

Kindergartens Aotearoa

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Committee Secretariat
Education and Workforce Committee
Parliament Buildings
Wellington

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Education and Training (Early Childhood Education Reform) Amendment Bill

Thank you for the opportunity to provide feedback on the Education and Training (Early Childhood Reform) Amendment Bill. We are a collective of community-based, not-for-profit early childhood education (ECE) service providers operating 260 licensed services across the country¹ catering for over 12,000 tamariki and whānau each day. We have considerable experience working with regulation across government institutions, regional councils and territorial authorities.

Introducing the bill, the Minister for Regulation and Associate Minister for Education David Seymour said of the proposed legislation “... critically, there's the principle that the regulation should be done in such a way that it is the least impact—that it's proportional to the purpose.” The minister advised the bill sets out “... the purpose of regulating early childhood education (ECE) and ... that the Education Review Office (ERO) will be in charge, instead of the Ministry of Education.”²

In effect, the bill positions ECE as a cost not an investment, and has the potential to:

- reduce quality provision and further undermine minimum standards;
- undermine the confidence of parents, whānau and the community in our ECE provision;
- ignore research evidence related to teaching and learning to limit costs to providers;
- introduce a narrow regime of compliance as the focus of service provision;
- shift early childhood education out of education;
- position ECE as primarily a function of the labour market.

¹ Our services are located in communities on the Hibiscus Coast north of Auckland, Coromandel, Bay of Plenty, Murupara, Wairoa, Napier, Taranaki, Whanganui, the Central Plateau, Horowhenua, Wairarapa, Whanganui-a-Tara, the Christchurch metropolitan area and greater Canterbury district, the West Coast, and Central and Southern Otago.

² 31 July 2025 <https://www.beehive.govt.nz/release/ece-reform-gives-sector-rights-and-regulator-purpose>

We urge the committee to reject the bill in its current form and recommend further work be undertaken in collaboration with the sector to agree:

- the purpose of ECE regulation; and
- the most effective way to ensure regulation supports the provision of high-quality early childhood education for every child; and
- the most appropriate settings to ensure transparency and accountability for the use of public funds.

Our submission focuses on the proposed purpose of the bill, and the role and function of the Director of Regulation.

1 Benefits of quality early childhood education

The minister stated “Early childhood education is one of, arguably the most, important sectors that the Government is responsible for.”³ We agree.

“All children are born with immense potential. Quality ECE helps our children begin to realise that potential and build a strong foundation for later learning and for life ... [ECE] standards are amongst the highest in the world and almost all of our children are participating and benefitting from a rich array of relationships and experiences [in ECE].”⁴

The Ministry of Education notes “For all children to benefit, the early learning system must provide high quality experiences across a range of provision types valued by parents and whānau.”⁵ The Ministry of Education sites multiple studies evidencing the benefits of young children and whānau participating in ECE ⁶. The research shows:

- links to better social outcomes for children when they are older such as higher earning, reduced reliance on welfare programmes and lower crime rates;
- better education and vocational gains and a reduction in social inequalities in academic performance in adulthood;
- for children with low socio-economic backgrounds better social interactions, emotional maturity, and better learning abilities;
- better social and emotional skills before starting school and children performing better in maths, reading, communication and logical problem solving during their primary and adolescent years.

The evidence clearly shows the benefit of participation in quality ECE is both a private and a public good in the same way as participating in primary and secondary education is. The benefits relate directly to the outcomes the government is looking to achieve across the education system.

³ https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansD_20250731_20250731

⁴ Ministry of Education (2017) *Te Whāriki. He whāriki mātauranga mō ngā mokopuna o Aotearoa. Early Childhood Curriculum*. p2

⁵ Ministry of Education (2019) *He Taonga te Tamaiti. Early child a taonga. Early learning action plan 2019 - 2029. Summary*

⁶ https://www.educationcounts.govt.nz/_data/assets/pdf_file/0003/208713/Early-learning-participation-Indicator-report.pdf

The benefits of quality early childhood education are no ‘accident’ nor do they happen by chance. Benefits are directly related to the policy and regulatory settings introduced over time to create and support the conditions necessary to realise those benefits for tamariki, whānau, communities and for society.

2 Purpose of regulation

The purpose of current ECE regulation is to: ⁷

‘... 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 bill proposes the purpose of regulation be significantly changed to: ⁸

‘ ... regulate an early childhood education system to—

- (a) set and implement minimum standards to provide for quality early childhood education that allows children to establish strong foundations for learning, well-being, and life outcomes; and
- (b) support the choice of parents and caregivers to participate in the labour market.’

The purpose is narrowed and the interests of children are no longer the primary focus. While the bill also proposes objectives, it is the revised purpose of regulation that decisions will be based on. The purpose implies standards could be minimised in order to support participation in the labour market. Standards are based on wide-ranging research evidence of the structural and process quality factors that need to be in place to optimise children’s learning.

Revising the purpose of ECE regulation in legislation was not part of the original terms of reference for the review and we understood from the Ministry of Regulation that it was ‘not up for debate’ as part of that process.

Regulations are in place to ensure the legislative purpose and the policy governing the sector is reflected, maintained and adhered to by licensed service providers. Changes to or through regulation should not become a defacto policy setting process.

Children must remain the central purpose of ECE regulation. Not to do so, places children’s wellbeing and learning at unacceptable risk. The best interests of children must be the priority for regulatory settings and take precedent over any other matter.

⁷ Education and Training Act 2020. Part 2 Early childhood education. Sec 14 Purpose of Part 2

⁸ Education and Training (Early Childhood Education Reform) Amendment Bill. Part 1 Amendments to Principal Act. 5 Section 14 replaced (Purpose of Part 2)

Participation in the labour market

Facilitating participation in the labour market is not the sole purpose of ECE provision. While it may have been perceived to be the case in the 1970's, we have moved on - quality education is viewed as a child's right and we have come to understand the short and long-term benefits of high quality ECE for children, for whānau, and for society. Participation in ECE does not come at any cost - parents and caregivers do not want to trade-off the quality of service against cost, and it is unreasonable to expect they would.

As service providers operating across diverse communities, we are aware of the need of parents and caregivers to access ECE, particularly if they are in paid employment or training. The need to access services however is aligned to parents and caregivers wanting the very best for their tamariki regardless of where they live or what job or training they are engaged in.

The current regulations recognise the 200,000 plus children attending an ECE service every day - regardless of why they are there or household circumstance - are entitled to the same conditions. Regulation ensures that is the case.

3 Director of Regulation

In our submission to the regulatory review in August last year, we stated the current ECE regulations are broadly fit-for-purpose, and that it is the interpretation and application of the ECE and wider regulations that is problematic and can be 'burdensome' for service providers. While the proposed establishment of a Director for Regulation may appear to be the solution, we are deeply concerned about the implications of the role.

Proposed new section 27 sets out the functions, duties, powers and principles guiding the performance of the Director of Regulation.

27A The Secretary for Education appoints the director, who may or may not be a current ministry employee. What is the 'appropriate experience and expertise to perform and exercise the functions, duties and powers' of the role? What mechanism would be in place to ensure the director is knowledgeable about research evidence and policy settings? What mechanism is in place to ensure that in discharging their duty, the director is not in conflict with ministry policy and practice? Does the director remain an employee of the ministry when their responsibilities sit with ERO?

27B The director's *statutorily independent functions* are to issue licenses and enforce compliance including undertaking investigations and prosecutions. While there are other functions, these two take precedent and must be taken into account in the director's decision-making. These functions will be seen as ERO's functions, in conflict with their current brief and undermining sector confidence.

The functions also raise questions about how the director will practically perform the task. Currently the functions are carried out across multiple teams within the ministry. If the proposed changes to regulation aim for greater efficiency, what is in place to ensure that will be the case?

For example, in the past three years, over 120 services had their licenses suspended for serious breaches of minimum standards and over 80 were closed. What resource will the director have to administer this one part of the role? Is there an intention a whole new department will be established to support the work of the director?

- 27C The director must give effect to the purpose of the Act which as outlined earlier, could be contested. Although the minister must not give direction to the director in relation to the statutorily independent functions, the fact that the director is accountable to the Secretary for Education, by default the secretary - as the minister's principal advisor - could influence the director's performance of their statutory functions. While the director must have arrangements in place to avoid or manage conflict, it does not say what those arrangements would be, or whose brief takes precedent where a solution cannot be mutually agreed?

The director will need to interpret the legislation in the 'setting and implementing' of minimum standards to provide 'quality early childhood education'. Does this imply the director will define 'quality'? If so, what guarantees are in place to ensure the definition reflects the empirical evidence on quality conditions to optimise children's wellbeing and learning?

- 27D The director must 'have regard' for certain principles when discharging their duties. The principles are set out and mirror some of the objectives of the bill. However, the principles of 'good regulatory practice' are introduced which include but are not limited to, decision-making that is " ... risk-based, proportionate, fair, and transparent; and avoids imposing unnecessary costs on parents, caregivers, and service providers."

By 'having regard' to the principles, the director must consider them but is under no obligation to give them effect. The director may use one or some principles as the basis of their decision, meaning the principles can be used separately and randomly to justify decisions. Whether all principles carry the same weight or some take precedent over others, is not clear.

- 27E The director can delegate their duties, functions and powers, including to someone outside of the ministry. While the secretary must consent to the delegation and for a certain time, there is no mention for example, of:

- who that person could be;
- how many delegations could be given at any one time;
- under what circumstances a delegation would be given;
- the maximum timeframe a delegation could be in place;
- how often delegations could be agreed.

The director may not have any current connection with education or the ECE sector. Where the ministry has built relationships over time, the director has no such connection.

4 Shift from the Ministry of Education to the Education Review Office

The minister has advised “The Government will also shift licensing and certification and enforcement responsibilities from the Ministry of Education to the Education Review Office (ERO). From next year ECE providers will only have to deal with one regulator.”⁹

While this may appear to be a reasonable proposition, it signals the government is willing to transfer responsibility for ECE away from the Ministry of Education. Further, it is not the case providers will only have to deal with one regulator: ECE services will continue to deal with regulators in the building, fire and safety, food and health sectors for example. Dealing with multiple regulators and regulations across multiple agencies was a key concern for the sector in the review. Shifting responsibility from the ministry to ERO fails to address that broader issue.

ERO currently has the same responsibilities for schools and ECE services. By removing a portion of the regulatory function, not only is ERO required to change its brief but more importantly, it signals the government is willing to distance ECE from the Ministry of Education, placing it with other agencies.

Thirty years ago, we shifted from a system where different agencies had responsibilities for different services¹⁰ recognising the efficiencies and benefits of all ECE services coming under the Ministry of Education as an integrated early childhood education sector. The proposed shift, alongside the powers of the director to delegate responsibilities, is deeply concerning.

5 Consequential amendments

The bill sets out a number of consequential amendments to the Education (Early Childhood Education) Regulations 2008. For the most part they relate to changing the wording from ‘Secretary’ to ‘Director of Regulation’. However, applying the change to Schedule 2 and Schedule 3 of the regulations relate to ‘ratios subject to exemption’ and ‘group size’ respectively. This is concerning given the director may or may not be aware of the implications of such a change particularly if they are weighing up changes - quality versus cost - or specifically determine that cost factors take priority over quality.

6 Conclusion

The number of unanswered questions and possible unintended consequences of the proposed bill reflects its rushed nature and untested assumptions.

The minister and government have been unequivocal about making sure ‘we get regulation right.’¹¹ It is doubtful the proposals in this bill meet that expectation, and further, the bill implies rolling-back of policy and regression to an outdated 1980’s framework for ECE.

⁹ 31 July 2025 <https://www.beehive.govt.nz/release/ece-reform-gives-sector-rights-and-regulator-purpose>

¹⁰ Department of Education (playcentre and kindergarten), Department of Social Welfare (childcare, now education and care services) and Department of Māori Affairs (ngā kohanga reo)

¹¹ https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansD_20250731_20250731

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- the most appropriate settings to ensure transparency and accountability for the use of public funds.

Children are the focus of the current ECE regulations and the best interests of children must be the priority in regulation and take precedent over any other matter.

Please get back to me should you require clarification or any further information Sherryll.Wilson@kidsfirst.org.nz We would welcome the opportunity to appear before the committee to present our submission.

Ngā mihi nui



Sherryll Wilson

Chief Executive Kidsfirst Kindergartens on behalf of Kindergartens Aotearoa