

Consultation on regulations for home-based educator qualifications

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How to have your say

If you want to provide feedback on the regulations in this document, you can complete a survey [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 exposure draft of the regulations is available to view at:
<https://assets.education.govt.nz/public/Education-Early-Childhood-Services-Amendment-Reg-v2.0.pdf>

The Ministry of Education requires feedback by 27 September 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 process to develop the regulations 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.

Introduction

What is home-based ECE and how is it regulated?

Licensed home-based early childhood education (ECE) fulfils a unique role in the sector. Unlike teacher-led centre-based services, it is delivered in private homes by educators working with one to four children. A registered and certificated ECE teacher, called the 'coordinator' or 'person responsible', also visits homes to support these educators and oversee the education and care of the children.

Homebased ECE is regulated by the three-tiered regulatory framework that applies to all licensed services:

- Tier 1: The [Education and Training Act 2020](#) provides a high-level framework for licensing, certifying and funding of services, and it empowers regulations and criteria to be developed.
- Tier 2: This tier includes the [Education \(Early Childhood Services\) Regulations 2008](#) (the Regulations), which establish minimum standards, and the [ECE Funding Handbook](#) that sets some additional requirements.
- Tier 3: This tier includes the Licensing Criteria, used to assess compliance with the minimum standards set out in the Regulations, and the Curriculum framework.

The Education Review Office (ERO) also has a significant role in the sector, as the government agency that evaluates and reports on the education and care of children in ECE.

What changes have already been agreed?

In 2018 the Government undertook the Review of Home-based Early Childhood Education (the Review), to ensure this part of the sector delivers quality education and care for children. The Review consulted on a number of proposals aimed at improving quality, including for home-based educators to hold a Level 4 ECE qualification. Educators in the sector are not required to be qualified at present.

The sector, educators, service providers, visiting teachers/coordinators, parents, whānau, and others provided feedback on this proposal, which was supported by most respondents. Following the Review, Government agreed to move towards a qualified home-based ECE workforce, with all educators eventually being required to hold, or be working toward, a Level 4 ECE or other recognised qualification.

In July 2020, Government then agreed to progressively introduce the new requirements so educators and services had time to adjust. The requirements were phased-in by funding rate, with one set of requirements being implemented through funding rules and the other through regulations. The requirements for minimum percentage of qualified educators within each service are shown in the table below.

	1-Jan-21	1-Jan-22	1-Jan-23	1-Jan-24	1-Jan-25
Quality funding rate: Percentages of qualified educators set through the ECE Funding Handbook	30%	50%	70%	80%	80%*
Standard funding rate: Minimum percentages of qualified educators set by the proposed regulations	N/A	10%	30%	60%	

* From 1 January 2025 there will be a single funding rate for all services instead of standard and quality rates.

To implement the changes for the standard rate over the next four years we need to amend the [Education \(Early Childhood Services\) Regulations 2008](#).

What changes are we consulting on?

We are consulting on draft regulations that seek to give effect to the minimum percentages of qualified educators for all licensed homebased services. These will apply through the standard rate from 1 January 2022. This document also covers what qualifications would be recognised and other details to support implementation.

Because the draft regulations in this document are for consultation, they will not necessarily reflect how the changes are ultimately drafted. Before the regulatory changes are made, we will consider your views. You can view the draft regulations in full [here](#).

What changes to qualifications are we regulating for?

- To be considered qualified, educators would need to hold a Level 4 or higher ECE qualification, a Level 3 ECE qualification completed prior to 1 January 2022, Te Ara Tuarua (the level 5 kōhanga reo qualification) or higher, or a primary teaching qualification.
- To be considered qualified, any qualification would also have to be listed on the New Zealand Qualifications Framework or recognised by the Teaching Council for the purposes of registration.
- We would also require that from 1 January 2025 unqualified educators must be training towards a qualification for up to two years, or in an initial induction period of up to six months.
Note: This would apply to the remaining 20% of unqualified educators from 1 January 2025 (below).

What changes for qualified educators are we regulating for?

- We would regulate for these minimum percentages of qualified educators in all licensed home-based services, which progressively increase over the next four years until 1 January 2025:

	1-Jan-22	1-Jan-23	1-Jan-24	1-Jan-25
Standard rate: Minimum percentages of qualified educators set by the proposed regulations	10%	30%	60%	80%

- We also need to set some rules about how the percentages are counted, and which educators can be counted towards these requirements in each service. These are set out on pages 5-7.

What record keeping is required to support these changes?

- To assist in establishing compliance with the qualification requirements, home-based services would also be required to maintain a list of educators and evidence of their qualifications for each licence.

Qualifications for educators

Qualifications that would be required

Following the [Review of Home-based ECE](#), Government agreed to recognise the following qualifications:

- a Level 4 or higher ECE qualification
- a Level 3 ECE qualification completed prior to 1 January 2022
- Te Ara Tuarua (the level 5 kōhanga reo qualification) or higher
- a primary teaching qualification.

These qualifications would also have to be listed on the New Zealand Qualifications Framework (**NZQF**), or recognised by the Teaching Council. This is to ensure the qualifications are quality assured and relevant to teaching in New Zealand.

Educators must hold a completed qualification to be considered qualified under these proposed changes. This means educators still studying towards a qualification would be considered unqualified, and services could not count them towards their percentages of qualified educators (outlined in the next section).

Proposed changes for recognised qualifications in the draft regulations:

4 Regulation 3 amended (Interpretation)

(1) In regulation 3, insert in their appropriate alphabetical order:

home-based service qualification means, for the purposes of regulation 44(1)(a)(i) and Schedule 1A,—

(a) for a person responsible at a licensed home-based education and care service, an early childhood teaching qualification recognised by the Teaching Council of Aotearoa New Zealand for registration purposes:

(b) for an educator at a licensed home-based education and care service, any of the following qualifications:

(i) an early childhood education qualification that is—

(A) at Level 4 or above of the Qualifications Framework; or

(B) recognised by the Teaching Council of Aotearoa New Zealand for registration purposes:

(ii) an early childhood education qualification at Level 3 of the Qualifications Framework, completed prior to 1 January 2022:

(iii) a qualification developed by Te Kōhanga Reo National Trust Board at Level 5 or above of the Qualifications Framework:

(iv) a primary teaching qualification that is—

(A) listed in the Qualifications Framework; or

(B) recognised by the Teaching Council of Aotearoa New Zealand for registration purposes

Qualifications Framework has the same meaning as in section 10(1) of the Act

Questions

1. Do you agree the proposed regulations clearly capture what types of qualifications educators would need to hold to be considered qualified?

Percentages of qualified educators

Percentages required each year

In July 2020, the Government agreed to phase in the new minimum qualification requirements for home-based ECE services over the following timeline:

	1-Jan-22	1-Jan-23	1-Jan-24	1-Jan-25
Standard rate: Minimum percentages of qualified educators set by the proposed regulations	10%	30%	60%	80%

The percentages were designed to gradually lift the requirements over multiple years, until there is a single funding rate with a single set of requirements for all home-based services. At present there are two funding rates for home-based services – the higher quality funding rate and the minimum standard funding rate.

Calculating the percentages of educators

We are proposing the regulated percentages for licensing purposes will be calculated every week based on a headcount of educators providing education and care.¹ A headcount means each educator only counts once, regardless of hours worked or children cared for. This approach is designed to be simple to follow and align with the general principle that regulatory requirements be met at all times.

The week-by-week approach means the percentages count an educator who works five days a week in the same way as an educator who works one day a week. This provides a degree of flexibility for services and the educators to not work every day each week, without impacting on how the percentages are calculated for that licensed service.

The proposed regulations set out that educators must be working to be counted towards the percentage qualification requirements. We know that this particular requirement won't be relevant at the time an application for a probationary licence is made, as the proposed service won't yet be operating. For this reason, we are proposing an exception at the application stage to count those intending to work for the service. Once a service is licensed, they will be expected to meet the percentage requirements according to the usual calculations.

For the draft regulations themselves, the first proposed change is to Regulation 44, which makes it clear that the applicable requirements for licensed home-based education and care services are set out in a new Schedule 1A. This is where the percentage requirements are proposed to be located. A further change to Regulation 44, in subsection (3A), sets out the method of counting the percentages.

The proposed change to regulation 44(1) also makes it clear that the existing Schedule 1 of the Regulations will now only apply to early childhood education and care centres and licensed hospital-based education and care services. For more detail see below or the [draft regulations](#).

¹ This approach does not include or apply to anyone solely providing [Home-based Out of School Care and Recreation \(OSCAR\)](#) programmes. Educators must be providing early childhood education and care to be counted towards these percentage qualification requirements.

Proposed changes for percentages and their calculation in the draft regulations:

6 Regulation 44 amended (Qualifications, ratios, and service-size standard: general)

- (1) Replace regulation 44(1)(a) with:
- (a) to comply with,—
- (i) for licensed home-based education and care services, the applicable requirements of Schedule 1A (which relates to qualification requirements for persons responsible at, and educators working at, home-based education and care services); or
 - (ii) for every other licensed service provider to whom this regulation applies, the applicable requirements of Schedule 1 (which relates to qualification requirements for adults working in early childhood education and care centres or hospital-based education and care services); and
- (2) After regulation 44(3), insert:
- (3A) For the purposes of applying the percentage-based requirements in Schedule 1A,—
- (a) for every licensed home-based education and care service, percentages are assessed on a week-by-week basis (for the period from Monday to Sunday):
 - (b) in any given week, educators can only count towards the required percentage if they provide a home-based education and care service in that week (for the period from Monday to Sunday):
 - (c) in any given week, educators can only count toward the first licence of a service provider that they work for in that week (the period from Monday to Sunday):
 - (d) for the purpose of calculating percentages to determine compliance with regulation 11(1)(a), paragraph (b) does not apply:
 - (e) if the application of this schedule results in a number of educators who must hold a home-based service qualification that is less than a whole number, the number must be rounded up to the next whole number.

8 New Schedule 1A inserted

After Schedule 1, insert Schedule 1A set out in the Schedule of these regulations.

Schedule 1A

Qualification requirements: home-based education and care services r44(1)(a)

Applicable dates	Requirement
From 1 January 2022	Person responsible must hold home-based service qualification and practising certificate
From 1 January 2022	Ten percent of educators must hold home-based service qualification
From 1 January 2023	Thirty percent of educators must hold home-based service qualification
From 1 January 2024	Sixty percent of educators must hold home-based service qualification
From 1 January 2025	Eighty percent of educators must hold home-based service qualification
From 1 January 2025	Within 6 months of joining a licensed home-based education and care service, educators without a home-based service qualification must be enrolled in a course offering a home-based service qualification and must complete the qualification within 2 years of enrolment.

Questions

2. Do you agree the proposed headcount approach should be used to count educators?
3. Do you think applying the approach week-by-week is a workable approach to measure and maintain the percentage requirements?
4. For educators planning to work on a probationary licence when it is first applied for, do you agree they should still be counted when they are not yet providing education and care? (see exemption to 3A(b) outlined in 3A(d) above).

How would these changes affect the quality rate requirements?

We are not consulting on the quality rate requirements already introduced through the Funding Handbook in January this year. We have developed questions that seek your views on differences between the draft regulations and the quality rate to understand how they could be made more consistent.

From 1 January 2025, it is intended that only the licensing regulatory requirements will remain in place – the separate quality rate requirements in the Funding Handbook will expire. There are advantages and disadvantages to having two different approaches up until this point.

The quality rate adds some discretion for services not to meet the relevant percentage for up to five weeks in a 4-month funding period. We think it might be confusing to have to deal with two sets of rules. You can read more about these different elements of the quality rate requirements in the [ECE Funding Handbook](#).

Questions

5. Do you think having two different approaches for the standard and quality rates, for their respective percentage requirements, is workable up until the rates 'merge' in 2025?
6. If you would prefer to have only one approach for both rates, which of the two do you prefer?

Record keeping for services

Records required to support the changes

At present, the Regulations do not set explicit requirements for home-based services to maintain records of their educators and evidence of their qualifications. The record keeping requirements that are currently in the Regulations sit in the *Governance, management, and administration standard: general* ([Regulation 47](#)). These are not specific to particular records or types of services.

Records of educators and evidence of their qualifications are already compiled by home-based services that are on the quality funding rate. These services are required to record all their educators, their highest relevant qualification, the date this was achieved (or date of enrolment if not yet qualified), and when they joined or exited the licence.²

The current draft regulations only require home-based services to maintain a list of educators and evidence of their qualifications for each licence, to be used to assist in establishing services' compliance. More specific requirements, like the existing quality rate ones, could be reflected in Licensing Criteria.

Proposed changes for record keeping in the draft regulations:

- | | |
|----------|---|
| 5 | Regulation 28 amended (Additional requirements for licensed home-based education and care service) |
| (1) | After regulation 28(1)(d), insert:
(e) for each of the service provider's licences, maintain a list of educators engaged by the service provider and evidence of each educator's homebased service qualification(s). |

Questions

7. Do you think that, to support the new educator qualification and percentage requirements, home-based services should need to record a list of their educators and evidence of their qualifications for each licence?
8. Do you think the detailed requirements already required for the quality rate should be reflected in Licensing Criteria to support these regulatory changes?

² [3-B-4 Home-based ECE services](#), ECE Funding Handbook.



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