



Briefing Note: Talking points for Cabinet Legislation Committee – Government Response to the Interim Report of the Regulations Review Committee

To:	Hon Chris Hipkins, Minister of Education		
Date:	27 October 2021	Priority:	Medium
Security Level:	In Confidence	METIS No:	1275053
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Purpose of Report

The Cabinet Legislation Committee (LEG) is considering your paper *Government Response to the Interim Report of the Regulations Review Committee on a Complaint about the Education (Early Childhood Services) Regulations 2008* (the ECE Regulations) on 28 October 2021. This briefing note provides talking points to assist you at the meeting.

Proactive Release

The Ministry of Education recommends you:

- agree** that the Ministry of Education proactively release this briefing once Cabinet has made decisions and the Government Response has been tabled in the House.

Release / Not release



Siobhan Murray
Te Puna Kaupapahere

Hon Chris Hipkins
Minister of Education

27/10/2021

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Proposal to the Cabinet Legislation Committee

1. The Regulations Review Committee recently presented an interim report regarding their investigation into a complaint about the ECE Regulations. I seek agreement to the Government Response to the Committee's interim report.

The Regulations Review Committee investigation

2. The complaint, made by three early childhood teachers, alleged that regulations 44 and 45 breach Standing Orders 327(2)(a) and 327(2)(b). The complainants contend that these regulations, which include standards for adult-to-child ratios and activity space requirements, allow for too many children per adult and activity spaces that are too small.
3. In its report, the Committee stated that it considers that regulations 44 and 45 should be drawn to the special attention of the House under Standing Order 327(2)(a). It also recommends that the Government should review regulations 44 and 45 sooner than the third stage of the Early Learning Regulatory Review, which it states is currently scheduled for late-2023.
4. The Committee found insufficient evidence to uphold the complaint under Standing Order 327(2)(b).

The Government Response

5. The Government is required to present a response to the House before 11 November 2021. The response notes that the Government considers that improvements can be made to several aspects of the early learning regulatory system. The Early Learning Action Plan sets out actions for improving early learning, several of which will be addressed through the Early Learning Regulatory Review.
6. The response states that the Government does not agree with the Committee's recommendation to review regulations 44 and 45 sooner than the third tranche of the Regulatory Review and presents three reasons for this.
7. First, the scope of the recommendation is broader than the subject of the complaint. The complaint relates to adult-to-child ratios and activity spaces, but regulations 44 and 45 also include standards for other aspects of early learning. For example, these regulations set standards for qualification requirements, service size, person responsible requirements, and the nature of early learning premises. A full review of these regulations would be a significant task.
8. Second, changing the Regulatory Review's timeframes would cause sector disruption and be costly. For example, improving ratios on a faster timeline could increase pressure on teacher supply. The cost to the Government would also be significant if changes to ratios were brought in at the same time as planned changes to teacher qualification requirements and pay parity.
9. Third, early review of regulations 44 and 45 would impact our ability to progress other key initiatives such as achieving pay parity for early childhood teachers.