



Smart and Skilled Policy for Market Management - 2020-21 Activity Period Part A for Smart and Skilled Providers

Smart and Skilled • [Jun 2020]

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1 Purpose of this policy

The Smart and Skilled Policy for Market Management (**the policy**) will guide the management of Financial Caps as the Department and Providers respond to the impacts of COVID-19. The policy may be further updated during the activity period to reflect developments in the economy and broader government policy.

The purpose of the policy is to set out the Providers' responsibilities and the Department's approach to managing the supply of Subsidised Training and Financial Caps for the 2020-21 Activity Period.

The Department has released Approved Qualifications Activity Schedules (AQAS) to Providers for their approved programs, regions, qualifications and Financial Caps where applicable. Providers are to deliver training to meet skills needs of students and industry within these parameters and in compliance with the Smart and Skilled Contract (including this policy).

The Department will monitor which training is delivered across programs, regions and qualifications and the use of financial caps. This may lead to opportunities to vary components of the AQASs during the Activity Period. The Department will identify any such opportunities, including increasing or decreasing financial caps. Providers cannot expect to be entitled to or to receive any variation(s), and these decisions remain at the Department's absolute discretion.

The Department will introduce student outcomes and indicators into financial cap management decisions in 2020-21.

2 What this policy covers

- Smart and Skilled priorities
- The impact of delayed activity from 2019-20 due to COVID-19
- Provider Performance and Quality
- Financial Caps
 - Provider responsibilities - Financial Caps
 - Over committing/exceeding Financial Caps – stopping enrolments
 - Monitoring and adjusting Financial Caps by the Department
 - Provider requests to vary Financial Caps

- Approved Qualifications
 - Adding qualifications
 - Removing qualifications
- Adding the Entitlement Apprenticeships and Traineeships (EAT) program and/or the School Based Apprenticeships and Traineeships (SBAT) program to a Smart and Skilled Contract
- Applications for a Smart and Skilled Contract (refer to **Part B** of this policy)

3 Smart and Skilled priorities

Smart and Skilled is the NSW government program of subsidised vocational education and training that supports citizens' lifelong learning to acquire skills required to enter and advance in work today and in the future. The Department sets out broad priorities for adjusting the supply of training and allocation of funding towards identified skills, student cohorts, communities and industries.

The Department has identified the following priorities to inform decisions about the supply of subsidised training. The priorities may be amended from time to time during the Activity Period.

3.1 Apprenticeships and Traineeships

The National Partnership Agreement for the Skilling Australians Fund aims to increase apprenticeships and traineeships in NSW. The NSW government introduced the Fee Free Apprenticeships initiative for Smart and Skilled training commencing from 1 July 2018 and Fee Free Traineeships initiative commencing from 1 January 2020 and target 100,000 apprenticeship and 70,000 traineeship commencements over 4 years. The policy supports increasing apprenticeships and traineeships by allowing Smart and Skilled Providers to expand apprenticeship and traineeship delivery of new qualifications during the Activity Period.

3.2 Student cohorts

It is a priority to fund training that is specifically designed to support the following student cohorts:

- Young people transitioning from school to vocational education and training and into work

- Disadvantaged Learners, including:
 - People with a disability
 - Aboriginal and Torres Strait Islander people
 - Long term unemployed
 - Young people who have been in out-of-home care
 - People who are experiencing or have experienced domestic and family violence, and their dependents
 - Asylum seekers and refugees

3.3 Industry priorities

It is a priority to fund training in the following areas:

- COVID-19 critical industries, health, medical and care services qualifications
- Industries with expected employment growth in the COVID-19 recovery phase
- National Disability Insurance Scheme (NDIS) Workforce development
- NSW Government infrastructure program
- AgSkilled Program
- Trade-related Qualifications - *New funded qualification pathways for trade-related qualifications policy*

3.4 Regional and place-based skills needs (including thin markets and market gaps)

It is a priority to expand the availability of training including:

- Qualifications without a Provider in NSW
- Qualifications without a Provider in a region or specific place where the skills are required (Market Gaps); includes qualifications where existing approved providers cannot or are not offering the qualification and there is demand from students and industry
- Priority Qualifications in Natural Disaster Identified Regions
- Priority qualifications by region, identified by the Department through ongoing research and regional industry engagement. This process is underway as at 30 June 2020. The regional priority qualifications will be released via a Smart and Skilled Update.

Table 1: Market priorities for Smart and Skilled Programs

| Program | Financial Caps | Priorities |
|--|---------------------------|---|
| Entitlement Apprenticeships and Traineeships (EAT) | Uncapped | All qualifications |
| School Based Apprenticeships and Traineeships (SBAT) | Uncapped | All qualifications |
| Entitlement Foundation Skills (EFS) | Provider caps | All qualifications |
| Entitlement Full Qualifications (EFQ) | Provider caps (by Region) | 1. Student cohorts - disadvantaged learners, recent school leavers |
| Targeted Priorities Full Qualifications (TPFQ) | Provider caps (by Region) | 2. Priority industries and trade-related qualifications 3. Regional and place-based skills needs |

4 The impact of COVID-19

The Department recognises that students were unable to progress in their training as expected in 2019-20 due to COVID-19, and in some cases this activity will now occur in 2020-21. This may in turn impact the availability of 2020-21 financial caps to adequately fund new commencements and continuing student commitments.

The Department may increase individual financial caps to address delayed activity in specific circumstances. Delayed activity is activity that will actually occur, the Department will not increase financial caps for activity that will not eventuate.

4.1 Which student payment instalments are in scope for a possible financial cap increase?

Student payment instalments in scope for delayed activity: the payment instalments for an enrolled student that a Provider would have otherwise earned in 2019-20 and are achieved during 2020-21.

Student payment instalments out of scope for delayed activity: payment instalments for an enrolled student that will no longer be achieved (e.g., because the student discontinued training).

The Department will take initial steps to address the delayed activity in the first Financial Cap Review of 2020-21 (see further details below in 6.3). Further adjustments may occur later in 2020-21 if required.

5 Provider Performance and Quality

The Department will examine a Provider's performance across a range of areas when exercising its rights and discretion under this policy during the 2020-21 Activity Period. This will include whether the Provider has met its obligations in relation to its Financial Caps, the quality of training and assessment delivered by the Provider, Smart and Skilled Contract compliance and student outcomes and indicators.

The Department is incorporating student outcomes and indicators into activities during 2020-21. For example, where outcome and indicators data is available for Providers, this may be used to determine relative allocations.

If the Department identifies adverse performance, quality or compliance issues, then these findings will be taken into consideration when the Department is acting and making decisions on matters covered by this policy, including (but not limited to):

- (a) adjusting or varying Financial Caps as described in sections 6.4 and 6.5 of this policy
- (b) adding or removing Approved Qualifications, Smart and Skilled Programs or Regions from the Provider's Approved Qualifications Activity Schedules
- (c) ceasing enrolments; and
- (d) determining a Provider's approved programs, Regions, Approved Qualifications and Financial Caps for the next Activity Period (2021-22).

The Department is also monitoring the impacts of natural disasters and COVID-19 on performance and will take this into consideration.

6 Financial Caps

Financial Caps allow the Department to manage expenditure on subsidised training within the program budget and to direct funds towards programs, regions, providers and qualifications to achieve program objectives.

6.1 Provider responsibilities – Financial Caps

6.1.1 Track standard subsidy against Financial Cap

A Provider is required to implement an accurate method for tracking the commitment and usage of Standard Subsidies against Financial Caps. This information on Standard Subsidy commitments and usage per student must be kept up to date, which includes reviewing and adjusting Standard Subsidy information in line with changes in a student's circumstances, progress and achievement and the impact this has on future payment instalments.

The purpose of tracking standard subsidy is to enable the Provider to comply with its obligations and responsibilities in relation to Financial Caps.

The Department may make available information and/or tools to assist Providers to track Standard Subsidy. This in no way reduces the Provider's obligation to track standard subsidy against Financial Cap, as it is outlined in the contract and in this policy.

Refer to the Provider Guide to Financial Caps in STS Online > Smart and Skilled Contract Management > Support Documents for further practical information about tracking commitments and Standard Subsidies.

6.1.2 Use all reasonable endeavours to maximise the use of each financial cap and achieve 85-100% cap usage in the Activity Period

A provider will:

- (a) market Approved Qualifications
- (b) inform students of the availability of subsidised training
- (c) only enrol eligible students where doing so will assist the Provider to maximise the use of its financial cap but not lead to the Provider exceeding the Financial Cap

- (d) commence and deliver training to enrolled students; and
- (e) submit Training Activity Date in order to receive payment of Standard Subsidy from the relevant Financial Cap.

6.1.3 Avoid exceeding any Financial Cap

A Provider is obliged to manage its Financial Cap to ensure there is enough Financial Cap available for all Continuing Students first, then only enrol new students to use the available remainder of the Financial Cap.

The Provider's method of tracking Standard Subsidy must incorporate elements that prevent the Provider from exceeding any Financial Cap.

The Department will not pay any amount above a Financial Cap. The treatment of over-committing and exceeding Financial Caps is set out below in section 6.2.2.

6.1.4 Request a reduction in a Financial Cap

A Provider is to achieve 85-100% cap usage by the end of the Activity Period. If, at any time, a Provider becomes aware that it will not use all the Financial Cap, the excess amount of Financial Cap that will not be used should be returned to the Department by requesting a reduction. See Appendix B for more details.

6.1.5 Manage enrolments and commitments for next period

When a Provider is planning the commencement and delivery of Subsidised Training in the 2020-21 Activity Period to use the current Financial Cap, it is to also consider where training extends into the next Activity Period. The total commitments generated for 2021-22 should not exceed the value of the Financial Cap allocated for the current Activity Period (excluding any adjustments that may be made for delayed activity).

To be clear, the Provider must not create a higher commitment for the payment of Standard Subsidies in the next Activity Period, which is in excess of the current financial cap.

6.2 Over-committing and exceeding Financial Caps

6.2.1 The Department will cease enrolments against over-committed Financial Caps

Notwithstanding a Provider's obligation to properly manage Smart and Skilled enrolments and training activity delivery so as not to exceed its allocated Financial Caps, the Department intends to stop a provider from enrolling students during the Activity Period where the Department has identified a high risk and likelihood that a Financial Cap will be exceeded.

Where possible, the Department will issue a warning to the Provider before stopping enrolments, however, is not obliged to do so.

In the event that the Department assesses a substantive and material risk of over-cap financial commitments based on enrolments and projected activity (including but not limited to the Cap Usage and Cap Usage Estimate), the Department will prevent the Provider from creating Commitment IDs for the affected Financial Cap(s) and will notify the Provider accordingly.

The Provider will have an opportunity to respond to the Department's concerns and if the Provider agrees in writing not to enrol any further students, or supplies evidence that there are in fact enough funds available within the existing Financial Cap to support additional enrolments and that the Provider has appropriate mechanisms in place to avoid exceeding the Financial Cap(s), then the Department will consider allowing the Provider to enrol further students.

After the Department ceases enrolments against a Financial Cap, the Provider may request a variation to their Financial Cap(s) in accordance with this policy.

6.2.2 Exceeding Financial Caps

Exceeding a Financial Cap may be treated as an Event of Default.

Exceeding a Financial Cap may lead to:

- (a) the Department preventing further enrolments in the affected Financial Caps
- (b) ineligibility to be considered for adjustments or variations covered by this policy
- (c) a reduction in allocation of financial caps for the next Activity Period.

If the Contract continues after the end of the Activity Period, the amount to be paid under clause 18.4 (c) of the Contract will count against the relevant Financial Cap for the next Activity Period. If there is no relevant Financial Cap, the Department may, in its absolute discretion, determine which Financial Cap the excess amount will count against.

If the Contract does not continue after the end of the Activity Period, the Provider will not be eligible to receive any amount that exceeds the Financial Cap.

6.3 Financial Cap Monitoring and Financial Cap Reviews conducted by the Department

The Department will monitor performance against Financial Caps throughout the Activity Period and may contact a Provider about its progress and performance at any time.

The Department’s approach to monitoring and reviewing financial caps will be shaped by the various impacts of COVID-19, the performance of the market, budget decisions and/or program objectives. At this stage, the Department has decided to maintain Financial Cap Commitment and Cap Usage targets for the second and third Financial Cap Reviews of the 2020-21 Activity Period. These are shown in Table 2 below. The Department will take into consideration the impact of COVID-19 and the broader economic conditions on training delivery where Providers are unable to meet these targets.

6.3.1 Reviewing Financial Cap Allocations

The Department will review Financial Caps in consultation with Providers during the Activity Period. The proposed dates for the Financial Cap Reviews are shown in Table 2 below. The Department will measure provider performance at Reviews 2 and 3 to assess if a Provider is on track to utilise the Financial Caps.

Table 2: Financial Cap Reviews

| Review | Date | Commitment % of relevant Financial Cap | % of the relevant Financial Cap the Provider has received or is eligible to receive |
|--------|------------------|--|---|
| 1 | 27 July 2020 | N/A | N/A |
| 2 | 26 October 2020 | 50% | 25% |
| 3 | 15 February 2021 | 95% | 60% |

To allow the flexibility to respond to changing economic and market conditions and government policy, the Department will determine the scope of each Review and advise details to Providers via a Smart and Skilled Update in the weeks leading up to the proposed start date of each review. This may limit a Review to specific Providers, Financial Caps, Regions and/or Qualifications.

6.4 Variations to Financial Caps

The Department may allow Providers to request variations to Financial Caps at each Financial Cap Review, subject to the scope of the Review.

Only in very exceptional circumstances will the Department consider a request for extra financial cap at other times in the Activity Period.

All decisions in relation to requests to vary Financial Caps remain at the Department’s absolute discretion.

The Department is responsible for managing expenditure on training activity within the overall Smart and Skilled budget. The Department may offer a variation to Financial Cap to Provider(s) to achieve program objectives.

The Department also uses a variety of mechanisms to maintain compliance with the budget which are designed to minimise the need for in year cap reductions. However, the Department reserves the right to decrease Financial Caps to manage training activity so that program expenditure does not exceed the Smart and Skilled budget.

6.5 Out of Region Activity

Clause 18.3 (b) of the Smart and Skilled Contract sets out the circumstances in which a regional Financial Cap may be used to deliver training activity outside of the allocated region.

In relation to a Financial Cap allocated to the Sydney Region, the intent of clause 18.3 (b) (i) is that the Financial Cap can be utilised to deliver training activity in any other Smart and Skilled Region (and within the same program).

Clause 18.3 (b) in no way allows a Financial Cap allocated to a region other than the Sydney Region to be used to deliver training activity in the Sydney Region.

7 Approved Qualifications

7.1 Adding qualifications to an Approved Qualifications Activity Schedule (AQAS)

The Department will consider requests to add Approved Qualifications which address the priorities set out in Section 3 of this policy.

When a Provider requests the addition of an Approved Qualification to their Approved Qualifications Activity Schedule (AQAS), the Department will also consider whether a Provider is already approved to deliver a similar qualification under Smart and Skilled. For example, a qualification at the same AQF level from the same Training Package.

Requests to add an approved qualification to a program with Financial Caps should only be made where the Provider has enough Financial Cap to fund the standard subsidies for training activity in the additional Approved Qualification(s).

7.2 Removing Approved Qualifications

A Provider may request the removal of an Approved Qualification from an AQAS.

The Department may remove an Approved Qualification from an AQAS:

- (a) as a result of adverse findings from performance monitoring activities; or
- (b) program management purposes including but not limited to managing expenditure on training activity within the Smart and Skilled budget; or

- (c) to align enrolments in particular qualifications to labour market demand for skilled workers.

Refer to Appendix A for the process for requesting a variation.

8 Adding the EAT program and/or the SBAT program to a Smart and Skilled Contract

Providers may request approval to deliver training in the EAT or SBAT programs at any time during the Activity Period.

Refer to Appendix A for the process for requesting a variation – to add a program.

9 Further information

For further information and to seek a variation to your Financial Cap(s), please see Appendix A and contact your Training Services NSW Strategic Relationship Manager.

Appendix A: Process for Providers requesting a variation

Providers will need to complete an *Approved Qualifications Activity Schedule Variation Request* form as follows:

1. Download the request form from STS Online.
2. Complete all the relevant sections of the request form and return it to your Training Services NSW Strategic Relationship Manager (SRM), along with all supporting evidence.

Note: The variation form includes detailed instructions for completing the form.

Subject to Clause 5.5 above, the Department will assess requests and you will be notified of the outcome of the request(s) by your Strategic Relationship Manager.

Full qualification pathways for trade-related qualifications

If you wish to add trade-related qualifications to your AQAS for EFQ or TPFQ programs, please refer to the *New funded qualification pathways for trade-related qualifications (2017-2021)* policy for the qualifications covered by this policy and the criteria for adding these qualifications. This document is available on STS Online under the Support Documents page.

Appendix B: Variation Type

Variations to Financial Caps

Although the Department allows Providers to request some types of variations to Financial Caps at any time during the Activity Period, specific types of requests will only be considered at a Financial Cap Review, see the table below for details.

| Variation Type | Criteria for variation | Timeframe for requests |
|--|---|--|
| Decrease Financial Cap | No restrictions | From 1 July 2020 – 30 June 2021 |
| Transfer between existing Financial Caps | <p>Transfers of Financial Cap will be considered if between:</p> <ul style="list-style-type: none"> ▪ two regional Financial Caps (i.e. all Smart and Skilled Regions excluding the Sydney Region) ▪ two Financial Caps both of which are allocated to the Sydney Region • The Department will assess each request to transfer financial cap against the program objectives, priorities and market performance. ▪ Decisions in relation to transferring Financial Caps are at the Department's absolute discretion. | <ul style="list-style-type: none"> ▪ From 1 July 2020 – 31 May 2021 |
| Increase Financial Cap | Department to confirm whether requests to increase a Financial Cap can be made and the applicable criteria prior to each Financial Cap Review | <p>Review 1 - from 27 July 2020</p> <p>Review 2 - from 26 October 2020</p> <p>Review 3 - from 15 February 2021</p> |
| New Financial Cap for 2020-21 Activity Period | Department to confirm whether requests to add a new Financial Cap can be made and the applicable criteria prior to each Financial Cap Review | <p>Review 1 - from 27 July 2020</p> <p>Review 2 - from 26 October 2020</p> <p>Review 3 - from 15 February 2021</p> |

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