



Report: Finalising the draft ECE reform Cabinet paper for Ministerial consultation

To:	Hon David Seymour, Associate Minister of Education		
Cc:	Hon Erica Stanford, Minister of Education		
Date:	11/03/2025	Deadline:	12/03/2025
Security Level:	Confidential	Priority:	High
From:	John Brooker General Manager	Phone:	9(2)(a)
Drafter:	Hannah Aitken	METIS No:	1344239

Why are we sending this to you?

- This report seeks your decisions on key issues for the ECE reform Cabinet paper - *Paper 2: Response to the Early Childhood Education Regulatory Sector Review*. Your decisions on these issues will be incorporated into the Cabinet paper ahead of Ministerial consultation.

What action do we need, by when?

- Please return the signed report by 12 March.

Key facts, issues and questions

- *Paper 2: Response to the Early Childhood Education Regulatory Sector Review* seeks policy decisions on the response to the Ministry for Regulation's ECE regulatory sector review. This Cabinet paper is due to be considered at EXP Cabinet Committee on 25 March (see Annex 1).
- We have previously provided you with a draft of this ECE reform Cabinet paper and committed to providing further advice on key issues that need to be resolved before the Cabinet paper can be finalised. Advice on these key issues is provided in this report.
- Your decisions on these key issues will be incorporated into a revised Cabinet paper, in time for you to undertake Ministerial consultation from 12 March. Alongside the Cabinet paper, we have also provided the draft Regulatory Impact Statement in Annex 2. Feedback from agencies will be incorporated following departmental consultation ending on 13 March.

Alignment with Government priorities

1. This report aligns with Government priorities to improve the quality of regulation, reduce regulatory burden and costs to business, and deliver better public services.

Background

2. This report follows previous advice that provided *Paper 2: Response to the Early Childhood Education Regulatory Sector Review* [METIS 134359 refers]. There were key issues in that initial draft Cabinet paper that we needed to undertake further work on. This report provides you with advice and seeks your decisions on these issues, including:
 - 2.1. 9(2)(f)(iv)
 - 2.2. Children's Act interface.
3. 9(2)(f)(iv)
4. **Annex 2** attaches the draft Regulatory Impact Statement (RIS) to accompany the Cabinet paper for Ministerial consultation. While we are still finalising this RIS, initial advice from the Ministry's RIA panel is that this RIS will not meet the regulatory impact standards. This determination is consistent with what we have previously advised you around the speed of this legislative process meaning that multiple elements of good regulatory stewardship will not be undertaken [METIS 1342496 refers].
5. We are currently undertaking departmental consultation on the Cabinet paper separately. This will be completed by 13 March.
6. An update on the scope and timeframes for revising the licensing criteria in response to the Ministry for Regulation's ECE regulatory sector review is also provided in this report.

We are seeking your decisions on key issues, to be included in the draft ECE reform Cabinet paper

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¹ 9(2)(f)(iv)

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10. 9(2)(f)(iv)

² As per the Ministry's RIS attached in Annex 2.

³ 9(2)(f)(iv)

Proactively Released

9(2)(f)(iv)

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12. 9(2)(f)(iv)

13. 9(2)(f)(iv)

14. 9(2)(f)(iv)

14.1. 9(2)(f)(iv)

14.2. 9(2)(f)(iv)

15. 9(2)(f)(iv)

16. 9(2)(f)(iv)

Children's Act interface

17. 9(2)(f)(iv)

17.1. 9(2)(f)(iv)

17.2. 9(2)(f)(iv)

18. 9(2)(f)(iv)

Update on recommendation 9: revising the licensing criteria

19. A key component of recommendation 9 of the Ministry for Regulation's report is to revise 72 of the 98 licensing criteria for centre-based ECE services by merging, amending, and removing criteria, and replacing specific criteria with guidance.
20. The Ministry for Regulation's specific proposals provide a clear starting point for this project. We have undertaken scoping and planning work to confirm an approach for revising these licensing criteria.

Scope

21. This project will primarily focus on changes to the licensing criteria for centre-based services. This reflects the Ministry for Regulation's line-by-line review of the criteria for centre-based services. Corresponding changes will be made for licensed hospital-based services and home-based services where they have substantially similar criteria to centre-based services.
22. We consider that changes to licensing criteria for kōhanga reo (which are different to those for other service types) are currently out of scope. Kōhanga reo have a different process for changing their licensing criteria, as identified in the Waitangi Tribunal's report on the Kōhanga Reo Claim (Wai 2336). Te Kōhanga Reo National Trust also did not provide feedback on specific licensing criteria during the Ministry for Regulation's review in the way that other parts of the sector did. This means the starting point is different, as we are not starting with existing Ministry for Regulation recommendations.
23. Future changes to licensing criteria for kōhanga reo will become part of the Ministry's work programme. The Ministry will work closely with the Trust to make sure these changes are implemented effectively over a longer timeframe and will update you on these discussions in April 2025.
24. There are currently thirteen curriculum-related licensing criteria. The Ministry for Regulation recommended retaining two and moving eleven to guidance.
25. The curriculum-related recommendations come under Minister Stanford's portfolio responsibilities. As such, we will provide your office with a draft letter to Minister Stanford on 11 March seeking her confirmation of the approach for responding to the curriculum-related recommendations. This approach will broadly set out:
 - 25.1. The Regulations that set curriculum standards will remain unchanged, and these will continue to be the standard that support the broader curriculum reforms underway.
 - 25.2. Reducing these licensing criteria will remove duplication in the system and is intended to support a better functioning regulatory system.

9(2)(f)(iv)

26. 9(2)(f)(iv)

9(2)(f)(iv)

Risks

27. We are undertaking options analysis and impact analysis at pace. The timing and pace of this work limits quality assurance and means that elements of good regulatory stewardship and consultation will not be undertaken. These issues combined increase the policy failure and litigation risks associated with this work.

28. 9(2)(f)(iv)

29. 9(2)(f)(iv)

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32. 9(2)(f)(iv)

Next steps

33. The immediate next steps for the ECE reform Cabinet paper are summarised below:

Milestones for the ECE reform Cabinet paper	Date/s
Departmental consultation	7 – 13 March
Ministerial consultation	12 – 18 March
Final Cabinet paper to MO	19 March
Lodge Cabinet paper	20 March
EXP Committee meeting	25 March
Cabinet meeting	31 March
Issue drafting instructions to PCO	1 April

Annexes

The following are annexed to this paper:

Annex 1: Revised Cabinet paper – *Paper 2: Response to the Early Childhood Education Regulatory Sector Review*

Annex 2: Draft Regulatory Impact Statement – *Proposals responding to the ECE regulatory sector review*

Annex 1 and 2 withheld in full under section 9(2)(f)(iv). Final Cabinet paper and Regulatory Impact Statement can be found at the following weblink:

https://www.education.govt.nz/search?site_search_live%5Bquery%5D=CAB-25-MIN-0123

Proactively Released

Recommended actions

The Ministry of Education recommends you:

a. 9(2)(f)(iv)



i. **note** that this paper sets out a proposed timeline for Gazetting the revised licensing criteria by September 2025;

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Noted

- j. **note** that we will provide you with a draft letter to send to the Minister of Education seeking confirmation of the approach to revising licensing criteria as it relates to ECE curriculum which falls within her portfolio responsibilities;

Noted

Proactive Release:

- k. **agree** that this report is not released until final Budget and Cabinet decisions are made on the ECE reform work, with any information needing to be withheld done so in line with the provisions of the Official Information Act 1982.

Agree / Disagree

John Brooker

General Manager

Te Pou Kaupapahere

11/03/2025


Hon David Seymour

Associate Minister of Education

11/3/25