



28 May 2025

s 9(2)(a)



Official information request

Our ref: R00938

Tēnā koe s 9(2)
(a)

Thank you for your Official Information Act 1982 (OIA) request received on 30 April 2025.
You requested:

I would like to make a request under the Official Information Act 1982 (OIA), seeking advice to Ministers relating to the Early Childhood Education regulatory sector review.

I note some information has been released and is available on your website, but am specifically after advice to Ministers, Cabinet papers (iterations sent to Ministers) and Cabinet Minutes. Please let me know if you have any questions to help expedite this request.

Information released

Documents in scope of your request, and my decision on the release of those documents, are outlined in the below table.

Documents released to you are attached as **Appendix A**. Some information has been withheld under the following sections of the OIA:

- 9(2)(a) – to protect the privacy of natural persons
- 9(2)(f)(iv) – to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Minister of the Crown and officials.
- 9(2)(g)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions
- 9(2)(h) – to maintain legal professional privilege
- 18(d) – the information requested is or will soon be publicly available.

Document	Decision
1. MFR2024-127 - Early Childhood Education Sector Regulatory Review – initial findings and recommendation	Partially released.
2. MFR2024-098 - Early Childhood Education Regulatory Review: Initial quantitative insights from surveys	Partially released.
3. MFR2024-001 - Sector Review for Early Childhood Education	Partially released.
4. MFR2024-002 - Terms of Reference for the regulation review into the early childhood education sector (DRAFT 5 April 2024)	Refused under s 18(d) as publicly available. Full report proactively released with Cabinet paper SOU-24-SUB-0050 on 17 July 2024. ¹ Redactions made under s 9(2)(a) still apply.
5. MFR2024-017 - ECE sector review engagement approach	Refused under s 18(d) as publicly available. Full report proactively released with Cabinet paper SOU-24-SUB-0050 on 17 July 2024. (see footnote 1) Redactions made under s 9(2)(a) still apply.
6. MFR2024-018 - Updated ECE regulatory sector review Cabinet paper for ministerial and coalition consultation	Refused under s 18(d) as publicly available. Full report proactively released with Cabinet paper SOU-24-SUB-0050 on 17 July 2024. (see footnote 1). Redactions made under s 9(2)(a) still apply.
7. MFR2024-027 - Talking points on Sector Reviews for SOU	Released.
8. MFR2024-028 - Early Childhood Education Regulatory Review June Update	Released.
9. MFR2024-044 - ECE press release and Q&A	Withheld under section 9(2)(g)(i) of the OIA.
10. MFR2024-071 - Distribution of ECE review update to relevant Ministers	Released.

¹ <https://www.regulation.govt.nz/assets/Publication-Documents/Information-release-Cabinet-paper-SOU-24-SUB-0050-ToR-for-ECE-regulatory-review.pdf>

Document	Decision
11. MFR2024-072 - Memo: Information release for review: Cabinet paper SOU-24-SUB-0050 – Terms of Reference for the ECE regulatory review	Partially released.
12. MFR2024-081 - Early Childhood Education Sector Review: Monthly Update, July Issue 2	Released.
13. MFR2024-113 - Early Childhood Education Sector Review: Monthly Update, Issue 3	Partially released.
14. MFR2024-119 - Updated timeline for Early Childhood Education Sector Review	Partially released.
15. MFR2024-121 - Early Childhood Education Regulatory System Review: Themes from direct engagement	Refused under s 18(d) as publicly available on the Ministry website . ²
16. MFR2024-127 - ECE sector regulatory review licensing criteria initial findings	Released.
17. MFR2024-129 - Early Childhood Education Regulatory Review analysis of themes from submissions	Partially released.
18. MFR2024-133 - Update on ECE Review progress	Partially released.
19. MFR2024-134 - Early Childhood Education Sector Review September Update	Partially released.
20. MFR2024-153 - Early Childhood Sector Regulatory Review Monthly Report October 2024	Released.
21. MFR2024-167 - Early Childhood Sector Regulatory Review Draft Report	Briefing paper released. Draft report refused under s 18(d) as publicly available.
22. MFR2024-173 - Advice on regulatory roles and responsibilities for ECE review	Withheld under section 9(2)(f)(iv).
23. MFR2024-176 - Early Childhood Education Sector Regulatory Review November 2024 Update	Partially released.
24. MFR2025-003 - ECE Review curriculum licensing criteria changes	Partially released.

² [MFR2024-121-Early-Childhood-Education-Regulatory-System-Review-Themes-from-direct-engagement.pdf](#)

Document	Decision
25. MFR2025-053 - Draft Cabinet paper: Paper 1 Early Childhood Education Regulatory Sector Review recommendations and next steps	Withheld under s 9(2)(f)(iv).

Information publicly available

The draft report relating to document 20 (MFR2024-167) has no significant changes to the final version which is publicly available on the Ministry's [website](#)³. I am therefore refusing this part of your request under section 18(d) of the OIA as the information requested is publicly available.

Similarly, the draft Cabinet paper related to document 25 (MFR2025-053) has no significant changes to the final version which will soon be proactively released on the Ministry's website.

Right of review

If you wish to discuss this decision with us, please contact hello@regulation.govt.nz.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that we may publish this response (with your details removed) on the Ministry for Regulation website.

Ngā mihi

s 9(2)(a)



Nikki Bidlake

Head of Ministerial Services (Acting)
Ministry for Regulation

³ <https://www.regulation.govt.nz/about-us/our-publications/regulatory-review-of-early-childhood-education-full-report/>



To	Hon David Seymour, Minister for Regulation		
Title	Early Childhood Education Sector Regulatory Review – initial findings and recommendations	Number	MFR2024 - 127
Date	14 November 2024	Priority:	Medium
Action Sought	Note finding and next steps	Due Date	20/11/2024
Contact Person	Justine Fitzmaurice	Phone	s 9(2)(a)
Attachments	Appendix 1, Appendix 2	Security Level	IN CONFIDENCE
Consultation	The following agencies were consulted in the development of this briefing: Ministry of Education (MoE) and the Education Review Office (ERO).		

Executive Summary

1. This briefing provides you with a progress update on the Early Childhood Education (ECE) Sector Regulatory Review, including initial findings and proposed recommendations and a further update on the Licensing Criteria review - tranche two.
2. We have reviewed the 98 of the requirements within the Licensing Criteria and are provisionally recommending change, that will reduce burden, in relation to approximately a third, and further review in relation to approximately one in six. Please note these recommendations are provisional and may change subject to additional information provided as we develop the draft report.
3. We believe that the recommended changes will lead to a reduction in the regulatory burden experienced by ECE service providers.
4. Additionally, the Licensing Criteria review, tranche one and two, have highlighted a weakness in the regulatory framework for the ECE Sector. This being that changing the status of a license (e.g. change to provisional license) is the primary way for the Ministry of Education to manage a services non-compliance of the regulations.
5. To address this, the Ministry recommends that a fit-for-purpose regulatory framework is needed to reduce burden and uncertainty for service providers following minor infractions. In addition, it would provide regulators the tools and resources to address non-compliance through other means such as, monitoring, warnings and/or training and encourage best practice.
6. The substantive ECE Sector Regulatory Review is nearing its conclusion with the delivery of the draft report, due to you in December 2024.



7. Through the Ministry's review and significant information provided by the sector, the Ministry has drafted detailed findings which answer the questions within the Terms of Reference for this review. Specifically, what are the problems and are the regulations working?
8. The Ministry have developed initial recommendations to respond to these findings and to improve the government's approach to ECE regulation to address market failures. Within two broad categories, the recommendations are to:
 - a. Modernise regulatory approach and its tools to enhance the integrity of the ECE regulatory system.
 - b. Simplify regulatory requirements to reduce the compliance burden on ECE service providers, and
 - c. Improve support for the ECE sector to communicate requirements more clearly and ensure they support ECE services to implement regulatory changes.
9. Proposed recommendations to address these findings have been developed to reduce burden for service providers and regulators and improve the regulatory system for the children and their parents. As the draft report is in development, the recommendations in this briefing are provisional.



Recommended Action

We recommend that you:	
a note the draft findings and proposed recommendations from the Early Childhood Education Sector Review	<i>Note</i>
b note the additional findings in relation to the Licencing Criteria review	<i>Note</i>
c note that you will receive the draft Early Childhood Education Sector Review Report in December 2024 for feedback	<i>Note</i>
Proactive Release Recommendations	
d agree that this briefing is not published due to the material involved being preliminary	<i>Agree / Disagree</i>

s 9(2)(a)



Justine Fitzmaurice
Manager, ECE Regulatory Review
Ministry for Regulation
Date: 14 November 2024

Hon David Seymour
Minister for Regulation
Date:



Purpose of Report

10. This briefing provides you with a progress update of the Early Childhood Education (ECE) Sector Regulatory Review including, initial findings and proposed recommendations. You will receive the draft ECE review report in December 2024.
11. In addition, this briefing provides you with a further update to the initial findings of the review into the licensing criteria. This is a follow up to the briefing you received in October (2014-128 *Early Childhood Education sector regulatory review licensing criteria initial findings*)

Report

Licensing Criteria review initial findings – phase two

12. Further to the briefing you received 17 October 2024, the Ministry has continued to review the Licensing Criteria.
13. In total, we have provisionally reviewed 101 specific requirements. This included 52 licensing criteria, and three other specific regulatory requirements in tranche 1, and a further 46 licensing criteria in tranche 2.
14. Tranche 2 of the review of the licensing criteria has involved developing provisional recommendations in relation to 46 of the 98 criteria. Of the 46, we are provisionally recommending:
 - a. change in relation to approximately one in three criteria (either removal, or changing the scope to be more proportionate, or revising the wording to make it clearer what is required to avoid unnecessary burden); and
 - b. that the relevant agency/agencies undertake a more detailed review of the criteria in relation to approximately one in six criteria (this includes criteria where different regulatory systems have conflicting requirements, and topics where technical expertise is required).
15. The reviews involve assessing the market failures or other issues the regulations are seeking to address, reflecting the ECE sector review Terms of Reference.
16. The provisional recommendations and practical implementation of these have not yet been tested with the Ministry of Education and require further analysis. Please note these recommendations are provisional and may change subject to additional information provided as we develop the draft report.
17. Amendments to licensing criteria must follow the process set out in regulation 41(1) of the Education (Early Childhood Services) Regulations 2008. The Regulations require the Minister of Education (or the Minister with the appropriate delegated authority) to first consult those substantially affected by the proposed changes (updates, removal or adding new criteria).
18. The Ministry of Education advises that initial consideration of options for change, including engagement with other agencies (if required), may take between 2-3 weeks with sector consultation generally being for 4-6 weeks. Collating feedback, drafting, seeking Ministerial agreement and gazetting the changes will generally take a further 4-8 weeks depending on



the scale of the proposed change. Substantial changes may take longer. How the change may impact the regulations is also considered as part of the process.

19. Licencing criteria are prescribed by the Minister to assist the Secretary in assessing compliance with the minimum standards set out in Regulations 43 - 47. Accordingly, any proposed changes that impact the minimum standard to which the criteria relate would need to be made to the Regulations, not the licencing criteria. If changes are required to the Regulations, then Cabinet approval and Parliamentary Counsel Office (PCO) drafting is also required
20. In briefing 2014-128 *Early Childhood Education sector regulatory review licensing criteria initial findings*), we outlined that we were investigating alternative tools as a more effective and proportionate mechanism of managing the risk the licensing criterion is targeting.
21. The current ECE regulatory system operates through Education and Training Act 2020, Education (Early Childhood Services) Regulations 2008 and Licensing Criteria, which sets out how the Secretary for Education will assess compliance with the regulations.
22. The Licencing Criteria sets out a prescriptive list of requirements that ECE services must meet to be able to obtain a licence and operate. There are additional requirements a service must meet, that does not form part of the licensing criteria, e.g., qualification and ratio requirements. Once a licence is issued the Ministry of Education does not systematically incorporate proactive, risk-based compliance monitoring into its regulatory operations to check if ECE services remain compliant with the regulatory requirements. This is because they do not currently have the structured framework or mechanisms in place to do so.
23. ERO carries out regular evaluations to promote providers to standards above regulatory minimums and in addition, assesses and identifies compliance of the regulatory requirements. If non-compliance is identified, they will inform MoE.
24. When non-compliance is identified MoE can:
 - a. Give providers an opportunity to fix the issue
 - b. Give providers professional learning and development
 - c. Place an ECE service on a provisional licence, with conditions attached that it must meet before it is re-instated to a full licence.
 - d. Issue a direction to require the ECE to take remedial action.
 - a. Suspend a licence, preventing a business from operating legally and giving the provider a period of time to demonstrate compliance.
 - b. Cancel a licence, preventing a service from operating legally.
25. The Ministry for Regulation recommends the implementation of a regulatory framework which reduces the reliance on changing the status of the service licence as the primary tool being used to manage non-compliance.
26. Set out below, is one option the Ministry has explored to improve the regulatory framework. If the recommendation is accepted, further policy analysis will be needed by Ministry of Education in conjunction with ERO to develop, consider alongside alternate options and implement.



27. The key purpose of a proposed framework is to ensure compliance actions and sanctions are proportionate, provide clarity to service providers around sanctions, reduce burden on service providers and the regulator and improve the regulatory system for the children and their parents.

Table one: Example of a potential Regulatory Framework

Licensing
<p>Regulatory requirements that a service must achieve to obtain a license (enter the market) and adhere to, to remain licenced.</p> <p>This category is focused on the highest risk criteria that if not met would pose a serious risk to the health and safety of children.</p> <p>Breaches of these requirements would trigger sanctions higher up the enforcement pyramid.</p>
Binary requirements
<p>These are requirements that are binary, 'i.e. either service has them or it hasn't'. They do not involve elements of subjectivity or judgement in assessing compliance with the requirement. The risks are generally lower than in the 'Licensing' category.</p> <p>Graduated enforcement tools would be utilised for breaches of these requirements and/or an accumulation of breaches on a regular or semi-regular basis.</p> <p>Sanctions for breaches would start towards the bottom of the enforcement pyramid. However, the regulator could move up the enforcement pyramid if there was deliberate and persistent non-compliance.</p>
Outcomes based standards
<p>These are standards that inherently exist on a spectrum of unacceptable to good practice. The regulatory requirements should set minimums. The risks are generally lower than in the 'Licensing' category.</p> <p>As much as possible the requirements should be outcomes focused rather than prescriptive.</p> <p>Sanctions for falling below the minimum would start towards the bottom of the enforcement pyramid. However, the regulator could move up the enforcement pyramid if there was deliberate and persistent non-compliance.</p>
Good Practice – No Sanctions
<p>Good and best practice that goes beyond regulatory minimums. These should form part of quality evaluations, which are currently carried out by ERO, but there should be no regulatory sanctions for not following these.</p> <p>For example: GMA6 An ongoing process of self-review and internal evaluation helps the service maintain and improve the quality of its education and care.</p>



Diagram one: Draft enforcement pyramid



28. The current enforcement tools available are not sufficiently graduated or proportionate to the range of non-compliance issues in the sector. This results in overuse of changes in license status, which is not suitable for managing certain risks. This means that some service providers are concerned that they may lose their license for a minor issue.
29. A more graduated set of tools combined with a framework that clearly defines the use of these tools will have several benefits across the system including but not limited to:
 - a. Lower burdens on ECE providers and reduce uncertainty following minor infractions.
 - b. Greater trust between the regulator and regulated parties.
 - c. Better regulatory outcomes as the regulator will be able to respond proportionately to minor infractions and issues in a timely manner
30. There are several enforcement tools that a regulator could have access to¹ and the use of the right compliance tool will often depend on the specific circumstances of any given situation. This includes, the nature of the risk, the willingness of the ECE service to comply and any mitigating factors.
31. In addition, the Ministry recommends that as the tools are developed, the regulator should be clear about the enforcement tools that it can use in response to breaches of different requirements, what action it has taken against an ECE service or provider and why it has taken that action.

Early Childhood Education Sector Regulatory Review

32. Since June, the Ministry for Regulation have undertaken activities to complete a review into the Early Childhood Education Sector Regulations. This was completed through a 'mixed-

¹ Training and support programs, notices of violation, compliance orders/directions, monitoring and reporting requirements, corrective action plans, public disclosure, fines penalties, provisional licences and suspension or revocation of licences.



method' approach which combines qualitative and quantitative information gathering and assessment and enquiry-based analysis.

33. Information gathering for this review was conducted through:
 - a. A desktop analysis of the ECE regulatory system and regulatory best practices
 - b. Direct engagement with a diverse range of ECE providers and their staff
 - c. A submission process which concluded on the 31 August, through which we received around 2,300 submissions.
34. The enquiry-based analysis consisted of:
 - a. International comparisons of regulatory practices in the ECE sector in Australia and the United Kingdom
 - b. Descriptive analysis of how the current regulatory system and settings came to be as they are
 - c. Expert judgment from government experts in the regulatory systems that touch ECE and,
 - d. Benchmarking of the ECE regulatory system approach with peer regulatory systems for aged care, liquor licensing, health and safety at work and land transport.
35. The review team were able to build a strong evidence base from which to identify review findings and draw insights to support the development of recommendations. Findings were tested with key officials from Ministry for Regulation, Ministry of Education and the Education Review Office.²
36. The following four key themes have been drawn out of the initial findings from the sector review:
 - a. **The ECE regulatory system is not fit-for-purpose for the current ECE sector context:** The current ECE regulatory approach does not align with best practice and is not generating the right outcomes for providers, parents, workers and children.
 - b. **The licensing criteria as an enforcement tool is a blunt and disproportionate:** We have heard there is a culture of low trust which stems from the fact that the reclassification of a service's license is the primary enforcement tool used by regulators. This has created an incorrect perception that the Ministry of Education could take away a licence over minor infractions. The Ministry of Education does have a range of other compliance measures, such as corrective action plans; however, the perception that a license will be revoked over minor infractions has generated distrust between ECE services and regulators.
 - c. **ECE regulatory requirements are confusing:** We have heard that many ECEs are doing more work than they need to for demonstrating their compliance. This has been driven by confusion and subjective interpretations of the requirements by both ECE services and some regulatory staff.

² The Ministry of Education and Education Review Office reserve the right to disagree with any aspect of this independent review of ECE regulation by the Ministry for Regulation.



d. **ECE regulatory practice conflates requirements with recommendations in some cases:** We have also heard that some regulatory staff are asking ECE service providers for additional documentation and operational procedures that could demonstrate aspects of best practice rather than compliance with minimum standards.

37. The initial findings from the sector review have been summarised into four categories and themed within those categories. These have been outlined in the diagram below. The substantive list of draft findings and proposed recommendations can be found in **Appendix One**;

Diagram two: Findings of the ECE Sector Review by category



38. The Ministry have developed initial recommendations to respond to the above findings themes and to improve the government's approach to ECE regulation to address market failures. Within two broad categories, the recommendations are to:

- Modernise regulatory approach and tools to enhance the integrity of the ECE regulatory system.
- Simplify regulatory requirements to reduce the compliance burden on ECE service providers and
- Improve support for the ECE sector to communicate requirements more clearly and ensure they support ECE services to implement regulatory changes.

39. A proposed list recommendations have been drafted to outline the key recommended changes the Ministry for Regulation believe would address the findings above. Further detailed recommendations sit within these high-level recommendations which is more prescriptive.

40. The table below articulates the initial proposed recommendations



Table two: Proposed recommendations for the ECE Sector Regulatory Review

Rec number	Proposed recommendation
1	Define clear goals for ECE regulation in legislation, aligning with government priorities for early childhood learning.
2	Clearly outline the roles and responsibilities of all regulatory agencies involved, ensuring efficient collaboration and accountability, and update legislation if required.
3	Implement a more proactive, risk-based approach to compliance to improve safety and accountability in the ECE sector.
4	Improve the pathways for providers to appeal regulatory decisions, ensuring fairness and encouraging trust in the regulatory process.
5	Strengthen regulatory oversight to foster trust, transparency, and effective sector stewardship.
6	Establish a strategic, long-term approach to ECE regulation that supports innovation, quality, and growth.
7	Invest in workforce training across agencies to improve regulatory effectiveness and consistency.
8	Update regulation to allow the development of a broader set of graduated regulatory and compliance tools to better manage varying levels of compliance risk.
9	Revise licensing standards to ensure they are proportionate, effective, and support quality without overburdening providers.
10	Allow greater flexibility in workforce qualifications to support access and quality across all regions.
11	Ensure the person responsible requirements are practical, appropriate, and responsive to service needs, including home-based services.
12	Work with stakeholders to develop a strategic plan for home-based services, including provisions for rural areas and whānau with diverse needs.
13	Strengthen government communication and support for prospective and current ECE providers to streamline compliance processes.
14	Strengthen the support to help providers implement new regulatory requirements effectively.
15	Invest in resources and training to support sound, consistent regulatory decision-making.



41. If the above proposed recommendations are accepted by Government, the relevant agencies and policy owners will need to consider what further policy analysis they need to complete. This will include carrying out a full options analysis and cost benefit analysis. The Ministry for Regulation has done some of the thinking around this policy work and can support this further with administering agencies and policy owners, through to implementation planning.

Risks

42. Risks associated with the proposed recommendations made have been identified and articulated within the draft ECE Sector Regulatory Review Report. This will be provided to you in December 2024.

Next Steps

43. In December 2024, you will receive the draft ECE Sector Regulatory Review report for your feedback and comment.



Appendix One: ECE review initial recommendations

Appendix Two: Report: Licencing Criteria Review Tranche 2 and Regulatory Framework



Ministry for Regulation
Te Manatū Waeture

Appendix One: ECE review initial recommendations

DRAFT

Definitions for each topic area

<p>1. Setting it up right: Ensure the ECE regulatory system is fit-for-purpose</p>	<p>System design This topic will discuss what is provided for by legislation and regulations and will show our assessment of whether these settings are designed in a way that supports ECE sector outcomes</p>	<p>Regulatory functions This topic will cover our assessment of whether the regulatory functions are aligned to best practice.</p>	<p>Roles and responsibilities This topic will outline our findings related to the where roles and responsibilities currently sit, and will assess whether they adequately provide for accountability and transparency</p>
<p>2. Leading it the right way: Make the right decisions for the ECE sector</p>	<p>Leadership and strategy This topic assesses the leadership needs for the ECE sector and considers how leadership could be improved, including by introducing a strategy for ECE regulation</p>	<p>Regulatory approach This topic will compare the current regulatory approach with international best practice and will consider how the approach could better meet ECE sector needs</p>	<p>Regulatory capability This topic will show our assessment of current capability, and will consider the range of supports that could enhance capability to match the recommended expanded toolkit (see next topic on tools)</p>
<p>3. Using the right tools: Simplify ECE requirements and modernise regulatory tools</p>	<p>Compliance and enforcement tools This topic will show our assessment of the current compliance and enforcement toolkit and will consider how to modernise this toolkit</p>	<p>Licencing criteria This topic will consider how the Licensing criteria have been applied as an all-encompassing tool, and will consider other approaches to assure compliance for licenced ECE services</p>	
<p>4. Doing it right: Clarify ECE requirements and improve the support for ECE service providers</p>	<p>Being clear about the rules This topic will consider what we have heard about the confusion in the content and communication of the rules, and will consider how to make the rules clearer to ECE providers</p>	<p>Paperwork This topic will consider what we have heard from service providers about the paperwork burden they face and will consider if changes to the rules, and how they are enforced, could partially relieve this burden</p>	





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Draft Recommendations

1. Setting it up right

System design

Findings:

1. Since the introduction of the current regulatory framework in 2008, the regulatory system and legislative settings have not kept pace with the complexity of the sector, increasing societal expectations, and the evolution of service provision, particularly in terms of regulatory capability, clarity, and compliance monitoring. The system lacks clearly defined regulatory outcomes, objectives and guiding principles, leading to inconsistencies in decision-making.
2. The MoE, as the lead regulator, has responsibility for the ECE sector. The MoE does not systematically incorporate proactive, risk-based compliance monitoring into its regulatory operations, as they do not currently have the structured framework or mechanisms in place to do so. This monitoring is carried out primarily through ERO reviews, which also focus on the overall quality of the education and care provided by the service.
3. The ERO has legislated responsibility to administer reviews of ECE services. ERO conducts reviews to evaluate ECE service performance and assess whether the service complies with regulatory standards and associated licensing criteria, and that they are meeting the learning, safety and wellbeing needs of children in their care. ERO undertake a cyclical-review process to assess, identify, and report any non-compliance or areas of concern to the service and MoE. It also publishes reports as a public accountability mechanism.
4. However, ERO does not have enforcement powers or necessary tools to intervene when non-compliance is identified. Where ERO identifies a service has non-compliances/areas of concern these are reported to MoE. MoE will follow up with the service regarding these issues and ERO also follows up at the next review. Compliance concerns can also be raised to be the MoE through complaints, notifications and incident. MoE are responsible for following up to ensure the issues are appropriately addressed.
5. The regulatory system is not generating assurances that services are consistently meeting minimum standards and managing the most important risks. The perpetual licensing system does not support early identification of compliance problems.

Draft recommendations to address the findings:

- Rec 1: Define clear goals for ECE regulation in legislation, aligning with government priorities for early childhood learning.
- Rec 2: Clearly outline the roles and responsibilities of all regulatory agencies involved, ensuring efficient collaboration and accountability, and update legislation if required.
- Rec 3: Implement a more proactive, risk-based approach to compliance to improve safety and accountability in the ECE sector.

1. Setting it up right

Roles and responsibilities

Finding:

1. Confusion persists between the respective roles of the MoE and ERO. This leads to differing interpretations of requirements, as well as conflicts between MoE's dual role of regulating and providing some support for the sector, and ERO's role of reviewing and evaluating the sector.
1. The approach to managing complaints and incidents about ECE service providers across the Ministry of Education's regional offices is inconsistent. It is also inconsistent with ERO's approach. Variations in how complaints are handled, including the timeliness of responses and the processes for escalating incidents, have led to differing outcomes across regions.

Draft recommendation to address the findings :

Rec 2: Clearly outline the roles and responsibilities of all regulatory agencies involved, ensuring efficient collaboration and accountability, and update legislation if required.

REC 4: Improve the pathways for providers to appeal regulatory decisions, ensuring fairness and encouraging trust in the regulatory process.

2. Leading it the right way

Leadership

Findings:

1. ECE outcomes are not measured sufficiently to assess the benefits of regulatory interventions.
2. Regulatory stewardship across the ECE regulatory system is currently not well-coordinated and lacks the necessary prioritization from senior leadership. There is no cohesive strategy guiding collaboration between the MoE and other regulatory agencies, which limits the system's ability to address risks effectively and ensure compliance across the sector. No single agency has taken system leadership to resolve conflicts between differing regulatory requirements and regulatory systems, such as the building system.
3. The Regulatory Impact Statements we reviewed did not sufficiently consider all the policy objectives, the trade-offs, or the likely costs on regulatory parties. The process requirements in Regulation 41 do not include obligations to justify regulatory interventions based on an analysis of the relative costs and benefits.

Draft recommendations to address the findings :

Rec 2: Clearly outline the roles and responsibilities of all regulatory agencies involved, ensuring efficient collaboration and accountability, and update legislation if required.

Rec 5: Strengthen regulatory oversight to foster trust, transparency, and effective sector stewardship.

2. Leading it the right way

Strategy

Findings:

- **FINDING 11** MoE lacks a clear, overarching regulatory strategy, which has led to inefficiencies and inconsistencies in how it manages risks and responds to incidents. The absence of a strategic framework has contributed to a reliance on reactive practices and hindered the Ministry's ability to move from prescriptive processes to a risk-based, outcome-focused approach. This has limited its capacity to effectively address the growing complexity of the ECE sector and respond to sector challenges.
- **FINDING 12** MoE has yet to fully define its role as a regulator in a way that aligns with regulatory best practice and supports the achievement of desired outcomes. This lack of strategic clarity has also made it difficult to coordinate effectively with other agencies and hindered the adoption of modern regulatory practices, such as a clearly defined systems that responds to proactive compliance monitoring, effective stewardship, regulatory cross-coordination and leveraging Key Performance Indicators (KPIs), technology, and data collection, which are critical to enabling more proactive, child-centered regulation. Such a strategy is essential to managing long-term changes, aligning with regulatory outcomes, and ensuring the system can adapt to future needs.

Draft recommendations to address the findings :

- Rec 6: Establish a strategic, long-term approach to ECE regulation that supports innovation, quality, and growth.
- Rec 8: Update regulation to allow the development of a broader set of graduated regulatory and compliance tools to better manage varying levels of compliance risk.
- Rec 3: Implement a more proactive, risk-based approach to compliance to improve safety and accountability in the ECE sector.

2. Leading it the right way

Regulatory approach

Findings:

1. The current regulatory model is a hybrid, blending prescriptive criteria (e.g., health and safety) with principle-based approaches (e.g., wellbeing and curriculum standards).
2. MoE currently lacks a clearly defined regulatory approach, operating largely on a reactive basis, which hampers its ability to proactively to influence ECE outcomes sought through regulatory intervention.
3. Some of MoE's current regulatory practices do not align with established expectations for good regulatory practice, which emphasize the need to focus resources where the risks are greatest.

Draft recommendations to address the findings :

Rec 8: Update regulation to allow the development of a broader set of graduated regulatory and compliance tools to better manage varying levels of compliance risk.

Rec 6: Establish a strategic, long-term approach to ECE regulation that supports innovation, quality, and growth.

2. Leading it the right way

Regulatory capability (1 of 3)

Findings:

1. ERO has legislated responsibility to administer reviews of early childhood services. ERO conducts reviews and assess whether it is complying with regulatory standards and associated licensing criteria, and that they are meeting the learning, safety and wellbeing needs of children in their care. ERO undertakes a cyclical review process to assess, identify and report any non-compliance or areas of concern to the service.

However, as ERO does not have the tools and levers needed when a non-compliance is identified to implement enforcement interventions, ERO does not currently have the expertise in the regulatory practice of deciding enforcement intervention.

Where ERO identifies areas of concerns/ non-compliances still to be addressed or that pose an unacceptable risk to children, ERO reports this to the MoE and will follow up with the service at the next visit. MoE are responsible for providing support and follow up to ensure the issues are appropriately addressed.

Draft recommendations to address the findings :

Rec 2: Clearly outline the roles and responsibilities of all regulatory agencies involved, ensuring efficient collaboration and accountability, and update legislation if required.

Rec 7: Invest in workforce training across agencies to improve regulatory effectiveness and consistency.

Rec 3: Implement a more proactive, risk-based approach to compliance to improve safety and accountability in the ECE sector

2. Leading it the right way

Regulatory capability (2 of 3)

Findings:

1. The MoE values the sector knowledge that former ECE teachers bring to regulatory roles, including licensing and decision-making roles. This experience is seen as beneficial for ensuring credible and robust assessments, including assessing compliance with curriculum standards and understanding the context within the regulations are applied. However, there are risks associated with placing too much emphasis on sector experience without also ensuring the right mix of regulatory knowledge and more diverse experience to ensure assessments reflect balanced views and robust decision making.
2. MoE regulatory staff (licensing officers and Managers) are managing increasingly complex workloads, influenced by the growing demands of the wider sector. While there are more licensing officers now than in the past, their responsibilities are spread across multiple areas ECE areas, not solely licensing. As a result, each staff member is responsible for overseeing a substantial number of ECE services, contributing to challenges in maintaining consistent oversight. Managers also have responsibility for areas other than ECE (e.g. schooling and learning support) The complexity of the ECE sector has also increased, which further compounds the pressures faced by regulatory staff.

Draft recommendation to address the findings :

Rec 7: Invest in workforce training across agencies to improve regulatory effectiveness and consistency.

2. Leading it the right way

Regulatory capability (3 of 3)

Findings continued:

1. Training across MoE regional offices is inconsistent with variations observed in induction programs. Staff in different regions report receiving different levels of training, particularly when it comes to understanding regulatory practice. Significant work remains in developing and delivering consistent, high-quality training for all staff, ensuring uniform standards and practices across all regions.

Draft recommendations to address the findings :

Rec 14: Strengthen the support to help providers implement new regulatory requirements effectively

3. Using the right tools

Regulatory tools

Findings:

1. Licensing has been overused as a regulatory tool and, and that some specific licensing criteria are causing problems in the ECE sector.
2. The quantitative analysis that the review has undertaken has shown that there is not enough supply of qualified ECE teachers in some areas, particularly in rural areas.
3. Homebased educators who are teacher qualified are currently unable to maintain their practicing certificate when working as a home-based educator. This presents a barrier to workforce participation as an Educator (if the teachers want to maintain practicing certificates), undermines mobility of the ECE teacher workforce between ECE settings, and fails to recognise the value of educators' contribution to ECE in the home-based setting.
4. The 'person responsible' requirements potentially conflict with managerial responsibilities in larger centres; and unnecessarily restrict the provision of home-based services and for home-based services place obligations on people who may not be on location.
5. The regulatory settings for home-based have profoundly influenced home-based offerings (number and range of home-based services provided), from driving growth in home-based from around 2015 to reducing overall service provision from 2018. The regulatory changes that were implemented have reduced the number of services, the number of child places and the distribution of services, which are now concentrated in urban areas.

Draft recommendation to address the findings:

Rec 13: Strengthen government communication and support for prospective and current ECE providers to streamline compliance processes.

Rec 14: Strengthen the support to help providers implement new regulatory requirements effectively.

Rec 15: Invest in resources and training to support sound, consistent regulatory decision-making.

Rec 9: Revise licensing standards to ensure they are proportionate, effective, and support quality without overburdening providers.

Rec 10: Allow greater flexibility in workforce qualifications to support access and quality across all regions.

Rec 11: Ensure the person responsible requirements are practical, appropriate, and responsive to service needs, including home-based services.

Rec 12: Work with stakeholders to develop a strategic plan for home-based services, including provisions for rural areas and whānau with diverse needs.

3. Using the right tools

Licensing Criteria

Findings:

1. Compared to ECE regulatory systems in other jurisdictions, New Zealand relies heavily on changing the status of the service licence to enforce compliance with the licensing criteria and regulations, as opposed to using a more graduated set of tools/instruments to respond to different types of compliance breaches. This means that:
 - Some service providers are concerned that they may lose their license for a minor issue.
 - There is a lack of transparency about why regulatory decisions have been made
 - Some simple compliance actions may take longer than they should to resolve
 - Some providers feel that there is no dispute resolution mechanism they can trust or use for addressing disputes about regulatory intervention taken by the MoE.

Note: there will be more specific findings related to each licensing criterion. See Ministerial briefings.

Draft recommendation to address the findings :

Rec 4: Improve the pathways for providers to appeal regulatory decisions, ensuring fairness and encouraging trust in the regulatory process.

4. Doing it right

Being clear about the rules

Findings:

1. Lack of clarity over what are regulatory requirements and what are recommendations and/or guidance has resulted in confusion. Providers and workers are confused by multiple, overlapping regulatory requirements and different interpretations.
- Regional variations in the application of licensing criteria and guidance have led to frustration and challenges to licensing decisions
- There are differing interpretations of regulatory requirements between MoE and ERO
- Guidance is sometimes given the same status as regulatory requirements by agencies
- Minor infractions may, or are perceived to, lead to disproportionate responses.
- There have been times providers have made substantial financial commitments before engaging with MoE leading to disputes over site suitability and costly licensing battles.

Draft recommendations to address the findings :

Rec 13: Strengthen government communication and support for prospective and current ECE providers to streamline compliance processes.

Rec 14: Strengthen the support to help providers implement new regulatory requirements effectively.

Rec 15: Invest in resources and training to support sound, consistent regulatory decision-making.

4. Doing it right

Paperwork

Findings:

1. Submitters have told us that a focus on documents as proof of performance is taking up time that teachers and workers would rather spend with children. Some of the focus on documents is generated by the sector itself, and some by lack of clarity about exactly what is needed.

Note: Previous recommendations will address this finding. In particular, see 'regulatory capability' and 'Being clear about the rules' topic areas.



Appendix two:

Report – Licensing Criteria Tranche 2 and Regulatory Framework



Purpose

1. This report provides the Minister with the outcome of the licensing criteria review – tranche two and outlines a proposed regulatory framework.

Background:

2. The current Early Childhood Education (ECE) regulatory system is set out in the Education and Training Act 2020, Education (Early Childhood Services) Regulations 2008 and Licensing Criteria. The licensing criteria are used by the Secretary for Education to assess whether service providers have complied with the minimum standards prescribed under regulations 43-47.
3. In practice the Licensing Criteria sets out a more granular list of requirements that ECE services must meet to be able to operate. There are additional requirements a service must meet, that does not form part of the licensing criteria, e.g., qualification and ratio requirements.
4. Once a licence is issued the Ministry of Education does not systematically incorporate proactive, risk-based compliance monitoring into its regulatory operations to check if ECE services remain compliant with the regulatory requirements. This is because they do not currently have the structured framework or mechanisms in place to do so.
5. The Education Review Office carries out regular evaluations to encourage providers to standards above the regulatory minimums. In addition to this it assesses and identifies whether ECE services are compliant with regulatory requirements. If ERO identifies any non-compliance/ areas of concern it informs the Ministry of Education.
6. Currently, when non-compliance or an area of concern is identified, the Ministry of Education can:
 - a. Give providers an opportunity to fix the issue
 - b. Give providers professional learning and development
 - c. Place an ECE service on a provisional licence, with conditions attached that it must meet by a specified date (which can be extended up to 12 months).
 - d. Issue a direction to require the ECE to take remedial action in response to an immediate health and safety risk. The provider has 10 working days to resolve the issue. If not resolved the provider may be placed on a provisional licence.
 - e. Suspend a licence, preventing a business from operating legally. The provider is given a period of time to demonstrate compliance.
 - f. Cancel a licence, preventing a provider from operating legally.
7. The current regulatory system is heavily reliant on changing the status of the service license to enforce compliance with the licensing criteria and regulations, as opposed to using a more graduated set of tools to respond to different types of compliance breaches.
8. As the current regulatory framework is not fit-for-purpose, it is the Ministry's recommendation that the Regulatory Framework is revamped to improve outcomes and



reduce burdens by creating a more proportionate set of tools. This would require changes to the regulations.

9. In developing an example of a proposed framework, the Ministry undertook a desktop review of international regulatory frameworks in their ECE sectors. Links to the regulatory frameworks which formed part of this desktop review have been included as Appendix A.
10. ERO have implemented a quality framework which looks at the educational quality of ECE services, this has been included as Appendix B.

Definitions

11. **Regulatory tools:** This term covers all the means at the government's disposal to influence parties within the regulatory system. It includes the 'tools of the system', such as legislation and regulation setting, as well as the 'tools of the job' of regulation, such as compliance and enforcement tools, and guidance.
12. **Compliance activities:** Regulatory compliance activities are the activities and tools that regulators use to deliver regulatory services or to achieve their outcomes.¹ In ECE regulation, licensing is the main tool to control ECE service providers' entry and exit to the ECE sector. Assessments against licensing criteria are a compliance activity, and licensing can also currently be used as an enforcement tool (see below).
13. **Enforcement tools:** Enforcement is a legal tool that regulators use to require someone to comply or issue a penalty or punishment when they don't. The legislation will set out the enforcement tools the regulators can use. Some regulators have a range of enforcement tools they can use, and others have very few. These tools range in severity from warnings, suspensions or abatement notices through to very severe penalties, such as revocations, large fines and imprisonment.²

Report

Findings

14. The current regulatory and compliance tools in the ECE regulatory system are limited and rely on changes to the status of the service license as the primary enforcement tool. As such, the enforcement tools available are not sufficiently graduated or proportionate to the range of non-compliance issues in the sector. This results in a heavy focus on licensing, which is not always suitable for managing certain risks. This means that some service providers are concerned that they may lose their license for a minor issue.
15. Based on the direct and in-direct engagement we know that ECE services perceive being placed on a provisional license as a major sanction as it carries with it the threat of losing their license and being shut down. Feedback from the sector is that changing the status of their license, to a provisional license, is a disproportionate response to relatively minor infractions.
16. The Ministry for Education do not perceive placing an ECE service on a provisional license as a major sanction because it allows the service to continue operating and most services

¹ Ministry for Regulation, "[Regulatory compliance activities – quick guide](#)" (September 2024).

² Ministry for Regulation, "[Regulatory compliance activities – quick guide](#)" (September 2024).



placed on provisional licenses have their full licenses reinstated rather than being shut down.

17. There is also often a lack of clarity over what is required to meet licensing criteria. Evidence from direct and in-direct engagement has shown that guidelines and recommendations are often given the same status as regulatory requirements by officials
18. There are several other shortcomings with the licensing tool and how it is used, including:
 - a. Some feedback from submissions highlighted a lack of transparency of the decision-making process when regulatory action is taken.
 - b. Placing a provider on a provisional license is a significant change and the process is lengthy for the regulator. Some minor issues can remain unaddressed for long periods. Smaller enforcement tools can address these issues faster with less impact on service providers.
 - c. Some providers feel that there is no dispute resolution mechanism they can trust or use to appeal regulatory decisions. The main avenue for providers to challenge regulatory decisions is to take the regulator to court. This is costly for both the regulator and providers and disadvantages small providers who cannot afford the costs.
 - d. Providers have reported that when they make small changes, such as increasing the number of children attending a service or replacing a board member, they have been required to be re-assessed against all the licensing criteria again. Although the procedure to make these changes does not explicitly state that the service needs to be re-assessed, regional MoE offices may take this change as an opportunity to review the service against all the licensing criteria particularly if the service has not been reviewed by MoE for a long time.

Recommendations:

19. The Ministry's recommendation is that the Regulatory Framework is revamped to improve outcomes and reduce burdens. The regulatory framework needs a broader set of graduated enforcement tools, including sanctions that are not related to license status. This would require changes to the regulations.
20. In addition to the implementation of the regulatory framework, it is recommended that the responsible agencies establish an independent dispute resolution mechanism so that ECE services can:
 - a. Appeal regulatory interventions taken against them
 - b. Guard against regulatory creep (e.g. guidelines and recommendations being treated as regulatory requirements)
21. This mechanism should be clear, easy to access and easy to follow, with clear expectations on the process



22. If the above proposed recommendations are accepted by Government, the relevant agencies and policy owners will need to consider what further policy analysis they need to complete. This will include carrying out a full options analysis and cost benefit analysis. The Ministry for Regulation has done some of the thinking around this policy work and can support this further with administering agencies and policy owners, through to implementation planning.

Benefits of a revamped regulatory framework.

23. The main benefit of a revamped framework combined with a more graduated set of enforcement tools is that it would simultaneously reduce regulatory burden while improving management of risks and quality of ECE services.

24. The benefits for ECE services include:

- Lower stress and administrative burdens on ECE providers who will not have to worry about minor infractions affecting their ability to operate.
- A robust and independent dispute resolution mechanism will give ECE services confidence that regulatory decisions are fair and proportionate.
- Lower burdens from regulatory requirements that are more proportionate to the risk. [Providers have reported that some criteria are overly specific and/or applied in an unfair or overly exacting manner. Our proposed approach separates requirements, and the potential sanctions, based on the level of risk they are addressing.]
- More clarity and a clearer separation between regulatory requirements and good practice guidelines and recommendations will remove unnecessary burdens on providers. Currently the inconsistency and lack of clarity leads to providers often doing a lot of extra work in the hope that they will be compliant.

25. The benefits for the regulator include:

- Better regulatory outcomes as minor issues will be resolved faster, and the regulator will be better able to focus their efforts on major issues.
- More clarity and better tools will make it easier for providers to 'do the right thing', which will lead to higher quality provision.
- More trust between the regulator and regulated parties as the regulator will be able to respond more proportionately and have the full suite of tools necessary to be a more responsive.

26. The benefits for parents and children include:

- More accessible and affordable ECE services. Reducing burdens on ECE providers will reduce costs for parents and make it easier for services to grow and expand and for new services to enter the market. This will mean there will be more ECE places available at more affordable prices.
- Better quality ECE services. The better regulatory outcomes set out in paragraph 24 mean will also benefit parents and children by improving the quality of ECE services.



Example of a potential Regulatory Framework:

27. Set out below is one option that we have initially explored as a proposal to improve the regulatory framework. If the recommendation to imbed a regulatory framework is accepted, further policy analysis will be needed by Ministry of Education in conjunction with ERO to develop it further and implement it. The Ministry will share the analysis we have undertaken, particularly in relation to international comparators and support further work, if required.
28. The main purpose of the framework set out below is to ensure that compliance actions and sanctions are proportionate to the risk they are addressing. Being clearer when it is appropriate for sanctions to include changes in licence status. Changes in licence status should only be used for serious risks and persistent and deliberate non-compliance.
29. Paragraphs 33-34 set out a broader range of graduated tools that the regulator should have access to.
30. The right enforcement tool will often depend on the specific circumstances of any given situation. This includes, the nature of the risk, the willingness of the ECE service to comply and any mitigating factors. An honest mistake requires a different response to deliberate and persistent non-compliance. Therefore, regulators need a suite of different tools available so that they have the flexibility to respond appropriately to different circumstances. Regulators also need the capability and expertise to make good judgements about what the right compliance tool is different circumstances.
31. A graduated set of regulatory tools could look similar to the below diagram:



Example of potential regulatory framework:

Licensing	<i>Potential criteria that could fit in this category:</i>
Regulatory requirements that a service must achieve to obtain a licence (enter the market) and adhere to, to remain licenced.	<ul style="list-style-type: none">• HS32: All practicable steps are taken to protect children from exposure to inappropriate material (for example, of an explicitly sexual or violent nature).• HS33: No person on the premises uses, or is under the influence of, alcohol or any other substance that has a detrimental effect on their functioning



<p>This category is focused on the highest risk criteria that if not met would pose a serious risk to the health and safety of children. Breaches of these requirements would trigger sanctions higher up the enforcement pyramid.</p>	<p>or behaviour during the service's hours of operation.</p>
<p>Binary requirements</p> <p>These are requirements that are binary, 'i.e. either service has them or it hasn't'. They do not involve elements of subjectivity or judgement in assessing compliance with the requirement. The risks are generally lower than in the 'Licensing' category.</p> <p>Graduated enforcement tools would be utilised for breaches of these requirements and/or an accumulation of breaches on a regular or semi-regular basis.</p> <p>Sanctions for breaches would start towards the bottom of the enforcement pyramid. However, the regulator could move up the enforcement pyramid if there was deliberate and/or persistent non-compliance.</p>	<p><i>Potential criteria that could fit in this category:</i></p> <ul style="list-style-type: none"> • PF17: Kitchen and cooking facilities or appliances are designed, located, or fitted with safety devices to ensure that children cannot access them without adult assistance or supervision. • PF18: The service has at least 1 toilet for every 1-15 persons. Persons are defined as children aged two and older and teaching staff that count towards the required adult:child ratio • PF19: There is at least 1 tap delivering warm water (over an individual or shared handbasin) for every 15 persons (or part thereof) at the service (that is to say, children attending and adults counting towards the required adult:child ratio).
<p>Outcomes based standards</p> <p>These are standards that inherently exist on a spectrum of unacceptable to good practice. The regulatory requirements should set minimums. The risks are generally lower than in the 'Licensing' category.</p> <p>As much as possible the requirements should be outcomes focused rather than prescriptive.</p> <p>Sanctions for falling below the minimum would start towards the bottom of the enforcement pyramid. However, the regulator could move up the enforcement pyramid if there was deliberate and persistent non-compliance.</p>	<p><i>Potential criteria that could fit in this category:</i></p> <p><i>HS1: Premises, furniture, furnishings, fittings, equipment, and materials are kept safe, hygienic and maintained in good condition</i></p>
<p>Good practice – No Sanctions</p> <p>Good and best practice that goes beyond regulatory minimums. These should form part of quality evaluations, which are currently</p>	<p><i>Potential criteria that could fit in this category:</i></p> <p><i>GMA6: An ongoing process of self-review and internal evaluation helps the service maintain and improve the quality of its education and care.</i></p>



carried out by ERO, but there should be no regulatory sanctions for not following these.

32. We recommend that the regulator will need to improve engagement with prospective and current ECE service providers. This includes being clearer and more transparent with ECE service providers about:

- The compliance tools that it can use in response to breaches of different requirements
- When the regulator would publicly declare what action it has taken against an ECE service
- Why it has taken that action. MoE provides a letter to service providers explaining the regulatory action they have taken. However, feedback suggests transparency could be improved regarding the decision-making which led to the action taken.

Enforcement tools:

33. The regulatory framework needs a broader set of graduated enforcement tools, including sanctions that are not related to license status. This will allow it to respond more appropriately to risk and manage minor infractions more proportionately. This will help lead to both better outcomes and lower burdens for providers.

34. There is a large range of enforcement tools that a regulator could use to ensure compliance. Examples of such is outlined below, it would be useful for the regulator to have access to these tools as part of its regulatory toolkit:

- Training and support programs - Providing resources to help service providers understand and comply with regulations
- Warnings - Providers are informed that actions/omissions appear to be non-compliant, and of possible consequences if they not remedied.
- Notices of Violation - Official notifications that inform providers of specific breaches and required corrective actions.
- Improvement notices - Directives requiring organisations to take specific actions to comply with regulations.
- Monitoring and Reporting Requirements - Mandated enhanced reporting / monitoring to ensure continued compliance. E.g. more frequent inspections, requiring more reporting/record keeping
- Corrective Action Plans - Requirements for service providers to develop and implement plans to address identified issues.
- Prohibition notice - a warning or direction to stop an activity that is occurring.
- Public Disclosure – Requiring service providers to publicly report compliance status, which can affect reputation.
- Fines and Penalties - Financial penalties imposed for non-compliance or violations of regulations



- j. Provisional Licences – Providing temporary approval to operate subject to certain conditions.
- k. Suspension or Cancellation Revocation of Licenses - Temporary or permanent removal of the ability to operate legally. A last resort for persistent and deliberate non-compliance.

Next Steps

- 35. The analysis of the licencing criteria and recommended changes will be included in the ECE Sector Regulatory Review Report. This will be provided to you in December 2024 for your feedback.



Appendix A: International Quality Frameworks

36. National Quality Framework (Australia):
<https://www.acecqa.gov.au/sites/default/files/2024-10/Guide-to-the-NQF-241001-web-b.pdf>
37. Care Inspectorate 'A quality framework for daycare of children, childminding, and school-aged childcare (Scotland):
<https://www.careinspectorate.com/images/documents/6578/QF%20ELC%2013092022.pdf>
38. National Association for the Educational of Young Children (NAEYC) Standards (USA)
https://www.naeyc.org/sites/default/files/globally-shared/downloads/PDFs/accreditation/early-learning/standards_assessment_2019.pdf
39. Tusla Early Years Inspectorate "Quality and Regulatory Framework" (Ireland)
 - For centres: https://www.tusla.ie/uploads/content/4566-TUSLA_QRF_DAY_CARE_LR.pdf
 - For other service types: <https://www.tusla.ie/services/preschool-services/early-years-providers/early-years-provider-resources/early-years-quality-and-regulatory-framework/>



Appendix B: ERO ‘Te Ara Poutama: Piki ake, kake ake | For those who aspire to seek excellence – indicators of quality in early childhood education what matters most³

[Compared to the other frameworks, the ERO framework focuses much more on educational quality, rather than ECE service as a whole – which is understandable given ERO's role]


 Education Review Office
 Te Tari Arotake Mātauranga

NGĀ RĀPUPUKU INDICATORS

OUTCOME INDICATORS

LEARNING OUTCOMES FOR EACH STRAND OF TE WHĀRIKI

MANA ATUA WELLBEING

MANA WHENUA BELONGING

MANA TANGATA CONTRIBUTION

MANA REO COMMUNICATION

MANA AOTŪROA EXPLORATION

LEARNING CONDITIONS

PROCESS INDICATORS

ORGANISATIONAL CONDITIONS

WHAT
is so?
WHAT
is happening
for children
in this
service?

- Children's learning and development in play-based contexts is supported through caring, learning-focused partnerships.
- Children, parents and whānau contribute to a curriculum that recognises their identities, languages and cultures.
- Children have equitable opportunities to learn through a responsive curriculum that is consistent with Te Whāriki.
- Te reo Māori and tikanga Māori are valued and an integral part of teaching and learning.
- Children's learning and development is supported through intentional and culturally responsive pedagogy.
- Assessment practices enhance children's mana and their learner identities.

- Children's learning and development is supported by leaders and kaiako, and others with culturally relevant knowledge and expertise.
- Leaders and kaiako work collaboratively to develop the professional knowledge and expertise to design and implement a responsive and rich curriculum for all children.
- Children's learning is enhanced through leaders and kaiako engaging in professional learning and development opportunities that contribute to ongoing and sustained improvement.
- Children's learning is enhanced through leaders and kaiako working as a professional learning community.

- Coherent organisational conditions enable managers, leaders and kaiako to do and use evaluation for improvement and innovation.
- Capability and collective capacity to do and use evaluation, inquiry and knowledge building sustains improvement and innovation.
- Engagement in deliberate, systematic internal evaluation processes and reasoning promotes valued outcomes for all children.

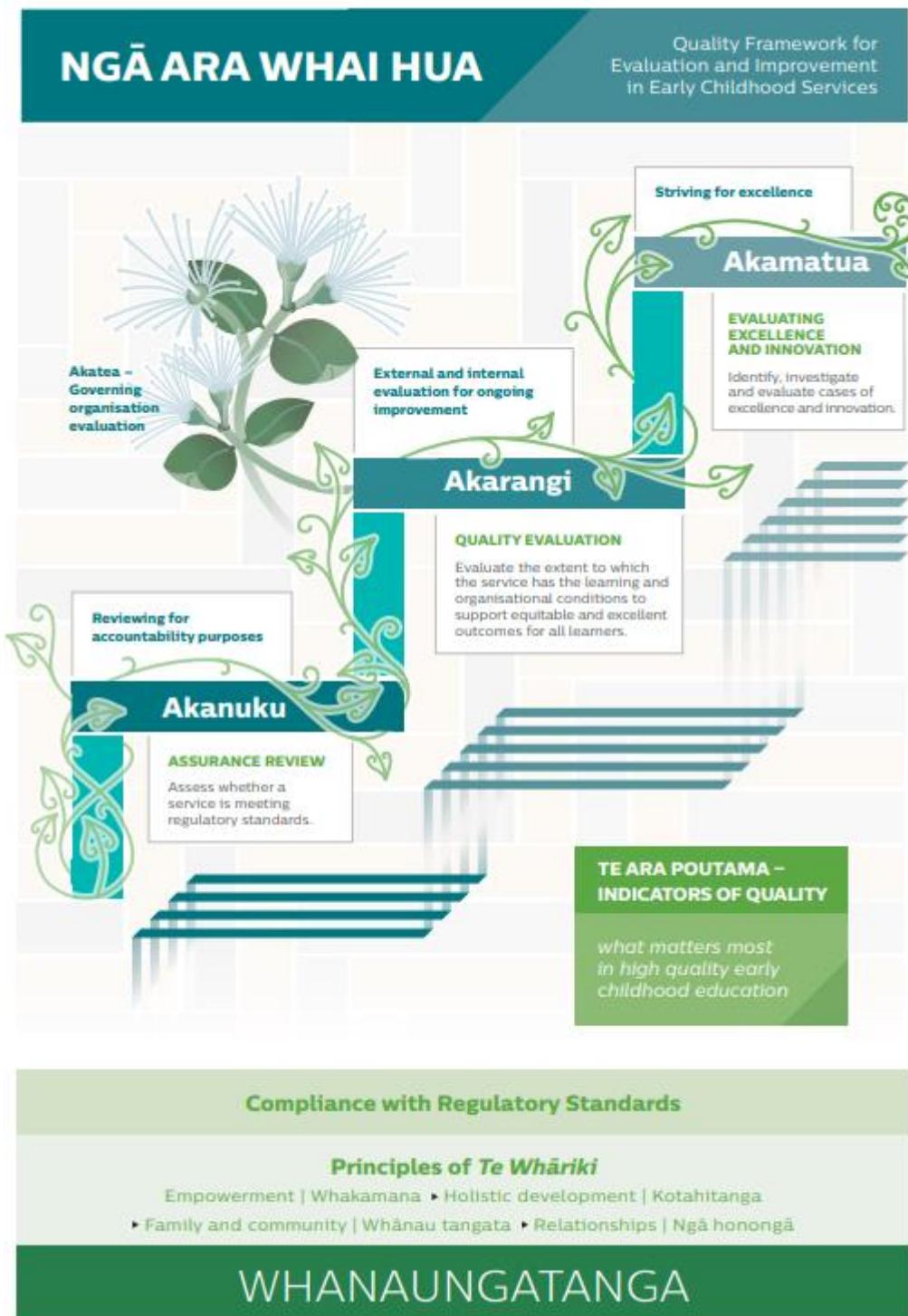
- Leaders collaboratively develop and enact the service's philosophy, vision, goals and priorities, reflecting te Tiriti o Waitangi / the Treaty of Waitangi as foundational.
- Relational trust enables collaboration and sustained improvement.
- Leaders ensure access to professional learning and development that builds capability.
- Effective planning, coordination and evaluation of curriculum, teaching and learning promote equitable outcomes for all children.

- The learning and well-being of children are the primary considerations in decision making.
- Children's learning and development is supported through responsive partnerships, including networked relationships between services, agencies and the wider community.
- Outcomes for children and their whānau are promoted by effective systems, processes and internal evaluation.

WHY
is it so?
WHAT
enables
or hinders
learning?

SO WHAT?

WHAT NEXT?







To	Hon David Seymour, Minister for Regulation		
Title	Early Childhood Education Regulatory Review: Initial quantitative insights from surveys	Number	MFR2024-098
Date	15 August 2024	Priority:	Low
Action Sought	Note	Due Date	N/A
Contact Person	David Wansbrough, Sector Reviews Lead	Phone	s 9(2)(a)
Attachments	Yes	Security Level	UNCLASSIFIED

Executive Summary

1. This paper summarises the quantitative information at the half-way point of the public submissions period for the regulatory review into the early childhood education system.
2. We are not able to draw conclusions from this data because we have not fully analysed the free-text comments, and because we are still expecting submissions from some key groups and organisations.
3. At the halfway point (2 August), the review team analysed information from 1,081 survey responses from: service providers; parents and caregivers; and people who work in early childhood education.
4. The results of this analysis have been fed into the review's workstreams and are being used to understand the scale and specifics of identified problems, as well as identify new lines of inquiry.
5. The review team have found that the survey responses to date represent a *broadly* representative sample from each of the groups, though there are smaller numbers of submissions from some cohorts.
6. The review considers that no changes need to be made to the current engagement and communications approach because there are still two more weeks for submissions, and because the review is also gathering evidence from other sources (including direct engagement with specific organisations).
7. The quantitative insights are contained in a slide pack attached at **Appendix A**.



Recommended Action

We recommend that you:	
a note that at the halfway point (2 August), the review team had analysed information from 1,081 survey responses from: service providers; parents and caregivers; and people who work in early childhood education.	<i>Noted</i>
b note that this analysis does not include qualitative insights from the free text responses or long form submissions, and that some key groups and organisations have not yet submitted.	<i>Noted</i>
c note that the Ministry for Regulation is not making any conclusions from this information but is using the insights to understand the scale and specifics of identified problems and identify new lines of inquiry.	<i>Noted</i>
d note that the review team does not consider that it needs to change its engagement approach to reach any specific cohorts because it has access to enough information to identify the key issues.	<i>Noted</i>

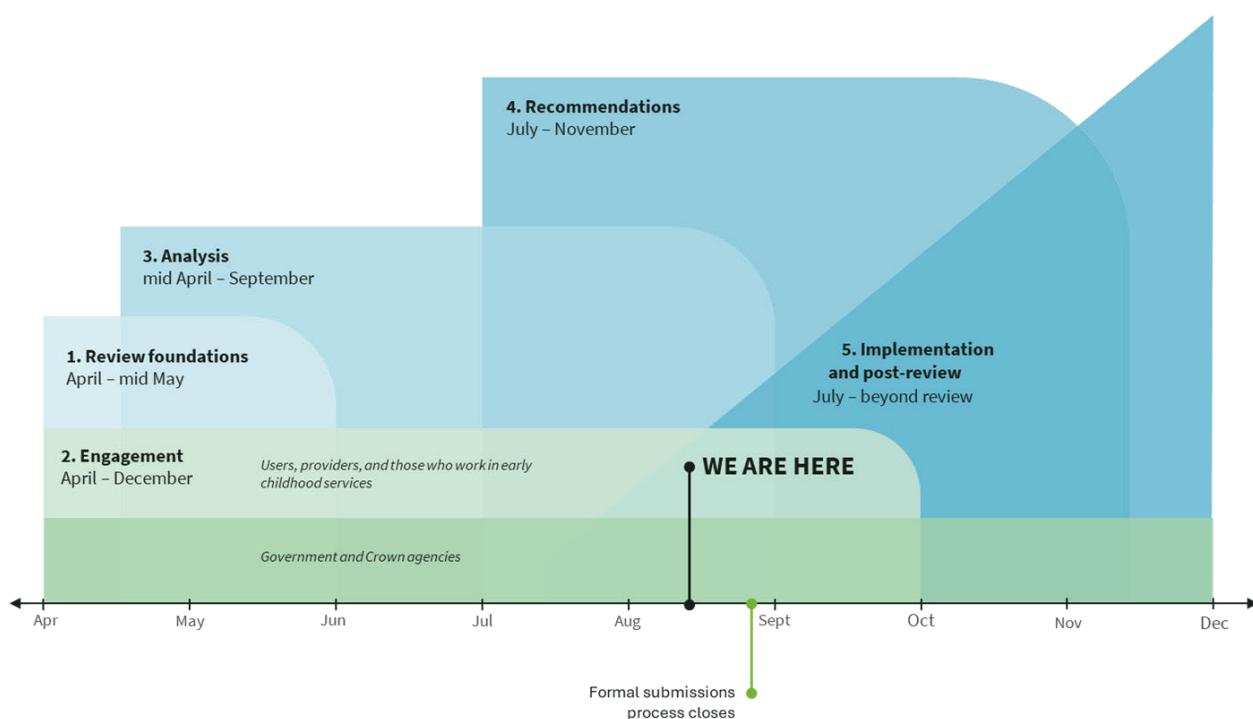
s 9(2)(a)

David Wansbrough
Sector Reviews Lead
Ministry for Regulation
Date: 16 August 2024

Hon David Seymour
Minister for Regulation
Date:

Background

8. The early childhood education regulatory review is currently seeking submissions. Organisations and individuals who would like to submit have two options: they can complete a survey asking a series of “select your answer” and free text questions; or they can write a submission of any length. The submissions process is going to be open for eight weeks, having opened on 5 July and closing on 31 August.
9. The review has been undertaking direct engagement through meetings, workshops and conference attendance and a formal written submission process (briefing 2024-017 refers). Through its engagement, the review intended to reach four sets of groups and people:
 - a. Regulated parties, i.e., providers of early childhood education services (supply)
 - b. Parents and caregivers of children who attend early childhood education (demand)
 - c. People who work in early childhood education services
 - d. Other interested people, i.e., representative groups, experts and interested members of the general public.
10. The diagram below shows the overarching timeline for the review:



Current state of written submissions and survey responses

11. The table below shows the number of submissions that the review has received as at 14 August, with 17 days left to submit.

Survey / written submission	Number received by 4pm 14 August
Service providers	66
Parents and caregivers	611
People who work in ECE	574
Other interested people	39
Free text written submission	62 (note ¹)
Total	1,352

12. A few of the free text written submissions are from service providers or groups of service providers (for example a submission from a collective of 13 home-based service providers). The review is aware of several service providers and service provider representative groups who are still working on their submissions.

13. The “other interested people” have a mix of interests in early childhood education. This includes people who lead peak bodies and advocacy groups, who have previously worked in early childhood education, academics and researchers, and wider families of children who attend early childhood education.

Summary of approach to half-way quantitative analysis

14. The slides attached at **Appendix A** provide you with a summary of the quantitative insights from responses to three of the four surveys at the half-way point (2 August). The analysis is based on the number of responses in the table below².

Survey type	Number received by 2 August
Service providers	57
Parents and caregivers	509
People who work in early childhood education	515

15. This report is about responses to the quantitative questions asked in the surveys, i.e., multiple-choice questions. Greater insight about the implications and detail of these insights is being gained from analysis of the qualitative information from the surveys and from full free-text submissions. Analysis of this material is underway and will be shared with you alongside the review’s draft report.

16. There are some important limitations of this analysis:

¹ Note that data cleaning needs to be done as some people / organisations have, seemingly accidentally, submitted more than one free text written submission, so the number of “free text written submissions” is currently a slight overestimate.

² Insights from the “other interested people” survey are not included because of the low number of responses by the half-way point (33) and given the broad spread of types of people completing it, more consideration is needed in the analysis process.



- a. The analysis does not contain demographic analysis of individual questions, e.g., analysing answers from people who work in early childhood education by their role or the type of service they work for, or for parents by their household income or type of service their children attend.
- b. There are no comparisons between questions in the surveys, i.e., people who said [X] for question [X] also said [X] for question [Y].
- c. There is limited comparison between surveys.

17. Given this is a part-analysis, the Ministry for Regulation will not be drawing final conclusions from this data.

Summary of insights

Demographics of service provider submitters

18. To date, the review has received a broadly representative sample of submissions from service providers:

- a. most are providers of early childhood education centres, but we have also received submissions from home-based service providers
- b. providers of services across every region of the country have submitted, apart from the Chatham Islands
- c. most submitters operate five or fewer services, but we have also received submissions from very large providers (i.e., more than 50 or more than 100 services).

Key insights from service providers

19. Key insights from the quantitative information from service providers, are outlined in the table below.

What barriers are service providers experiencing to market entry, expansion and innovation?	64% of submitters said that it was “very difficult” or “difficult” to access the information needed to understand the requirements for opening a new service, with 34% saying it was “very easy” or “easy”
	50% of submitters found it “very difficult” or “difficult” to meet the requirements for a probationary licence, with the remaining 50% finding it “very easy or “easy”
How much of a driver of operating cost is regulatory requirements?	Submitters rated operating cost drivers as per the below: <ol style="list-style-type: none">1. Qualified teacher salaries2. Property costs (including rent and mortgage)3. General operating costs and maintenance4. Other workforce salaries5. Cost of learning resources6. Other types of regulatory compliance



What needs to change about regulation of ECE?	Submitters have said that regulations relating to qualifications, ratios and service size “need major changes”
	Submitters have said that regulations relating to the following “need minor changes”: <ul style="list-style-type: none"> • Person responsible requirements • Requirements for safety checking • Health and safety requirements • Premises and facilities • Government, management and administration
	Submitters have said that regulations relating to the curriculum “work well”
	68% of submitters think there are areas of duplication or inconsistency between government regulations
How well has regulation of ECE been implemented?	68% of submitters think government has implemented ECE regulations “poorly” or “very poorly”, with the remaining 32% thinking implementation has been done “well” or “very well”
	61% of submitters that have interacted with more than one agency with a regulatory function think there were duplications or inconsistencies between the agencies they interacted with.
What do service providers think about the Ministry of Education’s approach to non-compliance?	Of submitters who had engaged with the Ministry of Education over compliance matters (73%): <ul style="list-style-type: none"> • 51% felt the Ministry of Education’s response was fair • 79% understood why the Ministry of Education had taken the action it did

Demographics of parent and caregiver submitters³

7. To date, the review has received a broadly representative sample of parents from across New Zealand. Of the 509 parents and caregivers who submitted:
 - a. most were middle-income or high-income, with annual pre-tax household incomes of over \$78,101. Based on census data, this is a slight skew towards higher-income households.
 - b. every area of the country has been represented, with submissions received from all regions apart from the Chatham Islands.
 - c. most have had either one or two children attend early childhood education.
 - d. 9% of submitters have children who are Disabled, medically vulnerable or have specific needs.

³ For the purposes of this report, “most” means more than 50%, “some” means 25% to 49% and “a few” means less than 25%.



- e. most submitters primarily speak English at home.
- f. most have children attending an early childhood education and care centre.

Key insights from parents and caregiver submitters

8. Key insights from the quantitative information from parents and caregiver submitters to date, are covered in the table below.

Does the market meet parent's needs?	<p>Most were either “very satisfied” or “satisfied” with the choices of ECE they had⁴, while 19% said they had only one option when choosing their ECE</p>
	<p>Most were either “very satisfied” or “satisfied” with their current ECE service</p>
	<p>A third of submitters have moved or withdrawn their child from an ECE. Of those, the most common reasons were:</p> <ul style="list-style-type: none">• Their child was not supported as they would like them to be / their child’s needs were not met• They have moved to a different area• Their child was not happy• They did not think their child was physically / emotionally safe
	<p>60% of submitters were happy with the amount of time their child spends at ECE. Of the 40% who wanted their child to spend more time there, the common barriers were:</p> <ul style="list-style-type: none">• Frequent sickness outbreaks• Unaffordability• Not good value for money
What's important to parents for their child's ECE?	<p>Submitters have said that when choosing their child’s ECE the following are “very important”:</p> <ul style="list-style-type: none">• Positive interactions between children and staff• Adult to child ratios• Look and feel of the premises <p>Submitters said the following are “important”:</p> <ul style="list-style-type: none">• Teaching philosophies• Proportion of qualified staff• Convenience of location• Service hours• Licence status / compliance of the provider• Cost

⁴ Note, some submitters appeared to interpret this question as being satisfied with their current service, not the choices they had for services, which could slightly skew the data.

Do parents have the information they want when choosing their child's ECE?	Most (81%) of submitters said they had access to the information they thought was important when choosing an ECE, and most (78%) found the information they thought was important “easy” to access
Importance of government regulation of ECE	Most (approx., 90%) of submitters said it was either “very important” or “important” for government to set rules for ECE
Importance of records about their child	<p>Submitters said that it was “very important” to them that the following was recorded about their child while at ECE:</p> <ul style="list-style-type: none">• Injuries, illnesses and incidents• Medicines given• Authority to give medicine <p>Submitters said that it was “important” to them that the following was recorded:</p> <ul style="list-style-type: none">• Evidence of learning• Sleep time and sleep checks done• Food served by the service

Demographics of people who work in early childhood education submitters

9. To date, most (close to 80%) submissions from people who work in early childhood education are from qualified teachers. Other key demographics are:

- a. most submissions are from people who have worked in early childhood education for 11 years or more
- b. most submissions are from people who work in early childhood education and care centres
- c. there are a small number of submissions from home-based educators (less than 10% of submissions), and people who work in hospital based early childhood education, Playcentres, Puna Reo and Kōhanga Reo
- d. most submissions are from people who work in services licenced for 60 children or fewer, but there are submissions from people who work in all sizes of services (from less than 20 up to the maximum of 150).

Key insights from people who work in early childhood education

10. Key insights from the quantitative information from people who work in early childhood education to date, are covered in the table below.

What needs to change about regulation of ECE?	Submitters have said that regulations relating to qualifications, ratios and service size “need major changes”
	Submitters have said that regulations relating to the following “need minor changes”: <ul style="list-style-type: none">• Health and safety• Person responsible requirements• Premises and facilities• Government, management and administration• Requirements for safety checking
	Submitters have said that regulations relating to the curriculum “work well”
	36% of submitters think there is duplication or inconsistency in government regulations
How does regulation impact on the day-to-day work of people who work in ECE?	64% of submitters said that the balance between the different parts of their role was not appropriate
	53% of submitters said that the time they spend recording information was appropriate
How well has regulation of ECE been implemented	Most submitters (just over 50%) think government has implemented ECE regulations “poorly” or “very poorly”
	Agencies with regulatory functions that submitters more frequently interact with scored lower average ratings when asked about different aspects of their interaction. The average rating for interactions with: <ul style="list-style-type: none">• the Ministry of Education was 2.8/4• the Education Review Office was 2.7/4• the Teaching Council was 2.7/4

Next Steps

11. The review will continue to provide you with regular process updates, including about the number and type of written submissions it receives.

To	Hon David Seymour, Minister for Regulation		
Title	Sector Review for Early Childhood Education	Number	2024-0001
Date	22 March 2024	Priority	Medium
Action Sought	Provide feedback at meeting on 26 March 2024	Due Date	26 March 2024
Contact Person	David Wansbrough, Head of Sector Reviews	Phone	s 9(2)(a)
Attachments	No	Security Level	UNCLASSIFIED

Executive Summary

1. This briefing provides advice about the first sector review into the regulations affecting the Early Childhood Education sector. Because it is the first sector review and will set some precedents, we have included some of our thinking about sector reviews more broadly.

Recommended Action

- a **Discuss** your feedback at the meeting with the Ministry for Regulation on 26 March 2024.
- b **Agree** that the Ministry for Regulation release this briefing in full once Cabinet has agreed to the terms of reference for the first sector review.

Agree / Disagree

Hon David Seymour
Minister for Regulation

Purpose

2. This briefing provides our initial advice for the first sector review into the regulations affecting the Early Childhood Education sector. We are seeking your feedback so we can finalise a Cabinet paper by the end of April to initiate the first sector review.
3. We have not yet consulted other agencies or sector representatives but intend to engage them over the next few weeks.
4. This advice builds on the previous advice from Treasury about sector reviews (T2024/86).

Which sectors to review?

5. We agree with Treasury's advice that the Ministry for Regulation's sector reviews should focus on:
 - a. Particularly complex regulatory issues which would benefit from the Ministry for Regulation's independent perspective, resourcing, and expertise in best practice regulation – and, in its position as a central agency, its ability to investigate issues that cut across a substantial number of regulatory systems.
 - b. Sectors facing the cumulative impacts of multiple and potentially conflicting regulatory systems, which can cover issues beyond the responsibility of any single regulatory agency.
 - c. Particular areas of regulation that affect the incentives and activities of businesses and individuals in significant sectors of the economy.
6. The Early Childhood Education sector has elements of both categories **a** and **b**.
7. We have not yet identified which sectors should be reviewed next and will provide advice once we have established the first review team and had a chance to consider where best to direct our efforts.

Scope of the Early Childhood Education review

8. Choosing and managing the scope of sector reviews will be one of the main challenges.
9. Sector reviews could be both wide (multiple agencies) and deep (multiple levels of regulatory requirements). They could go back to first principles to look at the underlying rationale for decision and overall approach taken to regulate a sector, or they can focus on pain points. There are also choices about the amount of public/sector engagement.
10. From what we have heard so far, much of the unnecessary regulatory burden in Early Childhood Education is likely to be the result of regulatory practices and requirements that sit below primary legislation, such as: licensing criteria, funding conditions; how compliance is assessed, and the ways that non-compliance is addressed.
11. This means that a deep scope is likely to be important to address pain points. It also means that the solutions are likely to require changes to agency operations, practices, and behaviours, more than primary legislation or secondary regulations.
12. There will also be benefit in looking at the interactions, gaps and overlaps between multiple regulatory systems. Bringing multiple agencies to the table will be one of the Ministry for Regulation's more important levers, though the complexity of a review will increase as more agencies are involved. Finding the right balance will be important to keep reviews achievable in the timeframes.

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13. We will work with the Ministry of Education to agree the boundaries between the regulatory sector review and their other work, including the proposed funding review for Early Childhood Education.
14. The extent of stakeholder consultation will also influence a review's timeframes and the resources needed, especially where engagement needs to extend beyond the regulated parties. For the Early Childhood Education sector, we expect that we will need to engage with parents and teachers, as well as the providers who are the regulated parties. We are considering how we can do that efficiently and quickly.

Engaging Ministers

15. We suggest you seek Cabinet's approval for the first sector review so that all Ministers are informed and can engage. This may not be necessary for all sector reviews in future – the Minister for Regulation could initiate a sector review by agreeing with the relevant Ministers. We expect that the results of sector reviews would be reported back to Cabinet because there are likely to be decisions needed about how to respond and because of the expectation that the review will be published.
16. Before reporting back to Cabinet, there would need to be a process involving the Minister for Regulation and the relevant portfolio Ministers to decide how to respond to the review, including what solutions would be proposed.
17. While the review is underway, we will update you through our weekly reports and regular meetings, and we expect the other agencies would do the same for their Ministers.

Governance

18. As indicated in previous advice, there are three broad models for who leads a review:
 - a. Ministry for Regulation led review – with support and resourcing from portfolio agencies and regulators.
 - b. Joint Ministry for Regulation & portfolio agency led review – to maximise the cooperation of the relevant portfolio agencies.
 - c. Externally led review – to maximise the independence from government.
19. Our recommendation is for this to be a joint review between the Ministry for Regulation and the Ministry for Education. This is for two main reasons: to ensure cooperation and support, and because most of the knowledge and levers for solutions are likely to lie within the Ministry for Education. We are still investigating whether the Education Review Office would need to be added as it has its own status in legislation.
20. Once we have more experience with sector reviews, and the Ministry for Regulation has established its review processes and its reputation with other government agencies, the other models could become alternative tools.
21. We will establish a small governance committee comprising the two (or three) chief executives, as well as a mechanism to engage a wider set of agencies throughout the review process. We are setting up meetings with the Secretary of Education and the Chief Executive of the Education Review Office.
22. This means that the review report, at the end of the problem-definition stage, would be a joint report from the Ministry for Regulation and the Ministry for Education to the Minister for Regulation and the Minister for Education.

23. This could be perceived by stakeholders as not being sufficiently independent. Our view is that long-term and enduring solutions will need buy-in from the responsible agencies and that there will be other levers if the Ministry for Regulation considers that their response is not sufficient.
24. We expect that draft review reports will be checked with a wider group of agencies for accuracy but that the final report will be from the two chief executives. There will be an option to test the draft report with targeted stakeholders, which we can discuss with you closer to the time, after we have investigated the issues.
25. Proposed responses to sector reviews would need to be consulted widely among all policy agencies, which is the usual process for Cabinet papers.
26. We have already begun to engage with stakeholders and the Ministry of Education about the first sector review into Early Childhood Education and intend to circulate the draft terms of reference to the Early Learning Regulatory Review Advisory Group, which is a subgroup of the Early Childhood Advisory Council.

Analytical framework

27. The framework that we use to examine regulations will depend on the scope of each review. While we are still identifying the best frameworks to use in differing circumstances, the following illustrates our thinking so far.
28. A more "first principles" based review of the regulation in a sector would likely lend itself to revisiting the underlying rationales for regulation (such as any market failure) and the appropriate role for government. Such a review could question whether the approach to regulating appears to make sense in that context and whether the regulation is achieving the intended outcomes.
29. There will be an opportunity test the regulatory approach against the principles in the Regulatory Standards Bill. Use of the principles in sector reviews would provide the additional benefit of allowing us to test the principles – for instance in terms of their ability to help differentiate between regulatory design choices.
30. These approaches may not lend themselves so well to situations where we are examining a specific issue raised by the sector, such as overlapping health and safety requirements. In these situations, simply examining the rationale for each piece of regulation and its effectiveness, cost and the cumulative consequences might be more appropriate.
31. Some of the issues will also stem from the way in which agencies exercise regulatory authority, including what is effectively a regulatory authority created through funding contracts. In these circumstances, there is an opportunity to ensure the agency is aware of and seeking to follow good *regulatory* practice and has the necessary capability.

Stages and outputs

32. The following table shows how we think sector reviews will work, and the main outputs from each stage: Please note the stages will overlap and some run in parallel.

	Stage	Outputs
Problem definition (1 month)	Scoping & commissioning <ul style="list-style-type: none"> • Which sector and who is in or out? • How deep and wide? • Who do we need in the team? • Governance arrangements at Ministerial and agency level 	Cabinet paper seeking approval
(4-6 months)	Issues & analysis <ul style="list-style-type: none"> • Reviewing previous assessments and audits • Gathering facts and engaging with regulated parties • Analysing what we find • Assessing against good regulatory principles and practices • Documenting lessons learned during the process 	Report to Minister for Regulation and the main portfolio Ministers
Finding solutions (1-2 months)	Deciding next steps <ul style="list-style-type: none"> • Engage agencies and Ministers • Decide who is going to develop the proposals 	Briefing to relevant Ministers Could publish review at this stage or after Cabinet
(1-12 months)	Developing options and proposals <ul style="list-style-type: none"> • Policy processes • Agency processes to change their activities / approaches • Engaging public and stakeholders 	Cabinet paper seeking decisions to make changes Could publish review at this stage
Implementation (anything from 1--24 months)	Making the changes <ul style="list-style-type: none"> • Drafting legislation • Drafting regulations (Orders-in-Council) • Operational changes • Role changes • Sharing good practice with other regulators 	Could be many including: changes to legislation, regulations, agency practices and policies, rules, training, and communications.
Monitoring (1-2 years later)	Following up <ul style="list-style-type: none"> • Assess whether the changes have made a difference • What has been the experience of stakeholders? 	Report to Minister for Regulation (could be part of annual or ongoing reporting)

33. We are aiming to take 5 months for the problem definition stage, so we can report back to you and the Minister for Education by the end of September. That will allow some time to agree next steps and possible solutions with agencies and Ministers before the end of the year. We suggest reporting back to Cabinet by the end of November.

Risks

34. It is possible that stakeholders will expect immediate changes or additional funding that the review will not be able to deliver. We expect there will be some simple and obvious changes that will benefit the regulated parties, but we are also expecting that improving the regulatory practices of multiple agencies will take some time. We will be aiming to find the right balance of both.

35. We may struggle to handle a large volume of feedback, especially as we are still establishing the new Ministry and recruiting our teams. If that happens, we may need to surge additional resources from other agencies.
36. Some of the solutions may require additional funding or resources, and the Ministry for Regulation will not be well-placed to know what will work or what would be appropriate. We will not know until we have done the review, and this is one reason we have suggested a stage after the problem definition stage to scope and decide next steps.
37. We are already receiving requests from various sectors to start reviews for them. We are still developing our criteria and deciding which sectors to review next and would seek to publish them once you have agreed.

Next Steps

38. We will prepare a Cabinet paper by the end of April seeking approval to start the sector review of Early Childhood Education. We intend to consult the Early Learning Regulatory Review Advisory Group as well as other agencies as we finalise the terms of reference.
39. We will provide you with advice about the potential next sectors to review by the end of May.



Minister and Portfolio:	Hon David Seymour, Minister for Regulation		
Title:	Talking points on Sector Reviews for SOU	Number	2024-027
Date:	24 May 2024	Security Level:	UNCLASSIFIED

Purpose Provide you with talking points on Sector Reviews that you may wish to say or ask of Ministers attending SOU.

Date of meeting 29 May 2024

- Sector reviews are a new tool to improve the quality of our regulations and free up our productivity and innovation.
- These reviews will pinpoint where we can ditch unnecessary red tape or try smarter approaches. We're talking about assessing outcomes, balancing costs and benefits, and keeping government agencies in check.
- They will provide a chance to step back and take a hard look at the way we are regulating parts of the economy.
- Reviews will also consider the regulatory burden placed on business and New Zealanders and identify opportunities to alleviate unnecessary costs or activities.
- I've directed officials to maintain a strong economic focus. By analysing market failures and striking the right balance, we'll drive growth and productivity in New Zealand.
- Sector reviews will require the Ministry for Regulation to work with regulators across government to improve the practices of what they do and how they do it – and in turn, improve the experience and lives of all New Zealanders.
- Early childhood education is a great candidate for the first regulatory sector review and is being welcomed by the Ministry of Education and the Education Review Office who agree that the existing regulatory system is not fit for purpose.
- I would like you to see them as opportunities to make positive changes in your own portfolios and would welcome your suggestions for topics or sectors to review.
- A selection and prioritisation process is underway for future sector reviews and these reviews will tackle big regulatory issues that affect the whole country, cut across different areas, and shake things up at the system level.
- It's also an opportunity to mobilise the regulatory expertise that's being built in the Ministry for Regulation, and to apply some disciplined analysis.

Author Alex McMinn, Principal Advisor Sector Reviews

Manager David Wansbrough, Sector Reviews Lead

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NOTE



Ministry for
Regulation

Minister and Portfolio:	Hon David Seymour, Minister for Regulation		
Title:	Early Childhood Education Regulatory Review June Update	Number	2024-028
Date:	1 July 2024	Security Level:	UNCLASSIFIED

Purpose	Progress update
Date of meeting	2 July 2024
Minister	Minister for Regulation
Proposal	For discussion
Key issues	<p>The attached visual is an update on the Early Childhood Education Regulatory Review (ECE Review).</p> <ul style="list-style-type: none">• The focus during the last month has been to establish the foundations for the review, set up a cross-agency team that includes Ministry of Education and Education Review Office officials, and significant engagement with the ECE market• Stakeholders are extremely passionate about ECE and have very high expectations of the review• Market engagement will continue next month, in particular a survey/questionnaire to widen engagement and structure information• Next month we will also begin to drill into some key issues. <p>Issues we would like to discuss on Tuesday</p> <ul style="list-style-type: none">• Is the format of the report useful?• Some themes we are hearing through our engagements• Market complexity and scope management.
Author	Bryan Wilson, Sector Review Team
Manager	Grainne Moss



Minister and Portfolio:	Hon David Seymour, Minister for Regulation		
Title:	Distribution of ECE review update to relevant Ministers	Number	2024-071
Date:	5 July 2024	Security Level:	IN CONFIDENCE

Background	At our meeting on Tuesday 2 July, we discussed forwarding the A3 contained in the Early Childhood Regulatory Review June update (2024-028) to other ministers.
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We recommend that you forward this to the following ministers:

- Minister for Education
- Minister for Children

You may also wish to forward to other ministers who may have an interest:

Next steps	<ul style="list-style-type: none">• Minister of Health• Minister for Women• Minister for Building and Construction• Minister for Workplace Relations and Safety• Minister of Internal Affairs
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Please find enclosed a pack for distribution to ministers to update on the Early Childhood Education regulatory review. Enclosed is a suggested cover note and A3 for their information.

Author	Bryan Wilson, Sector Review Team
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Manager	Grainne Moss, Chief Executive
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Hon David Seymour

MP for Epsom

Deputy Prime Minister (from 31 May 2025)

Minister for Regulation

Associate Minister of Education (Partnership Schools)

Associate Minister of Finance

Associate Minister of Health (Pharmac)



XXXX

Hon XXXX
Minister for XXX

Dear **Firstname**,

Update on the Early Childhood Regulatory Sector Review – June 2024

I undertook to keep you updated on progress of the Early Childhood Education Regulatory Review. I have attached an A3 visual progress update from the Ministry for Regulation.

Key points from the Ministry

- The focus during the last month has been to establish the foundations for the review, set up a cross-agency team that includes Ministry of Education and Education Review Office officials, and significant engagement with the ECE market
- Stakeholders are extremely passionate about ECE and have very high expectations of the review
- Market engagement will continue next month, in particular a survey/questionnaire to widen engagement and structure information. This survey will be openly available on an internet portal hosted by the Ministry for Regulation.
- Next month the Ministry will also begin to drill into and analyse emerging issues.

The Ministry informs me that there are some themes of dissatisfaction coming through engagements to date. These include:

- Qualified teacher ratios and group size requirements
- That parents do not have good information on which to make choices, because there is a clear information asymmetry, it is difficult to know how a centre performs without using the centre, and current mechanisms to address this do not work
- Relationship and engagement with the Ministry of Education and the Education Review Office, including monitoring, structure, lack of sector understanding of how this is meant to work and actually works
- Overlapping or conflicting guidelines where regulatory bodies intersect.

The Ministry was clear with me that while it is hearing these, the next step is to gather and robustly analyse the data over the next stage of the review prior to forming any views on the issues raised.

I would value an early discussion on the issues the Ministry is identifying once this analysis is complete.

Yours sincerely,

Hon David Seymour
Minister for Regulation

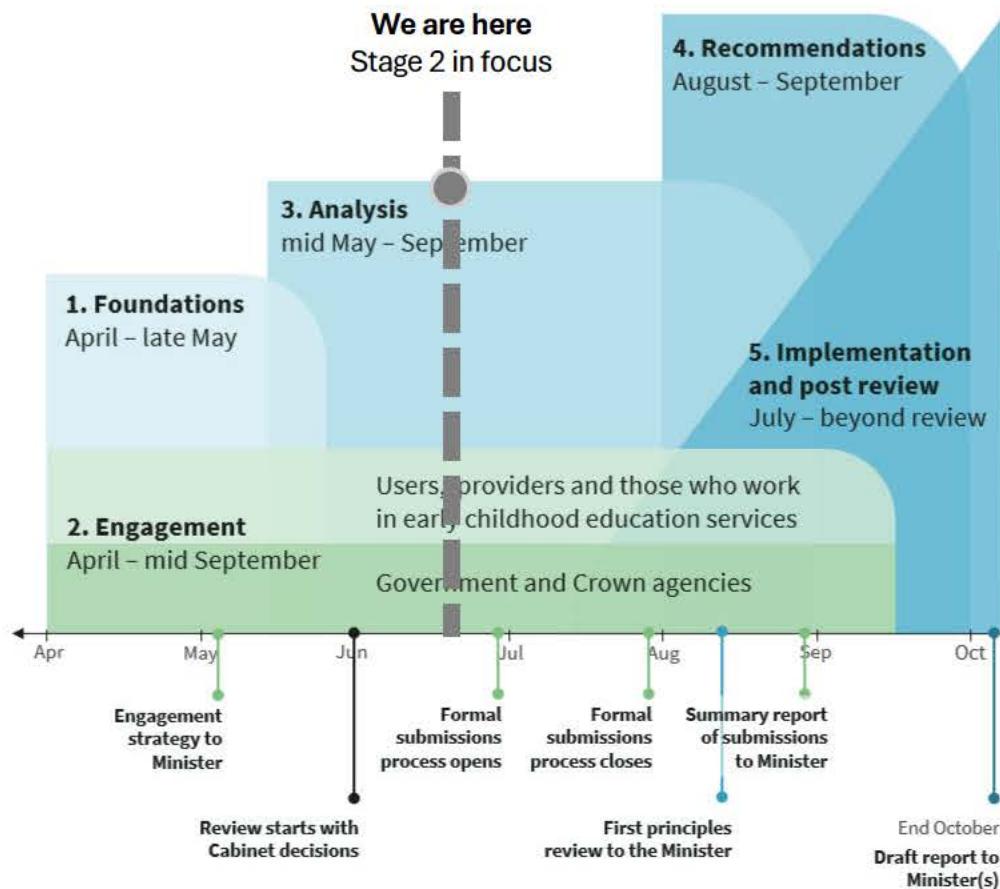
Ministry for Regulation

Early Childhood Education Regulatory Review

June 2024 Update

Green

At a glance



Review Progress Overview		
Stage	Activity	Progress
1	Review foundations	On track
2	Engagement	On track
3	Analysis	Risk
4	Recommendations	Not started
5	Implementation and post review	Not started

Risk	Action
Service users (parents) is a difficult group to contact	Explore focus group approach Close and early monitoring of survey Approaching a range of organisations including ministries, advocacy groups, employers
Scope and scale of issues	Rigorous scope management and issue prioritisation Increasing resources

Gearing up to engage with market participants

June in Review: Building the foundations to deliver a data-driven review

- Evidence from advisory and peak bodies on the functioning of the regulatory system.** In depth and direct engagement: Evolve Education Group; Te Rito Maioha ECNZ; Kids First Kindergartens; ECE Reform; Home based ECE providers; Montessori; and Parents Council.
- Public awareness.** Terms of Reference and other information available on the Ministry's new [website](#).
- Perspectives from 27 participants in the market for early childhood education services.** Pinpointing issues that require further examination.
- Shared Terms of Reference with 18 government agencies.** Feedback ensured we will maximise review value-add alongside other activities underway across government.
- Established a cross-agency review team** that includes employees from the Ministry of Education and the Education Review Office.

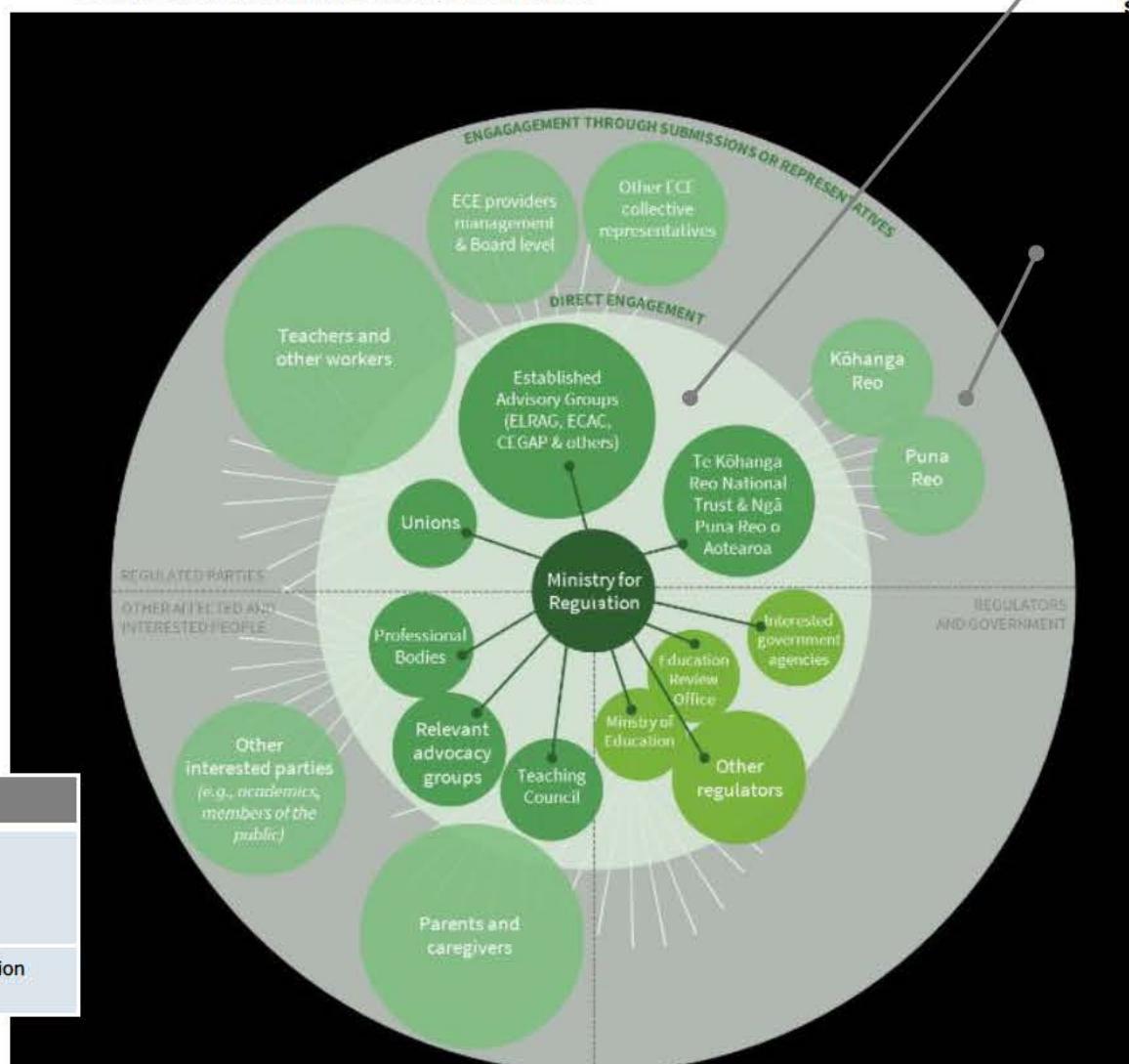
July Outlook

- Continue to gather firsthand information on market performance.
- Continue to identify key issues.

Activities

- Continue hearing evidence from advisory and peak bodies. Including Advocates for Early Learning Excellence, Barnados, ELRRAG
- Inviting the public to share their experiences through a submission questionnaire with tailored sections for users, teachers, and providers. We are using Citizens Space as an online feedback tool.

in field visits to early childhood education services to firsthand how regulations affect the daily experience of children, families, teachers, and providers. Visits being scheduled end of July through to beginning of August.



Memorandum



To: Minister for Regulation, Hon David Seymour
Cc: Colm Williams, Private Secretary to Minister for Regulation
From: Alex McMinn, Principal Advisor, Ministry for Regulation
Number: 2024-072
Date: 5 July 2024
Re: Information release for review: Cabinet paper SOU-24-SUB-0050 – Terms of Reference for the ECE regulatory review
Action: **Note** the attached documents for release on the Ministry for Regulation website
Deadline: 12 July 2024

Contact for telephone discussion

Alex McMinn, Principal Advisor, Ministry for Regulation: **s 9(2)(a)**

Minister's actions

Note the attached information which is due to be released on the Ministry for Regulation website on 17 July 2024.

Information release: Cabinet paper SOU-24-SUB-0050 – Terms of Reference for the ECE regulatory review

Overview

Cabinet Office circular CO (23) 4 sets out the requirements and procedures for the proactive release of Cabinet material. All Cabinet papers and minutes must be proactively released and published online within 30 business days of final decisions being taken by Cabinet, unless there is good reason not to publish all or part of the material or to delay the release.¹

This information release covers the Cabinet paper and key advice papers related to the Terms of Reference for the early childhood education regulatory review.

The Cabinet paper was considered by the Social Outcomes Committee on 29 May 2024 (SOU-24-SUB-0050) and confirmed by Cabinet on 4 June 2024 (SOU-24-MIN-0050).

Documents in this release

These documents are included in the information release:

#	Reference	Title	Date	Information withheld
1	2024-002	Sector Review for early childhood education	5 April 2024	No information withheld
2	2024-017	ECE sector review engagement approach	7 May 2024	s 9(2)(a) – personal phone numbers, signatures – coversheet, recommendation section
3	2024-018	Updated ECE regulatory sector review Cabinet paper for ministerial and coalition consultation	8 May 2024	s 9(2)(a) – personal phone numbers, signatures – coversheet, recommendation section
4	SOU-24-SUB-0050	Terms of reference for the early childhood education sector regulatory review	29 May 2024	No information withheld
5	SOU-24-SUB-0050-A	Terms of Reference for the regulatory sector review of early childhood education (DRAFT 10 May 2024)	10 May 2024	No information withheld
6	SOU-24-MIN-0050	Cabinet Committee minute	29 May 2024	No information withheld

Key advice papers

Cabinet Office Circular CO (23) 4 states that “Ministers may also choose to proactively release related key advice papers provided to the Minister by departments or agencies.”. Officials have provisionally included key

¹ <https://www.dpmc.govt.nz/sites/default/files/2023-06/co-23-04-proactive-release-cabinet-material-updated-requirements.pdf>

advice papers as part of this release because we consider the release of the Cabinet documents will result in an Official Information Act request for these papers in any event.

Risks and issues

This information release may cause public comment because:

As the ECE sector is large and diverse, to manage the potential scale of feedback for the draft terms of reference, the Ministry decided to engage only with key representative groups for ECE and the NZEI union. It was expected that the feedback from these groups was sufficiently representative to inform the key approach and scope of the terms of reference, in the time available. However, there may be criticism that seeking feedback was not broad or diverse enough. Feedback on the review is available through the Ministry's online submissions process, for all involved in the ECE sector, including groups and individuals not sufficiently represented by key representative groups, such as teachers and other workers in ECE, or parents and caregivers.

Risk mitigation:

None required, the Ministry will direct organisations and individuals to the Ministry's website to submit information online.

Consultation

None required.

Approval

The draft information release was reviewed and approved by Bryan Wilson, Acting Sector Reviews Lead.

Deadline for publishing

The last day for publishing this information, if it is released within 30 working days of Cabinet's decision, is **17 July 2024**.

Attachments

Attached is the draft information release with redactions applied – the only information withheld is personal information (person phone numbers and signatures).

Attached are:

1. The draft information release with proposed redactions marked, but not applied.
2. The draft information release with redactions applied.

Alex McMinn

Principal Advisor

s 9(2)(a)

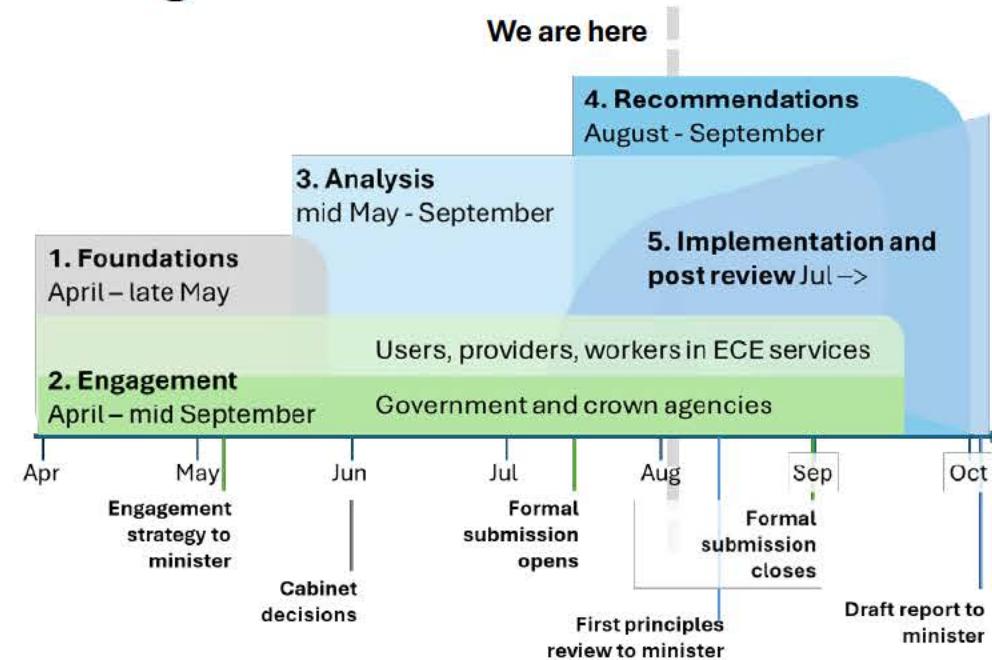
Ministry for Regulation

Early Childhood Education Regulatory Review

July 2024 Update

Green

At a glance



Review Progress Overview		
Stage	Activity	Progress
1	Review foundations	On track
2	Engagement	On track
3	Analysis	Risk
4	Recommendations	On track
5	Implementation and post review	Not started

KEY

- On track
- Risk
- Off track
- Not started
- Completed

Lots of engagement; beginning to identify issues

July in Review:

- Collecting and beginning to analyse public submissions. As at 11.30am 31 July we had received 1,063 submissions

Parents and caregivers	480
People who work in ECE	500
Service providers	51
Other interested people (e.g. peak bodies, academics, ex-teachers)	32
Total	1,063

- Workshop with Ministry of Education on intervention logic to align ECE regulatory review with funding review
- Extended questionnaire submission date to end of August
- Informal analysis of information gathered so far identifies some common concerns – (note these have not yet been properly validated):
 - Labour supply is major constraining factor
 - Workforce feels undervalued and is not qualified enough
 - Regulator roles, nature of guidance unclear
 - Difficult for parents to obtain service provider performance information
 - Complaints process for parents is unclear and difficult
 - There are long waiting lists
 - Health and safety checking processes unnecessarily difficult and inflexible

August Outlook

- Continue to gather firsthand information on market performance.
- Continue to identify key issues.
- Begin to develop proposals.

Activities

- Pacific Fono on 31 July
- Commence formal analysis of questionnaire
- Visits to early childhood education services to see firsthand how regulations impact the daily experience of children, families, teachers, and providers
- Draft first principles market intervention analysis

Components of a regulatory system: how we approach a review

Our analysis so far suggests the biggest gains to be made in the ECE review are in the design and practice components.

We are particularly exploring

- intervention logic, whether system design achieves current government objectives, whether the right levers for action are in place, what alternatives might provide better outcomes
- Are the monitoring, dispute, enforcement mechanisms properly matched to design and properly implemented
- The implementation of standards and guidelines.



Main players in regulatory landscape

- Ministry of Education
- Education Review Office
- Ministry for Social Development
- Local government
- MPI (Food Safety)
- Ministry of Health (public health)
- Health NZ
- Worksafe
- FENZ
- MBIE
- Teaching Council (TBC)

Aide-mémoire



Ministry for Regulation
Te Manatū Waeture

Minister and Portfolio:	Hon David Seymour, Minister for Regulation		
Title:	Early Childhood Education Sector Review Update	Number	MFR2024-113
Date:	9 September 2024	Security Level:	UNCLASSIFIED

Purpose	Monthly Report – Early Childhood Education Sector Regulatory Review August update
Date of meeting	9 September 2025
Minister	Hon David Seymour
Review phase	The Early Childhood Education Regulatory Review Sector Engagement submissions phase has now closed. The review team's focus has shifted from sector engagement to analysis and report writing.
Key issues	<p>Public submissions for the review closed on 31 August.</p> <p>Over 2000 submissions were received through Engagement Hub, almost a quarter the submissions received were in free text format meaning an increase in both the volume of information to be analysed and resourcing hours to complete this work. The high volume of written submissions received, and the extension in the engagement timeframe awarded, impacts on the two-months scheduled in the current review timeline for analysis, testing and report writing.</p> <p>The review team is currently undergoing changes in resourcing as fixed term contracts end and recruitment for permanent staff is underway. Disruptions to the team's resourcing are being actively managed as a risk to the overall review timeline.</p>
Our advice	<p>The review team understands that there is an expectation for the Ministry to deliver the Early Childhood Education Regulatory Review Report to Cabinet by the end of the year.</p> <p>Although we have high confidence in producing a report, we have concerns that the extension to the consultation timeframe and the volume of submissions, particularly detailed free-form responses, may impact on the quality of the Report able to be produced in the existing timeline.</p> <p>To manage these constraints, we are considering whether a change to the date for presenting the report to you for consideration and tabling a Cabinet Paper will mitigate these risks. We will provide further advice to you on this matter.</p> <p>If adopted, we do not think this approach would have any adverse effect on the sector or impact on the reputation for the delivery of the Review.</p>
Author	Glenda McLaughlin, Project Manager, ECE Sector Review
Manager	Justine Fitzmaurice, Sector Reviews, Ph: s 9(2)(a)

UNCLASSIFIED

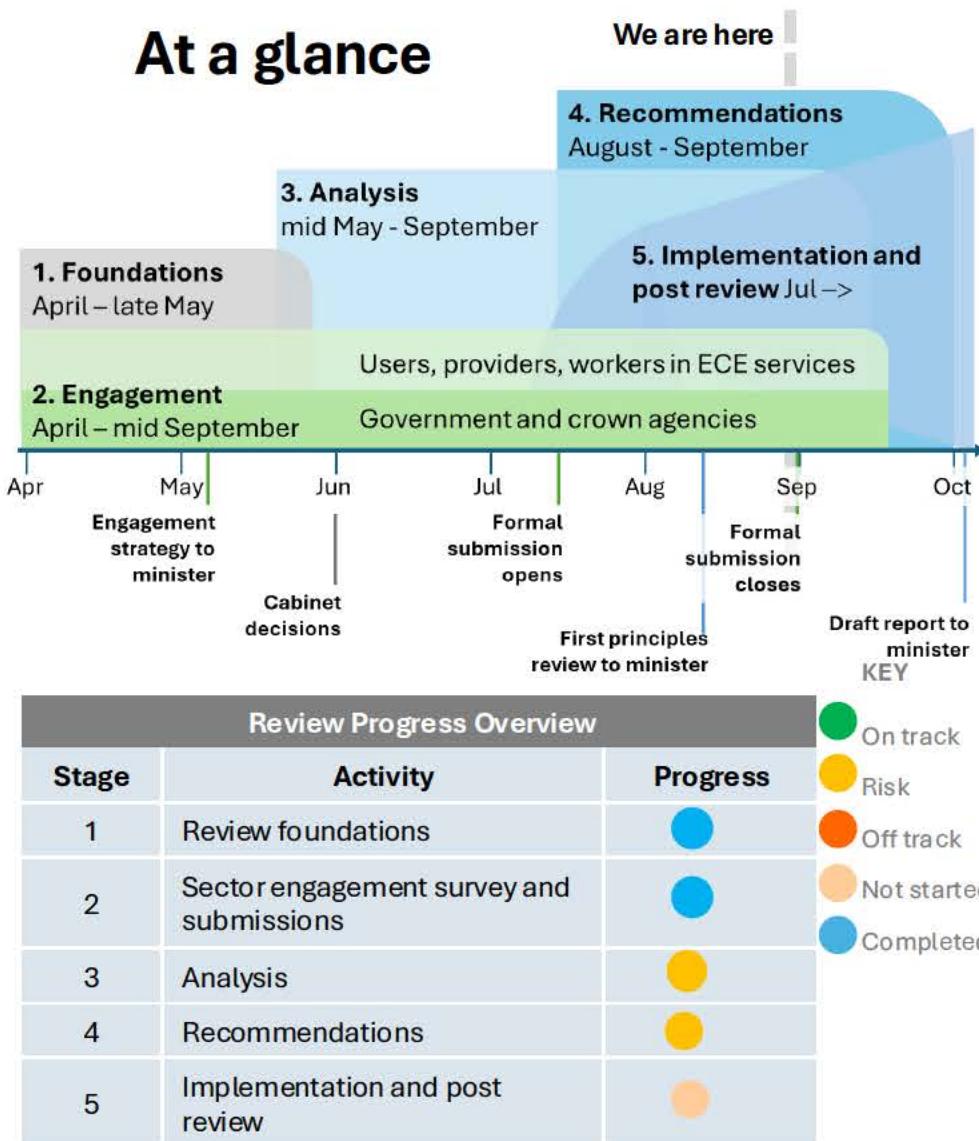
Ministry for Regulation

Early Childhood Education Regulatory Review

August 2024 Update

Amber

At a glance



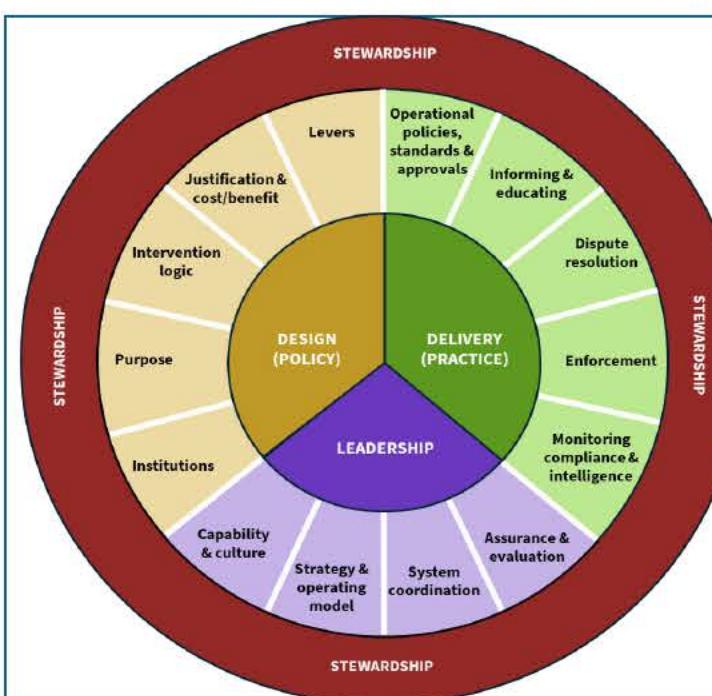
Phase: Analysis and Report Writing

August in Review:

- Public Submissions closed on 31 August. We have received over 2300 pieces of feedback.

Parents and caregivers	774
People who work in ECE	859
Service providers	107
Other interested people (e.g. peak bodies, academics, ex-teachers)	61
Written submission forms (full free text)	522
Total	2323

- We have received in the past four weeks 489 written submission forms in free text of varying lengths (up to 100 pages per submission).
- The extended questionnaire and written submission date to the end of August, coupled with almost a quarter of the submissions returned in free text during August, has produced a higher than anticipated volume of data processing and analysis work for September.
- The project risk is now tracking as amber due to the high workload impacting on the two-months allocated for analysis and report writing.



Components of a regulatory system: how we approach a review

Our analysis so far suggests the biggest gains to be made in the ECE review are in the design and practice components.

We are particularly exploring

- Market failures and whether regulation is the right way to address them
- Costs, benefits and their distribution
- Are the monitoring, dispute, enforcement mechanisms properly matched to design and properly implemented?
- The implementation of standards and guidelines

Main regulators for Early Childhood Education Sector

- Ministry of Education
- Education Review Office
- Ministry for Social Development
- Local government
- MPI (Food Safety)
- Ministry of Health (public health)
- Health NZ
- Worksafe
- FENZ
- MBIE
- Teaching Council



To	Hon David Seymour, Minister for Regulation		
Title	Updated timeline for Early Childhood Education Sector Review	Number	MFR2024-119
Date	13 September 2024	Priority:	Medium
Action Sought	Agree to revised timeline	Due Date	20 September 2024
Contact Person	Justine Fitzmaurice, Sector Reviews	Phone	s 9(2)(a)
Attachments	No	Security Level	IN CONFIDENCE

Executive Summary

1. The Ministry for Regulation Early Childhood Sector Regulatory Review (“the Review”) received a significant amount of feedback and written submissions through the Engagement Hub and direct engagement with stakeholders.
2. The consultation timeframe was extended by two weeks to 31 August, as agreed with you in July. Over 2300 submissions were received, of which over 500 received were in free text format which significantly increases the volume of information to be analysed and the resource required to complete this work.
3. Due to the volume and detail of submissions, the current allocated timeframes are insufficient to complete analysis to the standard required.
4. The Ministry is requesting an extension to the original timeline. We are seeking your approval to present a report to you in December 2024.



Recommended Action

We recommend that you:

- a **note** all the changes to the timeline. *Note*
- b **agree** to an extension of the Draft Report to December 2024. *Agree / Disagree*
- c **agree** to an extension of Report back to Cabinet in March 2025. *Agree / Disagree*

Proactive Release Recommendations

- d **agree** that the Ministry for Regulation release this briefing in full once it has been considered by you. *Agree / Disagree*

s 9(2)(a)

Justine Fitzmaurice
Sector Reviews
Ministry for Regulation
Date:

Hon David Seymour
Minister for Regulation
Date:

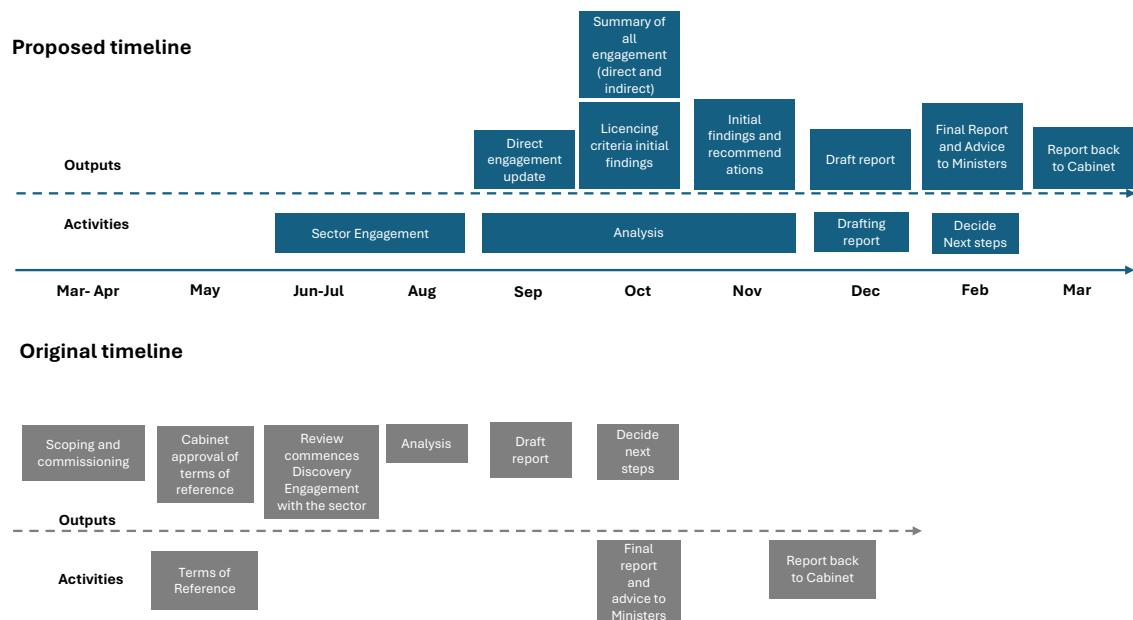


Purpose of Report

5. This report is to follow on from the aide memoire discussed with you on 9 September – Early Childhood Education Sector Review Update.
6. The purpose of this report is to seek your approval to extend the ECE review timeframe to deliver a draft report to you in December 2024.

Proposed Timeline Change

7. Public submissions for the Review closed on 31 August.
8. Over 2300 submissions were received, of which over 500 received were in free text format which significantly increases the volume of information to be analysed and the resource required to complete this work.
9. The volume of submissions, particularly detailed free-form responses, may impact on the quality of the Report produced in the original timeline. Therefore, we propose a change to the Review's timeline.
10. The diagram below outlines our proposed timeline compared to the original timeline as stated in the Review's Terms of Reference.



11. The proposed timeline indicates that we will provide you with a draft report in December and includes additional outputs to inform you of progress between now and December. The additional outputs are:
 - a. Direct engagement update (September).
 - b. Summary of all engagement, direct and indirect (October).
 - c. Licencing criteria initial findings (October).



d. Initial findings and recommendations (November).

Risks

12. An extension to the review timeline could result in a negative public perception of the ECE review. This will be mitigated through a communications plan, which will be presented to you for approval.
13. If the timeline is not extended, there is a risk that the quality of the Review will be impacted.

Next Steps

14. We will work with your office to prepare updates for Ministers and the public on the revised timeline.



To	Hon David Seymour, Minister for Regulation		
Title	Early Childhood Education Regulatory Review analysis of themes from submissions	Number	MFR2024-129
Date	11 October 2024	Priority:	Low
Action Sought	Note and forward	Due Date	14 October 2024
Contact Person	Justine Fitzmaurice, ECE Review Lead	Phone	
Attachments	Yes	Security Level	UNCLASSIFIED
Consultation	The Ministry of Education and the Education Review Office were consulted as part of drafting this briefing		

Recommended Action

We recommend that you:

- a **note** that the early childhood education regulatory review team has analysed the 2,285 written submissions received as part of its consultation *Noted*
- b **note** that attached to this report at **Appendix A** is a report outlining the themes from the 2,285 written submissions received as part of the early childhood education regulatory review's consultation process *Noted*
- c **note** that the themes provided to you from direct engagement in a previous report (report MFR2024-121 refers) were mirrored and built on with significant detail through the written submissions process *Noted*
- d **note** the contents of the report about what submitters said attached at **Appendix A** *Noted*
- e **note** that the Ministry for Regulation is verifying and analysing the themes from submissions alongside other sources of evidence *Noted*
- f **note** that the Ministry of Education and Education Review Office will brief you separately in response to the report about what submitters said attached at **Appendix A** *Noted*



g **forward** this briefing and the attached report to the Minister for Education for discussion and her consideration Yes / No

Proactive Release Recommendations

h **agree** that the Ministry for Regulation release this briefing in full once it has been considered by you. Agree / Disagree

s 9(2)(a)



Justine Fitzmaurice
ECE Regulatory Review Lead
Ministry for Regulation
Date: 11 October 2024

Hon David Seymour
Minister for Regulation
Date:



Purpose of Report

1. This briefing attaches a report about what submitters told the Early Childhood Education Regulatory Review (the Review) during its consultation period (from early June to mid-September 2024). While the report attached at **Appendix A** also includes some reference to the themes from direct / in-person engagement, it is predominantly about the 2,285 formal written submissions received by the Review.
2. Additionally, this briefing provides you with a summary of what submitters said linked directly back to the Terms of Reference.

Background

3. Engagement for the purpose of gathering evidence for the Review is complete, with the written submissions process being open from 5 June 2024 to 31 August 2024 and final direct engagements taking place in the first two weeks of October.
4. The Review's engagement sought to reach four groups of people; regulated parties, parents & caregivers, people who work in early childhood education (ECE) and other interested people and organisations. Questionnaires were designed to gather different and relevant information from each group, and people were also given the opportunity to email the review directly or upload a freeform written submission.
5. During the written submissions process, close to 2,000 individuals and organisations completed one of four online questionnaires, and close to 500 individuals and organisations provided free form written submissions.
6. The purpose of the engagement process was to (1) identify lines of inquiry for the Review; (2) gather evidence about the specifics, scale and scope of existing lines of inquiry / identified problems, and (3) understand what stakeholders thought appropriate solutions would be to those problems.
7. To fulfil this purpose, questions for engagement were designed to gather information relevant to the Review's Terms of Reference – taking a broad approach to understand the current state of the ECE market in New Zealand, the problems people saw with its operation, the problems people saw with how government was intervening in the market, and the solutions people wanted to see.



The Review's Terms of Reference and how the engagement gathered information relevant to them

8. The Review's Terms of Reference has four lead questions (What are the problems? Is regulation the best way to address these problems? What are the costs and benefits of the regulations? Are the regulations working?), with three of them having sub-questions. The engagement sought evidence to support its analysis of those questions, both through the design of the questionnaires and through inviting people to submit in response to the Terms of Reference.
9. The Review's Terms of Reference also put some areas specifically out of scope of the Review, notably the content of the ECE curriculum and levels of government funding for ECE. As expected, some people and organisations included information out of scope of the Review's Terms of Reference in their submission. There were three main areas submitters provided their views on outside the Review's Terms of Reference:
 - a. government funding levels and the funding model government currently uses to provide funding and subsidies to ECE service providers (contained in chapter 6 of the attached report)
 - b. the government's pay parity scheme for teachers who work in ECE (contained in chapter 6 of the attached report)
 - c. parents who commented that their child started going to ECE earlier than they would like or spends longer in ECE than they would like due to financial necessity.¹ Parents provided their views on the cross-over between ECE policy settings and parental leave policy settings in this context.
10. For completeness, these three areas are included in the report attached at **Appendix A**. For the submissions relating to the government funding model and funding levels, the Review will work with the Ministry of Education to provide them with the relevant information to input into the funding review.

¹ The parent's questionnaire asked a question about this – the converse of asking parents if their child did not spend as much time in ECE as they would like. The responses received were out of scope of the Review's Terms of Reference.



Summary of themes organised by Terms of Reference question

11. The report attached at **Appendix A** has been drafted around themes and categorised by subject matter of those themes. The structure of the report is outlined at the beginning of the report. This was an accessible and complete way of communicating the information received, particularly to provide a report-back to submitters.
12. The A3 below provides you with a high-level summary of how the themes from submissions fit into the Review's Terms of Reference questions.

What submitters told the Review in relation to its Terms of Reference



This A3 summarises what submitters told the Early Childhood Education (ECE) Regulatory Review (the Review) against the Review's Terms of Reference. This A3 does not cover all relevant themes, which are comprehensively covered in the Report attached to this paper. References to the relevant chapters in the full report about what submitters told the Review are included for ease of navigation.

PROBLEMS TO BE ADDRESSED BY REGULATION

What do submitters think are the market failures or problems current regulation seeks to address, and the intended outcomes of existing regulation?

ToR Question 1a and 4a, covered in chapters 1 and 8 of the Report

Generally, submitters think current regulation is seeking to ensure and incentivise delivery of high-quality ECE to children, which includes protecting the health, safety and wellbeing of children.

Submitters saw the purpose of current regulation as both setting standards and requirements that achieve good outcomes for children, as well as protecting their safety while away from their families. [They also saw regulation as a way for government to set standards for being able to receive government subsidies and funding.]

What do submitters think are the market failures or problems current regulation is failing to address?

ToR Question 1b, covered in chapters 2, 3, 4, 5 and 6 of the Report

Submitters identified the following market failures and problems that current regulation is failing to address adequately, if at all:

- Low-quality ECE, failing to achieve potential benefits for children, parents and society: some service providers are providing low quality ECE that could have long-term negative impacts for children, their families and society / the potential benefits of quality ECE are not being realised for New Zealand's children.
- Under-supply and distribution failure: there is a lack of ECE options, and options parents want, in the right places.
- Unaffordable prices: cost is high for parents and children from lower-socio-economic families are either excluded from ECE or attend lower quality ECE services.
- Information asymmetry: parents may not have access to the information they need to make informed choices and may find it difficult to assess the quality of ECE. This applies both when initially choosing an ECE and once their child attends.
- Workforce supply: there is an under-supply of well / correctly-qualified people to work in ECE.
- Disabled, neurodivergent and medically fragile children: the system is not meeting their needs and, in some cases, effectively excluding them.

Do submitters think that regulation is the best way to address these problems?

ToR Question 2, covered in chapters 7 and 8 of the Report

Generally, submitters thought that regulation should be used to address most of the problems they identified. However, submitters were clear that balance between prescription and discretion needs to be right, and this had not been achieved in some areas of current regulations and their implementation.

HOW CURRENT REGULATIONS ARE WORKING

What did submitters say about whether the regulations are achieving their purpose?

ToR question 4b, covered in chapters 7 and 8 of the Report

Submitters, in general, thought that the market failures and other problems they identified (in the column to the left) were within the purpose of the current regulatory framework, and therefore that the current regulations were not achieving their purpose.

Submitters thought that, on the whole, current regulations were keeping children physically safe and service providers and staff accountable.

Who do submitters think is receiving the benefits of current regulation?

ToR question 3a, covered in chapters 1 and 8 of the Report

As per the column to the left, submitters saw a wide set of beneficiaries of the regulatory framework. With the primary beneficiaries as children, they also saw parents who needed ECE services as beneficiaries as well as broader society. Submitters thought that potential individual, family and societal benefits were not currently being realised as a result of the existing regulatory and funding frameworks for ECE.

Many submitters said that ECE should be funded and regulated by government as a "public good".

Who do submitters think is bearing the costs of current regulation?

ToR question 3b, covered in chapters 2 to 7 of the Report

Submitters said:

- financial costs are being firstly being incurred by service providers, which is then passed on to the government and to parents.
- implementation costs (e.g., the time taken to comply with the regulations) are being borne by service providers and people who work in ECE.
- costs of the perceived gaps in regulations (which lead to low quality ECE and impact children's development) are being borne by children and society more broadly.

Do submitters think the benefits are reasonable, affordable, and proportionate to the costs?

ToR question 3c, chapters 2 to 8 of the Report

Submitters had varied views, depending on whether they were receiving the benefits (i.e., parents), advocating on behalf of those who would (i.e., children and society) or bearing the costs (i.e., service providers).

NEXT STEPS

The Review is continuing its analysis work and testing its initial findings against these themes from consultation. At the same time as this briefing, you have been provided with a report outlining the Review's lines of inquiry, which also indicates if any new lines of inquiry are being pursued because of analysis of what submitters told the Review.

What do submitters think are the unintended consequences of current regulations?

ToR question 4c, covered in chapters 2 to 7 of the Report

Submitters identified the following unintended consequences of current regulations:

- shifting the focus of ECEs away from children and towards compliance activities that did not benefit children.
- an ECE workforce that was burnt out, or burning out.
- a regulatory environment that favoured larger, for-profit providers.
- a regulatory environment that has led to the significant closure of home-based services.

It should be noted that submitters mainly noted these as unintended consequences of the *implementation* of the regulations, not the *content* regulations.

How do submitters think regulatory agencies carrying out their roles?

ToR question 4f, covered in chapter 7 of the Report

Submitters thought implementation of the regulatory framework by the relevant agencies with poor, particularly by the Ministry of Education and Education Review Office. They thought the agencies had too great a focus on small issues, not enough focus on supporting services and that there was significant inconsistent interpretation of requirements. A few thought ERO should re-focus on evaluation of educational quality.

How well do the regulated parties who submitted understand what they need to do?

ToR Question 4e, covered in chapters 3 and 7 of the Report

Some gaps in knowledge, or difficulty understanding requirements, were highlighted by service providers. This was particularly at market entry / when trying to obtain a probationary licence. However, requirements being interpreted differently was presented by submitters as a more significant issue.

PROPOSED SOLUTIONS

Submitters proposed a wide range of solutions to the problems they outlined, predominantly regulatory solutions, with some recommendations for completely new approaches to how government intervenes in ECE. A high-level summary of the types of solutions put forward by submitters is:

- Streamlining the implementation of current regulations, particularly clarifying paperwork and documentation requirements.
- Regulating for (and government funding) higher minimum standards, particularly for higher ratios, smaller service size, regulating group size, more space inside and outside ECEs.
- Removing some regulatory requirements, including reducing the volume of requirements. The volume of recommended removal varied considerably between submitters.



Next Steps

13. The Review is continuing its analysis, using what was heard through the submissions process to shape its findings and recommendations alongside other sources of evidence and information. The Ministry of Education and Education Review Office will be briefing you to provide you with their responses to what submitters said, including the veracity of some information provided by submitters.
14. The report attached at **Appendix A** will be proactively released by the Ministry for Regulation alongside this briefing. We recommend that you forward this briefing and the attached report to Hon Erica Stanford, the Minister for Education to enable further discussions about the progress of the Review.



**What submitters told the
Early Childhood Education Regulatory
Review**

11 October 2024



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APPENDIX 1: LIST OF ORGANISATIONAL NON-REGULATED PARTIES WHO SUBMITTED
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Acknowledgement and Privacy

1. The Ministry for Regulation (the Ministry) acknowledges the time, effort and emotional labour people invested in responding to this review. The dedication and hope people have for New Zealand’s youngest children, and for the role early childhood education (ECE) plays in their lives, has been evident in the written submissions, meetings with service providers and representative organisations, visits to early childhood education settings, and forums with teachers.
2. The Ministry has removed the names and other identifying details of individual submitters and regulated parties who have submitted. Illustrative quotes and positions from the submissions of peak bodies, representative organisations and non-government organisations (NGOs) have been attributed. The illustrative quotes used in this document may have been lightly edited for clarity.
3. If you have concerns with how submissions have been reflected, please contact us at reviews@regulation.govt.nz. Additionally, if you submitted and would like a copy of the personal information we hold about you, or to correct any information that is incorrect, please make a Privacy Act¹ request in writing to: privacy.officer@regulation.govt.nz.

Purpose and scope of this report

4. The purpose of this report is to inform the Ministry’s Early Childhood Education Regulatory Review (the Review), and report back to submitters what was heard. It is a synthesis of submitters’ views and opinions, and therefore will not fully reflect the views from any one submission. It may be contradictory in places, as submitters had differing views on various issues.
5. This report is not the Ministry’s view on the ECE regulatory system. The information received through the submissions process is being analysed alongside other sources of evidence and considered against regulatory best practice to inform the Ministry’s findings and recommendations.
6. Many of the submissions received by the Review were very detailed, including submissions that either took a line-by-line approach to ECE licencing criteria or made specific comments on the wording of different pieces of secondary legislation.

¹ The Ministry of Regulation’s guide to making Privacy Act requests can be found [here](#).

While this report does not reflect all those detailed recommendations, they will be considered by the Ministry as part of its ongoing analysis.

7. Submissions were received on topics that are outside the scope of the Review. This is to be expected with engagement of this type, and where appropriate, the Review will work to provide relevant information to other government agencies. To provide a faithful account of what the Review was told, frequently occurring themes that may be out of scope are included in this report.

Structure

8. This report is structured into four sections, with eight chapters. The structure is outlined below.
9. **Section one** is the **demand story**, and contains one chapter about what parents, caregivers, families and children want and need from ECE.
10. **Section two** groups **problems and issues** submitters see with the ECE system into five categories, and the solutions they put forward to those issues (most of which were regulatory). This section contains five chapters:
 - a) **The places children go.** What are the problems with the places children go for ECE?
 - b) **Barriers to market entry, expansion and innovation.** Can service providers respond to demand and innovate in ECE?
 - c) **Picture perfect.** What problems do parents and service providers face when accessing information?
 - d) **People who teach and care for children.** What problems do people who work with children face?
 - e) **Prices and funding.** What problems are there with the affordability and government funding of ECE?
11. **Section three** is about the **performance of the government's regulatory interventions** and contains one chapter which provides a summary of whether submitters think current regulatory interventions by the government are solving the problems they see in the system, and if there are any unintended consequences.
12. **Section four** contains one chapter about submitters' reflections, and requests for **what the Ministry should keep in mind** as this Review progresses.

Terms used in this analysis

13. Where possible, this report quantifies themes and statements made by submitters. This quantification shows the proportion of submitters that made a particular point or responded to a ‘select your answer’ question in the questionnaires. It does not indicate that other submitters disagreed with the point – they simply did not mention it.
14. The following terms used throughout the report have the following meaning:
 - ‘most’ means 50% or more ($50\% \leq x$)
 - ‘many’ means between 30% and 50% ($30\% \leq x < 50\%$)
 - ‘some’ means between 12% and 30% ($12\% \leq x < 30\%$)
 - ‘a few’ means less than 12% ($x < 12\%$)

Executive summary

The Review

15. In early June 2024 the Ministry for Regulation (the Ministry) commenced a review into the regulatory system for early childhood education (the Review). The Review seeks to understand market failures and other problems facing the early childhood education (ECE) market and whether current government intervention through regulation is working to address those failures.
16. Through the course of its consultation period, which ran from early June to mid-September, the Review received over 2,300 formal written submissions, met with over 30 service providers and non-government organisations and visited 15 ECE services of different types, sizes and locations.
17. Through this work, the Review team has learned more about the varied nature of ECE provision in New Zealand, the complex system of regulatory frameworks that govern it, and the passion and dedication of a sector working with most of New Zealand’s pre-school age children.

The Review’s engagement

18. The purpose of the Review’s engagement was to gather evidence about the current operation of the ECE market – to get a clearer picture about how well it is functioning

and where current government interventions are working or falling short. Specifically, the Review asked questions to elicit information about:

- What problems people saw in the ECE system, market failures and otherwise (question 1 in the Terms of Reference).
- What solutions people saw to those problems, including regulatory solutions (question 2 in the Terms of Reference).
- What the costs and benefits were of the current regulatory system and who those costs and benefits were falling on (question 3 in the Terms of Reference).
- Whether the current regulatory system was working, including the practice of agencies with regulatory functions (question 4 of the Terms of Reference).

19. To do this, the Review needed to engage widely. This included with:

- parents whose needs are met through the provision of ECE and who entrust the education and care of their children into the system;
- service providers who are regulated (and funded) by government;
- people who work in ECE who also experience the day-to-day realities of government regulation; and
- peak bodies and other non-government organisations who represent service providers, or advocate on the behalf of children, teachers and other ECE workers.

20. The Review has now consolidated and analysed all the information received and is taking it forward through various lines of inquiry. Those lines of inquiry will consider multiple sources of data and evidence, and analyse information received through submissions against best practice principles and through engagement with other government agencies.

21. This paper reports on the themes found in submissions, which were received by just under 2,000 individuals, organisations and collectives completing online questionnaires, and a further 500+ free form written submissions. Some of the submissions ran to many pages and contained considerable detail. This paper does not attempt to describe every point made by submitters. Detailed recommendations from submitters are being considered by the Review team.

Overarching themes from submissions

22. Submissions, supported by direct engagements which mirrored the same themes, reflected considerable consensus among groups, as well as areas of disagreement. While submitters agreed that changes in the ECE regulatory system were needed, submitters had different views about what that change should be.

A changed regulatory system

23. A few submissions imagined new models for ECE in New Zealand as the solution, although what those models looked like varied considerably. Some envisaged a less regulated market, reducing what they saw as unnecessary costs for service providers and increasing the flexibility to respond to parent's and children's needs more effectively. Others said that the ECE settings should be subject to higher minimum standards, that some currently unregulated areas should be regulated and that there should be more regular monitoring of services to ensure the delivery of quality ECE to children.
24. Some submitters said that ECE should be a service fully provided and funded by the government – or there should at least be a fully government provided and funded option that was free to parents.
25. Other submitters saw the implementation of the current regulatory framework as the main issue. They thought that the current primary and secondary legislation were mostly fit for purpose, but it was the additional layers of guidance and how it was interpreted and enforced by the Ministry of Education and Education Review Office that was the main problem.

The focus of the Review

26. Whatever the solution, submitters, both organisations and individuals, said that children's rights and best interests should be paramount. They called for ECE providers to give effect to their obligations under Te Tiriti o Waitangi including upholding commitments to the rights of mokopuna Māori as tangata whenua. These submitters said that all proposed regulatory changes should be assessed against these benchmarks.
27. Submitters also expressed concern about the potential unintended consequences of removing regulation in ECE, including concerns that it could lead to compromising children's health, safety, learning and development.

Specific themes from submissions

Limited options, high cost to parents and a stretched workforce

28. While parents were generally satisfied with the ECE their children were receiving, they considered this within the context of the current system. They described challenges such as having limited options and not being able to find what they were looking for in an ECE service, services not meeting the standards they wanted for their child, and their children being sick often due to frequent illness outbreaks.
29. Parents and non-government organisations (NGOs) said the cost of ECE in New Zealand was very high, and unaffordable to some. They said that New Zealand had a socio-economic and post-code lottery that dictated the number of options, and number of quality options, parents had to choose from.
30. Parents expressed concern about their children's teachers being too stretched, and about the pressures caused by too much compliance / paperwork calling instead for something akin to 'everything in moderation'. Other parents described current government interventions as appropriate and were concerned that the intent of the Review was to deregulate ECE, which could potentially put children at risk of harm and poor long-term outcomes. This was echoed by other types of submitters, particularly NGOs.
31. Parents thought the current documentation kept about their children was important but wanted the system to find a balance between government having confidence in high-quality service provision and teachers and providers having the flexibility to make professional decisions so their children can thrive.
32. Seeking balance was a theme in submissions from people who worked in ECE and service providers. Most people who worked in ECE portrayed a workforce close to, or already at, burnout. They said they did not have the capacity to do their jobs the way they knew they should be done, and how they were trained to do.
33. Many submitters who work in ECE (who were predominantly qualified teachers) felt they were unable to dedicate the time and attention to children they knew they needed. Most cited reasons such as minimum regulatory standards being too low, high levels of compliance tasks taking up their time, and funding levels (which are out of scope of the Review), as their most significant issues.

High volume of requirements and poor implementation

34. Service providers said the volume of regulatory requirements they had to meet was a challenge. They felt many of the requirements were highly prescriptive, meaning

they are unable to put solutions and practice in place they thought were best. A common theme of submissions, including from people who work in ECE and NGOs, was that the volume of requirements was significantly complicated by inconsistent interpretation of regulatory requirements.

35. Most submitters (across all types) said the regulatory framework had been poorly implemented – with some going as far as to say the content of the regulatory framework was fit-for-purpose - and that the entirety of the problem was in its implementation.
36. As well as inconsistent interpretation of requirements by the regulator (the Ministry of Education) and layers of requirements and guidance causing confusion, submitters also described duplication of roles between the Ministry of Education and Education Review Office. These submitters said both agencies unduly focused on ‘tick-box’ requirements over and above the learning, development, and safety of children.
37. An issue talked about almost universally, was the inability of the system to meet the needs of disabled, neurodivergent and medically fragile children. Submitters said these children were either effectively excluded from the system because of service providers not enrolling them, or that they did not have their needs met when a place was found. Parents with a disabled or medically fragile child, or a child with specific needs were more likely to have withdrawn their child from an ECE service.

Higher standards, different implementation

38. While government funding levels were discussed by many submitters (in the context of them being too low and/or the model inequitable), potential solutions put forward to address the issues raised tended to be regulatory – either by the removal of regulation, or by the introduction of new or different regulation.
39. Some submissions (from service providers and their representative groups) called for substantive regulatory removal, including removing minimum ratios, ‘person responsible’ requirements, and all curriculum requirements. However, more submitters said that minimum regulatory standards in ECE should be raised, and more frequently monitored by government. These submitters said there should be regulatory change to put in place:
 - higher adult to child ratios
 - lower maximum service size
 - regulation for maximum group size

- increased indoor and outdoor space
- requirements to improve air quality and reduce noise
- higher proportions of staff who are qualified ECE teachers.

Recognition of varied service models

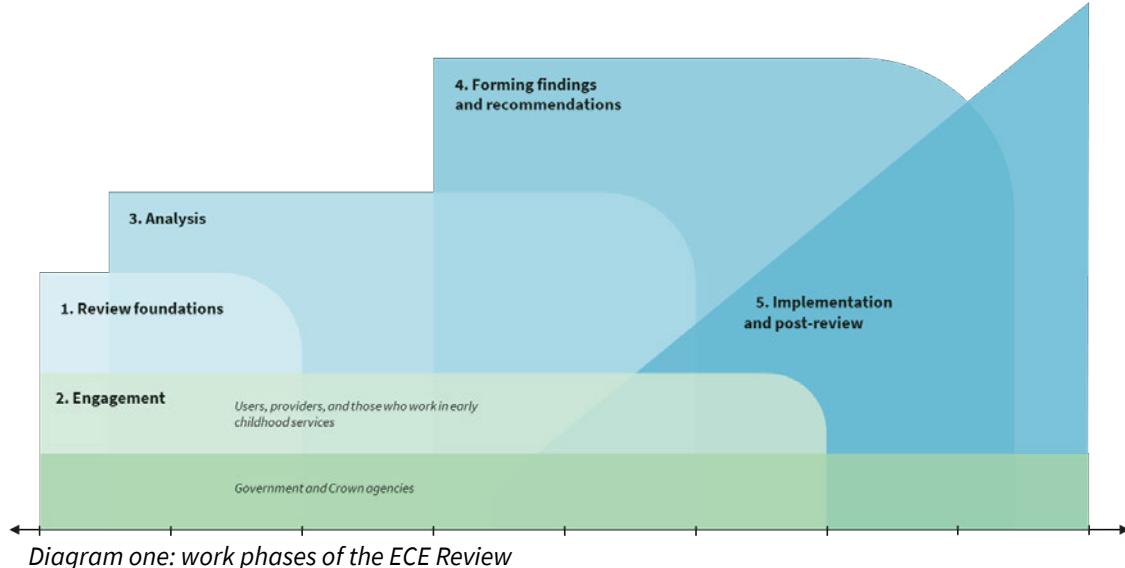
40. Kōhanga Reo, Puna Reo and Pacific services said that English language requirements and a lack of recognition of language fluency and cultural knowledge in regulatory requirements hampered their ability to recruit and retain the staff they needed. Additionally, they said a lack of cultural capability across agencies with regulatory functions meant that the different objectives, including revitalisation of language, were not recognised and responded to appropriately.
41. Home-based service providers said that the regulated qualification requirements meant that they were unable to sustain and grow their services and attributed this to a significant decline in the number of home-based places available.
42. Hospital-based services and Playcentre submitted that the current regulatory framework and its implementation does not sufficiently take into account the different types of service models – saying that the default of centre-based ECE flows through the development and implementation of regulatory settings.

Next steps

43. It is now the job of the Review to consider these submissions against other sources of evidence and analyse the themes against the Review’s Terms of Reference. Other sources the Review is considering include evidence about regulatory best practice and design, economic analysis, academic research about ECE and engagement with government agencies with regulatory functions across ECE.
44. All of these sources will be used by the Review to answer the Review’s Terms of Reference questions. Namely, to identify the market failures and other problems regulatory intervention are seeking to address, consider the extent to which the current approach is working and where the costs and benefits of regulation are being borne and consider whether regulation is the most appropriate way to address these problems.
45. The Review will report back on its findings and recommendations to the Minister for Regulation before the end of 2024.

Context and scope of the early childhood education regulatory review

46. The Review commenced on 5 June 2024 with Cabinet approval of its Terms of Reference and is taking a five-phase process to its work, which is shown in diagram one below.



47. An online engagement hub to receive written submissions and invite groups and individuals to fill in questionnaires, opened on 5 July 2024 and closed on 31 August 2024. From June to mid-September 2024 the Review also met with ECE service providers, people who work in ECE and various representative organisations and NGOs, as well as visiting several ECEs in different parts of New Zealand.

48. The Review's Terms of Reference states that the purpose of the Review is to “assess whether the current set of regulations are achieving the right outcomes for early childhood education”. There is also a series of ECE policy settings that are listed in the Terms of Reference as being outside the scope of the Review. This includes the levels of government funding for ECE and the content of the ECE curriculum.

49. The Terms of Reference lists four questions the Review is seeking to answer, each with specified sub-questions. The engagement process was designed to gather information relevant to those questions – it took a broad approach to understand what the current state of the ECE in New Zealand was, the problems people saw with its operation, the problems people saw with how government was intervening, and the solutions people wanted to see.

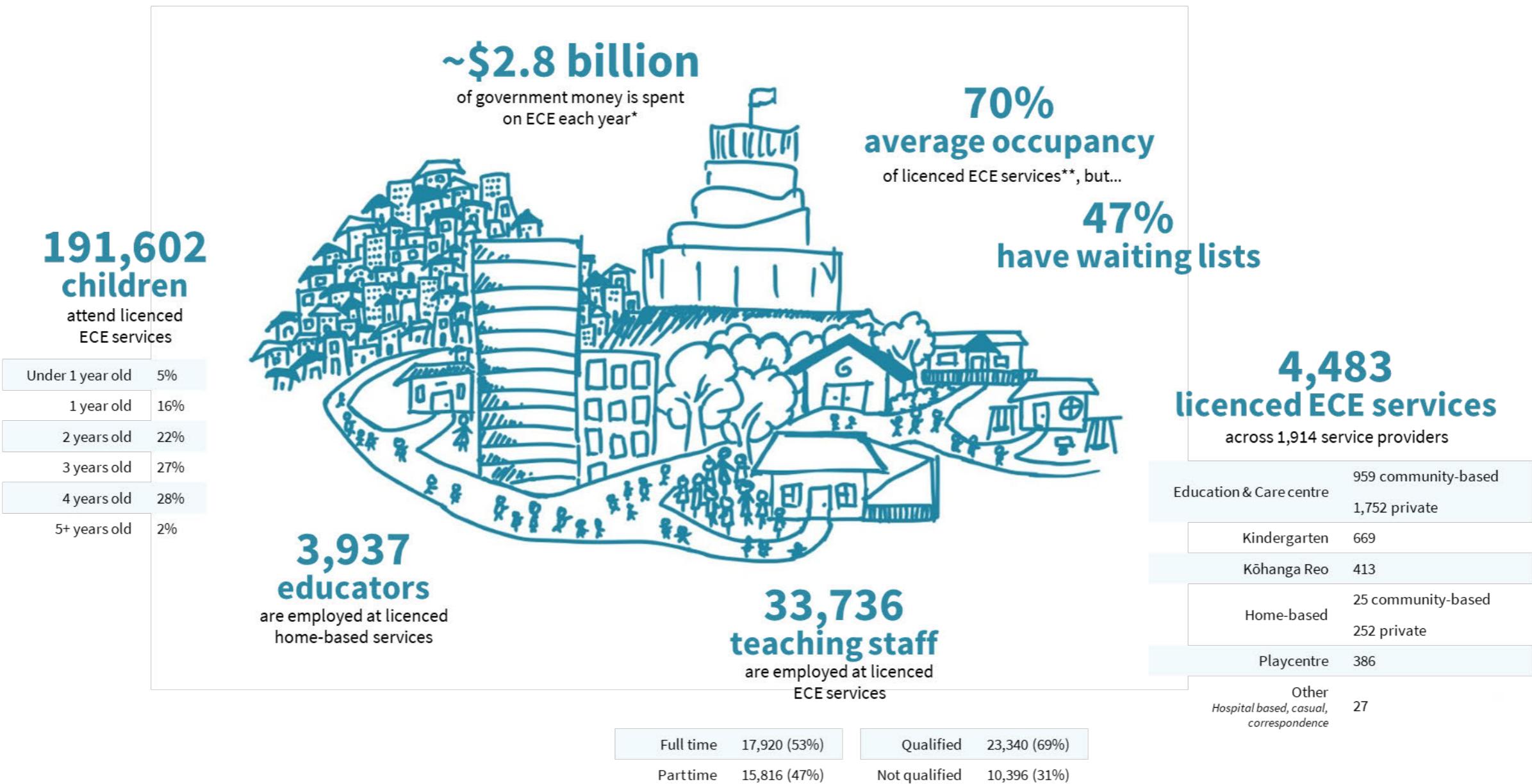
50. The lead questions are:

- **What are the problems?** The engagement asked questions to elicit what problems or potential problems people saw in the early childhood education market, and whether they thought current regulation was addressing those problems.
- **Is regulation the best way to address these problems?** The engagement asked questions about where current regulation is working or not and why it is working or not in those areas. The Review expected, and received, different views about whether regulation is appropriate to address different problems highlighted by submitters.
- **What are the costs and benefits of the regulations?** The engagement asked questions to understand what different costs and benefits were resulting from the current regulatory framework, and for who. The engagement sought to understand included financial costs, as well as other costs such as time. It particularly sought to understand the benefits for children and their parents.
- **Are the regulations working?** The engagement asked questions about the consequences of current regulations, how well understood the regulatory framework was and how well people thought the framework has been implemented.

51. Some submitters talked about issues that were outside the scope of the Review, as anticipated. Many submissions talked about the levels of government funding for ECE, including different models of funding for Kindergarten and other types of ECE. These submissions will be shared appropriately with a funding review which is also underway by the Ministry of Education.
52. The Review is now undertaking a process of considering the themes that have come through the submissions process and supplementing this evidence with other sources of evidence. This will include validating some areas of submissions.
53. While reading this report it is worth noting that the government funding framework and regulatory framework are necessarily linked in ECE, with government providing significant subsidies to ECE providers. This means that some problems identified by submitters are in part to do with the regulatory framework, and in part to do with the funding framework. This report has not sought to disentangle these issues, but the Review will be doing that work in future.
54. The A3 overleaf below summarises key statistics and features of the ECE sector to provide wider context for the Review and this report.

The Early Childhood Education and Care sector

This A3 summarises key statistics and features of Early Childhood Education and Care (ECE) sector to provide context to the ECE Regulatory Review. The information sourced from the Annual ECE Census 2023 and internal data from the Ministry of Education.



How does the Government regulate the ECE sector?

Government regulates ECE services through primary and secondary legislation. It sets requirements for providers to enter the market and issues licences for providers to operate. To obtain and retain a licence a service must meet a range of requirements, including (but not limited to) delivering a curriculum, health and safety standards, and fit for purpose facilities. Government also has set requirements to access government funding and subsidies. Non-education specific regulatory frameworks also apply to ECE, for example health and safety at work legislation, resource and building consents and child protection.

*2024/25 Vote Education Appropriation for Early Learning (M26)(A19). This figure includes licenced and certificated services.

**Occupancy is a measure of how full ECE services are. Specifically, it is a measure of the extent that children are using all the hours that services would be funded for if their licensed places were full – an occupancy rate of 100% would mean that all licensed places are full for all the hours they can be funded for.

Who submitted and who the Review engaged with

55. The table below outlines who the Review engaged with and how many submissions were received and from whom:

Group	Direct engagement	Written submissions
Service providers	40 + 15 site visits	151 <i>107 through the questionnaire</i> <i>44 through freeform written submissions</i>
People who work in ECE	Three online forums	1,080 <i>859 through the questionnaire</i> <i>221 through freeform written submissions</i>
Parents and caregivers	N/A	782 <i>774 through the questionnaire</i> <i>8 through freeform written submissions</i>
Peak bodies, NGOs, advocacy groups, and advisory groups	8	45 <i>12 through the questionnaire</i> <i>33 through freeform written submissions</i>
Other interested parties (including past teachers, academics, ECE consultants, and members of the public)	N/A	227 <i>49 through the questionnaire</i> <i>178 through freeform written submissions</i>
Total	63	2,285

56. The submissions where demographic information was received² were broadly representative of the population they represented, with the following exceptions:

- Higher-income parents and caregivers were over-represented in questionnaire responses.
- Non-teaching qualified staff and other types of ECE workers were under-represented in questionnaire responses from people who work in ECE. Given the high proportion of questionnaire responses from very experienced people who work in ECE, we have assumed that less experienced teachers (i.e., both qualified and non-teaching qualified workers who had worked in ECE for less than 10 years) were also under-represented in submissions.

² Those submissions received through the questionnaire through the formal submissions process.

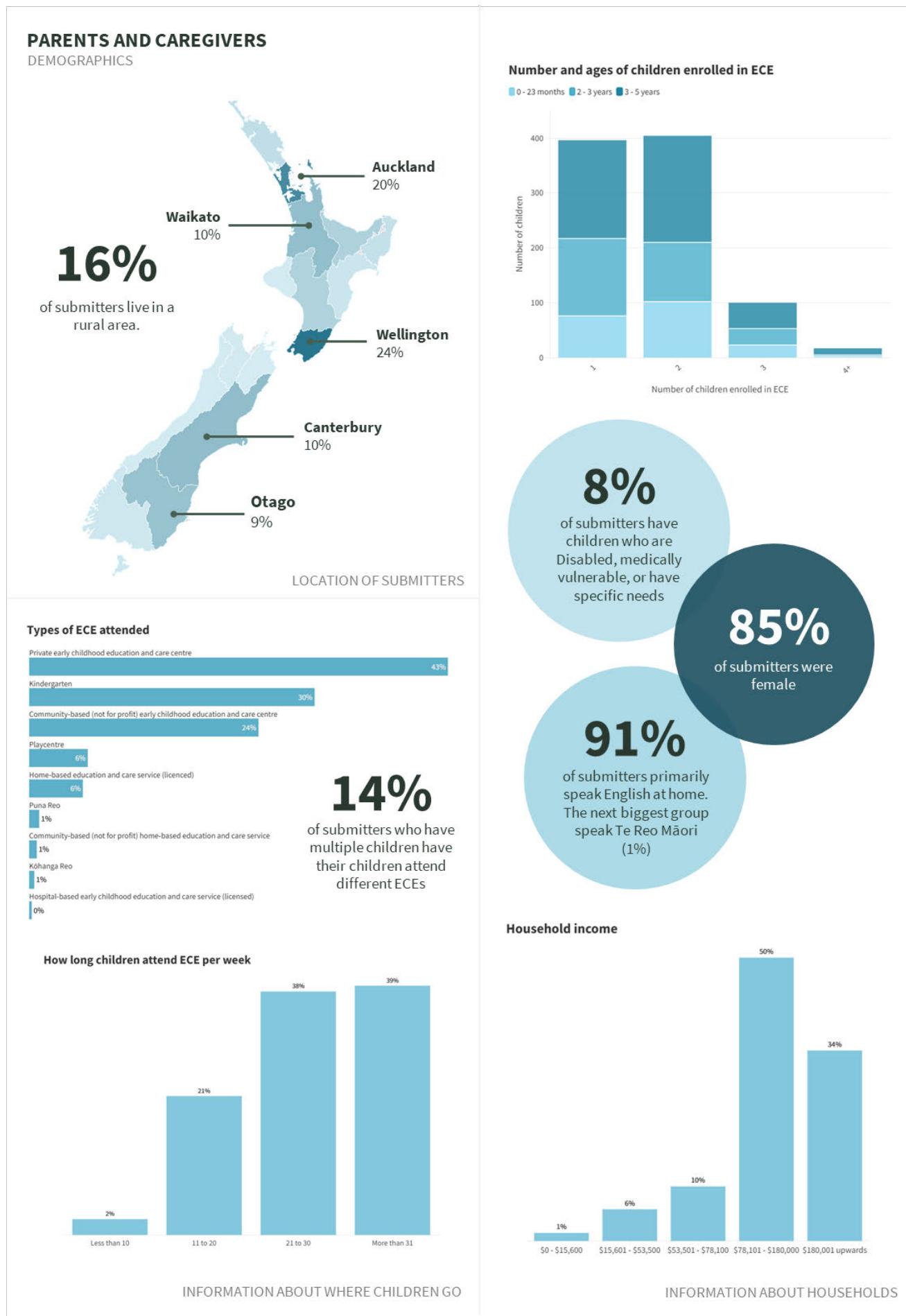
- Community-based (not for profit) ECE providers and Kindergartens were under-represented and private (for profit) ECE providers were over-represented in questionnaire responses from service providers. Additionally, service providers who operate many services (over 21 services) were over-represented in questionnaire responses.
- Across all groups, the Wellington region was slightly over-represented, and the Auckland region was slightly under-represented in questionnaire responses.

57. Summaries of the demographics of people who filled in the online questionnaires for parents & caregivers, people who work in ECE, and service providers are below.³

58. A list of the organisations (excluding service providers) who submitted to the Review is available in **Appendix 1**.

59. Many submissions, particularly those from peak bodies, NGOs, and advocacy groups, referenced academic and scientific evidence to support their arguments. Where relevant, the Review team have looked at these submissions of supporting evidence

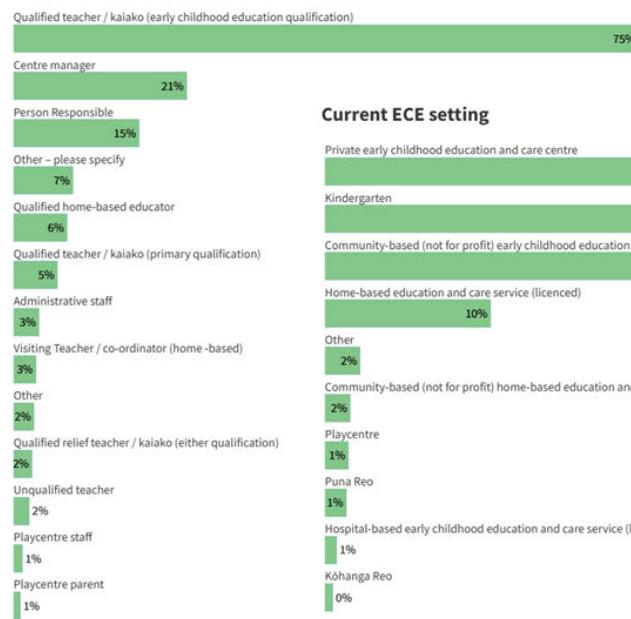
³Demographic information was not collected as part of the “Other interested people” survey.



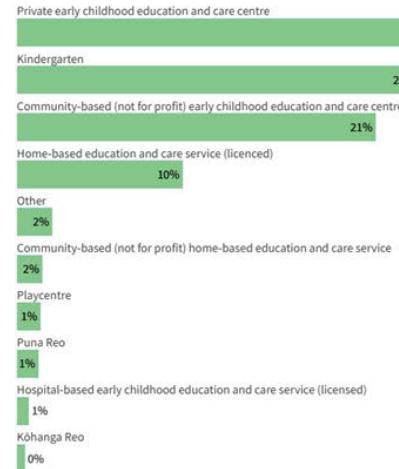
PEOPLE WHO WORK IN ECE

DEMOGRAPHICS

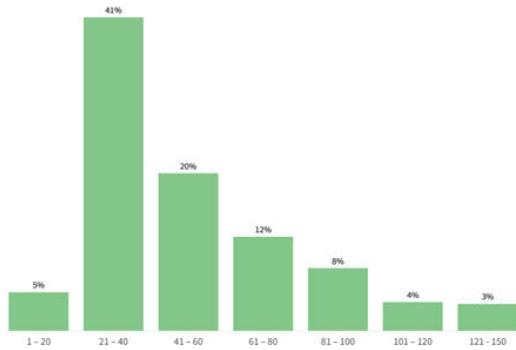
Current role in ECE



Current ECE setting

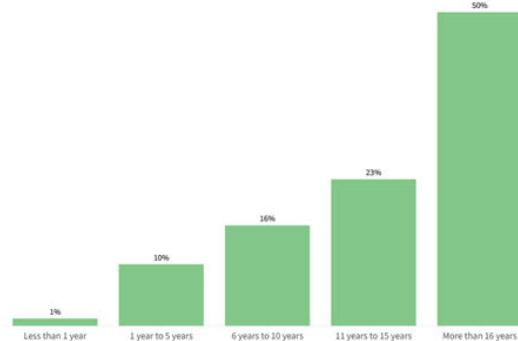


Number of children submitters' centres are licenced for

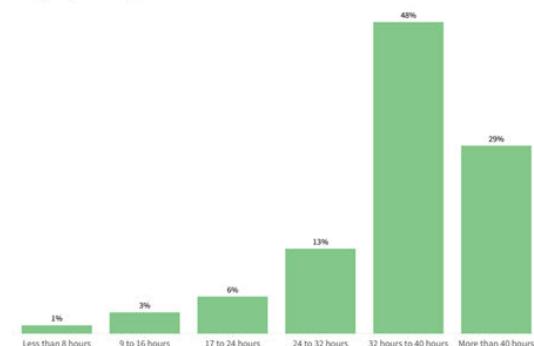


INFORMATION ABOUT SUBMITTERS

How long people have worked in ECE



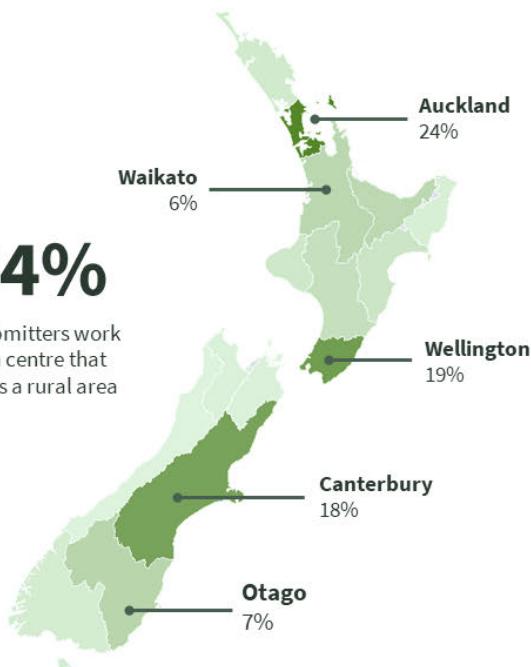
How long people work per week



EXPERIENCE OF SUBMITTERS

34%

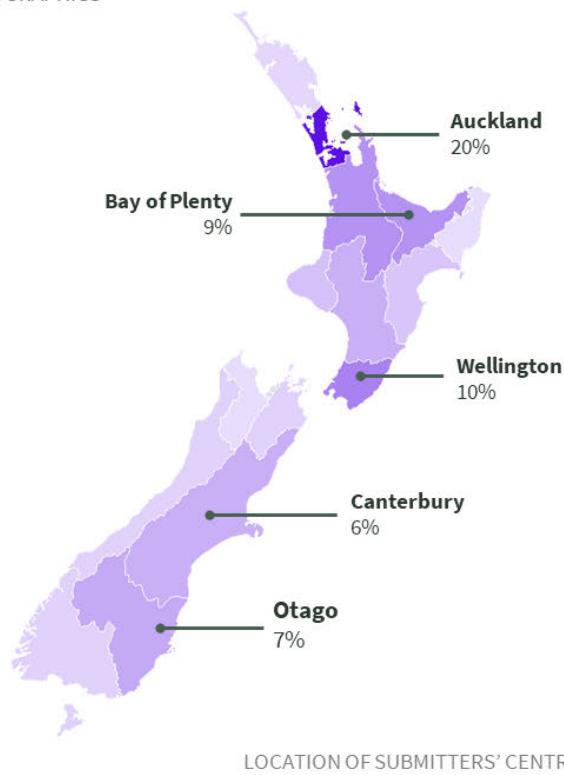
of submitters work for a centre that serves a rural area



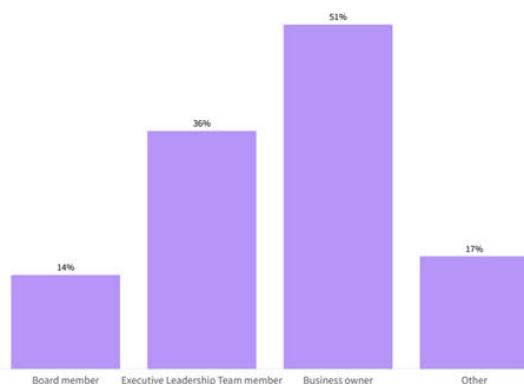
LOCATION THE CENTRES SUBMITTERS WORK FOR

SERVICE PROVIDERS

DEMOGRAPHICS



Positions held by submitters



INFORMATION ABOUT SUBMITTERS

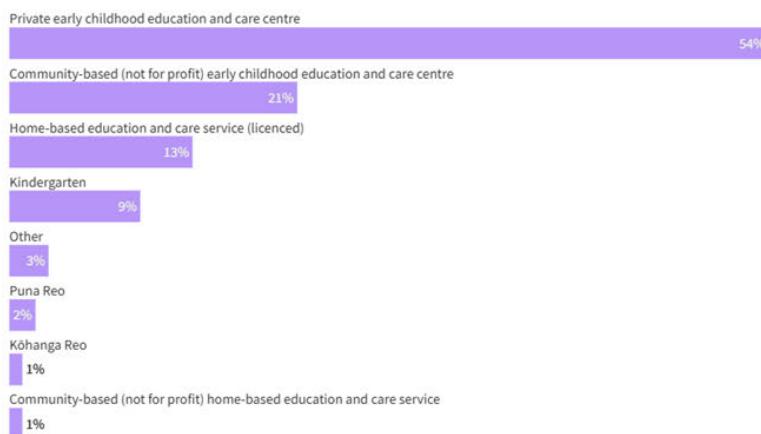
86%

of submitters' organisations charge fees for their services

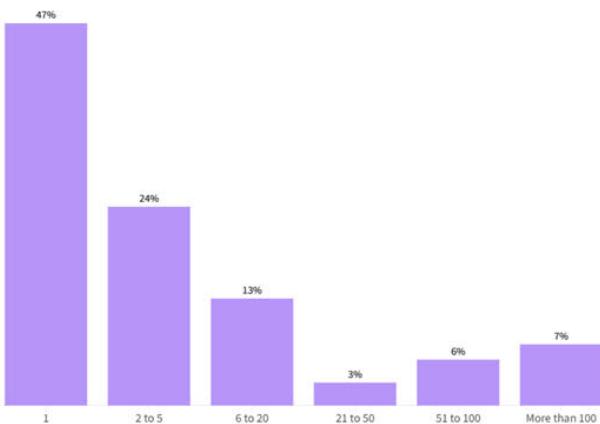
50%

of submitters' organisations last opened a centre more than five years ago.

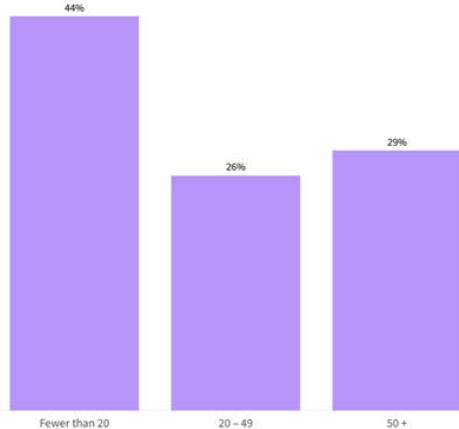
Types of service providers



Number of services operated by submitters' organisations



Number of employees working for submitters' organisations



INFORMATION ABOUT SUBMITTERS' ORGANISATIONS

SECTION ONE: THE DEMAND STORY

Chapter one: what do parents, caregivers, families and children want and need from early childhood education?

Key messages

Submissions to the Review told us that...

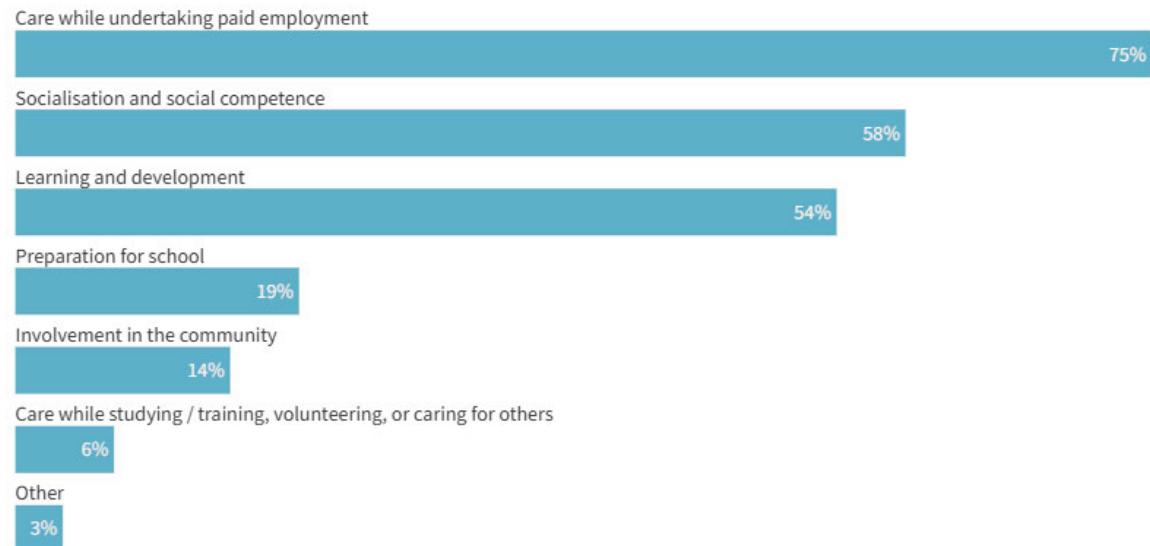
- Parents **need early childhood education to be able to undertake paid employment**. They see ECE as part of the village raising their children and they are invested in the quality of ECE so their children can be well supported to develop and learn.
- **Most parents are satisfied with the ECE their children currently attend**, with those who described why they were satisfied mostly saying that it was due to the quality of education and care they were receiving, indicated by the relationships their child had with their teachers, high adult-to-child ratios and an atmosphere they liked.
- While parents showed they have varied preferences when it comes to ECE provision, they all said in some way that they want an ECE where **their child is happy, safe, loved and cared for, and where they thrive in their learning and development**.
- It was clear from parent's submissions that they consider, and trade-off, many factors when deciding which ECE to send their children to, within the boundaries of the sometimes-limited options available to them.
- The **people who are going to be caring for and teaching their children are particularly important to parents**. Parents are also concerned with the number of adults to children (ratios) and the look and feel of the premises.
- A few parents described ECE as a **financial necessity** not a choice. They would prefer their children were not in ECE, or not at the young age they started attending.

Why do parents enrol their children in early childhood education?

60. To understand the demand side of the ECE market, the Review sought to understand why parents and caregivers (hereafter parents) choose to enrol their children in ECE. The diagram below shows their answers.

Why parents enrol their children in ECE

Parents were asked to select their top two reasons for choosing to enrol their children in an ECE



61. Parents gave varied reasons for why they enrol their children in ECE and talked about the value they see ECE adding to their and their children's lives. Their explanations of why they use ECE show the difficult choices and financial realities many parents face, particularly in the early years of their children's lives.

62. Most parents who submitted need ECE so that they can undertake paid work. A few submitters said this was the only reason for enrolling their children, or at least the only reason for enrolling them when they did. A few said that their children went to ECE younger than they would have liked.

"This is the sole reason for putting him in care, so I can earn enough money for us to get by."
- parent

"We had to send our child to daycare, workers wages don't go up, only the cost of goods and services go up with inflation, our wages stagnate, there is absolutely no way we could survive...so our child at 9-10 months old had to go to daycare sadly..." - parent

63. A few parents said that enrolling their children in ECE was a financial necessity, not a choice.

“We considered can we afford to eat and keep the lights on if only one of us was working and the other was a stay at home parent – these were the major considerations rather than what kura is good...” – parent

“Most people don’t have a choice. You have to work to pay rent, car, power, internet etc or else I wouldn’t have enrolled my baby into daycare” – parent

64. Parents in households with higher incomes were more likely than parents in households with lower incomes to send their children to ECE so they could undertake paid employment.
65. Parents in households with lower incomes were more likely than parents in households with higher incomes to send their children to ECE while they were studying/training, volunteering, or caring for others.
66. Most submitters indicated that one of their top two reasons for enrolling their child in ECE was for their child to socialise with other children and build their social competence, or to support their child’s learning, development and readiness for school.

“I see it as a critical part of my child’s development; learning social skills and getting experience and growth they cannot get at home.” – parent

“...Being exposed to all the wonderful, creative, innovative curriculum ideas put forward by the kaiako which I don’t have the skills and or time to do at home.” – parent

67. A few parents said that one of their reasons for enrolling their children in ECE was to provide them with child-free time, including to support “*my own sanity & mental health*” and “*to provide respite for carer*”. A few submitters said ECE benefited the mental health of mothers, including those without family support nearby.

Definition reminder:

‘most’ means 50% or more ($50\% \leq x$)

‘many’ means between 30% and 50% ($30\% \leq x < 50\%$)

‘some’ means between 12% and 30% ($12\% \leq x < 30\%$)

‘a few’ means less than 12% ($x < 12\%$)

Language immersion early childhood education

68. A few submitters selected “other” as one of their top two reasons for enrolling their child in ECE. Of those others, a few were to immerse their children in te reo Māori or in Pacific languages.

“To support my tamariki to learn te reo Māori. My hoarangatira and I are learning and speaking as much as we can at home but the puna reo provided a lot too.” – parent

69. The reasons kōhanga whānau choose to send mokopuna to Kōhanga Reo include similar reasons as other families (e.g. because parents need to work and their children need care and education), as well as considerations related to the unique status of Kōhanga Reo.

70. The Kōhanga Reo National Trust, who engaged with kōhanga whānau, reported to the Review that kōhanga whānau want:

- happy, confident, te reo Māori speaking mokopuna
- rangatiratanga, to be self-determining in ways that were always part of the original design of the kōhanga reo model
- whānau who are excited to be part of a global movement of radical disruption to colonisation and to gain the expertise to manage and govern the movement in ways that honour the kaupapa and enhance it.

71. Other parents also talked about the importance of their children being exposed to different languages, customs and values, including being exposed to te ao Māori and te reo Māori.

“We were looking for a public space that taught/enacted respect for the authority of Te Ao Māori...Please note that our children do not whakapapa Māori...learning aspects of Indigenous culture is an absolutely unique and privileged opportunity for non-Indigenous peoples...” – parent

What do parents look for in ECE?

72. Parents said that they consider numerous factors when choosing their ECE, had clear expectations about what they want service providers to deliver, and talked about various trade-offs in their search for ECE.

73. To understand what drove parents' choice of ECE, the Review asked them to rank different factors from 'very important' to 'not important'. Diagram two below shows how parents answered this question.

What drives parents' choice of ECE

Parents were asked to rate each factor from "Very important" to "Not important"

■ Not important ■ Slightly important ■ Important ■ Very important

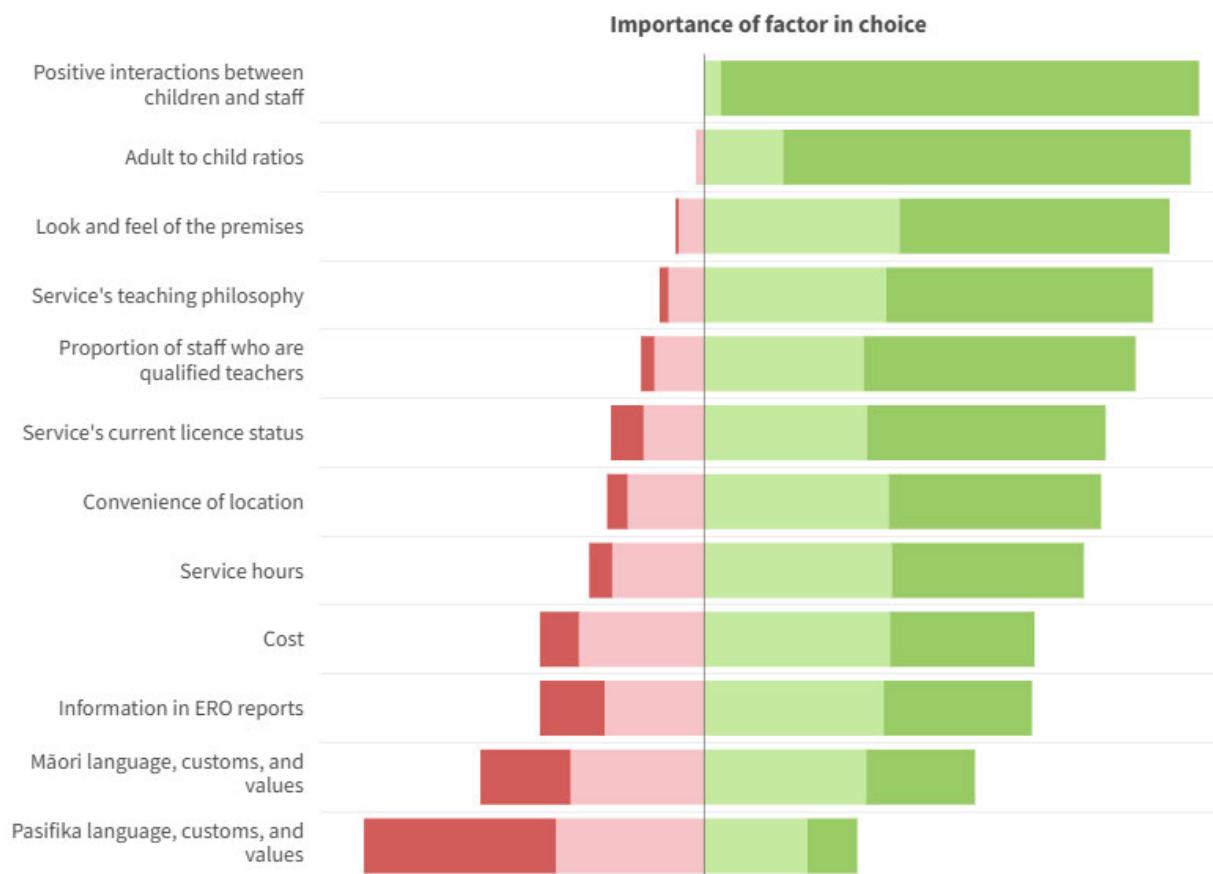


Diagram two: factors that drive parent's choice of ECE

74. Diagram two shows parents generally agree on the importance of some factors but disagree on the importance of others.

75. As diagram two shows, factors related to the people who would be with their child in their absence were particularly important to parents.

- Almost all submitters ranked positive interactions between children and staff as ‘very important’ or ‘important’, with nearly 97 per cent in the ‘very important’ category.
- Almost all submitters ranked adult-to-child ratios as ‘very important or important’.
- Most (nearly 90 per cent) ranked the proportion of staff who were qualified teachers as ‘very important’ or ‘important’.

76. Parents who said they cared more about adult-to-child ratios and the proportion of staff who were qualified teachers were more likely to have their child enrolled in a private or community-based ECE centre over Playcentre or home-based ECE.

77. The importance to parents of those working with their children was also illustrated by submitters’ free-text responses.

“Look isn’t too important to me but the feel is extremely important and that comes from the teachers and how they engage with the kids.” – parent

“We would only choose an ECE where the teachers were 100% qualified, and the ratios are good...” – parent

“Its all about the staff. You can tell if they want to be there and have the time to respond and support the children...” – parent

78. The teaching philosophy of the ECE was also important to parents, with just over 90 per cent ranking it as ‘very important’ or ‘important’. Parents wanted different approaches and teaching philosophies, which depended on their values and what was important to them.

“From age 0-5 the child experiences the most brain growth that sets them up for the rest of their lives...so I sure as hell wanted to find a daycare that loved and treated my child as if they were their own and had a good understanding of child development, up to date research about this and also about teaching them and preparing them for the world.” – parent

“...If home-based wasn’t an option, I would not have enrolled them in any ECE and would have looked for informal options.” – parent

79. Parents who cared more about teaching philosophy were more likely to choose a type of ECE with a specific philosophy (e.g., Kindergarten or Playcentre) over private ECE centres.

“That it was a Kindergarten not a daycare! That he is challenged as part of a view to education potential rather than just housed and babysat for the day.” – parent

“I sent my children to Playcentre because it offered child-led learning, great socialisation and early education, while also supporting me as a parent...” – parent

80. Parents who were primarily sending their children to ECE so they could undertake paid employment cared more about service hours than parents who were sending their children to ECE for other reasons. Parents with the paid work motivation were more also likely to choose private ECE centres over other types of centres, (presumably because these often offer longer hours).
81. Parents with higher household incomes were less concerned than parents with lower household incomes about both the look and feel of the centre and the cost when making their choice of ECE.
82. Submitters also provided additional factors that were important to them. A few parents referenced:
 - word of mouth and recommendations from friends, family and other community members
 - preference for a not-for-profit service provider
 - preference for an ECE that fairly paid their teachers and treated them well, with a few specifically stating whether an ECE had signed up to Pay Parity was important to them
 - preference for an ECE that provided food
 - preference for an ECE with low staff turn-over
 - the fact that the ECE they chose “fed” the primary school their children were going to attend
 - easy/convenient drop-off logistics
 - the availability of a large amount of outdoor space and/or natural outdoor play spaces at the facilities
 - the ‘gut feel’ an ECE gave.
83. It is clear from parents’ submissions that choice is important. Parents talked about different preferences and different value bases that drove their decisions or would have driven their decisions had different options been available.

“...very long wait lists in my area so difficult to have convenient choices that aligned with our values.” – parent

“We initially were on 5 waiting lists for ECE centres and the only place we got into was our 5th preference which did not align to all the things we’ve marked as important... waiting lists and it can make it difficult for parents to get into their preferred centre which aligns to their requirements.” – parent

84. A few parents talked specifically about the importance of having choice and those choices not being curtailed by government intervention.

“...Parents should be able to select care that fits their families, rather than a nanny state’s objective. There are many cultures that think a child should play until age 7, and not have to learn a damn thing until then and those cultures have great mental health and successful students into high school and Uni. Is that for me? No....” – parent

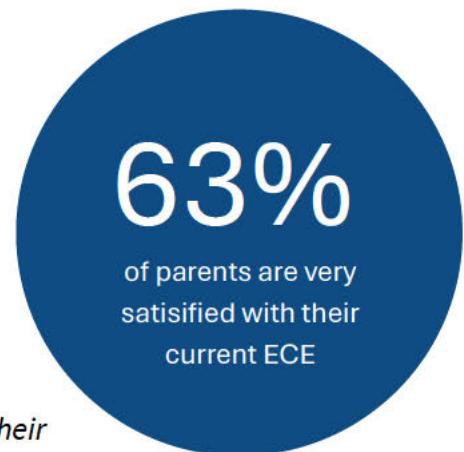
What makes parents satisfied with their ECE?

85. When asked whether they were satisfied with their children’s ECE, most parents said they were ‘very satisfied’ or ‘satisfied’. The reasons given for being satisfied were varied, with many referencing the relationships between their children and teachers.

“Beautiful relationships between teachers and my child.” – parent

“Incredible caring and kind staff who treat my child like one of their own family.” – parent

86. Parents who sent their children to home-based ECE were the most satisfied with their ECE, followed by parents who sent their children to Kindergarten and community-based ECE centres. Parents who sent their children to private (for profit) ECE centres were the least satisfied with their ECE. Those parents who only had one option of ECE to choose from were less satisfied with their eventual choice of ECE.



87. Other reasons for being satisfied included:

- High adult-to-child ratios, “*The child to teacher ratio is great which means my child gets the attention she needs and can develop strong bonds with others.*” – parent
- An environment or atmosphere they liked, “*...What matters is what the centre feels like and whether the teachers seem relaxed, happy and focused on the children, and whether the children are happy and warm.*” – parent
- Composition of staff they liked, “*I'm happy because all staff are registered teachers...*”, “*...equal numbers of male and female teachers...*”, “*...cultural mixed backgrounds of teachers...*” – parents
- Physical or emotional safety being well provided for, “*I feel like the processes our ECE have around care and safety are excellent...*” – parent

88. While parents described varied preferences, they all said in some way they wanted a place their child was happy, safe, loved and cared for, and where they thrived in their learning and development.

What did other submitters say parents, families and children need from ECE?

Benefits of early childhood education

89. Many submitters pointed out that ECE has broad individual and societal benefits. A few submitters, particularly non-government organisations, researchers and teachers, referenced the strong evidence base that shows the importance of the first 1000 days of a child's life, evidence about attachment theory and what these mean for how ECEs should operate.
90. A few submitters referred to children's rights to education and said ECE should be a 'public good'. These submissions said all children should have the opportunity to fully participate in high quality, affordable, adaptable, accessible and quality early childhood education - inclusive of their abilities, ethnicities, languages, and cultures.

"Education should be seen as a right and a public good available to all children, especially to those in the early childhood years, given the critical importance of that period of development. The marketisation of ECE services, prioritising profit over quality, must be resisted. Marketisation works against diversity in services, and against the availability of equitable, affordable and acceptable ECE provision." – OMEP Aotearoa New Zealand, World Organisation for Early Childhood Education

91. ECE was described in these submissions as being of value to children because it enables children to develop the skills and dispositions that will serve them throughout their lives and enable them to contribute to society.

"The reasons [why Aotearoa New Zealand should support quality ECE] include upholding children's rights; supporting a strong start in life that leads to positive lifetime outcomes in health, education, pro-social relationships and wellbeing; which can, in turn lead to economic and productivity gains; and ultimately improving society through social cohesion." – Mana Mokopuna – Children and Young People's Commission

92. High-quality ECE was noted by these submitters as including:

- a regulatory environment that is evidence-based and informed by research
- qualified teachers with a knowledge of the ECE curriculum, and the understanding and skills to work with young children to implement the curriculum in practice
- ratios and group sizes that enable responsive, attentive and loving care
- policies and practices that are inclusive and enable children - and teachers - with additional needs to fully participate to the best of their abilities
- teachers pay and conditions that are equitable across the sector and encourage recruitment and retention of skilled people
- protection of children from all forms of neglect or abuse.

93. A few submitters separated 'teaching' and 'care' in this context, while others said that they could not be separated and that the emotional wellbeing of children, trust between children and adults and their secure attachments to adults (which some would put in the 'care' category) are essential to children's development and therefore learning – they are social building blocks.

94. A few submitters made the inverse point – that poor quality ECE makes for notably poorer outcomes for children than quality ECE.

"A number of studies found an early starting age (before age 1 or 2) into low-quality child care was associated with higher levels of antisocial/worried behaviour at the time and at school entry. Of significance is that, in general, children attending ECE centres where staff qualifications, programme, equipment, physical environment, and space were rated highly did not experience the same negative outcomes." – retired teacher

SECTION TWO: PROBLEMS, ISSUES AND PROPOSED SOLUTIONS

Chapter two: Places children go – what are the problems with the places children go?

Key messages

Submissions to the Review told us that...

- Submitters said that higher quality ECE was more expensive. They said this means that **children from lower income families may be receiving lower-quality ECE**, which could have short and long-term impacts on their learning and development.
- Most parents said they were satisfied with their current ECE service, but:
 - many said there were **not enough options** that met their needs when choosing where their child would go to early childhood education or that they had only one choice. This was supported by other submitters who said that ECEs were not located in line with demand.
 - some said early childhood education services were not meeting their needs or their children's needs, including that some had to make additional care arrangements.
 - some have **withdrawn** their children from their ECE service because of concerns about their children's needs not being met, including because their child was unhappy or they felt their child was unsafe.
- Many submitters of all types said that **disabled, neurodivergent and medically fragile children are not having their needs met** and are not being well supported in the current system. Parents of disabled, neurodivergent or medically fragile children are more likely to have withdrawn their children from their ECE service. They called for more, and better, support from government. A few submitters said this impacts on all children.
- Many submitters of all types, particularly parents, said that children who attend (centre-based) early childhood education get **sick frequently**. Submitters said higher ratios, lower service size, regulating group size and further requirements for higher air quality would make a difference to this.
- Some submitters, mainly people who work in ECE and NGOs, said **the physical environments of some ECEs do not support the learning and development of children and there should be different regulatory settings** in place to improve conditions. This included increased inside and outside space, reduced noise, and improved air quality. These issues linked to where submitters thought ECEs should be located.

Some parents said they did not have good and/or enough options to choose from, which was supported by other types of submitters

95. The Review asked questions of parents to understand whether they are getting what they need and want from their children's ECE, as described in Chapter one. In general, parents' answers to these questions made it hard to draw clear conclusions about how satisfied they are with the range of options they had for ECE and with the ECE their children attend.
96. While most parents said they were either 'very satisfied' or 'satisfied' with the choices they had when choosing their children's ECE,⁴ some said they had only one option of ECE to choose from. Others talked about their limited choices in response to questions about what factors they considered when choosing their children's ECE.

"Truly we had no choice. Our option was the only one." – parent

"It's the only one in the area ...the waitlist was over 10 months for both my children to join. Rural community owned centres are few and far between..." – parent

97. Parents with lower household incomes or whose children are disabled were more likely than other parents to say they only had one option of ECE to choose from. Parents with disabled children indicated this was because centres either did not have the capability (i.e., training or skills) or willingness to enrol their children.
98. Parents who sent their children to home-based ECE and private ECE were the least satisfied with the available choices. Parents who sent their children to ECE for a short amount of time (less than 10 hours in a week) or a long amount of time (more than 31 hours in a week) were less satisfied with the choices available in comparison with parents who sent their children to ECE for 11 to 30 hours in a week.

Definition reminder:

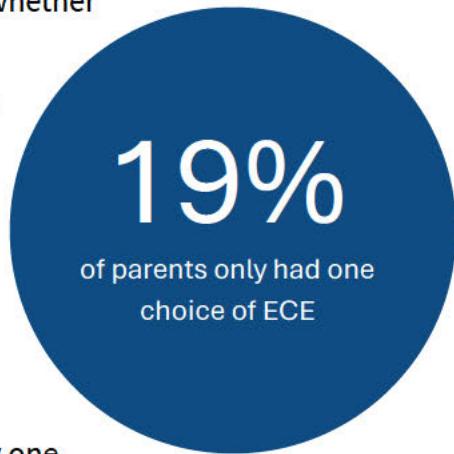
'most' means 50% or more ($50\% \leq x$)

'many' means between 30% and 50% ($30\% \leq x < 50\%$)

'some' means between 12% and 30% ($12\% \leq x < 30\%$)

'a few' means less than 12% ($x < 12\%$)

⁴ There is some indication from the free text answers that submitters may have interpreted this question as being about how satisfied they were with their current ECE, instead of how satisfied they were with the options of ECE available to them.



99. Of the few parents who said they were dissatisfied or very dissatisfied with their options, the reasons they gave were that the service (or services) they wanted had waiting lists, there was a lack of choice in the ECE market or that they did not like what they saw.
100. Parents described being on waiting lists for months at a time, including some who went on waiting lists before their children were born.

“...We were and still are on wait lists for approx 9 centres - coming up to a 2 year wait time for one we wanted.” – parent

“...I had to put my third child on the waiting list before we even told our own parents about the pregnancy!” – parent

“It was really hard to find a place at any ECE in Wellington. We waitlisted when I was pregnant. Some waitlists are three years long... really stressful and limited options.” – parent

101. Other types of submitters echoed these experiences, saying parents did not have enough choice of ECE due to unequal geographic distribution of services and long waiting lists at many services. A few commented that unequal geographic distribution of services was due to competition between service providers resulting in services clustering in higher socio-economic areas.

“Unequal distribution of services across regions means that some areas miss out... Access to early education services are determined by postcode. While services may be available, they become unaffordable.” – Children’s Rights Alliance New Zealand

102. Rural Women NZ said that additional issues were faced by rural communities, including a limited number of providers serving rural areas and additional costs faced by families due to travel distances.
103. A few submitters said that there were limited options for the type of ECE they wanted their child to go to or for an ECE that had a feature they wanted. Te Kōhanga Reo National Trust Board said demand for Kōhanga Reo was very high, and the number of places did not meet demand.

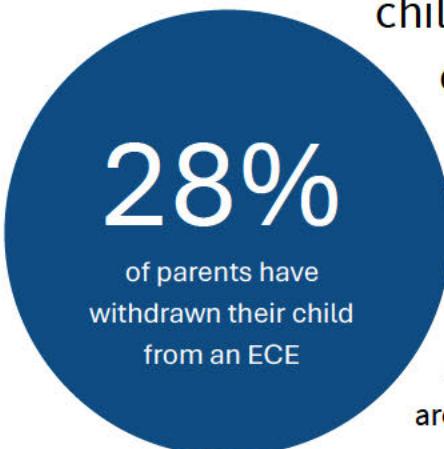
“The top issue for today concerning our kōhanga is the waiting list for our mokopuna, expansion is vital to be able to handle today’s demand of whānau who choose te kōhanga reo as the pathway for their tamariki mokopuna to seek their path to their reo rangatira” – Te Kōhanga Reo National Trust Board

104. Parents described various preferences that they could not satisfy, with the most common one being a preference for a not-for-profit ECE centre. Other examples included ECE centres with high adult-to-child ratios and high proportions of qualified teachers or large outdoor spaces. Some said the system does not cater to parents' need to sometimes pause their child going to ECE or to short-term ECE needs.

"There are extremely limited choices in the community not-for-profit ECE space...there are just not enough not-for-profit community-based centres..." – parent

"I could not go back to work when I wanted to as the centres we toured and put our child down on had long wait lists. The reason for this though is a positive as they were centres with high numbers of qualified teachers and low child to teacher ratios. Not many centres could guarantee this when we toured which limited our choices." – parent

Some parents said they withdrew their child from an early childhood education service because their child's needs were not well met, or they felt they were unsafe



28%

of parents have withdrawn their child from an ECE

105. While most parents said that they were satisfied with their current ECE, more than a quarter of parents who submitted had withdrawn their child from an ECE for a reason other than moving away from the area. Their reasons are shown in diagram three below.

Why do parents withdraw their child from an ECE

Those parents who had withdrawn their child from an ECE were asked to select their reasons

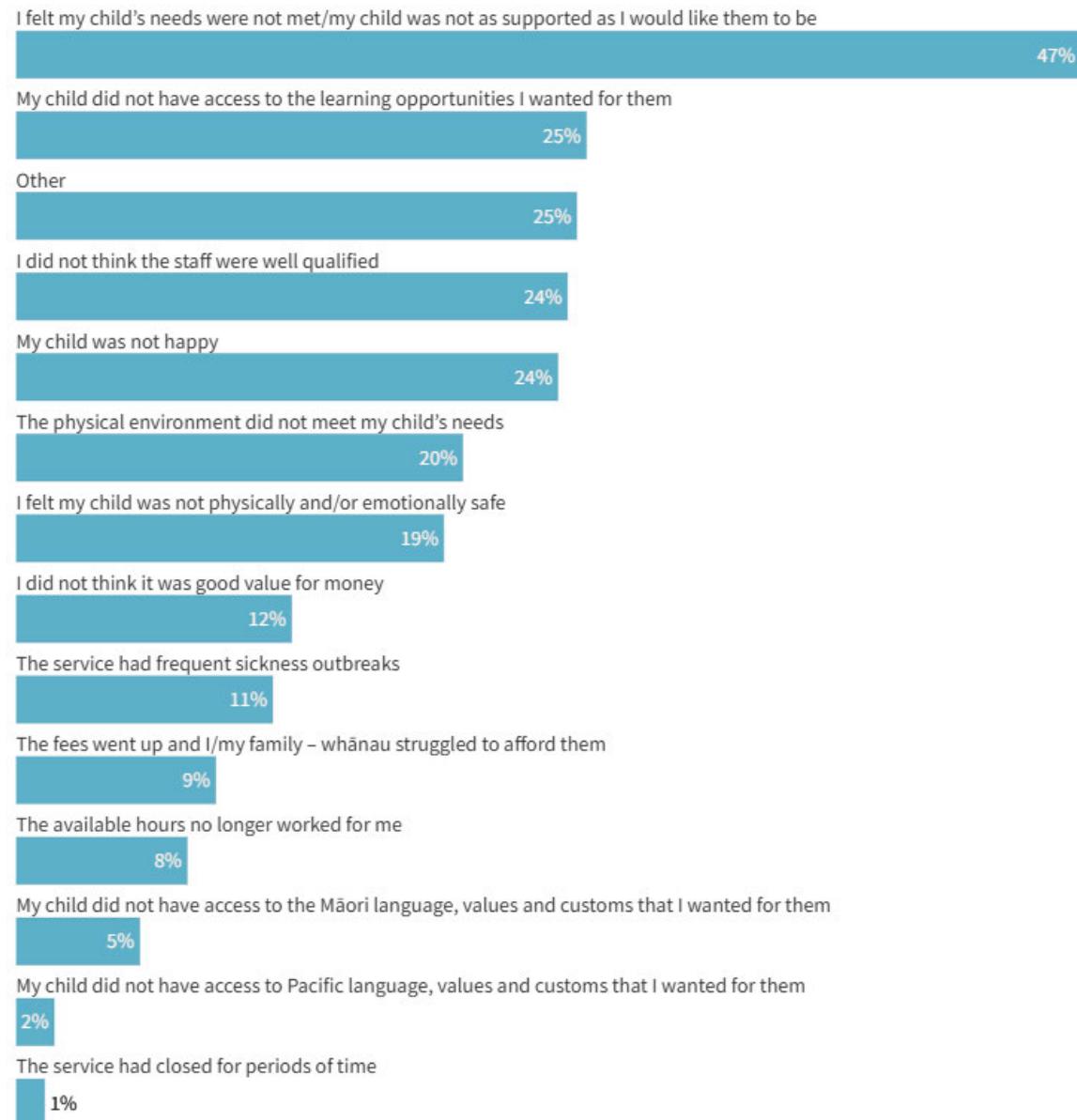


Diagram three: reasons why parents withdrew their children from an ECE

106. Parents whose children were disabled were more likely to have withdrawn their child (for a reason other than moving area) than other parents. Most of these parents said they withdrew their children because their children's needs were not met. A few of these parents had experiences where centres made plans for the care of their child without involving the family.

Some parents said that they had to make additional care arrangements, and that some would like their children to spend more time at early childhood education

107. Most parents were happy with the amount of time their child spent at ECE. However, some needed to make additional arrangements because their ECE did not meet all their needs. Some said that their children spent less time at ECE than they would have liked for reasons relating to cost or the ECE's performance.
108. Many parents who need additional arrangements on top of ECE said that was because the ECE's hours did not match their working hours.

“If the hours accommodated working hours better that would be brilliant! But that's also the case for school hours.” – parent

109. Of those parents who said they need to make additional arrangements, many had family who looked after their children, and a few said that they had a nanny or au pair to provide the additional care.

“The fees for an under two -year-old attending the centre 5 days a week is more than we can afford; therefore, my mother reduced her work from full time to part time and cares for my child 2 days a week” – parent

110. Some of the submitters whose child spent less time at ECE than they would have liked said it was due to the cost of ECE and not being able to afford more hours, or it was because they did not think it was good value for money.⁵

“They daycare costs are very expensive and I was struggling to meet the costs so I pulled them out 1 day and found someone in the family to look after them which is sad because they loved daycare.” – parent

111. A few other submitters whose child spent less time in ECE than they would have liked said it was because they did not think their children's needs had been met as they would have liked them to be, their child was not happy, or they did not feel their child was safe.

“...my child's needs were not met, they were not physically or emotionally safe from the aggression of other children...” – parent

⁵ The example provided by the questionnaire was that the fees were too high a proportion of their family income.

Some parents said they would like their children to spend less time in early childhood education

112. Some parents said that their children spent more time in ECE than they would like. These parents described wanting to spend more time with their children but being unable to do so due to financial and societal realities. A few parents talked about the link between the government policy settings for ECE and parental leave.⁶

“I despise the unnatural social construct we've created that means I have to put my babies in ece just so I can afford to put food on the table. It is a colonized system & now as a māmā I cannot afford to raise & nurture my whānau without spending all week at work. We need more support for parents to work part time while their babies are still babies...” – parent

“Yes, I feel like 8hrs, 5 days a week is such a long day for a small child to be away from parents and I do feel really guilty about that but it seems to be the reality when both parents work full-time. Any chance NZ can follow Scandinavia's lead and give both parents a year's paternity leave, fully paid which can be taken consecutively haha go on, it would relieve a heavily burdened education sector and the benefits are numerous! :)” – parent

113. A few parents said that their ECE had inflexible enrolment rules that meant their child had to be enrolled for longer than they would like. For example, they had to enrol them for a minimum number of days.

Many submitters said disabled, medically fragile and neurodivergent children are either excluded from or failed by the early childhood education system

114. Many submitters of all types said that disabled, neurodivergent and medically fragile children were being effectively excluded from the current ECE system or were being failed by it. A few submitters referred to New Zealand's obligations to commitments under the United Nations Convention on the Rights of Children and the United Nations Convention on the Rights of Persons with Disabilities.

“The New Zealand Government is obligated through international law to uphold the rights of children under the Convention on the Rights of the Child, therefore the impact of regulatory changes on children's rights must be thoroughly assessed and reported on.” – Save the Children

⁶ Parental leave regulatory settings are outside the scope of this Review.

115. People who work in ECE said that they do not receive enough support (including through funding) to meet the needs of disabled, neurodivergent and medically fragile children, and that in many ECEs there were not enough teachers to meet their needs. They also said that they did not feel well-equipped through the right training to do their best and provide what is needed.
116. Mana Mokopuna – the Children and Young People’s Commission supported this, saying how it was important for ECE teachers to be qualified and knowledgeable about how to support neurodiverse mokopuna to enable their full inclusion and participation.
117. Service providers said that parents of disabled, neurodivergent and medically fragile children struggle to find an ECE that will enrol their child, and sometimes have to enquire at more than 15 places before they find a provider who will enrol them.
118. People who work in ECE and service providers both said that the needs of pre-school children seemed to have increased over the years, and that they had more disabled, neurodivergent and medically fragile children enrolled than previously, particularly in low socio-economic areas.
119. Submitters said this increase in need had not been met with an increase in additional support, although a few service providers and people who work in ECE said that the early intervention support they got from the Ministry of Education was good (there just was not enough of it).
120. These issues were not only talked about by submitters as issues of funding levels – submitters talked about these issues in relation to the current approach to regulation for ECE and saw different regulation as at least a partial solution to some of these issues.
121. As well as regulating for higher minimum standards (particularly relating to ratios of adults to children, qualification requirements of workers and the physical environment⁷) submitters said that the market-driven system excluded disabled, neurodivergent and medically fragile children, and that this could be countered by regulation.

"Regulations and requirements must not be any less than 100% supportive of the needs of our young Deaf and Hard of Hearing children as our most vulnerable population" - Deaf Education ECE Trust

⁷ All of these areas are covered elsewhere in this report.

* who said their child spent less time at ECE than they would like. 18% of total parents said this.

122. Kindergartens Aotearoa submitted that children's exclusion from ECE and restraint in ECE should have regulatory standards, particularly for the protection of disabled, neurodivergent and medically fragile children. They said that these requirements would bring ECE in line with primary and secondary school requirements.
123. These themes run through many different parts of people's submissions and are therefore picked up in other places of this report as well.

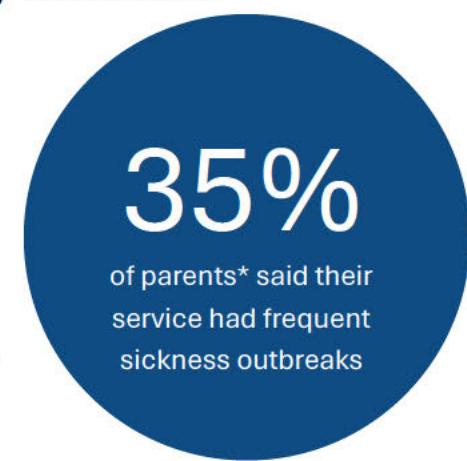
Many submitters said children who attend early childhood education and people who work in early childhood education get sick a lot

124. The most common reason for parents saying their child spent less time at ECE than they would like was frequent sickness outbreaks. This theme was repeated through various parts of not only the parents' questionnaire but also in submissions from people who work in ECE, service providers, and other interested people.
125. Parents talk about sickness outbreaks in two ways – either in reference to their children frequently becoming sick or the ECE having frequent sickness outbreaks that may mean it closes or shortens hours due to staff also becoming sick. The submissions made clear that this was a real challenge facing working parents, one that many were resigned to being a fact of ECE life.

“...There seems to be a lot of sickness at the centre and parents sending their children regardless of how sick they are. I know sickness is to be expected but my child has been going 2 days a week for 9 weeks and has spent almost half of that time at home due to illness. Every time he’s better I take him back he comes home with a new illness.” – parent

“The sickness outbreaks seem to be the reality with every ECE provider...it’s by far the biggest burden on working parents.” – parent

126. A few parents said that one of the reasons they chose home-based ECE was because they expected lower levels of sickness. One specifically said they moved from centre-based to home-based for this reason.
127. People who work in ECE also submitted about falling sick frequently because they were working in an environment where infection and viruses spread easily and quickly. This was a bigger theme for centre-based workers than home-based.



“Teaching wellbeing needs to be more of a priority. Our teachers are always sick, from things they’ve caught at work, yet only get 10 days. Many of us work through being sick or have to day take days off unpaid. Only to go back to work and get sick again form what the children are bringing in.” – teacher

“I would like to see the covid policy reviewed for ECE. Currently teachers and children can attend a service, without any consideration for those around them...There should be more protections in place...” - teacher

128. A few submissions from people who work in ECE said that the absence rules and forms were too strict, which can cause parents to send their children to ECE while sick. The absence rules are government funding rules, contained in the ECE Funding Handbook.

“Frequent absence rules to ECE are unhelpful, parents are made to send children to centre when unwell.” - teacher

“Frequent absence rules are too strict, especially the ones around patterns. Little children get sick quite often and we ask parents to not bring them in to prevent spread, but then with frequent absences we have to ask them to come, which can be quite hard.” - teacher

129. People who work in ECE and service providers said frequent sickness increases reliance on relief teachers, who can also be in short supply. A few said teachers were working while sick as a result of these issues, which exacerbated the issue.
130. A few people and organisations who submitted to the Review said the issue of sick children in ECE is a serious one. Submission documents said that regulations about physical space, ratios and group size are not sufficient to prevent overcrowding, spread of infection, or provide appropriate space for temporary care of sick children.
131. Organisations that submitted to the Review cited research that says evidence-based regulations and safety guidelines informed by research on controls such as temperature and ventilation could reduce risks of sickness in ECE settings.

“The high incidence of respiratory infections in early childhood may be due to poorly ventilated and overcrowded centres. Adult exposure to respiratory disease in close, crowded, and overheated rooms for sustained periods will result in an increase in illness.” – ECE Teacher and researcher

132. The ECE Parents Council and Office of Early Childhood Education submitted that as well as records of child immunisations, ECE services should be obligated to keep records of staff immunisations, who can also transmit diseases. The ECE Parents Council also recommended that ECE centres with 20 children or more be required to

have a CO₂ monitor in use in indoor areas used by children to ensure adequate ventilation to reduce the spread of airborne diseases.

133. A change in requirements for the minimum number of handbasins was also put forward by an academic and ECE consultant. A few submitters said that teachers have little to no training in infectious disease spread and that this should change.

Some submitters said that the physical environments of some early childhood education settings do not support the learning and development of children

134. Many submitters said that the physical environments of early childhood education settings are important to children's wellbeing, learning and development. As one teacher said describing what they would like to see in the physical environment of ECE centres:

“...Premises and facilities need to be for children, they need space to learn and grow, room for free movement. They need to be safe, clean and tidy. They need quiet, birds, nature and no noisy traffic of motorways close by.... just not noise all the time. They need a space where they can be noisy too, not in built up areas.” - teacher

135. The aspects of the physical environment that submitters of all types talked about as being important for children's wellbeing, development and learning were:

- having enough inside and outside space to learn, play and explore
- air quality that ensured sickness spread was avoided where possible and low levels of pollution from surrounding areas and activities (as discussed above)
- appropriate temperatures (i.e., sufficiently warm but not too hot)
- quiet environments/environments that were not too loud.

136. Some submitters said that the environments of many centre-based ECEs fell short of these standards, while a few also said that some centres were inaccessible to disabled children and their families.

Inside and outside space

137. Having sufficient inside and outside space for children to run, play and explore came through in a range of submissions. Parents said that the “look and feel” of premises and the physical environment was important to them when choosing an ECE, and a

few described what they thought were centres with too little inside and outside space.

“We visited one centre which had tiny outdoor space shared between too many children and the children were told not to run around, because the garden was landscaped and completely unsuitable for children to play in, it was heartbreaking to see.” – parent

138. Many people who work in ECEs described centres not having enough space, inside and outside, which impacted on children in multiple ways, for example by causing more noise and stress, which impacted on behaviour.
139. Space issues were spoken about in different ways – about not having enough space per child, the calculation including furniture so the requirements did not equate to open space for play and activities and not having enough space for different areas to be allocated for different uses (the most common one here being for a dedicated sleep environment for children).

“We do not have enough space dedicated to sleep rooms, toilets, indoor and outdoor play spaces. Our spaces are very crowded. This causes greater noise, stress, accidents and negative behaviours.” – teacher

“...The space is TINY. Children need to move. How can they if they are squashed in like sardines.” – teacher

140. Other interested submitters also talked about the amount of space in ECE centres being insufficient for children to learn, play and explore.

“...New Zealand’s space regulations are amongst the poorest in the world. 2.5m² is really inadequate and would make for overcrowding and is a recipe for conflict. 5.2 outside is not enough space to allow for adequate movement and all important physical development, which is connected to cognitive and emotional development too.” – teacher

141. A few parents submitted about the importance of outdoor space and a few people who work in ECE and NGOs said there should be requirements put in place for ECEs to have natural outdoor spaces, with grass and trees. This was echoed by organisations representing and advocating for disabled children.

“Require centres to have physical environments that include a lot of softness (including real grass, cushions, rugs, carpet, couches, swings), and not be dominated by hardness (e.g. wood, concrete, and artificial ground surfaces). This helps reduce reverberation and ensure quality listening environments.” – Deaf Education ECE Trust

Air quality

142. Submissions about air quality in ECE centres mainly came from NGOs and researchers in this area. Air quality was cited by submitters as important for two reasons – for ensuring children and workers were not breathing in highly polluted air and as discussed above, to reduce the spread of illness.
143. A few submitters said that there were risks with having ECE centres in areas of high traffic density and industrial areas, which were often where centres were built. A few also said that air quality was of particular importance to young children who were at particular risk from pollutant exposure and that New Zealand had high rates of respiratory illness.
144. This was supported by submissions from a few parents who said that there should be ventilation standards or other measures in place to reduce the prevalence of illness as much as possible.

Temperature

145. A few submissions from NGOs, researchers and people who work in ECE said that maintaining a sufficiently warm temperature was important for children's wellbeing, including because of the high rates of respiratory illnesses in New Zealand.
146. OMEP Aotearoa New Zealand (member of OMEP World Organisation for Early Childhood Education) submitted that as well as a minimum requirement for temperature, which is currently regulated, there should also be a maximum permitted room temperature.
147. This was supported by a few other submitters, including people who work in ECEs and service providers. A few submitters specifically commented that the current minimum room temperature of 18 degrees should be retained.

Noise

148. Some submissions from NGOs, researchers and people who work in ECE said that the high levels of noise in some ECE centres were damaging children's wellbeing, and hearing, and the hearing of ECE staff.
149. In terms of children's wellbeing, and their ability to learn, teachers talked about the sensory processing demands of high levels of noise which result in emotional dysregulation and resulting behaviours.

“...These behaviours effect all tamariki and their development, including stress inside young developing brains.” - teacher

150. Submitters said a range of factors contributed to noise levels, from external factors such as roads to internal factors such as high numbers of children and physical spaces that were not designed to lessen noise.
151. ECE Reform, and NGO, submitted that children in ECE were sometimes exposed to levels of noise that could lead to hearing loss which had significant ongoing consequences.
152. It is worth noting, that a few service providers said they had significant difficulties meeting the acoustic requirements for licensing. This is covered in chapters three (barriers to market entry, expansion and innovation) and seven (policy performance).

Submitters recommended regulatory and non-regulatory solutions for improving the physical environments of early childhood education settings

153. Solutions put forward by submitters were predominantly regulatory, but also suggestions for service providers to take steps of their own accord – such as monitoring CO₂ and noise levels and furnishing their ECEs with soft materials for comfort as well as noise minimisation.
154. The regulatory proposals included increasing minimum inside and outside space requirements,⁸ requiring natural outdoor space and softness in ECE settings, reducing maximum service size, requiring CO₂ level monitoring and different requirements (or guidance) about appropriate locations for ECE centres (such as not allowing them where air quality is poor).

⁸ Some submitters, notably ECE Reform, provided a detailed proposal on what those new space requirements should be and a transition plan over time to account for the fact that many centres have been built in line with current requirements.

Chapter three: Barriers to market entry, expansion and innovation – can service providers respond to demand and innovate in early childhood education?

Key messages

Submissions to the Review told us that...

- Most service providers said they are **not currently meeting the demand** for places, or types of service, in their communities.
- Home-based services said they **could not meet demand and had very long waiting lists**. Some directly attributed this to current regulatory requirements about the proportion of their educators that needed to be qualified which was limiting their growth, and financial sustainability.
- Service providers did not directly attribute not being able to meet demand with it being too difficult to expand their services or innovate. **Many said that cost was the main barrier to service expansion**, particularly with the high cost of land and building.
- **Many service providers said they were unable to meet the needs of disabled and neurodivergent children, and children with specific needs**. They predominantly attributed this to not being able to provide the right, or enough, staff, with the right skills and training.
- **Many service providers described a high volume of requirements to meet to obtain a probationary licence**, saying that co-ordinating across multiple government agencies can be difficult. More experienced service providers described more straightforward processes.
- Many service providers said probationary licence **requirements were interpreted inconsistently** which caused confusion and frustration about what was required.
- A few submitters said there was a **lack of innovation** in the early childhood education market but did not directly attribute it to a particular cause – beyond being a sector in survival mode.

Many service providers said that there was a high volume of requirements for market entry

155. To understand whether the current government intervention in the market is achieving an appropriate balance between imposing checks and balances and burden on service providers, the Review asked existing service providers about their experience of opening new services.

156. The Review cannot provide a summary of barriers that have completely prevented market entry. This is because the questionnaire did not reach people and businesses who may have wanted to enter the ECE market but had been unable to or had decided it was too difficult for whatever reason.

157. When considering what service providers said in response to these questions it is worth noting that for half of them their last experience of opening a new service was more than five years ago.⁹ This means that for most submitters their experience was not current, or they did not have the full probationary licencing experience so the Review cannot draw definitive conclusions on the current system.

158. Diagram four below shows how service providers responded when asked how easy or difficult it was to meet the requirements for a probationary licence.

Meeting licencing requirements

■ Very difficult ■ Difficult ■ Easy ■ Very easy

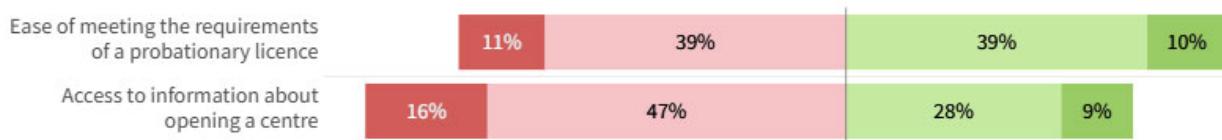


Diagram four: how easy or difficult service providers found meeting probationary licence requirements and accessing the information they needed to understand the requirements

⁹ 17% had opened a service within the last two years and just less than 10% were currently opening a new service. A few indicated in the free text that they had bought services that were already licenced.

159. Some service providers described a high volume of requirements and said that even if they understood what was required of them it was “*...a huge amount of work*” to meet them and obtain a probationary licence.

“...The information was helpful as a very general overview but once you get in and start the process it is gruelling...” - owner of a Puna Reo

“If you collate the required information / documentation (which takes time) it is an easy process. There is a lot of documentation but its not hard, just arduous...” – CEO of a centre-based ECE service provider (community-based, not for profit)

“It is just a lot to get there, I don't particularly think it should be any easier/it is pretty important to ensure that every aspect is covered...” – owner of a private ECE centre

160. This was not a view held consistently by service providers, with some saying that while the volume of requirements was high, they understood the process and could navigate it with relative ease.

“This was difficult only in terms of the amount of work that needed to be done in preparation however the probationary license was relatively easy to obtain because we had done the groundwork and were all experienced teachers. The MOE support team were very helpful.” – owner of a centre-based ECE (private)

161. Smaller service providers (fewer than 20 employees) found it more difficult to meet the requirements for a probationary licence than larger service providers. Large service providers (over 50 employees) were more likely to find it easy or very easy to meet the requirements for a probationary licence.

162. Pacific Enterprise People Limited submitted that the current regulatory system may be creating barriers to entry and sustainability for Pacific ECE services because of the volume of requirements having to be understood by people whose second language may be English.

“To paint a clear picture, what we see is this: centre owners and leaders are necessarily deeply versed in their own culture and language. Therefore, they often have English as their second language. Yet to run an early learning service, they must comply with dozens of laws and regulations written in legalese and updated frequently...The current regulatory system may inadvertently create barriers to entry and sustainability for Pacific Early Learning Services, leading to market distortions such as reduced competition and the potential loss of culturally significant services.” – Pacific Enterprise People Ltd

Many service providers said market entry requirements were interpreted inconsistently by the Ministry of Education

163. Many service providers said that they faced issues with inconsistent interpretation of requirements by different people at the Ministry of Education and other agencies that are involved.

“The biggest issues that we have had is the inconsistency between MoE [Ministry of Education] officers when they could to assess different preschools. This is true even for the same officer assessing two different preschools months apart...” - owner of centre-based ECE service provider (private)

“We have licenses in 10 regions and I provide exactly the same information to each region following the paperwork guidelines, and the inconsistency and the personal interpretations of these are unbelievable. I could write a book on it...” - Executive Leadership Team member for a home-based service provider

Many service providers said that they had to deal with multiple agencies on market entry, which sometimes caused delays

164. Many service providers described the challenges they faced dealing with more than one government agency, as well as local government, either because the agencies disagreed on the interpretation of requirements, or because of the amount of work involved in going between them.

“The most difficult thing was having to go back and forth constantly with different agencies like MOE [Ministry of Education], MOH [Ministry of Health], and council which costs time and money because they cannot agree all have their own rules and policies. They do not have a system to share information when dealing with opening an ECE centre. It was actually traumatic.” – owner of a Puna Reo

“...We use planning consultants, acoustic consultants, architects, engineers, fencers etc...We have been through more than 25 licence inspections...each varied wildly from the next depending on the Education region, FENZ, Health, and Council requirements and how they are applied in each region.” – Executive Leadership Team member of community-based ECE centres (Kindergartens)

Some service providers said that the approach of government agencies was unsupportive

165. A few service providers said that the approach taken by the Ministry of Education and the Ministry of Health when issuing probationary licences was unsupportive, and the process of obtaining a probationary licence would have been easier if they provided more support.

“...What would have been helpful is more tangible support from the MOE...” - owner of centre-based service provider (private)

“...real lack of support from the ministry. They don’t want to tell us how to do anything for fear of liability.” - owner of a home-based service provider

166. One service provider said that the timing of involvement of the Ministry of Education and the Ministry of Health was too late. This caused the late identification of issues, and incurred additional costs that could otherwise have been avoided.

“...The difficulty I found is that both the Ministries of Health and Education were reluctant to engage earlier than the licencing date and seemed concerned that they might in some way contradict the licencing officer that ultimately turns up at the end of the process. It would be far more helpful if the Ministries could provide more proactive engagement/partnership throughout the design and build to provide guidance at a time where it is cheaper and easier to fix issues rather than having to retrospectively find solutions at the end of the build.” - owner of centre-based service provider (private)

167. A few service providers described an opposite experience, saying that they found the Ministry of Education supportive in this process. One Executive Leadership Team member of a Puna Reo said that they received “*good guidance from support people in...Ministry of Education.*” A few service providers that had originally been licenced several years ago also described a supportive process.

Some service providers said that requirements were highly prescriptive which could cause issues for them when obtaining a probationary licence

168. A few service providers spoke about the very specific nature of the requirements causing issues, with some talking about the specific wording that was required of them in policies.

“...While information was available the assessment of our policies etc was very specific and clearly desiring specific sentences, statements and approaches. Our advisers are lovely people but they are bound by many expectations leaving little room to trust us as providers.” - board member of an ECE centre (community-based, not for profit)

169. Another service provider described a delay in their new centre opening because of a single word in the Council building report.
170. Some service providers spoke about specific requirements for probationary licences that they had issues with – including requirements that incurred high costs for them. These notably included the complexities, or unintended consequences, related to resource and building consent requirements; acoustic requirements assessed by the Ministry of Health; and conflicting requirements between different regulatory frameworks about the height of door handles.

Most service providers said they were unable to meet demand

Waiting lists

171. To get a better picture of how well-functioning the ECE market was, the Review also asked service providers whether they were able to meet demand.
172. Most service providers that answered the questionnaire said there was demand they could not meet.¹⁰



¹⁰ There was some indication in the free-text answers that some service providers interpreted this question as asking whether there were regulatory requirements they could not meet, as opposed to demand in the ECE market.

“...We are currently not meeting the demands of our community. This has shown up in regular surveys we have had with our community.” – owner of centre-based service provider (private)

173. When describing what demand they could not meet, they predominantly talked about having long waiting lists for their services. This was true across all type of providers.

Demand for specific service types

174. A few home-based services said they had demand in specific geographic areas that they were unable to meet (due to not having enough educators in place).
175. Other specific service types or features that service providers said there was demand for that they could not meet were:
 - higher adult-to-child ratios, which they could not afford
 - places for children to attend part-time
 - places for children under the age of two
 - bilingual or trilingual services
 - transport for families.

Disabled, neurodivergent and medically fragile children

176. Across the questionnaire and written submissions, many service providers talked about the needs of disabled, neurodivergent or medically fragile children. This has been previously covered in this report in chapter two.
177. Service providers either said that they could not provide the right staff and environments to meet the needs of disabled, neurodivergent or medically fragile children, or talked about the ECE system not being set up to support services to provide what was needed. As one service provider said:

“Our education systems discriminate against tamariki with additional needs. We have been told multiple times not to take on more tamariki with additional needs as we have quite a few and the Ministry cannot support them. We get a lot of children who have been turned away from other centres because there simply is no support or the tamariki and they can be extremely physical and unsafe.” - owner of an ECE centre (private)

Many service providers said that cost was the main barrier to service expansion

178. Among service providers who said there were unable to meet existing demand, a few commented about why they were unable, or unwilling, to expand their services to meet that demand.
179. The most common reason given for not being able to expand their services was financial ability. A few service providers specifically referenced high land, property and building costs, as well as the availability of the right size or type of land in the place they wanted. Not-for-profit service providers referred to the many years it takes them to build the capital needed to expand existing services, or to open new ones.
180. A few service providers linked their limited financial ability to expand to regulatory barriers.

“Our physical site limits our expansion, and the expense, time and regulations around opening a second site are too expensive for us to be able to consider this.” - owner of an ECE centre (private)

Most home-based service providers said that they could not expand because of workforce supply and the impact of qualification requirements

181. Home-based ECE providers submitted that over the past five years home-based services have declined by almost 50 per cent. All but one of the home-based service providers who filled in a questionnaire (13 submitters) said that there was demand that they could not meet.

“We always have at least 250 families on our waiting list nationwide.” – owner of a home-based service provider

“Childcare enquiries well outnumber the amount of spaces available.” – Executive Leadership Team member of a home-based service provider

182. The decline of home-based services was a particular focus of a submission from a group of home-based service providers.¹¹ They said that participation in home-based

¹¹ This was a submission from 21 home-based service providers.

services has declined in the same period, resulting in over 7,500 fewer children participating in home-based ECE.

183. This group of home-based service providers submitted that many of those children would still be participating in ECE, but outside of the regulatory system with no oversight or documented programme (the increase in centre-based participation does not fully explain the gap).
184. Home-based service providers said that the cause of this decline was because increasing regulatory demands have become too much for providers and educators to meet and so, far from expanding, they were exiting the market completely.
185. The owner of one home-based service provider described a specific challenge. They said the requirements meant they had to have employed a full-time Person Responsible before they had any registered educators to obtain their probationary licence, which was a risk for them. The owner said that:

“Home-based is slow burn because of the nature of educators registering with providers...so you need to have a high level of confidence as a service provider that you can on-board at least 8 educators relatively quickly to sustain the cost of an operating licence.”

186. Most home-based service providers submitted that the current qualification requirements were stunting the growth of home-based services because only up to 20 per cent of their educators could be unqualified or be ‘educators in training’ at any one time.
187. Home-based service providers said that while all home-based services are affected by needing to have 80 per cent of their educators qualified, rural and isolated areas were particularly affected – and these were areas that submitters said home-based services could be the most responsive to community needs. They submitted that this requirement needed to change, and that qualification requirements for home-based services in general needed to be more flexible.

Some service providers said cost, time and regulations were barriers to innovation in the early childhood education market

188. The Review was interested in whether there was innovation in the ECE provision, and whether service providers were facing barriers to innovation. A few submitters expressly said that there was little innovation in ECE, and a few others referred all parts of the sector focussing on survival rather than innovation.
189. While many service providers gave examples of what they would like to do, most of them said that cost and time were the barriers. A few said this was because of the regulatory framework.

“The regulatory and audit framework is too constraining to innovate and I am not funded to innovate.” - University-based centre-based ECE provider

“...Furthermore, the time to do quality research as our time is filled with regulatory compliance and we burn the candle most nights...” - owner of an ECE centre (private)

“...There are a number of curriculum and family support innovations that we have been thinking about for several years but are so busy with basic administration that we don’t have the free time to develop.” - owner of a centre-based service provider (private)

190. The examples by service providers for how they would like to innovate were in some instances ways to make their processes more efficient - technology and digitisation of manual processes and paperwork were key examples given - and in others wanting to be able to put things in place to improve the quality of their care and teaching for the children enrolled in their service. The barrier described by most service providers was cost.
191. One service provider described what they had to put in place to be able to offer nature programmes, and that the cost to parents was higher than they thought it would have been if different regulatory settings had been in place.

“[the regulatory framework requires]...that all ECE programmes must operate from licenced premises. We currently operate Nature Programmes [Forest School] which must operate as an excursion from a centre. Currently all children on this excursion must contribute to the operating costs of the centre even though they never attend. If you investigate how countries such as Denmark manage this there would be less cost to parents....” - owner of a centre-based service provider (private)

192. A few service providers talked about their potential to be a key point of intervention in their communities and in the trajectory of children's lives if they were able to provide wrap-around support to families. They expressed a desire to provide more services (such as health) on site or more education to parents. This was supported by other submitters, such as NGOs.
193. One service provider described what they would like to be able to do in this regard, with the barrier being cost and staff having no space in their workload.

"We have some centres in low socioeconomic areas where there is extensive poverty, child protection issues, gangs etc ... We would like to be able to take a whole of Whānau approach and be able to support the families of our tamariki to flourish and achieve their own aspirations...This will increase engagement in ECE...if patterns of attendance are set in ECE they will more likely continue in the compulsory sector..." - Executive Leadership Team member of a centre-based service provider (community-based, not-for-profit)

Chapter four: Picture perfect – what problems do parents and service providers face when accessing information?

Key messages

Submissions to the Review told us that...

Parents

- 80 percent of parents said they **had easy access to the information they think is important** when making a decision about their early childhood education options. **20 percent said they did not have access to the information they thought was important.**
- A few parents said that **access to information was not relevant because** they were unable to access the options they wanted.
- A few submitters, mainly NGOs, said there was a **need for greater transparency** from service providers to parents, and that it was difficult for parents to be able to assess what “quality ECE” looked like, or to understand the importance of “quality ECE” for their children’s short- and long-term wellbeing and development.
- **Half of parents said they did not know how to complain** about their early childhood education service, although those that had complained were satisfied with how it was handled.

Service providers

- Many service providers said they had **difficulty accessing the information they needed to understand and meet licencing requirements.**

Some parents said that they did not have access to the information they needed, and half said that they did not know how to complain about their early childhood education

Information to make informed choices about their early childhood education

194. Most parents said they had access to the information they thought was important when considering their options for ECE, with just under 20 per cent of parents saying they did not have access. Similar proportions said accessing the important information was 'easy', with just over 20 per cent of parents saying it was 'not easy' to access the important information.
195. How parents ranked the importance of different types of information is shown in diagram five below. In line with parents' responses to other questions, knowing who will be spending time with their children and factors influencing their children's safety were deemed particularly important.



Definition reminder:

'most' means 50% or more ($50\% \leq x$)

'many' means between 30% and 50% ($30\% \leq x < 50\%$)

'some' means between 12% and 30% ($12\% \leq x < 30\%$)

'a few' means less than 12% ($x < 12\%$)

What do parents want to know when choosing an ECE

Parents were asked to rate each type of information from "Very important" to "Not important"

■ Not important ■ Slightly important ■ Important ■ Very important

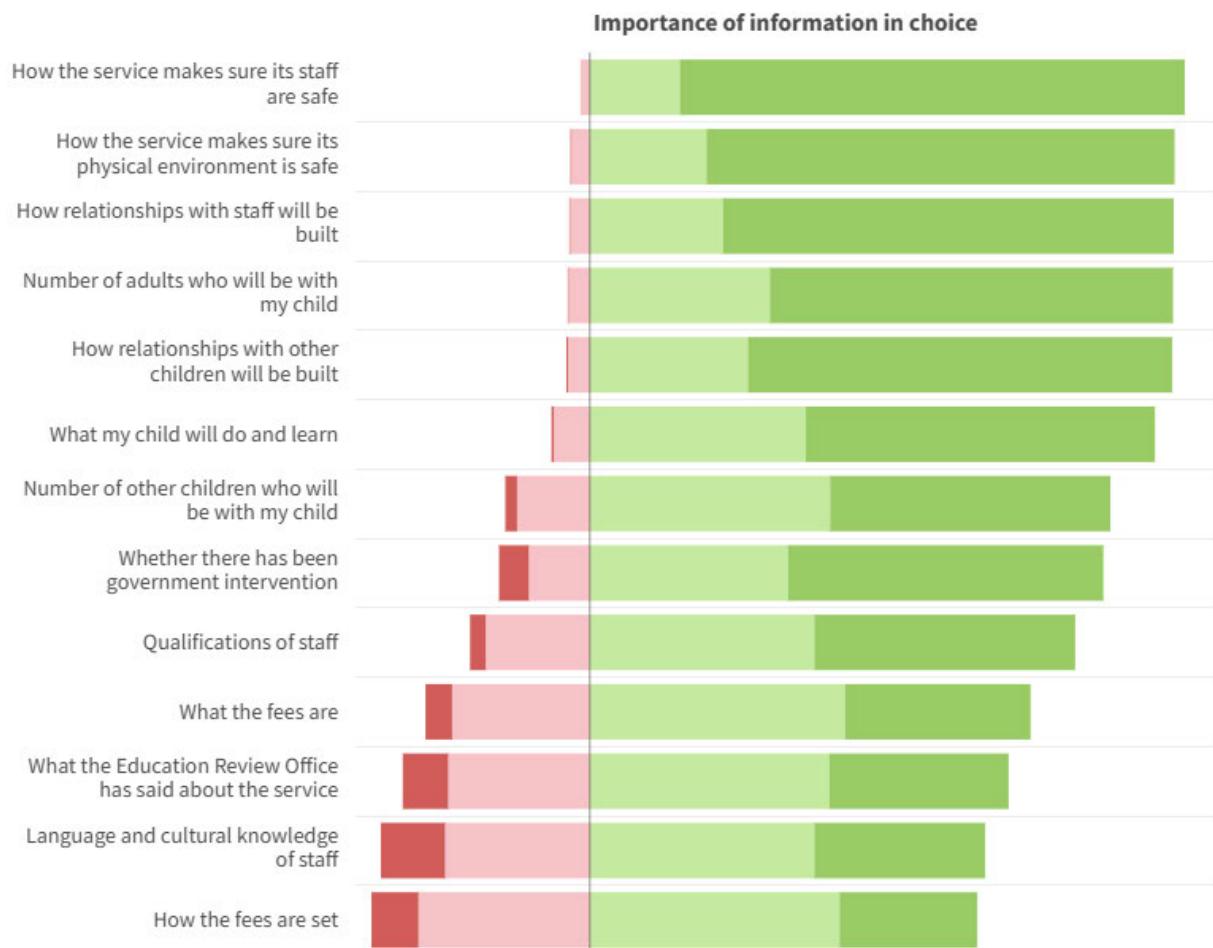


Diagram five: the importance of types of information to parents when choosing an ECE

196. While most parents had easy access to the information they wanted, a few did not, or remarked that access to the information did not matter when there were no spaces at the ECE they wanted based on the information they did have.

"It was time consuming to find the information to inform our decision. It isn't standardised..."
– parent

"All these things are important but in reality almost pointless as it is so hard to find a sport for our children..." – parent

197. Those parents who had access (and easy access) to the information they needed when making a choice of ECE reported being more satisfied with their eventual choice than those parents who reported not having access to the information they needed when making a choice.

198. Parents who sent their children to Playcentre were the least likely to have easy access to the information they needed when making a choice of ECE, whereas parents who sent their children to home-based services were the most likely to report having easy access to the information they needed.
199. A few submissions from representative groups and service providers said that some parents did not understand the value that ECE can have for their children and that it was hard to assess the quality of ECE when looking for one.
200. One submitter, an academic and ECE consultant, said that the consumer in the ECE environment was the child who must rely on their parents to decide on the product that they would receive. They submitted that while some parents would have a good understanding of children's ECE and care needs, many would not and would have difficulty discerning false advertising from truth.
201. A few submitters said that there was, in general, a greater need for transparency between service providers and parents. These submitters said that service providers and the Ministry of Education needed to provide information more proactively to parents, particularly where there was compliance action taken by the Ministry of Education.

"Transparency is a cornerstone of maintaining trust between ECE providers, parents, and the wider community. A such MoE [Ministry of Education] should have the authority and resources to directly communicate with parents regarding the outcomes of investigations...all licence suspensions and cancellations should be published on the MoE [Ministry of Education] website, along with detailed explanations of the regulation breaches that led to these actions..." – submission from Early Years Research Lab – Massey University

202. A few parents made specific comments about the usefulness of Education Review Office reports about ECEs, with mixed views about whether the reports were useful in informing their decision making. Parents frequently mentioned that Education Review Office reviews and reports should continue when discussing how government should monitor ECEs, indicating usefulness. Others made specific comments that the reports were not useful when making decisions.

"It's difficult to provide comment on the Education Review Office because it is pretty much an unknown entity / not prominent with parents at this age. And the reports that I've read don't really offer any insight about the quality or values of a Centre or school. I would consider them as a box to tick - does the Centre pass or fail - rather than an insightful guide." – parent

“ERO could provide useful information, but their reports have become less clear for parents and general community to truly understand what experiences the centre is genuinely providing for children...” – parent

Knowing how to complain and outcomes of complaints

203. Half of parents said that they did not know how to complain about their ECE. Of the 15 per cent of submitters who said that they had made a complaint, most said that they were satisfied with how it was handled, with some mixed experiences described.
204. Some of those who complained described being met with respect and significant efforts to rectify the subject of the complaint while others felt “brushed off” or that their complaint was not well handled.
205. The ECE Parent’s Council and Office of Early Childhood Education said that parents were not seen as a valuable source of information when ensuring ECE services were following the rules. They said that the word of the service provider was more likely to be accepted by the Ministry of Education over the word of parents when parents made complaints.
206. ECE Parent’s Council and Office of Early Childhood Education said that service providers should be required to inform families in writing when their licence was downgraded or changed, or when they received a written directive from the Ministry of Education to fix a serious health and safety breach.
207. Further, the ECE Parent’s Council recommended that ECEs be compelled to provide parents with information about the name/s of the owners or who was ultimately responsible for a service and how to contact them should they need to.

Many service providers said that they had difficulty accessing the information that they needed to understand and meet licencing requirements

208. Half of service providers said they found it ‘easy’ or ‘very easy’ to meet the requirements for a probationary licence, with the other half saying they found it ‘difficult’ or ‘very difficult’.
209. Despite this, most service providers said that it was either ‘difficult’ or ‘very difficult’ to access the information they needed to understand what was required of them to open an ECE service. They described mixed experiences about their efforts to obtain the information they needed.

210. A few service providers described helpful interactions with Ministry of Education and/or Ministry of Health advisors and a useful website. A few said that while accessing the information and understanding what they thought was needed was straightforward, interpretation of the requirements by the Ministry of Education caused them issues.
211. A few said that they had good support from an experienced governing body or had been helped by consultants through the process

Chapter five: People who teach and care for children – what problems do the people who work with children face?

Key messages

Submissions to the Review told us that...

- Submissions painted a clear picture that the early childhood education workforce **is facing significant challenges**.
- People who work in early childhood education said that the **minimum regulated standards in ECE, particularly ECE centres, needed to be higher** for them to be able to do their jobs – namely, teach and care for young children.
- People who work in ECE were supported by other types of submitters in saying that **higher minimum standards in the regulatory framework were needed**. They submitted that this would mean regulating for higher adult to child ratios, smaller service size and regulating group size. Some acknowledged workforce supply issues in this context.
- There were **a few divergent views** on these issues, including one representative NGO that said minimum ratios should be removed from the regulatory framework (but retained in funding rules).
- People who work in ECE said they **did not have capacity** to do all different parts of their jobs well, and that **higher ratios** of adults to children were needed and a reduction in compliance requirements, mainly paperwork.
- Some people who work in ECE thought that **the paperwork required to satisfy regulatory requirements was justified for children's safety and good practice**, they just did not have time to complete it. Others said there were **paperwork requirements that should be removed**.
- People who work in ECE also said **easier to understand regulatory requirements, mandated non-contact time, a higher proportion of qualified teachers, more innovation in the sector and better pay and conditions** would also ease current pressures.
- Many submitters said the **proportion of qualified teaching staff in ECE centres needed to be higher**, while acknowledging **workforce supply issues**.
- Language immersion services, both Māori and Pacific, said **language skills and fluency** should be recognised in qualification requirements.
- Home-based services said **qualification requirements were limiting their ability to meet demand and / or to grow their services**.

Most people who work in ECE reported burnout and limited capacity, which was supported by other submitters

212. Over 1,000 people who work in ECE submitted to the Review. Predominantly teachers, these submitters described their passion and dedication not just to the children of New Zealand but to their whole families and the future generations of children who would go through ECE.

“Working with children in the most critical period of their life in terms of brain development is a privilege, and I’m proud of the work we do to support our youngest learners to develop a life-long love of learning and confidence.”- teacher

Definition reminder:

‘most’ means 50% or more ($50\% \leq x$)

‘many’ means between 30% and 50% ($30\% \leq x < 50\%$)

‘some’ means between 12% and 30% ($12\% \leq x < 30\%$)

‘a few’ means less than 12% ($x < 12\%$)

“Teachers teach because they want to improve future generations and make an impact...”- teacher

“I take pride in creating positive and inclusive spaces where children can thrive and reach their full potential.” - home-based educator

“...Basically I love what we do and how we support our children’s learning and development with all the knowledge and experience we bring to the centre every day.” - teacher

213. While the dedication of the people who work in ECE to children, their families and wider communities came through every submission, the picture painted was one of a workforce facing significant challenges.

214. Some submitters specifically described burnout, or being on the brink of burnout, both when describing themselves and when describing their colleagues. A few said that after many years, sometimes decades, in ECE, they were close to leaving and finding a new career. This was also described by a few service providers.

215. Submitters said that increasing expectations had been placed on them over time, mostly referring to increased amounts of documentation and checks and balances, as well as working with higher proportions of disabled and neurodivergent children, and for a few, a higher proportion of younger children.

216. Some said that they understood the necessity of new requirements that had been introduced but that increased requirements had not come with increased staffing levels. Others said that many of the requirements were not benefiting children and their families, but the opposite, because they were taking teachers away from their core roles.

217. To complete their work, submitters described frequently completing unpaid work. A few also described poor treatment from employers.

218. Many described feeling undervalued and treated by the government as 'babysitters', not child development and teaching professionals with significant contribution to make to children's wellbeing and long-term outcomes.

"Please please please do not belittle our sector any more than it is. We are in tough times..." - teacher

"Teachers teach because they want to improve future generations and make an impact. I wish this was recognized and respected." - teacher

219. A small number of illustrative quotes indicating burnout can be found below.

"...It's just too, too hard." - teacher

"...Do you know how exhausting it is working with children from 8 – 5 with a 10 minute break (if you are lucky) and 30 mins lunch. Children are demanding emotionally and physically and being with them day in and day out when there are just not enough teachers, is really, really tough." - teacher

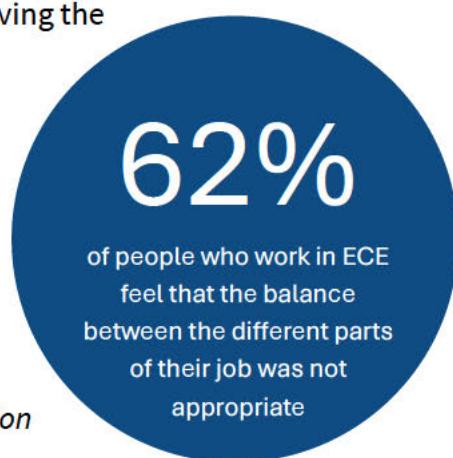
"At the end of the day I am exhausted and stressed. I'm in a room of 18 – 20 2 and 3 year olds with one other teacher...It's a nightmare." - teacher

The balance between different parts of the job

220. Submitters described a wide range of factors contributing to the current state of the ECE workforce, most of which came down to not having the capacity to provide quality teaching and positive experiences to children. The Early Childhood Council said:

"...large parts of the early childhood sector have long been advocating for relief from unworkable regulatory requirements and conditions that stifle good practice and distract our workers more and more from their core reason for working in our sector – quality interactions and education of young children..."

221. Most submitters who worked in ECEs (just over 60 per cent) said that the balance between the different parts of their job was not appropriate (e.g., spending time with children, preparing, completing paperwork, professional development). Multiple factors influence this assessment:



- People with more responsibility and more knowledge (person responsible, centre managers, and administrative staff) of regulatory requirements are more likely to feel that their role is unbalanced than teachers.
- People who spend more time recording information (e.g. sleep checks or hazard checks) and less time with children¹² are more likely to feel that their role is unbalanced.
- People who work in private (for-profit) ECE centres are more likely to feel that their role is unbalanced than people who work in community-based ECE, home-based ECE, or Kindergarten.
- Generally, the larger the centre, the more likely people working there were to feel that their role is unbalanced. The exception to this was that people who work in very large centres (licenced for 121 – 150 children) were more likely to feel that their role was balanced, on par with people who work in very small centres (up to 20 children).

222. The diagram six shows how much time teaching staff (both qualified and unqualified) spend with children as proportion of their week. It shows that most teachers spend between 80 per cent and 89 per cent of their time with children.

¹² If being with children is relevant to their role.

How long do teaching staff spend with children

Teaching staff (both qualified and unqualified) were asked how long they spend with children as a proportion of their week

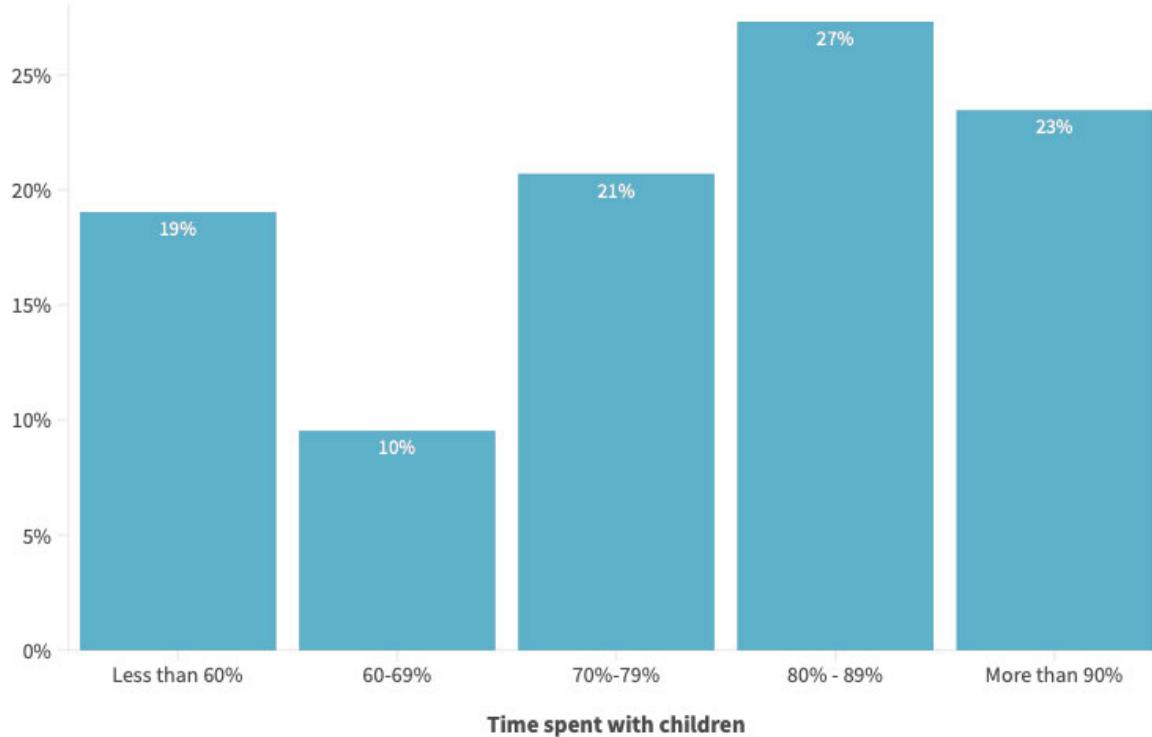


Diagram six: the proportion of their working time teaching staff said they spent with children

223. On average, teachers who work in home-based ECE spend more time with children than people who work in other types of ECE. People who work in Kindergarten and community-based ECE reported spending the next highest average amount of time with children.
224. Teachers who work in private (for-profit) ECE reported spending the lowest average amount of time spent with children, but this is driven by people either spending lots of time (over 90 per cent) or not a lot of time (less than 60 per cent) with children.
225. Teachers who work in very small centres (e.g., licensed for up to 20 children) reported spending more time on average with children than people who work in larger centres (licensed for over 20 children).
226. On average, teachers who work in Kindergarten reported spending more time on planning, assessment, and evaluation than people who work in other types of ECE. Submissions from teachers in different types of services provided insight into why Kindergarten teachers reported spending more time on planning, assessment and evaluation than other types of ECE.

“There is such a lot of disparity in non-contact time and expectations for kaiako, between kindy and private ECE it is unfair. In no way would I say Kindergarten has too much! Private ECE centres do not give kaiako enough non-contact time to meet the expectations of documentation, assessment, professional development, research, professional growth cycle work, and environment upkeep.” – teacher

“It is difficult not to be envious when looking at a kindergarten or school model with the amount of time the teachers get without children so that there is time for meetings, PD etc., without cutting into personal time.” – administrative worker at a Puna Reo

227. Teachers who work in community-based ECE reported spending the next highest average amount of time on planning, assessment, and evaluation, followed by teachers who work in private (for profit) ECE. Teachers who work in home-based ECE spent the lowest average amount of time on planning, assessment, and evaluation.
228. People who work in very small centres (licensed for up to 20 children) and very large centres (101-120 children) spend less time on planning, assessment, and evaluation than people who work in medium sized centres (21 – 100 children).

Staffing levels and services operating at minimum ratios

229. Many submitters said that they did not have enough time to spend time with children and deliver the curriculum, because there were not enough staff and too many children in the centre they worked in. This is supported by the finding above that people who worked in larger centres were more likely to feel their role was unbalanced.
230. Submitters said that their jobs felt more like “crowd control” than teaching and caring for children. Some of these submitters said that the centre they worked in operated at minimum ratios.¹³ This was predominantly a theme from people who worked in private ECE centres.

“Due to unsafe ratios, I spend more time in crowd management than on care and education.”
- teacher

“...two teachers is not enough when you have four younger and/or babies that need one on one care and are settling (e.g., naps, bottles kaimanaaki close by). It’s just not sustainable and puts a lot of stress on teachers to fulfil the needs of the children. They tend to get burnt out and tricky to juggle lunch breaks and their general wellbeing.”- teacher

¹³ “Operating at minimum ratios” is ECE centres having the minimum regulatory ratio of adults to children. This is provided for in the Education (Early Childhood Services) Regulations 2008.

231. As well as the numbers of adults to children, many people who work in ECE also spoke about the impact of group sizes and services sizes on their ability to deliver quality care and education for children. They said that the high numbers of children in one space or across a centre not only meant that staff did not have sufficient capacity, but also that it meant the environment was not suitable for children to learn and develop (as has been previously covered).

“There is a lot of what I call ‘child farms’ out there where there is 100 children spread across 2/3 rooms. The ratios and area space are not efficient for this, they in no way aid children’s learning. It leads to major behavioural issues and emotional ones as there is no time for one on one care. Hence why I moved to Homebased care.” – visiting teacher/co-ordinator for home-based service provider

“...Current ratios are too minimal for teachers to provide quality teaching. The majority of our time is taken supporting children with big behaviors that endanger other tamariki...These behaviours effect all tamariki and their development, increasing stress inside young developing brains.” - teacher

232. These submissions from people who work in ECE were supported many by representative organisations, other non-government organisations and service providers.

“...Many ECE teachers, leaders, and support staff are experiencing high levels of stress and burnout. Many ECE workers are leaving the profession, leading to an alarming staff turnover rate...” - Early Years Research Lab – Massey University

“Managing high ratios is mentally and physically exhausting for kaiako, increasing the likelihood of burnout, and making it challenging to sustain a career in early childhood education...Maintaining lower ratios is crucial to alleviating stress, improving staff retention, and attracting new educators to ensure a nurturing environment for young children.” – Ngā Puna Reo o Aotearoa

Paperwork

233. Too much paperwork was cited by many people who work in ECE as a reason for not having enough capacity to deliver quality teaching and care to children.
234. Some described different paperwork requirements that they did not think were benefiting children, or their parents. These comments were made in relation to all types of paperwork, which some submitters being specific while others spoke in more general terms.

“The overall paper work that is required has become so burdensome that it has taken the focus away from the children...there is so much more and lots seems to be unnecessary.” - teacher

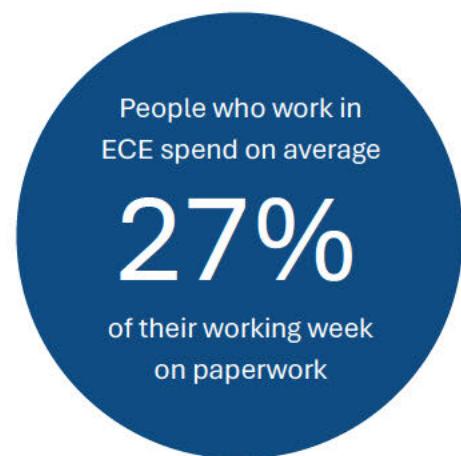
“The amount of recording of every move we make has become over the top and is wasting valuable teaching time.” - teacher

“... [I would like] ECE to be more about the children and less about the paperwork.” - centre manager and teacher

235. Some submitters described working unpaid in evenings and weekends to complete required paperwork.

“For my staff, we prioritise being with the children but nearly all my teachers work more hours than are paid to get the non-contact tasks done and nearly all feel (as I myself do), that they are never on top of the tasks. If you work more hours than paid, you should go home feeling on top of things.” - centre manager (community-based ECE)

“...paperwork takes so much time away from children. Or in my case from my own family and children as I need to do after hours. This puts pressure on me, and my mental health...” - home-based educator



236. Diagram seven below shows how much time people who work in ECE spent on paperwork requirements across a week. On average, people who work in ECE spent about a quarter of their time (27 per cent) on paperwork.

How long do people who work in ECE spend on paperwork

People who work in ECE were asked to estimate how long they spend on paperwork each week

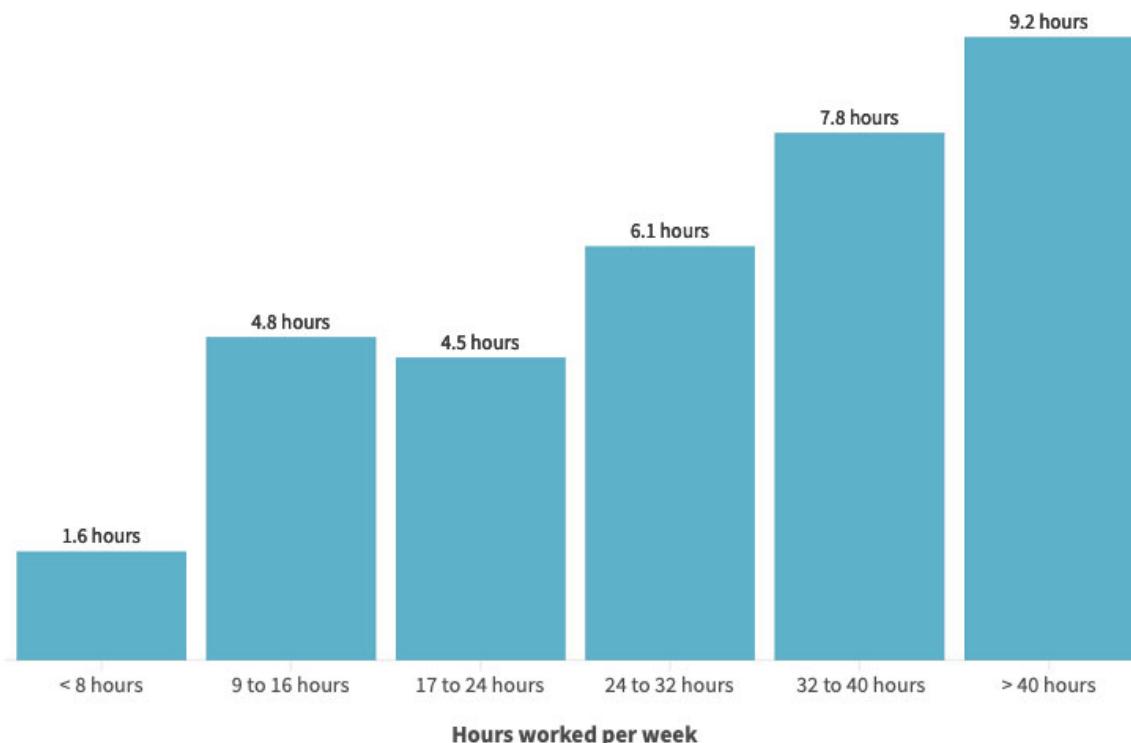


Diagram seven: how long people who work in ECE reported spending on paperwork

237. Diagram eight below shows how long people who work in ECE said they spent on each type of paperwork across a week. The most time-consuming requirements were recording sleep checks and attendance records. It is possible that submitters included the time it takes them to complete the sleep checks as well as record the sleep checks in their estimates. When asked what paperwork they thought was unnecessary or unduly burdensome, records related to sleep were not frequently mentioned.

238. It is also worth noting that while the Review asked specifically about records required for Licensing Criteria, people who work in ECE referenced a much wider range of paperwork that took up more of their time than those records (e.g., internal evaluations and reviews.)

How long do people who work in ECE spend on each type of paperwork

People who work in ECE were asked to estimate how long they spend on each type of paperwork each week

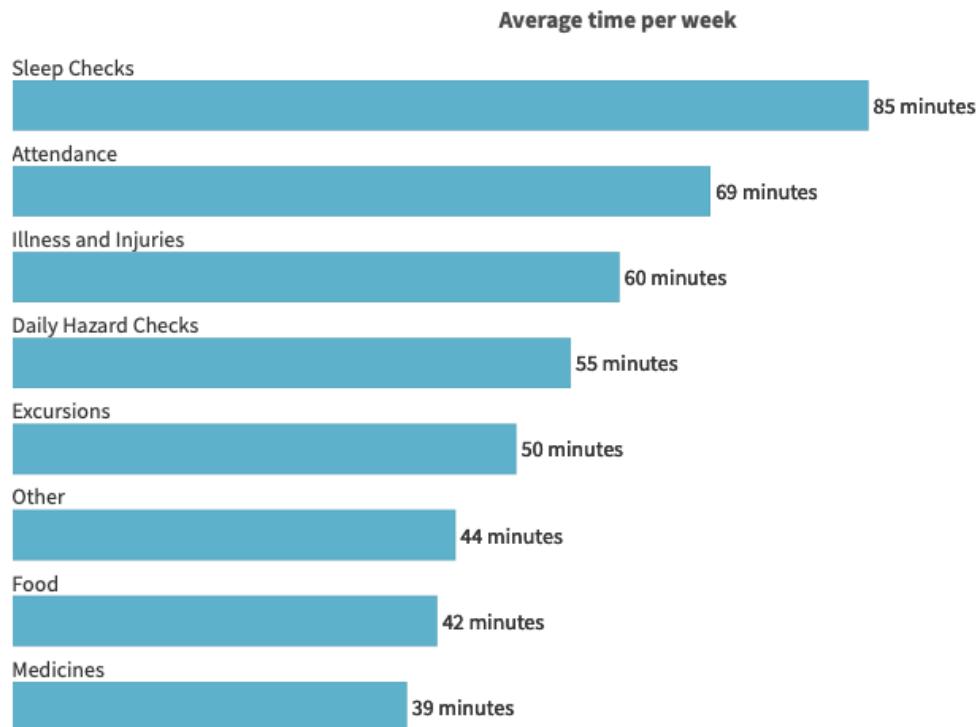


Diagram eight: how long people who work in ECE spend on specific types of paperwork

The value of paperwork and how the requirements are implemented

239. While many submitters said that paperwork requirements contributed to their not having enough capacity to do their jobs well, some also said that they saw the purpose of the paperwork and thought it was necessary but did not have enough time to complete it.

“Our paperwork expectations while time-consuming, are critical and necessary for early learning services to be safe, well-functioning and high-quality driven teaching spaces...” - teacher

“The only issue with the paperwork is that most teachers aren’t given enough time to do it!” - teacher

“...[paperwork] keep us safe. Our service does paperwork over and above what is regulatory to ensure safety for children and teachers.” - teacher

240. A few submitters said that the way the paperwork requirements were implemented by the service led to different experiences for them on the floor, and whether there was “too much paperwork” or not depended on where they were working.

“This is a tricky question. In other centres I’ve been bogged down by paper work and also expected to provide quality care. Resulting in doing paper work while in ratio. The expectations are insane. Where I am now the paperwork is still the same but its managed better within the centre so the pressure isn’t as much. Where I am now is most definitely the minority.” - teacher

241. People who work in ECE had different views on the type of paperwork that was necessary and beneficial and the type that was not. Teachers disagreed on the benefits of learning stories to record children’s progress against the curriculum, with some saying they enabled tracking and assessment of the quality of teaching and children’s development, as well as meeting the expectations of parents, while others had the opposing view. A few thought that paperwork was produced primarily to meet regulatory requirements, as opposed to being what parents wanted.
242. Some submitters said that the recording of information about children’s days (sleeping, toileting, nappies etc.) was needed, and it was paperwork required for the Ministry of Education and the Education Review Office that was more time consuming and more of an issue for them.
243. NZEI Te Riu Roa (an education union) said that the burdens put on people who work in ECE by paperwork were in a broader context for teachers.

“Teachers have for many years now been crying out for change. They are overworked and stressed, work long days, take work home, and deal with numerous demanding situations daily. It is little surprise therefore that they describe the paperwork needed as a burden.” – NZEI Te Riu Roa

Regulating for higher ratios, lower service size and regulating group size

244. To address their capacity issues, people who work in ECE said there should be different minimum standards that service providers were required to meet. Specifically, most people who work in ECE said the government should regulate for higher ratios of adults to children (thus increasing their capacity to teach and care for children and complete the required documentation or other regulatory requirements). Some said that the government should regulate for smaller service size and introduce group size regulation.

“Child teacher ratios that allow the children to have the support they need to grow 90% of the time, as opposed to the current ratios where the teacher is fighting fires and in crowd control mode 90% of the time.” - teacher

245. The Early Childhood Council disagreed and submitted that the minimum ratio requirements should be removed. They submitted this on the basis that the regulated minimum ratios are “*ineffective and not able to be monitored*”. The Early Childhood Council submitted that ratio expectations could be kept in the funding settings with new funding conditions. This was part of their submission about the Ministry of Education “*stray[ing] into regulation through funding conditions in an alarming and concerning way*,” which is covered further in chapter six of this report.

Reduced paperwork requirements

246. Most submitters said that paperwork requirements could be reduced, although there was no clear agreement on which paperwork requirements could be changed or reduced.

247. Parents who submitted thought that many of the documentation requirements for teaching staff were important to them as depicted in the diagram nine below (note, the questionnaire did not ask parents about paperwork required for reporting to government and relating to the funding system). There was general alignment between what people who work in ECE spent their time recording and what documentation was important to parents.

What documentation is important to parents

Parents were asked to rate how important each type of documentation was to them

■ Not important ■ Slightly important ■ Important ■ Very important

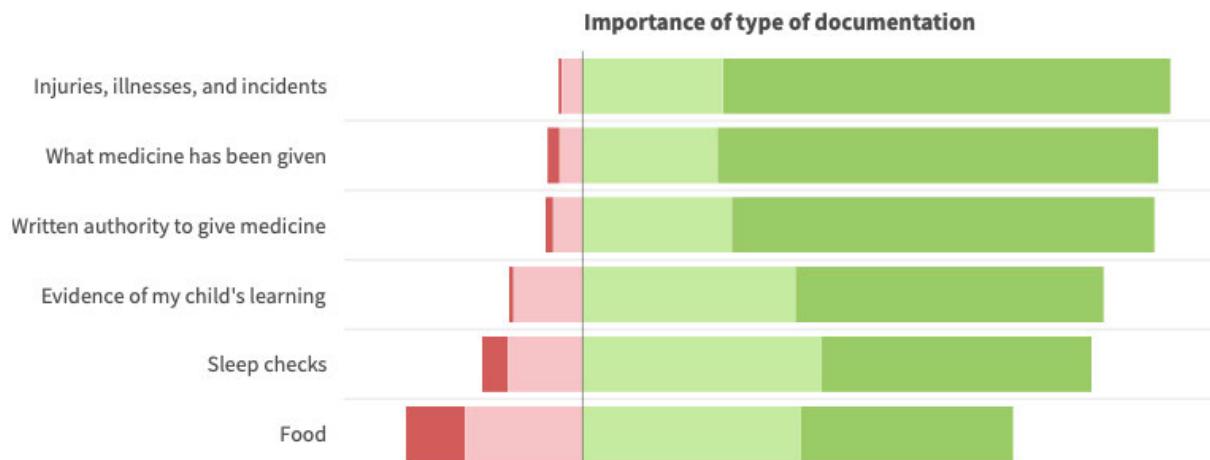


Diagram nine – how important different types of records are to parents

248. A few parents said that while the documentation was important, there was still a case of ‘everything in moderation’ and that they did not want the paperwork to be taking time away from teachers for caring for and teaching their children.

“I don’t need novellas about my child’s doings but I want to know about injuries, food, sleep, medicine as well as any concerns about my child’s wellbeing and development.” - parent

249. A few parents referred to specific areas where they thought the way the documentation requirements had been implemented was unnecessary.

“The injury record keeping is ridiculous – the most minor bumps, cuts and scrapes get a form...The point of recording these was probably initially to understand whether there were systemic issues in the environment...but the recording of these by hand in books lead to no analysis that would tell you anything...” - parent

250. A few submitters said the importance of documentation was different depending on the child, particularly if they were disabled or medically fragile.

“As a mum of a child with food allergies, it’s really critical there is a record of food served...in the event of a medical incident it is critical that the centre know which meds have been given...” – parent

“Retain all requirements for ECEs to keep records of when children sleep, nappy changing, emergency drills, when food is provided, and children’s injuries. This is important for us as parents to ensure that our children are being cared for.” – Deaf Education ECE Trust

Other proposals to reduce pressure on people who work in early childhood education

251. People who work in ECE also said that the following proposals would support them in their work, several of which are covered elsewhere in this report:

- make it easier to understand regulatory requirements and the reasons for them
- more professional development
- mandated non-contact time
- better pay and conditions (including that lead to greater staff retention),
- more/better resources for children
- a higher proportion of qualified teachers
- more innovation in the sector (such as Nature ECE, more flexible hours for parents etc.).

Many submitters said that the composition of the workforce is not right to achieve potential benefits of early childhood education for children

252. Many submitters, of all types, said that the qualifications of staff working with children in ECE was of critical importance to children's learning, development and wellbeing. These submitters said that children, families and wider society would not see the potential benefits of quality ECE unless qualified teachers were working with children.
253. Submitters said that qualifications were important, not only for "*teachable moments*", but also for care-based routines such as nappy changes. A few people who work in ECE pointed out that nappy change times were one of the only times for one-on-one interactions that a child would have during their day in an ECE centre.
254. Parents expressed clear expectations about the qualifications and qualities of people caring for and teaching their children. 86 per cent of parents said that the proportion of staff who were qualified teachers was either 'very important' or 'important' when choosing their ECE. There was a general expectation from parents that staff were qualified, with a few specifically saying they wanted more, or all, staff to be qualified teachers.
255. Parents also spoke about the qualities they looked for in ECE staff.

"...I don't want 'nice ladies' looking after my children - I want people who I know are intelligent (tertiary level qualification) as a bottom line." – parent

"I see teachers and carers as an extension of the parenting unit. They are the ones who guide and support our children so having qualified teachers whose values are aligned with ours is critical." – parent

"We pulled out of one centre, when they got rid of the middle aged women who actually cared about childhood development and replaced them with "trained teachers" in order to maximise the subsidy available to them. Quality of interaction and child development deteriorated markedly. Young, inexperienced teachers were not able to engage with the kids, so we simply left and went to an alternative provider." – parent

256. People who work in ECE, service providers and representative organisations submitted that young children learn in specific ways and need to be supported by people who are trained in early childhood education to maximise their development

and potential for better outcomes throughout life. This was said across all types of service provision, including hospital-based services.

“Maintaining 100% fully qualified and registered ECE teachers is key to delivering a safe environment where children receive a high standard of care and education that protects their emotional safety and wellbeing” – Hospital based play specialists (service provider)

257. NZEI Te Riu Roa, submitted that the recommendations of He Taonga te Tamaiti¹⁴ be implemented to lift the current requirement for 50 per cent of staff being qualified teachers to 80 per cent immediately, with a view to increasing to 100 per cent by 2027. Other organisations submitted on the importance of teaching qualifications more generally in ECE.

“A teacher is a teacher is a teacher!...it is not the qualifications themselves, it’s the knowledge, skills, and capability teachers / kaiako have gained through initial teacher education and practice that enable them to enhance pedagogical quality” – Te Rito Maioha, Early Childhood New Zealand

“Qualifications - you would not send your high school aged child to a school with unqualified teachers! Why should there be unqualified teachers in ECE, where research has shown the most important learning and development in a child’s life happens in these vital years?” – teacher

Some submitters said there were workforce supply issues, and that these interact with qualification requirements and pay inequities

258. Some submitters said that there was a workforce supply issue in ECE, and that different types of service provider were struggling to recruit staff or struggling to recruit the type of staff they wanted – particularly qualified teachers and permanent (as opposed to relief) staff.

“...the relieving system is exacerbating the teacher shortage” - Executive Leadership Team member of centre-based service provider (private)

“I know of small rural centres that can not meet childcare demand because they can not find the right qualified teachers.” - owner of centre-based service provider (private)

¹⁴ He Taonga te Tamaiti, ‘Every Child a Taonga’ is the 2019 to 2029 Early Learning Action Plan.

“We would like to be able to increase the size of our bilingual centre due to high demand. We are unable to do this due to the lack of qualified registered kaiako who have a high level of te reo Māori. We have been advertising over a year for kaiako.” - Executive Leadership Team member of centre-based (university based) service provider

259. Some linked workforce issues to the low pay and high stress of the job contributing to a small pipeline, to teachers taking relief positions and to teachers leaving the profession.
260. Te Kōhanga Reo National Trust Board, Ngā Puna Reo o Aotearoa, some Pacific services and home-based services said they could not compete with other ECEs that had higher salaries.
261. Te Kōhanga Reo National Trust Board said their engagement with whānau raised issues with the retention, remuneration and capabilities of staff and kaiako of Kōhanga Reo. They said that there was a lack of qualified and trained staff, likely due to remuneration – noting they could not compete with other opportunities including with Kura Kaupapa Māori. Ngā Puna Reo o Aotearoa said the same thing.
262. Pacific service providers noted that they have a small pool of teachers to recruit from – those who have a knowledge of Pacific world views, cultures and languages. They asserted that part of the reason for a shortage of qualified Pasifika ECE teachers was due to the limited (and discontinued) pathways for ECE qualifications in Pasifika communities.
263. Pacific services also said that English language requirements were a barrier to Pasifika teachers becoming registered. This was supported by the Early Childhood Council who said that *“...Pasifika centres are under threat of closing because of lack of suitable staff”* as a result of the English language requirements.
264. Home-based ECE services said that had declining numbers of educators and people enquiring about being an educator. They submitted that this was due to the reduced financial viability of being a home-based educator as a career option, as well as qualification barriers which have been previously covered.

Solutions put forward by submitters to increase workforce supply

“Assistant teachers” and supporting people into qualifications

265. The Early Childhood Council recommended that a new category of worker be established in ECE called ‘assistant teacher’ and that there should be pathways provided for them to achieve teacher qualifications while working. They provided detail in their submission about how this could work.
266. A few other organisations and service providers also supported having “assistant teachers” or other ways of supporting people to achieve full qualifications. This was put forward partly as a workforce supply measure and to broaden who could be considered as part of the required proportion of teaching qualified staff.

Recognising broader qualifications than ECE teaching

267. A few submitters, particularly language immersion services, said that there should be other pathways to qualifications and to having other qualities, such as language skills, recognised.
268. Ngā Puna Reo o Aotearoa said that the current regulatory framework does not allow for Limited Authority to Teach for language teaching skills, while schools do. They recommended that Limited Authority to Teach be counted as part of the staff hour count for immersion services to reflect the importance of language skills in those settings.
269. A few submitted that primary teaching qualifications should be considered sufficient to teach in ECE, while others disagreed on the basis that working with pre-school children was specific and different work required different knowledge.

A 2:8 model in home-based services

270. For home-based ECE, submitters said that changing the regulatory requirements for qualifications would ease their workforce supply issues and said that they needed a more flexible approach so they could sustain and grow their services.
271. The flexibility they asked for includes changing the requirement that 80 per cent of educators are qualified and changing legislation to allow a 2:8 model of home-based ECE. A 2:8 model would allow two educators and up to eight children, instead of the current 1:4 maximum. One educator would need to be qualified while the other could be in-training.
272. Home-based service providers, and ECE Reform, submitted that as well as helping with workforce supply issues, this would provide greater choice for parents, bring a

more diverse group of educators into the work force and providing a good opportunity for teacher training and mentoring.

Cautioning against regulatory solutions to workforce supply issues

273. OMEP Aotearoa New Zealand (World Organisation for Early Childhood Education), cautioned against reducing regulatory requirements for qualifications as a response to workforce supply issues, saying that temporary measures become permanent when regulated and that they have previously lowered the quality of ECE.
274. Other organisations, and people who work in ECE, said that if staff without teaching/ECE qualifications are going to be employed in ECEs, thought needs to be given to what work they are made responsible for – ensuring that qualified teachers are responsible for most of the children’s care, learning and development.

“I want to ensure that the discussions around using non-qualified teachers...are carefully thought out. How would centres be able to use non-qualified teachers? What would this look like for our children? We do not need any diluted practices or approaches by using unqualified staff for a qualified teacher... Could there be a pathway for teachers in training to be counted toward the ratio and funding? Where their time on the floor with a strong mentor counts toward a set of units that grants them the ability to be counted in our funding?” – centre manager

SECTION THREE: SUCCESSES AND FAILURES OF GOVERNMENT REGULATORY INTERVENTION

Chapter six: prices – what problems are there with affordability and government funding of early childhood education?

Key messages

Submissions to the Review told us that... (note that funding levels, the funding model and the Pay Parity system are out of scope of this Review)

- Most people who work in early childhood education and service providers said that **government funding levels were not sufficient** to provide a high-quality service or respond to demand in the market.
- **Many submitters said the funding model was inequitable**, with Kindergartens being funded at higher levels than other types of services meaning the other services struggled to meet the same quality provision.
- Te Kōhanga Reo National Trust Board and Ngā Puna Reo o Aotearoa services said the funding model was **systematically discriminatory and highlighted the need for more resources**.
- Many submitters, of all types, said **the absence rules in the ECE Funding Handbook caused issues for service providers and parents**.
- Many parents and other submitters, particularly NGOs, said that early childhood education was **very expensive** / a high proportion of their income, and **unaffordable** to some.
- A few submitters said that **the way Pay Parity had been funded and implemented was causing significant financial strain** and was unsustainable for service providers. There were divergent views on this issue.
- A few service providers submitted that there were **mismatches** between the Education (Early Childhood Services) Regulations 2008 and the ECE Funding Handbook.

Most submitters said that the levels of government funding for early childhood education were not sufficient, or were inequitable

275. While most submitters referenced levels of government funding or the funding model, it is worth recognising that some submitters may not have gone into depth or detail given that funding levels are out of scope of this Review. Pay parity settings are also out of scope of this Review. Government's funding and regulatory mechanisms work together in ECE, and therefore many submissions did cover both.

276. The Ministry for Regulation will work with the Ministry for Education to forward relevant information and submissions for the ECE funding review.

Definition reminder:

'most' means 50% or more ($50\% \leq x$)

'many' means between 30% and 50% ($30\% \leq x < 50\%$)

'some' means between 12% and 30% ($12\% \leq x < 30\%$)

'a few' means less than 12% ($x < 12\%$)

Insufficient funding levels

277. Either directly or indirectly, most submitters said that the current levels of government funding for early childhood education were not sufficient to provide high-quality ECE to children – including to ensure people who worked in ECE were fairly paid.

278. For some submitters, talking about the funding of ECE was linked with their view that ECE was a 'public good' – with a starting basis that high-quality ECE should be equally available to all children and fully funded by government, and/or that profit should not be permitted from ECE. Some submitters expressed concern about government funding providing profit for businesses. This is a separate theme, that is covered in chapter eight of this report.

279. Other submitters said that there needed to be higher levels of government funding. People who work in ECE talked about government funding in several ways, with a general expectation that the responsibility rested on government to ensure services had higher levels of resource available to them to provide higher quality ECE to children.

"Simply, if you want to fix ECE, you need to spend money. If you want to be cheap, we keep going backwards..." - teacher

280. A few people in ECE talked about funding in the context of investing in children now, early in their lives, for the individual and societal benefits of ECE to be achieved.
281. People who work in ECE (predominantly teachers) said their service providers were not funded enough to:
 - Put higher ratios of adults to children in place.
 - Be able to pay them fairly, including fully funding pay parity, with a few referring to their pay rates prior to government-funded pay parity being marginally more than minimum wage.
 - Meet the needs of disabled, neurodivergent and medically fragile children, through additional staff but also other resources and training. More Early Intervention teachers available through the Ministry of Education was also referenced in this context.
 - Have higher proportions/numbers of teaching qualified teachers, or more experienced teaching qualified teachers (this had links to pay parity as well, but not exclusively).
282. Submissions from service providers echoed some of the submissions from people who work in ECE, particularly saying that they could not provide higher than minimally required ratios, could not opt-in to pay parity or had to make trade-offs between what they saw as core parts of their service's ability to deliver high quality ECE – mainly, higher ratios, more qualified staff, paying their staff higher salaries and offering more flexibility for families.
283. Chapter three – barriers to market entry, expansion and innovation – contained discussion about service providers saying they were not funded well enough (or did not have sufficient income) to innovate or meet demand.
284. Organisations that submitted said similar things to people who work in ECE and service providers regarding funding levels, with calls for the upcoming funding review being clear. A few organisations said that the increased regulatory requirements, were not accompanied by funding increases, or insufficient funding increases.
285. In the material submitted by Te Kōhanga Reo Trust Board and through direct engagement with them, the findings of Wai 2336 about funding models were highlighted, as well a need for further funding.

“Running our Kōhanga on a day-to-day budget takes a lot of skill and dedication to help towards a healthy environment for learning. If we had more resources and making sure all health and safety areas are well provided will enhance each Kōhanga with so much more benefits for mokopuna, supportive whānau and dedicated kaimahi.” - Te Kōhanga Reo National Trust Board

Funding model

286. Organisations also reflected on the funding model – with a few saying that the current funding model (alongside the minimum regulatory requirements) did not incentivise service providers to deliver high quality ECE, or that it incentivised for-profit businesses to enter the sector as opposed to not-for-profit providers.

“In NZ, funding is used in various ways...to incentivise the growth in supply of services providing long-day childcare to support women’s labour-market participation...But funding is not used well to incentivise the provision of ECE services in locations that might suit children and families best such as in schools, workplaces and employer-supported ECE provision. Funding is also not used well to ensure an adequate supply of education and care centres that are breastfeeding-friendly, and allow families to enrol in just the hours of care they need for their child and not be locked into paying for more hours than they want...” -Office of Early Childhood Education

287. The Early Childhood Council submitted extensively on the funding model for ECE. Their submission included that the future regulation of ECE should distinguish between unfunded regulatory burdens (which would be paid for by parents and service providers) and changes to the core service, which should be accompanied by funding level increases from government.

288. Additionally, they submitted that through their own engagement to formulate their submission members frequently raised that 6-hour daily government funding limit. The Early Childhood Council submitted that funding conditions should not apply to services outside of the 6-hours that government funded service providers for, per child.

“...It is legitimate for the government to set conditions on the funding services actually can claim, but where services are not eligible to claim funding then the government cannot use a funding condition to regulate those unfunded service hours. Yet that is exactly what the Ministry [of Education] is doing.” - Early Childhood Council

289. Ngā Puna Reo o Aotearoa said that the burden of revitalising and authentically valuing te reo Māori falls on them, and Kōhanga Reo, however the funding is not appropriate for that role.

“...over decades, the funding and resourcing landscape for puna reo has been systemically discriminatory and devastating for puna reo. Without the appropriate funding puna reo have not been able to attract fluent, certificated teachers. Worse, our teachers have often been enticed to higher paying roles in kura, other organisations and government departments.” – Ngā Puna Reo o Aotearoa

Inequitable funding between service types

290. The submission from Ngā Puna Reo o Aotearoa referred to above aligned with messages in other submissions that funding is currently inequitable, with many referring to Kindergartens having higher levels of funding.
291. Ngā Puna Reo o Aotearoa submitted that funding was a key way to address the disparity they saw between the importance of their role and the government funding they receive. This included submitting about current equity funding rules and full-time attendance rules.
292. People who worked in ECE that submitted about this said that Kindergartens were able to provide a quality of ECE and work environment for teachers that other service providers could not. These submitters said that funding levels for other types of service should be brought up to the same level as kindergartens.

“...Working in a privately owned ECE centre, it’s obvious that kindergartens are more highly regarded...otherwise legislation would have been written years ago that ensured employment conditions in kindergartens and privately owned ECEs were identical...Where is the equity for tamariki in all this?” – teacher

“Align funding...the same as kindergartens.” - teacher

Some service providers said that funding requirements were complex and time consuming to meet, or that there were mismatches between the Funding Handbook and other regulatory requirements

293. Many submitters, mostly service providers and people who work in ECE, submitted that the absence rules do not work for parents, are an administrative burden on all parties (including parents) and that service providers should not lose funding because of children taking breaks from ECE.

“...Frequent absence rules requirements are onerous for whānau and administration. There is too much duplication in reconfirming for hours absent, or days missed on sickness, having a break, kaupapa with whānau. Get rid of these oppressive absence rules that create far too much documentation. Tamariki should be able to have short breaks away and centres should not be penalised in funding rules because of it.” – Ngā Puna Reo o Aotearoa

294. Other requirements in the Funding Handbook were also referred to as being administratively burdensome, with service providers referencing the frequency of reporting to the Ministry of Education that was required.

295. A few submitters said there were mismatches between the Funding Handbook and other regulatory requirements. While some did not go into detail, other submitters provided examples – including about qualification requirements of staff across the two sets of requirements.

Many parents and other submitters said early childcare education is expensive, and unaffordable to some

Prices being paid for early childhood education by parents

296. The Review asked parents to provide information about how much they paid (either weekly or monthly) for ECE. The Review also asked ECE service providers to provide information about their fee structure. Both questions were optional.
297. 675 parents (87 per cent of submissions from this group) provided information about how much they paid for ECE. 37 service providers (35 per cent of submissions from this group, approximately one per cent of total providers in New Zealand) provided information about their fee structure.
298. The following is a summary of the information we learned from the information provided by parents and service providers:
 - On average, parents reported paying approximately \$190 for ECE per week (an average of approximately \$140 per child).
 - The highest earning households pay approximately three times more per child for ECE than the lowest earning households.
 - The younger the child, the higher their fees. This aligns with current policy settings which provide a subsidy for 20 hours free ECE for children three to five years of age and requirements for a higher ratio of adults to children for younger children.
 - Parents in urban centres pay more for ECE than parents in rural areas, particularly in the North Island.
 - Kindergartens have the lowest fees (weekly and hourly).
 - The hourly fees of other types of service providers are similar – there is no significant difference between the hourly fees for private (for profit) ECE, community-based (not for profit) ECE, home-based ECE, and other types of ECE.
 - Parents pay the most per week for private (for profit) ECE, driven by the fact that children who attend private (for profit) ECE attend for more hours.
 - Longer enrolled hours lower the hourly rate for ECE. Providers often provide a discounted rate for children who are enrolled for longer hours.
 - Service providers rated qualified teacher salaries and property costs (including rent and mortgages) as the two most significant drivers of their

prices. Regulatory compliance (e.g., meeting fire and acoustic requirements) is the least significant driver of their prices.

299. Diagram ten below shows the spread of prices paid by parents by different type of ECE.

Prices paid by parents for ECE

● Community-based (not for profit) early childhood education and care centre ● Kindergarten
● Private early childhood education and care centre ● Other ● Playcentre ● Home-based education and care service (licenced)
● Kōhanga Reo ● Puna Reo

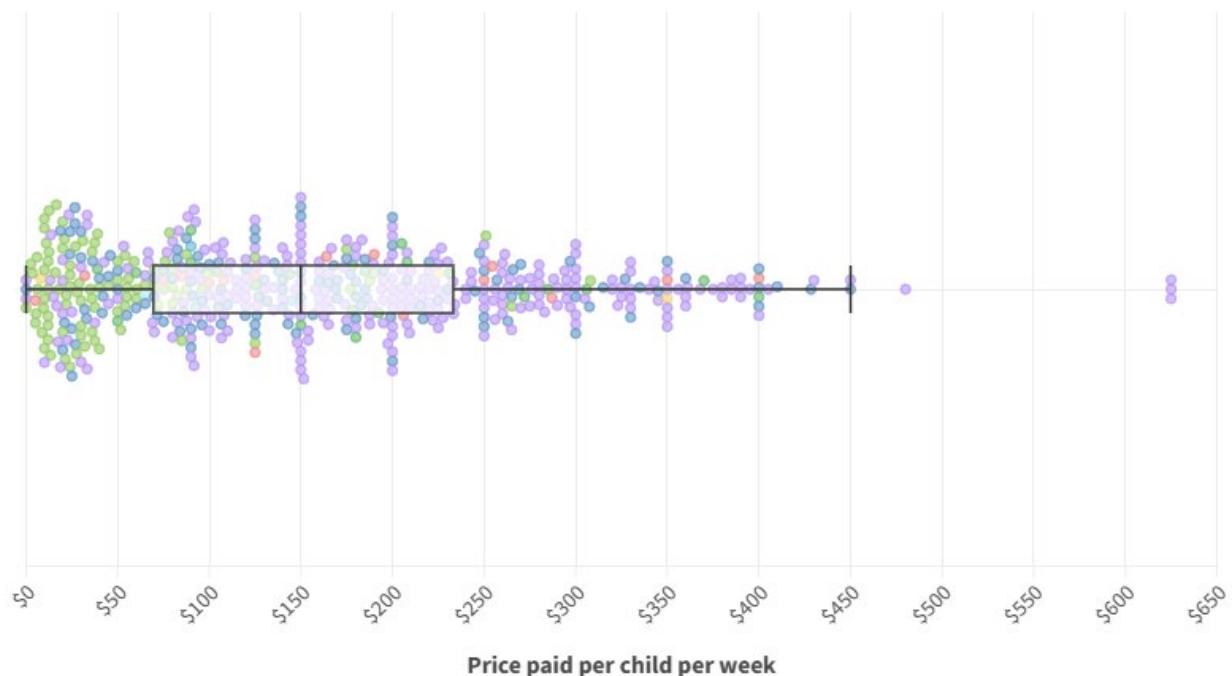


Diagram ten: spread of prices paid by week for ECE by parents by type of ECE

Unaffordability

300. Many parents said that ECE was expensive and made up a significant portion of their weekly budget, with some saying it exceeded their housing costs.

“It would have been cheaper for me to try to buy another house and have people live in the house for free as long as they cared for my child during the week – actual insanity” – parent

301. As discussed in Chapter one, one of the main reasons most parents send their children to ECE is to undertake paid work. However, some parents said that they barely broke even after paying for ECE, and a few said that ECE cost more than what they could earn by working.

“I basically go to work to earn \$100 a week due to our money going to ECE bills” – parent

“Cost of childcare means I have to work extra to pay” – parent

“We are struggling and I need to go back to work but can’t because we can’t afford [the fees]” – parent

302. Many of the organisations that submitted, and a few service providers, said that poverty and low socio-economic status locked children out of quality ECE, or that parents had to pay much higher fees get the type of care they wanted because the more expensive ECEs provided a better experience for their children.

“Some services offer better ratios by charging higher fees to parents. Conversely, this means that tamariki of whānau facing the greatest levels of socio-economic deprivation are often in centres that apply minimum regulatory standards.” – NZEI Te Riu Roa

“...the main reasons for ‘priority’ families not taking part in ECE were, in order of frequency, the cost of attendance, local accessibility to ECE that suits family needs, lack of inclusiveness of ECE services, and a range of personal reasons and home circumstances...” – Wilf Malcolm Institute of Educational Research

The 20-hour ECE subsidy

303. Some parents said that 20-hour ECE subsidy provided a smaller than expected discount to their fees because their service did not pass on the full subsidy over to parents.

“They were unable to provide a breakdown of costs when I queried the 20 free hours discount. I had thought this discount would make a significant difference the cost of ECE fees as my son only attended for 22 hours, however the difference ended up being a reduction of approximately 1/4 of the cost. They were unable to explain why” – parent

“It was particularly frustrating to see that much of the ‘20h free’ discount is pocketed by the centres and the saving is not passed on to families.” – parent

304. An analysis of the information provided by service providers confirmed that some charge a higher hourly rate for a child’s hours over and above the 20 hours free ECE subsidy than they would charge if a child were not using the 20 hours free ECE subsidy.

305. Some submitters wanted more transparency from service providers about how fees were set.

“Make them have a better fee breakdown so [we] can see where the fees go” – parent

306. A few submitters (including parents and representative groups) proposed a cap on the fees charged by ECE, or a cap on the profits earned by ECE providers. A few other submitters suggested that the government make rules to ensure that the 20-hour ECE subsidy be passed directly on to families.

A few service providers said that the way pay parity was funded and implemented put service providers under more financial strain

307. Many parents and people who work in ECE said that ECE teachers and other workers should be paid more, have pay parity with primary school teachers and each other (referencing Kindergarten teachers) or have what submitters referred to as “fair pay.” However, submissions from service providers and their representative groups showed that they were struggling to do this, including to finance pay parity.

308. The Early Childhood Council said that pay parity *“is the single most vexatious challenge facing Education & Care services.”* They said that the funding conditions were complex and required high levels of resource and expertise of service providers but cited that the overarching complaint of the sector was that the approach *“comes at the expense of ECE centres’ viability.”*

309. They provided a detailed submission on why this was, with the significant reason being the way the scheme had been funded by government, and the insufficient levels of funding given. They concluded that *“ECE operators deem Pay Parity downright unaffordable and unsustainable.”*

310. In line with the Early Childhood Council submission, a few service providers said that pay parity has caused financial strain, or that they have been unable to opt in to pay parity because they cannot afford it.

“Pay parity – don’t get me wrong I think that this is a great idea but the affordability of it is unsustainable for a small stand alone service, yet if we don’t offer it we don’t get the qualified kaiako we need to operate our service...” – owner of ECE centre (private)

“Unfortunately, many of our Pasifika ELS [Early Learning Services] are unable to opt in for Parity or Pay parity as it will struggle to cover the costs for meeting the pay scale (up to step 6) required for qualified and registered teachers.” – Pacific service provider

311. Te Kōhanga Reo National Trust Board noted that compensation for Kōhanga Reo staff is not competitive with other opportunities, and that there is no pay parity with kaiako for Kura Kaupapa Māori.
312. A few service providers talked to the financial trade-offs they made which meant they could not offer their staff full pay parity.

“We would like to recognise our qualified teachers by offering ‘full pay parity’, but cannot as we choose to operate at higher than MoE minimum ratios. Although our teachers understand this, and agree with our values, they absolutely deserve full pay parity.” – Executive Leadership Team member of centre-based service provider (community-based, not for profit)

“Teachers and parents want better ratios – we can't financially afford this. Our wage costs with pay parity are high, and we already employ 1.5 teachers over the minimum ratio requirements.” – business owner of an ECE centre (private)

313. A few submitters said that the pay parity scheme had introduced perverse incentives for ECEs to employ teachers with less experience because their wage bills would be lower and that ECEs who chose to have higher numbers of experienced qualified staff were under more financial strain for trying to provide higher quality ECE.

“The system [pay parity] has several inherent disadvantages...ageism...centres are incentivised to recruit registered teachers at the lower end of the wage scale to reduce costs...penalising experience: it penalises the very centres that should be rewarded – those employing the most experienced teachers to raise the standard of education...” – centre-based service provider (private)

“There is no funding recognition within the structure for full pay parity which allows for specifically targeted funding centres who employ a high number of teachers on the highest step.” – owner of centre-based service provider (private)

314. A few service providers and their representative organisations said that the way pay parity has been implemented has caused confusion and issues for service providers, as well as saying that a lack of commitment from the government about “ongoing pay parity.” A few service providers said that pay parity recognised qualifications over other qualities which was not fair to other highly competent members of their teams.

“The pay parity system slavishly rewards qualifications and tenure in roles...rather than quality of teaching. Specifically, we have some unqualified teachers that are better teachers than qualified/registered teachers but the funding system and regulations do not economically allow us to pay them what they are worth or to pay poor (but registered) teachers less...” – owner of a centre-based service provider (private)

315. Other service providers said that they were supportive of pay parity – that it meant they were able to pay their staff more fairly and that it recognised them as a profession comparable to other teachers. A few of these also referenced the financial strain of the scheme.

“Pay parity within the ECE sector ensures we are attracting professionals into our career that meet a high level of education and experience to fulfil the role of Hospital Pay Specialist. Sitting within a healthcare setting without regulation around pay parity would undoubtedly impact the ability to attract quality staff, in turn impacting the delivery of high quality education and care for the vulnerable children in our care.” – Hospital Play Specialist Team

A few people who work in ECE said that the introduction of pay parity stabilised the sector and that it was the reason they remained in the profession

316. People who work in ECE said pay parity needed to be retained, with some referring to the introduction of pay parity as the reason they remained working in ECE. A few said that before pay parity had been introduced, they were on salaries of little more than minimum wage.

Pay parity and home-based ECE

317. Home-based service providers said that a lack of pay parity for home-based educators and Visiting Teachers (presumably with other ECE teachers) meant that they were struggling to recruit and therefore meet demand and sustain their services. This was also submitted by Visiting Teachers.

“The inequity the Pay Parity scheme has caused between Home Based Visiting Teachers and Centre Based Teachers...is preventing us from growing to meet the demand...” – home based ECE service provider

“Pay parity get onto it for Visiting Teachers...” – Visiting Teacher

“...I believe you will lose many VTs [Visiting Teachers] in homebased education if things don’t change soon. Pay them what they deserve...” – Visiting Teacher

Chapter seven: policy performance – what problems are regulatory interventions causing or failing to solve?

Key messages

Submissions to the Review told us that...

- Most submitters said current regulatory interventions from government were **not achieving the right balance** between prescription to ensure children's safety and positive learning outcomes, and discretion to enable service providers and people who work in ECE to be able to deliver what was needed.
- Submitters said requirements were too prescriptive, there was **excessive paperwork and multiple layers** of regulation that had become confusing.
- There were divergent views with some submitters saying that the content of the regulatory framework was fit for purpose and achieved the right balance, and it was its **implementation that caused the issues**.
- Most submitters said the regulatory requirements for ECE had been **implemented poorly**. This poor implementation was evidenced by submitters through references to too many layers of regulation and guidance, inconsistent interpretation of requirements, duplication of roles across agencies and unsupportive approaches from agencies with regulatory functions.
- A few submitters described conflicting regulatory requirements, but the bigger issue described was different agencies with regulatory functions **interpreting the requirements inconsistently**, or different people in the same agency interpreting the requirements inconsistently.
- While service providers and people who work in ECE rated their **interactions with Ministry of Education and the Education Reviews Office generally positively**, they described approaches too focused on compliance and that sought to find fault.
- A few submitters said the **Education Review Office should cease its compliance focused role** and refocus on educational quality.
- Submitters said the Ministry of Education **should shift into providing more support to services**.
- Submitters said they thought the relevant parts of the **Ministry of Education was not sufficiently resourced** to fulfil its role well.

Most submitters indicated that the current regulatory requirements did not achieve the right balance between prescription and discretion

318. Many service providers, people who work in ECE and parents submitted that the regulatory framework did not achieve the right balance between appropriate checks and balances to ensure children's safety, wellbeing and good learning and development outcomes, and enabling service providers and staff the discretion to apply their professional judgement.

319. These submissions said that the regulatory requirements, or their implementation, had become overwhelming and too complex.

Definition reminder:

'most' means 50% or more ($50\% \leq x$)

'many' means between 30% and 50% ($30\% \leq x < 50\%$)

'some' means between 12% and 30% ($12\% \leq x < 30\%$)

'a few' means less than 12% ($x < 12\%$)

"The regulatory framework has been designed with good intentions, but collectively creates complexity that overwhelms ECE providers and interferes with quality teaching and learning/ECE provision for our children." - collective of service providers and non-government organisations

"...I think there are far too many ECE rules that are over protective and really feel sorry for ECE centres...I understand the necessity and need of regulations / processes but just appears from an onlooker/parent that it's a bit overkill...very highly rule and policy bound practices in ECE that I see just need some simplification" – parent

320. Many of these submitters' reasons for saying the right balance had not been achieved were about volume – the volume of requirements, the volume of documentation required to 'prove' the requirements, and the volume of detail put against each requirement in the licensing criteria.

321. One business owner of a private centre-based ECE described their commitment to delivering high quality education and care to children in their community was being made difficult by the volume of compliance requirements.

“...These questions have highlighted to me how much I have to comply, negotiate and kurtow, in owning, operating and teaching in my ECE. I love children...I adhere to the rules, regulations and (often) unnecessary over regulation in order to teach, care for and love babies and children in my community and their families. It is hard. It is ongoing...I see so much [not] working with ‘the system ...” – owner of ECE centre (private)

322. A few submitters said that the prescription of the current regulatory requirements did not recognise that ECE provision is market based.

“The current Education regulations do not acknowledge the private nature of the service providers or enshrine the important principle of providers having flexibility over how they meet the educational outcomes, nor does it explicitly recognise their fundamental need to remain financially viable...Government should approach a private industry from a perspective of ‘seeking to influence’ not ‘seeking to control’.” – Early Childhood Council

323. Other organisations submitted that the current regulatory requirements were too prescriptive for the way their teaching philosophy worked – this point was made particularly by those leading and working in parent-led ECE (Playcentre) and home-based ECE.

324. A few submitters drew distinctions between the importance of regulatory requirements to ensure health and safety (which submitters included ratios of adults to children in), child protection and building suitability, and regulatory requirements that were about the day to day running of ECEs.

“...The system’s design should enable a robust, risk-based regulatory approach that supports the success of quality ECE for children and providers and the delivery of quality teaching and learning. At the same time, it must reduce / minimise unacceptable risk to children.” – collective of service providers and representative organisations

325. The Early Childhood Council submitted that significant regulation removal was required, which would represent moving to a much more discretionary system. Some of the specifics of what they thought should be removed will be covered in sections below.

326. A few submitters provided line-by-line assessments of the licencing criteria, or detailed consideration of several licencing criteria, with recommendations for changes or removal. These line-by-line assessments are being considered by the Review team in their work. Most of these line-by-line assessments were recommending changes to the licencing criteria, while one predominantly recommended the removal of most licencing criteria.

Most service providers, people who work in early childhood education and organisations raised specific issues with the regulatory requirements

327. Service providers, people who work in ECE and other interested people were asked in the questionnaires to provide a view on which areas of the regulatory framework needed 'major change' or 'minor change' or 'worked well'.
328. Diagram eleven below shows where different types of submitters (service providers, people who work in ECE, and overall) thought most change was needed to the regulatory requirements. These responses only show the quantum of change submitters felt was needed in different areas. Free text answers to subsequent questions provided information on what type of change was needed.

Perceptions of the regulatory framework

Submitters were asked to rate each subset of regulation as "Needs major change", "Needs minor change", or "Works well"

■ Needs major change ■ Needs minor change ■ Works well

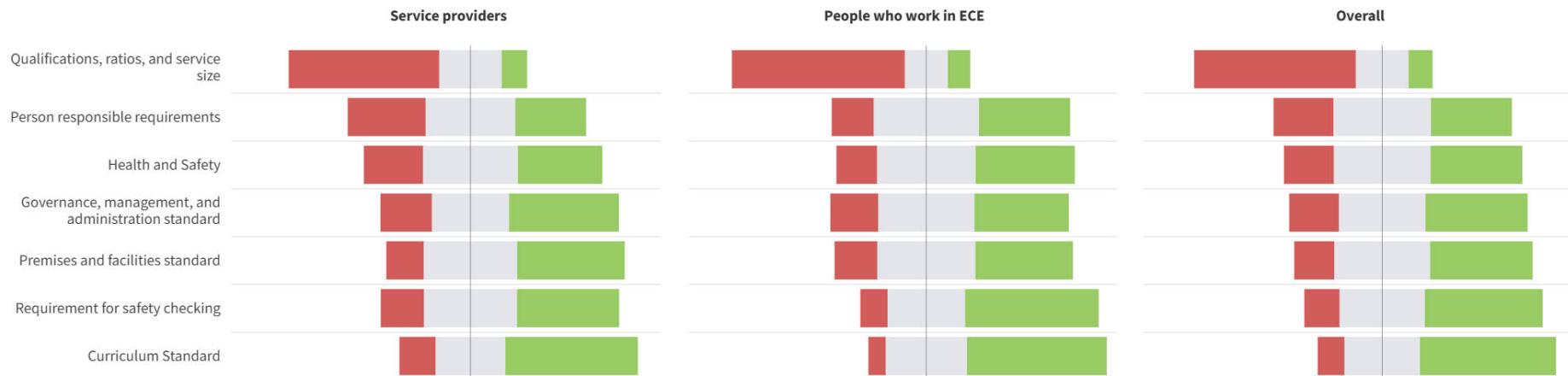


Diagram eleven: how much change, or not, submitters thought key parts of the ECE regulatory framework needed

329. Service providers and people who work in ECE were generally aligned in their rating of the changes required to regulations, with the exception that people who work in ECE thought that the qualification, ratios, and service size standard and the governance, management, and administration required more change than service providers do.

330. From subsequent answers to the free text questions, the difference in responses to the qualifications, ratios and service size standard was because most people who work in ECE thought that minimum adult to child ratios should be higher, and that the proportion of qualified teachers required should be higher (the qualification, ratios and service size standard). This was also a theme in the service provider responses, but to a lesser degree. It was not clear from free text answers what the reason for the difference in relation to the governance, management and administration standard was.

331. Across the requirements for ECE, people who work in Kindergartens were least likely to say that regulations needed changing. They also spent the least time recording information for compliance purposes (e.g., hazard and sleep checks).¹⁵
332. Across the requirements for ECE, people who work in larger centres were more likely to say that the regulations need changing than people who work in smaller centres.
333. Private (for profit) ECE providers and home-based providers were more likely than other providers to think that the requirements for curriculum, and governance, management, and administration, needed to change.
334. Medium sized service providers (20-49 employees) were more likely to feel that the requirements regarding premises and governance, management, and administration needed changing in comparison to small (less than 20 employees) and large (more than 50 employees) service providers.
335. Business owners (in comparison to other people in leadership positions in ECE providers) were more likely to say that changes were needed to the regulatory standards.
336. In terms of the knowledge base submitters were coming from, the Review asked how familiar questionnaire respondents were with the regulatory requirements. Most (nearly 90 per cent) said they knew the requirements well or knew a fair amount about them. Almost 100 per cent of service providers said they knew the requirements well, or a fair amount.

Submitters raised specific issues with specific regulatory requirements

337. Specific issues, and in some cases, the suggested solutions raised by submitters will be considered and assessed by the Review team. The sections below provide a summary of the main regulatory requirements submitters said could either (a) be made simpler, easier to implement or removed completely, or (b) needed to be fundamentally changed.
338. Please note, this is not an exhaustive list of all issues raised across the primary and secondary legislation. It is also worth noting that most specific issues raised were with the secondary legislation, either the Education (Early Childhood Services) Regulations 2008 or the different sets of Licensing Criteria.¹⁶ Further, issues raised

¹⁵ Which could be a function of Kindergartens often being open for fewer hours, so there is less information to record.

¹⁶ Licensing Criteria are prescribed by the Minister and published in the Gazette as per the power prescribed in Regulation 41 of the Education (Early Childhood Services) Regulations 2008.

with the ratios, qualifications and service size standard¹⁷ and some of the premises and facilities standard¹⁸ are covered elsewhere in this report and so not repeated here.

Licensing – regime primarily contained in the Education and Training Act 2020

The model

339. A few submitters raised issues with the licensing model. These submitters said that the model did not have sufficient incentives for quality, or that the model did not provide the Ministry of Education with the right tools to ensure quality.
340. ECE Reform submitted a detailed proposal for an alternative to a licencing model; a contracting model called ‘Quality-based Contracting’. They said this is a completely new model in many respects, not designed to be implemented within current structures, but a new purpose-built approach. They submitted that this alternative model would intend to motivate service providers to provide quality service, rather than drive regulatory compliance – and therefore achieve better outcomes for children.
341. The Early Childhood Council made several references in their submission to particular licensing criteria or groups of criteria that should not be sufficient for the Ministry of Education to take action against a provider’s licence. They submitted that a new model should be implemented where monitoring and licensing were separated – where “*a balance [is] struck between routine monitoring of regulatory compliance...and targeted interventions based on risk profiling.*”

Licensing in perpetuity

342. Related to submissions about the licencing model and linked to the regulatory approach of the Ministry of Education, a few submitters said services should not be licenced in perpetuity (i.e., licenced once which then continues unless the Ministry of Education take compliance action). These submitters said more oversight was needed. A few others supported the current system.

“[We recommend] that ECE services undertake a licensing review every five years in addition to those taking place where there is a change of owner or a complaint.” – Coalition of service providers

“The rise in the number of complaints, serious incidents, and discovery of non-compliance in services which may have existed for years shows that the high-trust model for compliance in

¹⁷ Regulation 44 of the Education (Early Childhood Services) Regulations 2008.

¹⁸ Regulation 45 of the Education (Early Childhood Services) Regulations 2008.

NZ ECE is not working...require the Ministry of Education to do yearly inspections of ECE services..." – Office of Early Childhood Education

"...There would be significant compliance costs if a service had to reapply for their licence as a matter of course." - a collective of service providers

Temporary relocation licences

343. A few service providers said that the length of temporary relocation licences¹⁹ were not long enough to complete renovation works, they found the process for getting the licenses complex and they found the temporary place they wanted to relocate to was not possible because it did not meet some of the Licensing Criteria.

"We needed to relocate for a week to allow the roof to be replaced...but we were unable to do this as there was not running hot water in the children's bathroom [of the suggested temporary location]...We ended up having to plan excursions for each day, run shorter days... I could have understood if it was for a longer period." – Executive Leadership Team member of a centre-based service provider (community-based, not-for-profit)

"The application process is very straightforward and we have done this several times when we are renovating. The problem is the legislation limits the licence to 10 months, and this may not be long enough for a full renovation. (9-18 months)" – Executive Leadership Team member of centre-based service provider (community-based, not for profit)

Curriculum standard – regulation 43 and associated licensing criteria

Regulating curriculum

344. Most submitters thought the curriculum standard works well. A few made comments about the content of the curriculum,²⁰ both that it should be more flexible and more prescriptive. There were limited comments about the impact of having curriculum regulated.

345. The Early Childhood Council submitted that curriculum requirements should not be assessed during the licencing process and that all curriculum requirements should be removed from the licencing criteria. The opposing view was provided by a few submissions from other NGOs and individuals who talked about the importance of both education and care and that regulation should ensure both are achieved for children in ECE.

"Te Whāriki is a world class ECE curriculum. Quality in ECE needs to be about both education and care, not one or the other..." – Deaf Education ECE Trust

¹⁹ Regulation 18 of the Education (Early Childhood Services) Regulations 2008

²⁰ Curriculum content is out of scope of the Review.

“A regulatory process that supports ECE services to deliver this curriculum for the benefits of all children should be a priority for all involved.” – OMEP Aotearoa New Zealand, World Organisation for Early Childhood Education

346. Parents spoke about curriculum in the context of the importance of the early years of their children’s lives, with different views on how structured or unstructured ECE learning environments should be.

Documentation

347. There were different views in the area of curriculum related documentation. While some said the documentation requirements to record children’s learning were excessive, or out of step with what parents wanted, others said these requirements were critical to ensure children were learning and developing as they should – and useful to be able to spot areas where early intervention was needed.
348. Some said it was the way the documentation requirements had been implemented, either by the Ministry of Education or their service provider, that meant the paperwork was excessive. Others said the issue was that they did not have enough non-contact time (this is covered elsewhere in this report).

“...I believe the Learning Story Assessment is so time consuming, and we waste a lot of time on paperwork...” – teacher

“Some curriculum requirements like the way we carry out learning and assessment have very high expectations on teachers with limited non-contact time.” – teacher

Person responsible requirements – regulations, 28, 60 to 62 of the Education (Early Childhood Services) Regulations 2008

349. Many service providers and people who work in ECE submitted about the person responsible requirements. While some people who work in ECE, and some service providers supported the person responsible requirements, many said the requirements were unclear, difficult to implement, duplicative with other requirements and did not clearly benefit children or teachers.
350. These submissions were made across people who worked in and operated different types of services. This included home-based services, whose providers said the person responsible requirements did not make sense in the context of their services.
351. A few said the requirements should be removed entirely, while others said they should be clarified.

“Person responsible – this whole requirement needs to be looked at: the current requirements for the Person Responsible (PR) are impractical. Instead of merely outlining the

operational rules for centres, the Ministry of Education is now dictating HOW we should ensure compliance and specifying WHO must be used to achieve it...” – owner of an ECE centre (private)

“Person responsible – does not work for kindergartens as it means a person in the office cannot be considered responsible...It just created confusion and additional paperwork.” – Executive Leadership Team member of a centre-based service provider (community-based, not-for-profit)

352. A few submitters referenced the interplay between the Person Responsible requirements and qualification requirements in regulation 44, including that the person responsible can be primary teaching qualified. These submitters said that allowing primary qualified teachers to act as the person responsible was meant to be a temporary measure and that should be addressed. The Office of Early Childhood Education said the following, supported as well by the ECE Parent’s Council.

Premises and facilities standard – regulation 45 of the Education (Early Childhood Services) Regulations 2008

Acoustics

353. Some service providers said that the acoustic standards they had to meet were unclear, costly, interpreted variably by different Health New Zealand representatives or that they discovered too late that the location of their ECE made it very difficult to meet the standard.
354. A few said they had to use acoustic consultants, which added to the different views about what did and did not meet requirements.

“...Te Whatu Ora assess acoustics. They have no expertise in this field. We pay \$3 – 4k for testing, then they get another consultant to check our consultant’s work – and we have to deal with a conflict of opinions that costs us in time and money.” – Executive Leadership Team member of centre-based service provider (community-based, not for profit)

“I’d like to see more clarity about what acoustic standards both new and existing Centres need to meet. I’d like to see earlier engagement with centre developers throughout the build rather than turning up at the end...” – owner of a centre-based service provider (private)

Old facilities versus new facilities

355. A few submitters said that older ECE facilities needed to be brought up to the same standards as new facilities.

Health and safety standard – regulation 46 of the Education (Early Childhood Services) Regulations 2008

Temperature versus ventilation versus access to the outdoors

356. Some people who work in ECE and some service providers said that it was too difficult to maintain the minimum temperature requirements at the same time as meeting ventilation requirements and allowing children free access to outdoor areas.

“18 degrees is not achievable if we want to ensure children have consistent access to outdoors which is far more important to their health and wellbeing than the temperature of the room. It also contradicts the ventilation requirements.” – owner of a centre-based service provider

357. A few submissions from people who work in ECE and representative organisations said that there should be a maximum temperature requirement regulated for, in addition to the current minimum requirements.

“...although there is a minimum room temperature in early childhood centres there is no legal regulation for a max room temperature. I find this very worrying with the rising temperature in summer or heat pumps going full blast in the winter...you are more likely to die from overheating than from hypothermia...” – teacher

Playgrounds and outside spaces

358. Some submitters said that the current health and safety requirements, particularly about playgrounds, meant that children were not being supported to take age-appropriate risks.

“Too many health and safety playground rules! Children have less opportunities for safe risks, spatial awareness, gross motor skill development and fun.” – teacher

359. One submitter, an academic and ECE consultant, provided a detailed proposal for changes to NZS5828:2015 that they said would increase the efficient use of outdoor space in ECEs and reduce unreasonable costs.

Food safety

360. Some people who work in ECE and some service providers said the requirements for food preparation and supervision of eating children were too rigid and that there have been unintended consequences. These unintended consequences included impacts on the development of children’s speech and language, which submitters said was linked to chewing hard foods. Many of these submitters acknowledged the tragic circumstances that led to these changes being made.
361. A few submitters said services had stopped providing food because of the requirements or said that the implementation of the requirements was problematic.

“The choking guidelines have been very challenging. I understand the need, but there has been mass confusion which has led centres to over policing lunchboxes and children going hungry. Also means providing food for tamariki (like with gardens and fruit trees in centres) and baking is more challenging, so many centres don’t do these things anymore.” – teacher

362. A few submitters, predominantly representative organisations, supported the current requirements staying in place, saying they were a good protection for children, while some said there should be more stringent requirements for first aid qualifications as an alternative response to choking risks.
363. The Early Childhood Council said the Ministry of Health guidelines, which these requirements come from, should be “*reclassified as guidance, and not a regulatory basis to cancel a licence.*”
364. A few submitters said the food safety requirements imposed by the National Programme 2²¹ were too stringent for ECEs, whose primary purpose was not food production, or were inappropriate as they addressed the wrong risks. Submitters said there was an excessive amount of documentation, and again said that some services had stopped food provision because of the requirements placed on them.

“The Ministry of Primary Industries requirement to register kitchens under a National Programme level 2...is expensive and has an excessive level of documentation and rules. In our view, the requirements are not fit for purpose.” – Steiner Education Aotearoa New Zealand

365. Parents who mentioned food focused on the availability of healthy food and ensuring all children have enough food to eat during the day.

²¹ National Programme 2 (Food Act 2014) is the food safety standard for “low-risk food businesses” <https://www.mpi.govt.nz/food-business/running-a-food-business/national-programmes/steps-to-national-programme-2/>

Other health and safety standards

366. A few service providers and people who work in ECE said that the emergency drill requirements were too rigid and too frequent. Others said that the volume of health and safety requirements for excursions were too great.
367. One coalition of service providers said that restraint of children in ECE should be included in the regulatory framework to protect children and provide clarity to people who work in ECE.
368. A qualified teacher in a hospital-based ECE said that many of the health and safety standards were not applicable to their services, while others were already reported via Ministry of Health reporting requirements.

Governance, management and administration standard – regulation 47 of the Education (Early Childhood Services) Regulations 2008

369. A few people who work in ECE, service providers and representative organisations thought that governance requirements should be strengthened, and that current governance practice across ECEs was relatively poor. The Early Childhood Council said the regulation of governance should be reconsidered, and potentially replaced with training and support or directions.
370. Submitters of all types said it would be useful for the Ministry of Education to publish a set of baseline policies and/or procedures, so providers do not have to second guess and duplicate effort.
371. The ECE Parent's Council and Office of Early Childhood Education submitted that there should be additional requirements for the involvement of parents, submitting that organisations that operate community-based services should be required to involve parents in governance and decisions concerning their service.

Safety checking / police vetting requirements – section 25 of the Education and Training Act 2020

372. Many service providers said police vetting took too long, causing employment delays. Some said ECE teachers should be prioritised for police vetting, while some said that the Australian Blue Card model should be considered for adoption in New Zealand.
373. Most parents talked about the high importance of safety checking requirements, and some organisations advocated for the requirements remaining the same. NGOs submitted in strong support of current safety checking requirements.

Many submitters said that the bar set by current minimum regulatory requirements was too low

374. Most people who work in ECE, a few service providers and many representative organisations said that current minimum requirements in the regulatory framework were too low for children to learn and develop as they should, and in some cases were actively damaging children's development and wellbeing. These issues have been mostly covered in other chapters of this report, particularly chapters two and five.
375. The common submissions about this were that the minimum requirements were not based on evidence of what was in the best interests of children, and what was needed to better ensure children have life-long positive outcomes.

"I think that we are going to look back in history and be ashamed we were part of a time where we think it's okay to have 60 children (3 to 5 year olds) or 20 (babies) in one room, with a few adults – the only thing they can manage is something that resembles crowd management – there is no quality teaching going on and we call this early childhood 'education'. We know too much about child development and the importance of attachment to allow this to continue to happen." – teacher

"Research tells us that children respond and develop better in smaller group sizes in which strong attachments are possible with caregivers/teachers" - teacher

376. Submitters cited research and evidence to support their submissions that ratios, service size, group size, space and other facility requirements were out of step with what we know about child development. These submitters were clear that they thought regulation was required to lift these standards.

A few submitters said that the regulatory framework and its implementation did not work for their model of service provision

377. A few submitters said that the regulatory framework took a ‘one size fits all’ approach that did not account for the significant variation in the sector. These submitters said that as well as the regulatory framework not accounting for the variation, the approach of the Ministry of Education and the Education Review Office also did not account for the variation.
378. These submitters said that the impact of this was that it was very difficult to comply with some requirements, that some requirements were too complex or unnecessary for their service type or that the enforcement of the requirements was done so without understanding how they operate.
379. This submission was made by home-based and hospital-based service providers, Pacific services and parent-led services.
380. One hospital-based service provider made the point that their ratios are usually 1:1 and that education and care was provided in a ward or activity areas. They said this meant that some of the regulations needed to be modified to accommodate these specificities.
381. Home-based service providers said that there needed to be more recognition that home-based services were delivered in a family home and educators were the sole people in charge. They submitted that some of the requirements, particularly documentation requirements, did not take this into account and a new balance needed to be achieved. Most said that they felt like they were treated as “mini-ECE centres” whereas the reality was quite different.
382. A commonly proposed solution was for the different service types to have different regulatory frameworks, or a different approach from the regulator. The Early Childhood Council however, said that the current framework applied different standards to different types of service provision with no clear distinction. They submitted that:

“...there should be horizontal equity between the regulatory models for the various services and classes. Ideally there is one set of requirements and service types can be established to devise new ways to meet the requirements.”

Kōhanga Reo and Puna Reo

383. Ngā Puna Reo o Aotearoa submitted that there was a need to recognise the specific requirements of their service type in the regulatory framework:

“There is a critical need to recognise Puna Reo as an immersion Māori early learning service with its own specific requirements for tamariki and whānau revitalising te reo Māori. The current regulations and funding rules do not sufficiently account for the unique role these services play, and adjustments must be made to better support them.”

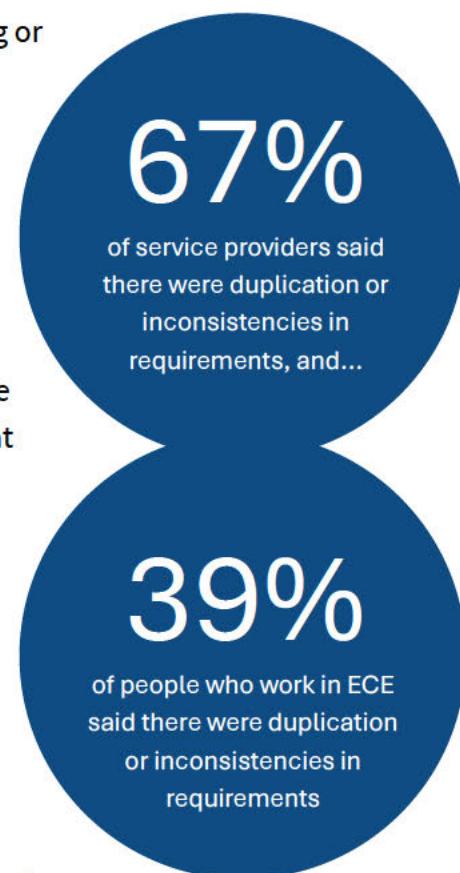
384. Engagement with Te Kōhanga Reo National Trust Board, and their engagement with whānau, highlighted that while some progress had been made in response to the 2013 Wai 2336 Matua Rautia claim, they considered there was work to be done to recognise the specific needs and place of the Kōhanga Reo movement.

A few submitters said that there were some conflicting and/or duplicative regulatory requirements

385. While a few submitters said that there were conflicting or duplicative regulatory requirements across different regulatory frameworks, it was more common for submitters to say that the issue was either having to deal with multiple agencies which took a lot of time and/or that different agencies interpreted the requirements differently.

386. The Review asked people who work in ECE and service providers specifically about duplicative or inconsistent requirements. Just short of 70 percent of service providers said that they thought there were duplications or inconsistencies in requirements. In the comments, however, they mostly talked about inconsistent application between and within agencies rather than the requirements being duplicative.

387. People who work in ECE were less definitive about inconsistency or duplication in requirements, with nearly 40 per cent saying yes, 40 per cent saying they did not know and the remaining 2 per cent saying no. Again, the comments were predominantly about duplication in



agency roles and inconsistent interpretations (predominantly between the Ministry of Education and ERO).

388. People who work in home-based ECE were more likely to feel that there was duplication of regulatory requirements.

389. The Early Childhood Council said that “...numerous conflicts arise between Ministry of Education, Ministry of Health and local Government and Ministry for Business, Immigration and Employment (MBIE) rules and official opinions.”

390. The notable specific conflicting requirements that were raised by submitters were a few conflicts between ECE licencing requirements and the Building Act 2004 (most notably door handle height) and a few references to the safety checking requirements for ECE workers being contradictory with other agencies’ requirements. The nature of that contradiction was not explored in detail.

Most service providers and people who work in early childhood education said that the regulatory framework had been poorly implemented

391. Most submitters thought that the regulatory requirements had been poorly implemented. Diagram twelve below shows the proportions of submitters that selected ‘poorly’ or ‘very poorly’ when asked how well government had implemented its requirements for ECE services.

Perceptions of the implementation of the regulations

People who work in ECE, service providers, and other interested people were asked to rate their perception of the implementation of the regulations

■ Very poorly ■ Poorly ■ Well ■ Very well



Diagram twelve: how well submitters through the regulatory framework for ECE has been implemented

392. People who worked in Kindergartens rated the implementation of requirements the highest, whereas people who worked in home-based ECE rated implementation the lowest.
393. People who rated implementation poorly were more likely they were to think that regulations needed to be changed.
394. Some submitters said that the regulatory framework itself was fit-for-purpose and that it was the implementation that caused them issues. However, they usually had some issues with the regulations themselves, notably that they thought some of the minimum standards were too low.

“We unequivocally support the purpose of the ECE regulations...we believe the current ECE regulations are broadly fit-for-purpose. We believe it is the interpretation and application of the ECE and wider regulations that is problematic and can be ‘burdensome’ for service providers.” – Kindergartens Aotearoa

“All of these regulations hold value in supporting children’s success within ECE. The issue is with the interpretation, apart from the ratios...” – teacher

“We are broadly supportive of current regulatory settings, we believe that the way in which regulations are interpreted and applied can create a burden for kaiako and create te perception of regulatory burden across the sector...” – NZEI Te Riu Roa

395. Submitters talked about a range of different reasons for why they thought regulatory requirements had been poorly implemented, which are outlined in the sections below.
396. It is worth noting that alongside implementation by agencies with regulatory functions, mainly the Ministry of Education and Education Review Office, submitters of different types also talked about how service providers implemented the requirements. These submitters said that some of the issues experienced by the sector were due to the way requirements were implemented at the service level, as opposed to at the government level.

“...There is a crucial difference between official regulations and the way that these are interpreted and applied at the centre level.” – NZEI Te Riu Roa

Multiple layers of requirements

397. A few submitters, predominantly service providers and NGOs (representative groups) said that whether something was a regulatory requirement or a guideline (and therefore did not have to be implemented or followed) had become confusing. These submitters said that:

- Some government guidelines had been made requirements by inserting them into the licensing criteria which they did not think was appropriate (requirements related to food were the most frequently cited here).
- Some government guidelines were being enforced by the Ministry of Education and/or the Education Review Office as if they were requirements.
- Multiple layers of guidance had been added to interpret the regulatory requirements which made understanding what was required and what was guidance, confusing, or that the policy intent of the regulatory standards had been lost through the Licensing Criteria.

“There is confusion amongst members of the sector and within regulatory organisations (MOE, ERO) about the status and interpretation of the regulations, licensing criteria, and the purpose of the accompanying guidance...This problem is not so much caused by the regulatory framework as by a failure of system support...” – individual submitter who works in ECE

“The Licensing Criteria were to ‘give expression’ to the regulations and various local offices have used these as if they are primary legislation. In addition to this they have web based ‘guidance’ that they enforce as if they are regulatory – this should be removed. So the Regulations are fine – its just they [sic] layers on top”. – Executive Leadership Team member of centre-based (university based) service provider

398. The Office of Early Childhood Education said that the current guidance (which sits below the licencing criteria) needed to be replaced.

“...The guidance needs to be replaced with carefully worded indicators of meeting criteria so services know exactly what is required of them to meet the criteria and therefore the minimum standards.”

Documentation

399. A clear theme throughout submissions, and in chapter five of this report was that most submitters agreed that the documentation requirements in ECE were overly burdensome for staff, service providers and parents, with many submitters saying that there were various documentation requirements that did not benefit children, or the benefit to children was unclear.
400. Removing some of the documentation requirements, changing how the requirements have been implemented, reducing the frequency of recording requirements and digitisation were commonly put forward suggestions for reducing the current volume of documentation.

“Reconsider the heavy use of checklists and other paperwork that is administratively burdensome on the ECE providers...” – Early Childhood Council

401. The longer people who work in ECE spent recording information, the less likely they were to feel that the requirements were appropriate.
402. People who work in smaller centres (up to 40 children) spent less time on recording information than people who work in larger centres. Additionally, these people were more likely to feel that the documentation requirements were appropriate than people who work in larger centres.²²
403. A few submitters said that each individual documentary requirement made sense, or seemed to have good reason, but the cumulative impact created significant burdens in time and financial cost.
404. As outlined above, the story that teachers told in their submissions about “paperwork” were varied – while many said that they saw significant areas of documentation that should not be required and took them a lot of time, many also said that they saw the value in the paperwork for children, parents and themselves and it was their capacity to complete it that was the bigger issue.
405. The more frequently mentioned areas of problematic documentation are listed below (note that some of these will be requirements put in place by service providers as they are not regulatory requirements, and some of this documentation is completed by service providers/their leadership teams, while others are completed by people who work on the floor in ECEs):

²² This is likely a function of having fewer children to record information about.

- Requirements for physical signatures from parents on forms (including attendance records, frequent absence forms, enrolment forms, excursion forms and medicine forms). Submitters said electronic signatures should be permitted for these forms.
- Excursion documentation requirements, including having to do risk assessments frequently for the same type of excursion (this was particularly raised in relation to home-based services but also centre-based)
- Records about children’s education and care, including nappy changes, bottle charts, minor accidents and injuries, food records and learning/curriculum records.
- Hazard checklists.
- Paperwork developed for the purpose of Education Review Office reviews.
- Paperwork for internal review processes.

406. As outlined previously, most parents submitted that the records made about their children were important to them. These were evidence of their child’s learning; sleep time and sleep checks, food served, injuries, illness and incidents, authority to give medicine and a record of its administration. A few NGOs agreed with the importance of this information.

“Retain all requirements for ECEs to keep records of when children sleep, nappy changing, emergency drills, when food is provided, and children’s injuries. This is important to us as parents to ensure that our children are being cared for.” – Deaf Education ECE Trust

“We strongly disagree that the review should be driven by calls from ‘for profit’ ECE providers to minimise their costs and/or cut back on paperwork that they may find tedious. We argue that such paperwork is essential in order to maintain children’s interests.” – OMEP Aotearoa New Zealand (World Organisation for Early Childhood Education)

407. A few service providers, collectives of service providers and non-government organisations said that the documentation service providers were required to submit to the Ministry of Education were overly burdensome. A few said that they did not think that anything of substance was done with those documents.

408. A few service providers and NGOs also commented on the need to keep physical paperwork, with a few citing not having enough space, storage cost being high and sustainability concerns.

High volume of changes and the communication of changes

409. Some submitters said that the high volume of changes, limited consultation on changes and a lack of communication about changes made implementation of requirements difficult. This was submitted by both service providers and people who work in ECE. People who work in ECE in particular said that they did not have any support or professional development to inform them about the changes.

“A lot of the time changes happen but we are not given adequate time or professional development to inform us about changes or implementation of them” - teacher

“...new initiatives come out but there is no supporting professional learning. Mostly the resources are very good, but accessibility is poor, it’s like they are the best kept secret...” - teacher

410. Pacific service providers said that their challenges with the regulatory requirements were complicated by the use of complex English terminology.

411. The solutions put forward by submitters mainly relate to the practice of the Ministry of Education and Education Review Office which are the subject of the next section, in addition to clarification about what is a requirement and what is not, and better communication and timing of changes/fewer changes.

412. One large service provider said that changes to the regulatory requirements should not be pursued because of poor implementation of current requirements.

“AKA would caution against removing regulations or licensing criteria simply due to the way they are being implemented or enforced.” – Auckland Kindergarten Association

Most submitters raised issues with the monitoring, compliance and enforcement approach of agencies with regulatory functions

413. Most service providers and people work in ECE submitted about the approach that was taken by agencies with a regulatory function, and particularly those with the largest regulatory functions – namely the regulator, the Ministry of Education, and the quality reviewer, the Education Review Office.
414. Submitters described both positive and negative experiences, with more negative experiences described than positive. It is worth noting that people tend to submit on consultation when they have a poor experience to share. This section explores what parents expect from the government in the monitoring of ECE. Then, discusses what submitters said about their experiences and suggestions for change.

Parents' expectations about how early childhood education should be monitored by the government

415. Of the 60 per cent of parents who responded to a question about their expectations of government to monitor early childhood education services, and most had clear expectations of government involvement. Some said that what they knew of the current system was fine and should continue.
416. Most said that they thought ECEs should be monitored through regular audits and inspections or “spot checks”, and a few said that the views of parents and families should be sought as part of those processes. A few submitters tempered their answers by saying that this was in the context of government focusing on the right areas or being aware that the current system appears to cause stress to people who work in ECE.

“Ideally there would be a mix of regular and sporadic checks conducted by the Ministry. I don’t suggest a heavy-handed approach...We just don’t [currently] know what is and isn’t a good service – it’s all taken on trust until there’s a complaint lodged or a bad ERO [Education Review Office] review.” – parent

417. A few parent submitters said that the government should provide support for ECEs to improve, with one parent providing a detailed outline for how that monitoring should work. Part of their suggestion was that the current model should be shifted away from compliance and towards support is provided below.

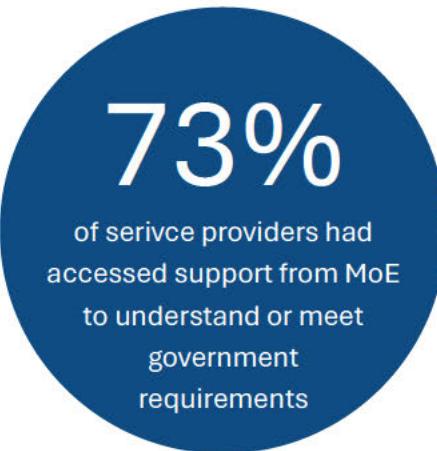
“Supportive and Developmental approach: Shift the focus from punitive measures to a supportive and developmental approach. The goal should be to help ECE services improve

and succeed rather than solely enforcing compliance. This includes providing guidance and resources to help services meet high standards.” – parent

418. A few (less than one per cent) of parent submitters thought that the government should not monitor ECEs or should monitor less than it did now.

The approach of the Ministry of Education

419. Based on their ratings, service providers and people who work in ECE were generally positive about their interactions with Ministry of Education. As described in diagram thirteen below, submitters were asked to rate their interactions with the Ministry of Education across a variety of factors (from strongly disagree [1] to strongly disagree [4]). The average score submitters gave across these factors was 2.66 out of 4.²³



²³ 476 service providers and people who work in ECE answered this question.

Ratings of interactions with the Ministry of Education

Service providers and people who work in ECE were asked (if relevant) to rate their interaction with the Ministry of Education across multiple factors

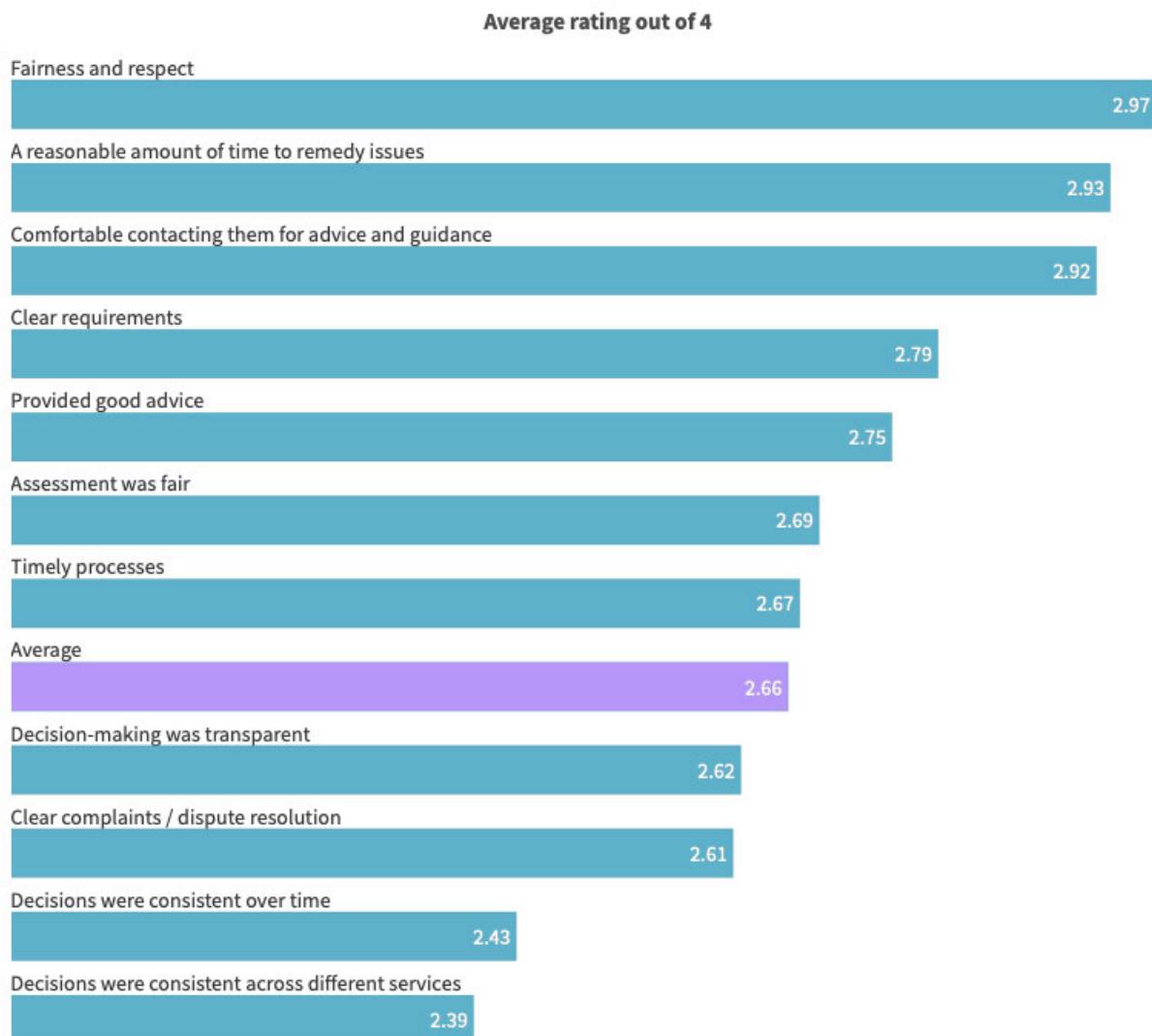


Diagram thirteen: how submitters rated their interactions with the Ministry of Education

420. Service providers who had experienced compliance action (just over 20 per cent of service provider submitters) reported mixed experiences. Of the service providers that responded to the questionnaire, just over 60 per cent of them said that they had engaged with the Ministry of Education on compliance related matters. For just over 20 per cent that engagement resulted in the Ministry of Education taking action.²⁴
421. Of those who had experienced compliance related action, most said that they understood the reasons action was taken (even if they did not agree with it) and a few said that they did not understand those reasons.

²⁴ 18% had been placed on a provisional licence, 3% had their licence suspended, and 1% had their licence cancelled.

422. Over half of service providers that answered the question said that they were satisfied or very satisfied with the support provided by the Ministry of Education to return to a full licence, while the remaining just less than half said that they were dissatisfied or very dissatisfied.
423. A few submitters said that there was a lack of a natural justice process when the Ministry of Education took compliance action. This included a submission from a collective of service providers and representative bodies who said, *“There is a lack of natural justice in MoE [Ministry of Education] decision making...Providers find it difficult to escalate and resolve issues...”*
424. People who work in ECE also described mixed experiences with the Ministry of Education’s approach, with some describing good experiences, others varied experiences, and others bad experiences. A few referred to the pressures they thought the Ministry of Education was under with not enough resources to provide the support ECEs needed.
425. Submitters’ main issues with the approach taken by the Ministry of Education are considered in turn below.

Disproportionate response to level of risk

426. A few submitters said that the Ministry of Education’s response to some breaches of the Licensing Criteria were disproportionate.
427. The Early Childhood Council said that the response of licence action for breach of some of the Licensing Criteria was not appropriate, while a few service providers queried whether licencing action was proportionate when different non-compliances posed different types of risk.

“While necessary, it should not be sufficient for Ministry staff to assert that because the criteria have not been met, the regulatory standard has not been achieved. They should have to show the implications of any tangible negative impacts on the safety of children or quantify the reduction in education quality...[The] process assumes that all non-compliances are equal and have the same consequences sufficient to put the centre in jeopardy of closure.” – centre-based service provider

“The compliance model for early childhood education, with its high-stakes consequences for regulatory checks or breaches, has created a climate in which many centres are disinclined to seek advice from the Ministry of Education. We ask that you consider how both agencies [Education Review Office] might shift their focus towards a culture of support and guidance...” – centre-based service provider

Inconsistency

428. In terms of inconsistency, service providers and people who work in ECE said that the interpretation of requirements by the Ministry of Education depended on who you were talking to, or what location you were in.
429. A few service providers described having licences in different areas of the country where the same requirements were interpreted differently. A few service providers described the same Ministry of Education personnel interpreting requirements differently at different times.

“MOE requirements are constantly changing. High turn-over of staff each with their own interpretation of the licensing criteria. It’s like we have to teach them,” – whānau from Kōhanga Reo, in Te Kōhanga Reo National Trust engagement documents

“For providers that operate in multiple regions of New Zealand, there can be inconsistency in assessment decisions from different Ministry offices. While we understand the assessment of practice is location specific...the assessment of documentation should be standardised. If a policy meets the standard in Auckland, it should also meet the standard in Wellington.” – Te Rito Maioha, Early Childhood New Zealand

Finding fault, not providing support and focus on small issues

430. Some submitters, across service providers, people who work in ECE and their representative bodies said that the Ministry of Education’s general approach was not to provide support to ECEs.

“...the regulations are not the problem, it is how they are administered by the regulator (the Ministry of Education) which is the problem. Under a collaborative approach, the Ministry should support providers to comply through provision of information, training and advice...”
– Early Childhood Council

431. While the Ministry of Education not taking a supportive approach came through the submissions, more than 70 per cent of service providers who took the questionnaire said that they had sought support from the Ministry in the last five years to understand or meet the government’s requirements. Kindergartens and community (not-for-profit) providers were more likely to have accessed support from the Ministry of Education than other types of providers.
432. Nearly half of these submitters (47 per cent) said that they were either ‘very satisfied’ or ‘satisfied’ with the support provided. 32 per cent said they were either ‘very dissatisfied’ or ‘dissatisfied’.

433. Those that were ‘very satisfied’ or ‘satisfied’ with the support provided said that they had a strong relationship with their local advisers that they had built up. They described support with meeting regulatory requirements including relating to the curriculum and health and safety, and in moving to a full licence. A few also referred to good support when dealing with challenging families and trying to access support for disabled or neurodiverse children.
434. Those that were ‘very dissatisfied’ or ‘dissatisfied’ described slow response times, not getting clear answers to questions and receiving confusing advice. Home-based service providers were more unhappy than other types of service providers with the type of support they received from Ministry of Education.
435. A few submitters said that they, and their teams, did not contact the Ministry of Education for support or advice because of concern about the consequences or the approach they have been met with.

“...A lot of people still ‘fear’ the MOE. In the past, people didn’t want to ask as often it resulted in them criticising and scrutinising you rather than providing support...This has changed a bit of late...” – Executive Leadership Team member of a home-based service provider

436. Some submitters said that the Ministry of Education focused on the wrong things, with a focus on small issues instead of areas that mattered for children’s safety, development and wellbeing.

“They were incredibly picky about minor details...” – owner of an ECE centre (private)

“...Its just they were requesting to see things or for us to do things that were just so minuscule that seem so irrelevant...Their knowledge and time is so important, it could be used better at looking and supporting us in focusing on what and how the tamariki are learning, their assessments plan, their learning outcomes being met or not...I hope I am not being too harsh :-(” – centre manager

437. Submitters said that these approaches meant service providers were not receiving support when it was available and that services may not be reporting events which could increase future risks of harm.
438. Submitters said that the Ministry of Education should provide additional training to its staff and implement a different practice approach – one that sought to collaborate more with service providers and put high-trust approaches in place, particularly for service providers that were very experienced and were consistently delivering high quality services.

439. A few submitters said that they thought the role of regulating ECE should be split from the policy and funding roles, and an independent (from government) regulator put in place.

The Education Review Office

440. Based on their ratings of their interactions with the Education Review Office, service providers and people who work in ECE were generally positive about their interactions. As described in diagram fifteen below, submitters were asked to rate their interactions with the Education Review Office across a variety of factors (from strongly disagree [1] to strongly agree [4]). The average score submitters gave across these factors was 2.67 out of 4.²⁵

Ratings of interactions with the Education Review Office

Service providers and people who work in ECE were asked (if relevant) to rate their interaction with the Education Review Office across multiple factors

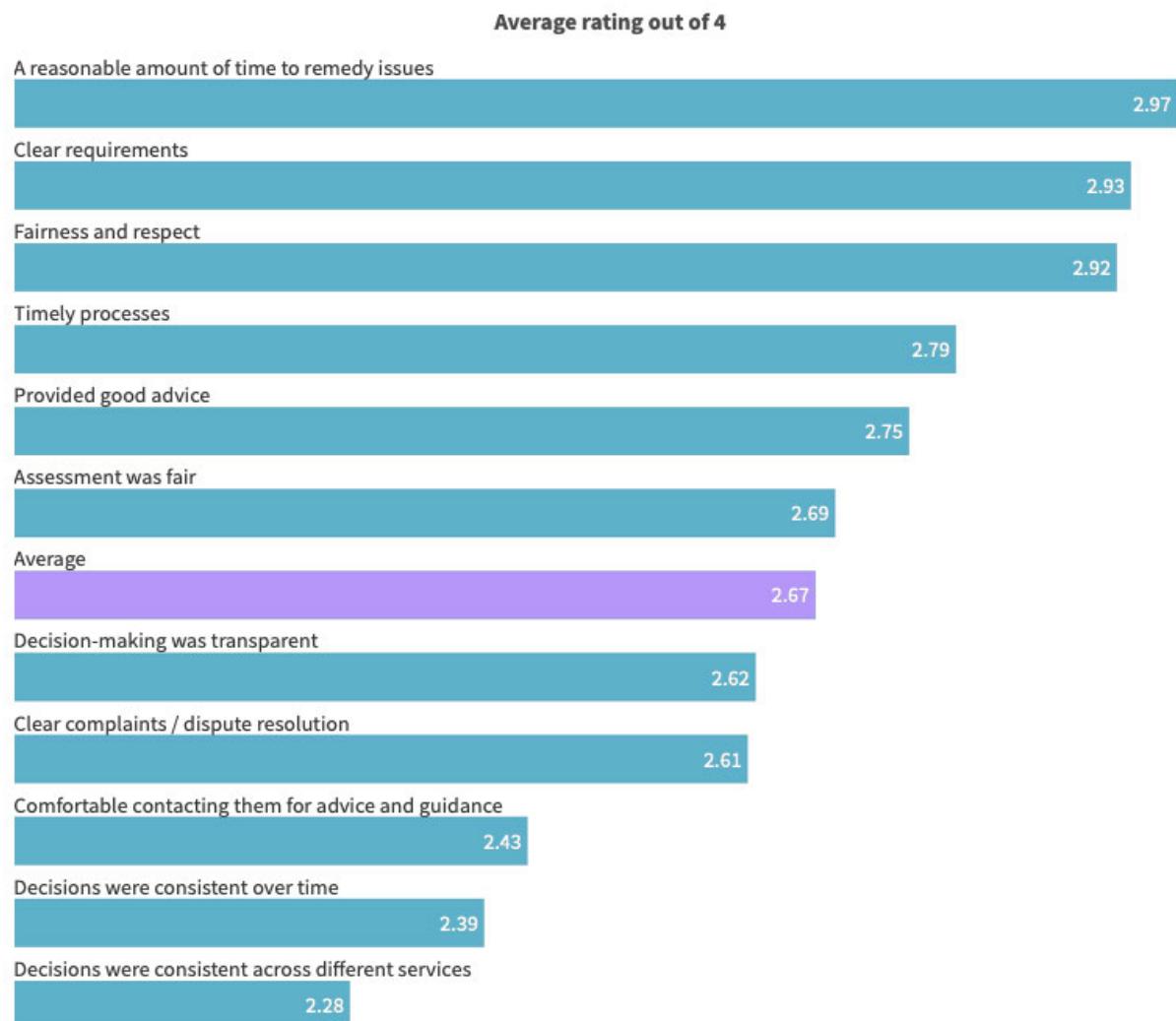


Diagram fifteen: how submitters rated their interactions with the Education Review Office

²⁵ 428 service providers and people who work in ECE answered this question.

441. While submitters' experiences with the Education Review Office (ERO) were generally positive, there was consensus across service providers, people who work in ECE, representative groups and other NGOs that ERO's approach to reviewing ECEs compliance with regulatory requirements was causing high levels of stress and unclear benefits to children for some ECEs.
442. The most common reason for this view in the submissions was that ERO's approach had become too compliance focused. A few service providers described friendly and respectful interactions with ERO and commented on the high level of expertise among ERO review staff.
443. A few service providers said that reviewers spent most of their time checking paperwork, and not observing children and teaching practice.

“...I always feel that the actual review has so much time in the office looking at paper work and having conversations, where I would like more of their time actually observing what is happening in the playground...” – owner of ECE centre (private)

“My main problem with ERO is they are not focused on the right outcome. They are focused on paperwork and policy compliance rather than practically teaching children!” – board member of centre-based service provider (community-based, not-for-profit)

444. A few people who work in ECEs described similar experiences to service providers, particularly that ERO were inconsistent in their views, focused on what they saw as small matters and held fixed views after changes had been made.

“They picked and picked until they found trivial things in policies to give us a poor review.” – teacher working for a home-based service

445. A few home-based service providers and educators had some specific comments about how ERO approached its home-based reviews. This feedback included that home-based educators were given very little notice before visits to their homes (10 to 20 minutes) which was culturally insensitive and did not allow time to prepare children for a different routine and different person in the home.

“I think they can be very overbearing and cause a lot of stress on both children VTs [Visiting Teachers] and educators. They are very authoritarian which can be intimidating. They are strangers coming into a child’s safe space, and an educators home which is not very nice feeling judged.” – home-based educator

446. Additionally, a few home-based service providers said that ERO reviewers did not seem to have good knowledge of the home-based requirements or the different nature of the service compared to centre-based services.

“Lack of understanding of homebased services and have an expectation that educators hold the same knowledge of qualified teachers...” – owner of a home-based service provider

447. Cultural responsiveness was also raised by Pacific organisations, who said that training needed to be given to ERO reviewers and efforts made to recruit reviewers from within the communities that ECEs service.

“Provide training in cultural responsiveness for all ERO reviewers. This training is an investment that will reduce the costs associated with misunderstandings and adversarial interactions...” – Pacific Enterprise People Ltd

448. A few submitters said that ERO should refocus its role on educational quality instead of regulatory compliance. This suggestion came from organisations that represent service providers, as well as a few service providers.

Inconsistency, duplication and confusion between the Ministry of Education and Education Review Office, and other agencies

449. The Review asked people who work in ECE and service providers whether they encountered agency duplication or inconsistency in their roles. 30 per cent of people who work in ECE said that there was duplication, while another 30 per cent said that there was not. Service providers were more definitive, with almost 60 per cent saying agencies duplicated effort or were inconsistent.

450. People who work in home-based ECE were more likely than people who worked in other types of ECE to say that agencies with regulatory functions were duplicative or inconsistent.

451. People with more responsibility and more knowledge of regulatory requirements (person responsible, centre managers, and administrative staff) were more likely to feel that agencies were duplicative or inconsistent.

452. Many submitters said that there was inconsistency and duplication between the Ministry of Education and ERO, and that there was some role confusion with service providers and people who work in ECE saying that ERO “behaves” like the regulator.

453. Submitters described different interpretations of the regulatory requirements between the Ministry of Education and ERO.

“The largest area of inconsistency is that between the MoE and ERO. While we accept that practice and compliance can change over time, our members are telling us that ERO will find issues, which once the Ministry have checked they find compliant (and vice versa).” – Te Rito Maioha, Early Childhood New Zealand

“...[we recommend] clear MoE and ERO interpretation of licensing criteria that is consistent across all regions so that all service providers are treated in an equitable way and have the same understanding of what is required, with the required standard being the same across the country.” – group of home-based service providers.

454. Many submitters, across service providers, people who work in ECE and their representative groups, said that the Ministry of Education and ERO roles overlapped, there was a lack of clarity about roles, which caused additional burden on ECEs. A few submitters said that the reviews or checks completed by the two organisations checked the same things and questioned the purpose.
455. A few submitters talked about the other agencies with regulatory functions in ECE – including Fire and Emergency New Zealand, WorkSafe, the Teaching Council, Health New Zealand, Food Safety New Zealand and local authorities – saying that there was no collaboration or coordination across them.
456. A few submitters said that the Ministry of Education should have a coordination function in this regard, while ECE Reform submitted that a new Ministry for the Early Years should be established. They submitted that the new Ministry would consolidate the policy and regulatory roles across the government into one place to reduce inconsistency, duplication and confusion.
457. Kindergartens Aotearoa recommended that a coordinating service was established to support service providers’ difficulties with navigating multiple agencies with different views.

“We recommend the Ministry for Regulation establish a service to negotiate with local and central government institutions including district and territorial authorities to reach a final decision where different requirements are set by agencies on the same matter.”

The approach of the Teaching Council

458. Most submitters who interacted with the Teaching Council did so to gain or renew their teaching registration. Some of these submitters felt that the Teaching Council was difficult to contact and slow to respond, and the advice they received was inconsistent. A few submitters had positive experiences and felt that the advice they were given was useful.
459. A few submitters suggested that the Teaching Council should also have jurisdiction over non-teaching qualified ECE teachers.

“Some of these teachers do not understand their responsibility to the communities of learning that they lead, which seems professionally neglectful.” – teacher

The approach of other regulatory agencies

460. Those submitters who interacted with other regulatory agencies (e.g., Health New Zealand, Fire and Emergency New Zealand, WorkSafe, local authorities) generally had positive experiences, and found the advice of these agencies to be helpful. The most common theme from service providers was a few difficulties and high costs in obtaining resource consents for expansions or building changes.

SECTION FOUR: PRIORITIES FOR THE REVIEW

Chapter eight: priorities - what should be driving the Review?

Key messages

Submissions to the Review told us that...

- Many submitters said that **children's best interests** needed to be at the centre, and the primary consideration of, the Review.
- A few submitters said the Review should be applying a **child right's framework** to its work and completing a **Child Impact Assessment** for all proposed regulatory changes.
- Many submitters said they were **concerned about deregulation** of early childhood education and said that there were **potential unintended consequences** of deregulation that could put children's safety, wellbeing, and development at risk.
- Some organisations said that it was imperative for the ECE sector to have a **strong understanding of its obligations to Te Tiriti o Waitangi**.
- Many submitters said that early childhood education should be a 'public good' and fully funded and provided by government, and / or that **profit** should not be **able to be made** from children's education.

Keeping children's best interests at the heart of ECE

461. Many submitters said that any decisions government makes about ECE must have the best interests of children as the primary consideration. A few called for legislative change so all children could have the right to attend and participate in ECE.

Definition reminder:

'most' means 50% or more ($50\% \leq x$)
'many' means between 30% and 50% ($30\% \leq x < 50\%$)
'some' means between 12% and 30% ($12\% \leq x < 30\%$)
'a few' means less than 12% ($x < 12\%$)

"Children should be at the heart of this review. Their best interests, safety and wellbeing should be the paramount consideration. NZ is a signatory to the UN Convention on the Rights of the Child (UNCRC) and under the UNCRC government is required to consider children's best interests as the primary consideration in all actions (administrative and legislative) that affect them. It is not at all clear that this principle is underpinning this review." – retired ECE teacher

"We ask that this review ensures that the best interests of children are the primary consideration. Please don't propose any changes that will have negative impacts on or unintended consequences for our children." – ECE Parents Council

462. A few submitters said that the Review should apply a child rights framework and that a Child Impact Assessment²⁶ should be undertaken to ensure proposed regulatory changes uphold children's rights and prevent or mitigate negative consequences for children, while making it clear how decisions are made.

463. Others referenced the high social return on investment that quality ECE had the potential to deliver (which is also referenced in the section below) and that should be considered as part of the Review's work.

"Research has shown that the investment made in early childhood education more than pays off for itself as these children grow into capable, confident and empathetic adults that contribute back to society. So, the Ministry [for Regulation] should consider the invaluable pay-off from the long-term benefits of high quality ECE in their regulations review." – a Montessori service provider, for and on behalf of the Parent Council and Staff Members

²⁶ [Child Impact Assessment Tool - Ministry of Social Development \(msd.govt.nz\)](http://www.msd.govt.nz)

The impact of ‘deregulation’ on children

464. Many people who work in ECE, NGOs, parents and a few service providers said that they were concerned about deregulation. These submitters were concerned that the balance between discretion and prescription in the regulatory framework could tip too far towards deregulation and the result would be unintended consequences that put children’s safety, wellbeing and development at risk.

“A deregulated operating environment only fuels competition within ECE markets. As international examples show, heightened competition in a mixed-market model can lead to perverse outcomes, including reduced access for children, higher costs to parents, and diminished workforce wellbeing...Therefore, the competitive nature of the current mixed market system necessitates higher levels of government regulation to ensure quality education and care. Such regulatory oversight is essential to achieve the potential 4x to 9x cost-to-benefit ratio return on government investment.” – Early Years Research Lab – Massey University

“DPA believes that deregulation will compromise the commitments Government has made to disabled children and their whānau under the UNCRPD, New Zealand Disability Strategy and Te Tiriti o Waitangi to enable their full participation in early childhood education.” – s Disabled People’s Assembly

“They [the regulations] are there for a purpose... it is necessary and there needs to be that tiny bit of paper required to check that, to ensure everyone knows. It is not wasted money or time. If anything we need more, not less...” – teacher

“Deregulation is dangerous and will lead to poorer outcomes for children... Deregulation will only encourage poor quality ECEs with staff who aren’t being paid enough to care.” – parent

465. The cautions against deregulation were not universal. Many submitters proposed removing or changing existing regulatory requirements (mostly licencing criteria), which is covered extensively elsewhere in this report. Many of the recommendations in this vein were about removing documentation requirements, changing how requirements were measured or implemented or inserting more flexibility into specific requirements.

466. A few organisations submitted detailed assessments of the licencing criteria which have been considered by the Review. These included many suggestions to remove regulatory requirements.

Te Tiriti o Waitangi and early childhood education regulation

467. Some organisations that submitted said that it was imperative that the ECE sector had a strong understanding of its obligations to Te Tiriti o Waitangi and that ECE providers – both as private businesses in New Zealand, and as agencies that receive subsidies from the Government - should be empowered to uphold specific commitments to the rights of mokopuna Māori as tangata whenua.
468. Submitters said these included honouring the tino rangatiratanga of their whānau, hapū and iwi, recognising and respecting Māori participation, leadership and te ao Māori approaches to ECE and promoting te reo Māori and tikanga Māori as taonga of New Zealand.

“We recommend the regulation of ECCE recognises Te Tiriti o Waitangi and upholds the tino rangatiratanga of Māori to govern and operate ECCE services for mokopuna Māori.” - submission from Mana Mokopuna – the Children and Young People’s Commission

469. Many of these submitters noted that kōhanga reo must be supported by the government to thrive, because it is integral to the survival of te reo Māori, which is a fundamental right of Māori as tangata whenua. They called for regulation to ensure the government can support Kōhanga Reo to thrive under iwi, hapū and whānau governance, fully grounded in mātauranga Māori and Māori ECE approaches.
470. These submissions also called on the government to ensure tangata whenua are consulted when a policy change is planned that affects their rights to provide ECE according to tikanga Māori.
471. Ngā Puna Reo o Aotearoa questioned how the Review was going to consider ways of strengthening recognition of te reo Māori in the framework.

“...NPRA would like to know how the regulatory review might examine where te reo Māori fits in its review process? In particular, the lack of support for te reo Māori across the ECE sector. This is despite te reo Māori being an official language of New Zealand, as legislated under the Māori Language Act 2016 with the clear government responsibilities to ensure the revitalisation of te reo Māori...” – Ngā Puna Reo o Aotearoa

472. A few submitters, including Te Kōhanga Reo National Trust, referred to the recommendations from the Wai 2336 Matua Rautia report regarding relationships, budgets, frameworks, and processes to facilitate “progress to achieve effective transmission of te reo Māori through Kōhanga Reo proceed[ing] with the dedication and urgency required given the vulnerable state of te reo Māori” (WAI 2336).

"Whakamana i te Tiriti - WAI 2336 Claim. Where are we at with the claim!" - whānau at Ikaroa kōhanga reo, quoted from engagements by Te Kōhanga Reo National Trust

Many submitters said that early childhood education should be a ‘public good’ and should not be market-based

473. Citing the demonstrated importance of ECE, some parents, many people who work in ECE, a few service providers, and many of the NGOs that submitted said that they do not believe people should be able to profit from the provision of ECE.

“...If you want to have a business buy a McDonald’s...” – hospital based ECE play specialist

“ECE is an essential public service that is undervalued by this government. We need a nationalised public model of ECE provision that puts an end to profiteering off of taxpayers.” – teacher

474. A few submitters (parents, people who work in ECE and NGOs) said that ECE provision should be fully funded and provided by government (nationalised) or that there should be a free public option available.

475. Submitters said that the market approach that has been taken does not favour quality and that while service providers assert that children are at the heart of what they do, the way they operate suggests it is actually profit.

476. Many of these submitters pointed specifically to areas they thought the ECE market was failing.

“Competition between ECE services has resulted in inequities in provision across geographic areas (services tending to cluster in more affluent areas) and in reduction in the types of services, so reducing parent choice.” – retired ECE teacher

“...The current market approach to provision has led to a radically unequal patchwork with oversupply and undersupply and differentials in quality, that largely favour higher socioeconomic groups.” – a former ECE professor

477. Submissions by parents, service providers and NGOs said that disabled, neurodivergent and medically fragile children are already effectively excluded from some ECEs. Organisations representing disabled children said that a more market-based approach would make these issues worse.

“Private early childhood centres in a more market-driven system could also start cherry-picking student intakes in that disabled pre-schoolers will only be accepted if they have lower-level impairments, thereby excluding learnings with more significant impairments...A more market-drive system may also lead to the whānau/families of disabled pre-schoolers being charged more to have their child/tamariki in a good quality centre, placing extra stress and responsibility on whānau/families. This will result in the whānau/families of disabled pre-schoolers having fewer choices not more...” – the Disabled Persons Assembly

APPENDIX 1: LIST OF ORGANISATIONAL NON-REGULATED PARTIES WHO SUBMITTED

1. Children's Rights Alliance Aotearoa New Zealand
2. Deaf Education ECE Trust - Ko Taku Reo Deaf
3. Disabled Persons Assembly
4. Early Childhood Council
5. Early Years Research Lab - Massey University
6. ECE Reform
7. ECE Taylored
8. Education & Business Innovation - 4E's Consulting
9. Heart Foundation
10. Institute for Early Childhood Studies at Victoria university of Wellington
11. Kindergartens Aotearoa
12. Languages Alliance Aotearoa NZ
13. Mana Mokopuna – Children and Young People’s Commission
14. Māngere Labour Electorate Committee
15. Miro Education Consultants
16. New Zealand Home Base Early Childcare Association
17. Ngā Puna Reo o Aotearoa
18. NZEI Te Riu Roa
19. Office of Early Childhood Education, Te Tari Mātauranga Kōhungahunga
20. OMEP (World Organisation for Early Childhood Education) Aotearoa New Zealand
21. OMEP Waikato Rōpu
22. OMEP Waitaha
23. Pacific Enterprise People Ltd
24. Pasifika Early Learning Foundation
25. Rangitāiki Community Board

26. Rural Women NZ
27. Safeguarding Children
28. Save the Children NZ
29. Steiner Education Aotearoa New Zealand
30. Te Kōhanga Reo National Trust Board. The Review engaged directly with Te Kōhanga Reo National Trust Board and the Board engaged across Kōhanga Reo whānau and contributed their views to the Review.
31. Te Kōpu NZ Limited
32. Te Rito Maioha Early Childhood New Zealand
33. Te Whānau Tupu Ngātahi o Aotearoa - Playcentre Aotearoa
34. The ECE Parents' Council
35. The New Zealand Home Based Childcare Association
36. The Talking Matters Charitable Trust
37. Wilf Malcolm Institute of Educational Research
38. Women's Health Action



To	Minister Seymour		
Title	Update on the Early Childhood Education (ECE) Review	Number	MFR2024-133
Date	11 October 2024	Priority:	Low
Action Sought	Note	Due Date	
Contact Person	Justine Fitzmaurice	Phone	s 9(2)(a)
Attachments	No	Security Level	IN CONFIDENCE
Consultation	Internal Ministry for Regulation		

Executive Summary

1. This briefing provides you with an update on the ECE Review, including an early view of our analysis on market failures for the ECE sector, an overview of our lines of inquiry and some initial quick wins in relation to licensing criteria.
2. Our initial analysis of ECE sector market failures indicate there are two key market failures:
 - a. Information asymmetry: Parents know less than providers about the ECE services they are purchasing.
 - b. Undersupply of a merit good: The market may not provide enough ECE. Some areas (in particular lower-income or low population density areas) may not have access to ECE or only have access to lower quality ECE because it is not profitable to provide services in those areas.
3. The Review has undertaken a broad range of lines of inquiry including regulatory stewardship and leadership, regulatory capability, regulatory practice, regulatory design and regulatory requirements.
4. More specific lines of inquiry are underway in relation to licensing criteria, ECE settings outside of centre-based services and support for disabled, neurodivergent, and medically fragile children.
5. During the course of our analysis several misconceptions about ECE regulation have become apparent, including sleeping children must be woken every 5-10 minutes, adults supervising children while eating cannot be counted for ratio calculations and required temperatures for laundry.



Recommended Action

We recommend that you:

a note the initial analysis on ECE sector market failures	Note
b note the Review team has a range of lines of inquiry underway which will result in opportunities for both macro and micro-level changes	Note
c note there are several misconceptions in the sector about ECE regulation	Note
d note the contents of Appendices A, B and C	Note

Proactive Release Recommendations

e agree that this briefing is not published due to the early nature of the analysis	Agree / Disagree
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Justine Fitzmaurice
Manager, ECE Review
Ministry for Regulation
Date: 11 October 2024

s 9(2)(a)

Hon David Seymour
Minister for Regulation
Date:



Purpose of Report

6. The purpose of this briefing is to provide you with an update on the ECE Review, including an early view of our analysis on market failures for the ECE sector, an overview of our lines of inquiry and some initial quick wins in relation to licensing criteria.

Analysis:

ECE sector market failures initial analysis

7. There is currently a lack of clear and agreed government objectives for the ECE sector. This leads to inconsistency and insufficient consideration of trade-offs in decision making and policy. Senior leaders at the Ministry of Education and Education Review Office have suggested that there should be two overarching government objectives for the ECE market: child development and labour market participation. This reflects the fact that ECE is a merit good that has benefits for parents, children and society as a whole.
8. Provision of ECE services also pose risks that need to be managed, notably to the health, safety and wellbeing of children in ECE services. Without government intervention market failures would prevent the market from achieving the above objectives. These market failures include:
9. **Information asymmetry:** Parents know less than providers about the ECE services they are purchasing. This manifests in two primary ways:
 - a. **Health and safety of children:** Parents will not have full knowledge of the risks their children are exposed to in an ECE service and malicious, negligent or incompetent providers may engage in practices that are harmful to children.
 - b. **Educational quality:** Parents may struggle to compare the educational quality of different ECE services. This may make it hard for higher quality services to out-compete lower quality services.
10. **Undersupply of a merit good:** The market may not provide enough ECE. Some areas (in particular lower-income or low population density areas) may not have access to ECE or only have access to lower quality ECE because it is not profitable to provide services in those areas.
11. The evidence suggests that entry into the ECE market is not responsive to excess demand. Whilst excess supply is associated with more ECE providers leaving the market, excess demand does not seem to induce more new providers to enter the market to meet this demand. This suggests that there are barriers to entry that are disrupting the functioning of the market. In particular:
 - a. A lack of qualified ECE teachers could be acting as a limit on the ability of new ECE services to open (e.g. new services are not able to open because they cannot recruit enough qualified teachers to meet regulatory requirements or funding conditions).
 - b. A lack of clarity over what is required to meet licensing criteria combined with an overly stringent application of the licensing criteria could be creating both too



high a regulatory barrier to entry and uncertainty that disincentivises market entry.

12. Appendices A, B and C set out more detail on our work to date on analysis of market failures in the ECE sector.

Overview of our lines of inquiry

13. The Review has consolidated and analysed all information received and is advancing through multiple lines of inquiry. These lines of inquiry are examining a range of data and evidence, including submissions, against best practice principles and through engagement with other government agencies.
14. The broad categories of inquiry focus on:
 - a. **Regulatory stewardship and leadership**, roles and responsibilities, system monitoring and institutional form.
 - b. **Regulatory capability**, including the tools available to regulators and their approach to regulating.
 - c. **Regulatory practice**, assessing the consistency and effectiveness of the Ministry of Education's operational approach to regulatory oversight and compliance monitoring.
 - d. **Regulatory design**, focusing on economic analysis, legislative frameworks, and policy design to ensure that regulations support the intended outcomes effectively.
 - e. **Regulatory requirements**, such as legislation, regulations, and licensing conditions, and how these are designed to support the ECE sector. Specific line of inquiry related to regulatory requirements include:
 - i. *Licensing criteria*: Work is ongoing on a line-by-line assessment of licensing criteria, and we will update you separately on the progress and initial findings on 18 October.
 - ii. *Home-based services, Kōhanga Reo and hospital-based services*: Lines of inquiry are underway to assess issues raised about regulatory issues associated with ECE settings outside of centre-based services.
 - iii. *Support for disabled, neurodivergent, and medically fragile children*: While much of the work here relates to funding, we are investigating if regulatory issues can be addressed as the review progresses.
15. All inquiries reference good economic theory, policy design, and regulatory best practice principles.
16. Through these broad inquiries, we have identified opportunities for both micro and macro-level changes:
 - a. **Micro-level changes** could include improvements in role clarity, guidance, licensing criteria, and information provision, which can be implemented relatively quickly using existing regulatory tools. These changes aim to address sector issues



early and provide relief from confusing, duplicated, or overly burdensome regulations impacting ECE service delivery.

- b. **Macro-level changes** will focus on more complex system transformations, requiring deeper policy design and implementation planning.
17. A report outlining specific recommendations and implementation planning will be provided to you on 13 December 2024.

Out of scope

18. Issues related by stakeholders related to the funding, pay parity and parental leave policy are out of scope of the Review.

Misconceptions regarding licensing criteria

19. During the course of our analysis of stakeholder engagement and testing findings with the Ministry of Education and the Education Review Office, several misconceptions about ECE regulation has become apparent.
20. The briefing you are due to receive on 18 October with initial findings regarding the Licensing Criteria will include a list of other common misconceptions. However, some examples of misconceptions are:
 - a. Sleeping children must be woken every 5-10 minutes. Children do not need to be woken; however, they do need to be checked at least every 5-10 minutes for warmth, breathing and general well-being.
 - b. Adults carrying out sleep checks or supervising children while eating cannot be counted for ratio calculations. Adults carrying out these duties are counted in ratio calculations.
 - c. ECE providers must launder at a water temperature of 60°C. The licensing criteria does not set a required temperature that linen must be washed at but does require a procedure that details how linen will be hygienically laundered.

Next Steps

21. On 18 October, we will provide you with our initial findings on licensing criteria. At this stage, we anticipate we will have reviewed and analysed approximately half of the 104 licensing criteria with the balance being reviewed by mid- November.
22. On 15 November, we will provide you our overall initial finding and recommendations, ahead of a draft report on 13 December.



Appendix A: Initial findings on the economic issues in the ECE market

23. This appendix sets out our initial findings on the economic issues in the ECE market, including our view on what government's objectives for the ECE market should be and the market failures that we have identified.

Analysis:

Features of the ECE market

24. ECE is a merit good¹ that has benefits for:

- Parents – ECE helps them return to the workforce sooner and improve their careers, income, and future earning potential.
- Children – good quality ECE can help children improve their cognitive, social, and emotional development. This can lead to improvements in future educational success, earning potential and health. Evidence suggests that the greatest benefits from ECE fall on children from lower socio-economic backgrounds. The developmental benefits are also strongest for children older than 2.
- Society – ECE can help support a happier, healthier, and more cohesive society, higher economic growth, higher tax revenue, lower welfare spending and lower crime.

25. ECE also poses risks to children's health, safety and wellbeing. The ECE market is unusual in that the consumer of the services differs from the user. Parents (the consumers) purchase ECE services for young children (the users) who are vulnerable, can't identify and protect themselves from risk of harm and cannot clearly articulate their experience of the service.

26. The market for ECE is also highly geographically localised. It is better to think of the ECE market as a series of local markets constrained by geographical area than as a single national market.

Government objectives for the ECE Sector

27. There is currently a reported lack of clear and agreed government objectives for the ECE sector, which leads to inconsistency in decision making and policy. Whilst the Education and Training Act 2020² sets out some objectives for the regulations they are narrowly focused on the regulations rather than the sector settings as a whole.

28. The approach this review is taking to identifying objectives is to:

¹ There is a large volume of academic literature on the benefits of ECE. This report commission by the Ministry for Education provides a summary of the academic literature https://www.educationcounts.govt.nz/_data/assets/pdf_file/0003/24456/Outcomes-of-ECE-Literature-Review.pdf

² The objectives in the Education and Training Act 2020 are "to regulate an early childhood education system where all children are able to participate and receive a strong foundation for learning, positive well-being, and life outcomes by—
(a) setting standards to support quality provision and learning; and
(b) supporting the health, safety, and well-being of children; and
(c) enabling parental choice by providing for licensing and funding of different types of provision."



- a. identify what the overarching objectives that the government wants the sector to achieve should be
- b. identify which market failures are preventing the market from achieving those objectives
- c. identify which of those market failures require regulation to address
- d. derive regulatory objectives based on the problems regulation is intended to solve.

29. Senior leaders at the Ministry of Education and Education Review Office have suggested that there should be two overarching government objectives for the ECE sector that reflect the benefits to parents, children and society from ECE.

- a. **Child development and education:** to ensure all children are able to participate in ECE and receive a strong foundation for learning, positive well-being, and life outcomes.
- b. **Labour market participation:** to support the participation of parents, in particular women, in the labour market, including community and volunteer work, further education and training.

30. We will provide you with our view on what the regulatory objectives should be on 15 November once we have completed our analysis of which market failures regulation should address.

Market failures

31. Qualitative evidence from direct and indirect stakeholder engagement as well as quantitative desktop analysis (summarised in Appendix B) suggests that there are two primary market failures that would prevent the objectives set out above from being met without government intervention.

Information asymmetry

32. Markets can be ineffective if one party has significantly more information than the other. It is a particular problem if a buyer or seller uses this to conceal important information. In ECE parents will not have full knowledge of the standards and practices of different ECE services. This issue applies principally to information relating to health and safety, and information relating to educational quality.

33. **Information in relation to health and safety:** Parents will know less than ECE providers about the level of risk children in ECE services are exposed to and the measures that ECE providers have (or do not have) in place to protect children from harm. There is also a risk that malicious, negligent or incompetent providers may engage in practices that are harmful to children. Parents are unable to fully monitor the risk posed to their children because they are generally not physically present, and the children are too young to be aware of or articulate risks.

34. It will not be possible for the provision of information to fully mitigate this risk. Whilst unsafe providers might go out of business when information about their poor safety record spreads, the number of accidents, some potentially fatal, that would likely occur for this



market mechanism to operate would be unacceptably high. Therefore, regulation is needed.

35. However, it is impossible to eliminate all risk and all that can be expected is to reduce risk of avoidable harm. There are also trade-offs with reducing risk. Reducing risk of harm may have impacts on cost and/or children's opportunities for learning. Experiences such as trips off the premises involve greater risk but are valuable for child learning and development. The cost and benefit of any requirement intended to reduce risk needs to be weighed up to ensure it is proportionate.
36. **Information in relation to educational quality:** Parents may struggle to compare the educational quality of different ECE services. Both because they will not have full knowledge about the practices of ECE services and because they may not know what good educational quality in ECE looks like (particularly if they are purchasing ECE services for the first time). This may make it hard for higher quality services to out-compete lower quality services.
37. It may be possible to mitigate this market failure through better provision of information to parents. For example, submissions from parents indicate that Education Review Office (ERO) reports are difficult to understand which limits their usefulness to parents. We are exploring options for improving the accessibility of information for parents. However, even if better information is available, it is not possible to guarantee that all parents will be aware of it or know how to access it. There is therefore a case for using regulation (e.g. of qualifications and/or curriculum) to create a floor below which standards cannot fall as a backstop.
38. There is similarly a trade-off with regulating for educational quality. More prescriptive regulation can increase costs, reduce the affordability and accessibility of ECE and reduce the ability of teachers and ECE providers to innovate and improve teaching methods. There is evidence to suggest that the current regulatory requirements may not be proportionate, for example, New Zealand only recognises degree-level ECE qualifications in ratio requirement whereas many comparable countries (e.g. Australia, UK) place more emphasis on vocational qualifications that are quicker and more cost effective to obtain. There is further work to do analysing the costs and benefits of different models of qualification requirements and we will provide you with our initial findings on 15 November.

Undersupply of a merit good

39. The market may not provide enough ECE of sufficient quality to maximise the social benefits. Some areas (in particular lower-income or low population density areas) may not have access to ECE or only have access to lower quality ECE because it is not profitable to provide services in those areas. Families, particularly those from lower-socio economic backgrounds, may not be able to afford good quality ECE even if it is available in their area. It may also not be profitable to provide specialised services (e.g. for children with disabilities).
40. The evidence shows that despite the large government subsidies there is a lack of supply, choice and competition of ECE in rural areas (Appendix B).
41. Regulation is not well suited to solving this market failure as it is not feasible to require ECE providers to provide services in areas that they do not want to. However, regulation can



inadvertently exacerbate this market failure by making it harder for new ECE services to enter the market. The evidence also suggests that the ECE market is currently dysfunctional and that entry into the ECE market is not responsive to excess demand. Whilst excess supply is associated with more ECE providers leaving the market, excess demand does not seem to induce more new providers to enter the market to meet this demand (Appendix C). This suggests that there are barriers to entry that are disrupting the functioning of the market.

42. Two areas in particular could be creating undue barriers to entry:

- a. **Supply of teachers:** The evidence from direct and indirect stakeholder engagement as well as quantitative desktop analysis of the ECE labour market summarised in Appendix C suggests that difficulty in recruiting enough qualified teachers could be limiting the number of ECE places available in those areas (Appendix C). As mentioned earlier There is further work to do analysing the costs and benefits of different models of qualification requirements, which could help address this issue.
- b. **Approach to licensing:** Licensing is intended to create a barrier to entry that excludes bad actors from the market. Currently regulatory requirements are ‘front loaded’ into licensing criteria as there is a lack of other regulatory tools and to compensate for a lack of compliance monitoring. This combined with an overly stringent application of the licensing criteria could be creating too high a regulatory barrier to entry. The evidence also suggests that there is inconsistency and a lack of clarity over what is required to meet licensing criteria which could be creating uncertainty that disincentivises market entry. The difficulty in navigating the regulatory requirements also advantages large providers who have more experience and resources to do so. We have a specific line of inquiry for licencing criteria (for which we will provide you with initial findings on 18 October) and a broader line of inquiry on the regulatory tools, practice and approach (for which we will provide you with initial findings on 15 November).

Other potential market failures

43. We have identified two further potential market failures, but the evidence suggests that government intervention is not needed:

- a. **Under-consumption of a merit good:** Parents could undervalue the benefits of ECE services and therefore not purchase enough ECE to maximise the benefits to themselves, their children or to society. Whilst this could be a problem in theory, we have not seen much evidence that a lack of demand for ECE is an issue in practice.
- b. **Transaction / switching costs:** Parents may be unwilling to switch between ECE services to avoid creating disruption for their children, even if they are dissatisfied with their current service. This could also make it harder for higher quality services to out-compete lower quality services. The nature of these costs means that beyond making more information accessible to parents (as discussed earlier) it would not be feasible for government intervention to reduce them.



Appendix B: Analysis on the under-supply of ECE in rural areas

44. There is evidence to suggest that there is a lack of ECE provision in some rural areas. Figure 1 shows the number of children per ECE place by Territorial Authority (TA). It shows that there are some areas with 2 – 3 children per ECE place. Figure 2 breaks this down by the type of TA and indicates that it is predominantly more rural areas that have more children per ECE place. Whilst not all parents would want to send their children to ECE centres (especially at younger ages) Figure 3 shows that waiting lists are higher in areas that have fewer ECE places per child, indicating that supply is not high enough in these areas to meet demand.

Figure 1: Number of children under 5 per licenced ECE position by Territorial Authority

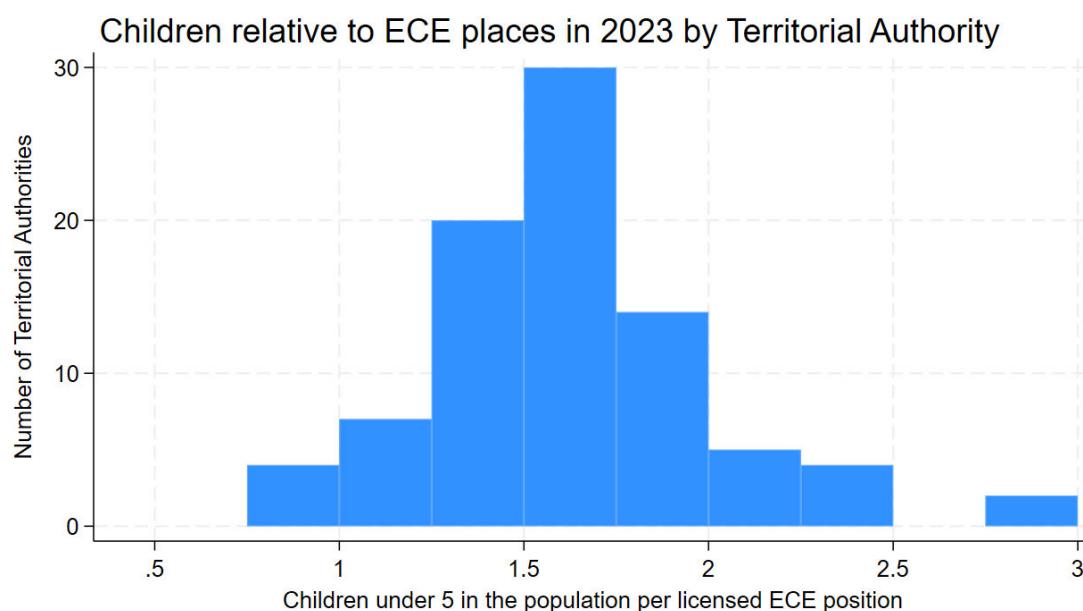
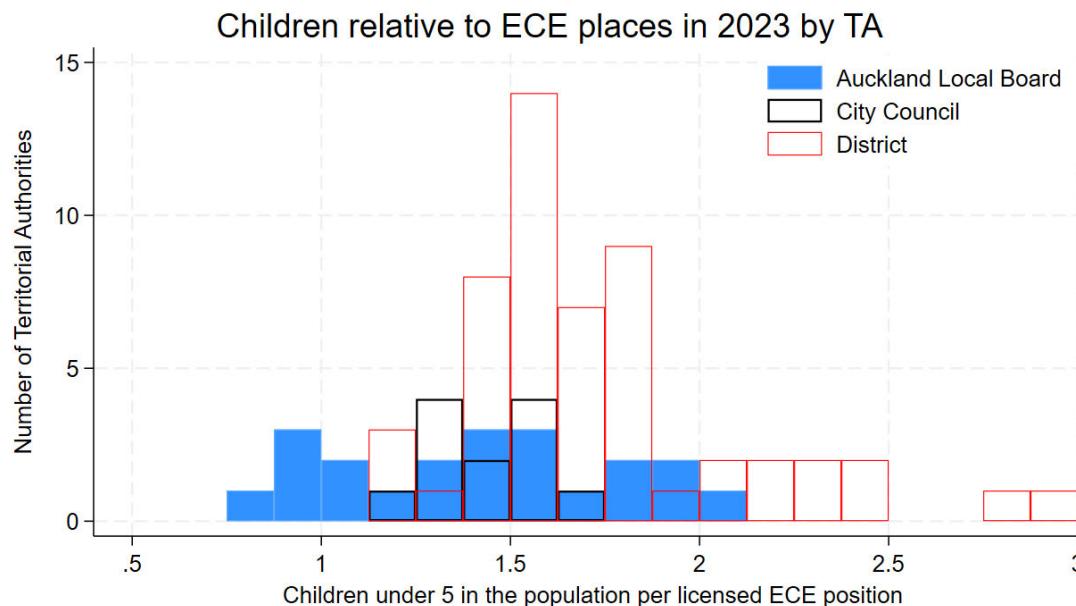


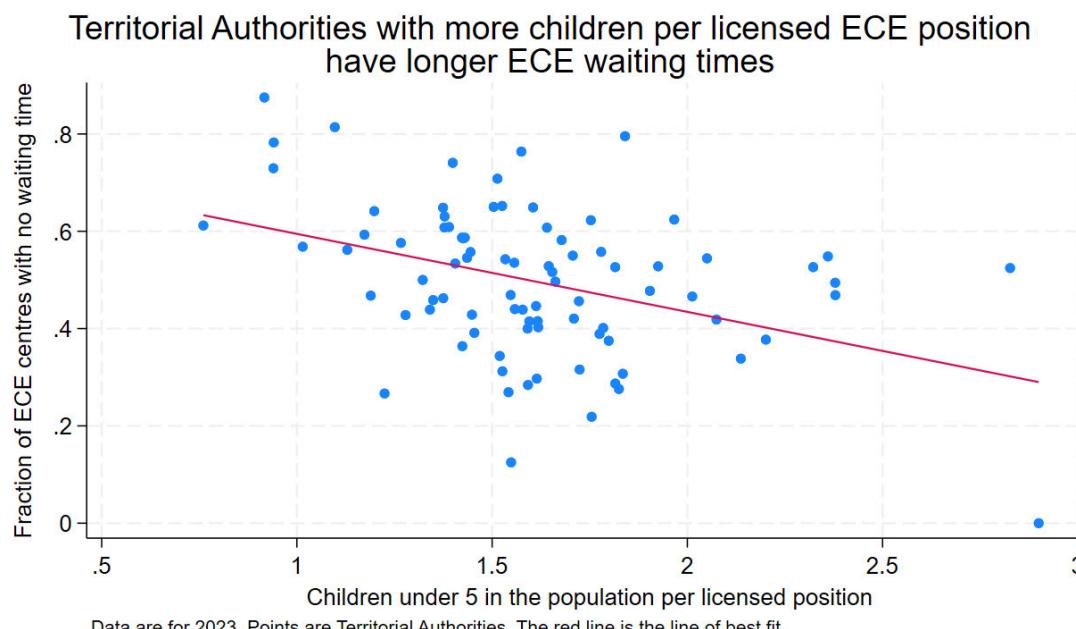


Figure 2: Number of children under 5 per licenced ECE position by type of Territorial Authority



The Auckland TA is divided into 21 Local Boards.

Figure 3: Number of children per licenced ECE position compared to ECE position waiting times



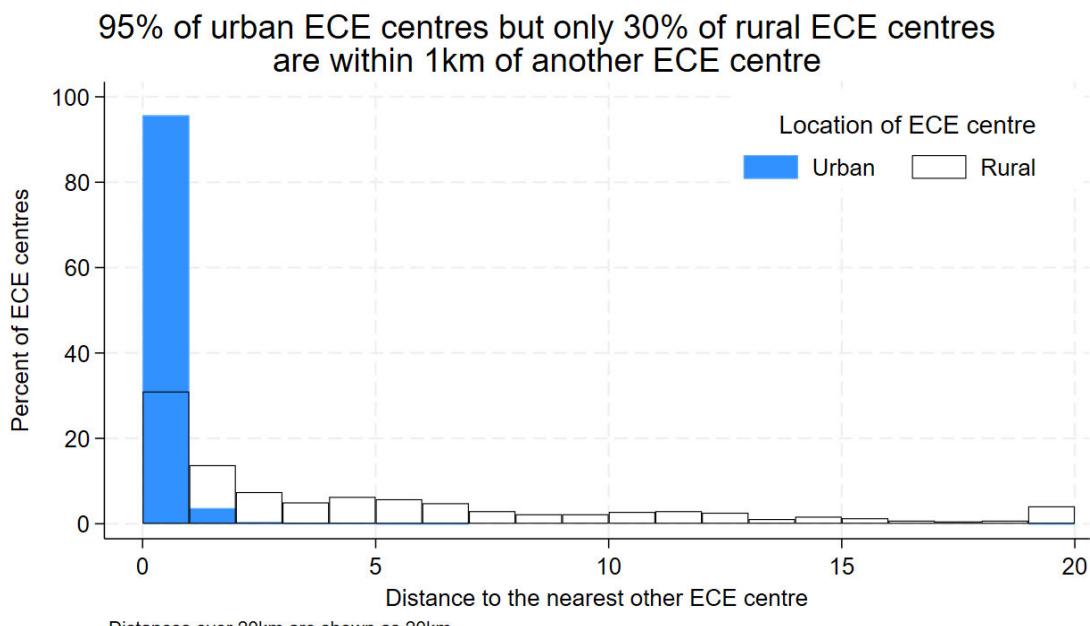
Data are for 2023. Points are Territorial Authorities. The red line is the line of best fit.



There is a lack of choice and competition in rural areas

45. Evidence suggests even there is also a lack of choice and competition in some areas. For example, 19%³ of submissions from parents said that they only had one option when choosing their ECE service. This problem seems particularly acute in rural areas. For example, only 30% of rural ECE centres are within 1 km of another ECE centre and 5% are not within 20 km of another ECE centre (Figure 4). Whilst most ECE centres have many competitors within a 5km radius of each other (Figure 5), over half of rural ECE centres only have one competitor within 5km of them (Figure 6). Many of these centres will have waiting lists so they may not be viable options for parents who need immediate access to an ECE service.

Figure 4: Distance to nearest other ECE centre



³ Insight from submissions received by 7 August



Figure 5: Number of other ECE centres within 5km

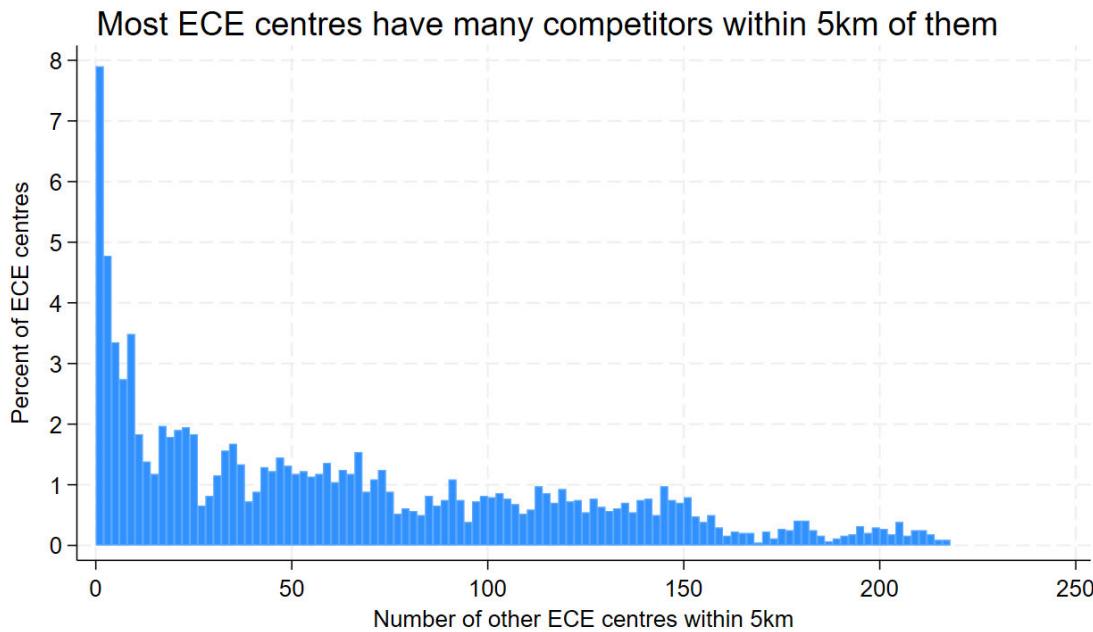
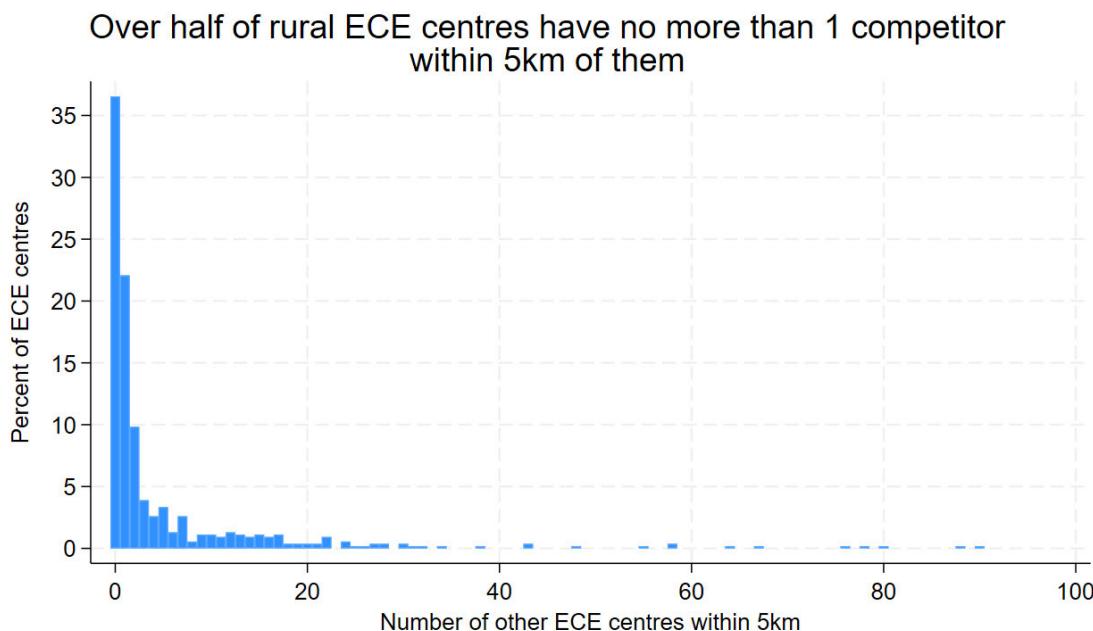


Figure 6: Number of rural ECE centres within 5km



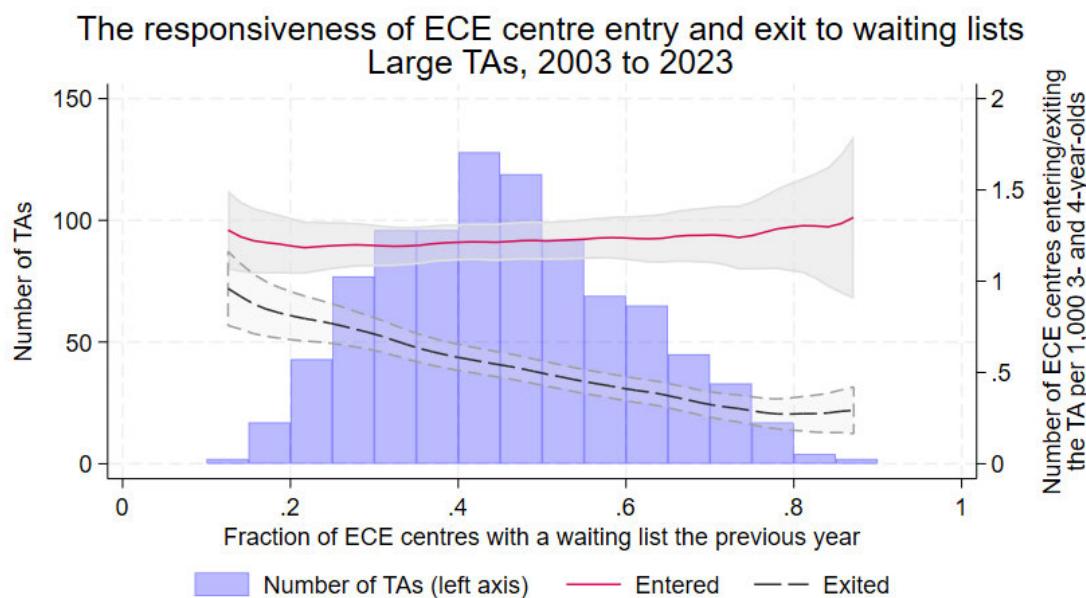


Appendix C: Analysis on the un-responsiveness of ECE supply to increases in demand

46. If ECE providers were responding to market forces, we would expect more ECE centres to enter the market in areas where there are high waiting lists. The evidence suggests that before the pandemic ECE supply was responsive to demand in large TAs and some small TAs, though in other small TAs the market appeared to function less well. However, since the start of the pandemic ECE markets have not been functioning as well in large or small TAs. In particular, ECE centres are not more likely to enter the market in TAs where a higher proportion of ECE centres have waiting lists, which are likely to have greater unmet demand.

47. Figure 7 shows that in large TAs over the full period 2003 to 2023 the number of ECE centre entries was fairly insensitive to waiting lists, increasing only slightly with the proportion of centres with waiting lists. On average, around one and a quarter ECE centres entered each year per 1000 3- and 4-year-olds. In contrast, rates of ECE centre exit fell steeply with waiting lists. Taken together, these relationships suggest the number of ECE centres in large TAs did adjust in response to demand, primarily through exit rates of ECE centres rather than through entry rates.

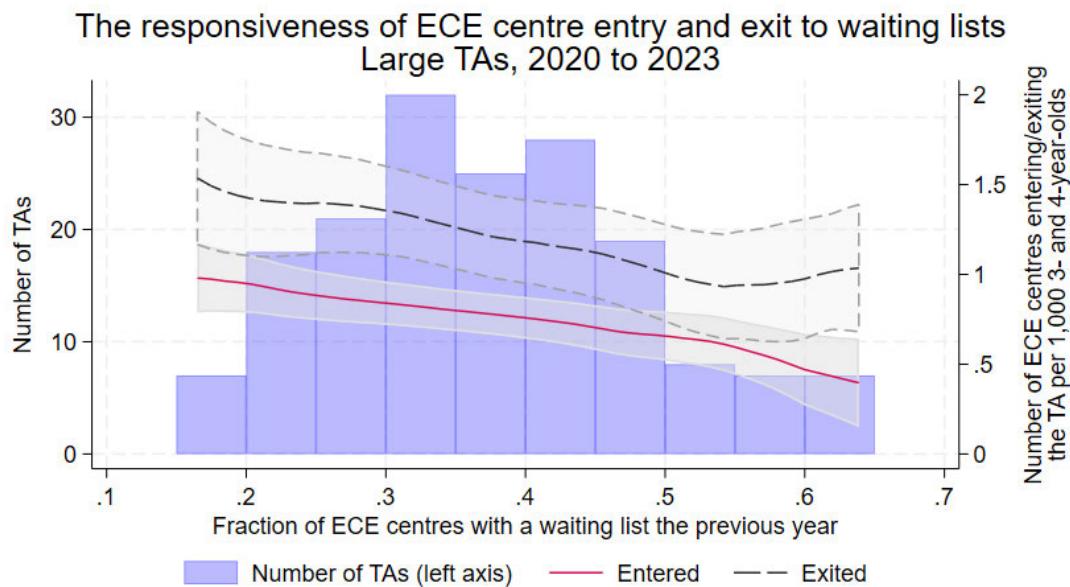
Figure 7: Number of ECE centres entering and exiting the market in large TA's compared to waiting lists



48. Figure 8 shows the story in large TAs has been quite different since the beginning of the pandemic. Notably, exit rates of ECE centres are now higher than entry rates, and both entry rates and exit rates fall with waiting lists. The correlation between waiting lists and exit rates is consistent with ECE centre exit still occurring at least in part as a response to a lack of unmet demand. However, entry rates being lower where there is more unmet demand suggests there could be some kind of dysfunction in the ECE market. For instance, if certain types of TA are uneconomical to serve, ECE centres may not be entering these areas even though they have high unmet demand.



Figure 8: Number of ECE centres entering and exiting the market in large TA's compared to waiting lists post-Covid

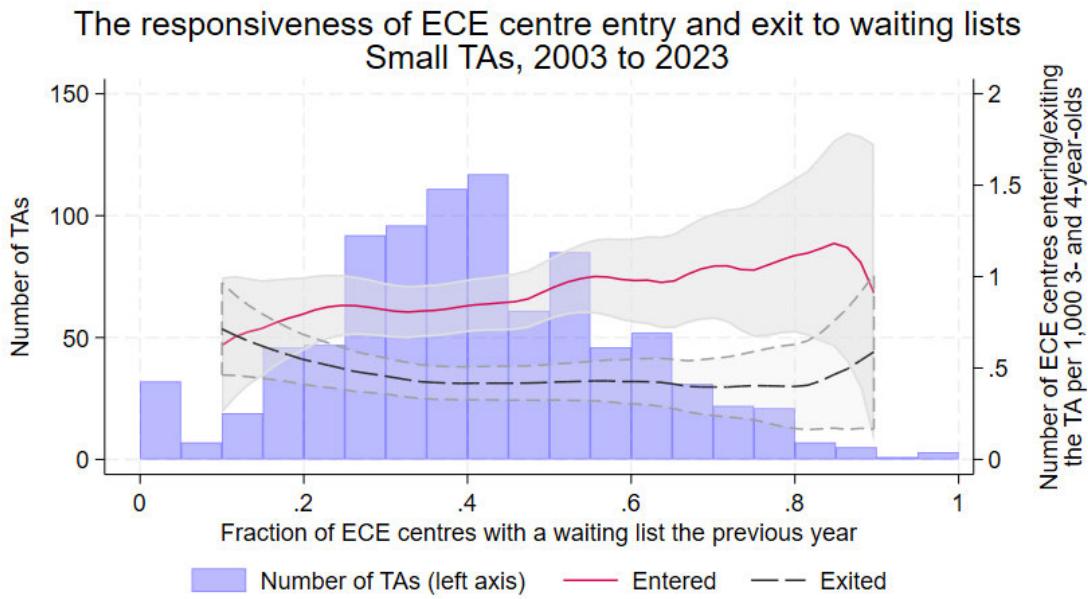


Entry and exit are shown with 95% confidence intervals. Large TAs have an above median population of 3- and 4-year olds.

49. Figure 9 shows that, in small TAs over the full observable period, ECE centre entry was weakly higher in TAs with more ECE centres with waiting lists, though exit was relatively uncorrelated with waiting lists. Overall, ECEs responded less to waiting lists in small TAs than in large TAs. This could be because the population in small TAs tends to be more spread out, so any new ECE centre can serve only a small proportion of the population.



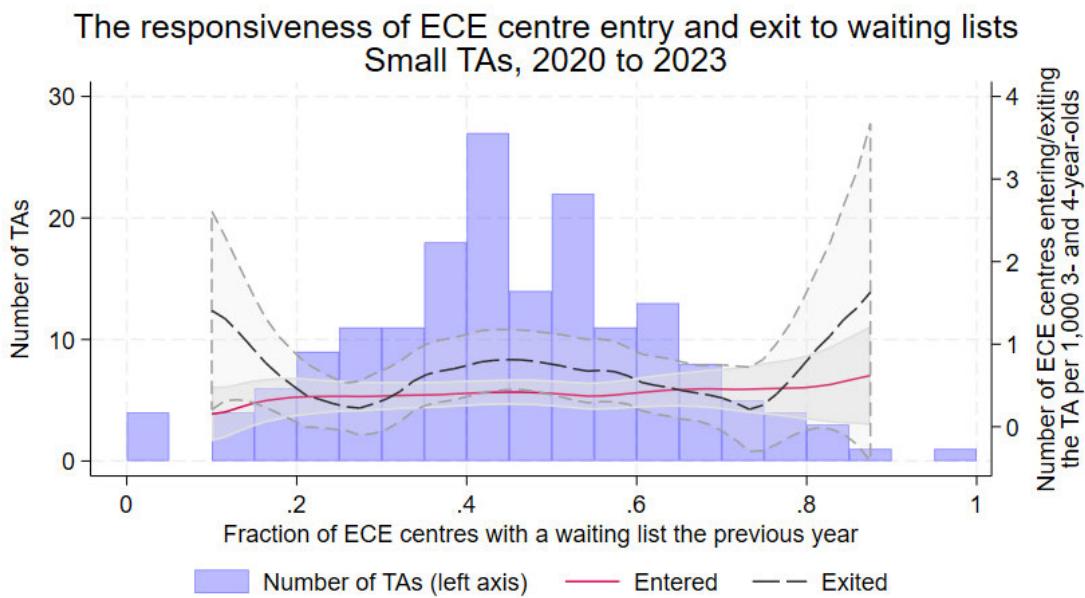
Figure 9: Number of ECE centres entering and exiting the market in small TA's compared to waiting lists



Entry and exit are shown with 95% confidence intervals. Small TAs have a below median population of 3- and 4-year olds.

50. Figure 10 shows a different relationship between waiting lists and entry and exit in small TAs since the start of the pandemic. Entry and exit rates are now relatively similar, and neither shows a strong correlation with waiting lists. This suggests existing market forces may be insufficient to address unmet demand for ECE in small TAs.

Figure 10: Number of ECE centres entering and exiting the market in small TA's compared to waiting lists post-Covid



Entry and exit are shown with 95% confidence intervals. Small TAs have a below median population of 3- and 4-year olds.

Appendix D: Analysis on the under-supply of ECE teachers

51. Figure 11 shows a significant proportion of TAs have relatively few qualified teachers compared to the number of children aged 3 – 4 living in that TA. This suggests a lack of qualified teachers in these areas could be constraining the ability of new ECE centres to enter the market in these areas. Figure 12 shows that it is disproportionately rural areas, which have low populations and generally also low population densities, that have the fewest qualified teachers relative to the number of children.



Figure 11: Distribution of qualified teachers relative to the child population across TA's

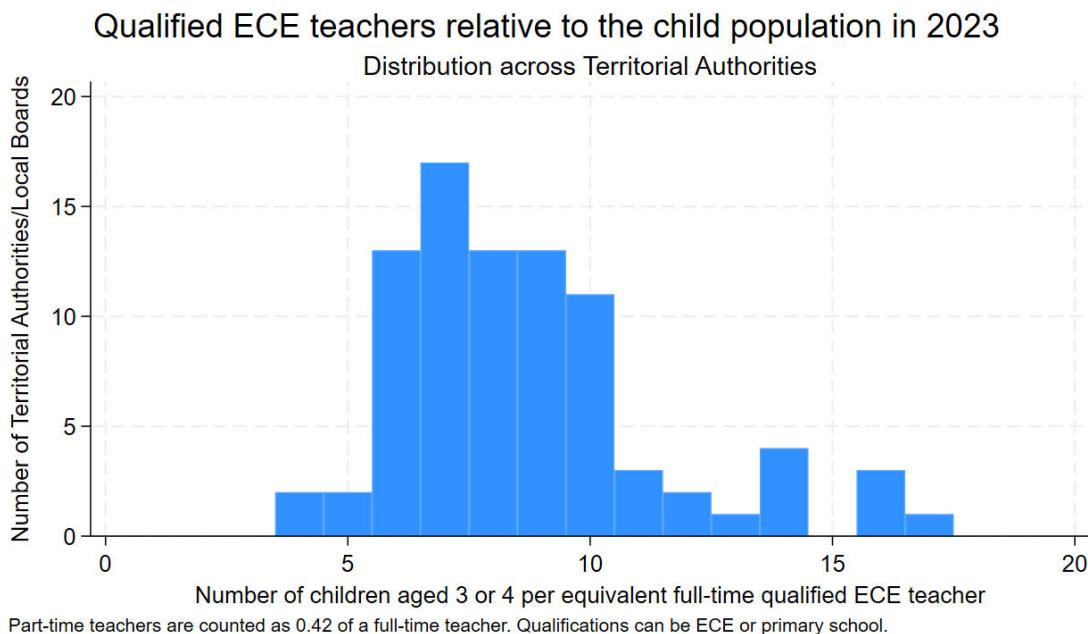
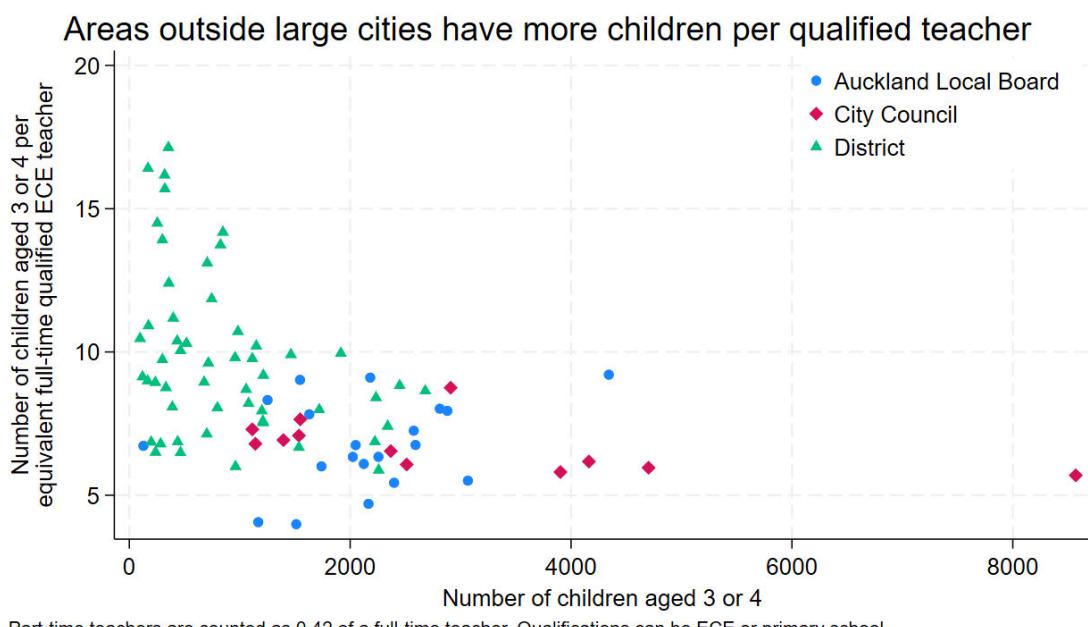


Figure 12: Distribution of qualified teachers relative to the child population by type of TA



Aide-mémoire



Ministry for Regulation
Te Manatū Waeture

Minister and Portfolio:	Hon David Seymour, Minister for Regulation		
Title:	Early Childhood Education Sector Review September Update	Number	2024-134
Date:	30 September 2024	Security Level:	UNCLASSIFIED

Purpose	Monthly Report – Early Childhood Education Sector Regulatory Review September update
Minister	Hon David Seymour
Review phase	The Early Childhood Education Regulatory Review Sector Engagement is currently in the analysis and report writing phase.
Key issues	<p>The review risk is stable at amber. We are actively managing risks relating to the tensions between resourcing and schedule. The review is making good progress analysing and testing survey and engagement submissions and is on track to deliver a draft report to you in December.</p> <p>All 2,323 sector survey and engagement submissions have been read, tagged and analysed during September. We will be providing you with a summary of all direct and indirect engagement on 11 October.</p> <p>During September the team has been working with the Ministry of Education regional advisor responsible for Te Kōhanga Reo, the regional Manager of Te Kōhanga Reo National Trust, and the Ministry of Education Pasifika Advisors to confirm final site visits 1 – 9 October.</p> <p>The review has 15 workshops scheduled during October to test initial findings with main regulators of the Early Childhood Education Sector. We will report back to you on our initial findings of the licensing criteria on 18 October.</p>
Author	Glenda McLaughlin, Project Manager, ECE Sector Review
Manager	Justine Fitzmaurice, Sector Reviews, Ph. S 9(2)(a)

UNCLASSIFIED

Ministry for Regulation

Early Childhood Education Sector Regulatory Review

September 2024 Update

Amber

At a glance

Review Progress Overview

Stage	Activity	Progress
1	Review foundations	Completed
2	Sector engagement survey and submissions	Completed
3	Analysis	Underway
4	Recommendations	Underway
5	Implementation and post review	Not Started

Sector Survey and Submissions

Parents and caregivers	774
People who work in ECE	859
Service providers	107
Other interested people (e.g. peak bodies, academics, ex-teachers)	61
Written submission forms (full free text)	522
Total	2323

Main regulators for Early Childhood Education Sector

- Ministry of Education
- Education Review Office
- Ministry for Social Development
- Local government
- MPI (Food Safety)
- Ministry of Health (public health)
- Health NZ
- Worksafe
- FENZ
- MBIE
- Teaching Council

Phase: Analysis and Report Writing

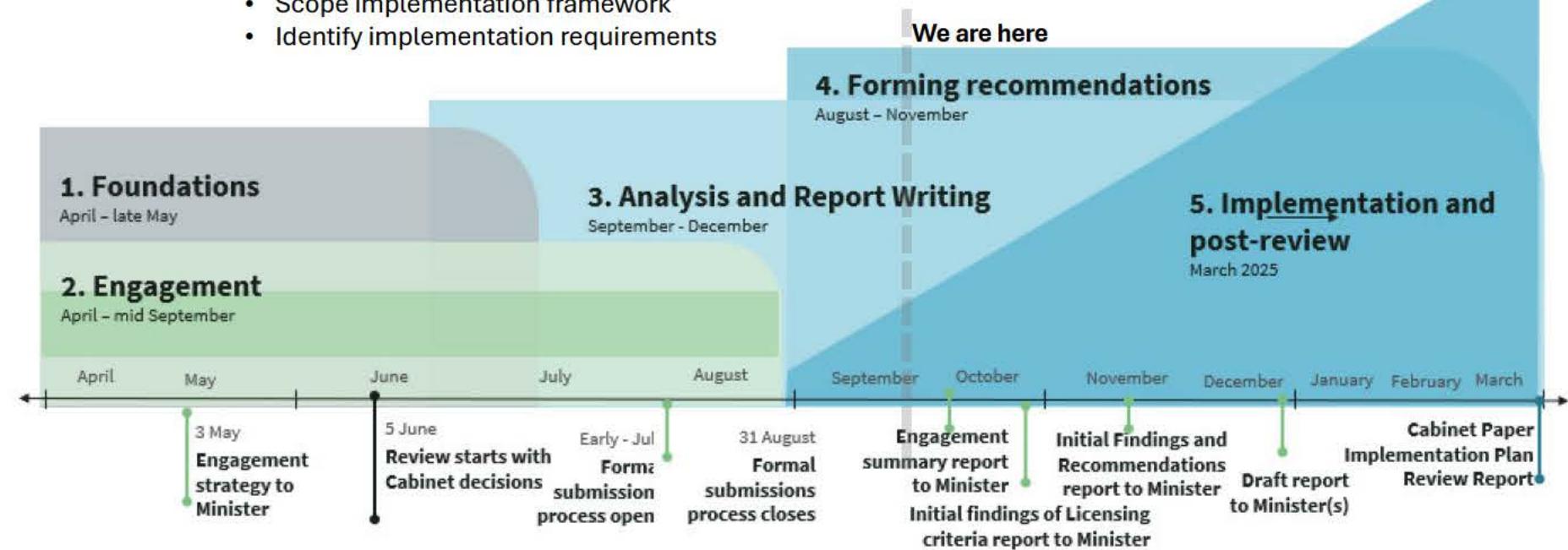
September in Review:

- The project risk is stable at amber due to the high workload during the analysis and report writing phase.
- All 2323 sector survey submissions have now been read, tagged and analysed
- The review team has been actively analysing information from the survey and submissions
- Analysis of direct of the ECE engagement update delivered to Minister Seymour 20 September
- The review is continuing its lines of inquiry on issues identified with the current regulatory system, preparing initial findings and recommendations to be tested with the ministry of Education and the Education Review Office
- The team has been working with the Ministry Education regional advisors responsible for Te Kōhanga Reo, the Regional Manager of Te Kōhanga Reo National Trust, and Ministry of Education Pasifika Advisors to confirm final site visits. Site visits have been confirmed for early October.
- The review has 15 Workshops scheduled to test initial findings with the main regulators of the Early Childhood Education Sector.
- Follow up on input from the hospital-based services

October Outlook:

- Site visits to Te Kōhanga Reo Waikato region; Puna Reo in the Manawatu; Pacifica Centers Wellington region
- Key issue analysis and initial findings testing with subject matter experts
- Summary of all direct and indirect engagement to be delivered to Minister Seymour 11 October
- Initial findings of licensing criteria review to be delivered to Minister Seymour 18 October
- Finalise review working papers
- Scope implementation framework
- Identify implementation requirements

We are here



Aide-mémoire



Ministry for Regulation
Te Manatū Waeture

Minister and Portfolio:	Hon David Seymour, Minister for Regulation		
Title:	Early Childhood Education Sector Regulatory Review November 2024 Update	Number	MFR2024-176
Date:	5 December 2024	Security Level:	UNCLASSIFIED

Purpose	November update
Minister	Hon David Seymour
Review phase	The Early Childhood Education Sector Regulatory Review is currently in the report writing phase.
	<p>The review risk is stable at amber. We are actively managing risks relating to the tensions between resourcing and schedule. We are on track to bring the Early Childhood Education (ECE) Sector Regulatory Review report to you in December.</p> <p>During November we engaged with five sector representatives including ECE centre owners. The purpose of these meetings was to gather their feedback on report themes we identified to gauge their reaction.</p> <p>We sought feedback from key regulators on licensing criteria findings and recommendations and are actively analysing that feedback.</p>
Key issues	<p>We continue to work through the feedback on themes, findings and recommendations received from the Ministry of Education and the Education Review Office as we refine the final draft of the report and prepare the supplementary short form of the review report.</p> <p>You received a briefing on 14 November on the Early Childhood Sector Regulatory Review initial findings and recommendations and tranche two of the licensing criteria review.</p> <p>In December, you will receive the final draft review report and supplementary short form of the report.</p> <p>The content of this aide mémoire and the <i>Early Childhood Education Sector Regulatory Review November 2024 Update</i> can be shared with other Ministers and their offices.</p>
Author	Glenda McLaughlin, Project Manager, ECE Sector Review
Manager	Justine Fitzmaurice, Sector Reviews, Ph. s 9(2)(a)

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Early Childhood Education Sector Regulatory Review November 2024 Update

At a glance: Report Writing Phase

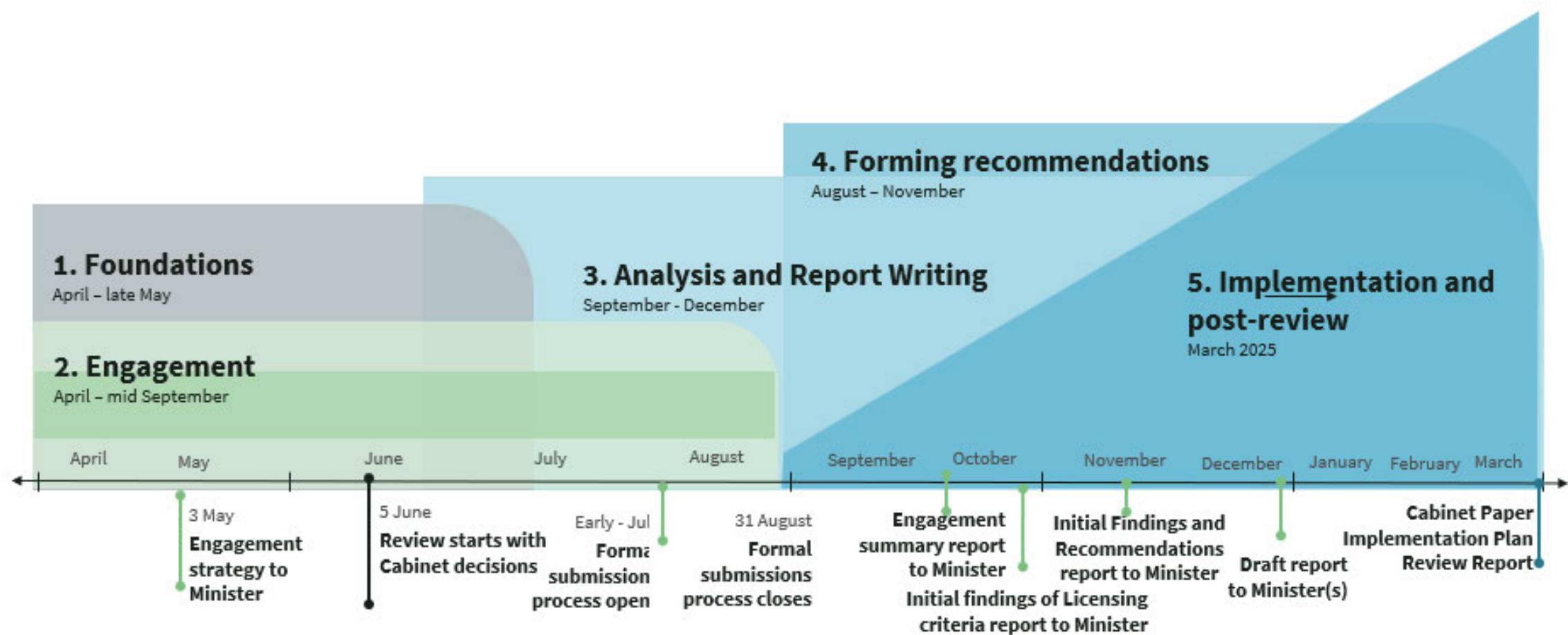
Review Progress Overview		
Stage	Activity	Progress
1	Review foundations	Completed
2	Sector engagement survey and submissions	Completed
3	Analysis and report writing	Underway
4	Recommendations	Underway
5	Implementation and post review	Not Started

November in Review:

- Refinement of initial findings testing with Ministry of Education and Education Review Office
- 14 November briefing to Minister Seymour on initial findings and recommendations
- Feedback from key regulatory stakeholders on the licensing criteria findings and recommendations
- Drafting of the short form report
- Testing of review report findings and recommendations with key sector stakeholders

December Outlook:

- Final draft of review report, short and long form
- Engagement with key regulators, final draft report content



Briefing Paper

2025-003



Ministry for Regulation
Te Manatū Waeture

To	Hon David Seymour, Minister for Regulation Minister Seymour		
Title	ECE Review curriculum licensing criteria changes	Number	MFR2025-003
Date	23 January 2025	Priority:	Medium
Action Sought	Agree to discuss and agree with Minister of Education Hon Erica Stanford that she is comfortable in principle to endorse recommendation 9, noting that the Ministry of Education will provide further advice prior to final decisions on changes to licensing criteria. Agree to provide a copy of this briefing to Minister Stanford as a reference for the discussion.	Due Date	14 February 2025
Contact Person	Tony Clark, Manager Regulatory Reviews	Phone	s 9(2)(a)
Attachments	No	Security Level	IN CONFIDENCE
Consultation	Ministry of Education		

IN CONFIDENCE



Executive Summary

This paper is to inform a conversation with the Minister of Education, Hon Erica Stanford, regarding the ECE curriculum licensing criteria.

The ECE curriculum falls under Minister Stanford's portfolio, so this conversation is seeking agreement in principle, to endorse recommendation 9 of the Early Childhood Education sector regulatory review report, which relates to the licensing criteria.

We note that the Ministry of Education (MoE) will do further policy work, including consultation on changes to licensing criteria and providing further advice prior to final decisions on changes to licensing criteria.

Recommendation 9 of the ECE Review is to *“Revise licensing criteria to ensure they are proportionate, effective, and support quality without overburdening providers”*. Taken together with other recommendations in the Review, the recommended approach will have several benefits:

- Reduced regulatory burden for ECE services.
- Provides ECE services with more flexibility to innovate and meet the needs of parents and children.
- Lower costs for parents and increase choice, meaning they will have better access to ECE services that suit their needs and the needs of their children.
- Better educational outcomes by making it easier for higher quality providers to outcompete lower quality providers by providing parents with better information on the quality of ECE services.
- Enabling the regulator to respond more quickly and proportionately using tools from the new graduated toolkit in scenarios where ECE services are teaching the curriculum unacceptably poorly.

Changes to the curriculum licensing criteria legally require consultation. The links and interdependencies with other recommendations in the ECE Review may mean that the implementation will need to be sequenced so that these changes are progressed either in parallel or after other recommendations.

More detail on the implementation timeline will be provided in the Cabinet Paper in March.



Recommended Action

We recommend that you:

- a **Note** that recommendation 9 to revise the licensing criteria includes changes to curriculum criteria *Note*
- b **Note** Minister Stanford is responsible for the ECE curriculum *Note*
- c **Agree** to discuss and seek agreement in principle from Minister Stanford to endorse recommendation 9, noting that MoE will do further work and provide further advice. *Agree / Disagree*
- d **Agree** to share a copy of this briefing with Minister Stanford as a reference for the discussion. *Agree / Disagree*

Proactive Release Recommendations

- e **Agree** that this briefing is not published due to policy still being in development *Agree / Disagree*

s 9(2)(a)

Paul Delahunty

Deputy Chief Executive, Reviews and
System Capability
Ministry for Regulation
Date: 23 January 2025

Hon David Seymour
Minister for Regulation

Date:



Purpose of Report

1. To inform you of a proposed meeting with Minister Stanford on Recommendation 9 related to the revision of curriculum licensing criteria.
2. This meeting is seeking, in principle endorsement from Minister Stanford of recommendation 9, which includes curriculum licensing criteria. Noting that MoE will do further policy work and undertake consultation on the proposed changes and will provide her with further advice prior to final decisions being made.
3. The ECE curriculum falls under Minister Stanford's portfolio. A paper seeking endorsement of the 15 recommendations of the ECE Review will be presented to Cabinet at EXP on 25 March. Of these recommendations, Recommendation 9 to *"Revise licensing criteria to ensure they are proportionate, effective, and support quality without overburdening providers"* has overlap with Minister Stanford's portfolio. This is because it may involve changes to the licensing criteria related to the ECE curriculum (but not to the contents of Te Whāriki: He whāriki Mātauranga mō ngā mokopuna o Aotearoa, the early childhood curriculum).¹

Analysis

Background

4. To inform its analysis and recommendations, the ECE Review gathered evidence from direct and indirect engagement with stakeholders. This included: over 2,300 written submissions from ECE providers, teachers and parents; meeting with over 30 service providers and non-government organisations; and visiting ECE services of different types, sizes and locations. The Review also engaged heavily with the Ministry of Education and the Education Review Office, carried out quantitative analysis of the economics and market dynamics of the ECE sector, and looked at international comparisons.
5. Regulation 41 of the Education (Early Childhood Services) Regulations 2008 provides the Minister for Education the power to prescribe licensing criteria to be used by the Secretary for Education to assess whether service providers have complied with the minimum standards prescribed under regulations 43-47 in the Education (Early Childhood Services) Regulations 2008. Service providers must comply with standards set in the Regulations and the licensing criteria. In practice the Licensing Criteria set out a more granular list of requirements that ECE services must meet to be able to operate. There are 98 licensing criteria in total, 13 of which relate to the teaching of the curriculum.
6. If an ECE service provider breaches the licensing criteria and/or the Regulations, the primary enforcement mechanism that the Ministry of Education has at its disposal is a change to licence status. This includes reclassifying a licence as provisional, suspending a licence or cancelling a licence. These are significant sanctions for ECE service providers.

¹ We have provided Minister Seymour with two previous briefings on licensing criteria on 17 October 2024 (2024-128 Early Childhood Education sector regulatory review licensing criteria initial findings) and 15 November 2024 (2024-127 Early Childhood Education Sector Regulatory Review – initial findings and recommendations).



MOE may also fund professional learning and development (PLD) to support service providers to comply with the criteria and regulations.

ECE Review's proposed approach to curriculum licensing criteria

7. The ECE Review did not consider the contents of Te Whariki, the early childhood curriculum, as this was out of scope of the Review. However, the ECE Review did consider the regulatory requirements related to the Curriculum Standard in the Regulations. Recommendation 9 of the ECE Review is to “Revise licensing criteria to ensure they are proportionate, effective, and support quality without overburdening providers”². At this stage endorsement is being sought from Cabinet to this recommendation.
8. MoE will undertake further policy work and consultation on the more specific changes to licensing criteria proposed by the ECE Review. MoE will provide further advice before final decisions on changes are made. The ECE Review has proposed retaining two criteria related to the curriculum standard and moving eleven criteria into good practice guidance. The criteria the Review proposed retaining are:
 - a. C1: The service curriculum is consistent with any prescribed curriculum framework that applies to the service.
 - b. C2: The service curriculum is informed by assessment, planning, and evaluation (documented and undocumented) that demonstrates an understanding of children’s learning, their interests, whānau, and life contexts.
9. Taken together, these two criteria maintain the requirement for ECE services to teach the curriculum. ERO will continue to evaluate the quality of curriculum teaching. If providers are not teaching the curriculum (or doing so poorly) there will still be scope for regulators to take appropriate regulatory action.
10. The ECE Review has proposed moving 11 curriculum licensing criteria from regulatory requirements into good practice guidance (these criteria are listed in Appendix A). These criteria set out how ECE services should teach the curriculum.
11. The Review has also recommended that the regulator develops a broader range of graduated regulatory tools and a national enforcement strategy. This will enable the regulator to take more proportionate action in response to breaches of regulatory requirements instead of relying on changes to licence status. As part of this work the regulator will need to set out under what circumstances it would use different enforcement tools. This will include specifying what would constitute unacceptably poor levels of curriculum teaching and what action the regulator would take in those scenarios.

Benefits of the ECE Review's proposed approach to curriculum regulation

12. Using regulation to manage the application of the curriculum is not an appropriate way to achieve the educational outcomes that these criteria are looking to achieve. It is

² Recommendation 9 only relates to the licensing criteria for centre-based education and care services and does not include home-based and hospital-based education and care services, Kōhanga reo, or playgroups. Further work will be required to revise these criteria at a later date.



disproportionate to change the licence status of ECE services if they deviate from the curriculum criteria.

13. The ECE Review's recommended changes to curriculum licensing criteria and regulatory and enforcement tools will shift the regulatory system to a more outcomes focused approach that will be more effective at improving the quality of curriculum teaching. It will also reduce costs to parents and provide them with greater choice, meaning they will have better access to ECE services that suit their needs and the needs of their children. This is because the recommended approach:
 - a. enables the regulator to respond more quickly and proportionately using tools from the new graduated toolkit in scenarios where ECE services are teaching the curriculum poorly or not at all.
 - b. provides services with more flexibility to innovate and meet the needs of parents and children.
 - c. recognises that there will often be a trade-off between price and quality, and that parents will often be better placed to make that judgement depending on their individual circumstances. Providing parents with more accessible information, e.g. from Education Review Office evaluations, to inform those judgements will often be a more appropriate tool than regulation. It will make it easier for higher quality providers to outcompete lower quality providers and will help to incentivise higher quality provision.

Next steps

14. Changes to licensing criteria must follow the process set out in regulation 41(1) of the Education (Early Childhood Services) Regulations 2008. The Regulations require the Minister to first consult those substantially affected by the proposed changes (updates, removal or adding new criteria).
15. The Ministry of Education advise that initial consideration of options for change, including engagement with other agencies (if required), may take between 6 - 10 weeks with sector consultation generally being for 4-6 weeks. Collating feedback, drafting, seeking Ministerial agreement and gazetting the changes will generally take a further 4-8 weeks depending on the scale of the proposed change. Substantial changes may take longer. How the change may impact the regulations is also considered as part of the process.
16. The Ministry for Education will need to undertake policy work to progress and implement the Review recommendations once they are endorsed by Cabinet. The changes to curriculum criteria may also interact with other recommendations in the ECE Review.
17. The Cabinet Paper will include more detail on the sequencing, timing and implementation of all the recommendations of the ECE Review.



Appendix A: Curriculum Licencing Criteria that the ECE Review has recommended to be moved into good practice guidance

Reference	Licensing Criteria
C3	Adults providing education and care engage in meaningful, positive interactions to enhance children's learning and nurture reciprocal relationships
C4	The practices of adults providing education and care demonstrate an understanding of children's learning and development, and knowledge of relevant theories and practice in early childhood education
C5	The service curriculum acknowledges and reflects the unique place of Māori as tangata whenua. Children are given the opportunity to develop knowledge and an understanding of the cultural heritages of both parties to Te Tiriti o Waitangi
C6	The service curriculum respects and supports the right of each child to be confident in their own culture and encourages children to understand and respect other cultures.
C7	The service curriculum is inclusive, and responsive to children as confident and competent learners. Children's preferences are respected, and they are involved in decisions about their learning experiences
C8	The service curriculum provides a language-rich environment that supports children's learning
C9	The service curriculum provides children with a range of experiences and opportunities to enhance and extend their learning and development – both indoors and outdoors, individually and in groups
C10	The service curriculum supports children's developing social competence and understanding of appropriate behaviour
C11	Positive steps are taken to respect and acknowledge the aspirations held by parents and whānau for their children
C12	Regular opportunities (formal and informal) are provided for parents to: <ul style="list-style-type: none">• communicate with adults providing education and care about their child, and share specific evidence of the child's learning; and• be involved in decision-making concerning their child's learning.
C13	Information and guidance is sought when necessary from agencies/services to enable adults providing education and care to work effectively with children and their parents



Appendix B: Regulation 43 The Curriculum Standard

43 Curriculum standard: general

(1) The curriculum standard: general is the standard that requires every licensed service provider to whom this regulation applies to—

(a) plan, implement, and evaluate a curriculum that is designed to enhance children’s learning and development through the provision of learning experiences and that is consistent with any curriculum framework prescribed by the Minister that applies to the service; and that—

- (i) responds to the learning interests, strengths, and capabilities of enrolled children; and
- (ii) provides a positive learning environment for those children; and
- (iii) reflects an understanding of learning and development that is consistent with current research, theory, and practices in early childhood education; and
- (iv) encourages children to be confident in their own culture and develop an understanding, and respect for, other cultures; and
- (v) acknowledges and reflects the unique place of Māori as tangata whenua; and
- (vi) respects and acknowledges the aspirations of parents, family, and whānau; and

(b) make all reasonable efforts to ensure that the service provider collaborates with the parents and, where appropriate, the family or whānau of the enrolled children in relation to the learning and development of, and decision making about, those children; and

(c) obtain information and guidance from agencies with expertise in early childhood learning and development, to the extent necessary, to—

- (i) support the learning and development of enrolled children; and
- (ii) work effectively with parents and, where appropriate, family or whānau.

(2) Each licensed service provider to whom this regulation applies must comply with the curriculum standard: general.