MINISTRY OF EDUCATION
TE TĀHUHU O TE MĀTAURANGA

# Education Report: Advice to support the ECE Strategy Session

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| **To:** | Hon Chris Hipkins, Minister of Education | | |
| **Date:** | 16 August 2019 | **Priority:** | High |
| **Security Level:** | Budget Sensitive | **METIS No:** | 1201536 |
| **Drafter:** | Siobhan Murray | **DDI:** | s 9(2)(a) OIA [redacted] |
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| **Messaging seen by Communications team:** | N/A | **Round Robin:** | No |

## Purpose

This report provides advice for discussion at the Strategy Session on Wednesday 21 August at 7.30pm.

## Summary

1 This paper presents indicative costings to support an initial discussion. These costings and their underlying assumptions will need to be revised as budget initiatives are developed. This is particularly the case for the costings relating to the reinstatement of the 100% qualified teacher band, where assumptions around uptake will need further work.

**Reinstatement of a 100% qualified teacher funding band**

2 There are two sets of choices in reinstating a 100% qualified teacher funding band:

- **setting the rates** – how far above the 80%+ funding rates should the rates be? We have used a range of historical benchmarks to model different scenarios
- **targeted approaches to reinstatement** – should the same rates be available to every service to access or should there be a targeted approach? We have considered targeted approaches to services serving low socio-economic communities, and providing preferential access to education and care services over kindergartens, in recognition of the funding differential created by the recent collective settlement.

3 Annex 1 provides a summary of the options in this paper and the indicative costs.

4 The highest cost option is setting the rates 13% above current rates, which is the historic difference between the 80%+ and 100% funding bands, and enabling all services to access the rates. This is estimated to cost around $440 million over four years. Allowing only services that qualify for Equity Funding to access these rates is estimated to cost around $140 million.

5 The lowest cost option that we costed involves using the historical differential between the 80-99% and 100% rates (6%) and restricting access in the first two years to education and care services. This is estimated to cost just over $100 million. Enabling access to both service types, but with a higher percentage increase for education and care services is estimated to cost around $180 million.

**Targeted adjustment to improve teacher salaries**

6 Annex 1 provides an overview of the funding available for a targeted cost adjustment to education and care services, assuming a $500 million envelope and s 9(2)(f)(iv) OIA [redacted]

7 Using the attestation mechanism, teacher salaries could be improved by either increasing the minimum salary that services must pay, or introducing a salary scale into the salary attestation.

8 Increasing the minimum that services must pay may not improve the salaries of experienced teachers already above the minimum. Introducing a salary scale is more complex. Both approaches would likely require working with the sector to understand where to set salary rates without affecting services' viability.

9 You may also wish to consider including non-contact time within the attestation mechanism. Concerns around employment conditions tend to centre on non-contact time.

**Regulating a minimum of 80% qualified teachers**

10 About half of the survey respondents to the Early Learning Strategic Plan consultation thought regulating for 80% qualified teachers by 2022 was achievable. Some large providers did not think it was achievable due to teacher supply concerns.

11 We understand that you would like to change the Education (Early Childhood Services) Regulations 2008 (the Regulations) in 2020, but not have the 80% qualified minimum come into force until 2022. Such an approach would not comply with the Legislation Design and Advisory Committee's *Legislation Guidelines*, which require a good reason for any specification of commencement dates. We recommend regulating closer to the time of implementation.

Teacher supply!

12 We propose undertaking the policy work associated with this change over the coming year as part of the Regulatory Review. This work would consider how to align the definitions of qualified in the Regulations and the funding requirements.

s 9(2)(f)(iv) [redacted]

13 We consider that improving the pay and conditions of ECE teachers is likely to be the most effective strategy for long term teacher supply. As part of reinstating the 100% qualified funding band, we recommend additional short-term teacher supply initiatives.

14 s 9(2)(f)(iv) OIA [redacted]

s 9(2)(f)(iv) OIA

[redacted]

**Network package**

15 The current regulatory framework means that the Ministry has no ability to decline licence applications that meet the regulatory standards. A network function that involves the Ministry being able to determine where new services could be set up requires changes to the Education Act 1989 and the Regulations. The policy work associated with this could be undertaken as part of the Regulatory Review.

16 An overview of our advice on the network package is provided in Annex 2.

17 As a first step towards active network management, the Ministry proposes developing network profiles to support sector decisions on opening new services. Should you wish to pursue active network management, the Ministry recommends a two stage licensing process and developing a network function within the Ministry. These functions would start operating as the new regulatory system comes into place.

18 The Ministry considers increased monitoring is also required to shift poor quality provision in the sector. Increased monitoring by both the Ministry and ERO are recommended in the draft Strategic Plan. Indicative costs associated with increased monitoring by the Ministry are outlined in the table below.

s 9(2)(f)(iv) OIA

[redacted]

## Recommended actions

The Ministry of Education (the Ministry) recommends you:

a. **discuss** the advice in this paper at the Strategy Session on Wednesday 21 August

**Agree** / **Disagree**

## Proactive release

b. **agree** that, as this Education Report contains budget sensitive information, this report is considered for proactive release as part of the Budget 2020 proactive release, which occurs after Budget day in May 2020

**Agree / Disagree**

Damian Edwards
**Associate Deputy Secretary**
**Education System Policy**

16/8/2019

Hon Chris Hipkins
**Minister of Education**

21/8/19

## Background

1. You have asked Ministry officials to provide advice on several initiative areas that could form the basis of a Budget 2020 package for early learning. These include advice on the following:

   - the preferred approach to funding the 100% qualified teacher rate commitment
   - a targeted rates adjustment for education and care services (ie, teacher-led, centre-based services other than kindergartens)
   - the regulation of a requirement for 80% of teachers in teacher-led services to be qualified
   - s 9(2)(f)(iv) OIA [redacted]
   - the look of a network management package and the costs and phasing associated with the package.

2. We expect to discuss this advice with you at a Strategy Session on 21 August 2019. The options are proposed with a fiscal constraint to be drawn around the package. We have used a maximum total cost of $500 million over four years.

3. This paper does not cover other potential budget bids for early learning for Budget 2020, such as:

   - cost adjustment for early learning funding rates to account for inflation
   - new funding model for ngā kōhanga reo
   - additional support for playcentre
   - s 9(2)(f)(iv) OIA [redacted]
   - transitioning to a qualified workforce in home-based.

**Context – Kindergarten Teachers, Head Teachers and Senior Teachers Collective Agreement (KTCA) settlement and flow through into funding rates**

4. Kindergarten funding rates are currently about 6% higher than education and care service rates.[1] The recent settlement means that kindergarten rates will increase further, to approximately 10% higher than education and care service funding rates.[2]

5. The estimated average salary of kindergarten teachers is currently around $70,000, which is estimated to increase to around $73,000 with the first tranche of the settlement. This is estimated to rise to around $82,000 in 2021.[3]

6. Without an increase in funding for education and care services, salaries for teachers in these services are likely to remain relatively static, particularly in services that have limited ability to charge additional fees to parents. If services want to access more than the lowest funding rate, they must pay teachers with a teaching degree a minimum of

[1] Average calculated on the 80%+ funding rates, which are the most common funding rates for both service types.
[2] Calculated on indicative kindergarten funding rates in the 80%+ band. Modelling is still subject to quality assurance.
[3] These estimates are based on FTE figures by salary step provided by the kindergarten associations from 2017.

$45,491 per year. The top of the scale in the Early Childhood Education Collective Agreement of Aotearoa (ECECA) for a teacher with a teaching degree is $67,302.

**Context – meeting with peak bodies on 28 August**

7. You are meeting with representatives from Te Rito Maioha, NZ Kindergartens, the Early Childhood Council (ECC) and Montessori Aotearoa on Wednesday, 28 August. They recently wrote to you about their priorities for the early learning sector:

- **a different funding framework** for teacher-led, centre-based services that provides services with a minimum baseline regardless of children's participation. The model is similar to that for schooling, with a separate operations grant and funding for teacher salaries. The funding for teacher salaries would include a mechanism to ensure pay parity of teachers across the sector; they suggest attestation, central hub distribution, and the KTCA as mechanisms.
- **additional funding strands** that services can access. They suggest funding pools that align to the government's wellbeing outcomes that services can apply for. It is unclear whether they consider this as an alternative delivery mechanism for the current Equity Funding and Targeted Funding for Disadvantage funding streams. They also suggest professional learning and development funding similar to the compulsory sector model.
- **a network review** of current ECE services to address and manage supply and demand for early learning services. This would be a data driven project looking at current provision and projected demand, and would result in targeted support. It is not clear what is meant by targeted support or what it would be for.

**Context – speech at ECC annual general meeting on 29 August**

8. You are due to speak at ECC's annual general meeting on Thursday, 29 August. You have been asked to give a 30 minute speech and then stay for a 30 minute question and answer session. You have been asked to speak on:

- pay parity with kindergartens
- teacher supply
- the Early Learning Strategic Plan.

## Reinstatement of the 100% qualified teacher funding band

9. The Ministry understands that the reinstatement of the funding band for fully qualified and registered teachers remains your key early learning funding priority for Budget 2020. There are two sets of choices discussed in more detail below:

- **setting the rates** – s 9(2)(f)(iv) OIA [redacted] The latest kindergarten teachers collective agreement means that kindergartens' 80%+ rates will surpass the historic 100% rates. We discuss four potential approaches to setting alternative rates.
- **targeted approaches to reinstatement** – the 100% funding band could be progressively opened up to services based on socio-economic indicators, on service type, or with a higher 100% premium for education and care services relative to kindergartens.

10. We have provided ballpark costings for the options below. Costings will need to be refined and updated as part of the budget process, to account for the updated forecast

of demand for early learning. Assumptions around uptake will also need to be revised. There is considerable uncertainty about the uptake profile, because we do not have reliable information to help estimate the elasticity of demand for additional qualified teachers. This is a limitation of the costings presented.

**Setting the rates**

*Benchmark differential rate – 13% above current rates*

11. The application of a notional four year budget constraint on reinstating 100% funding is significant. In particular, if you adopted an historical view of reinstatement[4] across both education and care and kindergarten settings, then this option would use up most of the constraint ($436 million over four years).

12. While the cost almost certainly discounts this approach, it is likely to be the ECE sector's expected approach. However, we note that the approach has not been specifically consulted on, for example, in consultation on the draft Strategic Plan.

13. This approach could be regarded as the benchmark, given it still represents our best estimate of the additional variable cost associated with substituting qualified for unqualified teachers as services move from 80%+ to 100% qualified teacher hours. This additional premium of 13% was calculated as part of the design of the current ECE funding system, when it was rolled out in 2005.

*Historical cost difference rate – fixed dollar amount above current rates*

14. A related approach is to calculate the historic dollar (or cents) difference between 80%+ and 100% rates in 2011 and add this back onto the current 80%+ rates. For example, this would lead to an additional $1.55 per hour being added onto the 80%+ all day under 2 kindergarten rate.

15. The only advantage of this approach over the benchmark approach is that it would cost slightly less ($271 million over four years). This is because it represents a lower proportional increase than the benchmark approach A due to 80%+ rates increasing since 2011 while the dollar difference in the approach stays fixed.

*80-99% historic differential rate – 6% above current rates*

16. Another reinstatement approach would be to peg the 100% band rates at the former 80-99% band premium. This premium was six percent above the 80%+ band in 2010/11. Our understanding of the 80-99% band is that it was broadly intended to fund services to sit at about the midpoint of that band (in terms of the proportion of qualified teachers). In contrast, the 80%+ band was aimed at being just enough for services to reach 80% qualified teachers.

17. Adopting this approach would have the advantage of significantly reducing the four year cost to an estimated $130 million over four years.

18. This approach may not provide a sufficient incentive for all services to aim for the 100% band. While the 100% band premium was the Ministry's assessment at the time when government funding needed to pay for additional qualified teacher costs, with the exception of 20 Hours ECE, government has never intentionally funded all of the cost of each child hour or hours outside of the hourly funding caps. This means services

[4] That is, reinstating the percentage differential that existed between the 80%+ and 100% band at the last time those bands existed concurrently in 2011. The 100% rates were **13%** higher than the 80%+ rates at the time.

choosing to move to the 100% band have been, and still are, expected to charge fees, if needed, to make up the balance of costs.

*Variable percentage premium*

19. Notwithstanding the approaches outlined, there is potentially scope for you to create 100% rates based on a 'wildcard' percentage set anywhere above the current 80% band. Whether you choose this approach depends on how much you wish to emphasise on each early learning Budget initiative within the funding constraint.

20. A lower premium signals less emphasis on 100% qualified. This would promote lower uptake and cost and free up resourcing for other initiatives. Setting rates lower than those created by applying the historical 80-99% premium would appear likely to have a very limited appeal to services unless they are at around 95% or higher qualified. This would very clearly benefit kindergartens, as about 70% of them have between 95-100% qualified teachers. In contrast, only 23% of education and care services currently fall into this percentage band.

**Targeted approaches to reinstatement**

21. Once you have considered your preferred method of setting the 100% band rates, you may wish to consider a targeted or differentiated reinstatement over the four year period. The Ministry does not consider this would necessarily be inconsistent with the Manifesto commitment, especially if you have an intention to roll out a full reinstatement in due course, and as additional funding allows.

*A. Reinstatement phased by socio-economic status*

22. The first possibility is to open up 100% qualified funding first to services who qualify for Equity Funding components A and B, that is, the services that draw children from geographical areas with the highest levels of disadvantage. We have discounted targeted funding for disadvantage services as they are not guaranteed to receive it year in year out unlike those qualifying for Equity Funding components A and B.

23. This approach has the benefits of:

- providing a clear means of supporting the Early Learning Strategic Plan's key value of 'equity from the start', which recognises that not all children and families have proportionate access to resources within their community. Services operating with more at risk populations would be in a position to offer them higher quality early learning experiences in order to provide for more equitable outcomes.

- managing the fiscal cost of 100% reinstatement (the Ministry estimates this would cost $138 million over 4 years if eligible services were offered rates at a 13% premium).

- allowing the highest 100% band rates to be offered out of the rate setting possibilities described earlier (because a trade-off can be made between reducing service eligibility and increasing rates). This is important because, for example, it would allow services engaged with predominantly low socio-economic populations with the best chance of utilising the higher band.

- providing an alternative approach to limit demand for what may be a limited pool of 'spare' qualified teachers.

24. This approach is, however, open to the possibility of being labelled unequitable by those services that are not immediately eligible. This would likely be on the basis that services who do not receive Equity funding also enrol children from disadvantaged areas or households. While this is the case, we do not have an approach that targets to this level of precision.

25. Quality early learning is likely to be of greater benefit to children who experience disadvantage. We consider that it is, on balance, better to start with this approach that picks up the majority of children from disadvantaged backgrounds than to offer a more general reinstatement but at a potentially less attractive lower rate.

*B. Phased reinstatement by service type*

26. A further overlay on top of the setting of rates could be to stagger the eligibility to the 100% band by service type. One approach could be to enable education and care services to have access to the 100% band for all four years of the budget period with kindergartens becoming eligible for the last two years onwards.

27. In order to keep costs manageable, it is likely that the rates would need to be set below the benchmark premium. We have costed such an approach using the 6% (80-99% band) premium would have a four year cost of $107 million.

28. This approach would open up the following considerations.

- Providing education and care services with a lever that may help them compete in a different way with the kindergartens' recent collective settlement (this assumes a targeted cost adjustment is unable to match the gap in funding rates between these setting types in the foreseeable future). We would underline that the option does not expressly reduce the gap in funding between kindergartens and education and care services.

- It somewhat manages the cost (in conjunction with the rate chosen), especially in the first two years. This is because our modelling indicates that kindergartens would account for the bulk of the cost in the first year of an untargeted reinstatement, since most of their services are either at 100% qualified or very close to it.

*C. Differentiated 100% rate by service type*

29. The final differentiated option is to reinstate different rates according to service type. This means providing education and care providers with a higher 100% band than kindergartens.

30. This approach lowers the cost compared to the benchmark. We have assumed a 'wildcard' split in the 100% rate premia of 8% and 3% for education and care and kindergartens respectively. A more generous split such as 13% / 6% would leave very little of the budget constraint available for other initiatives. The cost of split 8% / 3% premia is estimated at $178 million over four years. The main benefits are that it:

- recognises that kindergartens are either predominantly offering 100% qualified teachers already[5] or very close to it. This means that a smaller rate of increase is

[5] Our understanding that kindergartens typically rely very little on non-Ministry funding combined with very high qualified teacher rates suggests that kindergarten subsidy rates provide a very high level of support for qualified teacher already.

likely to be sufficient for proportionately many more kindergartens than education and care services.

- recognises that kindergartens have benefited from an increase of 3.4% in the last two years on the salary component of their funding rates over and above government funding allocated to cover the 2016 KTCA settlement costs in that period.

31. Despite these benefits, we understand kindergartens are likely to maintain that funding should be consistent, as was provided for under the historic 100% funding policy.

**General considerations**

32. We note that reinstatement of the 100% band in any shape will link to the following general issues – these will either require further analysis or necessarily remain areas of uncertainty.

- The availability of qualified teachers could present a constraint. We do not have reliable information to confirm if there is enough supply of teachers to fill the projected extra demand, nor whether this demand might be supplied predominantly by recruitment of qualified teachers already at other services.

- The manner in which the Ministry defines 100% in its Funding Handbook is likely be closely looked at. We understand the strictness of the 100% qualified definition was an issue when the 100% band was last in place. This led to the concept of discretionary hours being created (where unqualified teachers could count as qualified for a limited amount per funding period to smooth small amounts of qualified teacher absences). However, providing too much discretion could significantly undermine the concept of 100% qualified.

- Some services may find it more difficult to meet 100% qualified criteria. For example, operating for more than eight hours a day usually requires multiple shifts of teachers and some part-time and temporary staff to cover breaks, non-time contact time and leave.

## Targeted cost adjustment to improve teacher salaries

33. You asked for further advice on a targeted cost adjustment for education and care services, for the distinct purpose of improving salaries and conditions for teachers within these services. This would be an initial step towards bridging the gap in salaries between teachers in kindergartens and those in education and care services.

34. There are no straightforward mechanisms to ensure every dollar of a targeted cost adjustment is spent on salaries. The discussion below looks at changing the salary attestation requirements, by either increasing the minimum salary or by introducing steps.

35. You need to consider whether to communicate that this targeted cost adjustment is a long-term commitment for rates to be equalised across teacher-led, centre-based services.

**Cost adjustment increase and phasing options**

36. The amount of funding available for a targeted cost adjustment depends on how you choose to design the 100% funding band. Based on indicative costings of the options laid out in the previous section, there would be between $29 million and $358 million

available for a targeted cost adjustment. Annex 1 provides a summary of these amounts against each 100% funding band option.

37. Depending on how you wish to split funding across the budget bid, there are options around how the cost adjustment could be phased over the 4 year period. For example, funding could be prioritised to services receiving Equity funding or Targeted Funding for Disadvantage.

38. We have assumed that any targeted cost adjustment would be effective from January 2021. Earlier implementation dates are also possible.

**Salary attestation requirements**

39. For teacher-led, centre-based services, funding requirements specify minimum rates all qualified teachers must be paid if services wish to access funding rates above the 0-24% qualified funding bands. These rates are about a third of the 80%+ funding rates. Almost all services choose to attest to paying their teachers at or above the minimum rates.

40. The minimum salary rates are aligned to the first three steps of the salary scale in the Early Childhood Education Collective Agreement (ECECA).

*Options in relation to the salary attestation mechanism*

41. One approach is for the Ministry to increase salary attestation rates by a nominal amount, likely based on a percentage uplift. This would be relatively straightforward to implement, but would have no impact on increasing salaries for teachers currently earning more than the new rate. Rather, it would primarily serve to reduce the gap between starting teachers and those with more experience.

42. An alternative approach could involve extending the salary attestation requirements to prescribe a salary scale with additional steps. This would ensure that services pay teachers more as they gain experience. However, this would involve significantly more work to determine how many additional steps should be prescribed, and the amount which should be attached to each step.

43. The main impediment to both approaches is that the Ministry cannot determine the cost to services of lifting salaries at current minimum rates to any proposed new rates. This means that injecting a set amount of funding into education and care services may cover this increased cost or it may not. If it is insufficient, there is a risk that services will increase fees to parents, or exit the sector.

44. To address this, the Ministry could work with the sector to collect more information on the makeup of the workforce. This would involve requesting information from services on the experience level of teachers within the services and their current pay rates. It may be challenging to gain robust information and sufficient coverage of the sector.

45. As an alternative, the Ministry could set a general funding requirement that the cost adjustment must go toward teacher salaries. This would allow services flexibility as to how they choose to spend funding. However, we are not sure that we would be able to detect non-compliance with such a condition. Should you wish to pursue this option, further work would be required to determine whether it is operationally feasible.

*Conditions of employment*

46. You may also wish to include conditions of employment. Consultation highlighted that stakeholder concerns around teachers' conditions of employment tend to centre on child non-contact time.

47. Attestation requirements could potentially be extended to include a requirement that services provide teachers with a specified amount of child non-contact time per month. If you wish to proceed with this, further work would need to be undertaken as to the costs associated, and how this would be balanced with increases to salary attestation rates.

## Regulating for 80% teachers

48. You have indicated your commitment to regulating for 80% qualified staff in teacher-led, centre based services. While the concept of regulating for 80% was very well-supported, survey respondents to the Early Learning Strategic Plan consultation had mixed views about the achievability of regulating for 80% qualified teachers by 2022:

- about half felt that the target is achievable
- among the rest, many felt that it could be achieved if certain conditions were fulfilled first, including abridged programmes to enable existing staff to become qualified, and increased funding to attract teachers to work in more expensive areas such as Auckland
- some larger providers did not think that 80% qualified was achievable due to teacher supply concerns.

49. Although the majority of services are currently funded in the 80%+ qualified teacher funding band, the standards for funding and regulation differ. Generally, funding requirements have a broader definition of what counts as qualified, and there is some leeway for periods where services fall below the 80%+ requirements.

50. In regulating for a minimum of 80% qualified, we recommend aligning the funding and regulatory requirements. This would enable us to consider questions such as whether primary trained teachers should also count as 'qualified' teachers for regulatory purposes. We recommend further consultation with the sector to address these issues.

51. The draft Strategic Plan currently states that where children are grouped in separate spaces, at least one qualified teacher would need to be located within each group. Should this be included in the final Plan, this would also need to be considered as part of regulating a minimum of 80% qualified. The current regulations only require a minimum of one qualified teacher to be 'on the floor'. This is significantly lower than the draft Plan's recommendation.

52. We would also need to consider how services below a regulatory minimum of 80% qualified would be treated. In 2018, 115 services did not qualify for 80%+ funding rates. The majority of these services (57%) previously qualified for 80%+ funding rates. These services are more likely to be in disadvantaged areas or rural areas. The reinstatement of the 100% qualified teacher funding band risks increasing the numbers of services below 80%+ funding band, as competition for qualified teachers increases.

### Post-dating regulation changes

53. We understand you want to regulate for 80% qualified teachers in teacher-led centre-based services during this term of government and post-date the changes so they come into force from 1 January 2022. This would not comply with the Legislation Design and Advisory Committee's *Legislation Guidelines*. These require that there is a good reason for any specification of commencement dates. Changing the regulations now with a commencement date in 2022 would signal the desired changes, but this could be achieved as effectively without changing the regulations.

54. Changing regulations with a commencement date under a potentially different executive risks that the regulation change is reversed before implementation. It is also likely that the Regulations Review Committee will draw the timing to the House's attention.

55. We therefore recommend that any changes to the Regulations are made closer to the time of implementation.

56. We recommend that the policy work looking at the changes to the Regulations should be done as part of the Regulatory Review. This would likely mean consultation with the sector next year. We intend to brief you on the scope and timeframes for the Regulatory Review as part of the education report on the Early Learning Strategic Plan.

## Teacher supply initiatives aligning with the Workforce Strategy

57. The reinstatement of the 100% qualified teacher funding band is likely to increase demand for qualified teachers. Regulating a new minimum standard of 80% qualified in teacher-led, centre-based services and improving adult: child ratios would further increase demand for qualified teachers.

58. As noted in our previous advice, improving the attractiveness of the profession, through improving the pay and conditions, is likely to be the most effective long-term strategy for sustainable teacher supply [Metis 1190844 refers]. When the 100% qualified teacher funding band is reinstated, we recommend this is accompanied by short-term initiatives to boost supply.

### Current early learning teacher supply initiatives

59. As part the Budget 2019 teacher supply package, funding rates for tertiary providers providing initial teacher education (ITE) was increased. This included funding rates for ITE focused on ECE. In May 2019, ECE teachers were also added to the long-term skills shortage list, enabling overseas ECE teachers to gain work visas more easily.

60. The Ministry has also continued to support ECE with scholarships (see Table 1 below). These include a mix of scholarships (ECE undergraduate and graduate, Māori and Pacific language scholarships, Māori and Pacific high achievers).

Table 1: ECE study scholarships awarded by year

| Year | 2016 | 2017 | 2018 | 2019 (YTD) |
|---|---|---|---|---|
| Total scholarships awarded | 50 | 44 | 61 | 82 |

s 9(2)(f)(iv) OIA

[redacted]

s 9(2)(f)(iv) OIA

[redacted]

## Network package: network management

67. You have indicated you would like to progress with a network package, which would include a network management function within the Ministry to manage future demand and preventing poor quality services from expanding.

68. The Ministry currently has no role in planning the early learning network. It licenses new centres and licences must be approved if the criteria is met. The current policy settings are neutral towards the types of new service that may be set up, allowing this to be determined by the market.

69. There is limited evidence of over- or undersupply of early learning provision. Parts of the sector consider that new services opening up may be outstripping demand, impacting the viability of existing services. Over the last ten years, 1174 services have closed and 1819 services have opened. Occupancy rates and wait times vary according to location, service type and age of the children, with no clear patterns. We are not able to gauge the extent to which provision is meeting parental needs.

70. As indicated in the strategy session on 26 June, the Ministry recommends a stepped approach to greater network management. Steps 1 and 2 could be progressed concurrently. The capacity to undertake active network management would need to be developed before a new regulatory framework came into force.

- **Step 1: Better information to aid the sector**. This stage would involve providing information to support the market in decisions around opening new services. [redacted] s 9(2)(f)(iv) OIA

- **Step 2: Regulatory change to enable active network management**. Both the Education Act 1989 and the Education (Early Childhood Services) Regulations 2008 need to be changed to enable a two stage licensing process where applications could be declined on the basis of excess provision or history of low quality provision. This work could be undertaken within baselines and would take around 18 months to two years depending on the legislative agenda.

- **Step 3: Active network management.** This involves a two stage licensing process to integrate early learning as part of the schooling education network operating model and to prevent low quality providers from expanding. Building national and [redacted] s 9(2)(f)(iv)

71. A stepped approach would allow the Ministry to undertake analysis into the nature and extent of issues in the early learning network. It also allows time to progress the policy work required to amend the Education Act and Regulations.

**Step 1: Better information to aid the sector**

72. This step involves developing profiles based on our existing catchment model and methodology that underpins the National Education Growth Plan (NEGP) for schooling.

73. Early learning provision differs from schooling due to the private nature of the market and the greater role of parental choice. However, it is possible to use a similar methodology for early learning as is used in the NEGP to look at the current profile of provision across the early learning network. The profiles would look at:

- Information on current early learning service provision to support the market in decisions around opening new services and to support any potential planning for targeted support. This would include movements of providers in and out of the market, and pathways and transitions into schools

- Early learning geographical and catchment/area spread information, with key data and information on each service, such as services type, participation, occupancy rates and wait times

- Population projections and forecast growth to identify current and potential future network demand, and potential capacity issues such as oversupply and density

- Information on known major residential and business developments, roading and transport initiatives, and local insights such as regional growth strategies and other community intelligence.

74. s 9(2)(f)(iv) OIA [redacted]

**Step 2: Regulatory change to enable active network management**

*Regulatory change to enable discretion to decline licence applications*

75. The current Education (Early Childhood Services) Regulations 2008 state that the Secretary of Education must grant a licence if an applicant meets the standards set out in the Regulations and Licensing Criteria.[6] At a minimum, changes are required to the Regulations and Licensing Criteria to enable discretion to decline licence applications.

76. We consider that legislation change would also be required. The current provisions around licensing within the Education Act are broadly expressed and may allow for a network planning approach. However, as this would be a significant shift in approach, we would recommend amending the Act to formalise the process. Without a change to the empowering clause in the Act, any licensing decisions would be vulnerable to challenge on the grounds of ultra vires (action that is beyond the powers as detailed by law).

*Two stage licensing process*

77. We recommend a two stage licensing approach to enable more active network management of new services. The first stage would be to indicate the intention to establish or expand a service (prior to acquiring land or building), the second at the stage of licensing to ensure the service meets the regulated standards for licensing. This would avoid situations where a service provider goes through the consenting and building process only to not be granted a licence.

78. This two stage process would allow the Ministry to decline applications at the first stage on the grounds of low quality (in the case of an existing provider) as well as there being no demonstrated community need.

79. However, it is important to ensure that any operators in the market are of a high quality and any existing providers that are either low quality, or are not meeting the needs of the community, are not protected due to there being sufficient supply of child places.

[6] Regulation 11(1) of the Regulations states that a licence must be granted if the Secretary is satisfied the service complies with the standards set out in the Regulations.

80. Therefore, any changes to the regulatory regime for licensing needs to be considered in the context of the Regulatory Review as well as the Strategic Plan recommendations aimed at improving quality of the system. You will be receiving a separate briefing on the wider Strategic Plan which includes a discussion on the Regulatory Review.

**Step 3: Active network management**

*Early learning as part of the schooling education network operating model*

81. This would involve implementing a network planning approach for early learning driven by the Ministry as part of the schooling education network operating model. This could be operationalised by either the Ministry seeking expressions of interest for potential providers to seek licences in particular areas, or by publishing a list of areas where more provision is required and leaving it to the market to respond.

82. The current schooling network function does not have the capability and capacity to integrate early learning as part of its planning practices and operating model. Therefore, additional funding would need to be sought through the Budget process to develop, resource and drive this programme of work.

83. s 9(2)(f)(iv) OIA [redacted]

84. As mentioned above, there is no legal basis for the Ministry to decline an application for a new licence. Therefore, before we could implement a network planning approach in early learning there would need to be legislative change. On this basis implementation would be approximately 18 months to two years away (assuming the policy work on the legislative change was to begin immediately).

## Network package: stopping low quality services from expanding

85. You have also expressed interest in how we might be able to stop low quality service providers from expanding.

86. The draft Plan proposes that this would involve services providers applying for an authorisation to expand. This would mean that those services and providers that have a history of poor provision would not be able to expand until they were able to satisfy certain criteria around curriculum delivery, teaching capability as well as governance and management expertise in relation to their existing services.

87. As indicated above, any change that would involve declining a licence application would require regulatory change. The process to prevent low quality providers from expanding would also involve a two stage process, with the first stage being where an application would be declined on the grounds of the low quality of the provider.

88. Further consideration will need to be given to how to define low quality within the legislative framework. Criteria for consideration could include:

- services with an existing licence subject to 1 or 2 year ERO assurance reviews
- services with an existing licence that are provisional or suspended. Some discretion may need to be built in for those services that have either voluntarily suspended their licence or were put on a provisional licence pending an investigation.

- the numbers of services on probationary licences (to manage the risks of providers growing too quickly)
- any recent changes of ownership or governance that may impact on the operation of the entity
- any historical licensing matters. For example, there has there been a history of licences going on and off provisional or suspended, or probationary licences that did not move through to a full
- any history of complaints received by the Ministry.

89. As part of the final design, we will need to consider how to manage situations where a provider has been given authorisation to expand but has come to our attention for poor performance before they complete the full licence process. We should also consider how to not penalise those providers that have taken over a low quality service and have actively lifted the quality of provision from expanding into other low quality services with the same objective.

90. We will also need to consider how to build in a mechanism for managing or avoiding situations where licences are changing hands to being moved to another legal entity to get around any restrictions there might be on expansion.

**Managing poor quality provision – increased monitoring and regulatory change**

91. In addition to stopping low quality services from expanding, the Ministry considers that stronger regulatory powers and increased monitoring is required to shift poor quality provision in the sector. This is a recommendation in the draft Strategic Plan.

92. We propose that the Regulatory Review look at amending the Regulations so that the Ministry can consider an early learning service's licensing history when deciding whether to grant a provisional or suspended licence, or to cancel its licence. There is currently no restriction on how frequently an early learning service can have their licence reclassified to provisional. This means some services cycle on and off provisional licences for extended periods for what are often similar but separate breaches.

93. The Ministry proposes an increased monitoring function. This would involve a programme of targeted monitoring visits, including some unannounced visits, for up to 10% of early learning services each year. While focused on compliance with licensing requirements, the targeted monitoring would help to identify poor practice, and governance and management issues. s 9(2)(f)(iv) OIA [redacted]

94. The Education Review Office (ERO) monitors the quality of pedagogical practice in the early learning sector. We will be proposing that the final Strategic Plan recognises increased monitoring by ERO and greater sharing of information between agencies when poor quality is identified. Should you wish to progress increased monitoring as part of Budget 2020, further work will be done on clarifying what intersects in agency roles.

## Network package: market making

95. You have indicated you would like to discuss options for encouraging market consolidation. Below is initial advice. Any change to the system to favour consolidation would be a substantial piece of work requiring careful consideration.

96. Services that are part of a larger organisation may be more likely to be part of structures that support quality teaching. Examples include professional development clusters and teachers/kaiako that oversee and support curriculum implementation across multiple services. The role that senior teachers play in kindergarten associations is an example of the latter.

97. Larger organisations may have better systems for ensuring services are sustainable, and reserves to shore up services in trouble for short periods of time. Larger organisations may also provide a better conduit for learning support.

98. Consolidation also has some downsides. The main trade-off is diversity in provision – consolidation is likely to mean operating models move towards standardisation over time, which affects parent choice. Market consolidation may not be conducive to fostering innovation. Larger organisations may be more difficult to hold to account for poor quality provision. Larger organisations may also become too large to fail.

99. Being larger does not preclude governance issues; and due to their size, larger organisations may be more difficult to hold to account for poor quality provision. ERO has advised that stand-alone services are over-represented in ERO's very high quality category, although there are also some stand-alones at the other quality end. Larger organisations may also become too large to fail.

100. A system that favours larger organisations advantages services that already have a natural grouping, such as a common philosophy. These services may already be in larger organisations, such as kindergarten associations. Forced consolidation may not be successful where there is limited common ground between services – it may cause disruption, and even some services exiting the sector, rather than being beneficial for these services.

101. There are already many examples of services under larger umbrella bodies – such as ngā kōhanga reo, BestStart, Barnardos, and kindergarten associations. Playcentre has recently moved to a federated model under a single national body. However, there appear to be limits to consolidation – the recent proposal to merge all kindergartens was not successful.

102. The following broad options could be explored to encourage consolidation:

- **Weak funding incentive**. This would involve providing additional funding to support voluntary clustering, potentially also with facilitation from government. Similar models have existed in the past. For example, early learning services in Christchurch were actively facilitated to cluster post-earthquake. The current Kāhui Ako model is similar to this – early learning services within Kāhui Ako qualify for a small grant to share between them. The grant ranges from $4,000 to share between five early learning services, to $7,000 per annum to share between 11 or more services.

- **Strong funding incentive**. This would involve building the incentive into the funding system, as a requirement for higher funding rates for example. The Queensland Kindergarten Funding Scheme (QKFS) is such an incentive. Kindergartens that want to access QKFS funding must be members of a central governing body. The QKFS provides funding for kindergarten programmes for the year before children start school. This system is currently being evaluated. An equivalent measure in New Zealand would be to make 20 Hours ECE contingent on services becoming members of a governing body.

- **Regulate**. Requirements could be built into the regulatory system for services to be part of a larger body. This could be defined to allow federation rather than control by the larger body.

## Annex 1: Options for setting and applying 100% band rates – assumes envelope of $500 million

### Rate setting applied to all teacher-led centre-based services

| Option | Description | Comments | Four year indicative cost | Remaining for targeted adjustment* | Level of targeted adjustment possible |
|---|---|---|---|---|---|
| 1. Benchmark historic 80%+/100% percentage difference | - 100% rates set 13% above existing 80%+ rates<br>- Percentage premium between 80%+/100% rates when they last existed concurrently (2011) | - Included here to provide benchmark cost<br>- Based on best (historic) estimate of cost of employing additional qualified teachers<br>- Most likely to meet services' expectations of 100% funding | **$436m** | $27m | Very low |
| 2. Historic 80%+/100% rate cost difference | - 100% rates set by adding 2011 dollar difference between 80%+ and 100% rates onto existing 80%+ rates | - Slightly lower cost than benchmark as various cost adjustments since 2011 have reduced the percentage premium for the 100% band compared to benchmark and reduced likely uptake. | **$271m** | $192m | Medium-high |
| 3. 80-99% historic percentage difference | - As with Option 1 but sets rates using difference that existed between 80-99% band and 100% band in 2010/11 | - More affordable than Options 1 and 2<br>- Will preference certain services ability to recruit teachers eg, those able to charge higher/additional parental fees, or running lower cost structures | **$130m** | $333m | Very high |
| 4. Variable percentage difference | - Setting 100% rates at a 'wildcard' percentage premium above the 80%+ rate but below the benchmark rates in Option 1 | - Provided flexibility within available funding and at less than benchmark rate cost<br>- Choice allows variable emphasis on initiatives in the package (more 100% focus or less 100% focus) | **Unq** | - | - |

### Targeted service eligibility based on rate setting options above

| Option | Description | Comments | Four year indicative cost | Remaining for targeted adjustment* | Level of targeted adjustment possible |
|---|---|---|---|---|---|
| 1. Offered only to services qualifying for Equity funding | - Enable only services who qualify for Equity A and B funding to access 100% rates<br>- 100% rate set at benchmark 13% premium (lower rates could be considered) | - Manages cost compared to benchmark option<br>- Provides clear signal of government commitment to addressing equity in early learning for children from disadvantaged backgrounds (consistent with ELSP)<br>- Helps manage demand for potentially scarce qualified teachers | **$138m** | $325m | Very high |
| 2. Reinstatement phased by service type | - 100% eligibility extends to Ed & Care services first; kindergartens eligible after 2 years<br>- 100% rate uses the 80-99% premium (6%) | - Manages cost compared to benchmark option<br>- Provides a point of difference initially for Ed & Care - partly to acknowledge increased rate differential resulting from KTCA agreement | **$107m** | $356m | Very high |
| 3. Differentiated 100% rate by service type | - Funds Ed & Care at higher rate than kindergartens<br>- 100% rate set at 8%/3% above 80%+ rates for Ed & Care and kindergartens respectively | - Manages cost compared to benchmark option<br>- Provides a point of difference for ed & care - partly acknowledges increased rate differential resulting from KTCA agreement and that kindergartens are much closer to 100% already than Ed & Care services (on average) | **$177m** | $285m | High |

* Taking into account the cost of workforce and network initiatives (approx. $36.5 million over four years).

## Annex 2: Network package

| | Step one | Step two | Step three |
|---|---|---|---|
| Type of change | **Supply** – better information for the sector by creating early learning profiles based on current provision within geographic areas. Includes service types, occupancy rates and wait times; population projections and forecast growth; community intelligence.<br><br>**Quality** – Increased monitoring of up to 10% of services per year. | **Discretion in granting a licence** – allow the Ministry to decline licence applications on the grounds of oversupply in an area or a history of low quality provision by service provider.<br><br>**Two stage licensing process** – first stage pre-build licence to expand or establish a new service. Second stage similar process to now once the service has been established.<br><br>**Strengthened accountability framework** – to ensure there are effective tools and pathways for dealing with non-compliance and poor performance. | **Supply** – Active management of the network either through expressions of interest or by publishing the list of areas where more provision is required.<br><br>**Quality** – Ability to decline licence applications on the grounds of the service providers' history of provision. Strengthened regulatory regime to effectively manage system performance. |
| Cost | s 9(2)(f)(iv) OIA [redacted] | Completed within business as usual | s 9(2)(f)(iv) OIA [redacted] |
| Timing | **Supply** – approximately six to eight months work<br>**Quality** – could commence once funding is available | Ministry has recently begun a regulatory review and the work is expected to take approximately 18 months to two years | Implementation dependant on regulatory change |

### Options to consider Market Making

You have indicated you would like to discuss options for encouraging market consolidation.

**Issue to consider**

A system that favours larger organisations advantages services that already have a natural grouping such as a common philosophy. Clustering may not be successful where there is limited common ground between services.

**Opportunities**

- Larger organisations can often better support quality teaching
- Better systems to support services sustainability
- Better conduit for learning support

**Challenges**

- Reduction in diversity of provision as services move towards more standardisation. Therefore impact on parent choice
- Dampened innovation
- May be more difficult to hold to account for poor quality provision
- Too large to fail

**Possible options**

1. Weak funding incentive – additional funding to support voluntary clustering, such as grants provided through Kāhui Ako.
2. Strong funding incentive – building into the current funding system higher funding rates for those services that are part of a cluster, for example similar to the Queensland Kindergarten Funding Scheme.
3. Regulate – requirements built into the regulatory system for all services to be part of a larger body or federation.

**For discussion**

- How would you like us to progress with the Network package?
- Would you like us to further explore market making and if so which options?