



Education Report: Changing Early Childhood Education Licensing Criteria

To:	Hon Chris Hipkins, Minister of Education		
Date:	16 November 2020	Priority:	High
Security Level:	In Confidence	METIS No:	1244091
Drafter:	Keith Newton, GM ECE	DDI:	9(2)(a) [REDACTED]
Key Contact:	Iona Holsted, Secretary for Education	DDI:	9(2)(a) [REDACTED]
Messaging seen by Communications team:	Yes / No	Round Robin:	No

Purpose of Report

This report seeks your agreement to amend the early childhood education (ECE) licensing criteria for centre-based services, kōhanga reo and home-based services to minimise food-related choking in early learning services following consultation with those that appear to be substantially affected, as required by regulation 41 of the Education (Early Childhood Services) Regulations 2008. It also seeks your agreement in-principle to transfer resources between appropriations to provide a one-off payment to services to meet the immediate cost of providing additional first aid training.

Summary

- 1 Following a choking incident that left a child with serious permanent injuries and subsequent investigations into this incident by Worksafe New Zealand, I initiated a review of the licensing and certification criteria to minimise food-related choking risk in early learning services.
- 2 Following consultation with those that appear to be affected, I have determined that changes are required to three licensing criteria for centre-based services and kōhanga reo and two licensing criteria for home-based services.
- 3 These changes will require centre-based services, kōhanga reo and home-based services to ensure children are supervised and seated while eating. Where food is provided by the service, foods that pose a high choking risk are not to be served unless prepared in accordance with best practice as set out in the Ministry of Health guidance, and must also meet the developmental needs of each child. Where food is provided by parents, services will be required to promote the Ministry of Health guidance.
- 4 The additional change for centre-based services and kōhanga reo will require an adult that holds a current first aid qualification or suitable alternative, to be present at all times for every 25 children attending.

- 5 To support centre-based services and kōhanga reo to comply with this change I would like to provide a one-off payment to services to meet the immediate cost of providing additional first aid training.

Recommended Actions

The Ministry of Education recommends you:

- a. **note** that under regulation 41 of the Education (Early Childhood Services) Regulations 2008, you have the power after consultation with those organisations that appear to be substantially affected, to prescribe criteria to be used by the Secretary to assess compliance with minimum standards imposed under these regulations;
- b. **note** that the Ministry has consulted directly with the Early Childhood Advisory Committee (ECAC), Tē Kōhanga Reo National Trust, the Ministry of Health and the Ministry for Primary Industries, and provided the opportunity for parents, whānau, caregivers, service providers, kaiako and other interested stakeholders to provide feedback via an online survey;
- c. **note** that the Ministry of Health have drafted specific guidance to minimise food related choking risk in early learning services, attached as Appendix 1;
- d. **note** that the Ministry has analysed the responses received and applied the following consideration to inform the proposed changes. The safety and wellbeing of tamariki and the compliance burdens and cost pressures associated with any proposed amendments;
- e. **note** that where food is provided by parents, one option was to regulate the nature/types of food that may be provided; the other was to give parents the freedom to decide on the nature/types of foods to provide;
- f. **note** following analysis of the responses received the Ministry has determined that where food is provided by parents, services will only be required to promote the Ministry of Health guidance;
- g. **agree to prescribe** the amendments to ECE licensing criteria for centre-based services, kōhanga reo and home-based services (as detailed in Appendix 2) **and to sign** where indicated in Appendix 3;
- h. **note** that under Regulation 41(3) of the Education (Early Childhood Services) Regulations 2008, I must publish a notice in the *New Zealand Gazette* stating that the criteria have been prescribed;
- i. **note** the amended criteria must be presented to the House of Representatives within 16 sitting days of the date on which the change to the criteria is prescribed;
- j. **note** that I am proposing to make a one-off payment to services to meet the immediate cost of providing additional first aid training;

Agree / Disagree

- k. **agree** in-principle to transfer resources between appropriations in 2020/21 with no impact on the operating balance or debt; and

Agree Disagree

- l. **agree** that this Education Report is proactively released when final decisions relating to changes to the licensing criteria have been made.

Agree / Disagree



Iona Holsted
Secretary for Education

16 / 11 / 2020



Hon Chris Hipkins
Minister of Education

28/11/2020

Background

1. Following your approval to commence consultation to introduce clear criteria so that the risk of children choking on food while at early learning services is minimised or eliminated (METIS 1191612 refers), the Ministry consulted directly with the Early Childhood Advisory Committee (ECAC), Tē Kōhanga Reo National Trust, the Ministry of Health and the Ministry for Primary Industries.
2. We have also undertaken public consultation via an online survey providing an opportunity for parents, whānau, caregivers, service providers, kaiako and other interested stakeholders to provide feedback on the proposed criteria amendments and the specific Ministry of Health guidance “*Reducing food-related choking for babies and young children at early learning services*”. This public consultation generated over 2600 responses.
3. We have analysed the responses received and applied the following considerations to inform the proposed changes:
 - i. The safety and wellbeing of tamariki;
 - ii. The compliance burden on whānau, kaiako, and services;
 - iii. The cost pressures on whānau, services and the Ministry; and
 - iv. Balancing the need for a consistent approach across all service types while recognising the differing operational models where possible.

Summary of Proposed Changes

4. You are being asked to agree to prescribe amendments to three licensing criteria for centre-based services and kōhanga reo and two licensing criteria for home-based services using your powers under regulation 41 of the Education (Early Childhood Services) Regulations 2008.
5. The proposed changes will require centre-based services, kōhanga reo and home-based services to ensure children are supervised and seated while eating. Where food is provided by the service, foods that pose a high choking risk are not to be served unless prepared in accordance with best practice as set out in the Ministry of Health guidance, and must also meet the developmental needs of each child. Where food is provided by parents, services will be required to promote the Ministry of Health guidance.
6. The additional change for centre-based services and kōhanga reo will require an adult that holds a current first aid qualification or suitable alternative, to be present at all times for every 25 children attending. This is an increase on the existing requirement of one adult for every 50 children attending.
7. Full details of these amendments are attached as Appendix 2.
8. The proposed changes, summarised in paragraph 5 above, impose a minor administrative burden on ECE services. The Ministry of Health have produced the ‘*Healthy Food and Drink Toolkit, Early Learning Services*’ which will provide useful information to services to support the implementation of these changes. In addition, there are Ministry of Health staff (Healthy Active Learning Workforce) available to support services to implement these changes.
9. These amendments will also be supported by updated Ministry of Education guidance that sets out how services can meet the requirements and provide links to the above resources. Any additional support required will be available via our regional offices. While on-site Ministry staff will confirm services’ understanding of new criteria and provide support as required following the announcement of the proposed changes.

10. The additional change for centre-based services and kōhanga reo, requires more staff/adults present to hold a first aid qualification. This is likely to result in an additional cost pressure on these services. To support services, I would like to provide a one-off payment to services to meet the immediate cost of providing additional first aid training.

Supporting Services

11. The immediate additional costs for services to comply with the amended criteria are outlined below:

Licensed Places	Number of Services	Cost Per Centre	Total
1-25	663	\$0	-
26-50	2571	\$310	\$797,010
51-75	550	\$310	\$170,500
76-100	317	\$465	\$147,405
101-125	103	\$465	\$47,895
126-150	55	\$620	\$34,100
Total	4259	-	\$1,196,910

12. I would like to make a one-off payment to services as per the table above on 1 February 2021 to meet the immediate cost of providing additional first aid training.
13. Funding to provide training / professional development to support services to meet licensing requirements is within the scope of the SELO (Strengthening Early Learning Opportunities for children, whānau, families and communities) programme. However, the funding to support this programme for 2020/21 is fully committed.
14. Targeted Assistance for Participation (TAP) provides funds for the building of new and extension of, existing early learning services. Due to COVID the demand for this assistance has reduced for the 2020/21 financial year and currently \$4.2M is uncommitted with no forecasted projects for this financial year.
15. I am seeking your agreement in-principle to transfer \$1.2M of resources between the SELO and TAP appropriations in 2020/21 with no impact on the operating balance or debt.
16. If you agree, I will formally seek joint Ministerial approval from yourself and the Minister of Finance as required by the *Guidelines and Requirements for Proposals with Financial Implications*.

Publishing the Changes and Commencement

17. Once the proposed amendments have been prescribed, I intend to advise the sector of the changes through He Pānui Kōhungahunga- the Early Learning Bulletin and publish a notice in the *New Zealand Gazette*, no later than **8 December 2020**.
18. Compliance with the amendments for centre-based services kōhanga reo and home-based services, summarised in paragraph 5 above, will be required from **25 January 2021**.
19. Compliance with the amendments for centre-based services and kōhanga reo summarised in paragraph 6 above, will be required from **8 April 2021**.
20. These commencement dates will provide adequate time, following publication of the amendments, for services to comply with the new criteria.

Proactive Release

21. It is recommended that this Education Report is proactively released when final decisions have been made about amendments to the licensing criteria.

Appendices

Appendix 1: Ministry of Health: Reducing food-related choking for babies and young children at early learning services.

Appendix 2: Comparison of existing licensing criteria and proposed amendments.

Appendix 3: Licensing amendments by ECE service type.

Appendix 1 is available here <https://www.health.govt.nz/system/files/documents/publications/reducing-food-related-choking-babies-young-children-early-learning-services-dec20.pdf>

Appendix 2: Comparison of Existing Licensing Criteria and Proposed Amendments

Centre-based services, kōhanga reo and home-based services

1. HS22/ HS19- Supervision while eating	
Existing criterion(changes are struck through)	Proposed amendment to existing criterion (changes in bold)
Children are supervised while eating.	<p>Children are supervised and seated while eating.</p> <p>Where food is provided by the service, foods that pose a high choking risk are not to be served unless prepared in accordance with best practice as set out in Ministry of Health: Reducing food-related choking for babies and young children at early learning services.</p> <p>Where food is provided by parents, the service promotes best practices as set out in Ministry of Health: Reducing food-related choking for babies and young children at early learning services and must provide to all parents at the time of enrolment a copy of Ministry of Health: Reducing food-related choking for babies and young children at early learning services.</p>

2. HS19/HS16- Food and Nutrition	
Existing criterion (changes are struckthrough)	Proposed amendment to existing criterion (changes in bold)
<p>Food is served at appropriate times to meet the nutritional needs of each child while they are attending.</p> <p>Where food is provided by the service, it is of sufficient variety, quantity, and quality to meet these needs.</p> <p>Where food is provided by parents, the service encourages and promotes healthy eating guidelines.</p> <p>Documentation required:</p> <p>A record of all food served during the service's hours of operation (other than that provided by parents for their own children). Records show the type of food provided, and are available for inspection for 3 months after the food is served.</p>	<p>Food is served at appropriate times to meet the nutritional needs of each child while they are attending.</p> <p>Where food is provided by the service, it is of sufficient variety, quantity, and quality to meet the nutritional and developmental needs of each child.</p> <p>Where food is provided by parents, the service encourages and promotes healthy eating guidelines.</p> <p>Documentation required:</p> <p>A record of all food served during the service's hours of operation (other than that provided by parents for their own children). Records show the type of food provided, and are available for inspection for 3 months after the food is served.</p>

Centre-based services and kōhanga reo

3. HS19/HS16- Food and Nutrition	
Existing criterion (changes are struckthrough)	Proposed amendment to existing criterion (changes in bold)
<p>There is an adult present at all times for every 50 children attending (or part thereof) that:</p> <ul style="list-style-type: none"> • holds a current First Aid qualification gained from a New Zealand Qualification Authority accredited first aid training provider; or • is a registered medical practitioner or nurse with a current practising certificate; or • is a qualified ambulance officer or paramedic. <p>If a child is injured, any required first aid is administered or supervised by an adult meeting these requirements.</p> <p>Documentation required:</p> <p>Copies of current first aid (or medical practising) certificates for adults counting towards this requirement.</p>	<p>There is an adult present at all times for every 25 children attending (or part thereof) that:</p> <ul style="list-style-type: none"> • holds a current First Aid qualification gained from a New Zealand Qualification Authority accredited first aid training provider; or • is a registered medical practitioner or nurse with a current practising certificate; or • is a qualified ambulance officer or paramedic. <p>If a child is injured, any required first aid is administered or supervised by an adult meeting these requirements.</p> <p>Documentation required:</p> <p>Copies of current first aid (or medical practising) certificates for adults counting towards this requirement.</p>

Licensing Criteria for Early Childhood Education and Care Centres 2021

Pursuant to regulation 41 of the Education (Early Childhood Services) Regulations 2008, the Minister of Education prescribes the following criteria.

Contents

- | | |
|---|----------------------------|
| 1 | Title |
| 2 | Commencement |
| 3 | Principal Criteria amended |
| 4 | Interpretation |
| 5 | HS19 |
| 6 | HS22 |
| 7 | HS25 |
-

1 Title

These criteria may be cited as the *Licensing Criteria for Early Childhood Education and Care Centres Amendment Criteria 2021*.

2 Commencement

Criterion HS19 and HS22 come into effect on 25 January 2021. Criterion HS25 comes into effect on 8 April 2021.

3 Principal Criteria amended

These criteria amend the *Licensing Criteria for Early Childhood Education and Care Centres 2008*.

4 Criterion HS19 is revoked and the following criterion substituted

“HS19 Food is served at appropriate times to meet the nutritional needs of each child while they are attending. Where food is provided by the service, it is of sufficient variety, quantity, and quality to meet the nutritional and developmental needs of each child. Where food is provided by parents, the service encourages and promotes healthy eating guidelines.

Documentation required:

A record of all food served during the service's hours of operation (other than that provided by parents for their own children).

Records show the type of food provided and are available for inspection for 3 months after the food is served.

5 Criterion HS22 is revoked and the following criterion substituted

“HS22 Children are supervised and seated while eating.

Where food is provided by the service, foods that pose a high choking risk are not to be served unless prepared in accordance with best practice as set out in Ministry of Health: Reducing food-related choking for babies and young children at early learning services.

Where food is provided by parents, the service promotes best practices as set out in Ministry of Health: Reducing food-related choking for babies and young children at early learning services and must provide to all parents at the time of enrolment a copy of Ministry of Health: Reducing food-related choking for babies and young children at early learning services.

6 Criterion HS25 is revoked and the following criterion substituted

“HS25 There is an adult present at all times for every 25 children attending (or part thereof) who:

- holds a current first aid qualification gained from a New Zealand Qualification Authority accredited first aid training provider; or
- is a registered medical practitioner or nurse with a current practising certificate; or
- is a qualified ambulance officer or paramedic.

If a child is injured, any required first aid is administered or supervised by an adult meeting these requirements.

Documentation required:
Copies of current first aid (or medical practising) certificates for adults counting towards this requirement.”

Dated at Wellington on _____ day of _____ 2020

Hon. Chris Hipkins
Minister of Education

Licensing criteria for kōhanga reo affiliated with Te Kōhanga Reo National Trust 2021

Pursuant to regulation 41 of the Education (Early Childhood Services) Regulations 2008, the Minister of Education prescribes the following criteria.

Contents

1	Title
2	Commencement
3	Principal Criteria amended
4	Interpretation
5	HS19
6	HS22
7	HS25

1 Title

These criteria may be cited as the *Licensing Criteria for kōhanga reo affiliated with Te Kōhanga Reo National Trust 2021*.

2 Commencement

Criterion HS19 and HS22 come into effect on 25 January 2021. Criterion HS25 comes into effect on 8 April 2021.

3 Principal Criteria amended

These criteria amend the *Licensing Criteria for kōhanga reo affiliated with Te Kōhanga Reo National Trust 2008*.

4 Criterion HS19 is revoked and the following criterion substituted

“HS19 Food is served at appropriate times to meet the nutritional needs of each child while they are attending. Where food is provided by the service, it is of sufficient variety, quantity, and quality to meet the nutritional and developmental needs of each child. Where food is provided by parents, the service encourages and promotes healthy eating guidelines.

Documentation required:

A record of all food served during the service's hours of operation (other than that provided by parents for their own children).

Records show the type of food provided and are available for inspection for 3 months after the food is served.

5 Criterion HS22 is revoked and the following criterion substituted

“HS22 Children are supervised and seated while eating.

Where food is provided by the service, foods that pose a high choking risk are not to be served unless prepared in accordance with best practice as set out in Ministry of Health: Reducing food-related choking for babies and young children at early learning services.

Where food is provided by parents, the service promotes best practices as set out in Ministry of Health: Reducing food-related choking for babies and young children at early learning services and must provide to all parents at the time of enrolment a copy of Ministry of Health: Reducing food-related choking for babies and young children at early learning services.

6 Criterion HS25 is revoked and the following criterion substituted

“HS25 There is an adult present at all times for every 25 children attending (or part thereof) who:

- holds a current first aid qualification gained from a New Zealand Qualification Authority accredited first aid training provider; or
- is a registered medical practitioner or nurse with a current practising certificate; or
- is a qualified ambulance officer or paramedic.

If a child is injured, any required first aid is administered or supervised by an adult meeting these requirements.

Documentation required:
Copies of current first aid (or medical practising) certificates for adults counting towards this requirement.”

Dated at Wellington on _____ day of _____ 2020

Hon. Chris Hipkins
Minister of Education

Licensing Criteria for Home-based Early Childhood Education and Care Services 2021

Pursuant to regulation 41 of the Education (Early Childhood Services) Regulations 2008, the Minister of Education prescribes the following criteria.

Contents

- 1 Title
 - 2 Commencement
 - 3 Principal Criteria amended
 - 4 Interpretation
 - 5 HS16
 - 6 HS19
-

1 Title

These criteria may be cited as the *Licensing Criteria for Home-based Education and Care Services Amendment Criteria 2021*.

2 Commencement

These criteria come into effect on 25 January 2021.

3 Principal Criteria amended

These criteria amend the *Licensing Criteria for Home-based Education and Care Services 2008*.

4 Criterion HS16 is revoked and the following criterion substituted

“HS16 Food is served at appropriate times to meet the nutritional needs of each child while they are attending. Where food is provided by the service, it is of sufficient variety, quantity, and quality to meet the nutritional and developmental needs of each child. Where food is provided by parents, the service encourages and promotes healthy eating guidelines.

Documentation required:

A record of all food served during the service's hours of operation (other than that provided by parents for their own children). Records show the type of food provided and are available for inspection for 3 months after the food is served.

5 Criterion HS19 is revoked and the following criterion substituted

“HS19 Children are supervised and seated while eating.

Where food is provided by the service, foods that pose a high choking risk are not to be served unless prepared in accordance with best practice as set out in Ministry of Health: Reducing food-related choking for babies and young children at early learning services.

Where food is provided by parents, the service promotes best practices as set out in Ministry of Health: Reducing food-related choking for babies and young children at early learning services and must provide to all parents at the time of enrolment a copy of Ministry of Health: Reducing food-related choking for babies and young children at early learning services.

Dated at Wellington on _____ day of _____ 2020

Hon. Chris Hipkins
Minister of Education