



**EDUCATION REVIEW OFFICE**  
Te Tari Arotake Mātauranga

Guidelines for Home-Based Education and Care  
Assurance Statement and Self-Audit Checklists  
For Services Licensed under 2008 Regulatory Framework

August 2023

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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**Home-based education and care service** means -

- (a) the provision of education or care, for gain or reward, to children who are under the age of 5 years, or who are 5 years of age but not enrolled in school, in –
  - (i) the children’s own home; or
  - (ii) the home of the person providing the education or care; or
  - (iii) any other home nominated by the parents of the children; and
- (b) includes the provision of education or care to any child of the person providing the service who is –
  - (i) under the age of 5 years; or
  - (ii) 5 years of age but not enrolled in school.<sup>1</sup>

**Licensed home-based education and care service (“licensed home-based care service”)** means a home-based education and care service in respect of which the service provider holds a current licence issued under the Education (Early Childhood Services) Regulations 2008.

#### **Requirements for licensed home-based education and care service**

- (1) A licensed home-based education and care service may be provided to 1 or more children, up to a total of 4 in any 1 home.
- (2) While children are participating in the service, the total number of children present in the home in which the service is provided (including those receiving the service) must not be more than 6.
- (3) In this section,-

**children** means children aged 13 years or younger (other than children of the educator who are enrolled in school)

**educator** means the person who—

- (a) provides education and care and comfort directly to children in the person’s care; and
- (b) attends to the health and safety of those children<sup>2</sup>

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

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1 Section 10 Education and Training Act 2020

2 Section 19 Education Act and Training Act 2020

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- The Education (Early Childhood Services) Regulations 2008<sup>3</sup> set the minimum standards, primarily for curriculum, 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 home-based care services and therefore to establish the level of quality education and care that one would expect to find in a licensed service;
  - Licensing, intended to provide public assurance that a service provider 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 Home-Based Education and Care Services 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; and
  - The Early Childhood Education Curriculum Framework based on Te Whariki, which is New Zealand’s curriculum for early childhood education and provides guidelines for consistent and high-quality early childhood programmes;

Another key mechanism used to ensure that licensed home-based care services 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 home-based care services 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 arranges, or offers to arrange, that education or care). ERO wants to know that the service provider is taking all reasonable steps to meet the minimum standards with which it must comply in order to ensure the health, comfort, care, education, and safety of children attending the licensed home-based care service.

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

- [Police vetting is required for all adults who live in a home where home-based early childhood education and care is being provided](#)
- [Enabling the Education Review Office \(ERO\) to obtain information from early learning service parent entities](#)
- [Enabling the Education Review Office \(ERO\) to enter a home where home-based early learning is being provided](#)

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<sup>3</sup> Note: this Regulations continue to apply under the Education and Training Act 2020, clause 4, [Schedule 1 Transitional, savings, and related provisions](#). Also note, [Schedule 26 Consequential amendments and revocations](#) to the Regulations.

# High Quality Evaluation Contributing to High Quality Education

## Licensing and Compliance Issues

Home-based education and care 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 therefore be read in conjunction with the *Licensing Criteria for Home-Based Education and Care Services 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.

Service providers and network coordinators 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 Home-Based Education and Care Assurance Statement and Self-Audit Checklists* containing:

- a brief outline of the regulatory requirements with which licensed home-based care service providers must comply that are of key interest to ERO;
- checklists to be filled out by service providers and coordinators as part of a self-review process to assist ERO in determining whether the service provider is complying with regulatory requirements; and
- an assurance statement to be signed by the service provider and the appropriate network coordinator that provides evidence of the service's compliance (or not) with regulatory requirements.

The detailed issues for evaluation are determined at the beginning of the review following a discussion with the service provider.

**Note:** The *Guidelines for Home-Based Education and Care Assurance Statement and Self-Audit Checklists* do not cover every legal requirement with which service providers must comply. The *Guidelines* 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. Service providers should refer to the Ministry of Education, Early Childhood Education website – [www.education.govt.nz](http://www.education.govt.nz), for further guidance.

## Section One – Curriculum Standard Guide

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### Key Legislation

- Education and Training Act 2020
- The Education Act 1989
- Education (Early Childhood Services) Regulations 2008

### Key Documents

- Licensing Criteria for Home-Based Education and Care Services 2008
- Early Childhood Education Curriculum Framework.

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### Introduction

#### **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]

## Early Childhood Education Curriculum Framework

The Early Childhood Education Curriculum Framework (Curriculum Framework) for licensed services 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*.

Each licensed home-based care service will develop its own programmes to implement *Te Whāriki*. The *Licensing Criteria for Home-based Education and Care Services* outlines how service providers must comply with the standards.

The service provider of a licensed home-based care service must implement the principles and strands set out in the Curriculum Framework.<sup>4</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 demonstrate compliance with the *Licensing Criteria for Home-based Education and Care Services 2008* consistent with the prescribed curriculum framework to assess the curriculum standard.

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

The curriculum standard in regulation 43 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.

**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) **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;
- (b) **coordinator** means the person who has primary responsibility for overseeing the education and care, comfort, and health and safety of the children, and providing professional leadership and support to educators within the service;
- (c) **culture** means the understandings, patterns of behaviour, practices, and values shared by a group of people;
- (d) **educator** means the person with the designated role of providing education and care directly to children in his or her care, and attends to the health and safety of those children;
- (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 2;
- (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 purposes 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 taking place, that are not a regular excursion.
- (g) **out-of-school-care** means the presence of any child during licensed hours who is aged 13 years or younger, who is enrolled at school, and who is counted towards the total number of children that can be present in the home, in line with the requirements set out in s19 of the Education and Training Act 2020.
- (h) **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.
- (i) **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;
- (j) **policy** means a statement intended to influence and determine decisions, actions, and other matters;
  - (k) **premises** means home in which education and care is to be provided, and its associated outdoor space;
  - (l) **procedure** means a particular and established way of doing something;
  - (m) **process** means a goal-directed, interrelated series of actions, events, procedures, or steps;
  - (n) **records** means information or data on a particular subject collected and preserved;
  - (o) **regulation** means a regulation under the Education (Early Childhood Services) Regulations 2008;
  - (p) **service** means a home-based education and care service;
  - (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;
  - (r) **service provider** means the body, agency, or person who or that operates the home-based education and care service; and
  - (s) **specified agency** means any government agency or statutory body that a home-based 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 NZ; 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**

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

For good practice guidance refer to [www.education.govt.nz](http://www.education.govt.nz)

## Useful Resources

Early Childhood Education Curriculum Framework

<https://www.education.govt.nz/early-childhood/licensing-and-regulations/the-regulatory-framework-for-ece/licensing-criteria/centre-based-ece-services/curriculum/>

## 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 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 Home-Based Education and Care Services 2008.
- 

### Introduction

The service provider of a licensed home-based care service 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 Home-Based Education and Care Services 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 a summary of 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 Home-Based Education and Care Services 2008.

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

In this section

- [General](#) - Criteria and guidance for PF1-PF11
- [Food preparation and eating](#) - Criteria and guidance for PF12-PF13
- [Sanitary facilities](#) - Criteria and guidance for PF14-PF18
- [Sleep](#) - Criteria and guidance for PF19-PF22

### 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 home-based education and care premises to conform to any relevant bylaws of the local authority and the Building Act 2004, and the relevant documentation referred to in **PF3**.

### Useful Resources

Refer under *Centre based ECE Services, - Premises and facilities*.

<https://www.education.govt.nz/early-childhood/licensing-and-regulations/the-regulatory-framework-for-ece/licensing-criteria/centre-based-ece-services/>

## 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
- Health and Safety at Work Act 2015
- Human Rights Act 1993
- Smokefree Environments and Products Act 1990
- Children’s Act 2014
- Children’s (Requirements for Safety Checks of Children’s Workers) Regulations 2015
- COVID-19 Public Health Response Act 2020

### Key Documents

- Licensing Criteria for Home-Based Education and Care Services 2008
- 

### Introduction

The service provider of a licensed home-based care service 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 Home-Based Education and Care Services 2008 – Health and safety*.

The minimum health and safety practices standard: general in regulation 46 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.

#### **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.

## Key Requirements

### Licensing Criteria for Home-Based Education and Care Services 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-HS7
- [Sleep](#) - Criteria and guidance for HS8-HS10
- [Hazards and outings](#) - Criteria and guidance for HS11-HS15
- [Food and drink](#) - Criteria and guidance for HS16-HS20
- [Child health and wellbeing](#) - Criteria and guidance for HS21-HS27
- [Child protection](#) - Criteria and guidance for HS28-HS32
- [Notification](#) - Criteria and guidance for HS33
- [Supervision](#) - 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. New guidelines have been launched to help service providers.<sup>5</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.

#### Health and Safety at Work Act 2015<sup>6</sup>

The new legislation applies to Persons Conducting a Business or Undertaking (PCBU). For home-based, this can include the service provider, and educators working in their own home or in a family's home.

Under the Health and Safety at Work Act, a self-employed educator is classified as a PCBU and the home where they are working is classified as a workplace.

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<sup>5</sup> *Safer Organisations, Safer Children* from Children's Action Plan website – <https://www.childrensactionplan.govt.nz/Children's Act 2014 - a practical guide>; [Children's \(Requirements for Safety Checks of Children's Workers\) Regulations](#)

<sup>6</sup> Refer to webpage <http://www.education.govt.nz/school/health-safety> for guidance and updates and [Implementing the Health and Safety at Work Act – a guide for early learning services](#).

## **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)

## **Smokefree Environments and 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, fund-raising 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 smokefree 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.

## **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 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 HS7 of the Health and Safety practices standard).

## **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>7</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](#)

## 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](#)

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<sup>7</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 Home-Based Education and Care Services 2008
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#### Introduction

The service provider of a licensed home-based care service 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 the *Licensing Criteria for Home-Based Education and Care Services 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.

#### **Regulation 47 – Governance, management and administration standard: general**

- (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 Home-Based Education and Care Services 2008

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

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

- [Parent involvement and information](#) - Criteria and guidance GMA1-GMA3
- [Professional practices](#) - Criteria and guidance GMA4-GMA6A
- [Planning and documentation](#) - Criteria and guidance GMA7-GMA11

##### ***Additional Obligations of Service provider***<sup>8</sup>

The service provider must maintain a list of homes used for home-based care, and ensure that the requirements of the regulations are being complied with in respect of each home. The service provider should also ensure that the person responsible (or co-ordinator) has-

- contacted each educator at least once per fortnight, and
- visited each educator once per month, and
- taken reasonable steps each month to observe each child participating in the service while the child is receiving education and care.

##### **Section 27– Parent's right of entry**<sup>9</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—*

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<sup>8</sup> Regulation 28, Education (Early Childhood Services) Regulations 2008

<sup>9</sup> Education and Training Act 2020

*(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*

*(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**

Licensed home-based care services are covered by the teacher registration requirements in Part 5, subpart 4 of the Education and Training Act 2020.

Persons affected by the above regulations are those employed by early childhood services in ‘teaching positions’ as defined in regulation 6.

### Education (Registration of Early Childhood Services Teachers) Regulations 2004 (SR 2004/236)

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).

### **Children’s worker – Safety Checks**

Children’s worker safety checks became law in the Children’s Act 2014 (the CA), and applies to new workers in core children’s workforce roles from 1 July 2015.

Briefly, the following checks must have been completed where the service provider is seeking to employ or engage a new children’s worker<sup>10</sup> (including as a contractor) from 1 July 2015 for core children’s workforce roles, and from 1 July 2016 for 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.

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<sup>10</sup> Example: educators, co-ordinators, or person responsible who have regular contact with children

## ***Police vetting of adult members of household where licensed home-based education and care service provided***

[25 Police Vetting in respect of early childhood services](#)

[Schedule 4](#)

[Police vetting](#)

[Education and Training Act Amendment Bill \(No3\) \(Schedule 4\)](#)

[Police vetting is required for all adults who live in a home where home-based early childhood education and care is being provided](#)

- [August 2023 changes to Police vetting requirements](#)

### ***Mandatory Reporting***

The service provider must immediately report to the Teaching Council when (among other things) the service provider dismisses a co-ordinator (who is registered) for any reason, or has reason to believe that the co-ordinator has engaged in serious misconduct or has not reached the required level of competence. Service providers should refer to sections :

#### *Mandatory reporting*

[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](#)

### ***Teaching Council Rules 2016*** <sup>11</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

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<sup>11</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.

- (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.*

### **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.

Service providers 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. Service providers 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.

### 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 when it applies from 1 December 2020, 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

Refer to <https://www.education.govt.nz/early-childhood/licensing-and-regulations/the-regulatory-framework-for-ece/licensing-criteria/home-based-ece-services/> under 'Home-Based Education and Care Service'