



Education Report: Next steps for implementing a qualified home-based educator workforce

To:	Hon Chris Hipkins, Minister of Education		
Date:	22 October 2021	Priority:	High
Security Level:	In Confidence	METIS No:	1273891
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Purpose of Report

This paper provides you with advice on next steps in implementing the minimum qualification requirements for educators in home-based ECE services after public consultation. We require your feedback by Friday 29 October to enable Cabinet decisions in November.

Summary

1. Cabinet has agreed to move towards a fully qualified home-based workforce. From 1 January 2022, home-based ECE services will be required to gradually increase the percentage of qualified educators in their services, starting with 10% in January 2022 [SWC-20-MIN-0078 refers]. The introduction of educator qualification requirements for home-based services requires changes to the Education (Early Childhood Services) Regulations 2008 (the Regulations).
2. The Ministry of Education consulted on the draft Education (Early Childhood Services) Amendment Regulations (No 2) 2021 (the Amendment Regulations) between 27 August and 27 September 2021. The purpose was to seek public feedback on regulatory changes. We consulted on:
 - whether the Amendment Regulations clearly outlined the qualifications for home-based ECE educators to be considered qualified
 - the method of calculating the percentage requirements for qualified educators
 - the workability of having two approaches for the standard funding rate and quality funding rates until 2025
 - record keeping requirements for services.

3. Most people agreed with the proposed changes. The key areas of concern centred on the types of approved qualifications and how the percentage requirements are calculated. Respondents told us that:
- a) COVID-19 lockdowns have affected educators' ability to complete an approved qualification in time for the 1 January 2022 commencement date
 - b) some overseas ECE qualifications appear to be excluded
 - c) the proposed time for unqualified educators to be in training is insufficient for educators studying towards a Level 7 ECE teaching qualification
 - d) the rounding mechanism where the number of educators required is rounded up to the next whole number will particularly impact small home-based services. For example, with the proposed methodology commencing in 2022, a service with four educators will need to have 1 qualified educator to meet the 10% requirement. When the requirement becomes 80% in 2025, such a service would need 100% qualified educators to be compliant
 - e) the week-by-week method where educators are only counted if they provide education and care to children within a Monday-Sunday period poses risks to the viability of services. Educators are generally self-employed contractors. They take leave when it suits them and the families, they provide the service to, and services may have no say in this. Home-based services could become non-compliant if too many of their qualified educators take the same week off.
4. Cabinet authorised you to make any minor and technical decisions provided the decisions are consistent with the prior decisions made [SWC-21-MIN-0081 refers]. Addressing issues (a) to (d) above are minor and can be approved by Cabinet Legislation Committee (LEG), whereas addressing issue (e) would require amending previous decisions and requires approval from Cabinet Social Wellbeing Committee (SWC).
5. We recommend making the following changes to the Amendment Regulations:
- delaying the commencement date of the Amendment Regulations to 1 June 2022 to reflect the impact of COVID-19.
 - recognising overseas ECE qualifications assessed by the New Zealand Qualifications Authority (NZQA) as comparable to an approved ECE qualification.
 - providing educators actively studying towards a Level 7 teaching qualification four years to complete the qualification.
 - using standard rounding when applying the percentage-based qualification requirement.
 - amending the week-by-week approach to a monthly approach. Educators can count towards the required percentage if they have provided education and care for at least four days within each calendar month. This is comparable to the week-by-week approach but provides services with more flexibility. If you agree to this change, we also recommend adopting a monthly approach for the quality rate.
6. Making these changes to the Amendment Regulations would involve a Cabinet committee in the week of 22 November 2021. If you agree to the delay in the commencement date,

we consider it important to communicate this to the home-based sector as soon as possible and ahead of consideration by Cabinet.

Recommended Actions

The Ministry of Education recommends that you:

- a. **agree** to delay the commencement date of the Amendment Regulations to 1 June 2022 **Agree** Disagree
- b. **agree** to recognise overseas ECE qualifications assessed by NZQA as comparable to an approved ECE qualification **Agree** Disagree
- c. **agree** to provide educators actively studying towards a Level 7 teaching qualification four years to complete the qualification **Agree** Disagree
- d. **agree** to use standard rounding when applying the percentage-based qualification requirement **Agree** Disagree
- e. **agree** to change the week-by-week approach to a monthly approach and count educators who work four or more days when calculating the required percentage of qualified educators **Agree** Disagree
- f. **agree** to also adopt the monthly approach in the Funding Handbook, which applies to the home-based services on the quality funding rate **Agree** Disagree
- g. **note** that recommendations (a) – (d) can be progressed through a Cabinet paper to LEG and recommendation (e) requires SWC approval due to the change in policy
- h. **agree**, if you agree to recommendation (a) above, to communicate the delay in commencement to the home-based sector as soon as possible and ahead of Cabinet decisions **Agree** Disagree
- i. **proactively release** this Education Report once any Cabinet decisions have been made, with any information that may need to be withheld done so in line with the provisions in the Official Information Act 1982. **Release** Not release



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Te Puna Kaupapahere



Hon Chris Hipkins
Minister of Education

22 October 2021

9 /11/ 2021

Background

- 1 In response to the Review of Home-based Early Childhood Education in 2018, Cabinet agreed to move towards a qualified home-based ECE workforce, with all educators holding or be working towards, a Level 4 ECE qualification or equivalent.
- 2 Home-based services can receive one of two funding rates. The first is the standard rate, which is the base rate for all services that meet the minimum requirements set in the Regulations. The second is a higher, quality rate with additional requirements. Since 1 January 2021, services on the quality rate must have a certain percentage of qualified educators, with others in training or induction, or with credits towards a qualification.
- 3 Cabinet has also agreed to phase in new qualification requirements for educators in services on the standard rate starting with 10% qualified educators on 1 January 2022. The two funding rates will merge into a single rate, which will have the same requirements from 1 January 2025 [SWC-20-MIN-0081 refers]. The timeline of changes for both funding rates is shown in the table below.

	1-Jan-21	1-Jan-22	1-Jan-23	1-Jan-24	1-Jan-25
Quality funding rate: Percentage of qualified educators.	30%	50%	70%	80%	N/A*
Standard funding rate: Minimum percentage of qualified educators.	N/A	10%	30%	60%	80%

* In January 2025, there will be a single quality funding rate for all services rather than standard and quality rates

Public consultation

- 4 The introduction of educator qualification requirements for services on the standard funding rate requires changes to the Education (Early Childhood Services) Regulations 2008 (the Regulations). These will be made through the Education (Early Childhood Services) Amendment Regulations (No 2) 2021 (the Amendment Regulations).
- 5 Cabinet agreed to consult on the draft Amendment Regulations that would capture these changes [SWC-21-MIN-0081 refers]. The Ministry of Education ran public consultation from 27 August to 27 September 2021. We received 156 survey responses and 10 written submissions. We consulted on the following proposals, some of which received significant feedback and concerns.

The qualification requirements

- 6 We asked whether people agreed that the draft Amendment Regulations clearly captured what qualifications educators would need to hold to be considered qualified. These qualifications are:
 - a level 4 or high ECE qualification
 - a level 3 qualification completed prior to 1 January 2022

- Te Ara Tuarua (the level 5 or above kōhanga reo qualification) or
 - a primary teaching qualification.
- 7 79% of respondents agreed that the draft Amendment Regulations clearly captured the approved types of qualification and 16% disagreed.
- 8 There was a common concern that COVID-19 affects educators' ability to complete an approved home-based qualification in time for the 1 January 2022 commencement date. Educators studying towards Level 3 ECE qualifications are most affected by this delay, as they must complete these qualifications by 1 January 2022 to be considered qualified.
- 9 Open Polytechnic has 266 learners currently studying towards Level 3 ECE qualifications. They submitted a written submission with concerns that many of these learners cannot finish their qualification by 1 January 2022 due to COVID-19 delays. Learners from migrant and refugee populations are especially impacted, as they tend to require intensive language support and may not have the technology needed to receive assistance and complete studies remotely.
- 10 We have also learned from Barnardos Home-Based Early Learning that educators have not been able to complete the practical components of the qualification due to COVID-19 lockdowns. This has a disproportionate impact on Auckland-based services, which account for a large proportion of all home-based services.
- 11 Other key concerns are that:
- some overseas ECE qualifications appear to be excluded based on the proposed list of approved qualifications and
 - the proposed time for unqualified educators to be in training, 2 years after 6 months of induction, is insufficient for educators training towards Level 7 ECE teaching qualifications since incomplete qualifications are not approved. Level 7 qualifications generally take 3 years full time study to complete.

Percentage of qualified educators

- 12 We consulted on the regulatory requirement for the percentage of qualified educators to be assessed weekly (for the period from Monday to Sunday) based on a headcount of educators providing education and care. A headcount means each educator only counts once, regardless of hours worked or children cared for. Where the calculation of the percentage requirements results in a number of qualified educators that is less than a whole number, the number must be rounded up to the next whole number.
- 13 We asked whether the headcount and week-by-week approach is workable to measure and maintain the percentage requirements, based on the proposed timeline.
- 14 57% of respondents agreed that the week-by-week approach is workable, while 24% disagreed. However, 29 respondents (almost 40% of the 81 respondents who answered this question) had concerns about aspects of this approach. The main concerns are:
- situations where educators are available to work, but children are absent, either due to illness, school holidays (especially over the Christmas period), or the closure of services due to COVID-19 lockdowns. This would mean that services

would be reclassified to a provisional licence for falling under the minimum percentage of qualified educators for these short periods.

- that this approach may prevent qualified educators from taking leave for more than a week.
- services with a small number of qualified educators may be disproportionately impacted by this approach. For these services having just one educator away for the week may cause the service to not meet the minimum percentage of qualified educators required.
- the rounding mechanism for applying the percentage requirements also places additional burden on small services with less than five educators. Rounding up to the next whole number would require these services to have a much higher percentage of qualified educators than the regulatory requirement.

Two approaches for the standard and quality funding rates until 2025

- 15 We consulted on the regulatory changes to give effect to the minimum percentage of qualified educators, which will apply through the standard rate from 1 January 2022. The main difference between the quality rate and the standard rate is that the percentage calculation for the quality rate is based on a count of 'active educators' in a licence each week. An educator may still be considered 'active' if they do not provide education and care for up to 3 weeks.
- 16 We asked whether having two approaches for the standard and quality funding rates would be workable until the rates 'merge' in 2025.
- 17 51% of respondents agreed with having two approaches and 18% disagreed. Many respondents that disagreed indicated that it would be easier to focus on the quality funding rate until all home-based services need to have 80% qualified educators in 2025.

New record keeping requirements to establish compliance with these changes

- 18 As part of establishing compliance with these regulatory changes, we asked whether home-based services should need to record a list of their educators and evidence of their qualifications for each licence.
- 19 95% of respondents agreed that home-based services need to record a list of their educators and evidence of their qualification for each licence and 2% disagreed.

Implementation concerns

- 20 We have previously provided advice about some implementation concerns, largely centred on the additional compliance, which may slow or limit service growth [METIS 1260430 refers]. Consultation feedback shows that many service providers are concerned about the compliance burden and losing qualified educators to other service providers.
- 21 We propose reviewing the effect of the qualification requirements for home-based educators and services in late 2023. This would give the sector sufficient time to implement the changes. If significant unintended consequences arise this would give us time to adjust the policy settings before all home-based services are required to employ 80% qualified educators in 2025.

Recommendations for amending the Amendment Regulations

- 22 We recommend the following changes to the Amendment Regulations to take into account consultation feedback:
- a. delay commencement of Amendment Regulations until 1 June 2022, to account for COVID-related delays in educators gaining qualifications
 - b. allow certain overseas qualifications to satisfy the qualification requirement
 - c. allow educators studying towards a Level 7 ECE teaching qualification four years rather than two years of training time to complete the qualification
 - d. adopt standard rounding when calculating the minimum percentage of qualified educators, so as not to disadvantage small home-based services
 - e. adjust the week-by-week approach for calculating required the percentage of qualified educators to a monthly approach.
- 23 Cabinet authorised you to make any minor and technical decisions that may arise during the drafting process, provided the decisions are consistent with the decisions made by SWC [SWC-21-MIN-0081 refers]. Recommendations (a) to (d) above are minor, whereas addressing issue (e) would require amending previous decisions.
- 24 Making these changes to the Amendment Regulations would involve a Cabinet committee in the week of 22 November 2021. Approval for recommendations (a) to (d) can be made by LEG, while approval for recommendation (e) needs to be made by SWC.

a) Delaying commencement of the Amendment Regulations to 1 June 2022

- 25 Based on consultation feedback about the impacts of COVID-19 on learners pursuing Level 3 and Level 4 qualifications, we recommend delaying the commencement date of the Amendment Regulations from 1 January 2022 to 1 June 2022. This would require amending the commencement date in the Amendment Regulations when 10% of educators need to hold a relevant qualification.
- 26 The original commencement date of 1 January 2022 does not reflect the barriers educators and services have faced during COVID-19 lockdowns. This delay in commencement date would also give home-based service providers more time to focus on meeting the new mandatory vaccination requirements for all early learning staff.
- 27 If you agree to this change, we recommend also amending the start date for the change in quality funding requirement (i.e., moving from 30% to 50% qualified educators) in the Funding Handbook to 1 June 2022.

b) Providing for certain overseas qualifications to satisfy the qualification requirement

- 28 Based on feedback, the draft Amendment Regulations appear to exclude overseas qualifications, which is not the intention. We recommend providing for overseas ECE qualifications to be recognised if assessed by NZQA as comparable to recognised home-based qualifications.

c) Changes to training period for educators studying at Level 7

- 29 We had intended for educators to complete an approved qualification within two years of enrolment to prevent educators from unnecessarily delaying their studies, but this may result in the unintended consequence of preventing educators from pursuing Level 7 teaching qualifications.
- 30 We propose allowing the educators actively studying towards a Level 7 ECE teaching qualification to complete this qualification within four years once enrolled.

d) Changing the rounding mechanism to standard rounding

- 31 Based on feedback that services with less than five educators, which account for 10% of all home-based services, are disproportionately impacted by the week-by-week approach and the rounding mechanism, we recommend changing the rounding mechanism to standard rounding. This would also be the easiest option for service providers to understand and apply.
- 32 This would mean that in 2022, services with fewer than five educators would not need to use any qualified educators. However, this would be resolved when the minimum percentage of educated educators rise to 30%, 60% and 80% in the following years.

e) Changes to week-by-week approach

- 33 We recommend moving from a weekly assessment of minimum percentage requirements to a monthly assessment, so that educators can count towards the required percentage if they have provided regular home-based education and care services in each calendar month. This would require the educator to provide education and care in these services either at least once each week, or on at least 4 days each calendar month.
- 34 We would also allow educators to only count towards the first licence of a service provider that they work for over each calendar month. This is to avoid 'double counting' of qualified educators within the licences of a service provider.
- 35 Extending the period in which educators are counted creates more flexibility for the educators or children to be absent for a short period of time without affecting the required percentage. This proposal would also alleviate some of the administrative burden that requires home-based services to comply with the percentage requirements on a weekly basis.
- 36 There is a possibility that some educators may not provide consistent education and care over the course of each calendar month, e.g., an educator may work 4 days in the first week of the month and not work again until the following month. Home-based educators tend to be independent contractors with variable hours of work and employment patterns. Therefore, some levels of flexibility should be afforded to ensure sustainability of home-based services.
- 37 If you agree to this proposal, we recommend also adopting the monthly approach in the Funding Handbook for the percentage qualification requirements that apply to services on the quality funding rate. This would require removing the definition of 'active educators', which allows educators to be counted if they are absent for up to 3 weeks.

Next Steps

- 38 Two timelines are presented below. The first timeline relates to recommendations (a) to (d), as these are minor changes within current policy approvals. Under this timeline, PCO would amend the Amendment Regulations to enable LEG approval in late November.
- 39 Recommendation (e) requires both SWC and LEG approval, as it is outside of current policy approvals. If you agree to recommendation (e) and any combination of the other recommendations, the second timeline would apply.

Date	Timeline if recs (a) to (d) are progressed, but not rec (e)	Timeline if rec (e) is progressed
29 October	Feedback from you	Feedback from you
1 November	PCO drafting of final Amendment Regulations	
8 November	Draft Cabinet paper to you to approve for Departmental and Ministerial consultation	
11-16 November	Departmental and Ministerial consultation	
17 November	Revised Cabinet paper to you for approval to lodge	
18 November	Lodging Cabinet paper for LEG	Lodging Cabinet paper for SWC
24/25 November	LEG approval for final Amendment Regulations	SWC approval for policy change
6 December	Cabinet	Cabinet
December 2021 - March 2022		PCO to draft final Amendment Regulations
April 2022		LEG and Cabinet approval for final Amendment Regulations
1 June 2022	Commencement	Commencement

Proactive Release

- 40 We recommend that this Education Report is proactively released once any Cabinet decisions have been made, with any information that may need to be withheld done so in line with the provisions in the Official Information Act 1982.