

# NZEI • TE RIU ROA

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ECF Regulatory Review  
Ministry of Education  
P O Box 1666  
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## NZEI RESPONSE TO REGULATORY REVIEW

### Introduction

- 1 NZEI Te Riu Roa (NZEI) is the professional organisation and industrial union that represents the interests and issues of its 42,000 members. Our members in the Early Childhood Education (ECE) sector include teachers and support staff in kindergartens; all day, sessional and casual ECE centres; coordinators/visiting teachers in home-based services and kalako and kalawhina in nga kohanga reo.
- 2 The main objective of NZEI is to advance the cause of education generally while upholding and maintaining the just claims of its members individually and collectively.
- 3 NZEI is pleased to have this opportunity to respond to the Review of Regulation of (ECE) as part of the government's strategic plan, *Pathways to the Future: Ngā Huarahi Arataki*.
- 4 This submission is based on extensive consultation with members including national representatives through a variety of advisory group meetings and hui. It draws on the views and experience of members and staff in both the early childhood and primary sectors over the past decade. This submission also draws on previous NZEI submissions made in September 2001, March 2003 and November 2003.
- 5 NZEI applauded the launch of *Pathways to the Future: Ngā Huarahi Arataki* in 2002 and the funding announcements in the 2004 Budget. The regulatory review and new funding system are integral to the success of the strategic plan over the remainder of the decade.
- 6 The consultation meetings have been well attended by NZEI's members and have provided them and others in the sector with the opportunity to engage with the issues. NZEI is conscious that in a number of areas the ideas discussed can be viewed as 'work in progress' and that responses received will inform future policy development in these areas. For many people/organisations it is the first time they have considered some of these issues and the sector's thinking is continuing to develop.
- 7 NZEI believes that the processes used from the outset of the regulatory review have been inclusive and collaborative. We would, however, be keen to see the Technical Advisory Group (TAG) have a role in the future, following consultation feedback from the regulatory review. Finally, we are keen to formally recognise and acknowledge the work done by Ministry of Education (MoE) officials involved in the regulatory review of ECE.

## **Response to Part One: Changing the Framework**

- 8 Generally, the issues relating to the framework are about the legislative environment that is necessary to achieve agreed outcomes. This is a less contentious area of the review given that we are now in the second phase of consultation, and submissions have already been received in relation to the regulatory framework.
- 9 The issues relating to the framework are quite technical and complicated, and not all members have strong views about how the framework would work best. However, it remains NZEI's view that there are benefits in the suggested approach of broad standards supported by more detailed criteria in relation to transparency, consistency, enforceability and responsiveness.

### **Standards and criteria**

- 10 Regulations should contain requirements for high standards for staffing, qualifications, ratios, group size and curriculum. These need to be clear, non-negotiable and better than bare minimum standards. It is important that the regulations and standards are clear and consistent across the sector, that officials agree on interpretation and that quality is not compromised.
- 11 However, within a common broad framework of regulated standards, different types of services may require different 'criteria'. These criteria should be known to the sector and reviewed frequently rather than the more time consuming and potentially divisive process discussed whereby permission/approval could be given for individual variations.
- 12 Revised standards and criteria may need to be developed. This should be done in a comprehensive and cohesive manner through working groups comprising NZEI and sector representatives. There is widespread support for greater clarity, simple language, information available in languages other than English and all of the relevant information being available in one place.

### **Licences and charters**

- 13 A single *Agreement to Operate* with mandated and negotiated components was initially proposed. In previous feedback, NZEI stated that this proposal appeared to be a fitting compromise between the current system of licences and charters and recognition that change is desirable. It was also stated that, the day-to-day operation of successful services should not be greatly affected by changes to the licensing and chartering framework.
- 14 The current proposal appears to have moved away from negotiated components, with a suggestion that all requirements would be covered through the licensing system with the Government no longer having a strong interest in charters. This is a significant departure from the original thinking around charters in the early nineteen nineties.
- 15 The current requirement 'to consult' should not be lost in the changeover from charters and Desirable Objectives and Practices (DOPs) to standards or criteria. NZEI firmly believes that parents/whānau and staff should be entitled to involvement in the governance of early childhood services, and that the government should provide sound information to guide their input. A positive example is the MoE governance and management resource for Pasefika centres and services. We are pleased to hear that a mainstream version will soon be available to all licensed ECE services and would like to request multiple copies for NZEI Field Staff to refer to.
- 16 Parents/whānau and staff should be involved in all aspects of a centre's operation including consultation on policy development and decision-making about issues that impact on them and the children. Parents/whānau should also be involved in the education and care of their children through input into children's profiles and teaching and learning. NZEI questions how the government intends to ensure that consultation and parental involvement occur under the proposed framework.

### **Role of licensee**

- 17 NZEI supports the MoE proposal to license organisations rather than individuals (particularly teachers) as is sometimes the case currently. Responsibility for meeting (or otherwise) the regulations and being fined if such sanctions were to be enacted should rest with those responsible for decision making in the service, i.e. the legal entity. The complex web of shareholders, parent companies and subsidiary companies that exists in Australia is becoming a reality in New Zealand and the licensee and their responsibilities need to be clearly identified.

### **Funding**

- 18 The government currently has a responsibility to ensure that public funds are being well spent and that services are sustainable. NZEI does not believe there is sufficient accountability in the current system and sees improved accountability having benefits for government, communities, families/whānau and children.
- 19 NZEI Te Riu Roa believes accountability for funding should include:
- a requirement for all services to prepare audited financial statements and supply these to the MoE;
  - development by the MoE of guidelines and an accounting template(s) for early childhood services and encouragement of early childhood services to adopt these guidelines and template(s) for financial reporting.
- 20 Improved accountability requirements will be critical once a new funding system is introduced. They should be especially targeted at large corporate for-profit early childhood centres and services in order that government funding and parents/whānau fees are being spent on the purpose for which they were intended i.e. to meet the flow-on effects of kindergarten teachers' pay parity, to increase access, participation and to improve quality.

### **Licence renewal**

- 21 NZEI supports the maintenance of high standards and ongoing development in centres and services through review and evaluation.
- 22 The regulatory review consultation document notes that in New Zealand, licences are perpetual but in most other countries they are renewed periodically. The approach used in Australia and in the United States is through an accreditation system. NZEI rejects accreditation systems as simplistic, behaviourist and of no real benefit to teaching and learning. We would be concerned if attempts to streamline the licence renewal process resulted in 'checklists' to services as a means of 'judging' quality.
- 23 More frequent inspections could raise the cost of licensing and our concern is that if the costs were passed on to services/small not-for-profit services, could ill-afford increases in charges and compliance.

### **Powers of intervention**

- 24 There should also be an early warning system for centres and services at risk. NZEI supports the MoE having a wider range of sanctions. Support for at-risk-services in the community-based not-for-profit sector should be available from the government prior to funding being declined. Such a move should only be seen as a last resort. The MoE should be able to require action such as seeking budget advice or requiring management plans with milestones for achieving required actions.
- 25 NZEI supports the continuation of practical advice, guidance and support being given to centres and services in the community-based not-for-profit sector. However, we do not believe that provision on a contractual/contestable basis is a wise practice. We support a dedicated team of MoE staff or ongoing funding for providers such as NZCA to undertake these roles with centre management and governance bodies.
- 26 NZEI supports swift action by the MoE to close poor quality services if previously mentioned measures have failed to produce timely improvements and children's safety, and the quality of education and care are continuing to be compromised.

- 27 Children and their parents/whānau deserve to be protected and provided with support and alternatives in situations where closures occur. There is a clear role for the MoE in these situations.

**Parent/ whānau led services**

- 28 NZEI Te Riu Roa supports regulation of funded licence-exempt services provided by parents and whānau.
- 29 NZEI further supports ongoing discussions between the government and parent/whānau led services, particularly where provision involves qualified registered ECE teachers. Where the staff are required to be qualified and registered teachers, the same requirements for licensed centres should apply.
- 30 It is our understanding that among ngā kōhanga reo, there are some that are kaiako/whānau-led. We also have a small number of members working in kōhanga who hold ECE teaching qualifications and are registered teachers. NZEI believes the principles underpinning the requirements for teachers in centres where parents and whānau are not present, apply. The principles are that parents and whānau have:
- suitable training;
  - support for ongoing professional development;
  - advice and support in their role as parent and whānau educators.
- 31 In addition to the above principles, encouraging and supporting parental/whānau involvement is critical to achieve both the government's quality and participation objectives.

**Playgroups**

- 32 Funded playgroups are outside of NZEI's membership coverage. However, we are conscious of the role they play in terms of parent/whānau support and cultural identity. The government should continue to provide funding and support their existence within the ECE sector.

**Transition**

- 33 NZEI has concerns about the proposal to grant centres and services provisional licenses for up to five years. The timeframes may need to be staggered in order to avoid backlogs particularly if an inspection by the MoE will be necessary in order to have licence renewed.

**NZEI Response to Part Two: Improving Quality**

**Legislating Te Whāriki**

- 34 NZEI supports the proposal to make *Te Whāriki* mandatory. We believe that unless the curriculum is mandatory, there is little incentive for services to implement *Te Whāriki* or for the government to provide the necessary support and professional development to ensure its successful implementation.
- 35 While most services use *Te Whāriki*, there is considerable variation in how services integrate the curriculum in planning and evaluation. Mandatory provision of the early childhood curriculum would require a more cohesive link to planning and delivery of professional development, to the development of resources such as exemplars and to the use of assessment evaluation tools such as learning stories. These are key aspects of quality.
- 36 Mandatory provision of *Te Whāriki* sits alongside the proposal to require all early childhood teachers to be qualified and registered teachers.
- 37 The first option, proposed by the MoE, uses enabling legislation to give effect to the curriculum through Gazette notice and is similar to that used in mandating the school curriculum. Its advantage is that it enables the Minister to agree in consultation with the sector on the framework.

- 38 The goals of *Te Whāriki* provide a sound basis for programme planning, curriculum implementation and evaluation, and the assessment of children's learning. They need to be included in the legislation as they provide a clear framework for the environment to provide quality learning opportunities. Without the goals being included in the legislation there would be very little accountability in terms of curriculum implementation and the ability of services to demonstrate the promotion of learning for children.
- 39 The framework needs to include assessment as a requirement so that services are able to demonstrate progression of children's learning in their implementation of the curriculum. We would strongly oppose any notion to legislate the learning outcomes of each goal as this would lead to a prescriptive curriculum that undermines the philosophical basis of *Te Whāriki*. The learning outcomes are *indicative* rather than prescriptive. Legislating the learning outcomes would also lead to educators being involved in a meaningless, time-wasting administrative exercise to meet compliance requirements.
- 40 A possible disadvantage is that *Te Whāriki* does not appear at a high level in the legislation, and a future Minister could prescribe a curriculum framework other than *Te Whāriki*.

### Teacher Registration

41. NZEI Te Riu Roa endorses the targets set by government for improving and regulating the qualifications, via compulsory teacher registration, of staff in early childhood centres. Research has shown consistently, that qualified teachers have a direct impact on the quality of programmes offered in 'teacher led' services.
- 42 NZEI reluctantly accepts option one, proposed in the consultation feedback document, as the more workable and pragmatic approach to proposals for counting registered teachers.
- 43 NZEI does not agree with the proposal to include an exemption for approved elders in the targets for a number of reasons:
- NZEI has firm policy that all schools and early childhood centres are staffed by qualified and registered teaching staff. Elders do not meet that criteria, and should not therefore be counted as meeting the criteria set by the government;
  - NZEI does not believe that the attestation processes described by the Ministry of Education are culturally acceptable.
- 44 While NZEI has some discomfort with the counting of those undergoing teacher initial education programmes to meet the targets, the longer term view of the need for qualified teachers overrules that concern. We accept concerns about teacher supply, but would be concerned if further moves were made to relax registration targets up to 2012, instead of government and employers providing more incentives to teaching staff to become qualified and registered.
- 45 However counting those in teacher education programmes is very different from counting elders to meet the registration requirement. NZEI does not accept the report's comment that "the same difficulty arises with elders as it does with students undertaking teacher education." Those undergoing teacher education will in time become registered teachers - one of the goals of *Ngā Huarahi Arataki*, elders will not.
- 46 The report notes "this requirement would also make it difficult for services to employ elders who have valued skills but who do not have teacher qualifications." NZEI does not accept that there would be difficulty in employing the elders. However they would not be able to be employed as teachers, but in other ways, over and above regulated staff, that reflect their skills.
- 47 NZEI is supportive of the employment of elders, but not as a way of avoiding developing a qualified and registered teaching workforce. NZEI's view does not

undervalue the crucial importance of the elders in the transmission of language and cultural values.

48 In the primary sector, those with skills to support the transmission of language and culture are employed. Their skills are recognised, and valued, in a way that differs from the skills of registered teachers. The use of Limited Authority to Teach (LATs), and the use of kaiarahi i te reo, are two options available under legislation and currently being implemented in the primary sector.

**49 The use of LATs**

If the positions are seen to be teaching ones, then a Limited Authority to Teach (LAT) as outlined in the Education Act means that, when a registered teacher cannot be found (as which will be the reality at present), the elder could be offered the position and seek a LAT.

**50 Kaiarahi i te reo**

The Ministry could also support the development of an employment category similar to that of kaiarahi i te reo in the primary sector. A kaiarahi i te reo is an employee who is fluent in Maori language and has an in-depth knowledge of Te Ao Māori and works alongside a teacher supporting te reo Māori. This approach could be developed for other languages/cultures.

51 NZEI does not accept the proposal that the "Ministry of Education, in consultation with the sector, develop criteria that would need to be met by people in order to be approved as elders. Services would then need to attest that anyone acting as an elder, and included as regulated staff meets the criteria." The Ministry may be able to engage in consultation to develop criteria about the "appropriate skills." However NZEI members reject the mechanism for the attestation of elders.

52 NZEI does not see a service would be able to validly attest to the appropriate culturally based skills that elders as language leaders hold. That would need to be the task of those who have knowledge and understanding of the skills, cultural understanding and standing of those who are elders. It is culturally inappropriate for a service to undertake that kind of assessment.

53 Currently, the marae based qualification He Tohu Matauranga Māori is causing much angst for NZEI's members in the primary sector. The Ministry is not acknowledging the mana of this qualification. NZEI is therefore very cautious about any other approaches regarding attestation of cultural and language skills. NZEI is concerned at the implications of such a scheme for other areas of the education sector.

54 At present the exemption from compulsory registration for those teaching in kura kaupapa Māori is to be lifted from 1 January 2006. There is very little information about this available to the sector, and NZEI has concerns about the potential impact on teachers and other staff in kura kaupapa. NZEI is concerned that decisions made in ECE in relation to elders could create a precedent for kura kaupapa.

55 NZEI supports the progressive implementation of a qualified and registered teaching workforce in ECE and sees such policy direction as long overdue.

56 NZEI is pleased to note the government's commitment to support provisionally registered teachers as they move towards full registration. However, NZEI advocates for 0.2 FTTE for their first year and 0.1 for the second year for provisionally registered teachers (PRTs).

**Ratios/ Group size/ Space**

57 NZEI's initial submission in 2001 supported changing the under two ratio of staff to children to 1:3, the over two ratio in sessional services to 1:13, reducing the maximum group size for over two year olds to 40, reviewing group sizes in relation to space and ratios and recommended that an additional age band two years to three years be set in

regulation with a ratio of 1:5, and that the over three ratio in sessional services be 1:10 and in all day services 1:8.

- 58 However, since that time discussions have continued among NZEI membership and in the wider ECE sector. NZEI supports recent MoE assertions that a further period of consultation is necessary around ratios, group size and space. There is widespread support amongst NZEI membership for improvements to ratios for two-year-olds. However, the practical considerations of these combined changes along with teacher supply and funding issues coupled with the diversity of the sector make these issues extremely complex. If such policy changes are unlikely to be implemented until 2007 then NZEI supports further consultation and modelling being available to the sector to support increased understanding and to enable a consensus to be reached
- 59 Finally, the ECE faces many challenges and changes as a result of the government's strategic plan *Pathways to the Future: Ngā Huarahi Arataki*. NZEI is pleased to see that many of the original submissions outlined in Future directions and earlier submissions in the development of the strategic plan for ECE are being implemented. The proposed changes to regulations and funding are generally supported and seen as likely to achieve the government's objectives.
- 60 We look forward to continuing constructive engagement with MoE officials and other sector representatives as the key issues relating to the strategic plan are worked through and consensus reached.

NZEI is available to be contacted should you wish to seek clarification or discuss any matters further. Please contact Janette Kelly on (04) 382.2744 if you have any queries.

Yours sincerely

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For National Secretary