

22 October 2021

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Tranche Two Early Learning Regulatory Review

Introduction

1. About the Teaching Council

The Teaching Council (the Council) is the independent professional body for registered teachers/kaiako from early childhood education through to primary and secondary schooling in English and Māori medium. There are currently about 136,000 registered teachers/kaiako in New Zealand/Aotearoa. The statutory purpose of the Council, set out in section 479 of the Education and Training Act 2020 (ETA 2020), is “to ensure safe and high-quality leadership, teaching and learning ... through raising the status of the profession”.

The Council acts in the interests of registered teachers/kaiako to:

- enable and support leadership to teachers/kaiako and direction for the profession
- enhance the status of teachers/kaiako and education leaders
- establish and maintain criteria for teacher/kaiako registration, standards for ongoing practice and criteria for the issue of practising certificates
- monitor and maintain the requirements relating to teacher/kaiako conduct and competence
- establish and maintain the Code of Professional Responsibility and Standards for the Teaching Profession | Ngā Tikanga Matatika mō te Haepapa Ngaiotanga me ngā Paerewa mō te Umanga Whakaakoranga (the Code | Ngā Tikanga Matatika and the Standards | Ngā Paerewa)
- establish and maintain standards for qualifications that lead to teacher/kaiako registration and approve teacher/kaiako education programmes.

2. Process

The Council acknowledges this submission will become public information.

3. Executive summary

We **support** the following proposed changes:

Supported changes

Requiring a person responsible in a teacher-led centre to hold a Full practising certificate – a Tūturu | Full (Category One) Practising Certificate or a Pūmau | Full (Category Two) Practising Certificate

Clarifying the person responsible role in teacher-led centres

Introduction of 'home-based service qualification' as a definition

Requiring a person responsible in a home-based service to hold a Full practising certificate – a Tūturu | Full (Category One) Practising Certificate or a Pūmau | Full (Category Two) Practising Certificate

We **recommend** the following changes are investigated / adopted:

Recommended changes

An alternative option for 80% qualified and certificated teachers/kaiako	Requiring services to employ or engage 80% qualified and certificated teachers/kaiako and that whenever children attend, there must be 80% ECE qualified and certificated teachers/kaiako in contact with children – with the proviso that some flexibility is given to enable exemptions for a period of time in some situations, while urgent mahi is undertaken to explore options to support those services whose sustainability may be compromised, especially of Māori and Pacific bilingual and immersion spaces operating in isolated and disadvantaged areas. See implementation plan suggestion below.
Person responsible induction	Requiring a teacher/kaiako assigned to the person responsible role to undergo an induction into the role
First aid qualification held by person responsible	Review as part of first aid requirements under the licensing criteria
Educator service	Clarifying that service as an educator is not recognised as teaching service for the purposes of renewing a practising certificate
Standardising the name for home-based 'person responsible' role	Clarifying the 'person responsible' role by removing current alternative terms used for home-based services such as 'coordinator' or 'visiting teacher'
Replacing the term 'other teacher' used in the ECE Funding Handbook	Clarifying that the term 'teacher' is restricted to those who are registered, have a practising certificate, and are covered by the <i>Code Ngā Tikanga Matatika</i> and <i>Standards Ngā Paerewa</i> that apply to the teaching profession; and finding an alternative term to describe other roles in ECE services that interact with children who are not registered and certificated teachers/kaiako
Implementation plan	Developing a plan to guide the increase from 50% to 80% qualified teachers/kaiako that provides a vehicle for deciding what incentives and pathways are needed to increase the number of qualified teachers/kaiako.

4. Consultation process

Although some of the proposals relate to licensing and networking requirements that do not fall directly within the Council's functions, we do have an interest in the overall operation of the ECE sector.

Through the Council's social media channels, we invited the profession to complete the survey and/or submit comments directly to the Early Learning Regulatory Review. We also sought comment from our advisory groups who provide the Governing Council of the Teaching Council with expertise and advice in

respect of any of the Teaching Council's vision, functions or responsibilities relating to teachers/kaiako, learners/ākonga and others in the field of future-focussed early childhood education and inclusive education.

As indicated in earlier correspondence with the Ministry, we believe there are currently some misalignments between the ECE regulations and other parts of the system, including the Council's registration and certification requirements. Our view is that these misalignments need to be addressed as part of the review of the regulations.

Discussion

5. 'Alignment' between Regulations and ECE Funding Handbook

The Council believes it is important the Regulations should be the primary driver for change in the ECE sector, and be in alignment with other legislation, such as the Teaching Council's legal responsibilities under the ETA 2020. Changes to the Funding Handbook should reflect and support the requirements of the Regulations (and relevant legislation), rather than being aligned in tandem with the Regulations, and/or the Regulations being changed to reflect current practice in the Funding Handbook.

There are some examples in the consultation documents where it appears provisions currently included in the Funding Handbook are being 'aligned' with the Regulations. These include proposing that primary qualified teachers/kaiako certificated with the Teaching Council count for regulatory purposes (currently they do not) (page 6) and removing the current provision in Regulations allowing a student teacher/kaiako in their final year of study towards an ECE teaching qualification to be counted towards the 80% standard (currently they can be counted towards the 50%).

The Council does not necessarily disagree with these specific proposals. However it appears the stated desire in the consultation document about regulating for 80% qualified teachers/kaiako in teacher-led centres and hospital-based services, about "Aligning the qualifications standards in the Regulations and Funding Handbook" (page 6), focuses on achieving alignment rather than a principle-based discussion about what should be in the Regulations.

6. Recognition of primary qualifications in ECE sector

The consultation document "Regulating for 80% qualified teachers and strengthening person responsible requirement in teacher-led centres and hospital-based services" poses the question – "Do you agree that both ECE and primary qualified teacher holding a current practising certificate should count as qualified teachers?" We note that around 3% of certificated teachers/kaiako in the ECE workforce currently hold a primary sector qualification.

This consultation document also notes on page 3: "The key difference between the Regulations and the Funding Handbook is that:

- the Regulations **require** services to employ or engage at least **50% ECE qualified teachers** (against minimum adult:child ratio requirements)
- the Funding Handbook **encourages** services to use **80% or more certified ECE and/or primary teachers** to cover minimum adult:child ratio requirements across a funding period."

(emphasis as shown in consultation document.)

The consultation document proposes (page 6) the qualification standards will be aligned by allowing primary qualified teachers/kaiako certificated with the Teaching Council to count for regulatory as well as funding purposes for teacher-led centres and hospital-based services (our emphasis).

The Council's registration and practising certificate processes do not distinguish between the different sectors – ECE, primary or secondary. The Register of New Zealand Registered Teachers maintained by

the Council distinguishes only between the type of practising certificate that has been issued – a Tōmua | Provisional Practising Certificate, a Tūturu | Full (Category One) Practising Certificate or a Pūmau | Full (Category Two) Practising Certificate.

In undertaking its functions to issue registration and practising certificates, the Council must be confident that each applicant has been satisfactorily trained to teach and can use and meet the *Standards | Ngā Paerewa* for the teaching profession, which comprise six standards | paerewa that provide a holistic description of what high quality teaching practice looks like.

In principle, the Council acknowledges that learners/ākonga are best served by teachers/kaiako who have teaching qualifications and pedagogical and curriculum knowledge and experience that reflect the learning needs of different developmental stages – early childhood, primary and secondary. Graduates of ITE programmes will have gained practical experience over the course of their programme, usually within one sector. However, all graduates will also be able to adapt their practice for different contexts, so it is not unreasonable to expect that any certificated teacher/kaiako, with the appropriate support and guidance could teach effectively in an ECE service.

In general, it is the role of employers and professional leaders to determine if the qualifications held by a teacher/kaiako are appropriate for the sector and setting.

As the Council continues to review and improve its policies and processes – including approval of ITE (Initial Teacher Education) programmes, the *Code | Ngā Tikanga Matatika and Standards | Ngā Paerewa*, our registration and certification policy, the Professional Growth Cycle, the management of disciplinary processes, etc – we will consider how scopes of practices may provide greater clarity and guidance about what is needed to be an effective teacher/kaiako in specific contexts or settings.

Education workforce strategy

Recognition of primary qualifications for the person responsible role in the ECE sector was introduced by the Education (Early Childhood Services) Amendment Regulations 2019. This was in response to “...indications of tight teacher supply in the early learning sector, with services in some areas finding it difficult to recruit or retain qualified teachers. Allowing primary qualified teachers to be person responsible was suggested by some in the early learning sector as a means to ease these pressures on teacher-led centres”¹. The Minister of Education noted it was important to encourage prospective teachers/kaiako to enter into ECE initial teacher education programmes, so the change was intended to be a temporary one to help with teacher/kaiako supply, with the Regulations to be reviewed again in late 2022.

It is evident the recruitment and retention issues associated with ECE teachers/kaiako in the 2019 Cabinet paper are continuing. This is demonstrated through the Government’s recent announcement about border exemptions for 300 teachers/kaiako to enter Aotearoa²; media reports³; and industry stakeholder communications⁴. The original intent to review the temporary inclusion of primary teachers/kaiako as persons responsible in the ECE sector now appears to be becoming a permanent arrangement that extends broader recognition of primary qualifications within the ECE sector.

Action 3.3 of the Action Plan is to “develop an early learning teacher supply strategy that aligns with the wider education workforce strategy”.

The Council believes a wider education workforce strategy – including an early learning teacher/kaiako supply strategy – is essential to guiding policy advice. The proposed qualification changes incorporating primary qualifications appears to be being done without a workforce strategy to inform the proposed

¹ [“Allowing primary qualified teacher to be the person responsible in teacher-led, centre-based early learning services”](#), Cabinet Legislation Committee, 28 November 2019

² [“New borders exemptions for teachers”](#), press release, Minister Chris Hipkins, 3 July 2021

³ [“Early childhood teacher vacancies at record levels”](#), 1 News, 22 June 2021

⁴ [“Industry calls for urgent action on ECE teacher shortage”](#), Early Childhood Council, press release, 14 June 2021

changes. The Council suggests more focus is given to strategies to create pathways from lower level ECE qualifications into ITE qualifications recognised for teacher/kaiako registration.

7. Regulating for 80% qualified teacher and strengthening person responsible requirement in teacher-led centres and hospital-based services

Proposal: Options to regulate for 80% qualified teachers

Option 1: retaining a high percentage of ECE qualified and certificated teachers.

Requires services to employ or engage 50% ECE qualified and certificated teachers plus services would need to employ or engage an additional 30% ECE and/or primary qualified and certificated teachers.

Option 2: match the Regulations with the funding rules.

Requires services to use 80% qualified and certificated teachers to cover minimum adult:child ratio requirements across a four-month period.

Option 3: ensuring ECE qualified and certificated teachers are always present.

Requires services to employ or engage 80% qualified and certificated teacher and that whenever children attend, there must be 50% ECE qualified and certificated teacher in contact with children.

The Council believes it is important to increase the number of qualified and certificated teachers/kaiako working with children now, and to give effect to the Action Plan goal to move towards 100%. In our view, the proposed changes to the Regulations do not go far enough to increase the number of qualified teachers/kaiako with children. We have concerns about all the proposed options, and instead **support** an Alternative Option (outlined below), with the proviso that some flexibility is given to enable exemptions for a period of time in some situations, so that urgent mahi is undertaken to support those services whose sustainability may be compromised, especially of Māori and Pacific bilingual and immersion services operating in isolated and diasadvantaged areas.

Alternative Option: ensuring 80% ECE qualified and certificated teachers/kaiako at all times children attend (as proposed by question 7 on page 10).

Requires services to employ or engage 80% qualified and certificated teachers/kaiako and that whenever children attend, there must be 80% ECE qualified and certificated teachers/kaiako in contact with children.

This alternative option supports the Action Plan Action 3.1 – incentivise for 100% and regulate for 80% qualified teachers/kaiako in teacher-led centres, leading to regulation for 100%. The Action Plan seeks to ensure that “where children are grouped in separate spaces, at least one qualified teacher will be located within each group” (page 23). The proposed Alternative Option focuses on increasing the number of qualified and certificated teachers/kaiako in front of children all the time.

Our view is that an ECE qualified teacher/kaiako must be present whenever a teacher-led centre has children in attendance. There is a risk under Option 1 this may not happen. The Council acknowledges the risk that both Option 3 (as identified in the consultation document) and the Alternative Option may compromise the sustainability of Māori and Pacific bilingual and immersion services operating in isolated and diasadvantaged areas due to difficulties in accessing qualified teachers/kaiako. The options for providing additional support need to be explored urgently. This needs to include potential pathways and options for acknowledging the value and importance of people who provide bilingual and immersion language expertise who are not registered and certificated teachers/kaiako.

Please note that proposed legislative changes to the Teaching Council’s purpose contained in the Education and Education Amendment Bill (No. 2) will allow the Teaching Council to create pathways to

registration for Pacific language teachers/kaiako. We intend undertaking policy work to investigate options for such pathways once the Bill becomes law.

Proposal: four proposals for persons responsible in teacher-led centres and hospital-based services

Proposal 1: require the person responsible to hold a Tūturu | Full (Category One) Practising Certificate or a Pūmau | Full (Category Two) Practising Certificate in teacher-led centres and hospital-based services.

The Council **supports** this proposal.

Proposal 2: clarifying the person responsible role in teacher-led centres.

Clarifying the person responsible is expected to:

provide education and care to children in attendance and guidance to teaching staff
ensure all staff are aware of gazetted curriculum framework and how to use it in their teaching
ensure the health and safety risks and hazards are identified and appropriate skills are taken to address those hazards or risks when children attend
supervise children in attendance and staff providing education and care (even if located in separate spaces).

The Council **supports** this proposal.

The Council **recommends** teachers/kaiako assigned the person responsible role be required to undergo an induction to familiarise them with the responsibilities of the role. We are aware of situations where teachers/kaiako have been assigned the person responsible role without it being discussed with them.

Proposal 3: the person responsible in teacher-led centres must hold a first aid certificate.

The Council **recommends** this proposal is considered in terms of reviewing the current first aid requirements under the licensing criteria.

Proposal 4: clarifying the person responsible role in hospital-based services.

Clarifying the person responsible is expected to:

ensure all staff are aware of gazetted curriculum framework and how to use it
provide education and care to children and guidance to teaching staff
ensure there is at least one adult present when children are in the activity room
supervise children and staff at the service, and adults in the activity room (even when children and staff are located in separate spaces).

The Council **supports** this proposal.

8. Changes to qualifications required for all home-based ECE services through the standard funding rate

Proposal to introduce “home-based service qualification”

We support the proposed introduction of the term “home-based service qualification”.

We have previously expressed concern about the potential confusion caused by referring to ‘recognised qualification’ and ‘required qualification’. The term ‘home-based service qualification’ distinguishes more clearly the qualifications that apply to home-based services.

Clarifying status of educator role

The draft Regulation 4 proposes that Regulation 3 is amended to define the qualifications that fall under the proposed definition of ‘home-based service qualification’. As per the current Regulations, it notes that an educator may hold the following qualifications:

- b) (i) an early childhood qualification that is –
 - (B) recognised by the Teaching Council of Aotearoa New Zealand for registration purposes
- (iv) a primary teaching qualification that is –
 - (B) recognised by the Teaching Council of Aotearoa New Zealand for registration purposes.

The Council supports this proposed introduction of “home-based service qualification” which include ECE and primary qualifications recognised by the Council for registration purposes. The Council **recommends** clarifying that an educator holding an ECE or primary qualification that the Council recognises for registration purposes, is not able to have any of their service as an educator recognised as teaching service for the purpose of renewing a practising certificate.

Term	Definition	Source
Educator	educator, in relation to a licensed home-based education and care service, means the person who- provides education and care and comfort directly to children in his or her care; and attends to the health and safety of those children.	Regulation 3, ‘Interpretation’, Education (Early Childhood Services) Regulations 2008
Educator	a person who provides home-based education and care, as defined in the Education (Early Childhood Services) Regulations 2008	Glossary, ECE Funding Handbook
Educator qualifications	New Zealand early childhood and primary teaching qualifications will be accepted, including kindergarten teaching qualifications	Accepted qualifications for home-based educators – as at 9 December 2020 – home-based staff qualification changes - education.govt.nz

The Council does not recognise service as an educator, because this role is not comprehensive enough to allow an educator to be assessed and endorsed by a professional leader as meeting or likely to meet the *Standards | Ngā Paerewa* and be certificated every three years. This applies even to those educators who hold an ECE or primary qualification that is recognised by the Council for the purposes of registration.

If an educator has previously been registered (or is currently registered) as a teacher/kaiako with an ECE or primary teaching qualification recognised by the Council, they could apply to renew their practising certificate if they move back into another teaching position. However, their experience as an educator will not count towards meeting the definition of “satisfactory recent teaching experience” (at least two years of uninterrupted teaching in the last five years, or a shorter period approved by the Council). The satisfactory recent teaching experience requirement is a legal requirement and must be met, along with a range of other requirements, to renew a practising certificate.

Currently, there is nothing in the Regulations or the Funding Handbook to indicate that an educator holding an ECE or Primary qualification does not have their service as an educator recognised for the purposes of registration or gaining a practising certificate.

9. Strengthening the person responsible requirement for home-based services

We **support** the person responsible requirement being changed for home-based services so the practising certificate held must be a Full Practising Certificate – a Tūturu | Full (Category One) Practising Certificate

or a Pūmau | Full (Category Two) Practising Certificate. We consider the holder of a Tōmua | Provisional Practising Certificate needs time to complete induction and mentoring to build their skills and experience, before being assigned additional responsibilities such as fulfilling the person responsible role.

We **recommend** the name of the home-based ‘person responsible’ role is standardised. Currently the terms person responsible’, ‘coordinator’ or ‘visiting teacher/kaiako’ may be used interchangeably within home-based services.

Term	Definition	Source
Coordinator	The person who has primary responsibility for overseeing the education and care, comfort, and health and safety of the children in a home-based service, and for providing professional leadership and support to educators within the service	Glossary, ECE Funding Handbook, page 6
Coordinator requirements: all services	Each home-based ECE service must have its own named coordinator or coordinators. All coordinators must be ECE qualified teacher/kaiakos. (emphasis as per ECE Funding Handbook)	3-B-4 Home-based ECE services, ECE Funding Handbook, page 27
Person responsible	Person responsible means – c) in relation to a licensed home-based education and care service, the coordinator who has primary responsibility for – (i) overseeing the education and care, comfort, and health and safety of the children; and (ii) without limiting subparagraph (i), providing professional leadership and support to educators within the service.	Regulation 3, ‘Interpretation’, Education (Early Childhood Services) Regulations 2008
Visiting teacher/kaiako	In licenced home-based services a qualified, registered and certificated ECE teacher/kaiako, called the co-ordinator or ‘person responsible,’ <u>also visits homes</u> to support these educators and oversee the education and care of the children.	“Strengthening the Person Responsible Requirement for Home-based Services”, Ministry of Education, September 2021, page 2
Visiting teacher/kaiako support payment	Funding ... is to help visiting teacher/kaiakos provide extra support to these educators in training.	Visiting teacher/kaiako support payment – online application form

The Council’s Registration Team, who are responsible for registering teachers/kaiako and issuing practising certificates, receive applications that use a range of titles – visiting teacher, coordinator, or person responsible. In some cases, it is necessary for the Registration Team to seek a position description to verify the role performed by the applicant. The term ‘coordinator’ is used within the ECE

sector to also describe roles where the incumbent has an administrative, rather than a teaching, function.

10. Developing an implementation plan

We **recommend** an implementation plan is developed to guide the increase from 50% to 80% qualified teachers/kaiako. The Council recognises there may currently be insufficient qualified teachers/kaiako to be in front of children 80% of the time, so an implementation plan is needed with milestones about how and when to reach the 80%. This could provide a vehicle for deciding what incentives are needed to increase the number of qualified teachers/kaiako. It should also link into an early learning teacher/kaiako supply strategy that aligns with the wider education workforce strategy, and address matters such as pathways into ECE teaching.

11. Implementing the new network management function under the Education and Training Act 2020

We have not commented on the proposed changes to network management.

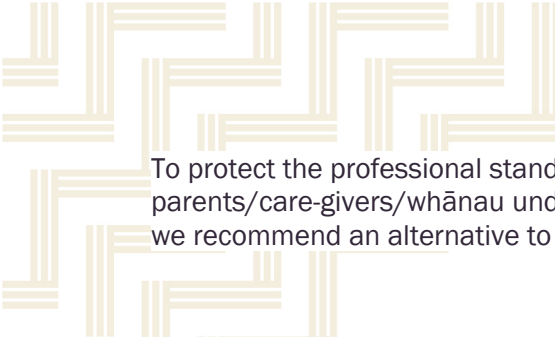
12. Further definition considerations

The Council asks that the term ‘other teacher’ is replaced in the ECE Funding Handbook. A teacher is defined in the ETA 2020.

Term	Definition	Source
Teacher	<p><i>Teacher</i> includes—</p> <ul style="list-style-type: none"> • a registered teacher; and • a former registered teacher; and • a person who holds a limited authority to teach; and • a person who formerly held a limited authority to teach. 	Section 10, ‘Interpretation’, Education and Training Act 2020
Other teacher	A teacher at a teacher-led centre-based service who does not hold a practising certificate issued by the Teaching Council of Aotearoa New Zealand (Teaching Council) or does not hold a Teaching Council-approved ECE qualification or New Zealand qualified primary teacher qualification	Glossary, ECE Funding Handbook

“Other teachers” are not teachers/kaiako – they are not subject to the *Code | Ngā Tikanga Matatika* and *Standards | Ngā Paerewa* that apply to the teaching profession; they have not completed the required qualifications set for the teaching profession; and they are not subject to the requirements that must be met to be issued with or renew a practising certificate.

We consider the distinction between a ‘registered teacher’ and ‘teacher’ within an early childhood education setting will not be appreciated by most parents/care-givers/whānau.



To protect the professional standing of teachers/kaiako (one of the Council's functions) and to help parents/care-givers/whānau understand the distinction between different roles within an ECE service, we recommend an alternative to the term 'other teacher' is used.

13. Tranche Three considerations

The Council is interested in considering at a more fundamental level the co-regulation responsibilities of different agencies and current misalignments to help inform Tranche Three consultation processes. This includes reviewing the rationale for the types of qualifications recognised within the ECE sector, who recognises them, and how the professional responsibilities the teaching profession are required to uphold apply to early childhood teachers/kaiako.