

Summary:

Implementing the new network management function for early learning services

The new network management function

From 1 August 2022 if you want to operate a new licensed early childhood service you will need to seek network management approval from the Minister of Education before you apply for licensing.

Network management approval is set out in sections 17 and 18 of the Education and Training Act 2020 (the Act).

There are two key parts to network management that an applicant must demonstrate:

1. That there is a need for a new service of the type and location you are offering
2. That you are suitable, including fit and proper, capable to provide a service and have sufficient finances.

Proposals to implement the new network management function for early learning services

We are seeking your feedback on the following additional proposals to help finalise all the details for network management. Some of these proposals are necessary because they are part of implementing the existing provisions in the Act and some of them are new to support a more efficient and effective network management system.

Proposal	Description
1. National and Regional Statements	The publication of National and Regional Statements would outline strategic priorities for government, identify areas of undersupply and provide additional information about legislative requirements. The Statements support applicants to know where new services are required.
2. Te Tiriti o Waitangi	One of the purposes of the Education and Training Act 2020 is “to establish and regulate an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships.” Our initial proposals would prioritise: <ul style="list-style-type: none">• analysis of the current provision of te reo Māori pathways in early learning• establishment of new Māori immersion and Iwi-led early learning services, such as kōhanga reo)• interests of Māori in particular applications for approval, for example where they may be subject to Treaty settlement agreements.
3. Changes to fit and proper	The changes to the fit and proper assessment would ensure it is consistent with other sectors and in line with best practice. The proposed changes require: <ul style="list-style-type: none">• clarifying the fit and proper test applies to both the applicant and every person involved in the governance of the proposed service• consideration of all personal convictions of an applicant and any governance members relevant to providing an early learning service• consideration of any relevant convictions of an organisation that an applicant or governance member has been associated with.

4. Assessing financial position and licensing history	<p>The Education and Training Act requires the Minister of Education to consider financial position and licensing history as part of the network management assessment.</p> <p>We propose requesting financial information and/or a business plan to show how sufficient finances would be attained to achieve licensing.</p> <p>For licensing history, we propose to ask for a list of services that the applicant has been in control of or had any role as governing member.</p>
5. Capability to deliver the service	<p>This new capability requirement would require the Minister to consider matters such as the applicant's understanding the regulatory framework for early learning services and specific expertise to deliver the type of service the applicant is proposing to offer.</p>
6. Setting of conditions	<p>The introduction of conditions to any network management approval granted by the Minister of Education would ensure that the applicant moves towards licensing and keeps the Ministry updated on progress. These conditions could specify:</p> <ul style="list-style-type: none">• matters that the application for network approval has relied on such as the nature or size of the service proposed and the site (if known)• a requirement to provide regular updates to the Ministry on milestones and progress• a requirement to notify any significant changes in circumstances. <p>Failure to meet conditions could result in the network approval being revoked by the Minister.</p>
7. Challenging decisions	<p>Applicants should have a right to challenge a decision that could affect the proposed new service or any existing service the applicant may operate.</p> <p>We are proposing two separate ways to challenge decisions:</p> <ul style="list-style-type: none">• Decisions of the Minister of Education not to approve an application for network management would only be reviewable through the existing judicial review pathway• There would be a new right of appeal in the District Court in respect of a determination by the Secretary for Education that the applicant is not fit and proper and/or financially viable.
8. Extensions	<p>We propose making it more explicit when extensions to network management approval are likely to provide more clarity for applicants. We propose that extensions are considered only where:</p> <ul style="list-style-type: none">• The area was subject to a natural disaster.• For new builds, the building is nearly complete, but there is unavoidable delay beyond the applicant's control (for example, delays in construction materials).• There are other exceptional circumstances beyond the applicant's control (for example significant vandalism to the building or site).
9. Network Approval Fees	<p>For network approval applications we propose a minimal fee of around \$500 (plus GST) be introduced to partially recover costs incurred by the Minister of Education and Ministry of Education to assess each application. A fee is also intended to discourage people from submitting holding applications that may block others from receiving network management approval.</p>

How to have your say

You can find the full discussion document on [Kōrero Mātauranga](#). If you want to provide feedback on the regulations, 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
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