



MP for Rimutaka

Minister of Education

Minister of State Services

Leader of the House

Minister Responsible for Ministerial Services

Nigel Gould
Chair
Tertiary Education Commission
PO Box 27-048
Wellington 6141

Dear Nigel,

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 159L of the Education Act 1989 (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 2020. The new determination includes a 1.8 percent increase to all funding rates specified in the determination. It also supports transitions which may occur as part of the Reform of Vocational Education.

Under section 159O of the Act, it is the Commission's responsibility to develop the details needed to implement my determinations for the design of funding mechanisms.

I expect that the Commission will set appropriate measures as part of its statement of service performance in order to report to me on its performance in giving effect to this determination.

Yours sincerely,

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

Hon Chris Hipkins
Minister of Education

DETERMINATION OF DESIGN OF FUNDING MECHANISM: INDUSTRY TRAINING FUND

PRELIMINARY PROVISIONS

Introduction and statutory authority

1. This determination, which is made under section 159L of the Education Act 1989 (the Act), specifies the design of the funding mechanism for the Industry Training Fund (ITF).
2. This funding mechanism enables the Tertiary Education Commission (TEC) to fund:
 - a) industry training organisations (ITOs) to carry out their activities under the Industry Training and Apprenticeships Act 1992 (unless and until they are recognised as Transitional ITOs under clause 43 of Schedule 1 of the Education (Vocational Education and Training Reform) Amendment Bill (the Bill)); and
 - b) transitional ITOs to carry out their activities under the Bill (see Part 9 of Schedule 1 of the Bill); and
 - c) providers (as defined in the proposed new section 477 inserted by clause 65 of the Bill) to whom responsibility is transferred for the purposes of the elements of the transition plan (referred to in clause 51(a)(ii) of Schedule 1 of the Bill); and
 - d) providers of education and training for the purposes of training contracts (see the definition of “training contract” inserted into section 159(1) of the Education Act 1989 by clause 7(8) of the Bill); and
 - e) providers carrying out apprenticeship training activities under the proposed Subpart 2 of Part 34 inserted by clause 65 of the Bill; and
 - f) eligible organisations participating in the ITF direct funding scheme.
3. References in this funding mechanism to an entity above involving the Bill only take effect if and when the Bill is passed as an Act of Parliament and comes into force. References to provisions within the Bill are taken from the introduction version of the Bill and, if the Bill is passed, each reference should be read as the corresponding provision in the Act. For the purposes of this funding mechanism the entities referred to in paragraphs (a), (b), (c), (d) and (e) are collectively known as ‘training organisations’.

Purpose

4. The ITF covers:
 - a) industry training; and
 - b) New Zealand Apprenticeships; and
 - c) industry training-related projects.

5. The purpose of the ITF is to subsidise formal, structured employment-based training linked to qualifications, predominantly at levels 1 to 4 on the New Zealand Qualifications Framework (NZQF). The ITF encourages structured training by supporting training organisations and organisations participating in the ITF direct funding scheme in their management of on- and off-job training. Funding from the ITF can also be applied to industry training-related projects.

On-Plan and Off-Plan funding

6. The TEC must pay funding from the ITF under section 159YA of the Act in relation to tertiary education organisations (TEOs) funded via an Investment Plan.
7. The TEC must pay funding from the ITF under section 159ZC of the Act in relation to TEOs exempt under section 159U of the Act from submitting a proposed Investment Plan.
8. The TEC must pay funding from the ITF under section 159ZC of the Act in relation to industry-training related projects.

PART ONE: THE FUNDING MECHANISM

General parameters

Effective period

9. This funding mechanism relates to funding for activities from 1 January 2020.
10. The TEC may exercise any of its administrative functions as required to give effect to this funding mechanism before this date.
11. The TEC may continue to fund, from the ITF, activities that commenced prior to 1 January 2020.

Available funding

12. The total Government funding that can be spent under this funding mechanism will be set through the Government's annual budget processes.

Flexible funding

13. 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 15 (a "qualifying TEO").
14. The TEC must allocate additional funding, over and above that approved through Investment Plans, 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 allocation for New Zealand Apprenticeship training.
15. If a qualifying TEO meets the condition specified in paragraph 13, 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.
16. The TEC may establish criteria to allocate funding above the additional funding limits specified in paragraph 15, provided the TEC has assessed whether the funding available is sufficient for the TEC to provide funding above these limits.

Funding formula and rates

17. 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.
18. A STM is defined as the amount of training that is required for an industry trainee to achieve 120 NZQF credits.

Formula for funding

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

$$\text{funded STMs} = \frac{\text{number of enrolled trainees} \times \text{credits per trainee per year}}{120}$$

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

Funding rates

21. The funding rate for a single STM for industry training is:
- a) \$3,258.00 (GST exclusive) for training arranged by a training organisation; or
 - b) \$2,932.00 (GST exclusive) for training arranged by a TEO accessing the ITF through the direct funding scheme.
22. The funding rate for a single STM for New Zealand Apprenticeships (as defined under this funding mechanism) is:
- a) \$5,294.00 (GST exclusive) for a New Zealand Apprenticeship arranged by a training organisation; or
 - b) \$4,764.00 (GST exclusive) for a New Zealand Apprenticeship arranged by a TEO accessing the ITF through the direct funding scheme.

Performance standards

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

TEO eligibility

24. The TEC must not fund an ITO or a transitional ITO (see Part 9 of Schedule 1 of the Bill) to deliver training itself, and an ITO or a transitional ITO must not have any ownership stake in, or be a beneficiary of, an organisation with which the training organisation arranges to deliver the training.
25. The TEC may only fund an eligible organisation¹ under this funding mechanism if the organisation satisfies the eligibility and assessment criteria for participation in the ITF direct funding scheme.
26. The TEC may also fund organisations that are not training organisations or eligible organisations from the ITF, but may only fund them for industry training-related projects.

Eligibility criteria for organisations to participate in the ITF direct funding scheme

27. The TEC must use the following general criteria to select 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 at least 40 industry trainees each year who:
 - i. are actively training towards one or more of the qualifications and programmes set out in paragraph 32; and
 - ii. meet the industry trainee eligibility criteria set out in paragraph 30.
28. The TEC may determine if any additional criteria are needed to select organisations to participate in the ITF direct funding scheme, and apply those criteria in the assessment process.

Industry trainee eligibility

29. The TEC must not fund a TEO for a learner who does not meet the criteria to be an "industry trainee".
30. For the purposes of this funding mechanism, 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; or
 - ii. a self-employed contractor working in New Zealand under an arrangement with an organisation in the nature of employment, who

¹ An organisation as defined in section 159B(1)(c) of the Act.

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).

31. The TEC must establish the requirements that TEOs must comply with to verify each learner's identity.

Programme eligibility

32. Funding paid from the ITF under this funding mechanism may be used for the purpose of arranging:

- 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; and

- ii. has a minimum of 20 credits and a maximum of 70 credits; and

- iii. is composed of skill 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; and

- ii. has a minimum of 20 credits and a maximum of 70 credits; and

- iii. is composed of skill 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 standards for which the TEO has consent to assess, that, according to criteria set by the TEC, has been adequately quality assured.

33. 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.

34. A programme leading to a qualification at level 1, 2, or 3 on the NZQF must include embedded literacy and numeracy.
35. 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.
36. 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

37. The TEC must not provide funding under this funding mechanism 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.
38. 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.²

New Zealand Apprenticeships

39. 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; and
 - b) meet any regulatory requirements for entry into an occupation; and
 - c) contain a strong theoretical component to support further learning, as well as a practical element; and
 - d) are directly related to the intended career; and
 - e) lead to either:

² Subject to paragraph 37, health and safety and regulatory compliance learning may comprise part of a larger programme that includes an appropriately wide range of skills.

- 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
 - 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.
40. In addition to the eligibility requirements for an industry trainee in paragraph 30, a New Zealand Apprentice must be:
- a) employed in the occupation for which the apprentice is training; and
 - b) supported by a training plan agreed by the apprentice, the employer, and the organisation arranging the training, throughout the programme of training; and
 - c) enrolled in a New Zealand Apprenticeship.
41. TEC funding for a TEO for an eligible New Zealand Apprentice must be at the rates specified in paragraph 21.
42. 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

43. The TEC may fund a training organisation from the ITF under this funding mechanism to arrange training in respect of an industry trainee:
- a) in an industry for which the training organisation is recognised by the Minister under the Industry Training and Apprenticeship Act 1992 or the Act; or
 - b) in an arrangement approved by the TEC under the Industry Training and Apprenticeship Act 1992 or the Act.
44. The TEC may fund an eligible organisation participating in the ITF direct funding scheme from the ITF to arrange training.
45. 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 32.

Industry training-related projects

46. The TEC may, under this funding mechanism, 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 training organisations 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;
 - iii. support projects to enhance the efficiency and effectiveness of training organisations.
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 this funding mechanism under section 159ZC 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 this funding mechanism:

TEO ownership and subcontracting

50. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must, for the length of the funding period, continue to:
- a) be a training organisation fully or provisionally recognised by the Minister under the Industry Training and Apprenticeships Act 1992 or the Act; or
 - b) in relation to an eligible organisation funded through the ITF direct funding scheme, meet the eligibility criteria specified in paragraph 27, and any additional criteria determined and applied by the TEC under paragraph 28; or
 - c) in relation to an organisation receiving funding for an industry training-related project, to meet criteria specified by the TEC.
51. The TEC must attach to funding for an ITO or a transitional ITO (see Part 9 of Schedule 1 of the Bill) 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 ITO or transitional ITO arranges the delivery of training.

52. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must:
- a) not subcontract its functions without the TEC's written consent; and
 - 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 apprentices who are enrolled with the TEO make a financial contribution towards the cost of each trainee's or apprentice's training and assessment, noting that there may be some specific circumstances where the full financial costs of training and assessment for a trainee 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 30 of this funding mechanism; and
 - b) each New Zealand Apprentice who is enrolled in a New Zealand Apprenticeship meets and continues to meet the criteria specified in paragraphs 30 and 40 of this funding mechanism.

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 is enrolled:
- a) continues to meet the eligibility criteria specified in:
 - i. paragraph 32 of this funding mechanism; and
 - ii. paragraph 39 of this funding mechanism 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) does not include learning specified in paragraph 37 or 38 of this funding mechanism; 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 for whom funding is provided and measure the industry trainee'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 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 trainee or eligible trainee'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 issued under section 159F(1)(e) of the Act), otherwise payable by the trainee or trainee's employer, if the TEC has advised the TEO that the TEC will pay that amount to the TEO in respect of fees on behalf of the trainee or employer.
- 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 159F(1)(e) of the Education Act 1989 relating to the funding of Fees Free Tertiary Education.
- 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 trainees, 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 a trainee may be charged by the TEO to the trainee or 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 this funding mechanism 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 this funding mechanism; 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 this funding mechanism 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 this funding mechanism 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 this funding mechanism 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 training organisation 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 training organisation.
- 70. The TEC must inform the training organisation that the Statistics Act 1975 does not constrain the ongoing use or sharing of the data once it is disclosed.