, including contributing towards the costs of representation at the international World Skills competition (up to \$450,000.00 per year, GST exclusive); and
 - b) to assist TEOs to work together and with other organisations (up to \$3,500,000.00 per year, GST exclusive) to:
 - i. facilitate desirable structural changes and joint-ventures in the sector;
 - ii. support best practice in vocational education and training; or
 - iii. support projects to enhance the efficiency and effectiveness of TEOs.
47. The TEC must set appropriate criteria and monitoring and evaluation requirements for industry training-related projects, to ensure that the projects provide value for money and contribute to the government's strategic objectives for tertiary education.

PART TWO: FUNDING CONDITIONS

General conditions for Off-Plan funding

48. The TEC may impose any conditions on funding paid under the ITF under section 428 of the Act that it considers necessary to ensure that funding will achieve the purpose for which it has been allocated.

Conditions that the TEC must attach to funding (On- and Off-Plan)

49. The TEC must attach the following specific conditions on funding paid under the ITF:

TEO ownership and subcontracting

50. The TEC must attach to funding a condition that a TEO that receives funding under the ITF must, for the length of the funding period, continue to:
- a) be a TEO fully or provisionally recognised by the Minister under the Act;
 - b) in relation to an eligible organisation funded through the ITF direct funding scheme, meet the eligibility criteria specified in paragraph 26, and any additional criteria determined and applied by the TEC under paragraph 27; or
 - c) in relation to an organisation receiving funding for an industry training-related project, meet criteria specified by the TEC.
51. The TEC must attach to funding for a transitional ITO (see Schedule 1 section 44 of the Act) a condition that the organisation must not deliver training itself, and must not have any ownership stake in, be a beneficiary of, or hold an interest (financial or otherwise) in an organisation with which the transitional ITO arranges the delivery of training.
52. The TEC must attach to funding a condition that a TEO that receives funding under the ITF must:

- a) not subcontract its functions without the TEC's written consent;
- b) comply with any conditions imposed by the TEC on a consent; and
- c) ensure that a subcontracted party does not further subcontract any functions.

Financial contribution

53. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must ensure that all employers of industry trainees or New Zealand Apprentices who are enrolled with the TEO make a financial contribution towards the cost of each industry trainee's or New Zealand Apprentice's training and assessment, noting that there may be some specific circumstances where the full financial costs of training and assessment for an industry trainee or New Zealand Apprentice could be met by the financial contribution from the ITF and the fees-free tertiary education initiative.

Industry trainees and New Zealand Apprentices

54. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must ensure that:
- a) each industry trainee who is enrolled in an industry training programme meets and continues to meet the criteria specified in paragraph 29 of the ITF;
 - b) each New Zealand Apprentice who is enrolled in a New Zealand Apprenticeship meets and continues to meet the criteria specified in paragraphs 29 and 39;
 - c) it keeps records of evidence that each New Zealand Apprentice who is enrolled in a New Zealand Apprenticeship has a formal apprenticeship training agreement with their employer that is intended to lead to the completion of one or more of the programmes set out in paragraph 38; and
 - d) It keeps a record of evidence that the industry trainee has a formal training agreement with their employer that is intended to lead to the completion of one or more of the programmes set out in paragraph 31.

Programmes

55. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must ensure that a programme in which an eligible industry trainee or New Zealand Apprentice is enrolled:
- a) continues to meet the eligibility criteria specified in:
 - i. paragraph 31, if the programme is delivered to an industry trainee; and
 - ii. paragraph 38, if the programme is delivered to a New Zealand Apprentice;

- b) includes a majority of on-job training;
 - c) meets any quality assurance requirements of NZQA;
 - d) is not a programme excluded as specified in paragraph 35 or 36; and
 - e) includes embedded literacy and numeracy if that programme is at Level 1, 2, or 3 on the NZQF.
56. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must use the Literacy and Numeracy for Adults Assessment Tool to identify the literacy and numeracy needs of each industry trainee and New Zealand Apprentice for whom funding is provided and measure the industry trainee or New Zealand Apprentice's progress, as required by the TEC.
57. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must not spend more than 10% of the funding it has received for training above Level 4 on the NZQF unless it has approval from the TEC.
58. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must not apply the funding in relation to any industry trainee or New Zealand Apprentice above a maximum number of credits per year, as determined by the TEC.

Fees Free Tertiary Education

59. TEC must attach to funding a condition that a TEO must not charge an eligible industry trainee, New Zealand Apprentice, or an eligible industry trainee or New Zealand Apprentice's employer an amount in respect of fees (as defined by any delegation to the TEC in force relating to the funding of Fees Free Tertiary Education and Training and issued under section 409(1)(j) of the Act), otherwise payable by the industry trainee, New Zealand Apprentice, or the industry trainee or New Zealand Apprentice's employer, if the TEC has advised the TEO that the TEC will:
- a) if the TEO is not a PTE, pay that amount to the TEO in respect of fees on behalf of the industry trainee, New Zealand Apprentice, or the industry trainee or New Zealand Apprentice's employer; or
 - b) if the TEO is a PTE, compensate the PTE for the amount in respect of fees forgone as a result of the condition required to be imposed under this paragraph.
60. For the purposes of the condition that the TEC must impose under paragraph 59, the TEC must determine each amount payable to a TEO by the TEC in accordance with criteria set out in any delegation for the time being in force from the Minister to the TEC under section 409(1)(j) of the Act relating to the funding of Fees Free Tertiary Education and Training.
61. Each TEO must work collaboratively with the TEC to give effect to the Fees Free tertiary education initiative in industry training. In particular, the TEO must provide information as required by the TEC, to enable the TEC to understand the STM consumption of eligible industry trainees and New Zealand Apprentices, and in relation to fees.

62. Any fees in excess of the amount payable by the TEC under a delegation referred to in paragraph 60 in respect of an industry trainee or New Zealand Apprentice may be charged by the TEO to the industry trainee, New Zealand Apprentice, or the industry trainee or New Zealand Apprentice's employer.

Performance

63. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must meet any minimum performance standards set by the TEC.

No other funding

64. The TEC must attach to funding a condition that a TEO that receives funding under the ITF must:
- a) not (without the TEC's prior written consent) seek or obtain funding from any Crown source other than the TEC to fund a programme or training scheme which is funded under the ITF; and
 - b) notify the TEC immediately if it becomes aware of any circumstances that might result in a breach of this condition.

Responsible use of funding

65. The TEC must attach to funding a condition that a TEO that receives funding under the ITF must use the funding:
- a) lawfully, responsibly, and for the purposes for which it is provided; and
 - b) in a manner consistent with the appropriate use of public funds.

Recovery of over-funding

66. The TEC must attach to funding a condition that if a TEO receives funding under the ITF that is greater than it should have been, or that it was not entitled to receive, the TEO must treat the amount of the over-funding as a debt due to the Crown that:
- a) is repayable on demand; and
 - b) may be set-off against all or any funding, or any sum of money payable by the TEC to the TEO.
67. The TEC must provide the TEO with reasonable notice before exercising its right to demand repayment or set-off the debt against all or any funding.

TEC administrative responsibilities

68. If the TEO receives funding under the ITF that is less than it should have been, or less than it was entitled to receive, the TEC must treat the amount of the under-funding as a credit and pay the amount as soon as is reasonably practicable.

Disclosure of data from Statistics New Zealand's Integrated Data Infrastructure

69. The TEC must attach to funding a condition that a TEO must consent in writing, for the purposes of section 37A(a) of the Statistics Act 1975, to Statistics New Zealand disclosing information to the Ministry of Education from its Integrated Data Infrastructure that identifies, or may identify, the TEO.
70. The TEC must inform the TEO that the Statistics Act 1975 does not constrain the ongoing use or sharing of the data once it is disclosed.