

Consultation on tranche two of the Early Learning Regulatory Review:

Strengthening the person responsible
requirement for home-based services

SEPTEMBER 2021

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How to have your say

If you want to provide feedback on the proposals in this document, you can complete a survey in English [here](#), or in te reo Māori [here](#). You can also send a more detailed written submission to either Earlylearning.Regulatoryreview@education.govt.nz or this postal address:

Early Learning Regulatory Review (Tranche two - home-based services)
Ministry of Education
PO Box 1666
Wellington 6140

The Ministry of Education requires feedback by 13 October 2021.

If you have any questions about making a submission, or would like more information, please email Earlylearning.Regulatoryreview@education.govt.nz

Process

The information provided in submissions will be incorporated into the Ministry's policy development process and will inform advice to the Minister of Education.

Your submissions will become public information. This means that a member of the public may ask for a copy of your submission under the Official Information Act 1982. Any submission summary we create as a result of this consultation may also mention your submission. Please tell us if you do not want your name included.

Please also set out clearly in the cover letter or email accompanying your written submission if you have any objection to the release of any information in the submission. It would also be helpful if you outlined which parts you consider should be withheld, together with the reasons for withholding the information. The Ministry will take this into account and will consult with submitters when responding to requests under the Official Information Act and if a summary of submissions is published.

Introduction

What is home-based ECE?

Licensed home-based early childhood education (ECE) is delivered in private homes by educators working with one to four children. In licensed home-based services a qualified, registered and certificated ECE teacher, called the co-ordinator or 'person responsible,' also visits homes to support these educators and oversee the education and care of the children. This makes it unlike other parts of the early learning sector, since the educators instead of teachers have a greater day-to-day role in children's education and care.

These points of difference are an important contributor to the diversity of providers in the early learning sector, and they enable home-based ECE to provide benefits including greater flexibility for parents and whānau, low adult to child ratios, and smaller group sizes. The flexibility home-based ECE provides often caters better to children and families where English is a second language, since it allows parents greater scope to choose an educator who shares their first language and culture.

How do we regulate and fund home-based ECE?

There are three tiers to the regulatory framework for all licensed early childhood services, including licensed home-based services:

1. The Education and Training Act 2020 defines service types and empowers regulations and criteria to be developed.
2. The Regulations, as set out in the Education (Early Childhood Services) Regulations 2008, establish the licensing process and set the minimum standards that all services must follow.
3. The third tier, the licensing criteria, are used to assess compliance with the minimum standards set out in the regulations.

Under the regulatory framework, the Ministry of Education subsidises the cost of home-based ECE through funding provided to home-based ECE services. The two funding rates used to provide this are the higher quality funding rate, and the minimum standard funding rate. The higher quality funding rate relies on requirements additional to those in the Regulations, set in the ECE Funding Handbook (as above).

Last year the Government agreed to phase in requirements for educators to be qualified that apply to each funding rate over five years, which we are consulting on separately (see [here](#)). These requirements are being consulted on separately because they have already been agreed to and are on a different timeframe, with amendments to the Regulations set to be in place from 1 January 2022.

What changes have been previously agreed?

In addition to the new qualification requirements, following the 2018 Review of Home-based Early Childhood Education, the Government agreed to other proposals aimed at improving quality in this part of the sector. These included a package of proposals focused on strengthening the role of the co-ordinator or 'person responsible' in home-based services (also commonly referred to as the visiting teacher).

The sector, educators, service providers, visiting teachers/co-ordinators, parents, whānau, and others provided feedback on these proposals to strengthen the role of co-ordinator/person responsible, which were supported by the majority of respondents. One proposal to increase how regularly the co-ordinator or person responsible visits was not supported, however. You can read more about these proposals and the level of support for them from this earlier consultation in the Home-based Review's Final Consultation Report (available [here](#)).

Following the analysis of consultation feedback, these proposals focused on strengthening the role of the co-ordinator/person responsible in home-based services were agreed to:

- require more consistent educator:person responsible relationships
- require the person responsible not to act across multiple licences at the same time
- better articulate the role, for example, by requiring more training or support to be provided to educators by the person responsible
- change the title of the person responsible (also referred to as the co-ordinator) to visiting teacher.

It was originally anticipated that these proposals aimed at strengthening the role of the co-ordinator/person responsible required changes to the Regulations. While the Government did agree to amend the Regulations on this basis in January 2019, further work was required, and approval to the exact changes and drafting has not yet been sought.

Before the exact changes are decided, we will consider your views as part of this consultation. We will also consult on draft regulations for these changes following this consultation and once they are available.

What changes are we consulting on?

Reviewing the Early Learning Regulatory System

At present we are consulting on a number of proposals as part of part of the Early Learning Regulatory Review. The overall purpose of this Review is to ensure that the regulatory system for the early learning sector is clear and fit for purpose to support high quality educational outcomes. This review is timely due to significant changes in the sector since the current regulatory system was established in 2008, and following on from actions in *He taonga te tamaiti: Every child a taonga* Early Learning Action Plan 2019-2029 and the 2018 Review of Home-based ECE.

Proposals for Home-based ECE

We are consulting on four proposals designed to strengthen the role of the co-ordinator/person responsible. The proposals give greater weight to what we expect from existing requirements under the Regulations, particularly in relation to supervision and professional leadership, and they align with the package of earlier proposals designed to strengthen the role following the 2018 Review of Home-based ECE. They also further develop a couple of related proposals from the Review on services' licence size and the geographic area in which they operate.

The proposals to strengthen the role are to require:

- home-based persons responsible to hold a Category One or Two practising certificate (**Proposal 1**)
- home-based persons responsible to be "locally based" (**Proposal 2**)
- home-based persons responsible to be limited to a single service's licence at a time, with an increased maximum licence size (**Proposal 3**)
- home-based persons responsible to support educators' professional development when contacting and visiting them (**Proposal 4**)
- home-based persons responsible to guide and observe the curriculum delivery during home visits (**Proposal 5**).

For further context, **Proposal 1** is also intended to apply to teacher-led centre-based and hospital-based services, as outlined in a separate consultation (see [here](#)).

Proposals 2 - 5 are specific to home-based ECE. These proposals centre on strengthening the supervision and professional leadership elements of the role, which are specific to the home-based person responsible/co-ordinator.

Proposal 1: Person responsible to hold a Category One or Two practising certificate

The problem

At present, the Education and Training Act 2020 outlines that anyone holding a teaching position must hold a current practising certificate. While this extends to persons responsible in home-based and other service types under the Regulations, the exact type of practising certificate they should hold is not specified. At the same time, the Teaching Council of Aotearoa New Zealand uses four practising certificate types.¹

Because the type of practising certificate required by persons responsible is not currently specified, recent graduate teachers or teachers without recent teaching experience can act in the role. This is because they may hold a provisional or 'returning to teaching' practising certificate, meaning they do not have recent teaching experience, and are also is not fully endorsed as meeting or likely to meet the Teaching Council's *Standards for the Teaching Profession | Ngā Paerewa*.

Proposed changes

We propose requiring persons responsible in home-based services to hold a Category One (*Tiwhikete Whakaakoranga Tūturu*) or Category Two (*Tiwhikete Whakaakoranga Pūmau*) Full Practising Certificate. We consider this change ensures educators are supervised by sufficiently experienced persons responsible/co-ordinators, which is especially important for home-based services where the person responsible has an explicit professional leadership role.²

Although we consider this change will benefit the quality of home-based ECE, including relationships between persons responsible and educators, it could impact on the sustainability of some services. This could occur in particular areas or types of home-based services where it may be difficult to attract experienced and qualified teachers into the person responsible role. Because of this, we are interested in your views on this proposal and how we could better ensure that persons responsible are sufficiently experienced.

Questions

1. Do you agree that the home-based person responsible role should be limited to experienced teachers who hold a Category One or Two practising certificate?
2. If you disagree, how could we still ensure that the home-based person responsible has the right level of teaching experience to be a professional leader?
3. Do you also think other types of non-teaching experience should be considered for the role?

¹ This is based on the current practising certificate types detailed here on the Teaching Council's website: <https://teachingcouncil.nz/getting-certificated/getting-started/what-is-registration-and-certification/>

² This is outlined in the definition of 'person responsible' for home-based services in the Regulations. See Education (Early Childhood Services) Regulations 2008, [reg 3 – Interpretation](#).

Proposal 2: Persons responsible to be 'locally based'

The problem

Under the Regulations, the home-based person responsible is responsible for overseeing the education and care, comfort, and health and safety of children, and provides that oversight or supervision at the same ratio as for teacher-led centres.³ However, despite this, their supervisory role can be unclear, because it does not specify whether they should be providing supervision in relation to a particular area or location. This is likely because they are not ordinarily present in the homes in the service, unlike the educators that have a greater day-to-day role in the education and care of the children.

Under regulation 28(2), the home-based person responsible also holds specific responsibilities to contact and visit each educator in the service, fortnightly and monthly, and take all reasonable steps to observe each child each month. Because these responsibilities are more specific than the general ones relating to supervision or oversight, home-based services and the person responsible can adopt narrow understandings of what is required based solely on regulation 28(2). For example, where services have a person responsible that travels extensively just to fulfil the regulation 28(2) requirements. These approaches, in turn, reduce the time the person responsible has to support and work with educators.

Proposed changes

We are proposing that the home-based person responsible be 'locally based' to better support their existing supervision or oversight function. This proposal further develops on from the Review of Home-based ECE, which proposed a more restrictive limit on the geographic radius where a service could operate.

While this locally based proposal could also be similar to the existing requirement for all services to have a contact person who 'resides locally,' we consider greater flexibility is beneficial. This is because the person responsible role is different to that of the service provider contact person, who represents the service's management in dealings with local Ministry offices on licensing issues. We are not proposing to change the requirements for the service provider contact person at this time.

We consider two different approaches could be used to require the person responsible to be locally based:

- require they reside in the same territorial authority/territorial authorities as the homes in the service, as listed in Part 2 of Schedule 2 of the Local Government Act 2002; or,
- require they live within 'reasonable travel time' of the homes, which could be defined as within up to four hours or a shorter time period.

Because we have not settled on a strict interpretation of what 'locally based' might mean in the context of the Regulations, we are also interested in gathering your views as part of this consultation

Questions

4. Do you agree the home-based person responsible should be 'locally based' in relation to the homes in the service?
5. Do you think a geographic requirement linked to territorial authorities, or one based on a 'reasonable travel time,' is most appropriate as a definition for locally based?

³ This is provided for in [Regulation 44\(1\)d](#), which requires a ratio of one person responsible to every 50 children. Note: this is the ratio relating to the person responsible, not the Adult-to-child ratios covered elsewhere in the Regulations.

6. Do you think 'locally based' should mean the same whether it relates to an urban or rural area?
7. Alternatively, are there any other factors that you consider would warrant different requirements for certain home-based services?

Proposal 3: Persons responsible to be limited to a single licence at a time, with an increased maximum licence size

The problem

As outlined in Proposal 2, under the Regulations, the home-based person responsible is responsible for overseeing or supervising the education and care, comfort, and health and safety of children. However, their supervisory role can also be unclear because it is not licence-specific, i.e. specific to one licence and those educators and children on that licence.

The requirements of the person responsible under regulation 28(2), to contact each educator fortnightly and visit monthly, are also by extension not licence or person specific. This can be problematic because home-based services are able to choose to regularly divide up or move persons responsible between different licences. While this is likely done for efficiency and to minimise the costs of compliance, it can mean meaningful relationships between them, educators and children can be difficult to develop.

Proposed changes

We are proposing to strengthen oversight or supervision from the person responsible through some restrictions on the licences they can work on. By restricting them from regularly working across multiple licences over a defined period, including potentially on more than one licence simultaneously, we expect to ensure greater continuity between educators and persons responsible, and to minimise the unclear division of responsibility that can occur when the role is not licence specific.

What we are proposing is for the person responsible to be rostered on a single licence of a single service provider for not less than a month, unless the service had a demonstrated need to change the person responsible earlier (e.g. due to a justifiable absence). If the service did have a demonstrated need to change the person responsible within a month, they could then use a backup person who could also only be rostered to work on that licence (i.e. to avoid them working on more than one licence simultaneously).

Since we recognise this change may restrict how freely services could operate, we also propose to increase the maximum licence size from 80 to 100 children with two persons responsible. This option provides some scope for services to expand in case any restrictions on what licences the person responsible can work on reduces their flexibility. The increase also addresses an inconsistency between the 1:50 person responsible to child ratio and the current maximum licence size,⁴ which can cause services to have higher staffing by default (i.e. a ratio higher than 1:50).

Questions

8. Do you agree the home-based person responsible should work on a single licence over a defined period (i.e. a month), which would also clarify they cannot work on more than one licence at once?
9. Do you foresee any issues in relation to this restriction that are not addressed in the proposal?
10. Do you think the associated licence size increase sufficiently addresses any drawbacks with restricting the home-based person responsible to a single licence?

⁴ The inconsistency was introduced when home-based services' 80-child maximum licence size was carried over from the Education (Home-Based Care) Order 1992 to the Education (Early Childhood Services) Regulations 2008, which introduced the 1:50 person responsible to child ratio for services.

Proposal 4: Persons responsible to support educators' professional development when contacting and visiting them

The problem

Under the Regulations the home-based person responsible has primary responsibility for providing professional leadership and support to educators in the service. This responsibility is separate from, and additional to, their oversight or supervision responsibilities in relation to educators and children.⁵ However as with supervision, what is meant by providing professional leadership is not well-defined. As a result, a person responsible could provide minimal professional leadership due to the ambiguity of this requirement.

Where a person responsible provides less or more limited professional leadership to educators, it would be detrimental those educators' development and have an impact on children's education. Without this support, educators likely miss out on opportunities to seek advice or feedback from an experienced ECE teacher, and on other opportunities the person responsible may provide to further their learning and development (e.g., resources and courses).

Proposed changes

We are proposing to strengthen the professional leadership provided by the home-based person responsible by requiring them to support educators' professional learning and development in the course of working with them. This change supports raising the quality and effectiveness of home-based educators, and would be linked to the contact and visiting requirements of the person responsible under regulation 28(2), so that it is linked to their specific and existing responsibilities.

Examples of what we might expect the person responsible to provide through this change would include sharing resources, written details on conversations or visits with educators, training, and documented development plans for educators. These details may sit in Licensing Criteria not the Regulations.

Questions

11. Do you agree that the quality and frequency of professional development provided to educators impacts on educational outcomes for children?
12. Do you agree the requirement for the home-based person responsible to provide professional leadership should be more explicit, by linking it to their work with educators as already required under the Regulations?
13. Do you think this more explicit requirement to provide professional leadership might detract from anything else the home-based person responsible may do when contacting and visiting educators?
14. How do you think the home-based person responsible could demonstrate providing professional development to educators in the course of contacting and visiting them?

⁵ This is outlined in the definition of 'person responsible' for home-based services in the Regulations. See Education (Early Childhood Services) Regulations 2008, [reg 3 – Interpretation](#).

Proposal 5: Persons responsible to guide and observe the curriculum delivery during home visits

The problem

As outlined in Proposal 4, the professional leadership the person responsible is supposed to provide is not clearly linked to their work with educators as required under the Regulations. This is despite the Regulations placing primary responsibility for providing professional leadership and support to educators in home-based services on the person responsible. As a result, when the person responsible does visit, the educators, who have the greatest day-to-day role in the education and care of the children, may not always receive the necessary level of professional leadership and support they need.

Alongside the detrimental effects this could have on educators' development outlined in Proposal 4, this could also impact on their curriculum planning and delivery in a way that negatively affects children's learning and development. Under regulation 28(2), the home-based person responsible is also only required to take all reasonable steps to observe each child receiving education and care, which does not imply that the person responsible provide any sort of proactive guidance on the curriculum delivery in the home.

Proposed changes

We are proposing to strengthen the professional leadership provided by the home-based person responsible by linking in-home visits required under regulation 28(2). During these visits, the person responsible would be required to guide and observe educators' curriculum delivery when children are present, in line with the curriculum framework. This proposal strengthens professional leadership and development for the educators that have the greatest role in the education of the children in their care.

While the curriculum framework currently includes the principles and strands of *Te Whāriki*, the Ministry also plans to gazette the goals and learning outcomes of *Te Whāriki* under the Early Learning Action Plan.

Questions

15. Do you agree the home-based person responsible should have a more specific role in guiding and observing the curriculum delivery during home visits?
16. Do you agree this proposal should be linked directly to the curriculum framework, and if not, why?



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