

# Minutes

## Early Learning Regulatory Review Advisory Group meeting

<b>Date</b>	Thursday 6 April 2023, 10.30am – 12.00 pm
<b>Venue</b>	Teams meeting
<b>Chair</b>	Paul Scholey, ECE Senior Policy Manager - MOE
<b>Attendees (Members)</b>	Barry Sadlier, Evolve Education Group Catherine Bell, Senior Policy and Engagement Advisor, Te Rito Maioha Cathy Wilson, CEO, Montessori Aotearoa New Zealand Fiona Hughes, Deputy CEO, BestStart Educare Nick Davies, Provincial Education (for Leanne Mortlock) Jill Bond, CEO, New Zealand Kindergartens Inc Karen Reynolds, National Manager Design & Advisory Services, Barnardos Pauline Winter, General Manager, Auckland Kindergartens Association Sarah Alexander, Chief Advisor, OECE Susan Bailey, Principal Advisor, Playcentre Aotearoa New Zealand
<b>(Ministry)</b>	Clea Matthews, Policy Programme Manager Ella Fraser, Graduate Policy Analyst Elspeth Maxwell, Operational Policy Early Learning Manager Dawn Leung-Wai, Chief Policy Analyst Francisca Knarston, Assistant Policy Analyst Kahu Rapira-Davies, Policy Analyst Karen Quinn, Principal Advisor Kim Nathan, Senior Policy Analyst Laurie Edwards, Communications Lead Paul Scholey, Senior Policy Manager Peter Mellor, Chief Policy Analyst Veronica Adams, Senior Policy Analyst
<b>(Secretariat)</b>	Kelly Gardner, Policy Project Co-ordinator
<b>Apologies</b>	Allanah Clark, Early Childhood Adviser, NZEI Te Riu Roa Calmar Ulberg, CEO, Counties Manukau Kindergarten Association Cherie Marks, Te Kōhanga Reo National Trust Leanne Mortlock, CEO, Provincial Education Raewyn Overton-Stuart, Managing Director, PAUA Simon Laube, CEO, Early Childhood Council

*Note: These notes capture the themes of the discussion and key points made. They do not necessarily represent a shared view of the group and there may be differing perspectives on some points. They are not intended as comprehensive minutes of the meeting.*

<b>Welcome and karakia</b>
<b>Consultation feedback – additional tranche 2 proposals</b>
<p>Veronica’s presentation summarised recent consultation feedback on four proposed amendments:</p> <ol style="list-style-type: none"> <li>1. Add new conditions to a service’s provisional licence</li> <li>2. Insert a definition for “permanently ceased to operate” for the purposed of cancelling a services licence</li> <li>3. Provide the Secretary of Education to grant a service provider approval to temporarily close their service</li> <li>4. Insert a definition for “locally based” for persons responsible in the licenced home-based education and care services</li> </ol> <p>Feedback on the proposals were largely supportive. However, feedback on the locally based proposal was more mixed.</p> <p>43 survey submissions and 11 written submissions were received from organisations including the Auckland Kindergarten Association, PAUA, NZEI and the Office of Early Childhood Education. The policy team are now considering the feedback to inform final proposals, which are expected to go to Cabinet in mid-2023.</p> <p><i>Group discussion</i></p> <p>A group member raised a question around the duration of temporary closures. In the context of the recent natural events many services in Auckland are still impacted, so three months may not be long enough. The group member will follow up with direct feedback to the workstream lead.</p> <p>Another member raised that it is unlikely that this is a one-off situation so it would be good for providers to understand what continuity of service looks like in the face of ongoing disruptions.</p> <p>The group queried if there is any flexibility generally around the duration of temporary closures. For example, a substantial renovation project can take longer than three months, even when planned (eg., services waiting for codes of compliance which take 28 days). A concern was raised that if the temporary closure exceeds the temporary closure limit (i.e., three months for initial closure) would services need to apply for a new licence and therefore trigger network approval?</p> <p>The Ministry responded that the Secretary for Education would have the power to grant an initial three month temporary closure, with the option of a three month extension and asked the group whether six months would be long enough. Some members said possibly not if it was a very big renovation. This would need to consider the time it takes to work through local and central government processes for approval and obtain council consents. Another Member raised the issue of delays relating to labour and material shortage.</p> <p>The group was in general agreement that there needs to be more flexibility than just an additional three months, or six months in total.</p>

## Consultation feedback - amendments to the licensing regulations to accommodate Crown acquisition and network approval

Kahu's presentation summarised recent consultation feedback on the following proposed amendments:

1. Enable the licence for an existing ECE centre to be amended, without requiring an application for network approval, where the ECE centre has to permanently relocate because its land has been acquired by the Crown
2. clarify that the new network approval provisions can be taken into account when considering an application to amend an existing licence

There were 11 survey responses and three written submissions. Overall, the submissions supported the proposals.

3. In response to feedback, we are considering amending proposal 2, to 'clarify that the new network approval provisions must be taken into account when considering an application to amend an existing licence' to improve clarity and fairness.

### *Group discussion*

Concern was raised by a group member around the amendment potentially allowing the Secretary to cancel a licence, i.e., retrospectively applying network management requirements.

The Ministry clarified that this is not the intention of the legislation.

A query was raised around the proposal to clarify the Secretary's ability to take into consideration network provisions when assessing an application to amend a licence and whether this relates only to an increase in capacity?

The Ministry clarified that it is intended to apply to all applications to amend a licence.

The member felt this risked a lack of certainty for services that an amendment will reflect the provision under the original network approval; for example, if there was a centre approved for 100 places but as part of a staggered approach the Ministry initially only licenced the centre for 30 children, is there a possibility that a subsequent amendment request for an increase in numbers could be rejected?

**Action:** The Ministry team agreed to look into this and clarify with the group.

## ELAP action 1.3

Kim, the workstream lead, gave a brief recap of what's included in 1.3 which covers several aspects of the physical environment of early learning services.

The main objective is to review the current settings and publish updated guidance.

The work has been split out into 10 strands across two workstreams. The numbering of the strands is for planning purposes only and does not reflect any sequencing or prioritisation. There will very likely be overlap between the strands, and a major part of the work will be the consideration of how those strands interact.

The work will be phased with phase one focussing on reviewing the current guidance and gathering evidence and phase two developing new advice and guidance.

Any regulatory implications would be considered after developing the advice.

The Ministry team expect this to be a highly collaborative process, involving the Advisory Group and ECAC as well as establishing a new expert advisory panel consisting of members with specific expertise and knowledge across one or more of the strands within an early learning context and those with expertise in Māori and Pacific contexts.

The terms of reference for the advisory panel have been drafted. The Ministry will call for expressions of interest via the Early Learning Bulletin and online shortly. The Ministry will inform the Advisory Group when this happens and would appreciate the advisory group letting their networks know. This will be followed by selection of the panel members.

#### *Group discussion*

A query was raised around the sequencing and why any regulatory changes need to wait until after the development of the new guidance. The group member felt that it should be possible for some regulations to be progressed earlier in areas where there is already very clear evidence of the need for improvements such as around temperature and activity space.

Kim responded that while they are taking a first principles approach, so looking at the evidence and current guidance first, there may be some room to include perspectives around the need for moving more quickly on some of the current settings.

A group member raised that there was already a huge amount of local and international literature relating to indoor and outdoor spaces and what's required, and any provider or teacher can already use and apply those. And that maybe this process is more of an opportunity for the Ministry to update its knowledge.

The member also asked to what extent the guidance would be responsive to what is best for children's outcomes.

There was concern raised around the Ministry developing a very prescriptive set of rules on how a service should look and whether that approach would reflect the wide variety of philosophies and cultural approaches that exist within the early learning settings. The group member strongly recommended an outcomes and evidence based approach.

Kim agreed agreement that an evidence and outcomes based approach is preferable; the guidance should take into account variability in centres' circumstances, and it will be important to consider Māori and Pacific perspectives in developing the comprehensive and culturally appropriate response required by ELAP.

A group member noted that this is great but is coming very late.

There was a query around whether the intention would be for this new guidance to apply retrospectively to existing services and centres, or will it only apply to new ones? The Ministry agreed that we will need to consider the wide variety of situations in the status quo.

A member noted that the guidance is good but developing universally applicable regulations will be very difficult. They expressed that any regulatory change and guidance needs to be simple and easy to understand.

Kim asked the group how they would like to be kept involved and participate in this workstream.

Member of the group responded wanted to be kept updated and that they would like to see what advice had been provided to the Minister so far.

Kim confirmed that the Ministry was very early in this process with early initial advice provided so far which will be proactively released in due course.

A member queried whether there will be any opportunity for the group to review material such as the terms of reference and provide their feedback in advance of material going to the Minister.

Kim confirmed that MoE is committed to strong collaboration and reiterated that at this stage they are very early in the process.

Another group member raised the issue of the ELAP having been developed pre-Covid and pre the recent climate events and felt it needs to be reconsidered in this in a new context to understand if it is still fit for purpose.

Another member asked if service location would be considered as part of 1.3, especially in the context of climate change, and wanted us to consider what else might be important depending on location.

Kim confirmed that while not a standalone strand it is intended to consider those aspects within the existing strands.

A member raised that they don't see anything relating to fire and other emergencies included. Especially where services are in high rise buildings where they have concerns that the current requirements are not sufficient.

#### **Verbal update on proposed consultation on draft regulations for 80%**

Paul updated the group with the very recent news that as part of the Prime Minister asking Ministers to reconsider and reset priorities to focus on the things most important to New Zealanders, and taking account of concerns raised by the early learning sector about the ongoing challenges of teacher supply and amount of change it is facing, Min Tinetti is seeking to slow down regulating for 80% qualified teachers to the next term of government. .

This means that the public consultation on the draft amended regulations won't now go ahead in April May as originally planned.

The Minister intends to complete the Person Responsible changes during this term of government and remains to regulating for 80% teachers and in doing this in a way that is manageable for the sector. The policy team will talk more with the Advisory Group about this and developing a new change timeline in future meetings.

The Ministry know that the 80% workstream is a strong priority for the sector and appreciate that there will be strong views but also know it has been seen as being very challenging for the sector to implement, especially in Māori and Pacific centres who have additional teacher supply challenges.

### *Group discussion*

Group member raised that they have been waiting so many years thinking that this was a government commitment and now they are querying is it ever going to happen.

Paul confirmed that the government remains committed to that workstream and the team have been asked to provide new advice on revised timelines.

Group member raised issue of funding incentives or other fiscal regulations to encourage services to meet the targets for higher percentages of qualified teachers and that potentially the current proposals may have put pressure on the sector but without providing any extra incentivisation.

Paul clarified that there is no change to the existing funding bands. The proposed regulatory change that has been delayed was around increasing the minimum regulatory requirements.

Paul encouraged the group to take the time they need to think about this more and to please send any questions or further thoughts to the regulatory review mailbox.

### **Next/future meetings**

The next meeting of the group had been pencilled in for the 18 May before that date was announced as Budget day. The Ministry proposed delaying the meeting by a week to 25 May.

One group member expressed a preference for a date in the week before Budget day. Another Member noted to avoid 10 May as that would clash for some of the group members with a pay equity meeting.

Another member suggested the team could provide an email update before budget day with the meeting postponed until the week after. This was seconded by another member.

Paul suggested MoE get back to the group with a couple of options to test date preferences.

One of the group members thanked the Ministry for the meeting and said it had been very useful but also encouraged that there is a need to think of a way to get more input into these consultations on very important issues as maybe not enough people who are being impacted are engaging with the consultations.

### **Karakia whakamutunga and close**