

# Minister for Regulation

## Information Release

**Hon David Seymour**

**June 2025**

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### Documents in this information release

#	Reference	Title	Date	Information withheld
1	EXP-25-SUB-0015	Cabinet paper	25 March 2025	Paragraphs 8, 12, 34, 35, 36, 59, 62, 63 and 65 withheld under s 9(2)(f)(iv) – to protect the confidentiality of advice tendered by Ministers and officials
2	EXP-25-SUB-0015-A1	Cabinet paper Appendix 1	25 March 2025	No information withheld
3	EXP-25-MIN-0015	Cabinet Committee minute	25 March 2025	Paragraphs 3, 4 and 6 withheld under s 9(2)(f)(iv) – to protect the confidentiality of advice tendered by Ministers and officials

### Information withheld

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Sections of the Act under which information has been withheld:

Section 9(2)(f)(iv) – to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials

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## In Confidence

Office of the Minister for Regulation

Office of the Associate Minister of Education

Cabinet Expenditure and Regulatory Review Committee

## Paper 1: Early Childhood Education Regulatory Sector Review recommendations and next steps

### Proposal

- 1 Paper 1, this paper, seeks Cabinet's endorsement of the Early Childhood Education Sector Regulatory Review's (the Review) recommendations. It also covers the initial sector response to the Review. This paper should be read with *Paper 2: Response to the Early Childhood Education Regulatory Sector Review* that sets out the key policy changes being sought and the implementation plan.

### Relation to government priorities

- 2 The Review was aligned with the National Party and Act Party Coalition agreement to carry out a regulatory review of the early childhood education and care (ECE) sector.

### Executive Summary

- 3 New Zealanders deserve a thriving ECE sector that offers the best quality of care and education to children. We trust ECE service providers to protect and educate our youngest children. We rely on services being available and affordable so parents and whānau can participate in the labour market and contribute to the national economy.
- 4 The Review<sup>1</sup> was completed and published in December 2024. This included 30 findings and 15 recommendations which form a basis for reforming regulatory design, leadership capability practices, and requirements. Implementation of these recommendations will achieve better outcomes for children, their parents, whānau and society as a whole.
- 5 The Review found market failures that place undue limits on the abilities of all parties in the system to exercise choice, particularly parents and whānau. These ECE market failures, described in the report, are information asymmetry resulting from a lack of access to clear and comparative information on the safety and educational quality of ECE services, and an undersupply of ECE services.
- 6 The Ministry for Regulation proposes 15 recommendations which would:
  - 6.1 **Modernise the ECE regulatory system** to better support the ECE market to grow and innovate and to enable regulators to better ensure compliance by 'Setting it up right' and 'Leading it the right way'

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<sup>1</sup> <https://www.regulation.govt.nz/about-us/our-publications/regulatory-review-of-early-childhood-education-full-report/>

- 6.2 **Simplify and clarify the range of ECE regulatory requirements** to reduce compliance burdens on ECE service providers and relieve regulatory confusion for all parties by ‘Using the right tools’, and
  - 6.3 **Improve support for the ECE sector** to communicate requirements more clearly and ensure they support ECE services to implement regulatory changes so they can be sure they are ‘Doing it the right way’.
- 7 Implementation of the recommended regulatory changes aims to reduce compliance costs and headaches for providers, giving them more time to care for children and invest in their education. The reduction of compliance costs and clarification of regulations should enable greater flexibility for providers to enter or expand in the ECE market. In turn, these changes should provide parents returning to the workforce with more choice and greater confidence in the quality of care and education.
- 8 § 9(2)(f)(iv)
- 9 An implementation plan to address the Review’s recommendations and make changes to the regulatory system is set out in Paper 2.

## Background of the Review

- 10 On 29 May 2024, the Cabinet Social Outcomes Committee agreed that the Ministry for Regulation begin the review into the early childhood education sector and to the terms of reference [SOU-24-MIN-0050]. I announced the Review on 5 June 2024.
- 11 Protecting the safety and quality of care and education for children has been the paramount consideration of this Review. The objective was to make a tangible difference for parents by ensuring that the regulatory framework enables ECE to be supportive, nurturing, and a beneficial experience for both children and their parents. We did not consider trading off quality and safety with any other factors.
- 12 The scope of the Review was broad, and examined the regulatory systems for education, health, safety, child protection, food safety, buildings and workplaces as they apply to ECE. § 9(2)(f)(iv)
- 13 Ensuring a well-functioning regulatory and funding system for ECE is critical. It supports both children’s learning and development and parent and whānau participation in the workforce. New Zealand has a diverse range of ECE services, including education and care centres, kindergartens, kōhanga reo, home-based services, and playgroups and playcentres. The sector serves a high proportion of all children under five, with over 96 percent of preschool-aged children attending ECE services at some point. However, access and quality vary significantly, particularly in rural areas and many ECE services have lengthy waitlists.

- 14 Government has a key role to regulate ECE service providers to protect and educate children and fund ECE to make it more accessible.

### Methodology of the review

- 15 The Review was conducted in line with the Terms of Reference [SOU-24-MIN-0050]. The Review prioritised issues against the number of people affected, the size of the costs and/or opportunities and their effect on outcomes. It examined the roles and approaches of the agencies within the regulatory system for ECE and considered the distribution of roles and functions.
- 16 The steps undertaken for the Review included:
  - 16.1 **Review Foundations:** meeting with key agencies and stakeholders to understand the sector and issues and establishing mechanisms for working with the regulatory agencies.
  - 16.2 **Engagement:** establishment of cross-agency working groups, structured interviews and workshops to elicit in-depth insights into the challenges and opportunities within the current regulatory system. The Review heard from more than 2300 parents, teachers, providers, peak bodies, and other agencies, organisations, academics and individuals through submissions and direct engagement.
  - 16.3 **Analysis:** utilising the data collected through engagement, the reviews team undertook desktop analysis to synthesise the themes and get an understanding of the key market failures. This analysis also included reviewing international standards and regulations in ECE. MoE and ERO representatives were consulted on analysis, findings and recommendations.
  - 16.4 **Forming findings and recommendations:** once developed by the Ministry for Regulation, the findings and recommendations were tested with the cross-agency working group and with sector participants. Agencies reserved the right to disagree with any aspect of the independent Review.

### Findings of the Regulatory Review

- 17 The ECE Regulatory system is primarily managed by MoE, as the lead regulator and steward. MoE is responsible for licensing, certifying playgroups, monitoring and enforcing compliance with minimum standards. ERO has a regulatory role through conducting reviews to evaluate ECE service performance and assess whether services comply with regulatory standards and associated licensing criteria, and that they are meeting the learning, safety and wellbeing needs of children in their care.
- 18 The Review identified several problems and market failures that the current ECE regulations do not address properly. There are two key market failures, which are:
  - 18.1 **Information asymmetry:** Parents and whānau often lack access to clear, comparative information about the quality and safety of ECE services. This is in part due to the nature of ECE, as the child has limited ability to report their experience, resulting in information asymmetry. This creates a reliance on

government oversight to ensure minimum standards, as market forces alone are insufficient to drive quality improvements.

18.2 **Undersupply of ECE Services;** Despite strong demand, the market is not meeting the need for parents to be able to choose accessible and affordable ECE services that suit their preferences across all regions. Regulatory requirements are a contributing factor limiting the capacity of new providers to enter the market and of existing providers to expand services, particularly in rural and underserved areas. This can adversely affect both children's educational outcomes and the ability of parents to participate in the labour market.

19 Within the context of these market failures and what is contributing to these, there were 30 findings identified. These have been attached as Appendix 1.

### Recommendations of the Review

20 It is essential that parents and whānau can be confident their children will be safe from harm and well educated while in the care of ECE service providers. The recommendations from the Review are made with this in mind.

21 The Review makes 15 recommendations which form a pathway for how to improve regulation in the ECE sector to achieve better outcomes for children, their parents, whānau and society.

22 These recommendations would modernise the ECE regulatory approach and its tools, simplify ECE regulatory requirements to reduce burden on providers, and improve support for the ECE sector to communicate requirements clearly and ensure it supports ECE services to comply with regulatory changes.

#### *Setting it up right*

23 There are structural issues within the ECE regulatory system, and the Review offers recommendations for setting up the regulatory system more effectively.

**Recommendation 1:** Define clear outcomes, objectives and principles for ECE regulation in legislation, aligning with government priorities for early childhood education.

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

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

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

#### *Leading it the right way*

- 24 These recommendations look at effective regulatory stewardship for the ECE sector and aligning the ECE regulation system to the government's expectations for good regulatory practices.

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

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

**Recommendation 7:** Invest in workforce training across agencies to improve regulatory effectiveness.

### *Using the right tools*

- 25 These recommendations look at new compliance activities and enforcement regulatory tools<sup>2</sup>.

**Recommendation 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.

**Recommendation 9:** Revise licensing criteria to ensure they are proportionate, effective, and support quality without overburdening providers.

**Recommendation 10:** Allow greater flexibility in workforce qualifications to support access and quality across all areas and service types.

**Recommendation 11:** Ensure the person responsible requirements are practical, appropriate to meet the needs of children and purpose of the requirements, and responsive to service needs, including home-based services.

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

### *Doing it the right way*

- 26 These recommendations are related to how the regulatory practices are conducted. 'Regulatory practices' has been defined as the operational activities of a regulator.

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

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

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

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<sup>2</sup> 'Regulatory tools' is a term that covers all non-financial 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.



## Sector response to the Review

- 27 The findings and recommendations from the Review were tested with the sector prior to the publication of the report. The feedback was positive and encouraged changes needed in the ECE regulatory system.
- 28 Following public release of the Review, most early childhood groups welcomed the report. Themes in the feedback were that the report's recommendations struck a good balance between reducing red tape and protecting the quality of care and education for children.
- 29 Feedback from the Early Childhood Council was: *"ECC believe the Review is clever, clear and constructive, with a fresh perspective from a credible and authoritative source".<sup>3</sup> New Zealand Kindergartens welcomed the findings of the Review and said "the Ministry has delivered a balanced set of fifteen key recommendations that have the potential to create an improved regulatory framework that can achieve its core functions".<sup>4</sup> A home-based ECE provider group stated "the report walks the delicate line of identifying changes to the regulatory system that will help reduce red tape for service providers, while also protecting the quality of care and education for children that our parents and communities expect."<sup>5</sup>*
- 30 There was some criticism from parts of the sector that two of the 15 Review recommendations would lower teaching standards. The two recommendations attracting this debate related to shifting some curriculum licensing criteria to guidance and the recommendation to increase flexibility in the qualification requirements.
- 31 The Review recommended moving some of the licensing criteria that prescribe how the curriculum should be taught to guidance materials. This approach will put more focus on outcomes and give providers more flexibility to innovate and meet the needs of their community.
- 32 On flexibility in qualifications, the Review heard from providers that difficulty in recruiting qualified teachers to meet regulatory and/or funding rules is one of the main barriers to expanding ECE provision. The Review recommended MoE make qualification requirements more flexible to ensure they can strike the right balance between quality, availability and affordability of ECE provision.

## Implementation

- 33 The Review found a range of issues about the effectiveness of the regulatory system and the burden this placed on ECE providers. A key finding was that confusion persists between the respective roles of MoE and ERO leading to differing interpretations of requirements and conflicts between MoE's role of regulating and providing support for the sector and ERO's role of reviewing and evaluating the sector.
- 34 § 9(2)(f)(iv)

<sup>3</sup> Report finds ECE regulation is not fit for purpose | Early Childhood Council

<sup>4</sup> Regulatory review of Early Childhood Education has delivered a balanced set of 15 key recommendations - Fuseworks

<sup>5</sup> ECE regulation shake-up welcomed by home-based providers - Fuseworks



35 s 9(2)(f)(iv) [REDACTED]

36 s 9(2)(f)(iv) [REDACTED]

37 To ensure progress continues to be made, MoE and ERO will report quarterly on implementation progress to the Associate Minister of Education and the Minister of Education until the end of the 2026/2027 financial year. The Ministry for Regulation will continue to participate in the ECE Regulatory Review Implementation Steering Group and will continue to provide advice to the Minister of Regulation on request on matters within the scope of the Review.

38 To ensure ongoing progress of the implementation of the Review recommendations, it is recommended that the Associate Minister of Education reports back to Cabinet before the end of 2025.

#### *Health (Immunisation) Regulations 1995*

39 Recommendation 9 in the Review, seeks the revision of the licencing criteria, and the sub-recommendation suggests supporting the Ministry of Health to revoke the Health (Immunisation) Regulations 1995.

40 This regulation requires ECE service providers to inspect enrolled children's immunisation certificates and maintain a register of their immunisation information. The regulation also applies to primary schools, who are not included in the scope of this Review.

41 The establishment and modernisation of a national immunisation register alongside data sharing agreements between Health and Education now addresses a key driver behind this regulation – providing information to support the management of outbreaks of vaccine-preventable diseases. Despite alternative mechanisms in place, ECE service providers and schools are still required to collect immunisation information from parents. This is burdensome for ECE providers, schools and parents.

42 Ministry of Health and the Minister of Health are supportive of this recommendation and are seeking endorsement to revoke this regulation effective as at 1 January 2026.

#### **Cost-of-living Implications**

43 This Review did not assess funding levels within the ECE Sector, but did consider regulatory impacts of how funding mechanisms, criteria and conditions.

44 Parents and whānau accessing early childhood education for their children, have expressed concerns about rising fees and limited availability in many regions. These factors impact their ability to return to the workforce which has detrimental impacts on their ability to maintain their standard of living. s 9(2)(f)(iv) [REDACTED]

- 45 Recommendations from this Review intend to reduce regulatory barriers for new service providers to enter the market. This will provide parents and whānau greater options to return to the workforce and positively impact their ability to maintain their standard of living.

### **Financial Implications**

- 46 There are no immediate financial implications arising from this paper. Financial implications associated with policy and operational changes will be outlined in Paper 2: Response to the Early Childhood Education Regulatory Sector Review.
- 47 Any costs associated with the implementation of these recommendations will be managed within baseline within Ministry of Education. Any further funding required will be sought through Budget Bids lead by the Ministry of Education.

### **Legislative Implications**

- 48 Revocation of the Health (Immunisation) Regulations 1995 does not impact any primary legislation. Although it still requires instruction to be provided to PCO by the Ministry of Health, it does not need to be included in the Legislative Programme for the year.
- 49 Amendments to the Education and Training Act in response to the Reviews recommendations are reflected in Paper 2: Response to the Early Childhood Education Regulatory Sector Review.

### **Impact Analysis**

#### **Regulatory Impact Statement**

- 50 A Regulatory Impact Statement has been completed and is in appendix 3.
- 51 The Ministry of Health QA panel has reviewed the Impact Statement titled “Repeal of the Health (Immunisation) Regulations 1995” produced by the Ministry of Health and dated March 2025. The panel considers that the Impact Statement Meets the quality assurance criteria. The Impact Statement is clear, concise, complete, consulted and convincing. The analysis is balanced in its presentation of the information.”

### **Population Implications**

- 52 There are no population implications associated with this policy.

### **Human Rights**

- 53 There are no inconsistencies with International Human Rights law or the Bill of Rights Act 1990 from this paper.

### **Use of external Resources**

- 54 The Review used one full time consultant to aid the completion of the Review. This resource was utilised from August 2024 to February 2025 and an additional consultant was brought on part-time for 6 weeks in October and November 2024. Three more

consultants were brought on for various lengths of contracts between April - October 2024 to provide external support for conducting consultation and analysing submissions received. Five contractors were used for project management, report writing and analysis for various lengths of time throughout the review.

### Consultation


- 55 Through the Review process, the findings and recommendations were tested with MoE, ERO and other agencies where appropriate.
- 56 Other agencies engaged through the Review include: Ministry of Health, Te Whatu Ora Health New Zealand, Ministry for Business Innovation and Employment, Worksafe, Ministry for Social Development, Department of Internal Affairs, Taumata Arowai, Ministry for Primary Industries, Local Government Commission, Fire and Emergency New Zealand and Teaching Council of Aotearoa, New Zealand.

### Communications

- 57 Subject to Cabinet decisions, Ministry for Regulation and MoE will work with the Minister's office to communicate these plans publicly.

### Proactive Release

- 58 We intend to proactively release this cabinet paper once decisions have been made subject to redactions as appropriate under the Official Information Act 1982.

- 59 s 9(2)(f)(iv)
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### Recommendations


The Minister for Regulation and Associate Minister for Education recommend that the committee:

- 60 **Note** that the Early Childhood Education Regulatory Review Report was released in December 2024 including 30 findings and 15 recommendations.

- 61 **Endorse** the 15 recommendations in the Early Childhood Education Regulatory Review report.

- 62 s 9(2)(f)(iv)
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- 63 s 9(2)(f)(iv)
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- 64 **Agree** the decision to revoke the Health (Immunisation) Regulations 1995 and for Ministry of Health to issue drafting instructions to the Parliamentary Council Office.
- 65 s 9(2)(f)(iv) 
- 66 **Note** the Ministry for Regulation will continue to provide oversight and advice on the implementation of the recommendations from the Review through the Early Childhood Education Regulatory Review Implementation Steering Group.

Hon David Seymour

Minister for Regulation

Associate Minister of Education

## **Appendices**

Appendix 1: Early Childhood Education Sector Regulatory Review Findings

Appendix 2: Ministry for Regulation – Regulatory Review of Early Childhood Education Report

Appendix 3: Regulatory Impact Assessment – Revocation of Health (Immunisation) Regulations 1995





# Appendix 1: Findings from the Early Childhood Education Sector Regulatory Review

**Finding 1:** The ECE regulatory system is out of date and lacks defined outcomes and objectives and principles for decision-making

**Finding 2:** The Ministry of Education does not have an effective compliance monitoring system

**Finding 3:** The Education Review office has a responsibility to evaluate and report on the performance of ECE services

**Finding 4:** The Education Review Office does not have enforcement powers or tools to intervene when the identify non-compliance in an ECE setting

**Finding 5:** Compliance monitoring does not take a coordinated systems view

**Finding 6:** Confusion persists between the respective roles of the Ministry of Education and Education Review Office

**Finding 7:** The Ministry of Education's approach to managing complaints is inconsistent

**Finding 8:** The performance of the regulatory system is not well measured

**Finding 9:** Limited direction and prioritisation for ECE regulatory activity

**Finding 10:** Regulatory changes are not considered in sufficient depth

**Finding 11:** There is no defined strategy to guide ECE compliance activity

**Finding 12:** Regulatory functions are not aligned with desired outcomes in the ECE sector

**Finding 13:** The ECE regulatory system is a hybrid model

**Finding 14:** There is no clear regulatory approach to achieving ECE outcomes

**Finding 15:** ECE regulatory practice resources are not proactively targets to areas of risk

**Finding 16:** The Education Review Office does not have the enforcement training, tools or levers to directly address non-compliance

**Finding 17:** There is room to improve the mix of regulatory skills and capability and sector knowledge within the agencies with a role in ECE regulation

**Finding 18:** Workloads for staff in the agencies with a role in ECE regulation are being increasingly high and complex

**Finding 19:** Training for Ministry of Education staff is inconsistent and inadequate

**Finding 20:** The ECE regulatory toolkit is limited and there is an over-reliance on changing licensing status to enforce compliance

**Finding 21:** Compliance activities and enforcement tools are not proportionate

**Finding 22:** Differences in ECE definitions of ‘qualified teacher’ are causing confusion

**Finding 23:** ECE service providers can choose to offer better adult-to-child ratios

**Finding 24:** There are some problems with licensing criteria

**Finding 25:** The qualification requirements contribute to ECE labour supply shortages in some areas and for some service types

**Finding 26:** Home-based educators who are qualified teachers have a pathway to maintain their practicing certificate when working as a home-based educator

**Finding 27:** The ‘person responsible’ requirements are causing problems in the ECE sector, including for home-based ECE

**Finding 28:** The ECE regulatory system is not fit for purpose for home-based ECE

**Finding 29:** Some requirements lack clarity, leading to high compliance costs

**Finding 30:** There is a disproportionate focus on documentation as evidence of compliance.



# Cabinet Expenditure and Regulatory Review Committee

## Minute of Decision

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

### Paper 1: Early Childhood Education Regulatory Sector Review Recommendations and Next Steps

**Portfolios**                      **Regulation / Associate Education**

On 25 March 2025, the Cabinet Expenditure and Regulatory Review Committee:

- 1        **noted** that the Early Childhood Education Regulatory Review Report was released in December 2024, including 30 findings and 15 recommendations;
- 2        **endorsed** the 15 recommendations in the Early Childhood Education Regulatory Review report;
- 3        s 9(2)(f)(iv) [REDACTED]
- 4        s 9(2)(f)(iv) [REDACTED]
- 5        **agreed** to revoke the Health (Immunisation) Regulations 1995 and for the Minister of Health to issue drafting instructions to the Parliamentary Council Office;
- 6        **invited** the Associate Minister of Education to report back to Cabinet before the end of 2025 regarding s 9(2)(f)(iv) [REDACTED] the implementation of the Early Childhood Education Sector Regulatory Review recommendations (subject to further decisions);
- 7        **noted** that the Ministry for Regulation will continue to provide oversight and advice on the implementation of the recommendations from the Review through the Early Childhood Education Regulatory Review Implementation Steering Group.

Sam Moffett  
Committee Secretary

**Present:** (see over)

**Present:**

Rt Hon Christopher Luxon  
Rt Hon Winston Peters  
Hon David Seymour (Chair)  
Hon Nicola Willis  
Hon Chris Bishop  
Hon Brooke van Velden  
Hon Simeon Brown  
Hon Paul Goldsmith  
Hon Louise Upston  
Hon Judith Collins KC  
Hon Mark Mitchell  
Hon Simon Watts  
Hon Chris Penk  
Hon Andrew Hoggard  
Hon Mark Patterson

**Officials present from:**

Office of the Prime Minister  
Office of the Chair  
Office of the Minister of Transport  
Office of the Minister of Defence  
Officials Committee for EXP