

# Consultation on network management:

Priorities for National and Regional  
Statements and new network  
management regulations for licensed  
early childhood services

APRIL 2022

# Contents

<b>How to have your say</b>	<b>1</b>
Process	1
<b>Introduction</b>	<b>2</b>
What is network management?	2
How will it work?	2
What will the regulatory framework look like?	3
Recent consultation on changes to the Education and Training Act	3
Key guiding principles	4
When will network management start?	4
Māori immersion services are excluded from the requirement to seek network management	4
Keeping it consistent with licensing	4
More information	4
<b>Our network management proposals</b>	<b>5</b>
Priorities for National and Regional Statements	6
More information about the statements	8
Information required in applications	9
Processing timeframes for the Secretary for Education and Minister of Education making a decision	10
Official notice of network management approval	11
Processes	12
Register of network management approvals and revocations	13

# How to have your say

If you want to provide feedback on the proposals in this document, you can complete a survey at <https://consultation.education.govt.nz/ece/network-management-priorities-for-national-and-reg>. You can also send a more detailed written submission to either:

[Earlylearning.regulatoryreview@education.govt.nz](mailto:Earlylearning.regulatoryreview@education.govt.nz)

or

Early Learning Regulatory Review (Tranche Two – Network Management)  
Ministry of Education | Te Tāhuhu o te Mātauranga  
PO Box 1666  
Wellington 6140

The Ministry requires feedback by 11.59pm on 2 June 2022.

If you have any questions about making a submission or you would like more information please email:

[Earlylearning.regulatoryreview@education.govt.nz](mailto: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.

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 outline 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

## What is network management?

In 2019, as part of *He taonga te tamaiti: Every child a taonga - the early learning action plan* the Government set an objective that early learning services are part of a planned and coherent education ecosystem that is supported, accountable and sustainable.

One of the actions to support this objective is network management. **Network management** requires a person or entity wanting to establish a new licensed early childhood service to apply for the Minister of Education's approval that a proposed service is needed, before any application for a licence can be made.

Network management only applies to early childhood services that:

- are required to hold a licence (all education and care centres such as Education and care, Kindergartens, and Playcentre); or
- wish to operate as a licensed service (home-based and hospital-based services). It does not apply to playgroups.

An applicant is a person or entity that intends to govern and operate the service.

The Government recently agreed that network management **will not apply** to kōhanga reo chartered to Te Kōhanga Reo National Trust. The Government is also proposing to exclude other Māori immersion services from the requirement to seek network management approval, to allow services delivering the curriculum in te reo Māori to establish as needed.

## How will it work?

To establish a new licensed early childhood service an applicant will need to:

1. Firstly, seek network approval from the Minister of Education to apply for a licence to operate a proposed early childhood service. Approval may last for up to two years.
2. Secondly, apply for a licence and meet all licensing application requirements under the Education (Early Childhood Services) Regulations 2008 (licensing regulations). Licensed services are entitled to receive government funding.

## Network management phase

An applicant will submit an application to the Ministry of Education | Te Tāhuhu o te Mātauranga.

The Secretary for Education will assess if the applicant meets the fit and proper test and assess financial viability. If the applicant is considered to be fit and proper and financially viable these assessments will be provided to the Minister.<sup>1</sup>

The Minister of Education will decide whether to approve the application, enabling the applicant to apply for a licence. The Minister of Education will consider the Secretary's assessment and also consider matters such as alignment with the National and Regional Statements, community need and availability of services, and licensing history.

Anyone wishing to establish a new licensed early childhood service needs to go through network management, even if they already operate an existing service.

## Licensing phase

When the service is ready to start operating the approved applicant will apply to the Secretary for Education for a licence.

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<sup>1</sup> If the applicant is assessed as not fit and proper or financially viable then the applicant can appeal the decision in the District Court.

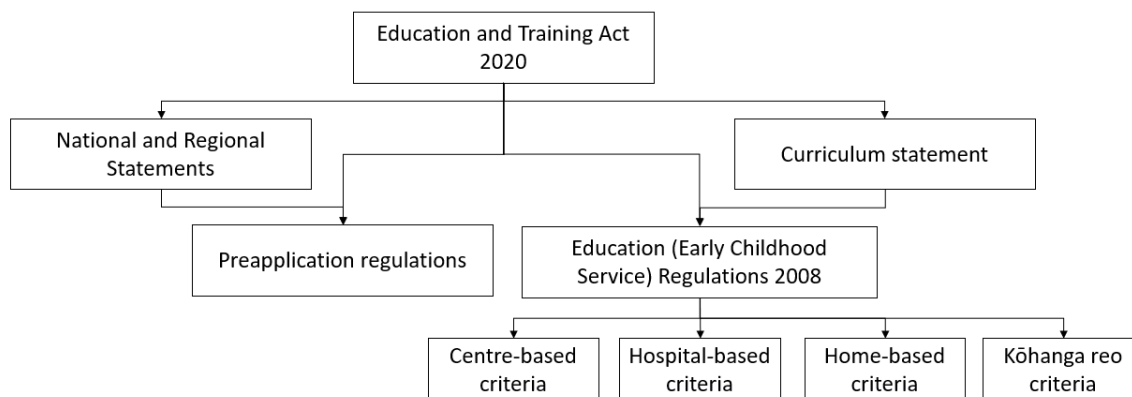
Note –Network approval is not a guarantee the applicant will be subsequently granted a licence. Only approved applicants and their governance members can apply for a licence. The applicant must still meet all the application requirements set out in the licensing regulations and maintain their fit and proper status.

## What will the regulatory framework look like?

The new network management function is enabled by sections 17 and 18 in the Education and Training Act 2020 (the Act).

The structure of the regulatory framework will be similar to what we have now with the Act, regulations and criteria for licensing, but we will also have a new set of regulations for network management as well as National and Regional Statements.

The following diagram outlines how the framework will look for licensed early childhood services<sup>2</sup>.



## Recent consultation on changes to the Education and Training Act

During September-October 2021 we consulted the sector on proposed changes to the Act. The proposed changes were supported by the majority of those that responded to the survey and are now part of the Supplementary Order Paper being considered by the Education and Workforce Select Committee. The Supplementary Order Paper:

- introduces National and Regional Statements for network management
- clarifies that some factors that the Minister of Education (the Minister) must take into account as part of their decision-making role need only be assessed at a high level
- shifts the initial administrative assessments of suitability of the applicant to the Secretary for Education and provides for a right of appeal of this assessment
- strengthens the test of applicant suitability, by strengthening the fit and proper assessment by the Secretary for Education and introducing a new capability assessment by the Minister of Education
- introduces other provisions to provide transparency about the process, such as imposing conditions of approval and specifying when extensions would be considered
- provides for transitional provisions, and consequential amendments to the Education (Early Childhood Services) Regulations 2008 to ensure consistency across the Act and regulations.

<sup>2</sup> Note that Network Management does not apply to Kōhanga Reo or other providers offering Māori immersion

## Key guiding principles

To guide the development of this new function we have used the following principles:

- honours Te Tiriti o Waitangi and supports Māori-Crown relationships
- the requirements maintain the quality of education and care and put children's health, safety and wellbeing first
- the impacts on parents and whānau take account of matters such as labour market participation and continuity of provision and choice
- costs and compliance faced by providers are proportionate and involve limited or no duplication of effort
- costs and compliance faced by government are reasonable and able to be implemented.

## When will network management start?

The Government has recently agreed to defer the commencement of network management until 1 February 2023, acknowledging concerns from the sector that the Delta and Omicron outbreaks had caused building delays for many providers and reduced the overall ability of the sector to prepare well for the new network management requirements. Any person or entity proposing to establish a new early childhood service and seek a licence will need to apply for network management approval from 1 February 2023. This change is being progressed via the Supplementary Order Paper currently being considered by the Education and Workforce Select Committee.

It is not intended that the network management requirements would apply to any person or entity that has applied for a new licence prior to 1 February 2023 **provided that** the application has been received and accepted as complete by the Ministry of Education | Te Tāhuhu o te Mātauranga.

However, any services that have construction underway but are not ready to open and therefore have not applied for a licence before 1 February 2023, would need to go through the network management process.

## Māori immersion services are excluded from the requirement to seek network management

The kōhanga reo movement and other Māori immersion early childhood services are a key contributor to the revitalisation and protection of te reo Māori in early childhood education. Government is currently working on proposals that will exclude these services from the requirement to seek network management approval.

The decision to exclude kōhanga reo and other Māori immersion services from the requirement to seek network management approval before being able to apply for a licence is intended to acknowledge the Crown's obligations under Te Tiriti o Waitangi in relation to partnership and active protection as well as the right of Māori to exercise their authority and agency in education.

More information on the services to be excluded will be available soon.

## Keeping it consistent with licensing

Our intention is that any requirements that apply to both network management and licensing will be consistent. For example, in this document we propose the fit and proper test is assessed via statutory declaration at network management because that is how the requirement is assessed at licensing.

## More information

If you need more information about network management please see the following website: [Network Management for licensed early childhood services – Education in New Zealand](#)

# Our network management proposals

This consultation document sets out proposed Government priorities for national and regional statements and the proposed policy for new network management regulations. There are six main areas we are seeking feedback on:

1. Priorities for National and Regional Statements.
2. Information required in applications for network management approval.
3. Processing timeframes for the Secretary for Education and Minister of Education completing assessments and making decisions, as relevant.
4. How official notice of network management approval will be given and its contents.
5. Clear processes for:
  - i. The Secretary completing assessments of fit and proper status and financial viability
  - ii. Applying to amend the network management approval as anticipated by the legislation, such as the expiry date or conditions set.
6. A register of network management approvals and revocations that would not be specified in these regulations.

We are not seeking your feedback on proposed fees. This is because we already consulted the sector on the proposed fee in 2021 and there was support for this fee. The new regulations will set out a fee of \$500 (plus GST).

## Priorities for National and Regional Statements

Last year, following public consultation the Government agreed to introduce National and Regional Statements for network management. The purpose of the National and Regional Statements is to provide potential applicants with up-to-date, quality information about the network, including areas of potential oversupply or undersupply. Statements are often used across Government to guide investment and new development (for example, the National Policy Statement on Urban Development and the Government Policy Statement on Land Transport).

The statements will outline:

1. priorities for licensed early childhood education services
2. data and information on supply, forecast growth, demand and need for licensed early childhood services
3. any other additional information.

The intent of setting out Government priorities is to indicate to the sector the particular types of service offerings that are a priority for the licensed early childhood network overall, and therefore the types of applications the Government will prioritise for network management approval.

We are required to consult with the early learning sector and Māori before the priorities are finalised, so the focus of consultation here is the priorities only. Further information about the data and information on supply, forecast growth, demand and need for licensed early childhood services will be available later this year.

We propose ten priorities for network management which are outlined in the table below.

The Government has agreed to exclude kōhanga reo and is proposing to exclude other Māori immersion services from the requirement to seek network management approval, so they are not covered in the proposed priorities.

**Table 1: Proposed priorities and definitions**

Proposed priority	Proposed definition
Māori bilingual and immersion services that are not excluded from the requirement to seek network management approval	Services where te reo Māori is used <b>at least 51%<sup>3</sup> of the time</b> as a medium of instruction.
Hapū/iwi-owned services	Services that are majority owned by hapū or iwi.
Services with a distinct Māori identity and culture	Services that have a distinct Māori identity and use Māori cultural practices and values that inform the service provision.
Pacific bilingual and immersion services	Services where a Pacific language is used <b>at least 51%<sup>4</sup> of the time</b> as a medium of instruction. This includes services using the languages of the Pacific realm, gagana Tokelau, vagahau Niue and te reo Māori Kūki 'Āirani, as a medium of instruction.  Services may also provide Pacific cultural contexts for early learning.

<sup>3</sup> Note that this is defined by the Ministry as meeting bilingual/immersion levels 1 and 2.

<sup>4</sup> Note that this is defined by the Ministry as meeting bilingual/immersion levels 1 and 2.



<b>Proposed priority</b>	<b>Proposed definition</b>
Pacific language and/or cultural services	<p>Services that have distinct Pacific identities, cultural practices, languages and values that inform the service provision. This includes services using the languages of the Pacific realm: Tokelau, Niue and the Cook Islands.</p> <p>One or more Pacific languages may be used as the medium of instruction, but these services may not be meeting our definition of a Pacific bilingual service in one Pacific language.</p>
Language immersion services (non-English/Māori/Pacific)	Services where a language other than English, Māori or a Pacific language is used <b>at least 51% of the time</b> as a medium of instruction.
Services well-equipped for learning support needs	<p>A particular focus on providing services and support to children with a range of learning support needs.</p> <p>These services will provide facilities, support staff, and other resources to support tamariki with learning support needs, including access, resources within the centre, and any health support unique to this priority.</p>
Services well-equipped for migrants and former refugees	<p>Services that are well-equipped for supporting children and communities with migrant and/or refugee backgrounds.</p> <p>These services will be in regions where there are significant migrant and/or former refugee communities and employ people:</p> <ul style="list-style-type: none"> <li>• from target ethnic, linguistic, or religious backgrounds</li> <li>• with relevant qualifications (e.g., ESOL/TESOL)</li> <li>• with lived experience as a migrant or former refugee</li> </ul>
Services planned to operate on a new school site	<p>Services that are planned to operate on a new school site.</p> <p>New school sites may have property provision for early childhood education (ECE). The early childhood service may not necessarily be established at the time of the school being established but will have been considered through the establishment process.</p> <p>Likely to be used where the Ministry has already assessed that an early childhood service may be required on a new school build within the network to meet demand due to population growth.</p>
Organisations funded by Targeted Assistance for Participation (TAP)	<p>Organisations that already have funding approved through Targeted Assistance for Participation (TAP)<sup>5</sup>.</p> <p>This may be a transitional priority that applies only to services which were approved for TAP funding before network management came into effect.</p>

## Why?

The following criteria were used to develop the list of priorities that best achieved the network management objectives:

### A. The priority gives effect to obligations under Te Tiriti o Waitangi.

The Government has a responsibility to do this directly under the Act as well as a part of its overall Crown responsibility.

### B. There is an identified national need for this service offering.

A priority should help stimulate supply of services where we already know there are gaps.

### C. There is a clear priority from existing education strategies.

Network management should reinforce and give effect to existing education strategies.

<sup>5</sup> Targeted Assistance for Participation (TAP) provides funds for the buildings of early learning services in parts of the country where participation rates are low, in order to increase (or in some cases retain) children's attendance.

#### **D. The priority can be defined and monitored.**

A priority will only be useful if it can be easily defined and monitored. If the priority is too flexible or unclear it risks being misused or not achieving the intent.

### **More information about the statements**

The Ministry is still working on the business processes that will describe how the network management application process will work. We envisage however that where a proposed service meets one or more of the Government priorities it will score higher than a competing application that does not meet as many or any priorities. However, meeting a national priority (or priorities) does not mean the service will automatically be approved for network management.

Therefore, to support network management, the Ministry is also developing its reporting, forecasting and modelling in the early learning sector. This information will be used alongside the priorities discussed in this document to prepare the National and Regional Statements, provide a base level of data to the sector and will help assess network management applications.

This forecasting and modelling work will analyse multiple sources of information such as (but not restricted to):

- administrative data, including mapping the current provision of existing early learning services in an area, and population projections from Statistics New Zealand
- longer-term insights from Government policies, particularly housing policies and identifying housing developments and infrastructure planning
- transport links and connections that will show where children are travelling to and from, and relationships to future transport developments
- local insights from Ministry regional staff and engagements with the sector on their plans and engagements with communities on their needs.

Further, services applying in areas of under-provision (or where there is likely to be under-provision due to population growth) may still be approved despite not meeting the priorities. As such, meeting one or more of the priorities will not be a requirement for a prospective service to gain network management approval.

#### **Questions for you:**

1. Do you agree with the proposed Government priorities for network management approval?
2. Are there any priorities you would add or remove? Why?
3. Do you agree with the proposed definitions of the proposed Government priorities?
4. Are there any definitions you would change? Why?
5. What other information should be included in the statements?

## Information required in applications

The regulations would outline the information required from applicants.

We propose the regulations outline that an applicant must complete a form provided by the Ministry of Education | Te Tāhuhu o te Mātauranga and must include the following four matters:

1. whether approval is sought to apply to operate a licensed:
  - i. early childhood education and care centre (centre); or
  - ii. home-based education and care service; or
  - iii. hospital-based education and care service
2. information about the applicant
3. information about the proposed service
4. information that enables the Minister of Education and Secretary for Education to assess whether the service meets sections 17 and 18 of the Education Act, including any relationship with any National and Regional Statements issued.

See Annex 1 for a more detailed overview of the information requirements that would be set out in the application form.

### Why?

We want to provide transparency to applicants about the information that will be required in the application form. All the above information is necessary to assessment whether the application should be approved or declined. For example, the Minister of Education needs to understand the proposed type, location (confirmed or indicative) and size to understand whether the service is required within the early learning network.

### Questions for you:

6. Do you agree with the proposed information required in applications?
7. What other information should be included?

## Processing timeframes for the Secretary for Education and Minister of Education making a decision

We heard from our engagement with the sector last year and during the Select Committee process considering the Supplementary Order Paper, how important it is for there to be processing timelines for network management.

We propose that:

- a. The Secretary would be required to take all reasonably practicable steps to complete assessments of a complete application under section 18 of the Act within 30 working days. Section 18 covers both fit and proper and an initial assessment of financial viability.
- b. Subject to the Minister's ability to consider applications together, the Minister of Education would be required to endeavour to issue a decision on network management approval within 30 working days after receiving assessments from the Secretary for Education.

Under our proposals a decision on a network management application would be expected within 60 working days (generally 12 weeks). The timeframe for each stage of the decision-making process would only start once the applicant has provided all the necessary information. If the Minister of Education or Secretary for Education requests more information for an application, the application will be considered incomplete until that information is provided by the applicant.

The Minister's timeline for decision making would not apply if multiple applications are received for the same area, or for the same community, and the Minister wants to consider all completed applications at the same time. Applicants would be notified if their application processing timeframe is being affected by other applications for the same area.

### Amendments

It is proposed that an application to amend an approval (such as amendments to a condition or the expiry date as permitted by the legislation) would follow a similar approach. The Minister would endeavour to issue a decision within 30 working days, provided that all relevant information has been provided with the application.

### Why?

Our proposed timeframes allow the following:

- The Secretary for Education's timeframe anticipates 16 working days to assemble information and undertake analysis, seven working days for a final decision and seven working days to provide advice to the Minister of Education (in a briefing note or similar).
- The Minister of Education's timeframe anticipates seven working days for the Minister's office to ensure the Minister has all the required information, 14 working days for the Minister to consider the advice and nine working days for a decision to be made and communicated back to the applicant.

The licensing regulations require the Secretary for Education to take all reasonably practicable steps to ensure a decision on a probationary licence is made within 30 working days. Licensing is one stage (just the Secretary) and network management involves two stages of decision making (the Secretary and then the Minister).

### Questions for you:

8. Do you agree with our proposed timeframes for making decisions?
9. Do you have any other comments?

## Official notice of network management approval

Approved applicants will need to receive an official notice of network management approval outlining all the relevant details of the approval.

We propose that an official notice of approval to an applicant would include the following information which would be set out in regulations:

- service type (centre, home-based, or hospital-based service)
- the applicant's name and contact details
- a list of all governance members assessed as fit and proper (if the applicant is an entity)
- a detailed description of the service proposed including any special characteristics of the proposed service, e.g., philosophy (if any)
- the proposed location of the service
- the proposed size of service
- the date of issue
- the date of approval
- the date of expiry of network management approval
- any conditions and any associated dates to comply with those conditions
- any other relevant information, including expected date of establishment.

The notice will be part of the application requirements when the applicant applies for licensing at a Ministry of Education regional office.

If any changes are made to network management approval the notice would be reissued with the revised information.

### Why?

A network management approval will be a formal record, like a licence certificate is for licensing purposes. It is necessary that all this information is included in an official notice so the applicant is clear what approval has been provided and what requirements they must continue to meet.

### Questions for you:

10. Do you agree with the proposed information set out in the proposed official notice of approval?
11. What other information should be included?

## Processes

The regulations will set out a number of procedural matters for network management. We have developed proposals relating to:

- the Secretary assessing fit and proper and financial viability
- amendments to network management approvals.

### *The Secretary assessing fit and proper and financial viability*

We propose that fit and proper would be assessed by the Secretary for Education using a statutory declaration by an applicant or all governance members (if the applicant is an entity).

#### Why?

One of our approaches is to ensure consistency across licensing and network management where appropriate. Given network management and licensing involve the same fit and proper test we propose to assess them in the same way.

#### Questions for you:

12. Do you agree with the proposal that the Secretary for Education assesses fit and proper using a statutory declaration by an applicant or all governance members (if the applicant is an entity)?

### *Amendments to network management approvals*

We propose that an applicant may seek an amendment to network management expiry date, or conditions<sup>6</sup> at any time prior to expiry of the approval. An amendment is not permissible to the proposed service type or applicant as these are key features in the original approval.

A proposed amendment may be declined by the Minister of Education.

Any approved amendments would result in the approval notice being reissued and any information listed online being updated.

#### Why?

Network management approvals can last up to two years during which time a number of factors may have changed. It is important applicants have an opportunity to seek an amendment to cover changing and unforeseen circumstances.

#### Questions for you:

13. Do you agree with the proposal to allow applicants to seek amendments to approval?

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<sup>6</sup> For example, a change to proposed service size.

## Register of network management approvals and revocations

We propose that all network management approvals would be listed on a dedicated network management Ministry of Education | Te Tāhuhu o te Mātauranga webpage alongside any National and Regional Statements. Approvals would indicate the applicant's name, proposed service type (including any special characteristics), service size and area, and estimated date of establishment. This approval would remain on the website for as long as the approval is active.

All revocations of approval would also be notified publicly until the period of approval expires, including the primary reasons for revocation. The revocation would only be published after the period for appeal has expired. If an approval is revoked, it would be recorded in a separate section of the website until the period of initial approval expires. The purpose of this is to ensure that future applicants are aware of changes in approval status.

We do not propose to list declined network management applications.

### Why?

Proactive release of information promotes good government, openness and transparency, and fosters public trust and confidence in the decision-making. It is important that new applicants are aware of any network management approvals as this will impact on future applications and supplement information on supply provided in the National and Regional Statements. Approvals of services in progress are just as important as understanding existing supply and demand. The rationale for providing the revocation details is to provide transparency around the decision-making for network management and to enable future applicants to see on what grounds approval has been revoked.

### Questions for you:

14. Do you agree with our proposal to list all network management approvals and revocations on a dedicated network management Ministry of Education | Te Tāhuhu o te Mātauranga webpage?

## Annex 1: Outline of information likely to be required in applications

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### 1. The kind of information that would be required in an application would include:

#### *Information about the applicant*

- The applicant's name and contact details (and list of governance members and contact details if the applicant is an entity)
- A nominated contact person

#### *Information about the proposed service*

- The proposed location of the service
- The proposed size of service and operational hours
- The proposed date the applicant intends to apply for a licence (which must be a date of 2 years or less)
- A detailed description of the service proposed including any special characteristics of the proposed service, e.g., philosophy (if any).
- Any affiliation to an existing licensed service; service provider, or other organisation (if any) – including all those of the governance members and if the applicant is an entity.

#### *Information that enables the Minister of Education and Secretary for Education to assess whether the service meets sections 17 and 18 of the Education Act.*

- Any other information required under sections 17 and 18 of the Education and Training Act 2020, including:
  - i. A detailed description of the relevant attributes of the area to be served, including (without limitation) the demography of the area, the needs of the communities in the area, the needs of the children in the area, and the availability of licensed early childhood services in the area with different offerings (for example, the provision of te reo Māori)
  - ii. How the proposed service gives effect to the National or Regional statements
  - iii. Information to inform the fit and proper status assessment
  - iv. Any financial information that demonstrates the applicant has either sufficient finances to establish the service and/or a business plan to show how sufficient finances will be attained to achieve licensing. Evidence may include an annual report or statements from appropriate financial institutions, and/or a business plan.
  - v. A list of services that the applicant has been in control of or had any role as governing member. The applicant would also need to provide the relevant years of the association
  - vi. Information to inform the capability assessment.



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He mea **tārai** e mātou te **mātauranga**  
kia **rangatira** ai, kia **mana taurite** ai ōna **huanga**