



**EDUCATION REVIEW OFFICE**  
Te Tari Arotake Mātauranga

## Guidelines for Centre Assurance Statement For Services Licensed under 2008 Regulatory Framework

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Education Review Office

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WELLINGTON

NEW ZEALAND

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# Ko te Tamaiti te Pūtake o te Kaupapa

## The Child – The Heart of the Matter

### Introduction

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**Early childhood education and care centre** means premises used regularly for the education and care of 3 or more children (not being children of the persons providing the education or care, or children enrolled at a school being provided with education or care before or after school) under the age of 6 –

- (a) by the day or part of a day; but
- (b) not for any continuous period of more than 7 days.<sup>1</sup>

**Licensed early childhood education and care centre (“centre” or “service” for the purposes of this document)** means an early childhood education and care centre in respect of which the service provider holds a current licence issued under regulations made under [section 636](#)

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Early childhood education in licensed centres aims to promote young children’s learning and development. Key mechanisms to ensure that centres provide a minimum standard of care, and to encourage provision of high quality care and education include:

- *The Education (Early Childhood Services) Regulations 2008*<sup>2</sup> setting minimum standards primarily for curriculum, qualifications, ratios, service-size, premises and facilities, health and safety practices, management and administration. The purpose of these minimum standards is to ensure the health, comfort, care, education, and safety of children attending licensed centres and therefore to establish the level of quality education and care that one would expect to find in a licensed centre;
- Licensing, intended to provide public assurance that a centre is meeting the standards established in the regulations, and guarding against entry of services below the minimum standard into the early childhood centre education market;
- The *Licensing Criteria for Early Childhood Education and Care Centres 2008* which are deemed regulations prescribed by the Minister of Education, and that are used by the Secretary of Education to assess compliance with regulated standards of education and care;
- The *Early Childhood Education Curriculum Framework*<sup>3</sup> based on *Te Whariki*, which is New Zealand’s curriculum for early childhood education and which provides guidelines for consistent and high-quality early childhood programmes; and

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<sup>1</sup> Section 10 Education and Training Act 2020

<sup>2</sup> Note this Regulations continue to apply under clause 4, [Schedule 1 Transitional, savings, and related provisions](#). Also note; [Schedule 26 Consequential amendments and revocations](#) to the Regulations.

<sup>3</sup> *New Zealand Gazette*, 4 September 2008, No 136 at page 3617.

- The involvement of parents who may actively seek information about the licensed centre and its work with children, take part in management and decision-making or participate in and monitor programmes.

Another key mechanism used to ensure that licensed centres meet the minimum regulated standards of education and care is external evaluation by the Education Review Office (ERO). Review reports prepared by ERO are used by staff, management, parents and government officials to inform their understanding of the quality of care and education in licensed centres and the sector as a whole.

The legal framework described above provides a baseline for all ‘service providers’ (the body, agency, or person who or that operates the centre). ERO wants to know that the ‘licensed service provider’ is taking all reasonable steps to meet the minimum standards to ensure the health, comfort, care, education, and safety of children attending the licensed centre. The ‘licensed service provider’ is the holder of a licence, and in relation to a licensed early childhood service...the holder of a licence in relation to that service. (For the purposes of this document the licensed service provider may also be referred to as “the service provider”.)

[Read more about the changes relating to early childhood education \(ECE\), including ngā kōhanga reo](#)

## High quality evaluation contributing to high quality education

### Licensing and Compliance Issues

Services must meet licensing criteria as well as other regulatory requirements contained in the regulations in order to gain and maintain a licence and receive government funding.

The Education (Early Childhood Services) Regulations 2008, should be read in conjunction with the *Licensing Criteria for Early Childhood Education and Care Centres 2008* and the *Early Childhood Education Curriculum Framework*.

Compliance with regulatory requirements is clearly an integral part of the provision of high quality care and education.

ERO places significant reliance on the information given by service providers as to whether or not they are taking all reasonable steps to meet their legal obligations.

Service providers and **contact persons**<sup>4</sup> are asked to provide assurance to ERO about legal compliance. Where there are areas of non-compliance, service providers will be asked to advise what action they are taking to achieve compliance.

In order to help with this process, ERO has developed these *Guidelines for Centre Assurance Statement* and *Self-Audit Checklists* containing:

- a brief outline of the regulatory requirements with which licensed centre service providers must comply that are of key interest to ERO;
- checklists to be filled out by service providers and management as part of a self-review process to assist ERO in determining whether each service provider is complying with regulatory requirements; and
- an assurance statement to be signed by each service provider and contact person providing evidence of the service provider's compliance (or otherwise) with regulatory requirements.

The completed checklists and assurance statement are used by ERO in the scoping and planning stages of the review. The detailed issues for evaluation are determined at the beginning of the review following a discussion with the service provider.

**Note:** The *Guidelines for Centre Assurance Statement* and the *Self-Audit Checklists* are not intended to be exhaustive of all relevant legislation and requirements (such as those provided in Ministry of Education Circulars and other documents). Information in the *Guidelines* may not represent the official version of Acts, Regulations and other legal requirements. In any situation the full legislation and the requirements themselves should be referred to. For further guidance, service providers should refer to the 'Licensing criteria for services' section on the Ministry of

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<sup>4</sup> The person nominated by the service provider to represent its management – refer to regulation 3 of the Education (Early Childhood Services) Regulations 2008 for interpretation.

Education, Early Childhood Education website- [www.education.govt.nz/early-childhood/running-an-ece-service/the-regulatory-framework-for-ece/licensing-criteria](http://www.education.govt.nz/early-childhood/running-an-ece-service/the-regulatory-framework-for-ece/licensing-criteria)

## Section One - Curriculum Standard Guide

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### Key Legislation

- Education and Training Act 2020
- Education (Early Childhood Services) Regulations 2008
- Licensing Criteria for Early Childhood Education and Care Centres 2008<sup>5</sup>

### Key Documents

- Early Childhood Education Curriculum Framework.
  - [Early Learning Curriculum Framework | He Anga Marau Kōhungahunga 2023](#)
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## Education and Training Act 2020

### Statement of National Education and Learning Priorities [NELPS]

The Statement of National Education and Learning Priorities (NELP) sets out the Government's priorities for education that will ensure the success and wellbeing of all learners. They are statutory documents issued under the Education and Training Act 2020 that direct government and education sector activities towards the actions that will make the biggest difference, and ensuring that we are able to strengthen the education system to deliver successful outcomes for all learners/ākonga.

The NELP's will help create education environments that are learner-centred, and where more of our learners, and especially more of our Māori and Pacific learners, are successful. Therefore, they encourage all places of learning to focus on:

- ensuring that they are safe and inclusive and free from racism, discrimination, and bullying
- strengthening the quality of teaching our learners receive to giving our learners the skills they need to succeed in education, work and life
- collaborating more with whānau, employers, industry and communities
- taking account of learners' needs, identities, languages and cultures in their practice, and
- incorporating te reo Māori and tikanga Māori into everyday activities.

[Download the Statement of National Education and Learning Priorities \(NELP\) 2020](#)[PDF, 217 KB]

[Download the summary of NELP and TES 2020](#)[PDF, 75 KB]

[Download the NELP and TES 2020 resource pack](#)[PDF, 1.3 MB]

[Download the NELP and TES 2020 resource pack in te reo Māori](#)[PDF, 1.3 MB]

[Priorities and actions for early learning services](#)[PDF, 148 KB]

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<sup>5</sup> [Licensing criteria for centre-based education and care services 2008](#)

## Early Childhood Education Curriculum Framework

The Early Childhood Curriculum Framework (Curriculum Framework) for licensed centres is based on *Te Whāriki: He Whāriki Mātauranga mō ngā Mokopuna o Aotearoa*, which is New Zealand's curriculum for early childhood education. *Te Whāriki* sets out the learning experience goals for children from birth up to school age. It identifies what a child needs to know and use later in life. It is envisioned as a mat with four principles interwoven with five strands.

The four principles are:

- **Empowerment / Whakamana** - giving the child the power to learn and grow,
- **Holistic Development / Kotahitanga** - learning as a whole rather than in separate subjects,
- **Family and Community / Whānau Tangata** - linking with the child's family and community,
- **Relationships / Ngā Hononga** - learning by responding and doing things alongside others.

The five Strands are:

- **Well-being / Mana Atua** - having a safe and healthy environment in which to grow and learn,
- **Belonging / Mana Whenua** - feeling like they belong,
- **Contribution / Mana Tangata** - feeling valued and encouraged to take responsibility,
- **Communication / Mana Reo** - learning to express themselves with others in a variety of ways,
- **Exploration / Mana Aotūroa** - learning by doing.

The purpose of the Curriculum Framework is to provide the basis and context for specific curriculum regulatory requirements in the Education (Early Childhood Services) Regulations 2008 relating to the standards of education and care and to the associated curriculum criteria. The Curriculum Framework is made up of the English and te reo Māori versions of the principles and strands from *Te Whāriki*<sup>6</sup>.

Each licensed centre will develop its own programmes to implement *Te Whāriki*. The *Licensing Criteria for Early Childhood Education and Care Centres* outlines how service providers must comply with the standards.

The licensed service provider must implement the principles and strands set out in the Curriculum Framework.<sup>7</sup>

The service provider is also required to meet the curriculum standard under regulation 43 of the Education (Early Childhood Services) Regulations 2008, and produce specific documentation to

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<sup>6</sup> [Te Whāriki](#)

<sup>7</sup> Gazetted in the *New Zealand Gazette* No 136 dated 4 September 2008 at page 3617. Refer to the MOE – Early Childhood Education website – [www.education.govt.nz](http://www.education.govt.nz), or the Department of Internal Affairs' web-site [www.dia.govt.nz](http://www.dia.govt.nz) and search under *New Zealand Gazette On-line*.



demonstrate compliance with the *Licensing Criteria for Early Childhood Education and Care Centres 2008* consistent with the prescribed curriculum framework to assess the curriculum standard.

The curriculum standard in regulation 43 of the Education (Early Childhood Services) Regulations 2008 is set out below, followed by the criteria against which compliance will be assessed.

#### **Regulation 43 - Curriculum standard: general**

(1) The curriculum standard: general is the standard that requires every licensed service provider to whom this regulation applies to—

- (a) plan, implement, and evaluate a curriculum that is designed to enhance children's learning and development through the provision of learning experiences and that is consistent with any curriculum framework prescribed by the Minister that applies to the service; and that—
  - (i) responds to the learning interests, strengths, and capabilities of enrolled children; and
  - (ii) provides a positive learning environment for those children; and
  - (iii) reflects an understanding of learning and development that is consistent with current research, theory, and practices in early childhood education; and
  - (iv) encourages children to be confident in their own culture and develop an understanding, and respect for, other cultures; and
  - (v) acknowledges and reflects the unique place of Maori as tangata whenua; and
  - (vi) respects and acknowledges the aspirations of parents, family, and whanau; and
- (b) make all reasonable efforts to ensure that the service provider collaborates with the parents and, where appropriate, the family or whanau of the enrolled children in relation to the learning and development of, and decision making about, those children; and
- (c) obtain information and guidance from agencies with expertise in early childhood learning and development, to the extent necessary, to—
  - (i) support the learning and development of enrolled children; and
  - (ii) work effectively with parents and, where appropriate, family or whanau.

(2) Each licensed service provider to whom this regulation applies must comply with the curriculum standard: general.

#### **Key Requirements**

*Licensing Criteria for Early Childhood Education and Care Centres 2008*

**Clause 4 – Interpretation** – for the purpose of these criteria, unless the context indicates otherwise: (Note: applies to all sections of this Compliance Guide and the attached Self-Audit Checklists)

- (a) **adults providing education and care** means kaiako, teachers, supervisors, parent helpers, kaiawhina, fa’iaoga, or other adults who have a designated role of providing education and care to children at a service and are included in required adult:child ratios;
- (b) **assessment** means the process of noticing children’s learning, recognising its significance, and responding in ways that foster further learning. It includes documenting some, but not necessarily all, of what and how children are learning in order to inform teaching, and make learning visible;
- (c) **culture** means the understandings, patterns of behaviour, practices, and values shared by a group of people;
- (d) Deleted
- (e) **medicine** means any substance used for a therapeutic purpose and includes prescription and non prescription preparations having the meaning assigned to these under Appendix 3;
- (f) **excursion** means –
  - (i) being outside the licensed premises whilst receiving education and care from the service; but
  - (ii) does not include an excursion for the purpose of emergency evacuations, drills or the receipt of urgent medical attention.
  - (iii) regular excursion means – excursions that parents have agreed to at the time of their child’s enrolment, that are part of an ongoing planned and consistent routine of education and care.
  - (iv) special excursion means – excursions that parents have agreed to prior to the excursion or outing taking place, that are not a regular outing or excursion.
- (g) **parent** means –
  - (i) the person (or people) responsible for having the role of providing day to day care for the child; and
  - (ii) may include a biological or adoptive parent, step parent, partner of a parent of a child, legal guardian or member of the child’s family, whānau or other culturally recognised family group.
- (h) **philosophy** means a statement that –

- (i) outlines the fundamental beliefs, values, and ideals that are important to the people involved in the service – management, adults providing education and care, parents, families/whānau, and perhaps the wider community;
  - (ii) identifies what is special about the service; and
  - (iii) is intended to be the basis for decisions about the way the service is managed and about its direction in the future;
- (i) **policy** means a statement intended to influence and determine decisions, actions, and other matters;
  - (j) **premises** means the land and buildings (or parts of buildings) intended for the exclusive use as a licensed early childhood education and care centre during hours of operation;
  - (k) **procedure** means a particular and established way of doing something;
  - (l) **process** means a goal-directed, interrelated series of actions, events, procedures, or steps;
  - (m) **records** means information or data on a particular subject collected and preserved;
  - (n) **regulation** means a regulation under the Education (Early Childhood Services) Regulations 2008;
  - (o) **required adult:child ratio** means the adult:child ratio with which the service provider is required to comply under regulation 44(1)(b) or any direction by the Secretary under regulation 54(2);
  - (p) **service** means an early childhood education and care centre;
  - (q) **service curriculum** means all of the experiences, interactions, activities and events – both direct and indirect, planned and spontaneous – that happen at the service. Teaching practices including planning, assessment, and evaluation form part of the service curriculum; and
  - (r) **service provider** means the body, agency, or person who or that operates the early childhood education and care centre.
  - (s) **specified agency** means any government agency or statutory body that an early childhood education and care service is required to notify if there is a serious (or as defined) injury, illness, incident or allegation. This may include but is not limited to: the New Zealand Police; the Ministry of Health; Child, Youth and Family; WorkSafe New Zealand; and the Teaching Council.

## **Clause 5 - Purpose of criteria**

- (1) The criteria are to be used by the Secretary of Education to assess compliance with the minimum standards set out under regulations 43 and 45 to 47 of the Education (Early Childhood Services) Regulations 2008.
- (2) Regulations 43 and 45 to 47 impose minimum standards that each licensed service provider is required to comply with, and are set out in these criteria so that readers can see how the regulations and criteria fit together.

## **Clause 6 - Criteria to assess Curriculum standard**

### [Curriculum criteria documentation required](#)

In this section

- [Professional practice](#) - Criteria and guidance for C1-C4
- [Culture and identity](#) - Criteria and guidance for C5-C6
- [Children as learners](#) - Criteria and guidance for C7-C10
- [Working with others](#) - Criteria and guidance for C11-C13
- [Documentation required](#) - For curriculum criteria

## Section Two - Premises and Facilities Standard Guide

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### Key Legislation

- Education and Training Act 2020
- Education (Early Childhood Services) Regulations 2008.
- Building Act 2004.
- Fire and Emergency New Zealand Act 2017
- Fire Safety, Evacuation Procedures, and Evacuation Schemes Regulations 2018.
- Health and Safety at Work Act 2015
- Regulations made under the Health and Safety at Work Act 2015
- Resource Management Act 1991.
- Smokefree Environments and Regulated Products Act 1990.

### Key Documents

- Licensing Criteria for Early Childhood Education and Care Centres 2008.
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### Introduction

The licensed service provider is required to meet the premises and facilities standard: general, under regulation 45 of the Education (Early Childhood Services) Regulations 2008. In addition the service provider must produce supporting documentation to demonstrate compliance with the *Licensing Criteria for Early Childhood Education and Care Centres 2008 - Premises and facilities*.

The minimum premises and facilities standard: general in regulation 45 of the Education (Early Childhood Services) Regulations 2008 is set out below, followed by reference to the criteria against which compliance will be assessed.

#### **Regulation 45 – Premises and facilities standard: general**

- (1) The premises and facilities standard: general is the standard that requires every licensed service provider to whom this regulation applies—
  - (a) to use premises and facilities that, having regard to the number and age range of the children attending the premises, provide sufficient and suitable space for a range of activities, facilities for food preparation, eating, sleeping, storage, toileting, and washing, and sufficient and suitable heating, lighting, noise control, ventilation, and equipment to support—
    - (i) appropriate curriculum implementation by the service provider; and
    - (ii) safe and healthy practices by the service provider; and
  - (b) to comply with the requirements of Schedule 4 (which relates to activity spaces).
- (2) Each licensed service provider to whom this regulation applies must comply with the premises and facilities standard: general.

## Key Requirements

### Licensing Criteria for Early Childhood Education and Care Centres 2008

#### Clause 7 - Criteria to assess Premises and facilities standard

##### In this section:

- [PF1 - Design and layout of premises](#)
- [PF2 - Premises support effective supervision](#)
- [PF3 - Building Act compliance](#)
- [PF4 - Variety of equipment](#)
- [PF5 - Safe Furniture and Equipment](#)
- [PF6 - Flooring](#)
- [PF7 - Safety glass](#)
- [PF8 - Storage](#)
- [PF9 - Adult workspace](#)
- [PF10 - Art sink](#)
- [PF11 - Telephone](#)
- [PF12 - Heating, lighting, noise, and ventilation](#)
- [PF13 - Outdoor activity space](#)
- [PF14 - Infant toddler safe space](#)
- [Food preparation and eating spaces](#) - Criteria and guidance for PF15-PF17
- [Toilet and handwashing facilities](#) - Criteria and guidance for PF18-PF23
- [Other sanitary facilities](#) - Criteria and guidance for PF24-PF28
- [Sleep](#) - Criteria and guidance for PF29-PF38

#### Schedule 4 of the Education (Early Childhood Services) Regulations 2008 – Activity Spaces

Service	Activity space required
Early childhood education and care centre	Indoor—2.5 sq m per child Outdoor—5 sq m per child or a minimum number of sq m per child determined under <a href="#">regulation 54(3)</a>

##### What is indoor activity space

Indoor space for all services is calculated by excluding the space occupied by all fittings, fixed equipment, and stored goods and excludes passage ways, toilet facilities, staff rooms, specific sleeping areas for children under 2 years of age, and other areas not available for play.

##### Building Act 2004

The Building Act establishes a series of minimum safety standards (building regulations), which must be complied with. The purpose of these regulations is to ensure all new buildings and alterations are constructed to a standard that ensures the safety of the occupants.

The purposes of the Building Act 2004 (Section 3) are to provide for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards for buildings, to ensure that-

- (a) people who use buildings can do so safely and without endangering their health; and
- (b) buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them; and
- (c) people who use a building can escape from the building if it is on fire; and
- (d) buildings are designed, constructed, and able to be used in ways that promote sustainable development.

Sections 118 to 120 of the Building Act require building owners to ensure access, facilities and signage are in place to cater for the needs of disabled staff, children and visitors when constructing a new building or altering any building.

**Criterion PF3** requires licensed centres to conform to any relevant bylaws of the local authority and the Building Act 2004.

Licensed centres are also required to have the following documentation:

1. Code Compliance Certificate issued under section 95 of the Building Act 2004 for any building work undertaken, or alternatively any other documentation that shows evidence of compliance.
2. Current Annual Building Warrant of Fitness (if the premises require a compliance schedule under section 100 of the Building Act 2004).

### **Resource Management Act 1991**

This Act may require compliance before the premises are used as a licensed centre and before its buildings are altered or extended. This is the responsibility of the owner of the proposed premises.

### Useful Resources

<http://www.education.govt.nz/early-childhood/running-an-ece-service/the-regulatory-framework-for-ece/licensing-criteria/centre-based-ece-services/> – refer to *Centre based ECE services, Premises and facilities*.

## Section Three - Health and Safety Practices Standard Guide

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### Key Legislation

- Education and Training Act 2020
- Education (Early Childhood Services) Regulations 2008.
- Building Act 2004.
- Fire and Emergency New Zealand Act 2017
- Fire Safety, Evacuation Procedures and Evacuation Schemes Regulations 2018
- Health and Safety at Work Act 2015
- Health (Immunisation) Regulations 1995.
- Human Rights Act 1993.
- Smoke Free Environments and Regulated Products Act 1990.
- Children’s Act 2014
- Children’s (Requirements for Safety Checks of Children’s Workers) Regulations 2015
- Food Act 2014 and Food Regulations 2015
- COVID-19 Public Health Response Act 2020

### Key Documents

- Licensing Criteria for Early Childhood Education and Care Centres 2008
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### Introduction

The service provider is required to meet the health and safety practices standard under regulation 46 of the Education (Early Childhood Services) Regulations 2008. In addition the service provider must comply with the certification criteria and produce supporting documentation as set out in the *Licensing Criteria for Early Childhood Education and Care Centres 2008 – Health and safety*.

The minimum health and safety practices in regulation 46 of the Education (Early Childhood Services) Regulations 2008 are set out below, followed by a summary of the criteria against which compliance will be assessed.

#### **Regulation 46 – Health and safety practices standard: general**

- (1) The health and safety practices standard: general is the standard that requires every licensed service provider to whom this regulation applies to—
  - (a) take all reasonable steps to promote the good health and safety of children enrolled in the service; and
  - (b) take all reasonable precautions to prevent accidents and the spread of infection among children enrolled in the service; and
  - (c) take all reasonable steps to ensure that the premises, facilities, and other equipment on those premises are—



- (i) kept in good repair; and
    - (ii) maintained regularly; and
    - (iii) used safely and kept free from hazards; and
  - (d) take all reasonable steps to ensure that appropriate procedures are in place to deal with fires, earthquakes, and other emergencies.
- (2) Each licensed service provider to whom this regulation applies must comply with the Health and safety practices standard: general.

**Regulation 54A - Secretary may direct service provider to remedy immediate health and safety risk**

(1)The Secretary may, in writing, direct the service provider of a licensed service to remedy any thing or activity that is an immediate risk to the health and safety of any person (an **immediate health and safety risk**) and that, in the opinion of the Secretary,—

(a)is, or is likely to be, a breach of these regulations; and

(b)is capable of being remedied safely while the relevant early childhood service continues to operate.

(2)In directing the service provider of a licensed service to remedy an immediate health and safety risk, the Secretary may impose any conditions that the Secretary thinks fit relating to the risk and the continued operation of the service.

(3)The direction must include the date by which the service provider is to have remedied the immediate health and safety risk, which must be a date no later than 10 working days after the date of the direction.

(4)For the avoidance of doubt, a failure to comply with a written direction under this regulation may result in the reclassification of the service’s licence as a provisional licence under regulation 15 or the suspension of the service’s licence under regulation 30.

(5)This regulation does not limit the powers of the Secretary to reclassify a licence as a provisional licence under regulation 15 or suspend a licence under regulation 30.

## Key Requirements

Licensing Criteria for Early Childhood Education and Care Centres 2008

### Clause 8 - Criteria to assess Health and safety practices standard

In this section:

- [Hygiene](#) - Criteria and guidance for HS1-HS3
- [Emergencies](#) - Criteria and guidance for HS4-HS8
- [Sleep](#) - Criteria and guidance for HS9-HS11
- [Hazards and outings](#) - Criteria and guidance for HS12-HS18
- [Food and drink](#) - Criteria and guidance for HS19-HS23
- [Child health and wellbeing](#) - Criteria and guidance for HS24-HS30
- [Child protection](#) - Criteria and guidance for HS31-HS33
- [Notification](#) - Criteria and guidance for HS34

## Children’s Act 2014 – Child Protection Policy

The Children’s Act 2014 requires state sector agencies who work with children, and the organisations they fund, to have child protection policies. As ECE services are funded by the Ministry of Education, service providers will need to work towards meeting these requirements. The policy needs to contain provisions on the *identification and reporting of child abuse* and neglect. Guidelines have been launched to help service providers.<sup>8</sup> The guidelines include a review tool to help identify gaps in current policies, information about what to include in a new policy, and example policies.

## Food Act 2014

ECE services that provide meals to children will need to meet the requirements of National Programme 2 under the Food Act. Services that only carry out minimal food handling (example cutting fruit and providing crackers and spreads) or where children bring lunchboxes are exempt from the Food Act.<sup>9</sup>

## Health and Safety at Work Act 2015<sup>10</sup>

Under this Act, the ECE service as the person conducting a business or undertaking (PCBU) holds the primary duty of care for, and manages risks to, the health and safety of workers and others arising from the work of the school. The ECE service will exercise its primary duty of care by ensuring the health and safety of:

- its workers (e.g. teachers, managers, administrators, volunteer workers etc.) while at service and on excursions and outside the ECE premises
- other workers who are influenced or directed by the ECE service
- others (e.g. students/children, parents, members of the public, and visitors to the premises), by ensuring they are not put at risk from work carried out by the ECE service.

Officers are individual members of the ECE service occupying a position that allows them to *exercise significant influence* over the management of the service. It will depend on the size and structure of the individual service, and whether the individual exercises *significant influence* over the management of the ECE service. Their role is to exercise due diligence, which means that they must take reasonable steps to ensure that the ECE service (as the PCBU) meets its health and safety obligations.

There are a number of things your ECE service can do to comply:

- familiarise yourself with the key requirements of the legislation
- review your health and safety policies and practices

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<sup>8</sup> *Safer Organisations, Safer Children* from Children’s Action Plan website – [www.childrensactionplan.govt.nz](http://www.childrensactionplan.govt.nz); [Children’s Act 2014 - a practical guide](#); [Children’s \(Requirements for Safety Checks of Children’s Workers Regulations](#)

<sup>9</sup> New ECE services must meet the requirements from 1/3/2016. Existing services must have applied to their local Territorial Authority for registration by 31/3/2017. Refer - [Food safety for ECE services \(Food Act requirements\)](#)

<sup>10</sup> This Act applies from 4 April 2016. For further information refer: <http://www.education.govt.nz/ministry-of-education/specific-initiatives/health-and-safety/factsheets/Implementing-the-Health-and-Safety-at-Work-Act-a-guide-for-early-learning-services>

- identify health and safety risks in your workplace (a workplace includes any place where a worker goes, or is likely to be, while at work) and take all practicable steps to prevent these from causing harm
- make health and safety part of your workplace culture
- visit the MOE's dedicated health and safety webpage: [www.education.govt.nz/ministry-of-education/specific-initiatives/health-and-safety/](http://www.education.govt.nz/ministry-of-education/specific-initiatives/health-and-safety/) for guidance and updates

### **Health Immunisation records**

Service providers are required to keep immunisation registers to record matters relating to the Health (Immunisation) Regulations 1995, for children aged 15 months and over attending the centre.

*Refer - [Immunisation Guidelines for Early Childhood Services and ...](#)*

### **Fire and Emergency New Zealand Act 2017/Fire Safety, Evacuation Procedures and Evacuation Schemes Regulations 2018**

All centres need to have an evacuation procedure or scheme in place to ensure the safe and efficient evacuation of occupants in a fire emergency. The safe evacuation of persons with disabilities to an external place of safety is a critical requirement. Centres must place signs and notices at appropriate points across the school so that the evacuation procedure is clear.

The centre premises must have a current Fire Evacuation Scheme documentation approved by Fire and Emergency New Zealand (Criterion HS4 of the Health and safety practices standard).

Evacuation drills are required at intervals of not more than 6 months (Regulation 17(g)(i)), and notices are required to be posted in buildings showing how to get out of the building and the evacuation procedure.

### **Building (Pools) Amendment Act 2016**

The above Act came into effect on 1 January 2017 and repealed the Fencing of Swimming Pools Act 1987 and included new pool safety provisions in the Building Act 2004.

The following information is from MOE website:

You must have fences and signage that meet the legal requirements and design standards set out in:

- [Health and Safety at Work Act 2015](#) (Legislation website)
- [Building Act 2004](#) (Legislation website)
- [Building Code \(including the new Clause F9 for pool fencing\)](#) (Building Performance website)
- [NZS 8500:2006 'Safety barriers and fences around swimming pools'](#) (Standards NZ website)

### **Smokefree Environments and Regulated Products Act 1990**

The above Act requires centres to have smoke-free and vaping buildings and grounds at all times. The total smoking and vaping ban includes centre grounds during weekend sports games, fundraising activities, community days or evening classes, as well as when the grounds or buildings are rented out by other groups. Service providers should also display smoke-free and vaping notices

at every entry gate or building entrance, and that they take all reasonably practicable steps to ensure there is no smoking and vaping on their premises.

### **No vaping notices**

As of **11 May 2021**, all schools, early childhood education facilities and care centres must display a notice stating that smoking and vaping within the premises is forbidden at all times.

Make sure that the surface is clean and prominently display the stickers on windows or doors at or immediately inside:

- every entrance to the premises
- every entrance to every building or enclosed area on the premises, excluding buildings and areas not usually in use.

These locations are the same as previously required for Smokefree notices under the Smoke-free Environments Act. The 'no vaping' notices are intended to be displayed along with existing 'no smoking' notices.

If you need additional stickers, these are available for [order through the Smokefree website](#).

### **Civil Defence**

Service providers should have written documentation of a procedure, and basic supplies for dealing with emergencies that are consistent with national or regional Civil Defence guidelines (see Criterion HS7 of the Health and safety practices standard) to provide a safe environment for children and parents who are present. The building in which the service meets should have a civil defence emergency kit.

Adults providing education and care must be familiar with relevant emergency drills and regularly carry these out with the children. The centre should have documentation of a record of emergency drills carried out with children (Criterion HS8 of the Health and Safety practices standard).

Also refer [Early Childhood Education Services Emergency Planning Guidance \(external link\)](#)

[Emergency Evacuation Management Plan – Ministry of Education](#)

### **COVID-19 Public Health Response Act 2020**

The COVID-19 Public Health Response Act 2020 was passed as standalone legislation to provide a different legal framework for responding to COVID-19. The Act allows the Minister of Health (or the Director-General of Health in specified circumstances) to make orders under section 11 to give effect to the public health response to COVID-19 in New Zealand.

- [COVID-19 Public Health Response Act 2020](#)

Also refer

[Early Learning Bulletin](#)

## **Section 654 - Power of Secretary to direct education entities** <sup>11</sup>

*(1)The Secretary may direct the governing body of an education entity (or the governing bodies of a class of education entities) to comply with any specified requirements—*

*(a)to close or open the education entity or any part of it (including in relation to any specified category, class, or year group of students):*

*(b)to close or open the education entity for physical attendance or instruction, or both:*

*(c)to set restrictions on the attendance of students and those working at an education entity, having regard to any relevant employment or health and safety legislation:*

*(d)to operate, control, or manage the education entity:*

*(e)to provide education or instruction through the education entity in any specified ways.*

*(2)The Secretary may renew, amend, or revoke a direction while the relevant state of emergency, transition period, or epidemic notice is in force.*

*(3)[Schedule 25](#) provides for directions in relation to COVID-19.*

### [Directions](#)

[653](#) [Application and purpose of sections 654 to 658](#)

[654](#) [Power of Secretary to direct education entities](#)

[655](#) [Effect of directions](#)

[656](#) [Publication of directions](#)

[657](#) [Expiry of directions](#)

From MOE website:

### [Advice for early learning services](#)

## Useful Resources

[Children’s Act 2014 - a practical guide](#) [PDF, 5.2 MB]

[Factsheets for schools, kura, early childhood education \(ECE\) services, kōhanga reo and playgroups on the key components of a health and safety system](#)

*What’s the Plan Stan?*

Ministry of Civil Defence and Emergency Management, 2006

<https://getready.govt.nz/prepared/school/whats-the-plan-stan>

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<sup>11</sup> [Education and Training Act 2020](#)

## Section Four - Governance, Management and Administration

### Standard Guide

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#### Key Legislation

- Education and Training Act 2020
- Education (Early Childhood Services) Regulations 2008.
- Privacy Act 2020.
- Children’s Act 2014.
- Children’s (Requirements for Safety Checks of Children’s Workers) Regulations 2015
- Teaching Council Rules 2016

#### Key Documents

- Licensing Criteria for Early Childhood Education and Care Centres 2008
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#### Introduction

The service provider of a licensed centre is required to meet the governance, management and administration standard under regulation 47 of the Education (Early Childhood Services) Regulations 2008. In addition, the service provider must comply with the certification criteria and produce certain documentation as set out in Licensing Criteria for Early Childhood Education and Care Centres 2008 - Governance, management and administration.

The minimum governance, management and administration standard in regulation 47 of the Education (Early Childhood Services) Regulations 2008 is set out below, followed by a summary of the criteria against which compliance will be assessed.

- (1) The governance, management, and administration standard: general is the standard that requires every licensed service provider to whom this regulation applies to ensure that—
  - (a) the service is effectively governed and is managed in accordance with good management practices; and
  - (b) the service provider regularly collaborates with—
    - (i) parents and family or whānau of children enrolled in the service; and
    - (ii) the adults responsible for providing education and care as part of the service; and
  - (c) appropriate documentation and records are—
    - (i) developed, maintained, and regularly reviewed; and
    - (ii) made available where appropriate—

- (A) at any reasonable time on request by a parent of a child enrolled in the service; and
  - (B) at any time on request by any person exercising powers or carrying out functions under Part 26 of the Act; and
  - (d) adequate information is made available to parents of enrolled children and, where appropriate, to the families or whānau of those children about the operation of the service; and
  - (e) all reasonable steps are taken to provide staff employed or engaged in the service with adequate professional support, professional development opportunities, and resources.
- (2) Each licensed service provider to whom this regulation applies must comply with the governance, management, and administration standard: general.

## Key Requirements

### Licensing Criteria for Early Childhood Education and Care Centres 2008

#### **Clause 9 - Criteria to assess Governance, management and administration standard.**

##### **In this section**

- [Parent involvement and information](#) - Criteria and guidance for GMA1-GMA4
- [Professional practices](#) - Criteria and guidance for GMA5-GMA7A
- [Planning and documentation](#) - Criteria and guidance for GMA8-GMA1

#### **Section 27– Parent's right of entry<sup>12</sup>**

The parent of a child has a right to enter the premises of a licensed early childhood education and care centre or a licensed home-based education and care service when the child is there unless the parent—

- (a) is required to comply with—
  - (i) a court order that prohibits access to, or contact with, the child (either generally or when attending the centre or service); or
  - (ii) a warning under section 4 of the Trespass Act 1980 to stay off the premises; or
- (b) is suffering from a contagious or infectious disease likely to have a detrimental effect on the children if passed on to them; or
- (c) is, in the opinion of a person responsible for the operation of the centre or service,—
  - (i) under the influence of alcohol or any other substance that has a detrimental effect on the functioning or behaviour of the person; or

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<sup>12</sup> Education and Training Act 2020

(ii) exhibiting behaviour that is, or is likely to be, disruptive to the effective operation of the centre or service

### **Education (Registration of Early Childhood Services Teachers) Regulations 2004<sup>13</sup>**

Replace regulation 3 with:

#### **3 Interpretation**

(1) In these regulations, unless the context otherwise requires,-

**Act** means the Education and Training Act 2020

**declared early childhood service** means an early childhood service (as defined in section 10(1) of the Act) that is declared by regulation 4(1) to be an early childhood education and care service for the purposes of the Act

**teaching position** has, for the purposes of the transition plan set out in these regulations, the meaning given in regulation 6.

(2) In these regulations, unless the context otherwise requires, terms defined in the Act and used, but not defined, in these regulations have the same meaning as in the Act.

Replace regulation 4(1) with:

(1) Every early childhood service within the meaning of the Act (other than an early childhood service that is specified in subclause (2)) is declared to be an early childhood education and care service for the purposes of the Act.

In regulation 5, replace “Part 10 of the Education Act 1989” with “Schedule 3 of the Act”.

Replace regulation 6 with:

#### **6 Meaning of person employed in teaching position**

For the purposes of these regulations, **teaching position**, as defined in section 10(1) of the Act, is modified to mean,—

(a) in relation to an early childhood education and care centre, and to a licensed hospital-based education and care service, a person responsible (as defined in regulation 3 of the Education (Early Childhood Services) Regulations 2008); and

(b) in relation to a licensed home-based education and care service, a person responsible (as defined in regulation 3 of the Education (Early Childhood Services) Regulations 2008).

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<sup>13</sup> Note this regulations continue to apply under Clause 4, Schedule 1 of the Education and Training Act 2020 with the changes as noted.



## Children’s worker – Safety Checks

Children’s worker safety checks became law in the Children’s Act 2014 (the CA) and applies to core children’s workforce roles.

Briefly, the following checks must have been completed where the service provider is seeking to employ or engage a new children’s worker<sup>14</sup> (including as a contractor) for core children’s workforce roles, and non-core children’s workforce roles:

- Identity verification - proof people are who they say they are, including previous identities
- Information requirement – reliable information about history and behaviour, which may include reference checks, interviews, and Police vetting
- Risk assessment – considered judgement based on the information collected
- Periodic re-checking – information to be updated and reassessed every three years.

The CA prohibits people with certain child abuse, sexual offending, or violence convictions from working in core worker roles. These are specified in the Act. Anyone convicted of the offences listed in the Act will not be able to work in core worker roles unless they are granted an exemption. The Ministry of Social Development manages applications for exemptions.

## Police Vetting of Non-teaching and Unregistered Employees/Contractors

### [Schedule 4](#)

### [Police vetting](#)

[25 Police vetting in respect of early childhood services](#) of Education and Training Act 2020

### [Police vetting for early learning services](#)

## Mandatory Reporting

The person or body who appoints staff at the centre/service as the ‘employer’ must immediately report to the Teaching Council when (among other things) the employer dismisses a person responsible (who is registered) for any reason, or has reason to believe that the person responsible has engaged in serious misconduct or has not reached the required level of competence. Service providers should refer to

[489 Mandatory reporting of dismissals and resignations](#)

[490 Mandatory reporting of complaints received about former employees](#)

[491 Mandatory reporting of possible serious misconduct](#)

[492 Mandatory reporting of failure to reach required level of competence](#)

[493 Mandatory reporting of convictions](#)

[These sections also apply to persons in teaching positions in kindergartens.]

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<sup>14</sup> Example: teachers, person responsible, teacher aides, support staff who have regular contact with children. [Children’s Act 2014 - a practical guide](#); [Children’s \(Requirements for Safety Checks of Children’s](#)

## Teaching Council Rules 2016 <sup>15</sup>

### 4 Overview:

(1) These rules—

- (a) provide preliminary provisions (see this Part); and
- (b) set out how to make a mandatory report or a complaint to the Teaching Council about a teacher (see [Part 2](#)); and
- (c) set out the criteria for reporting serious misconduct (see [Part 3](#)); and
- (d) provide a procedure for the chief executive to deal with reports and complaints about teachers in the first instance (see [Part 4](#)); and
- (e) provide for the practices and procedures of the disciplinary bodies when dealing with reports, complaints, and other matters (see [Parts 5 and 6](#)); and
- (f) provide for the practices and procedures of professional practice evaluators and the Competence Authority when dealing with matters relating to competence (see [Part 7](#)); and
- (fa) provide for certain applications for teacher registration to be referred to a Registration Panel for determination (see [Part 7A](#)); and
- (g) establish the disciplinary bodies and the Competence Authority and include provisions about their membership and operation, and the membership and operation of the Registration Panel (see [Part 8](#)); and
- (h) provide for procedural requirements for Police vetting of applicants for registration as a teacher or for an authority to teach (see [Part 9](#)); and
- (i) revoke various rules (see [Part 10](#)).

(2) This rule is by way of explanation only, and, if any other provision in the Act or rules conflicts with it, the other provision prevails.

### Fit and Proper Persons

Regulation 8 of the *Education (Early Childhood Services) Regulations 2008* requires the Secretary for Education to consider whether the service provider is a *fit and proper* person, based on matters which are identical to those set out in the statutory declaration made by the service provider at the time of application for licence under Regulation 7.

Under Regulation 35, the service provider who has applied for a licence or is the holder of a current licence must advise the Secretary for Education, as soon as practicable, of any change of their circumstances of the kind referred to in Regulation 7 and made in the statutory declaration, which

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<sup>15</sup> These rules were amended on 29 September 2018, and continue to apply under clause 4, Schedule I of the Education and Training Act 2020.

among other things, includes any previous conviction for any offence involving harm to children, violence, or fraud.

### **Human Rights Act 1993**

The Human Rights Act is designed to help ensure that people are treated fairly. It prohibits certain discriminatory practices in relation to the employment and treatment of employees. The grounds of discrimination in section 21 of the Act include religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, sex, employment status, family status, sexual orientation and marital status.

Discrimination can be direct or indirect. Direct discrimination occurs when a person is treated unfairly or less favourably than another person in the same or similar circumstances. Indirect discrimination occurs when an action or policy that appears to treat everyone in the same way, actually has a discriminatory effect on a person or group.

Centre management have obligations to ensure staff are not subjected to sexual harassment. Under the Human Rights Act, employers can be liable for sexual harassment committed by their employees. Centre management can work towards providing a safe physical and emotional learning environment for all by developing prevention of sexual harassment policies and procedures for children and employees.

The Act uses an expanded definition of 'employment'. It applies to employees, voluntary workers, people seeking work, and contract workers. This means the Act applies to a number of people who are not covered by other employment legislation, such as the Employment Relations Act 2000, which only applies to employees. The Act covers advertisements, job applicants, employment opportunities and conditions for employees and how employees leave their employment.

Section 102 of the Employment Relations Act 2000 provides for personal grievances under that Act. Under section 103 a personal grievance can be made because of sexual harassment by an employer or a representative of an employer.

### **Employment Relations Act 2000**

The object of the Employment Relations Act 2000 is to build employment relationships through the promotion of good faith in all aspects of the employment environment and of the employment relationship.

#### **Individual and collective employment agreements**

Management should ensure they are familiar with the terms and conditions of any employment agreement that governs their relationship with their employees.

The Teaching Council is responsible for the issue and renewal of practising certificates under Part 5, [Subpart 4—Teaching Council](#) of the Education and Training Act 2020.

**The Code of Professional Responsibility<sup>16</sup>** applies to all certified teachers and those who have been granted a Limited Authority to Teach, in every role and teaching context. It is a set of aspirations for professional behaviour, and is binding on all teachers who hold a practicing certificate and all authorised persons.

**Refer to NZTC website:**

- [Elements to create a Professional Growth Cycle for principals, tumuaki and ECE professional leaders](#)
- [For the FAQs for principals, tumuaki and ECE professional leaders, click here](#)

[Looking for the te reo Māori version of this page?](#)

[Professional Growth Cycle for principals, tumuaki and ECE professional leaders](#)

[Professional Growth Cycle for teachers and kaiako](#)

[Resources to help create a Professional Growth Cycle](#)

[Overview of the transition from Appraisal to Professional Growth Cycle](#)

## **Privacy Act 2020**

Service providers must ensure that they are familiar with the principles of the Privacy Act 2020 including mandatory notification of privacy breaches, and that there are policies and procedures in place to ensure personal information is collected, stored, used and disclosed in accordance with those principles.

## [Useful Resources](#)

[Early Learning me ngā Kōhanga Reo](#)

[Information on other legislation for ECE services and kōhanga reo](#)

[Children's Act 2014](#)

[Children's Act 2014 - a practical guide](#)

[Safer organisations, Safer children \[PDF; 1.06MB\]](#)

[Police vetting for early learning services](#)

[Emergencies and traumatic incidents](#)

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<sup>16</sup> Code of Professional Responsibility and Standards for the Teaching Profession.

