

# Hon Chris Hipkins

MP for Remutaka

Minister for COVID-19 Response

Minister of Education

Minister for the Public Service

Leader of the House



17 December 2020

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 2021**

1. I am writing to advise you of an updated delegation to administer funding for Fees Free tertiary education and training from 1 January 2021. This replaces the delegation to fund Fees Free tertiary education and training in 2020 dated 30 June 2020 and includes funding for the Targeted Training and Apprenticeship Fund (TTAF).

## **Fees Free Tertiary Education and Training Policy**

### **Purpose**

2. The purpose of the Fees Free policy, which was introduced on 1 January 2018, is to make the first year of provider-based tertiary education fees-free or the first two years of industry training funded through the Industry Training Fund (ITF) 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 Tertiary Education Commission (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 2019, I agreed that no changes should be made to the existing Fees Free policy settings [METIS 1186515 refers]. In June 2020, Cabinet agreed to the new TTAF, which will be an additional entitlement, and not count as consumption of a learner's Fees Free entitlement [CAB-20-MIN-0247 refers]. In December 2020, additional target areas were agreed to for the TTAF and added to the target list, to apply from 1 January 2021.
4. The Fees Free 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***

5. I delegate to the TEC, under section 409(1)(j) of the Education and Training Act 2020 (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.
6. All learners eligible for the TTAF, who are also eligible learners for the Fees Free Tertiary Education and Training, should be funded as TTAF learners. This will support their access to fees-free support, while not consuming their Fees Free entitlement under the Fees Free Tertiary Education and Training policy.

*Citizenship or residency criteria*

7. 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 with a residence class visa 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.
8. To be eligible for Fees Free industry training, a trainee must be legally entitled to reside and work in New Zealand.

*Prior study criteria*

9. 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 the current calendar year this delegation applies to, or the preceding two calendar years<sup>1</sup> 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.

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

10. The following credits must not be included in measures of prior tertiary education in when determining 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);
  - 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;
  - 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;
  - d. any tertiary study or training in respect of which fees support is provided through the TTAF;
  - e. any tertiary study or training that is funded through the Youth Guarantee (YG) fund after 1 July 2020;
  - f. any tertiary study or training that is funded through the Māori and Pasifika Trades Training (MPTT) fund after 1 July 2020; and
  - g. any tertiary study or training that is funded through the Refugee English Fund.
11. For the purposes of paragraphs 9a and 10a, 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 37 of the Act.

*Eligible courses or programmes*

12. To be eligible for Fees Free for provider-based tertiary education, a student must be enrolled in an eligible course.
13. An eligible course for provider-based tertiary education is a course that is:
  - a. funded by the TEC from either:
    - i. the Student Achievement Component (SAC) Level 3 and above fund; or
    - ii. grants under section 556 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 YG 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.
14. The TEC must not pay any amount in respect of fees where the fees are met under another funding arrangement (including the TTAF, YG fund or MPTT funding).
15. 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;
  - b. approved by the New Zealand Qualifications Authority (NZQA);

- 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***

16. I delegate to the TEC, under section 409(1)(j) 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*

- 17. 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.
- 18. 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.
- 19. 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.
- 20. 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*

- 21. 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 16-20; or
  - b. if the TEO is a PTE, compensate the PTE in respect of an eligible student in accordance with paragraphs 16-20 for fees forgone as the result of a condition imposed on the PTE's funding.
- 22. Fees for provider-based tertiary education are defined as:
  - a. compulsory tuition fees;
  - b. compulsory course costs, which may only include:
    - i. examination fees;
    - ii. material charges;
    - iii. costs of field trips;

- iv. costs associated with the compulsory purchase of equipment or books through the TEO with which the student is enrolled;
    - v. other charges associated with a course; and
  - c. compulsory student services fees (CSSFs).
23. 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);
  - 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.
24. The TEC must only make a payment to a TEO in respect of an eligible student's CSSF, if that fee is consistent with the Ministerial direction on CSSFs in effect.

*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 16-20.
26. Fees for industry training are defined as fees:
- a. for training and assessment;
  - b. paid to ITF funded organisations, or directly to training and assessment providers;
  - c. paid by trainees, apprentices or employers; and
  - d. are directly related to individual trainees that are fees-free eligible.

*Payments relating to eligible learners from previous calendar years*

27. The TEC has discretion to make retrospective payments relating to the fees paid by students, trainees or their employers, who, despite meeting the Fees Free tertiary education and training eligibility criteria since 1 January 2018, were not determined by the TEC to be eligible for Fees Free tertiary education and training. This discretion should be exercised in-line with the policy intent of Fees Free.
28. For the avoidance of doubt, if a learner did not benefit from Fees Free payments they were entitled to from an enrolment in the preceding year, they could still be eligible to receive a retrospective Fees Free payment if they applied the following year. It is the expectation that TEC work with TEOs to identify fees-free eligible learners, and these learners apply for Fees Free within the year that their study commences.

***Consumption***

29. If an eligible student or trainee was enrolled in an eligible course or eligible programme in or after 2018, then 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).

30. The following credits must not count towards an eligible student or trainee's Fees Free consumption:
  - a. any tertiary study or training for which fees support is provided through the TTAF;
  - b. any tertiary study through YG fund or MPTT fund from 1 July 2020; and
  - c. any tertiary study through Refugee English Fund.
31. The TEC must develop processes to determine the amount of their Fees Free entitlement that each eligible student or trainee has consumed.
32. The TEC has discretion to exempt study or training from counting towards a student or trainee's consumption where this study or training was funded through either the YG fund or MPTT fund and relates to courses that started before 1 July 2020 and continued beyond 1 July 2020. The TEC must exercise this discretion in line with the intent of the Fees Free policy and the TTAF.

#### ***Carry-over***

33. 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, the TEC must develop a mechanism to enable that student or trainee to carry-over the remaining portion of their Fees Free entitlement.
34. 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; 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 20.

#### ***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.

***Students or trainees impacted by COVID-19***

38. The TEC may use its discretion to write-off all, or a portion of, an eligible student's or trainee's consumption of their Fees Free entitlement when the following circumstances exist:
- a student or trainee withdraws from study or training; or
  - a student or trainee's study or training is adversely affected; and
  - this occurs in the 2020 or 2021 calendar year; and
  - is due to the impact of COVID-19 (for example, health or changes in access to tertiary education study).
39. While COVID-19-related impacts on study or training may also relate to exceptional personal circumstances, having specific discretion on the consumption of Fees Free entitlements due to the impact of COVID-19 supports the TEC to provide more clarity for students and trainees.
40. I expect the TEC to consider exercising this discretion in the following circumstances:
- where a student or trainee's health, or their family's health, is affected by COVID-19; or
  - where there is a heightened risk to a student or trainee's health, or their family's, or household's health due to underlying health conditions; or
  - where a student or trainee faces additional barriers to access, for example, due to: a lack of online access or electronic devices; government travel restrictions; or lack of childcare arrangements during periods of school and early childhood education closure; or
  - any other reason to which the TEC considers it is necessary to apply this discretion, to ensure students or trainees are not unfairly disadvantaged due to the impact of COVID-19.
41. Where students or trainees are enrolled in an eligible programme or in courses that are discontinued by the TEO due to the impact of COVID-19, the credits and fee payments associated with incomplete components of courses or eligible programmes will not count against the student or trainee's Fees Free consumption. This could be for example, because of TEO closure or because a TEO cannot continue to deliver courses or programmes within the restrictions of the Alert Level response to COVID-19.
42. I expect the TEC to publish guidance on the Fees Free website so that both the criteria and the process for Fees Free entitlements being re-instated due to the impact of COVID-19 are clear to students and trainees.

## **The Targeted Training and Apprenticeship Fund**

### **Purpose**

43. To support the economic recovery through an ongoing investment in skills, the COVID-19 Response and Recovery Fund in Budget 2020 provided funding for the TTAF. The TTAF will make targeted areas of vocational education and training (VET) at sub-degree level fees-free until 31 December 2022. This is in response to the impact of COVID-19 on the labour market and industry skill needs.
44. The aims of the TTAF are to:
  - a. support all apprentices to continue their training and support employers to continue to invest in skills development for their apprentices during the economic difficulties and uncertainty caused by COVID-19;
  - b. make programmes free for learners in targeted areas, to support particular industry skill needs where demand from employers will continue (including within the community services sector), or be part of the economic recovery; and
  - c. support and encourage people of all ages to undertake targeted VET programmes within the TTAF and to encourage people into areas of study or training that will give them a better employment prospects as New Zealand recovers from the impact of COVID-19.
45. In June 2020, Cabinet agreed to the targeted areas of VET covered by the TTAF for 2020, with provisions that some additional areas could be added from 1 January 2021 [CAB-20-MIN-0247]. In December 2020, additional target areas have been added to apply from 1 January 2021. Cabinet had also authorised me to make the necessary amendments to the policy settings to implement the policy framework for the TTAF and to ensure that students and trainees' existing Fees Free entitlements are not impacted by participating in programmes covered by the TTAF.

### ***Delegation to determine eligibility***

#### *Programme eligibility*

46. I delegate to the TEC under section 409(1)(j) of the Act, the authority to determine whether delivery of study or training is eligible for fees support through the TTAF.
47. The TEC must ensure that the TTAF funding paid to a TEO under this funding delegation meets the criteria detailed in this programme eligibility section.
48. To be an eligible programme for the TTAF, ITF-funded and SAC Level 3 and above funded provision, except for apprenticeships, (including New Zealand Apprenticeships and Managed Apprenticeships), must be in target areas, as set by the Government. The following Target Areas List details the target industry areas from 1 July 2020:
  - a. Primary industries, including agriculture, horticulture and viticulture, fisheries (including aquaculture), and forestry;
  - b. Construction, including building, plumbing, and civil engineering;
  - c. Community support, including youth work, mental health and addiction support, care for older people, support for people with disabilities, community health and interpreting;

- d. Manufacturing and mechanical engineering and technology;
  - e. Electrical engineering; and
  - f. Road transport (vehicle operations only).
49. The following Target Areas List details the additional target industry areas from 1 January 2021:
- a. Conservation, including freshwater management, biodiversity and biosecurity training needs that support the Jobs for Nature initiative;
  - b. Information technology<sup>2</sup>, including cybersecurity, technical support and web development; and
  - c. Expanded scope within community support, to specifically include enrolled nursing and cleaning (within community health), and programmes that train teacher aides and people learning to teach New Zealand Sign Language to others (within support for people with disabilities).
50. The following apprenticeship qualifications are eligible for fee support through the TTAF:
- a. New Zealand Apprenticeships; and
  - b. Managed Apprenticeships.
51. The following sub-degree qualifications or programmes (outside of apprenticeships), where the TEC determines that these fall within the Target Areas List, are eligible for fee support through the TTAF:
- a. New Zealand Certificates and National Certificates at levels 3 to 6 on the NZQF;
  - b. New Zealand Diplomas and National Diplomas at levels 5 to 7 on the NZQF;
  - c. ITF-funded traineeships currently eligible for Fees Fee support; and
  - d. Micro credentials.
52. The TEC will have discretion to include or exclude the following training or study on a case-by-case basis:
- a. Training Schemes;
  - b. TEO-specific qualifications;
  - c. Short credit programmes;
  - d. ITF funded New Zealand Certificates and National Certificates at level 2 on the NZQF;

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<sup>2</sup> As this area relates to people training towards IT roles and professional skills, these do not include qualifications to build personal computing or digital literacy skills as a user of technology, or general business administration skills.

- e. Any other programme funded through the SAC Level 3 and above fund or the ITF; and
- 53. The TEC's discretion to include or exclude training or study should be exercised to achieve the aims of the TTAF.
- 54. For ITF-funded programmes where the TEC has discretion to include or exclude training on a case by case basis, the TEC can exclude programmes where it considers the fees are unreasonable, and do not align with fee rates for comparable courses or programmes across the tertiary education system.
- 55. The TEC has discretion to include or exclude individual courses that are part of an otherwise eligible qualification or award where a student or trainee is not undertaking the course as part of a qualification or award, and the TEC determines that the course falls within the Target Areas List.
- 56. Where study or training is not included as an eligible programme by the TEC and the TEC has the delegation and discretion to determine that the programme is eligible, the TEC must develop a process for TEOs so that the TEOs may apply to have that study or training included as an eligible programme. The TEC may only permit TEOs to apply for study or training to be included where that study or training meets the criteria in this delegation.

*Programmes funded under the Industry Training Fund*

New Zealand Apprenticeships)

- 57. To be eligible for fees support through the TTAF, New Zealand Apprenticeships must:
  - a. be a sub-degree programme;
  - b. be approved by the NZQA;
  - c. be approved by the TEC and funded through the ITF;
  - d. be a registered apprenticeship qualification as at 1 June 2020, or otherwise included as eligible at the TEC's discretion for new programmes that meet the specified criteria; and
  - e. not otherwise be excluded from eligibility where the TEC has discretion.

Industry training provision (excluding apprenticeships)

- 58. To be eligible for fees support through the TTAF, industry training qualifications or programmes (excluding apprenticeships) must:
  - a. be training that falls within one of the areas on the Target Areas List;
  - b. be sub-degree training;
  - c. be approved by the TEC and funded through the ITF; and
  - d. not otherwise be excluded from eligibility where the TEC has discretion.
- 59. To be eligible for the TTAF, the programme's fees for training funded under the ITF (and covered under the TTAF), should be set in line with fee schedules, agreed between the

transitional ITOs and the TEC, including provisions for reasonable changes to the fee schedules. The reasonableness of changes to the fee schedules are at TEC's discretion.

*Fees for eligible ITF-funded provision*

60. Fees for ITF funded trainees must only relate to fees that are:
  - a. for training and assessment;
  - b. paid to ITF funded organisations, or directly to training and assessment providers;
  - c. paid by trainees, apprentices or employers; and
  - d. are directly related to individual trainees undertaking the TTAF eligible training.
61. The TEC will put in place processes to ensure fees claimed for ITF-funded eligible programmes reflect the actual and reasonable fees defined above for trainees and take into account the actual and reasonable costs of the training and assessment.

*ITF-funded programmes that are eligible from start of the TTAF on 1 July 2020*

62. Programmes that are funded under the ITF as eligible programmes for the TTAF from 1 July 2020 will receive TTAF funding for training delivered from 1 July 2020. This includes training delivered from 1 July 2020, where trainees were enrolled in eligible programmes before 1 July 2020 and continue training in these programmes after 1 July 2020.
63. For the avoidance of doubt, if a trainee started an eligible apprenticeship in January 2020 and continued their training after 1 July 2020, then the TEC would make fee payments through the TTAF for the components of their apprenticeship delivered after 1 July 2020.
64. The TEC has discretion to make TTAF payments for all fees where an eligible programme started shortly before 1 July 2020.

*ITF-funded programmes that are eligible from 1 January 2021*

65. Programmes that are funded under the ITF as eligible programmes for the TTAF from 1 January 2021, instead of 1 July 2020, due to the expanded target list (see paragraph 49), will receive TTAF funding for training delivered from 1 January 2021. This includes training delivered from 1 January 2021, where trainees were enrolled in programmes before 1 January 2021 and continue training in these programmes after 1 January 2021.
66. For the avoidance of doubt, if a trainee started a programme in November 2020 and continued their training after 1 January 2021, when the programme became eligible for the TTAF, then the TEC would make fee payments through the TTAF for the components of the trainees programme delivered after 1 January 2021.
67. The TEC has discretion to make TTAF payments for all fees where an eligible programme from 1 January 2021 started shortly before 1 January 2021.

*End of coverage for ITF-funded programmes*

68. Eligible programmes that are funded under the ITF will receive TTAF funding for training delivered until 31 December 2022.

*Programmes funded under the Student Achievement Component Level 3 and above fund*

**Managed Apprenticeships**

69. To be eligible for fees support through the TTAF, Managed Apprenticeships must:
- a. meet the Managed Apprenticeships definition in the Single Data Return (SDR) Manual;
  - b. be a sub-degree programme;
  - c. have been delivered as a Managed Apprenticeships qualification as at 1 June 2020, or otherwise included as an eligible programme at the TEC's discretion for new programmes that meet the specified criteria;
  - d. be approved and funded through the SAC level 3 and above fund by the TEC;
  - e. have been reported as Managed Apprenticeships delivery in the SDR before 1 June 2020 by one of the subsidiaries of Te Pūkenga, a wānanga, or a PTE, or is included at the TEC's discretion if the Managed Apprenticeships delivery is reported for the first time after 1 June 2020; and
  - f. not otherwise be excluded from eligibility where the TEC has discretion.

**Student Achievement Component Level 3 and above fund (not Managed Apprenticeships)**

70. To be eligible for fees support through the TTAF, SAC Level 3 and above qualifications or programmes (that are not Managed Apprenticeships) must:
- a. be study that falls within one of the areas on the Target Areas List;
  - b. be a sub-degree qualification or programme;
  - c. be at level 3-7 on the NZQF;
  - d. be approved and funded through the SAC level 3 and above fund by the TEC; and
  - e. Not otherwise excluded from eligibility where the TEC has discretion.

*Fees for eligible SAC Level 3 and above funded provision*

71. Fees for eligible SAC Level 3 and above funded students must only relate to:
- a. compulsory tuition fees;
  - b. compulsory course costs, which may only include:
    - i. examination fees;
    - ii. material charges;
    - iii. costs of field trips;
    - iv. costs associated with the compulsory purchase of equipment or books through the TEO with which the student is enrolled;

- v. other charges associated with a course; and
  - c. CSSFs.
72. 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 STEO; and
  - b. the fees comply with all fee regulation requirements imposed as conditions on the TEO's funding.
73. The TEC must only make a payment to a TEO in respect of an eligible student's CSSF, if that fee is consistent with the Ministerial direction on CSSFs in effect.

*SAC-funded programmes that are eligible from start of the TTAF on 1 July 2020*

74. Programmes that are funded through the SAC level 3 and above fund and are eligible programmes for TTAF from 1 July 2020 will receive TTAF funding for courses that start on or after 1 July 2020.
75. For the avoidance of doubt, if a student was already enrolled in an eligible programme or qualification in January 2020 and continued studying this programme or qualification after 1 July 2020, then the TEC would make fee payments through TTAF for courses delivered after 1 July 2020.
76. The TEC has discretion to make TTAF payments for all fees where eligible programmes have courses that started shortly before 1 July 2020 (for example, where a course starts in mid-June, the TEC would have discretion to cover the fees for this course through the TTAF).
77. For eligible programmes that start before 1 July 2020 and continue past 1 July 2020, and are not covered by TEC's discretion to include courses that started shortly before 1 July 2020, the TEC will outline to TEOs the settings for how course fees will be covered by the TTAF. This will be in line with the following criteria:
- a. ensuring this is in line with the policy intent to cover fees for all eligible programmes from 1 July 2020;
  - b. should include courses where a significant component of the course is delivered after 1 July 2020 (for example, for a course that ended on 7 July 2020, this would not be significant); and
  - c. to reduce the administrative burden to TEOs and the TEC in processing fee refunds.

*SAC-funded programmes that are eligible from 1 January 2021*

78. Programmes that are funded through the SAC level 3 and above fund, and are eligible programmes for the TTAF from 1 January 2021, instead of 1 July 2020, due to the expanded target list (see paragraph 49), will receive TTAF funding for courses that start on or after 1 January 2021.
79. For the avoidance of doubt, if a student was already enrolled in a programme or qualification in November 2020 and continued studying this programme or qualification

after 1 January 2021, when the programme became eligible for the TTAF, then the TEC would make fee payments through TTAF for courses delivered starting on or after 1 January 2021.

80. The TEC has discretion to make TTAF payments for all fees where eligible programmes have courses that started shortly before 1 January 2021.
81. The TEC will also have discretion to include courses that started before 1 January 2021, in exceptional cases that are in addition to discretion related to shortly before 1 January 2021, in-line with the following criteria:
  - a. the policy intent to cover fees for all eligible programmes from 1 January 2021;
  - b. takes into account the impact on courses where a significant component of the course is delivered after 1 January 2021; and
  - c. to reduce the administrative burden to TEOs and the TEC in processing fee refunds.

*End of coverage for SAC-funded programmes*

82. Eligible courses funded through the SAC level 3 and above fund will receive TTAF funding for courses ending on or before 31 December 2022, unless the course ends shortly after 31 December 2022, and is included at the discretion of TEC.
83. For courses that start before 31 December 2022, and end after 31 December 2022, and are not covered by the TEC's discretion to include courses that end shortly after 31 December 2022, the TEC will outline to TEOs the settings for how course fees will be covered by the TTAF. The TEC's discretion must be in line with the following criteria:
  - a. ensuring this is in line with the policy intent to cover fees for all eligible programmes until 31 December 2022;
  - b. can exclude courses where only a minimal component of the course is delivered before 31 December 2022; and
  - c. to reduce the administrative burden to TEOs and the TEC.

*Learner eligibility for all programme types*

84. All students or trainees in eligible programmes are eligible for fees support through the TTAF where they meet the respective learner eligibility criteria for SAC Level 3 and above funding or the ITF, depending on which fund the eligible programme relates to.

*Delegation to make payments*

85. I delegate to the TEC, under section 409(1)(j) of the Act, the authority to make payments in respect of fees for eligible students or trainees in eligible study or training as set out below.
86. I delegate to the TEC the authority to:
  - a. if the TEO is not a PTE, pay the TEO in respect of fees on behalf of an eligible student or trainee (or their employer) in an eligible programme; or

- b. if the TEO is a PTE, compensate the PTE in respect of an eligible student or trainee (or their employer) in an eligible programme for fees foregone as the result of a condition imposed on the PTE's funding.
- 87. The TEC must put in place processes to require TEOs not to charge fees (described below) to eligible students and trainees, or any third party (such as the Ministry of Social Development through student loans, an employer or scholarship) on behalf of the eligible student or trainee.

#### *Refunds*

- 88. Where the TEC makes payments to TEOs and the student, trainee, or a third party has already paid fees, the TEC must put in place processes to require the TEOs to refund all fees that were paid by the TTAF to the student or trainee (or any other party where the fees are required to be refunded to this party), within a reasonable timeframe.
- 89. Where a student or trainee has already borrowed for fees through the Student Loan Scheme and these fee payments (or for PTEs, to compensate the PTE for fees foregone) are now met through the TTAF, the TEO must refund the Ministry of Social Development for the portion of fees met through the TTAF in a reasonable timeframe.
- 90. For ITF-funded eligible programmes, where a transitional Industry Training Organisation (ITO) has received fee payments on or after 1 July 2019 and this relates to programmes that continue after 1 July 2020, the TEC must put in place processes to make a partial fee payments for these programme and this will be subject to fee refund processes required under the TTAF. Where a transitional ITO has received fee payments before 1 July 2019 and this relates to programmes that continue after 1 July 2020, the TEC will have discretion to make partial fee payments for these programmes through the TTAF and require refund processes for the TTAF to be followed.

#### *Recoveries*

- 91. Any fee payments made by the TEC to TEOs for the TTAF in line with this delegation can be recovered by the TEC on the basis that the payments are to meet actual and reasonable fee payments for eligible learners (or for PTEs, to compensate the PTE for fees foregone).
- 92. In terms of funding for the TTAF for eligible programmes in 2020, this is additional funding to the sector from government, it is not part of the non-recovery of allocated 2020 funding. In 2020, fee payments made through the TTAF can be offset against any payments that TEC has already made through the Fees Free policy.
- 93. For the avoidance of doubt, from 1 July 2020, TEOs cannot receive payments in respect to fees or fees foregone from both the Fees Free policy and the TTAF for a learner in an eligible TTAF programme.

#### *Monitoring*

- 94. I expect the TEC to monitor TEO enrolments receiving fee payments under the TTAF, in line with existing monitoring framework related to funding from SAC or the ITF. I expect this monitoring will include: significant enrolment growth, withdrawals, retention, and valid domestic student enrolments.
- 95. The TEC must include a condition on TTAF funding that TEOs are to work collaboratively with the TEC where there are substantial changes in the nature of their delivery.

## **Operationalising this delegation**

96. The TEC will work with the sector and other government agencies to support the implementation of the Fees Free policy and the TTAF and to advise me of any significant issues that arise.
97. The TEC must determine arrangements with TEOs for the operation of provider-based provision covered by either the Fees Free tertiary policy or the TTAF.
98. The TEC must determine arrangements with TEOs funded through the ITF for the operation of provision covered by either the Fees Free policy or the TTAF 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 (or fees forgone for PTEs). The TEC will establish processes to ensure that the fees and charges for ITF-funded programmes are reasonable and are assessed based on fees and charges that existed prior to the introduction of the TTAF. The TEC will also consider alignment with fee rates for comparable courses or programmes across the tertiary education system; and
  - c. TEOs will be required to ensure that trainees fully benefit from the Fees Free policy or the TTAF – 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).

## ***Time period for this delegation***

99. This delegation applies from 1 January 2021 until the end of the 2021/22 financial year, unless otherwise indicated. The TEC may exercise any of its administrative functions as required to give effect to this delegation outside of these dates.

Yours sincerely

A handwritten signature in blue ink, appearing to read "CH H".

**Hon Chris Hipkins**

Minister of Education