



Briefing report

Education Review Office (ERO): *Early Learning Services’ Compliance with Licencing Criteria and Regulatory Standards – Update*

Date	30 August 2021
Security Level	N/A
ERO Priority	Medium)
ERO Reference	M21-50
Date requested	ERO initiated
Date due	ERO initiated
Proactive release	Recommended for public release following the Minister’s consideration

Addressee	Action sought	Deadline
Associate Minister of Education	<p>It is recommended that you:</p> <ul style="list-style-type: none">a) Note ERO’s findings in Early Childhood Education Services onsite evaluations from October 2020 to June 2021b) Note the rates and patterns of non-compliance with minimum regulatory requirements across services remains a concern to ERO.c) Note ERO’s response where there is an unacceptable or immediate risk to children’s safety and wellbeing.d) Note ERO’s work to raise the sectors awareness of its legal obligations to meet regulatory requirements.e) Note ERO’s intention to change from Term 4 of this year how it intends to work with large Governing Organisations.f) Note ERO will continue to monitor and report trends and patterns in the ECE sector.g) Note the recommendation that this briefing be shared with the Minister of Education.h) Agree that the Education Review Office release this briefing in full once it has been considered by you.	



Briefing report



Attachments:

***Education Review Office (ERO):
Early Learning Services'
Compliance with Licencing Criteria
and Regulatory Standards – Update***



Comments:

Minister's Office to complete	
Noted	<input type="checkbox"/>
Seen	<input type="checkbox"/>
Approved	<input type="checkbox"/>
Referred to:	
Date signed by Minister:	



Our Ref: M21-50

Date: 30 August 2021

Hon Jan Tinetti
Associate Minister of Education

**Early Learning Services' Compliance with Licencing Criteria and Regulatory Standards
– Update.**

Purpose

1. To update you on ERO's findings in Early Childhood Education (ECE) Services onsite evaluations from October 2020 to June 2021, as we extend our focus to including a focus on the quality of the education programmes offered by services.
2. Provide indications of the key areas of non-compliance in ECE that are emerging from ERO's review findings.
3. This Briefing provides detail on the steps we have taken to support the sector's understanding of our approach to review and evaluation and ensure that they are aware of their legal obligations to operate as an ECE Service.
4. To follow up on our 14 December 2020 briefing (M20-54) where we identified growing concerns regarding ECE compliance with licensing criteria and regulatory standards.
5. To alert you to the new approach which we look to take in the way we work with governing organisations and large corporate early childhood providers.

Background

6. ERO's *Akarangi | Quality Evaluations* (Akarangi) were implemented from 12 October 2020, following delays associated with Covid-19 2020 lockdowns. ERO continues to undertake *Akanuku | Assurance Reviews* (Akanuku) of centre-based and home-based services.
7. During these evaluation approaches, ERO has identified that most services are meeting the Licensing Criteria and Regulatory Standards (criteria).
8. The framework *He Pou Tātaki: How ERO reviews home-based education and care services* (2015) has positioned compliance with the criteria as the responsibility of the service provider to implement and monitor.
9. The focus of the Akarangi review is on the quality of the education provision offered by the service, although ERO begins this assessment with a focus on those factors which relate to the safety and wellbeing of children.

10. Akanuku Reviews occur where:
 - A service has been recently licensed (there are approximately 150 new services established annually, although this number has declined in recent years with only 109 new services being established in the 2020 year).
 - There is a change in ownership.
 - A service has been found previously to not be meeting key regulatory requirements and has subsequently been supported through the Ministry of Education (Ministry).
 - A service transitions from an Akarangi | Quality Evaluation.
11. Non-compliance with licensing criteria and regulatory standards can be placed into two categories:
 - Firstly, those that are identified as posing an unacceptable or immediate risk to children's health and safety.
 - Those of a less serious nature but still require addressing immediately.
12. Akarangi reviews will move to an Akanuku / assurance review during our onsite visit, if findings revealed non-compliances of a level that posed an unacceptable risk.
13. Akarangi reviews continue if ERO finds services are meeting the criteria or identified non-compliances are less serious in nature.

What ERO is finding

14. Up to June 2021 239 services were notified that they would be undergoing an **Akarangi** review.
15. Of these 69% continued with an Akarangi | Quality Evaluation and 31% transitioned to an Akanuku | Assurance Review as non-compliances with criteria were found to pose an unacceptable risk to children.
16. For centres that completed an Akarangi | Quality Evaluation, 81% met the criteria fully or addressed and resolved non-compliance areas prior to their report. Eighteen percent had non-compliances included in their report.
17. Up to June 2021, ERO has completed 352 Akanuku reviews across the country. Of these 76% were fully compliant with criteria following the process and 24% remained non-compliant.
18. The findings from both our Akanuku and Akarangi show that approximately three-quarters of services are meeting the regulatory standards. However, a quarter are not.
19. In services where ERO identified areas of non-compliance, approximately half of these represented an unacceptable risk to children's safety and wellbeing.
20. Common areas of concern include:
 - The safety checking of staff.
 - Meeting the requirements for excursions.
 - Authorising medicines.
 - Hazard management and policies.
 - Knowledge and practice in respect of emergency response.

21. These rates and patterns of non-compliance with the minimum regulatory requirements across services continues to be a concern, particularly those that represent a significant risk to children's safety and wellbeing.

What ERO is doing in response

22. Our role and function remain unchanged and encompass accountability (including monitoring compliance among providers with legal requirements), educational improvement and knowledge generation.
23. ERO's powers in the *Education and Training Act (2020)* [Section 463] are to "review" and "report" to the Minister of Education and to the wider community on our review findings. In this we have established formalised processes with the Ministry to respond to non-compliances of a significant nature where we identify this. Although we do not have the legal mandate, we are currently requiring services to address less significant breaches of the regulations as part of the review approach. Services are being given the option to address these prior to our publication of their review report. Breaches, even when addressed following our onsite visit, are noted in our published review report.
24. I have written again to the sector to share the findings from our evaluations. I have alerted services to the common areas of non-compliance and asked them to proactively check their systems against their regulatory requirements to be assured that they are meeting their licencing requirements.
25. ERO continues to build information and resources aimed at supporting the sector. ERO's *Centre Assurance Statement* and Checklists walks services through each of their regulatory obligations and is used in support of a ERO review and as a tool for self-assessment by a service's management. The sector is also building its own resources and offering training aimed at supporting services in meeting their obligations.
26. ERO Regional Directors, Managers and Reviewers have further engaged with the sector through regional sector engagement workshops to inform them about the *Ngā Ara Whai Hua (Quality Framework for Evaluation and Improvement)* in Early Childhood Education Services; the government's requirements of licensed services; our accountability and improvement function; and the fundamental role services have, to ensure children in their care are safe and accessing quality education and care.

A new approach to working with Umbrellas Organisations and large Corporate Providers

27. As part of ERO's approach to ensuring we achieve greater impact in terms of assuring regulatory compliance and driving quality improvement, we are also changing the way we work with umbrella organisations and large corporate providers (Governing Organisations) of early learning services (e.g. Best Start, Evolve, individual Kindergarten Associations etc.). Provision was made for this approach with changes introduced in the Education and Training Act 2020.
28. In this new approach we intend to work with the Governing Organisation to ensure that their own focus and actions ensure that all their services meet minimum licensing requirements and that they can confirm to ERO that they can attest to a focus across their network on the things that matter most to ensure quality provision and quality improvement. This approach will look at the quality assurance, and feedback mechanisms that these service providers have in place, as well as their efforts to address quality concerns among their services.

29. To validate national or regional policy and processes ERO will assess a sample of individual services to assure that the intent of policies, systems and practices are indeed effectively implemented.
30. This approach as noted above to review was trialled in 2018/2019 with a group of Governing Organisations.
31. While your portfolio has the responsibility for the functions of the ERO, accountability for the early learning sector remains with Minister Hipkins – we recommend that this briefing be brought to his attention.


Recommendations

32. It is recommended that you:
 - a) **Note** ERO’s findings in Early Childhood Education Services onsite evaluations from October 2020 to June 2021. **Noted**
 - b) **Note** the rates and patterns of non-compliance with minimum regulatory requirements across services remains a concern to ERO. **Noted**
 - c) **Note** ERO’s response where there is an unacceptable or immediate risk to children’s safety and wellbeing. **Noted**
 - d) **Note** ERO’s work to raise the sectors awareness of its legal obligations to meet regulatory requirements. **Noted**
 - e) **Note** ERO’s intention to change from Term 4 of this year how it intends to work with large Governing Organisations. **Noted**
 - f) **Note** ERO will continue to monitor and report trends and patterns in the ECE sector. **Noted**
 - g) **Note** the recommendation that this briefing be shared with the Minister of Education. **Noted**
 - h) **Agree** that the Education Review Office release this briefing in full once it has been considered by you. **Agreed/Disagreed**



Nicholas Pole
Chief Executive

NOTED/APPROVED



Hon Jan Tinetti
Associate Minister of Education

31 / 08 / 2021