



Report: Proposed next steps for ECE reform

To:	Hon David Seymour, Associate Minister of Education		
Cc:	Hon Erica Stanford, Minister of Education		
Date:	4/02/2025	Deadline:	7/02/2025
Security Level:	Confidential	Priority:	High
From:	John Brooker General Manager	Phone:	9(2)(a)
Drafter:	Veronica Adams	METIS No:	1342496

Why are we sending this to you?

- Following the agency meeting with you on 29 January 2025, we seek your direction on the proposed timeframes for the delivery of the ECE reform work, set out in Annex 1.
- We also seek your agreement to discuss with Minister Stanford the approach for progressing the ECE reform legislation by 7 February 2025.

Key facts, issues and questions

- In December 2024, the Ministry for Regulation released their final report on their review of the ECE regulatory system. You accepted the 15 recommendations made in this report and indicated that you will progress these through Cabinet this year.
- At the agency meeting on 29 January 2025, the Ministry of Education, the Education Review Office (ERO) and the Ministry for Regulation proposed an implementation plan to you 9(2)(f)(iv).
- You indicated your agreement to the plan, but on a shorter timeframe for legislative and organisational change.
- This timeframe can be achieved only by removing a number of the steps required for legislative change as part of good regulatory stewardship, which presents a risk of future litigation and policy failure.
- This paper sets out the process and scope of decisions required for the ECE reform work, along with a proposed timeframe for delivery. We seek your agreement on this timeframe, and recommend you discuss the approach with Minister Stanford as the Minister responsible for the Education and Training Act 2020.

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. The report outlines proposed work to implement the recommendations from the Ministry for Regulation's ECE sector regulatory review. Protecting the safety, quality of care and education for children was a paramount consideration for the review, and the set of recommendations will improve the ECE regulatory system and help achieve better outcomes for children, their parents and whānau and society as a whole.

Background

2. Last year the Ministry for Regulation undertook a review of the ECE regulatory system to assess whether the regulations were achieving the right outcomes for ECE. The review involved extensive public consultation, including over 500 written submissions and direct engagement with stakeholders and officials. The final report was released in December 2024 and has been welcomed by a number of groups in the sector.
3. You accepted all 15 recommendations made in this report and indicated that these would be progressed through Cabinet this year.
4. At an agency meeting on 29 January 2025, you met with officials from the Ministry of Education (the Ministry), Ministry for Regulation, and ERO to discuss how best to progress this work. Officials outlined a proposed timeline which recommended policy decisions being taken in June 2023, legislation introduced later this year and enacted no later than 1 April 2025. You indicated that you wanted to progress this work on a much faster timeframe, through Budget night legislation.
5. 9(2)(f)(iv) [REDACTED]
6. The other key decisions from this meeting were:
 - 6.1. Progress legislative changes to implement the recommendations from the Ministry for Regulation's ECE regulatory review through Budget night legislation (this includes 1st reading at Budget night and referral to the Select Committee for a standard four month Select Committee process).
 - 6.2. that the Ministry to progress work on amending, consolidating and removing the licensing criteria as quickly as possible, to take effect from quarter three 2025.
 - 6.3. that the following priority actions be put into place, as part of the legislative process:
 - 6.3.1. Making clear the purpose, objectives and principles of regulating ECE service providers; and
 - 6.3.2. Introducing new graduated regulatory and compliance tools for the ECE system.
7. In view of the proposed legislative changes, you agreed to sequence work on some recommendations 9(2)(f)(iv) [REDACTED].
 - 7.1. *Review of the educator qualification and person responsible requirements*, noting that funding for qualified teachers is proposed for inclusion in the ECE Funding Review, as the funding system is the primary driver of demand for qualified and certificated teachers;
 - 7.2. *Establish a disputes resolution and appeals mechanism*, 9(2)(f)(iv) [REDACTED]

- 7.3. *Develop an action plan with home-based ECE services that responds to their specific regulatory concerns*, noting that this will be completed as part of a longer-term work plan with the home-based ECE sector.
8. We advised that the process for delivering the ECE reform work will require wide-ranging exemptions from the requirements for regulatory and legislative policy development, as well as prioritisation of agency resources. This includes a partial or full exemption from the Ministry for Regulation to the Impact Analysis Requirements.¹
9. We also advised you on the risks of accelerating this work programme, including not being able to consult on policy and design options with the ECE sector, and possible introduction of poorer quality legislation. This in turn creates a risk of successful litigation against the regulator and of policy failure, in that the regulator might be unable to discharge its functions.
10. In response to these risks, you agreed that the Ministry should consider where targeted or other engagement was possible on some of the proposed changes set out in this report.

Scope of decisions required to progress ECE reform

11. Given the truncated process for developing and deciding on policy and legislative proposals, there will be no time for public consultation or targeted engagement on the immediate legislative changes outlined below except through the Select Committee process. The major policy decisions needed for Budget night legislation would need to be taken by the end of March 2025.
12. There is a statutory requirement for public consultation on changes to the ECE licensing criteria. We can accommodate this and still gazette changes by the end of June 2025.
13. 9(2)(f)(iv) [REDACTED]
14. We are drafting a Cabinet paper for you which will seek decisions around the following:
- 14.1. Legislative changes:
- 14.1.1. Purpose, objectives and principles of regulating ECE service providers; ✓
- 14.1.2. Clarifying the role and functions of the regulator, including undertaking regular compliance monitoring; ✓
- 14.1.3. 9(2)(f)(iv) [REDACTED] ✓
- 14.1.4. Introduce new graduated regulatory and compliance tools; ✓
- 14.1.5. 9(2)(f)(iv) [REDACTED] ✓
- 14.2. 9(2)(f)(iv) [REDACTED] ✓
- 14.3. 9(2)(f)(iv) [REDACTED]

¹ The requirements are outlined in the [Cabinet Office Circular CO \(24\) 7: Impact Analysis Requirements](#).

- 14.4. Approval for the Associate Minister for Education to make any minor or technical decisions that may arise during the drafting process without referral back to Cabinet.

Outline of legislative process

15. To progress the changes through Budget night legislation, a separate Education and Training (ECE reform) Amendment Bill would be needed. Cabinet decisions and the timetable below are intended to support this Bill to be introduced on Budget night which will enable legislative changes as part of the ECE reform work. This process involves the following:
- 15.1. 1st reading and referral to Select Committee (Budget night);
 - 15.2. Four month Select Committee process (this would be the mechanism for undertaking public consultation on changes);
 - 15.3. Education and Training (ECE reform) Amendment Bill passed in October 2025; and
 - 15.4. Enactment date of the Education and Training (ECE reform) Amendment Bill is to be confirmed, subject to Ministerial Advisory Group consultation requirements.
16. A more detailed timeframe showing the actions required to progress this ECE reform legislation is outlined in Annex 1. A summarised implementation plan for ECE reform is set out in Annex 2.

Work to implement changes to the ECE licensing criteria

17. As previously discussed at the 29 January agency meeting, the work to revise the ECE licensing criteria (recommendation 9 of the Ministry for Regulation's report) does not require a change to the Education and Training Act 2020 and changes can be gazetted by the end of June 2025.
18. We have already begun this work, and these changes will run in parallel to the other actions in the ECE reform work, including policy and legislative timeframes and processes.
19. Revising the ECE licensing criteria requires a statutory public consultation process, approval and gazetting as prescribed by the Education and Training Act 2020. These changes can be agreed by you in your capacity as the Associate Minister of Education. We recommend that any changes to licensing criteria associated with the Curriculum Standard are discussed and agreed with the Minister of Education.

9(2)(f)(iv)

20. 9(2)(f)(iv)

21. 9(2)(f)(iv)

Risks

22. Overall, the speed of the legislative process means that multiple elements of good regulatory stewardship will not be undertaken. These are set out in a range of government guidance

documents issued by central agencies and mandated in section 5 of the Cabinet Manual. They include options analysis, impact analysis, cost-benefit analysis and due diligence.

23. Legislative drafting will also be undertaken at speed and with minimal opportunities for quality assurance.
24. The substantive risks that these present are of policy failure and litigation. If the powers of the regulator are not correctly drafted, then this may mean that the regulator 9(2)(f)(iv) loses a future case taken by an ECE service and the policy cannot be implemented without further legislation to correct the error. This could present risks to the objectives of ECE regulation, ie. child protection, and provision of a stable operating environment for ECE businesses.
25. The primary mitigation for these risks is to allow adequate time to consult regulated parties on specific proposals, and to provide for better analysis and quality assurance by officials, legal advisors and legislative drafters. This mitigation is not possible in the timeframe proposed.
26. There are also process risks including a negative assessment of our Regulatory Impact Analysis². This presents a precedent risk in that future regulatory processes across government may also seek to circumvent key elements of good regulatory stewardship.
27. We will be working with the Ministry for Regulation to seek exemptions from a number of elements of the relevant requirements.

Financial implications

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

Next steps

29. The following actions are required by your office to meet work programme timeframes. Any delays to timeframes will compromise the ability for us to be able to deliver the ECE regulatory reform work within your desired timeframe. The actions are set out in the table below:

Deadline	Actions required
7 February	Agree with Minister Stanford to separate the Education and Training (ECE reform) Amendment Bill to be introduced and passed in 2025 and submitted as part of a Legislation bid by 10 February. ³
7 February	Agreement with Minister of Finance office and Leader of the House office to urgent Budget night legislation. This involves prioritising the introduction of the Education and Training (ECE reform) Amendment Bill, 1 st reading and referral to the Select Committee on Budget night. It also gets agreement, via the Leader of the House, to prioritise the order paper for key stages of the legislative process.
7 February	Agreement from Attorney-General's office for prioritisation of Parliamentary Counsel Office resource for drafting the Education and Training (ECE reform)

² This could either be in the Cabinet paper itself or in a section 55 report by the Ministry for Regulation under CO (24) 7.

³ The Ministry can submit an extension of Legislation bids until 10 February.

	Amendment Bill in the timeframes required in time for introduction on Budget night.
28 February	Agreement with the Minister of Finance's office for support regarding the fiscal changes that will be required through Budget 2025.
28 February	Agreement with the Minister of Justice's office for reduced Bill of Rights Act 1990 vetting timeframes as part of the Education and Training (ECE reform) Amendment Bill.

Annexes

The following are annexed to this paper:

Annex 1: Timeframe for legislative delivery of ECE reform work

Annex 2: Implementation plan for ECE reform work
 Withheld in full under section 9(2)(f)(iv) of the Act

Recommended actions

The Ministry of Education recommends you:

- a. **note** that at the agency meeting on 29 January 2025 you made decisions on the direction of the ECE reform work, as outlined in paras 5 to 10 of this report;

Noted

- b. **agree** to the timeframes for delivery of the ECE reform work, which is set out in Annex 1;

Agree / Disagree

- c. **discuss** and agree with Minister Stanford the approach for progressing the ECE reform legislation by 7 February 2025;

Agree / Disagree

Proactive release:

- d. **agree** that this report is not released until final Budget and Cabinet decisions are made on the ECE reform work.

Agree / Disagree

John Brooker

General Manager

Te Pou Kaupapahere

Hon David Seymour

Associate Minister of Education

04/02/2025

12/2/25

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The risks are mitigated by the extensive consultation done as part of the sector review.

Bills Bill for Leg. is already submitted by MPR as part of sector review process.

Annex 1: Timeframe for legislative delivery of ECE reform work

Timings	Milestone	Ministry comment (actions; decisions)
February		
3-7 Feb	<ul style="list-style-type: none"> Paper to Minister Seymour seeking agreement to timeframe for delivery (4 Feb) – copied to Minister Stanford Policy work begins on decisions required for March Cabinet paper 	<ul style="list-style-type: none"> Agreement between you and Minister Stanford regarding separate ECE Reform Amendment Bill and who would submit a bid for this on the legislative programme No other ECE regulatory policy work occurring between now and May (includes Blue Card advice)
10-13 Feb	<ul style="list-style-type: none"> Legislation bids submitted with an Education and Training (ECE reform) Amendment Bill included to be introduced and passed in 2025 (10 Feb) Report to you confirming scope of decisions for Cab paper inclusion (but not detailed decisions) (13 Feb) Policy work continues on decisions required for March Cabinet paper 	<ul style="list-style-type: none"> Separate Education and Training (ECE reform) Amendment Bill included in legislative bid submitted on 10 Feb by your office or the Minister of Education's office Policy advice will not include options development (advice on best way to deliver changes)
17-21 Feb	<ul style="list-style-type: none"> Policy work continues on decisions required for March Cabinet paper 	
24-28 Feb	<ul style="list-style-type: none"> Policy work continues on decisions required for March Cabinet paper 	
March		
3-7 March	<ul style="list-style-type: none"> Report and draft Cabinet paper to you for review (3 March) You and Minister Stanford meet to discuss paper 9(2)(f)(iv) [REDACTED] (5 March) You receive revised Cabinet paper (7 March) and joint departmental and Ministerial consultation starts 	<ul style="list-style-type: none"> No Report ahead of time with detailed policy advice Alignment of Minister of Education, Associate Minister of Education, Minister of Finance 9(2)(f)(iv) [REDACTED]
10-14 March	<ul style="list-style-type: none"> Joint departmental and Ministerial consultation ends 13 March) Ministry incorporates consultation feedback (14-18 March) Cabinet paper to you for lodging (19 March) 	<ul style="list-style-type: none"> No or only partial RIA is required plus exemption from requirements for Supplementary Analysis or Post Implementation Review requirement Assumes Public Service Commission, Treasury and Ministry for Regulation have been involved in process and raised

		feedback ahead of time as well as waived standard compliance requirements
17-21 March	<ul style="list-style-type: none">Lodge paper for Cabinet Social Outcomes Committee (SOU) (20 March)	
24-28 March	<ul style="list-style-type: none">SOU Committee (26 March)	<ul style="list-style-type: none">To meet the deadline and give time for policy decisions to be taken this paper would need to go through SOU, as opposed to EXP.
April		
31 March – 4 April	<ul style="list-style-type: none">Cabinet approves paper (includes policy decisions on Education and Training (ECE reform) Amendment Bill, funding 9(2)(f)(iv) changes required) (31 March)Drafting instructions issued to PCO (only 17 working days for drafting) (31 March to 25 April)Drafting of Cabinet paper for Legislation Committee (LEG)	<ul style="list-style-type: none">Delegation of any subsequent policy decisions to Minister of Education, Associate Minister of Education, 9(2)(f)(iv)9(2)(f)(iv)Assumes PCO can draft a Bill of this size and complexity in 17 working days (25 calendar days)⁴Recess period - may require urgent access to Ministers for delegated decisions to support drafting
7-11 April		
14-18 April (Good Friday)		
21-25 April (Easter Mon & ANZAC)		
May		
28 April – 2 May	<ul style="list-style-type: none">Joint Departmental and Ministerial consultation (28 April-2 May)⁵28 April-2 May – Bill of Rights Act 1990 (BORA) vet by Ministry of Justice (5 days)⁶	<ul style="list-style-type: none">Ministry of Justice agrees to undertake BORA vet in 5 days rather than 10 days
5 – 9 May	<ul style="list-style-type: none">Final LEG Cabinet paper and Bill to MO (6 May)Lodge LEG Cabinet paper (8 May)	
12 – 16 May	<ul style="list-style-type: none">LEG Cabinet paper (15 May)	
19-23 May (Budget day 22 May)	<ul style="list-style-type: none">Cabinet approves Bill (19 May)Budget night legislation introduced, first reading and referred to Education and Workforce Select Committee (22 May)	<ul style="list-style-type: none">Priority for Budget night legislation is given (requires discussion with Leader of House and Minister of Finance and agreement to priority and fiscal implications)

⁴ PCO advice is that for a Bill of 50 clauses of medium size and complexity, which this is likely to be, 90 days is the standard for drafting.

⁵ Agency consultation will only be with central agencies – PSC, Treasury, Ministry for Regulation.

⁶ BORA vet is generally 10 working days.

<i>May – September</i>		
26 May – 26 September	<ul style="list-style-type: none"> • Four-month Select Committee process begins⁷ 	<ul style="list-style-type: none"> • Minimum amount of time and will be key mechanism for public consultation
<i>October</i>		
October	<ul style="list-style-type: none"> • 2nd Reading • Committee of the whole House • 3rd Reading • Royal Assent 	<ul style="list-style-type: none"> • House time and priority

⁷ Education will have three Bills being considered by Select Committee at the same time: Education and Training Amendment Bill 2, Education (Vocational Education and Training) Amendment Bill and ECE reform Amendment Bill.