

Minister for Regulation

Information Release

Terms of reference for the early childhood education sector regulatory review

July 2024

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Documents in this information release

#	Reference	Type	Title	Date
1	2024-002	Note	Sector Review for early childhood education	5 April 2024
2	2024-017	Briefing	ECE sector review engagement approach	7 May 2024
3	2024-018	Briefing	Updated ECE regulatory sector review Cabinet paper for ministerial and coalition consultation	8 May 2024
4	SOU-24-SUB-0050	Cabinet paper	Terms of reference for the early childhood education sector regulatory review	29 May 2024
5	SOU-24-SUB-0050-A	Appendix	Terms of Reference for the regulatory sector review of early childhood education (DRAFT 10 May 2024)	10 May 2024
6	SOU-24-MIN-0050	Cabinet Committee minute	Cabinet Social Outcomes Committee Minute of Decision	29 May 2024

Information withheld

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Minister and Portfolio:	Hon David Seymour, Minister for Regulation		
Title:	Sector Review for early childhood education	Number	2024-0002
Date:	5 April 2024	Security Level:	UNCLASSIFIED

Purpose Review draft Term of Reference for the regulation review into the early childhood education sector and provide feedback.

Key issues The review will take a principles-based approach, drawing from the principles in the Government Expectations for Good Regulatory Practice. It will examine both regulatory design and regulatory practice, including overlaps across the regulatory system with the Ministry of Education, Education Review Office, and other relevant agencies. The review will also consider the regulatory burden on early childhood education providers and identify opportunities to alleviate unnecessary costs or activities.

Our advice We seek your initial reaction to the draft terms of reference to ensure we are on the right path regarding the proposed approach, objectives, scope, methodology, and timeframes for the review. Once we have your review comments, we plan to consult more widely with other agencies and sector representatives. We would like to get your views on the below matters:

1. For scope our proposed approach the review will include the overlap of multiple regulatory systems covering education, health, safety, food safety, buildings, and workplaces.
2. For sector engagement we aim to engage with providers of early childhood education services, their employees, and parents. In the first instance we will utilise the established mechanisms early childhood centres already have for obtaining parent/caregiver views. However, we will review this approach to ensure it provides an accurate and diverse parent/caregiver perspective and will opt for other more direct engagement if necessary. For employees, this will initially involve relevant union organisations. We will report back to you on how this engagement goes within a few months of the review.
3. For funding our view is to not include recommended changes to funding levels as part of this review, but to consider some of the criteria or requirements that are attached to funding mechanisms and contracts.
4. For Minister Stanford updates we would like to test with you our proposed approach to keeping Minister Stanford updated as Minister responsible for the Education Review Office. You will receive usual weekly reporting on the reviews recent activities and provide you with a summary briefing after each milestone has been met. We propose forwarding these milestone briefings onto Minister Stanford after you've reviewed them.
5. We have outlined our regular engagement with the sector and planning on three geographically spread in-person visits. We would like to discuss your view on this approach and any additional engagement you would expect us to have with the sector.

Author Alex McMinn, Principal Advisor Sector Reviews

Manager David Wansbrough, Sector Reviews Lead



To	Hon David Seymour, Minister for Regulation		
Title	ECE sector review engagement approach	Number	2024 - 017
Date	3 May 2024	Priority:	Medium
Action Sought	Agree	Due Date	7 May 2024
Contact Person	Hannah McGlue, Acting Sector Reviews Lead	Phone	§ 9(2)(a)
Contact Person	David Wansbrough, Sector Reviews Lead	Phone	§ 9(2)(a)
Attachments	No	Security Level	UNCLASSIFIED

Executive Summary

1. The Ministry for Regulation's (the Ministry's) Sector Review Team has developed an engagement approach for its review into the regulatory system for early childhood education (ECE) to discuss with you at our Officials' Meeting on 7 May 2024. Attached to this briefing at **Appendix A** is an A3 that outlines the key aspects of the proposed approach.
2. The ECE sector is large and diverse, with over 4,500 licenced services provided by more than 2,500 groups and attended by over 190,000 children across New Zealand. We know from initial scoping that there is significant interest in the work of the review and that parts of the ECE sector have been vocal about a need for regulatory reform.
3. The complexity of the sector means that the engagement approach needs to be carefully considered and planned, and that there are choices about what steps we take to ensure sufficient representation of different views within the timeframes. The Ministry considers that the proposed approach will mean it receives an accurate and balanced view of the issues, and an ability to test our analysis as it develops across the review period.
4. The proposed review approach will work to be practical, efficient, deliberate and receptive. It has four stages (initial discovery; in-depth engagement; written submissions; and analysis, feedback and process review) and will see the Ministry engaging directly through meetings and visits to ECE centres, and indirectly through a submissions process across the full period of the review.
5. Four categories of people and individuals have been identified as important for engagement: regulated parties (including providers, teachers and other workers), regulators, other interested people (including parents and caregivers) and relevant government agencies. It is a priority of the review to gather a range of voices that represent the diversity of the ECE sector, to ensure that its findings and recommendations are fit-for purpose.
6. To manage the potential scale of engagement, the Ministry proposes to prioritise direct engagement with representative groups and rely on the submissions process to reach individuals. Key representative groups include advisory groups set up by the Ministry of Education which have members from across private and community led ECE providers as well as academics and qualification providers. These groups do not sufficiently represent teachers and other workers in ECE, or parents and caregivers, who will be targeted through

the submissions process. Part-way through the written submissions process the Ministry will review where the balance of submissions is coming from and decide whether changes are needed to the approach to ensure voices reflective of the diversity of the sector are inputted into the process.

7. Following discussion with you, the Ministry will continue detailed planning to put the engagement approach in place.

Recommended Action

We recommend that you:

- a **note** that the Ministry for Regulation has developed a proposed approach to engagement for the ECE sector review that balances the need for reaching those most impacted by the regulatory system with the timeframes and needs of the review.
- b **discuss your feedback** on the proposed approach to engagement for the ECE sector review, which incorporates:
 - a. direct engagement with representative groups, professional bodies, advocacy groups and interested government agencies; and
 - b. a written submissions process targeted towards teachers and other workers in ECE settings and parents and caregivers.
- c **discuss** the role you would like to have in the review's engagement with the ECE sector
- d **agree** that the Ministry for Regulation release this briefing in full once it has been considered by you.

Agree/disagree.

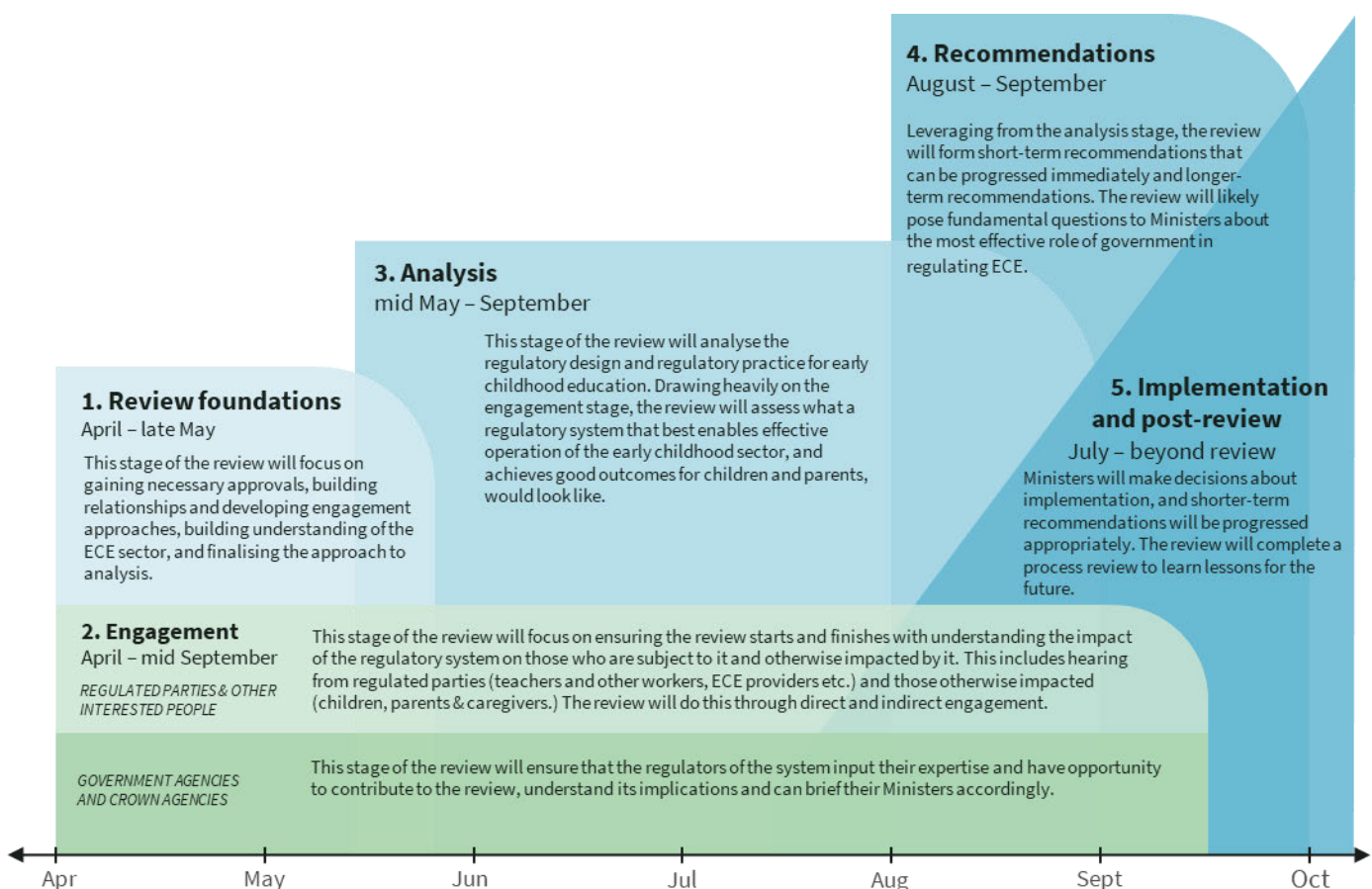
Hon David Seymour
Minister for Regulation

Purpose of Report

1. This report outlines the Ministry for Regulation’s (the Ministry’s) proposed engagement approach for the sector review of the early childhood education regulatory system (the review). It covers the approach to engaging with regulated parties, regulators and other affected and interested people.
2. A summary A3 is **attached at Appendix A** which outlines the phases of engagement and who the review is seeking to engage with.

Background

3. The Ministry is in the planning stages of the first sector review into the early childhood education (ECE) regulatory system. The review intends to formally start with Cabinet decisions about the Terms of Reference at the end of May 2024. The Ministry is currently completing initial analysis and engaging across government and the ECE sector to lay strong foundations for the review.
4. There will be several distinct stages across our six-month review period, reporting to you by the end of September 2024 and to Cabinet in October / November. The distinct stages are shown in the following diagram. This briefing outlines our proposed approach to **stage two** - engagement with regulated parties, regulators, relevant government agencies and other interested people.



High-level engagement approach

There is diversity in the ECE sector to be captured through engagement

5. The ECE sector is large, and diverse – with multiple models of early childhood education delivery and provision, across private and community providers. To give a sense of the potential scale for this engagement, in 2023 there were close to:
 - 34,000 teaching staff at licenced early childhood services and Te Kura (70% of whom were qualified teachers)
 - 4,000 educators at licenced home-based early childhood education services
 - 4,500 licenced early childhood services
 - 192,000 children attending licenced early childhood services (meaning well over 200,00 parents and caregivers of children currently attending ECE).¹
6. Given the diversity of the sector, the Ministry considers that the approach outlined in this briefing will ensure we get an accurate and balanced view of the issues, as well as an ability to continually test our analysis and ensure we are not hearing predominantly from one or two parts of the sector.
7. The review has identified four categories of groups and individuals for engagement. These are regulated parties, regulators, other interested people, and (additional) relevant government agencies.
8. Engagement with those directly affected by the regulatory system (regulated parties including teachers and those who benefit from the system, namely children, their parents and caregivers) is a key component of the review. This recognises that it is those people who hold expertise about the operation of the current system and will be impacted most by the review’s recommendations and subsequent implementation work.
9. As outlined in the draft Terms of Reference, the review will involve close collaboration with MoE and ERO, ensuring that their expertise is appropriately inputted and that they are in a good position to progress implementation of Ministers’ decisions at the conclusion of the review.
10. There are also a range of government agencies that are either responsible for regulatory systems that the ECE sector must comply with, or have an interest in the objectives of the sector. These agencies have been identified and will be involved as needed across the review.

What we are seeking from engagement

11. While the Terms of Reference for the review have not yet been finalised, it will be looking at the fundamental content and design of the regulatory system for ECE. The review proposes to seek different types of information from the identified groups to understand:
 - desired outcomes from early childhood education
 - how the current regulatory system supports, or does not support, achieving those outcomes
 - experiences of issues or difficulties with the current regulatory system

¹ Early Childhood Education census 2023, accessed at:
<https://www.educationcounts.govt.nz/statistics/participation>

- experiences of what works well in the current regulatory system
- experiences with those that regulate early childhood education, and perspectives of what good practice would look like.

Proposed approach

12. Attached at **Appendix A** is an A3 which outlines:
- the overarching purpose of engagement
 - proposed groups the review will engage with (divided by direct engagement and engagement through the submissions process)
 - the four proposed phases and timeline for engagement from now until the conclusion of the review.
13. The engagement approach seeks to balance practicality and efficiency, while being deliberate and receptive to interested groups and people. The review wants and needs to hear from a range of voices, but also recognises that the ECE sector is large and diverse, interest in the work of the review is high and the review will be reporting within six months.
14. These factors mean that the review proposes the following high-level approach which the Ministry considers will lead to receiving a representative picture of the issues from the full range of voices:
- to capture a diverse range of feedback, the review will:
 - i. use a “**hub and spoke**” model, with the Ministry engaging directly with and through representative groups to leverage their broad relationships across the sector; and
 - ii. provide **opportunities for all interested parties** to submit through an open submissions process. This will seek to ensure the engagement is not dominated by particular groups or interests.
 - the review will involve:
 - i. **direct engagement** (face to face and online meetings) with representative groups;
 - ii. a **written submissions process** to gather other input; and
 - iii. a small number of **visits to ECE settings**.
 - the review will **draw on existing feedback and views** as much as possible, recognising that the sector has already expressed their perspectives in number of ways.
 - the review will have appropriate privacy measures in place, meet government accessibility guidelines for consultation, and put policies and process in place to ensure the review protects the wellbeing and safety of children as appropriate.

Engagement process

15. The proposed four, overlapping, phases of engagement and associated timelines are:

- **Phase one (initial discovery):** engagement with established advisory groups, interested parties who approach the Ministry (written correspondence, online and in-person meetings), analysis of information already held and agency consultation on the Terms of Reference. This phase is underway and will be **completed by 10 May**.
- **Phase two (targeted in-depth):** engagement with regulators, government agencies, and regulated parties and teachers through representative groups. In this stage the review team will also visit a small number of providers across different types and locations. This phase will start **mid-May and complete in mid-September**.
- **Phase three (written submissions):** broader engagement via an open submissions process, targeted towards teachers and other workers, parents and caregivers of pre-school children (both current and past) and smaller-scale providers.

In this stage the Ministry will review where the balance of submissions is coming from and make changes to targeting if necessary to ensure the diverse voices of the sector are gathered. This phase will open in **mid-June, close in mid-July with analysis complete by mid-August**.

- **Phase four (analysis, feedback and process review):** the review will analyse what it hears across the engagement process, but in this phase will dedicate time to full analysis and producing a summary document of what was said in the written submissions process.

The review will also undertake some targeted consultation on the report's draft? recommendations. Following the review, the team will conduct a brief process evaluation to learn lessons for the Ministry's subsequent reviews. This phase will start in **mid-July and complete following the review reporting to you**.

Direct engagement

16. The review's methods of direct engagement will be through online and in-person meetings and workshops as well as a small number of visits to different types of ECE setting.
17. Three advisory groups that have been established by MoE have good representation across different types of ECE providers, models and philosophies, as well as academics and early childhood qualification providers. Engagement with these advisory groups² will be a priority for the review's engagement. This will be to directly gather their views and perspectives, test the review's analysis, and also to increase the reach of the submissions process.

² Early Childhood Advisory Committee (ECAC), Early Learning Regulatory Advisory Group (ELRAG) and the Centre Design, Environmental Factors and Group Size Advisory Group (CEGAG)

18. At initial meetings with the first two of those groups, representatives expressed interest in using their networks and membership to support the work of the review.
19. The purpose of proposed visits to ECE settings is to gain direct knowledge about how the regulatory system impacts the day-to-day work of teachers and other workers, as well as how it impacts children and outcomes achieved for them. It will also give the Ministry the opportunity to test the perspectives that we receive from the representative groups (the written submissions process will also provide this testing opportunity).
20. The review proposes a small number of visits given the timeframes but will seek to visit a diverse range of settings. At a minimum this will include private and community-led education and care centres and services (including kindergarten), home-based and hospital-based education and care services, certified playgroups, Pacific provided education and care centres, Kōhanga Reo and Puna Reo.
21. The review is working through the most appropriate way to select and approach different ECE settings to organise visits and will inform your office when they are arranged. We understand you may like to accompany the review team on some of these visits.

Submissions process

22. An online engagement platform will be used to receive submissions to the review with the capacity to both receive submissions and support their analysis. The main voices sought through the submissions process are those not represented through the direct engagement – namely, teachers and other workers, parents and smaller-scale providers. The process will also be used to add to the picture provided by the representative groups.
23. Given the timeframes of the review, we propose:

- that surveys are used to encourage submitters to answer specific questions. This will enable a faster submission analysis process than allowing free-form submissions. The review will complete a detailed survey design process and will use a mix of questions to gather qualitative and quantitative information – for example, it may ask regulated parties to rate issues relative to their importance or ask an open-ended question about issues under a particular theme.

It is likely that some submitters will contact the review directly and provide long-form written submissions, however if a survey process is available most will use it.

- to rely on representative groups to inform their members and networks about the submissions process (including ECE settings informing their parent communities), with a limited number of communication methods to let people know about the process. The Ministry intends to establish online visibility for the review to inform people about the work of the review and opportunities to submit and otherwise engage.
- to have the submissions process open for a period of four weeks, from mid-June to mid-July with final dates to be decided. We are conscious that school holidays, which are observed by some types of ECE providers, are from 6 July to 22 July.

24. By having quantitative questions the Ministry will be able to return to submitters following implementation of Minister's decisions about the review's recommendations and ask about what change they have seen as a result of the review. This will form part of the Ministry's efforts to learn lessons for future reviews as well as be able to understand the impact it is having.
25. The review intends to draft a summary of submissions which will be appended to the final report and published.

Engagement with different groups

26. The A3 **attached at Appendix A** outlines the four categories of groups and people that the review has identified for engagement (regulated parties, regulators, other interested people and relevant government agencies) and identified several specific groups within those categories.

Engagement with children

27. Consideration has been given to the rights of children to participate³ and share their views and perspectives on the review of the regulatory system of ECE. Accordingly, the review will put mechanisms and avenues in place to ensure the voice of children is heard in the review. This will be through relying on duty-bearers to represent those views – and we expect parents and carers, teachers and advocacy groups particularly to fulfil this role.
28. The review has chosen not to engage directly with children who are currently in ECE or who have been in the past. This is because the review timeframe does not provide sufficient opportunity or resource to engage appropriately with young children. While children are the most impacted group of the review, to engage with young children in ways that effectively capture their points of view would require time and resources not within the scope of the review.

Engagement with Māori

29. Te Kōhanga Reo National Trust has been separately referenced in the diagram on the A3 because the review will seek direct engagement with them, as well as through their representation on the advisory groups described in paragraph 17 above. Similarly, the review will seek direct engagement with Ngā Puna Reo o Aotearoa, the national body for Kaupapa Māori immersion Puna Reo education and care centres.
30. 10 percent of licenced education and care centres are Kōhanga Reo (approximately 460). While MoE licence Kōhanga Reo and the licencing criteria are gazetted by the Minister, Te Kōhanga Reo National Trust provides guidance about the licencing criteria.
31. The Waitangi Tribunal reported on Wai 2336, the Kōhanga Reo report, in 2012. Key findings from the report included that the kōhanga reo movement was a Treaty partner and that the Crown had breached the Treaty principles of partnership and equity, including through a regulatory regime that did not adequately sustain the specific needs of Kōhanga Reo.

³ Article 12 of the United Nations Convention on the Rights of the Child, accessed at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

Engagement with government

32. The Ministry is already engaging across government on the Terms of Reference and associated Cabinet paper. As well as the Ministry of Education and ERO as key collaborators, we have identified the government agencies responsible for other regulatory systems that apply to ECE (for example, the Ministry of Primary Industries' food safety responsibility) and are planning appropriate engagement.
33. The review intends to use a mix of group and bi-lateral meetings as well as "Deep Dives" on specific issues identified through the course of analysis and engagement.

Risks

34. There are two main risks with the proposed engagement approach for the review:

- **Volume of submissions.** Using a very accessible submissions process (on an online platform) could lead to a high volume of submissions which are unable to be adequately, or well, analysed by the review team within the required timeframes.

This could result in the review missing key feedback. It may also result in perceptions that submitters have not had their contribution sufficiently well considered or incorporated into the review's findings and recommendations.

The review proposes that this risk is mitigated through the series of measures referenced in paragraph 23. The Ministry will also closely monitor the volume of submission responses, manage the communications methods being used to inform audiences about the process, and manage resources accordingly.

The Ministry considers that the benefits to be gained from reaching more diverse groups of people to effectively represent the different perspectives are outweighed by this risk.

- **Public expectations.** The approach taken in the first sector review may set public expectations for how engagement for subsequent reviews will be conducted. While we consider that the key components of this proposed approach (a mix of direct engagement and a submission process based on an engagement platform) is likely to be repeated in future reviews, the Ministry will be clear in its communications that this approach has been designed to suit the needs of the ECE sector and those that interact with it.

Financial Implications

35. The Ministry requires a licence to use an online engagement platform, for its primary engagement tool. We are currently working through the appropriate procurement processes. The Ministry intends to use the same platform for all future engagement needs, both in sector reviews and otherwise.
36. The Ministry is working through other costs associated with the engagement methods we propose, including resourcing, travel and other related logistics.

Next Steps

37. We will discuss the proposed engagement approach for the review in our meeting on 7 May.

Appendix A - ECE Regulatory Sector Review

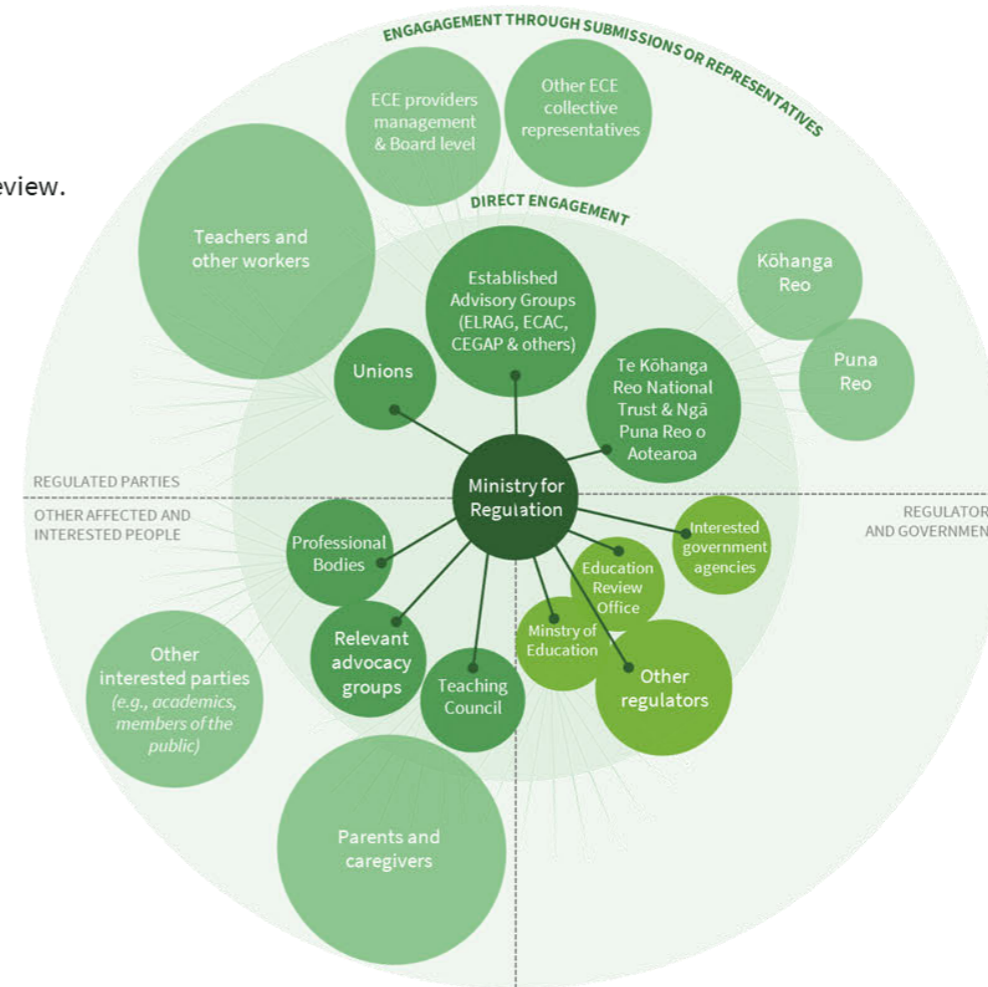
Engagement purposes, phases, groups, and timeline

This A3 outlines the proposed purpose, phases, groups and timeline for engagement on the ECE Regulatory Sector Review.

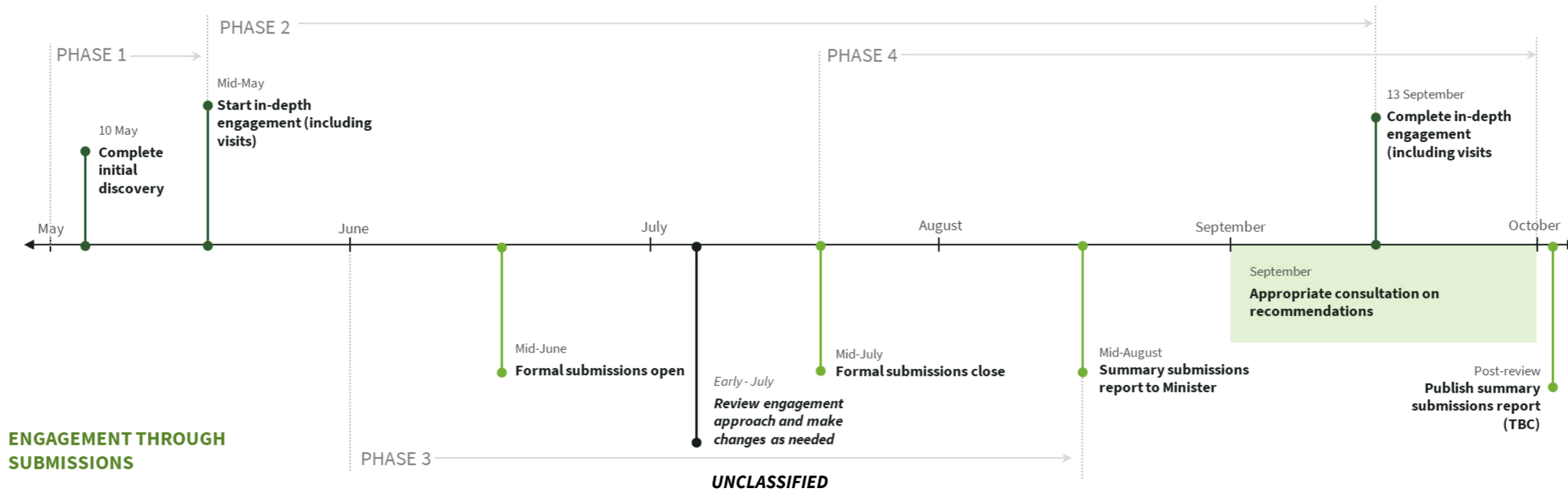
The review will seek to engage both directly and indirectly with the groups and individuals described on the diagram to the right. It is engaging to understand both how the regulatory system is currently operating and what changes should be made. It will seek diverse perspectives of regulated parties (across different types of ECE provision) and regulators as well as those directly impacted by the regulatory system (children, parents & carers).

The review will have four overlapping phases of engagement as described below:

- Phase one (initial discovery):** engagement with established advisory groups, interested parties who approach the Ministry (written correspondence, online and in-person meetings), analysis of information already held and agency consultation on the Terms of Reference
- Phase two (targeted in-depth):** engagement with regulators, government agencies, and regulated parties and teachers through representative groups. In this stage the review team will also visit a small number of providers across different types and locations.
- Phase three (written submissions):** broader engagement via an open submissions process, targeted towards teachers & other workers, parents & carers of pre-school children (both current and past). In this stage the Ministry will review where the balance of submissions is coming from and make changes to targeting if necessary to ensure the diverse voices of the sector are gathered.
- Phase four (analysis, feedback and process evaluation):** the review will analyse what it hears across the engagement process, but in this phase will dedicate time to full analysis, producing a summary document of what was said in the submissions process. In this stage, the review will complete targeted consultation on the report's recommendations. Following the review, it will conduct a brief process evaluation about how well the engagement worked for interested parties to learn lessons for the Ministry for Regulation's subsequent reviews.



DIRECT ENGAGEMENT



To	Hon David Seymour, Minister for Regulation		
Title	Updated ECE regulatory sector review Cabinet paper for ministerial and coalition consultation	Number	2024-018
Date	8 May 2024	Priority	High
Action Sought	Undertake ministerial and coalition consultation on the draft Cabinet paper	Due Date	8 May 2024
Contact Person	David Wansbrough, Sector Reviews Lead	Phone	s 9(2)(a)
Attachments	Yes	Security Level	UNCLASSIFIED

Executive Summary

The Ministry for Regulation consulted broadly with both sector groups and government agencies on the draft Cabinet paper and terms of reference for the early childhood education (ECE) regulatory sector review.

Of the feedback received from sector groups, several supported the terms of reference and the review. Areas of sector feedback included the need for more clarification about how the results of the review would be implemented, the interaction with a potential funding review, engagement, and differing views on scope.

Agency feedback reiterated some of these areas, as well as the role of the Minister of Education, feasibility, and whether affordability of ECE should be an explicit focus. We have addressed some but not all this feedback in the terms of reference, because we did not want to include too much detail and because we did not want to pre-determine what we might find and recommend.

Updated copies of the Cabinet paper and terms of reference are attached for your reference. Your office will need to lodge the paper on 16 May and take to Social Outcomes Committee on 22 May and undertake ministerial and coalition consultation on the Cabinet paper from 8 May to 15 May.

Recommendations

- a **Note** the feedback received from agency consultation on the Cabinet paper *Terms of reference for the early childhood education sector review* and terms of reference, and from sector groups on the terms of reference for the review.
- b **Note** the changes the Ministry for Regulation has made to the documents in response to the feedback received.
- c **Note** that you need to undertake ministerial and coalition consultation on the draft paper from 8 May to 15 May and that the paper needs to be lodged on 16 May.
- d **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

1. This briefing provides a summary of feedback from sector groups and government agencies on the draft Cabinet paper and terms of reference for the early childhood education regulatory sector review (the review). This also provides a summary of the changes we have made to the documents in response to this feedback.
2. Updated versions of the Cabinet paper and terms of reference are attached for use in ministerial and coalition consultation [**Appendix 1**].

Background

3. We previously engaged with you on the draft terms of reference for the review and have made changes in response to your feedback [Briefing 2024-0002 refers]. We also discussed it with you on 22 April and provided a draft of the Cabinet paper to your office.
4. At that meeting, you indicated a preference for this paper to be taken to Cabinet Social Outcomes Committee (SOU) on 22 May, with ministerial and coalition consultation from 8 May to 15 May. You also agreed to us beginning agency consultation on the draft Cabinet paper and terms of reference, and to seek feedback from key sector groups on the terms of reference alone.
5. You indicated that the principles from the Government Expectations for Good Regulatory Practice should be simplified to a more manageable list, to both help support the analysis and to help the sector and other affected people understand the review.

Summary of feedback received

Sector feedback

6. Feedback on the draft terms of reference was sought from both the Early Learning Regulatory Review Advisory Group and the Early Childhood Advisory Committee. Seven organisations provided feedback.
7. Several responses did not suggest any changes to the terms of reference and expressed support for the review.
8. Sector feedback included:
 - a. **Outcomes and objectives** – several organisations wanted the objectives to centre on and prioritise child wellbeing, and several sought more clarity about which objectives and outcomes would be used to assess regulations.
 - b. **Clarification on implementation** – More detail is needed on who is responsible for implementation, the process for handing over ‘quick wins’ for actioning, and who makes decisions on those actions. Consideration should also be given to the speed of implementation for any changes, to ensure the sector has sufficient time to adapt before new regulations take effect.
 - c. **Interaction with a potential funding review** – Clarity is needed here given the role of funding in influencing sector behaviour, and the significant interplay between the funding and regulatory levels.
 - d. **Engagement** – there should be explicit reference to the range of affected stakeholders in the review. Given the potential overlap between engagement and analysis/planning for implementation, comments were made on the authenticity

of engagement. It was also suggested that the review time should be extended to allow time for adequate engagement with the sector, acknowledging the high workload and staffing issues in the sector.

- e. **Scope should include general workplace relations policy** – one stakeholder suggested that the review should consider workplace relations policy that affects all sectors, including a range of contributors to input costs for businesses and the role of collective agreements;
- f. **Scope should not include reviewing policy settings** – that the review should not consider the current policy settings and should instead solely focus on the practice/implementation of regulations.
- g. **Social return on investment** – the review should consider social return on investment as a key principle and indicator for analysis.

Agency feedback

- 9. Many agencies had no feedback on the Cabinet paper and terms of reference. Of the feedback received, agencies also noted the need for clarification on implementation and the interaction with a potential funding review. The following additional points were also raised:
 - a. **The role of the Minister of Education** – noting that the Minister of Education has retained responsibility for Te Whāriki (the early childhood curriculum), the transition from early childhood education to compulsory schooling, and broader regulatory and accountability responsibilities under the Education and Training Act 2020.
 - b. **Feasibility** – in light of the scope and breadth of the review, and particularly given the time constraints and high expectations of key stakeholders; and
 - c. **Affordability of ECE** – whether this should be a specific focus area for the review.

Changes to the draft documents

Simplified assessment criteria and the Regulatory Standards Bill

- 10. In response to your request for a simplified list of criteria to guide the review, we propose that the review seek to answer the following about the ECE regulatory system(s):
 - a. **Appropriateness:** is regulation the appropriate tool for achieving the government's desired outcome(s)? Is there a valid purpose for regulating?
 - b. **Effectiveness:** is regulation achieving the intended purpose?
 - c. **Efficiency:** are the benefits achieved proportional to the costs? Have there been any unintended impacts of the regulatory approach?
- 11. These have been included in the terms of reference.
- 12. Both the terms of reference and the Cabinet paper have been updated to note that the principles-based approach will also be informed by the Regulatory Standards Bill.

Response to sector and agency feedback

- 13. Notable areas where the Cabinet paper and/or terms of reference have been amended in response to feedback include:

- a. For implementation, we have clarified that any agreements on implementation will need to be agreed with relevant ministers and made with a full analysis of implications, including costs and resourcing. Further specific detail has not been included to avoid pre-empting what implementation may require. We will refer to the steering group comprising senior executives from Ministry for Regulation, Ministry of Education, and Education Review Office to commission actions on any quick wins. The Cabinet paper at the end of the review will provide a mechanism to agree implementation and next steps with agencies and Ministers.
 - b. Clarified that a part of the review is to assess what outcomes the early childhood education sector is seeking to achieve. This will enable the review to form a view on whether current regulatory settings are achieving those outcomes (effectiveness criteria as per the above) as well as pose questions to government about the outcomes it is seeking from early childhood education.
 - c. Clarified that the review will need to proceed with close connections to any potential funding review but acknowledging that it is difficult to define this ahead of decisions about the review being taken.
 - d. We have not explicitly mentioned affordability but consider that it is one of the outcomes that needs to be more explicit.
14. There were two comments on scope from ECE sector groups, that we have not accepted:
- a. **Broader workplace relations** – our understanding of the workplace relations issues identified by a sector stakeholder relate to the broader policy settings for workplace relations and are not specific or unique to the early childhood education sector. As these are not unique to the early childhood education sector compared to other sectors, these should be out of scope for the review.
 - b. **Review of policy settings** – the purpose of the review is to assess the regulatory settings, not only their implementation, which means that assessing policy settings is within scope.
15. We have not added all the detail that agencies and sector groups sought, to keep the documents short, but will consider their issues as we proceed with the review and engage with them.

Next steps

- 16. The Ministry for Regulation will make further changes as requested to the Cabinet paper and terms of reference for you to carry out Ministerial and coalition consultation.
- 17. Your office will need to undertake ministerial and coalition consultation on the Cabinet paper from 8 May to 15 May. We can provide updated versions of these documents following any feedback received from this process ahead of lodging the paper on 16 May for consideration at SOU on 22 May.

Appendix 1. Draft Cabinet paper and Terms of Reference

In Confidence

Office of the Minister for Regulation

Office of the Associate Minister of Education

Cabinet Social Outcomes Committee

Terms of reference for the early childhood education sector regulatory review

Proposal

- 1 This paper seeks agreement for the Ministry for Regulation to start the first regulatory sector review, into the early childhood education sector. The proposed terms of reference for the review are attached at Appendix 1.

Relation to government priorities

- 2 The Coalition Agreement between the National Party and the ACT Party committed to carrying out regulatory sector reviews, in consultation with the relevant Minister.
- 3 Initiating the first regulatory review into the early childhood education sector is a priority in the Coalition Government's Action Plan. It will be aimed at improving the quality of regulation, ensuring that regulatory decisions are based on principles of good law-making and economic efficiency.

Background

- 4 We are hearing complaints that red tape is increasing compliance costs and creating missed opportunities by stopping productive activity. In some cases, existing regulation has not been effective at avoiding the harm it was seeking to prevent. Simple, clear, and essential rules and regulations will help New Zealanders to do more – leading to greater productivity and better outcomes for all of us.
- 5 The Ministry for Regulation was established on 1 March 2024 as a central agency alongside the Department of the Prime Minister and Cabinet, the Treasury, the Public Service Commission, and the Social Investment Agency. One of its functions will be to carry out regulatory sector reviews to assess regulations against economic efficiency and good regulatory principles. The reviews will recommend where unnecessary rules and regulations that could be removed, or where different regulatory approaches would better achieve the Government's objectives.

Regulatory sector reviews

- 6 Regulatory sector reviews will assess whether regulations are achieving appropriate outcomes for a particular sector.

- 7 These reviews will improve the quality of New Zealand’s stock of regulation by providing an independent perspective to complement the obligations of agencies to manage their regulatory systems. They will also look at the cumulative impacts of multiple regulatory systems across a sector and consider issues beyond the responsibility of any single regulatory system or agency.
- 8 The Government Expectations for Good Regulatory Practice define a regulatory system as a set of formal and informal rules, norms, and sanctions that shape people's behaviour or interactions towards a broad goal or outcome. Broadly, the reviews are expected to examine the following components of a regulatory system:
- a. Primary legislation
 - b. Secondary legislation (including Orders-in-Council)
 - c. Other rules or conditions that apply to regulated parties (e.g., in funding agreements)
 - d. Roles and approaches of the agencies that carry out the range of functions within a regulatory system (e.g., compliance and enforcement).
- 9 The reviews will take a principles-based approach to assess regulatory systems against standards based on the Government Expectations for Good Regulatory Practice¹, the Regulatory Standards Bill², and OECD guidance on good practice for reviewing regulations³. They will ask these questions:
- a. What are the problems?
 - i. What market failures or other problems are the regulations seeking to address?
 - ii. What market failures or other problems are the regulations failing to address?
 - iii. What is the evidence that the regulations are working or not?
 - b. Is regulation the best way to address these problems?
 - c. What are the costs and benefits of the regulations?
 - i. Who is receiving the benefits?
 - ii. Who is bearing the costs?

¹ Accessed at <https://www.treasury.govt.nz/sites/default/files/2015-09/good-reg-practice.pdf>

² The Regulatory Standards Bill continues to be developed and the first sector review will incorporate the principles into its work as appropriate given the status of the bill.

³ Accessed at: <https://www.oecd-ilibrary.org/sites/1a8f33bc-en/index.html?itemId=/content/publication/1a8f33bc-en>

iii. Are the benefits reasonable, affordable, and proportionate to the costs?

d. Are the regulations working?

i. What were the intended outcomes of the regulation?

ii. How well are the regulations achieving their purpose?

iii. What are the unintended consequences?

iv. Are the outcomes and unintended consequences being tracked?

v. How well do the regulated parties understand what they need to do?

vi. How are the regulatory agencies carrying out their roles?

10 I have asked officials at the Ministry for Regulation to develop a framework for future regulatory sector reviews.

Review of the early childhood education regulatory system

11 The first sector I propose to review is early childhood education and care for children before starting school. Quality early childhood education can be transformational for children, their parents, and society. The health and wellbeing of children also need to be safeguarded, as well as promoting their development and school readiness.

12 The early childhood sector is market-based with community and private providers. It is not compulsory to use these services, but it offers parents and families a choice that helps them participate in the workforce and carry out other activities.

13 Regulation of early childhood education is complex, with multiple and potentially conflicting regulatory systems. While the Ministry of Education has overall stewardship responsibility for the sector, the cumulative impacts of these systems are beyond the responsibility of any single agency. The complexity of the regulatory system, coupled with the significant changes the sector has undergone in recent years, means that a review of its regulatory systems is timely.

14 The purpose of the current regulatory framework for early childhood education, as outlined in the Education and Training Act 2020, is three-fold: setting standards to support quality provision and learning; supporting the health, safety and well-being of children; and enabling parental choice by providing for licencing and funding of different types of provision.⁴ Other regulatory systems that also apply to early childhood education, will have their own purposes and objectives set in legislation.

15 The review will assess whether the current set of regulations are achieving the right outcomes for early childhood education.

⁴ Section 14 of the Education and Training Act 2020.

Scope of the regulatory systems review

- 16 The scope of the review is broad, but it will take a pragmatic approach to deliver real change. It will prioritise areas causing significant issues for the sector, drawing on information already available about challenges with the regulatory systems and taking a rigorous approach to scope creep.
- 17 It will examine the regulatory systems for education, health, safety, child protection, food safety, buildings, and workplaces, as they apply to the early childhood sector. It will not review all the regulatory settings in all those systems, instead it will examine overlaps that create specific or unique impacts for early childhood education.
- 18 The review will not consider levels of government funding or individual complaints about the practice of early childhood education service providers and its regulators. The review team will work closely with any parallel work on the funding system.

Approach to the regulatory systems review

- 19 The review will be led by the Ministry for Regulation, working with other agencies, especially the Ministry of Education and the Education Review Office.
- 20 The wide remit of the review means that implementing its recommendations are likely to require many different mechanisms to address them, such as: changes to primary legislation, regulations across multiple portfolios, agency roles and responsibilities, agency practices and culture. I will report back to Cabinet before the end of 2024 about the recommendations of the review and appropriate processes to progress the next steps.
- 21 The review will draw on existing domestic and international evidence and avoid duplicating work already undertaken or underway in the system. It will consider any previous regulatory reviews, as well as any relevant recommendations arising from petitions to Parliament, Select Committees or Ombudsman reports. The review may commission specific reports or studies as needed.
- 22 I will engage with relevant Ministers through the course of the review, given it is going to consider a range of regulatory systems.
- 23 An inter-agency forum comprising a wider set of agencies will support the review, test recommendations, and consider implementation in parallel to the review.
- 24 Implementation of complex and medium- to long-term recommendations will need to continue after the review has been completed. Where appropriate, agencies will be invited to progress changes more quickly (quick wins), as the review continues. Whether this is feasible will depend on the nature of the changes proposed. Actions will need to be agreed with relevant ministers and made with sufficient analysis of implications, including costs and resourcing.

Engagement on the review

- 25 The review aims to capture a spectrum of perspectives from impacted people and groups. It will engage with regulated parties (providers of early childhood education, teachers and other workers), regulators and other interested people (including parents and caregivers). It will engage across government agencies as appropriate, and particularly with agencies responsible for different parts of the regulatory systems for early childhood education.
- 26 A range of engagement methods will be employed, with both direct (in-person and virtual) interactions and a structured process for receiving submissions. The review team intends to visit early learning settings to understand the impact of the regulatory systems on providers' and teachers' ability to do their jobs. To ensure the pragmatic approach of the review, it will predominantly engage with representative groups (such as already established advisory groups) and gathering broader views through a written submissions process.

Timeline for the review

- 27 The review will take a pragmatic approach, reporting back to me within a six-month timeframe, but also look deeply enough to be able to make recommendations for real change.
- 28 I will bring a Cabinet paper seeking decisions on its recommendations before the end of the calendar year. I intend to publish the review report following Cabinet consideration.
- 29 I will provide updates to Ministers at regular milestones as the review progresses.

Cost-of-living implications

- 30 The availability of affordable early childhood education, in the right location and of the right quality, is an ongoing challenge for New Zealand. This is particularly important for women, given it is women who more commonly take on childcare responsibilities.
- 31 While funding levels are out of scope of the review, the review will consider whether and how the regulatory systems affect the affordability of early childhood education for parents. The review will consider the interplay between regulatory compliance costs for providers (vs benefits) and cost of early childhood education for parents.

Financial Implications

- 32 The Ministry for Regulation estimates that the sector review will cost between \$800,000-\$1,000,000. This comprises a review team of 5 full-time equivalents over 6 months from the Ministry, some travel, some purchasing of specific expertise, and 5 full-time equivalents from other participating agencies. These activities will be funded from agencies' own baselines.

- 33 Any financial implications of the review’s recommendations will be part of my report back to Cabinet before the end of the calendar year.

Use of external Resources

- 34 A single consultant has been engaged for three months to support the Ministry’s establishment team to set up the early childhood education sector review.

Legislative Implications

- 35 This proposal has no direct legislative implications. However, the review may recommend changes to both primary and secondary legislation. The detail of those changes will be considered by Cabinet as part of the response to the review.

Regulatory Impact Statement

- 36 This paper does not seek agreement to regulatory proposals at this stage, and therefore Cabinet’s impact analysis requirements do not apply.
- 37 The review will undertake an extensive analysis of regulation of the early childhood education sector. It will identify opportunities to improve the quality of regulation, ensuring that regulatory decisions are based on principles of good law-making and economic efficiency.

Climate Implications of Policy Assessment

- 38 The Climate Implications of Policy Assessment team has been consulted and confirms that the requirements do not apply to this proposal, as the threshold for significance is not met.

Population Implications

- 39 Children are critical to the future prosperity of New Zealand. The education, health, safety and well-being of children are important, and the regulatory framework must reflect this. As the review progresses, it will ensure that New Zealand’s obligations to children under domestic and international law are protected.
- 40 The review recognises that Kōhanga Reo have specific licencing criteria within the regulatory framework and will consider these regulatory settings. It also recognises that Kōhanga Reo and Puna Reo have unique aims, including passing Māori culture to future generations. The review will consider relevant Treaty settlements as well as the findings of Wai 2336: Matua Rautia: Report on the Kōhanga Reo Claim in its work. As part of its broad engagement, the review will engage directly with Māori.
- 41 The review recognises that early childhood education is a key enabler for women to be engaged in the paid workforce. Through its engagement approach and analysis of the regulatory settings it will consider gender implications as relevant.

Human Rights

- 42 New Zealand is party to several international human rights treaties which commit to promoting and protecting the rights of children. These include the United Nations Convention on the Rights of the Child, the International Covenant on Economic, Social and Cultural Rights, and the United Nations Convention on the Rights of Disabled People. The review will be cognisant of these Conventions in its work and recommendations.

Consultation

- 43 The following departments and agencies were provided with drafts of this paper and the terms of reference: The Treasury, Ministry of Education, Education Review Office, Oranga Tamariki – the Ministry for Children, Ministry of Business, Innovation and Employment, Ministry for Primary Industries, New Zealand Police, Ministry of Social Development, Ministry of Justice, the Ministry of Health, Department of Internal Affairs, Ministry of Youth, Ministry for Ethnic Communities, Te Puni Kōkiri, Ministry for Pacific Peoples, Ministry for Women, Fire and Emergency NZ, and the Independent Children's Monitor – Aroturuki Tamariki. The Department of Prime Minister and Cabinet has been informed.
- 44 The Ministry for Regulation will work with the agencies responsible for different parts of the early childhood education regulatory system as relevant throughout the review.

Communications

- 45 I intend to publicly announce the review and release the terms of reference, once decisions have been made by Cabinet. The review has already generated some media and there is likely to be more media coverage as the review starts and seeks feedback.

Proactive Release

- 46 I intend to proactively release this Cabinet paper once decisions have been made subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

The Minister for Regulation recommends that the Committee:

- 1 **Agree** to begin the regulatory sector review into the early childhood education sector.
- 2 **Agree** to the attached terms of reference for the review.
- 3 **Note** that the review will seek to engage directly with those subject to and affected by the early childhood education regulatory system, including those being regulated,

their representatives, professional organisations, educators and other staff, parents, and caregivers, as well as other interested parties and individuals.

- 4 **Note** that I will report back to Cabinet by the end of 2024 to seek decisions following the review's report.
- 5 **Agree** to proactively release this Cabinet paper and the attached terms of reference once decisions have been made and subject to appropriate redactions.

Hon David Seymour

Minister for Regulation

Appendix 1: Terms of Reference for the regulation review into the early childhood education sector

Terms of Reference for the regulatory sector review of early childhood education (DRAFT 10 May 2024)

Purpose and objectives

Children are critical to the future of New Zealand. The health, well-being and development of children are important, and the regulatory framework must reflect this. This review will assess whether the current set of regulations are achieving the right outcomes for early childhood education.

The review will take a principles-based approach to assess regulatory systems against standards based on the Government Expectations for Good Regulatory Practice¹, the Regulatory Standards Bill², and OECD guidance on good practice for reviewing regulations³. The review will ask:

- What are the problems?
 - What market failures or other problems are the regulations seeking to address?
 - What market failures or other problems are the regulations failing to address?
 - What is the evidence that the regulations are working or not?
- Is regulation the best way to address these problems?
- What are the costs and benefits of the regulations?
 - Who is receiving the benefits?
 - Who is bearing the costs?
 - Are the benefits reasonable, affordable, and proportionate to the costs?
- Are the regulations working?
 - What were the intended outcomes of the regulation?
 - How well are the regulations achieving their purpose?
 - What are the unintended consequences?
 - How well do the regulated parties understand what they need to do?
 - How are the regulatory agencies carrying out their roles?

Scope

Any regulatory system that affects the early childhood education sector is in scope. The Government Expectations for Good Regulatory Practice describe a regulatory system as “a set of formal and informal rules, norms and sanctions, given effect through the actions and practices of designated actors, that work together to shape people’s behaviour or interactions in pursuit of a broad goal or outcome.” It includes:

- primary legislation;
- secondary legislation (including Orders-in-Council);

¹ Accessed at <https://www.treasury.govt.nz/sites/default/files/2015-09/good-reg-practice.pdf>

² The Regulatory Standards Bill continues to be developed and the first sector review will incorporate the principles into its work as appropriate given the status of the bill.

³ Accessed at: <https://www.oecd-ilibrary.org/sites/1a8f33bc-en/index.html?itemId=/content/publication/1a8f33bc-en>

- other rules or conditions that apply to providers of early childhood education (for example in funding agreements); and
- roles and approaches of the agencies that carry out the range of functions within a regulatory system (e.g., compliance and enforcement).

The review will examine the regulatory systems for early childhood education, health, safety, child protection, food safety, buildings, and workplaces, as they apply to the early childhood education sector. This includes (but is not limited to) the Education and Training Act 2020 and associated regulations, the Children’s Act 2014, the Health and Safety at Work Act 2015, the Fire and Emergency New Zealand Act 2017, the Food Act 2014, and the Building Act 2004.

All licenced or certified early childhood education services under the Education and Training Act 2020 are in scope of this review. It includes early childhood services and playgroups. Kōhanga Reo have specific licencing criteria and will be considered on that basis.

Limits to scope

- **Funding:** The review will not assess funding levels but will consider how funding mechanisms, criteria and conditions create regulatory impacts. The Childcare Subsidy, Social Security Act 2018 and Social Security Regulations 2018 are out of scope.
- **Curriculum:** The review will not assess curriculum content (Te Whāriki: He whāriki mātauranga mō ngā mokopuna o Aotearoa Early childhood curriculum and Te Whāriki a Te Kōhanga Reo) but will consider how they are used as levers for achieving outcomes.
- **Complaints:** The review will not consider individual complaints about early childhood education service providers or their regulators.
- **Other sectors:** The regulatory systems in scope may impact sectors other than the early childhood education sector, but these will not be considered.

Broad-based regulatory systems covering many sectors are out of scope, except where there are:

- Sector-specific components of the regulation – in which case that component only is in scope.
- Sector-specific guidance – in which case that guidance only is in scope.
- Linked regulatory systems (e.g., meeting requirements for one regulatory system is dependent on meeting requirements for a different regulatory system) – in which case the link only is in scope.
- Overlaps or inconsistencies with sector-specific regulation – in which case the area of overlap or inconsistency only is in scope.
- Specific implications for the sector that are unique compared to other sectors.

Roles

The review will be led by the Ministry for Regulation with its central government agency mandate to strengthen the regulatory management system and improve regulatory quality. The Ministry for Regulation may make comments and recommendations that are not fully supported by other agencies but recognises that changes are more likely to succeed and endure where there is consensus.

The Ministry for Regulation will work with other agencies, especially the Ministry of Education as the regulatory steward for the early childhood education sector and the Education Review Office with statutory responsibilities to review education organisations. The review team will include employees from the Ministry of Education and the Education Review Office.

An inter-agency forum comprising a wider set of agencies will support the review, test recommendations, and consider implementation in parallel to the review.

Review procedures

The review will start from a first principles analysis of the rationale for government's involvement in and regulation of the sector. This includes policy objectives and looking at the evidence supporting the regulations including distortions in the market, regulatory costs and benefits, and available policy choices.

The review will prioritise issues against the number of people affected, the size of the costs and/or opportunities, and their effect on outcomes.

The review will draw on existing domestic and international evidence and avoid duplicating work already undertaken or underway in the system. It will consider any previous regulatory reviews, as well as any relevant recommendations arising from petitions to Parliament, Select Committees or Ombudsman reports. The review may commission specific reports or studies as needed.

The review will examine the roles and approaches of the agencies within the regulatory system(s) for early childhood education. It will consider the distribution of the roles and functions across both government agencies and sector actors such as professional bodies. The following functions are included:

- Policy Design
- Monitor and Evaluate
- Compliance and Enforcement
- Delivery
- Operational Policy
- Advice and Education
- Standard Setting
- Dispute Resolution

Engagement

The review will engage with those impacted by, and subject to, the early childhood education regulatory system(s). It will include regulated parties, regulators, interested groups, early

childhood workforce, and users (parents & caregivers). It will use a variety of engagement methods including face-to-face, online engagement, visits to early childhood education services and inviting written submissions.

Reporting

The review will provide a report to both the Minister for Regulation and the Associate Minister for Education responsible for early childhood education. It will be followed by a Cabinet paper seeking decisions on its recommendations and next steps. The review report will be published after it has been considered by Cabinet. The review will provide Ministers with regular updates.

Implementing the review's recommendations

The Ministry for Regulation will take a pragmatic approach to progressing its recommendations and recognises that other agencies will need to lead most of the likely changes and that they are likely to continue after the review has finished.

The Ministry for Regulation will work with other agencies to make improvements as quickly as possible and will support and drive actions in parallel with its review work where appropriate.

Progressing any recommendations may involve several different mechanisms that have set processes and varied timeframes, including changes to primary legislation, secondary legislation, operational policy and guidance and practice changes.

Any actions arising from the review will need to be agreed with relevant ministers and made with sufficient analysis of implications, including costs and resourcing.

Timing, stages, and milestones

Timing	Review Recommendations		Review Implementation	
	Activities	Outputs	Activities	Outputs
March – April	Scoping and commissioning			
May	Cabinet approval of Terms of Reference	Terms of Reference		
June – July	Review commences Discovery Engagement with sector			
August	Analysis		Planning for implementation	
September	Draft report		Scope and analyse changes	
October	Decide next steps	Final report and advice to Ministers	Option analysis	Advice to Ministers
November – December		Report back to Cabinet	Ongoing review	

Background

Regulatory system policy objectives

Quality early childhood education can be transformational to the lives of children and their parents and whānau, as well as the economy and society. Section 14 of the Education and Training Act 2020 outlines the purpose of regulating the early childhood education system 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.”

The Crown also has Treaty settlement obligations that relate to early childhood education⁴.

The principles of Te Whāriki: He whāriki mātauranga mō ngā mokopuna o Aotearoa Early childhood curriculum and Te Whāriki a Te Kōhanga Reo – the New Zealand Early Childhood Education curriculum will also be considered⁵.

The main regulatory settings for the early childhood education sector are in the Education and Training Act 2020 and associated regulations⁶. These include:

- **Education and Training Act 2020:** This is the primary legislation governing the early childhood education sector. All service providers that operate an early childhood education and care centre must be licensed in accordance with this Act. Service providers that provide a home-based education and care service or a hospital-based education and care service may, but need not, be licensed. Service providers that operate a playgroup may, but need not, be certificated. Section 548 of the Act requires that general grants must be paid to all licensed early childhood education services from appropriated funding. The Act also allows the Minister of Education to set conditions on funding which are set out in the Funding Handbook.
- **Education (Early Childhood Services) Regulations 2008:** These regulations set out the specific requirements for licensing early childhood education services, including standards for: curriculum; qualifications, ratios, and service-size; premises and facilities; health and safety practices; and governance, management, and administration.

⁴ Key outcomes sought in ECE have been addressed through treaty settlements, such as Ngāi Tahu Settlement, finalized in 1998, Waikato-Tainui Raupatu Settlement, concluded in 1995 and Ngāti Awa Claims [Settlement, reached in 2005](#). Also relevant: Wai 2336: Matua Rautia: Report on the Kōahanga Reo Claim.

⁵ Te Whāriki: He whāriki mātauranga mō ngā mokopuna o Aotearoa - Early childhood curriculum (education.govt.nz)

⁶ <https://www.education.govt.nz/early-childhood/licensing-and-regulations/>

- **Education (Playgroups) Regulations 2008⁷**: These regulations set out the requirements for the certification of playgroups⁸, including standards for: curriculum; ratios; premises and facilities; health and safety practices; and management and administration.
- **Education (Registration of Early Childhood Services Teachers) Regulations 2004**: These regulations set out the requirements for the registration of teachers in early childhood education services.
- **Licensing Criteria**: The Minister may prescribe criteria to assess compliance with the minimum standards set out in the Education (Early Childhood Services) Regulations 2008. Licensing criteria are in place for: centre-based early childhood education services, home-based early childhood education services, Kōhanga Reo, and hospital-based early childhood education services, and certification criteria are in place for playgroups.

The early childhood education sector

The early childhood education sector is part of New Zealand’s education system and wider economy. Quality early childhood education provides positive developmental and educational outcomes for young children (aged 0 – 6 years old) and helps prepare children for schooling. The benefits are particularly significant for children from disadvantaged families. Early childhood education enables parents to participate in labour markets, attend further education, volunteer, and contribute to their community.

Early childhood education services are provided through private and community-based ownership models. Unlike compulsory schooling, the government is not directly involved in the ownership and delivery of these services. Service provision is paid for through a mix of government funding and parent fees (or donations), and other sources. Some services charge no, or very low, parent fees.

Participation in early childhood education is not compulsory in New Zealand, meaning that attendance is at the discretion of parents and caregivers. Overall participation data shows approximately 96% of children regularly attending early childhood education in the six months prior to starting school in the year to 30 June 2023. However, participation rates for Māori children (93.3%), Pacific children (90.1%), and children from low socio-economic status schools (92.6%) track below the national average.

The sector has undergone a significant level of change over the past 5 years, including due to the impact of COVID-19 and ongoing workforce constraints. Key areas of focus for Government have included the 2018 Review of Home-based Early childhood education and the Early Learning Action Plan 2019 – 2029. The introduction of pay parity and network approval have also had a significant impact on service providers.

Sector Size and Numbers

In 2023, there were 4,483 licensed early learning services and 560 certified playgroups. Licensed service providers range in size from operating a single service to operating over 250 services.

⁷ The Act defines a playgroup as a group that meets on a regular basis to facilitate children’s play where:

- no child attends for more than 4 hours on any day; and
- more than half of the children attending on any occasion have a parent or caregiver present in the same play area at the same time; and

the total number of children attending on any occasion is not greater than 4 times the number of parents and caregivers present in the same play area at the same time

Approximately 191,602 children were enrolled in licensed services in June 2023, which represents a significant portion of the child population. This highlights the extensive reach and potential impact of early childhood education services.

The distribution of enrolments across different types of services has evolved over time. In 2023, 71% of children were enrolled at an education and care centre, an increase from 65% in 2017. The percentage of children attending kindergartens, home-based services, and playcentres decreased compared to 2017. The proportion of children attending Kōhanga Reo has remained stable at 4% since 2017⁹.

Definitions

Early childhood education sector includes the government and non-government organisations that govern and provide early childhood education to children aged 0 to 6.

Providers of early childhood education include the following as defined in the Education and Training Act 2020: early childhood services (which includes early childhood education and care centres; home-based education and care centres and hospital and education and care centres); early childhood education and care services; and playgroups; as well as Kōhanga Reo.

Regulatory systems are sets of formal and informal rules, norms and sanctions, given effect through the actions and practices of designated actors, that work together to shape people's behaviour or interactions in pursuit of a broad goal or outcome.

Regulated party / parties are a person or organisation that is subject to behavioural expectations, obligations, and/or sanctions within a regulatory system, and will include providers of Early childhood education services and their employees. Parents can also be regulated parties (parent-led and home-based care), as well as consumers of the services.

⁹ (1) Annual EARLY CHILDHOOD EDUCATION Census 2022: Fact Sheets | Education Counts.
<https://www.educationcounts.govt.nz/publications/EARLY CHILDHOOD EDUCATION /annual-early-childhood-education-census/annual-early-childhood-education -census-2022-fact-sheets>.



Cabinet Social Outcomes 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.

Early Childhood Education Sector Regulatory Review: Terms of Reference

Portfolios **Regulation / Associate Education**

On 29 May 2024, the Cabinet Social Outcomes Committee:

- 1 **agreed** to begin the regulatory sector review into the early childhood education sector;
- 2 **agreed** to the terms of reference for the review, attached to the submission under SOU-24-SUB-0050;
- 3 **noted** that the review will seek to engage directly with those subject to and affected by the early childhood education regulatory system, including those being regulated, their representatives, professional organisations, educators and other staff, parents, and caregivers, as well as other interested parties and individuals;
- 4 **noted** that the Minister for Regulation will report back to the Cabinet Expenditure and Regulatory Review Committee by the end of 2024 to seek decisions following the review's report.

Jenny Vickers
Committee Secretary

Present:

Rt Hon Christopher Luxon
Rt Hon Winston Peters
Hon David Seymour
Hon Nicola Willis (Chair)
Hon Chris Bishop
Hon Dr Shane Reti
Hon Erica Stanford
Hon Paul Goldsmith
Hon Louise Upston
Hon Mark Mitchell
Hon Matt Doocoy
Hon Melissa Lee
Hon Nicole McKee
Hon Penny Simmonds
Hon Chris Penk

Officials present from:

Office of the Prime Minister
Officials Committee for SOU
Office of Hon Matt Doocoy