

Consultation on tranche two of the Early Learning Regulatory Review:

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

SEPTEMBER 2021

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How to have your say

If you want to provide feedback on the proposals in this document, you can complete a survey in English [here](#), or in te reo Māori [here](#). You can also send a more detailed written submission to either:

Earlylearning.regulatoryreview@education.govt.nz or this postal address:

Early Learning Regulatory Review (Tranche Two – 80% qualified teachers and person responsible)
Ministry of Education
PO Box 1666
Wellington 6140

The Ministry of Education requires feedback by 13 October 2021.

If you have any questions about making a submission or would like more information please email: Earlylearning.regulatoryreview@education.govt.nz.

Process

The information provided in submissions will be incorporated into the Ministry's policy development process and will inform advice to the Minister of Education and Cabinet.

Publication

Your submissions will become public information. This means that a member of the public may ask for a copy of your submission under the Official Information Act 1982. Any submission summary we create as a result of this consultation may also mention your submission. Please tell us in your submission if you do not want your name included.

Please also set out clearly in the cover letter or email accompanying your written submission if you have any objection to the release of any information in the submission. It would also be helpful if you outlined which parts you consider should be withheld, together with the reasons for withholding the information. The Ministry will take this into account and will consult with submitters when responding to requests under the Official Information Act and if a summary of submissions is published.

Introduction

The Early Learning Regulatory Framework

The Government sets minimum standards for licensed early childhood services and ensures those standards are met. Strong regulatory standards are important because research shows that high quality early childhood services provide a platform for children and tamariki to succeed as lifelong learners.

There are three tiers to the regulatory framework for licensed early childhood services:

1. The Education and Training Act 2020 defines service types and empowers regulations and criteria to be developed.
2. The Regulations, as set out in the Education (Early Childhood Services) Regulations 2008, establish the licensing process and set the minimum standards that all services must follow.
3. The third tier, the licensing criteria, are used to assess compliance with the minimum standards set out in the regulations.

Reviewing the Early Learning Regulatory System

The Ministry is currently undertaking a review of the early learning regulatory system. The purpose of this review is to ensure that the regulatory system for the early learning sector is clear and fit for purpose to support high quality educational outcomes. This review is timely due to the significant changes in the sector since the current regulatory system was established in 2008, as well as to take account of those changes proposed as part of *He taonga te tamaiti: Every child a taonga* the Early Learning Action Plan 2019-2029 (Action Plan) and the Review of Home-based Education.

The Early Learning Action Plan – regulating for 80% qualified teachers

In the Action Plan, the Government set an objective to regulate for 80% qualified teachers in teacher-led centres before regulating for 100% in the long term.

This is based on the principle that teaching qualifications provide teachers with the professional competencies and skills that lead to positive outcomes for children. This is supported in international research, as teaching qualifications are frequently cited as a key structural factor influencing the quality of individual adult-child interactions and children's learning outcomes.¹

When the Government regulates for 80% qualified teachers, services would need to either **employ or engage** or **use** a high proportion of qualified teachers depending on how the 80% is counted. This standard would apply to both teacher-led centres and hospital-based services because they are subject to the same regulatory and funding requirements.

¹ Kathy Sylva, "Quality in early childhood settings." In *Early Childhood Matters*, pp. 86-107. Routledge, 2010; Matthew Manning, Susanne Garvis, Christopher Fleming, and Gabriel TW Wong. "The relationship between teacher qualifications and the quality of the early childhood education and care environment." *Campbell Systematic Reviews* 13, no. 1 (2017): 1-82.

Context

The Government currently regulates for 50% qualified teachers

Under the current Regulations, teacher-led centres and hospital-based services must **employ or engage 50% ECE qualified teachers**.² This is measured against **minimum adult:child ratio requirements** and the service's licence maximum (full or provisional licence) or number of enrolments (probationary licence). For example, if an all-day service holds a full licence and has a licence maximum of 50 children aged 2 and over, they would need five adults to cover **minimum adult:child ratio requirements** (1:10).³ As the 50% requirement is calculated against this number, the service would need to **employ or engage** three staff members that hold an **ECE teaching qualification**.

There is some flexibility for services, as **one student teacher** studying towards an **ECE teaching qualification** can **count as qualified** if they are in their **final year of study**.⁴ This applies to all services, regardless of their licence maximum. This means that in the example above, a student teacher could count as one of the three ECE qualified teachers.

The Government encourages services to use 80-100% certificated teachers

The ECE Funding Handbook encourages services to use a high proportion of **certificated teachers**⁵ to cover **minimum adult:child ratio requirements**. A certificated teacher holds an **ECE** or **primary** teaching qualification and a **current practising certificate** from the Teaching Council of Aotearoa New Zealand. Services are eligible for higher rates if they use 80-99% or 100% certificated teachers to cover **minimum adult:child ratio requirements on average** over a **four-month funding period**. This is calculated based on total staff required to cover minimum adult:child ratio requirements.

In practice, this means services can fluctuate above and below 80% at various points during a four-month period and still qualify for higher funding rates. For example, services could qualify for 80-99% funding rates if they used 70% certificated teachers to cover minimum adult:child ratio requirements on one day and 90% on the next, provided it averages out to 80% over a funding period.

The Funding Handbook provides services with additional flexibility when they are unable to find a suitable reliever to cover a certificated teacher's absence. In these circumstances, an uncertificated staff member can count as a certificated teacher for up to 40 hours per funding period.⁶ However, unlike the Regulations, a student teacher in their final year of study does not count as a certificated teacher.

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 certificated ECE and/or primary teachers** to cover **minimum adult:child ratio requirements** across a funding period.

² Education (Early Childhood Services) Regulations 2008, [reg 44\(3\) – Qualifications, ratios, and service-size standard: general](#); These teachers are not required to hold a current practising certificate.

³ Education (Early Childhood Services) Regulations 2008, [sch 2 – Adult-to-child ratios \(minimum\)](#).

⁴ Education (Early Childhood Services) Regulations 2008, [reg 44\(1\)\(d\) – Qualifications, ratios, and service-size standard: general](#).

⁵ A certificated teacher holds a NZ ECE or primary teaching qualification and a current practising certificate, or an overseas qualification assessed by NZQA as comparable to a NZ ECE or primary teaching qualification and a current practising certificate, or a letter from the Teaching Council with a clear ECE or primary "endorsement" (where registration has been gained through the Council's discretionary pathway), and a current practising certificate.

⁶ Over the 1 June 2021 to 31 January 2022, education and care and hospital-based services will be able to use 80 discretionary hours per funding period. During this period, the Ministry will only accept up to 40 discretionary hours for kindergartens.

Services generally use 80% or more qualified and certificated teachers but there are exceptions

Almost all services qualify for 80-99% or 100% certificated teacher funding rates. However, services that do not reach this threshold are much more likely to be:

- hospital-based services
- services predominantly operating in a language other than English,⁷ particularly Māori and Pacific bilingual and immersion services
- other services self-defined as Pacific
- isolated services
- services operating in low socio-economic areas.⁸

Many of these services operate in communities that have not always been well served by the education system in the past. It is important for these services to stay open for these communities and to enable parental choice and facilitate parents' labour market participation.

The teaching workforce

Our data shows that services generally operate above the **minimum adult:child ratio requirements**.⁹ In 2020, on average, all-day teacher-led centres used one teacher for every 3.2 children aged under two years of age, and one teacher for every 6.8 children aged two and over. This compares favourably with the minimum adult:child ratio requirements of 1:5 (under two) and 1:10 (over two).

Our data on the teaching workforce is also encouraging. In 2020, 71% of teaching staff employed by teacher-led centres held an ECE (68%) or primary teaching qualification (3%). A further 7% of the teaching workforce were studying towards an ECE teaching qualification. Given services generally operate above **minimum adult:child ratio requirements**, this data indicates that most services are well placed to comply with a new 80% requirement.

The person responsible requirement

In teacher-led centres, persons responsible are directly involved in, and primarily responsible for, the day-to-day education and care, comfort, and health and safety of the children.¹⁰ On the other hand, persons responsible in hospital-based services have primary responsibility for the education of children in the service, ensuring supervision of children in the activity room, and supporting children's health, safety and care.¹¹ In both service types, the person responsible is required to supervise children and the adults providing education and care.¹²

The person responsible in teacher-led centres can hold an ECE or primary teaching qualification, while in hospital-based services they must hold an ECE teaching qualification. They must be certificated with the Teaching Council of Aotearoa New Zealand.

Currently, the person responsible requirement is the only safeguard ensuring a qualified and certificated teacher is present when children attend a service. Depending on how we regulate for 80%

⁷ These are services receiving [Equity Funding Component C \(Language and culture other than English\)](#).

⁸ These are services receiving funding for [Equity Funding Component A \(lower socio-economic communities\)](#).

⁹ Aggregated data on adult:child ratios from ECE Census week is available on [Education Counts](#).

¹⁰ Education (Early Childhood Services) Regulations 2008, [reg 3 – Interpretation](#) and [reg 44\(1\)\(d\)\(ii\)](#) – there must be at least one person responsible for every 50 children in attendance.

¹¹ Education (Early Childhood Services) Regulations 2008, [reg 3 – Interpretation](#).

¹² Education (Early Childhood Services) Regulations 2008, [reg 44\(1\)\(d\) – Qualifications, ratios, and service-size standard: general](#).

qualified teachers (options 1 and 2), the person responsible requirement would remain the only regulation guaranteeing a qualified and certificated teacher is present whenever children attend.

Options to regulate for 80% qualified teachers

Aligning the qualification standards in the Regulations and Funding Handbook

We propose enabling **ECE and primary qualified teachers certificated with the Teaching Council of Aotearoa New Zealand** to count for **regulatory and funding purposes for teacher-led centres and hospital-based services**. This aligns with Action 3.1 of the Action Plan, which outlines that issues of consistency between the regulatory and funding requirements would be addressed when regulating for 80% qualified teachers.

A student teacher in their final year of study towards an ECE teaching qualification would not count towards the 80% standard.

Questions

1. Do you agree that both ECE and primary qualified teachers holding a current practising certificate should count as qualified teachers?
2. Do you have any other comments on who should count as a qualified teacher?

The options

Each option has been designed to highlight different key features. For example, one option ensures services employ or engage a high number of ECE qualified teachers, while another matches the Regulations with the Funding Handbook.

The current funding rules would continue to apply under each option and would complement options 1 and 3. This would encourage services to use a high proportion of qualified and certificated teachers to be in contact with children over each four-month funding period, regardless of how we regulate for 80% qualified teachers.

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

This option modifies the current 50% standard in two ways.

- Services would need to **employ or engage 50% ECE qualified and certificated teachers**.
- Services would need to **employ or engage an additional 30% ECE and/or primary qualified and certificated teachers**.

In practice, this means that each service would need to employ or engage 50% ECE qualified teachers, with an additional 30% comprised of ECE and/or primary certificated teachers – as measured against the service's licence maximum (full licence) or number of enrolments (probationary licence). For example, a service licensed for 50 over 2s (ratio 1:10)¹³ would need to employ or engage three ECE qualified teachers to meet the 50% threshold, and one further ECE or primary qualified teacher to reach the 80% standard.

¹³ Education (Early Childhood Services) Regulations 2008, [sch 2 – Adult-to-child ratios \(minimum\)](#) – the minimum adult:child ratios are listed as 1:10 for all-day services with 20 or more children in attendance. When 1-6 children are attending there must be one adult present, and two adults must be present when 7-20 children are attending.

Why?

This option would ensure every service has a strong base of qualified and certificated teachers to draw upon, which should help lift or maintain the quality of provision. Services can technically meet this standard without a high proportion of qualified and certificated teachers being in contact with children. However, because the current funding incentives would continue to apply, services would be encouraged to use a high proportion of qualified and certificated teachers to cover minimum adult:child ratio requirements over each funding period. This is a key consideration as our data shows that the sector responds positively to these funding incentives.

As services would need to employ or engage a high proportion of ECE qualified teachers, there would be ongoing demand for ECE qualified teachers, which may encourage tertiary students to pursue an ECE teaching qualification. This is important because some research indicates that qualified teachers with ECE-specific training are best placed to facilitate children's learning.¹⁴

Compared to the other options, this is more likely to support diverse provision and enable parental choice – particularly the provision of Māori and Pacific bilingual and immersion services, and services in isolated and low socio-economic areas. This is because services can satisfy the 80% standard without using 80% or more qualified and certificated teachers to cover minimum adult:child ratio requirements.

This option aligns closely with the current regulatory framework, with many services likely to find it achievable.

What else should you consider?

As this option is not based on teachers in contact with children, it is possible that services would be able to comply with these standards without using a high proportion of qualified teachers to cover minimum adult:child ratio requirements.

There is also no guarantee that an ECE qualified teacher would be present whenever a teacher-led centre is open. This is because ECE qualified teachers do not need to be in contact with children to comply with the 50% and 80% requirements under this option. For example, a service licensed for 50 children could comply with the standard by engaging four ECE qualified teachers at 0.2 FTE, with unqualified staff largely in contact with children.

Option 2: Match the Regulations with the funding rules

This option requires services to **use 80% qualified and certificated teachers** to cover **minimum adult:child ratio requirements** across a **four-month period**. It would also allow services to use discretionary hours for both regulatory and funding purposes.

This option encourages services to use a high proportion of qualified and certificated teachers to cover minimum adult:child ratio requirements, which should help improve child outcomes. However, it also provides services with flexibility to fluctuate above and below 80% at various points in time without being penalised. For example, if 50 over 2s were attending a large service at one time, services would need four qualified and certificated teachers (ratios 1:10) to operate at 80% or above. However, as the standard is based on average, services could qualify for 80-99% certificated teacher funding rates if they used five qualified and certificated teachers to cover minimum adult:child ratio requirements on one day and three on the next.

¹⁴ Debra J. Ackerman, "Getting teachers from here to there: Examining issues related to an early care and education teacher policy." *Early Childhood Research & Practice* 7, no. 1 (2005); Marcy Whitebook, "Bachelor's Degrees Are Best: Higher Qualifications for Pre-Kindergarten Teachers Lead to Better Learning Environments for Children." (2003).

Why?

This option is expected to boost quality for some services, particularly services not currently receiving 80-99% or 100% certificated teacher funding rates. It also aligns with Action 3.1 because it addresses inconsistencies between the regulatory and funding requirements.

It goes some way towards managing services' sustainability because they would be able fluctuate above and below the 80% threshold at various points in time. This would help protect services from breaching the Regulations due to unexpected staff absences¹⁵. Discretionary hours would also provide a useful safeguard for services that may be at risk of falling below 80%.

What else should you consider?

Some services are much less likely to be able to comply with the requirement and may close over time. This is likely to have a disproportionate impact on the diverse network of services, particularly services in disadvantaged areas and Māori and Pacific bilingual and immersion services. This could inhibit parents' labour force participation or result in families using informal childcare arrangements.

Another difficulty with this option is that it may not support the Ministry to be a capable and effective regulator. The Ministry would only be able to identify non-compliance following each four-month funding period. Subsequently, a service breaching this standard would need an additional four months to remedy the breach and show compliance with the 80% requirement.

This option would also be problematic when the Government regulates for 100% qualified teachers. This is because the funding rules are calculated based on **minimum adult:child ratio requirements**. When regulating for 100%, a service would not be able to operate at 110% on one day and 90% on another.

As with option 2, there is also no guarantee that an ECE qualified teacher would be present whenever a service is open.

Option 3: Ensuring ECE qualified and certificated teachers are always present

This option lifts the current regulatory standard to 80% in line with option 1 – each service needs to **employ or engage 80% qualified and certificated teachers** (measured against **minimum adult:child ratio requirements** for services with a full licence and number of enrolments for services with a probationary licence).

The key difference is that whenever children attend, there must be **50% ECE qualified and certificated teachers in contact with children**. This is measured against **minimum adult:child ratio requirements** when children attend.

For example, if a service was licensed for 50 children aged over 2, they would need to employ or engage five teachers, four must be qualified and certificated teachers to meet the 80% requirement (1:10). If 50 children were present, the service would need at least three ECE qualified teachers to be in contact with children to meet the 50% sub-limit.

Why?

The key advantage of this approach is that a high proportion of ECE qualified and certificated teachers would always be in contact with children, which should help improve the quality of provision.

¹⁵ Education (Early Childhood Services) Regulations 2008, [reg 3 – Interpretation](#) and [sch 1 – Qualifications](#) – in teacher-led centres there must always be an ECE or primary qualified and certificated teacher present at all times children attend. In hospital-based services there must always be an ECE qualified and certificated teacher present at all times children attend.

In addition, each service should have a high proportion of qualified teachers to draw from, which should help them access higher funding rates.

What else should you consider?

There is a risk that requiring 50% ECE qualified and certificated teachers to be in contact with children would be unsustainable for services without greater teacher supply and funding available. This is partly because there would be no safety mechanism available to services at risk of breaching the 50% threshold.

This is more likely to compromise the sustainability of Māori and Pacific bilingual and immersion services and services operating in isolated and disadvantaged areas, as funding data indicates that these services may find it more difficult to access qualified teachers. Without additional support, these services would likely breach the new requirements.

Summary of options

Option	Unit of calculation	Time period of calculation
Option 1: Retaining a high percentage of ECE qualified teachers	$\frac{\text{ECE qualified staff employed or engaged by the service}}{\text{Total staff required to satisfy ratios (licence maximum)}} = 50\%$	Must be employed or engaged while service is open
	$\frac{\text{Primary or ECE qualified staff employed or engaged by the service}}{\text{Total staff required to satisfy ratios (licence maximum)}} = 30\%$	
Option 2: Match the Regulations with the funding rules	$\frac{\text{Primary or ECE qualified staff working with children}}{\text{Total staff required to meet ratios for children in attendance}} = 80\%$	Average across four months. Unqualified teachers can count as qualified for up to 40 hours per four months.
Option 3: Ensuring ECE qualified teachers are always present	$\frac{\text{ECE qualified staff working with children}}{\text{Total staff required to meet ratios for children in attendance}} = 50\%$	All times children attend
	$\frac{\text{Primary or ECE qualified staff employed or engaged by the service}}{\text{Total staff required to satisfy ratios (licence maximum)}} = 80\%$	Must be employed or engaged while service is open

Questions

3. What option(s) best support quality outcomes for children?
4. Would your service be able to comply with each of these options in the near future?
 - a. What option(s) would be difficult to implement and why?
5. What option do you prefer and why?

6. Do you have any other thoughts on these options?
7. Do you think there any other options we should consider when regulating for 80% qualified teachers? I.e. 80% ECE qualified teachers at all times children attend.

Barriers preventing services from reaching 80%

As discussed earlier, regulating for 80% qualified teachers could impact on the diverse network of services, a major strength of the current system. Services currently operating under 80% tend to serve population groups traditionally underserved by the education system. We recognise the value of these services and want to ensure they are well supported as we introduce the new 80% standard, particularly given they serve key population groups, enable parental choice, and facilitate parents' labour market participation.

Questions

8. What barriers prevent services from qualifying for 80-99% funding rates? Would the same barriers prevent services from complying with options 1 and 3?
9. What support would you need to operate with 80% qualified teachers under each of the options?
10. Should we regulate for 80% qualified teachers for all teacher-led centres and hospital-based services? If not, who should be excluded and why?

Persons responsible in teacher-led centres and hospital-based services

What changes are we consulting on now?

We are consulting on four proposals to ensure the person responsible role for teacher-led centres and hospital-based services remains clear, fit-for-purpose and safeguards children's best interests.

These proposals involve:

- requiring persons responsible in teacher-led centres and hospital-based services to hold a Category One or Two practising certificate (**Proposal 1**)
- clarifying the person responsible functions, including the supervision requirement for teacher-led centres (**Proposal 2**)
- requiring persons responsible in teacher-led centres to hold a first aid qualification (**Proposal 3**)
- clarifying what is meant by being responsible for children's education and the supervision requirement in hospital-based services (**Proposal 4**)

Proposal 1: Require the person responsible to hold a Category One or Two practising certificate in teacher-led centres and hospital-based services

The problem

While persons responsible in teacher-led centres and hospital-based services must be qualified and certificated teachers, they do not need a minimum amount of experience. This means that recent graduate teachers or teachers without recent teaching experience can be persons responsible.

Currently, the Teaching Council of Aotearoa New Zealand uses four categories of practising certificates.¹⁶ Category One (*Tiwhikete Whakaakoranga Tūturu*) and Category Two (*Tiwhikete Whakaakoranga Pūmau*) practising certificates are available to experienced teachers who are endorsed as meeting or likely to meet the Teaching Council's *Standards for the Teaching Profession | Ngā Paerewa*.

Proposed changes

Given the importance of the role, we propose limiting persons responsible to teachers holding a Category One or Two practising certificate. This change would ensure that teaching staff are supervised by experienced teachers, which could help with lifting pedagogy and improving child outcomes. It also enables graduate teachers and teachers recently returning to the profession to focus on teaching, without carrying extra responsibilities.

While this change should help ensure a minimum level of quality across these service types, we do not know how many qualified and certificated teachers in the sector hold a Category One or Two practising certificate. This could impact on the sustainability of some services, especially in areas where it is difficult to attract experienced qualified teachers.

Questions

11. Do you agree that the person responsible role should be limited to experienced teachers who hold a Category One or Two practising certificate??
12. If you disagree, how could we still ensure that persons responsible have sufficient experience?
13. Would your service be able to comply with the person responsible requirement if they were required to hold a Category One or Two practising certificate?

¹⁶ This is based on the current practising certificate types detailed on the Teaching Council's [website](#).

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

The problem

Persons responsible in teacher-led centres hold a number of important roles. They supervise children and staff and are directly involved in, and responsible for, children's day-to-day education and care, comfort, health and safety.

The problem is that the Regulations and Licensing Criteria do not clearly articulate what these roles involve. To help address this issue, we suggest clarifying what is meant by the education and health and safety functions. This is particularly important for our regulatory framework and the health and safety function for persons responsible, as the service provider holds primary responsibility for children's health and safety under the Regulations and the Health and Safety at Work Act 2015.

Proposed changes

We propose strengthening the current person responsible requirement by clarifying that they are 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.¹⁷
- Ensure that health and safety risks and hazards are identified and appropriate steps are taken to address those risks or hazards when children attend.¹⁸
- Supervise children in attendance and staff providing education and care (even if located in separate spaces).

These changes should benefit children and teaching staff because the role has a more explicit focus on education, health and safety, and supervision.

This change also outlines that the person responsible supervises children and staff across the service at all times. This reflects the reality that at any one time, children and staff are likely to be based in different spaces.

In terms of the health and safety role, the focus on identifying risks and hazards, and taking appropriate steps to address them, better reflects that the service provider and its officers are primarily responsible for children's health and safety. However, it also shows that persons responsible have clear obligations when a service is open due to their daily presence and supervisory role.

Questions

14. Do you agree that we should clarify the person responsible functions and duties?
15. Is there anything missing from the proposal which persons responsible do in practice that could be added to the Regulations?

¹⁷ The curriculum standard currently includes the principles and strands of *Te Whāriki*. The Ministry is planning to gazette the goals and learning outcomes of *Te Whāriki* under the Early Learning Action Plan.

¹⁸ Under the Health and Safety at Work Act 2015, the service provider has the primary duty of care towards the health and safety of staff and children in the service. Our proposed change makes it clear that the person responsible, in their supervisory capacity, has a clear role to play in ensuring the health and safety of children, but are not primarily responsible for addressing all health and safety risks or hazards.

Proposal 3: The person responsible in teacher-led centres must hold a first aid qualification

The problem

There must be at least one adult present with a first aid qualification (or equivalent) for every 25 children present in a teacher-led centre, but persons responsible do not need to hold this qualification. Given they have a clear role in ensuring the health and safety of children participating in a service, we consider it important for them to have the skills, knowledge and ability to respond effectively to children following an incident.

Proposed changes

We propose requiring persons responsible to hold a current first aid qualification. This training should prepare them with the skills and knowledge needed to respond effectively to incidents and should go some way towards ensuring children's health and safety. It may also ensure the independence of persons responsible, as they may not need to rely on other staff to respond to an incident.

Questions

16. Do you agree that the person responsible should hold a first aid qualification?
17. Does this change go far enough? Should persons responsible hold other health and safety qualifications?

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

The problem

There is limited guidance in the Regulations and Licensing Criteria about what it means to be **primarily responsible** for **children's education**. We suggest more clearly explaining what is meant by this responsibility.

There are also **inconsistent supervision requirements** set out in the Regulations for persons responsible. Currently, the person responsible must **ensure supervision** of children in the activity room.¹⁹ This enables the person responsible to either supervise children in the activity room or delegate supervision to another adult at the service. However, this conflicts with the supervision requirement,²⁰ which requires the person responsible to **supervise children and adults providing education and care**. This implies that the person responsible must supervise children and across the service, including the activity room, whenever children attend.

Proposed changes

We propose amending the person responsible requirement for hospital-based services to clarify that persons responsible are expected to:

- Ensure all staff are aware of the 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).

By inserting these duties into the requirement, the person responsible should be better placed to fulfil the education component of their role, which could lift the quality of provision and benefit children in the service. Other staff would also have clear expectations about the person responsible role.

This proposal also clarifies that the person responsible would need to ensure at least one adult is **present** whenever children are in the **activity room**. This more clearly distinguishes between the supervision requirement and ensuring an adult is present whenever children are in the activity room.

It would also outline that the person responsible supervises children and staff across the service at all times, even when they are located in different spaces. This reflects the reality that at any one time, children in hospital-based services are likely to be based in different areas – separate rooms in a ward and the activity room.

Questions

18. Do you agree that we should clarify the person responsible functions and duties as described in this proposal?
19. Is there anything missing from the proposal which persons responsible do in practice that could be added to the Regulations?

¹⁹ Education (Early Childhood Services) Regulations 2008, [reg 3 – Interpretation](#).

²⁰ Education (Early Childhood Services) Regulations 2008, [reg 44\(1\)\(d\) – Qualifications, ratios, and service-size standard: general](#).



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