



TEC Investigation Report – Active Institute Limited

Executive Summary

1. In late-2017, the Tertiary Education Commission Te Amorangi Mātauranga Matua (TEC) completed an audit of Active Institute Limited (Active Institute). The audit identified issues with the calculation of learning hours in the ‘English for Speakers of Other Languages’ (ESOL-ILN) programme.
2. Active Institute calculated tuition in the ESOL-ILN programme based on the assumption of maximum attendance rather than on actual tuition hours, which contravenes Active Institute’s funding conditions.
3. We initiated an investigation to verify tuition hours at Active Institute for 2016 and 2017. TEC staff visited Active Institute to complete this work in April 2018.
4. Our review of the attendance sheets at Active Institute showed that they had been retrospectively filled in since the audit in 2017. Active Institute staff confirmed that tutor notes and office records were used to fill in any gaps in the 2016 and 2017 attendance sheets to ensure records were complete.
5. Our analysis shows that Active Institute had a shortfall in hours of 19,048 for 2016 and 16,139 for 2017. This shortfall amounts to an estimated recovery of \$699,530.63 for those funding years¹.
6. Active Institute has since redeveloped the attendance sheets to ensure that only actual attendance is captured.
7. The TEC will continue to work with Active Institute to ensure its ESOL-ILN fund is compliant with TEC funding conditions.

Background

8. Active Institute is a private training establishment (PTE) that has been working with the Manukau and wider South Auckland community since 1988. It offers ESOL-ILN and Adult and Community Education (ACE) (Communities) programmes that are funded by the TEC.
9. Active Institute has two campuses located in Manukau and Panmure².
10. The table below provides a breakdown of TEC funding for 2016 and 2017:

Fund	2016 \$ GST exclusive	2017 \$ GST exclusive
Investment Plan		
ESOL-ILN	\$ 941,000	\$ 930,000
ACE	\$ 120,000	\$ 120,000
Total	\$ 1,061,000	\$ 1,050,000

¹ See recovery table in para 37 for details

² The Panmure site had not been approved by New Zealand Qualifications Authority (NZQA) as a delivery site. This issue is being addressed with Active and NZQA.

11. In December 2017 the TEC undertook a scheduled audit. The scope of the audit was aligned to the performance commitments in the Investment Plan and the associated funding obligations between the TEC and Active Institute. The focus areas of the audit included:
 - › The reporting of data, including recording enrolments and withdrawals;
 - › Compliance with ESOL-ILN funding conditions;
 - › Compliance with ACE funding conditions;
 - › Compliance with the requirements in Part 18 of the Education Act 1989; and
 - › Any other matters relating to funding provided by the TEC.

12. The audit found issues in relation to the calculation of ESOL-ILN hours. Tuition hours were based on maximum attendance rather than actual tuition hours, which is the basis of funding from the TEC.

13. To determine the extent of the issues, we initiated an investigation into Active Institute.

TEC's approach to the investigation

14. As announced to the education sector in late 2017, we have re-aligned our methodology to take a more flexible approach to monitoring, including how we conduct investigations. What we used to call reviews has been blended into investigations. This is a more flexible approach designed for better response to the levels of risk and issues identified.

15. Under the new approach, rather than outsourcing our investigation, we are closely involved with TEOs throughout the process. Our intention is to place as little burden on providers as possible, while still ensuring the interests of learners, government and the tertiary education system more broadly are protected.

16. Our investigation also involved staff from Active Institute which is reflected in our report.

Investigation Scope

17. The scope and approach of the investigation was to verify the data held in Active Institute's database for the ESOL-ILN learners for 2016 and 2017. This was done by:
 - › Analysing the spreadsheets produced by Active Institute using the original formula;
 - › analysing the spreadsheets produced by Active Institute using actual attendance;
 - › analysing actual attendance sheets and associated documentation; and
 - › Interviewing management, office staff and tutors about attendance records.

Investigation Findings

ESOL-ILN funding calculation

Funding Conditions

18. ESOL-ILN funding is calculated based on hours allocated against hours delivered. The hours delivered are based on tuition hours delivered (actual attendance).

19. The conditions for 2016 and for 2017 make reference to actual attendance in two separate conditions discussing reports and repayments. These are outlined below (emphasis added):

Reports

...

(b) *Each progress report and the final report must:*

- (i) *be submitted in accordance with the template that we will provide to you, and*
- (ii) *relate to the specific outcomes outlined in your Investment Plan, and*
- (iii) *include the following information:*
 - A. *the number of learners enrolled in each programme of study or training, and*
 - B. *learner enrolment information, including the NSN, tuition hours delivered (**actual attendance**) and remaining tuition hours planned (if any), demographic information, regional information, literacy and numeracy information, and the enrolment start and*

finish dates for each learner enrolled in each ESOL-ILN programme of study or training during the period covered by the report.

Repayment of ILN ESOL Fund Funding

If you receive ILN ESOL Fund Funding that is greater than it should have been, or that you were not entitled to receive, you 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 us to you.*

*For the purposes of this Condition, we will determine whether you have received funding that was greater than it should have been by subtracting the total number of tuition hours delivered in the calendar year (**based on actual attendance**) from the hours allocated to you.*

20. These conditions were clarified with Active Institute in investment plan funding documents sent in 2016 and 2017.

Original Calculation

21. Each PTE in receipt of ESOL-ILN funding is required to submit two progress reports and a final report for the period 1 January to 31 December by 31 January of the following year. Each report is submitted in accordance with the ESOL-ILN Report template that is provided.
22. Active Institute used an Access database for ESOL-ILN learners. For the calculation of tuition hours a formula was used that was based on maximum attendance, rather than actual. The formula is:

END Date – START Date

Seven days x 20 Hours

23. The 20 hours was based on an incorrect assumption of four hours attendance each day over five days. However; the required hours of daily attendance was only 3.5 hours (9am – 12.30pm). There is also no accounting for absenteeism in this formula.
24. The formula also does not take into account the non-delivery of ESOL-ILN classes at the Panmure site during 2017. Delivery on Fridays was discontinued from 15 May 2017 to 15 September 2017. This was confirmed in the audit. Evidence of non-attendance on Fridays at Panmure was also obvious from the attendance sheets.
25. The number of hours reported to the TEC for 2016 was 52,918. The number of hours reported for 2017 was 46,855³.

Attendance Record Verification

26. Attendance at ESOL-ILN classes is recorded on hard copy sheets of paper which is filled in by the tutor. Each learner is marked as present or absent. As noted in the audit, a single attendance sheet was used to record both ESOL-ILN and ACE learners. The attendance sheets did not separate the two types of learner, however this can be done by checking the Active Institute database.
27. On 16 April 2018 we visited the offices of Active Institute to verify the attendance records. Upon arrival we were given a spreadsheet produced by [REDACTED] which outlined the actual attendance for ESOL-ILN in 2016. [REDACTED] stated that [REDACTED] had reviewed all timesheets/attendance records and entered the data in the new spreadsheet. At the time [REDACTED] had not completed the 2017 spreadsheet.

³ Note that in 2017 the report was submitted after the completion of the audit and was based on a formula using 17.5 hours. This resulted in a recovery of \$51,468.75. This recovery payment was offset against your April 2018 funding payment.

Data Discrepancies

28. During the audit in December 2017, Senior Auditor Graeme West received a sample of 10 learner records from the 2016 cohort to check the difference between what was reported to the TEC against what was recorded in the attendance sheets. As part of the investigation we cross-checked that sample with the updated spreadsheet that was provided by [REDACTED]. There were a number of differences between the attendance sheets sighted in December 2017 and the entries in the updated spreadsheet. The table below outlines the differences:

Learner NSN	HOURS		
	Reported to TEC in 2016	2016 Attendance Sheets (checked at Audit)	Updated Spreadsheet
102216135	100	77	66.5
113864385	100	14	24.5
115513176	240	157.5	203
122479630	240	21	0
134961707	60	7	3.5
139497554	240	175	178.5
143235409	240	66.5	61.25
149356278	240	94.5	105
151537843	240	168	178.5
153361581	240	77	122.5

29. We obtained copies of all attendance sheets for 2016 and 2017. When checking the attendance sheets again we noted that further entries had been completed since the December 2017 audit.
30. We discussed this issue with tutor, [REDACTED] stated that since the audit in December 2017 [REDACTED] had been asked to update [REDACTED] records. This involved going back through the attendance sheets from 2016 and attempting to fill in any uncompleted or blank entries using information from diaries and on [REDACTED] computer.
31. The majority of the attendance sheets sighted at the audit in December 2017 did not have any information for Fridays. [REDACTED] stated that Friday was generally “project day” and that learners would participate in activities that would assist them in their learning (i.e. understanding bus timetables). [REDACTED] retrospectively attached a sheet behind each attendance sheet outlining what occurred at each project day and who attended. [REDACTED] stated that this information was kept on [REDACTED] computer.
32. We also discussed this with Mr Sohrab Mo’attar (Director). Mr Mo’attar confirmed that after the December 2017 audit he had asked staff to go back to their records from 2016 and 2017 and update any missing information. We asked how this could be done considering the time lapse since the actual classes. Mr Mo’attar made the following points:
- › After the TEC audit they had gone back and looked at all the attendance records and noticed that they were not complete.
 - › There is a process at Active Institute (included in the Student Handbook) which states that if a learner is going to be absent they need to ring Reception by 10am. A note of this absence is recorded in a note or in the diary of the tutor.
 - › All staff went back through their records and updated the attendance sheets to include absences. If no absence could be accounted for (either by a note or diary entry) and the attendance sheet was blank for that learner, then they were marked as attending the class and the attendance sheet was updated.
 - › This process could result in a learner being retrospectively marked as attending the class when they may not have (as notes may have been lost or diary entries were not updated). However, it was done with the intention of creating a record of actual attendance.

- › The use of 4 hours per day in the formula was a genuine misunderstanding and they had assumed that hours included all the time that the learner spent at Active Institute (as opposed to the 3.5 hours of class time).
33. On 3 September 2018, [REDACTED] provided a copy of the updated spreadsheet for attendance in ESOL-ILN classes for 2017. This list was verified against the attendance sheets that were obtained during the visit in April 2018. We did not have a sample (unlike 2016) to cross-check against to identify any discrepancies in the attendance sheet data.
34. The differences between the hours allocated to Active Institute and the actual attendance hours of learners is outlined below:

	2016	2017
Hours allocated to Active	50,200	49,600
Hours reported to the TEC	52,918	46,855
Actual attendance hours	31,152	33,461
Difference	19,048	16,139

35. The issue with the actual attendance hours above is that we are not confident in their accuracy. The retrospective process of updating the attendance sheets has relied on an element of assumption which means some learners may have been reported as attending even if they did not.
36. However, Mr Mo'attar has assured us that they have used the best available information to make these assumptions. In absence of evidence to the contrary, we will use them to establish the extent of recovery.

Recovery

37. As outlined in the funding conditions, Active Institute will need to repay the over-funding for the inflated attendance. The recovery is based on the difference between the hours allocated in its investment plan and the actual attendance. This is outlined below:

Funding Year	Revised delivery hours	Revised Delivery \$	Estimated Recovery (GST Excl.)	Estimated Recovery (GST Incl.)
2016	31,152	\$584,100.00	(\$357,150.00)	(\$410,722.50)
2017	33,461	\$627,393.75	(\$251,137.50) ⁴	(\$288,808.13)
TOTAL			(\$608,287.50)	(\$699,530.63)

38. The calculation of the recovery has been agreed and worked out with Active Institute staff.

Remedial Actions

Set out below are a number of remedial actions Active Institute has taken, which should prevent this issue from recurring again.

⁴ This amount takes into account the \$51,468.75 recovery from 2017 that the TEC has already sought.

Issue	Remedial Action
Maximum Hours Formula	<ul style="list-style-type: none"> Active Institute has discontinued its previous formula for calculating attendance, and now only records and reports actual hours of attendance. Attendance is also entered into a spreadsheet for reporting.
Attendance Sheets	<ul style="list-style-type: none"> After the audit in December 2017, Active Institute amended its attendance sheets to ensure they reflect the actual attendance of the learner. The attendance sheets now: <ul style="list-style-type: none"> Show how many hours each learner is present at class each day; and Show a weekly tally for each learner.
Attendance Hours	<ul style="list-style-type: none"> Active Institute stated that the inclusion of the 4 hours in the original formula was a misunderstanding about the calculation of hours. Classes will now run from 9am – 1pm. These new hours are communicated to learners in advertisements and course materials.

Conclusion

- Active Institute has acknowledged that the formula providing for maximum attendance is in breach of the funding conditions, which require actual attendance. Staff have assisted the TEC throughout the investigation by providing access to information and completing documentation where required.
- Active Institute have also worked with the TEC investment team around aligning the 2018 funding.
- The remedial actions taken should ensure that this situation does not occur again. Active Institute staff have been open during the investigation process and have taken efforts to rectify any issues.