

Office of Early Childhood Education Te Tari Mātauranga Kōhungahunga

Submission to the Education and Workforce Committee on the *Education and Training (System Reform) Amendment Bill*

Date: 14 January 2026

Purpose

This submission responds to the Committee's invitation to provide views on whether regulatory functions for early childhood education (ECE) should remain within the Ministry of Education or be transferred to a Director of Regulation located in the Education Review Office (ERO).

It sets out the Office of Early Childhood Education's (OECE) assessment of the proposal, the evidence base underpinning it, and the likely implications for the ECE system.

Scope

This submission examines:

- the political rationale for transferring regulatory functions
- policy and system impacts of transferring regulatory functions
- consequences for quality, equity, and stewardship
- process and consultation concerns arising from how the proposal was introduced
- recommended next steps for the Committee





EXECUTIVE SUMMARY

This submission recommends that all early childhood education (ECE) regulatory functions, including the statutory Director of Regulation role, remain within the Ministry of Education (MoE). The proposal to transfer these functions to the Education Review Office (ERO) lacks a clear evidential basis, has not been adequately consulted on, and would weaken the coherence, capability, and quality of the ECE system.

Lack of evidence

The Ministry for Regulation review was presented to Cabinet as the main justification for the transfer. However, the review does **not** recommend moving regulatory functions to ERO and contains factual inaccuracies about review cycles, enforcement powers, and the Ministry's licensing responsibilities. These errors undermine the reliability of the advice provided to decision-makers.

Process concerns

There was no consultation before Minister Seymour announced the transfer in a press release on 31 July 2025. The proposal did not appear in the Education and Training (Early Childhood Education Reform) Amendment Bill that became law on 26 November 2025, and it is not included in the current wording of the Education and Training (System Reform) Amendment Bill. The Education and Workforce Committee notified the public only through a press release on 15 December that it was seeking views on adding the transfer to the Bill, leaving very few working days for people to notice and respond. No draft legislative wording, explanation of how the change would be incorporated, or policy context needed to understand its implications has been provided.

Distinct agency roles

- **Ministry of Education: the regulator.** Licensing, monitoring, investigating complaints, and enforcing compliance are closely tied to the MoE's responsibilities for policy, funding, curriculum, guidance, and system stewardship. Removing these functions would strip the MoE of essential insight, weakening its ability to identify risks early and provide sound advice.
- **Education Review Office: the independent reporting agency.** ERO's role is independent evaluation and quality assurance. Giving ERO regulatory powers would push it toward policing and enforcement, undermining its independence and the credibility of its evaluative work.

Claims of duplication and confusion are overstated

- The Ministry for Regulation reported that only **"a few submitters"** expressed confusion about who the regulator is. This is a communication issue, not a structural one. Clearer role statements, joint guidance, and better inter-agency coordination would resolve confusion.

Capacity and readiness concerns

- ERO is a small agency that has recently restructured, lost ECE positions, and lacks permanent senior leadership.
- Workforce strain, cost-saving pressures, and concerns about wellbeing and workplace culture raise serious doubts about ERO's ability to take on licensing, monitoring, and enforcement across more than 4,000 services.

Timeliness and efficiency

- Faster decisions depend on capacity, systems, and processes, not on which agency holds statutory authority.
- A transfer would require IT system changes in both the MoE and ERO, additional staffing and office space for ERO, opening new ERO offices to ensure staff are in all local regions, and complex handover processes - creating financial costs, transition risks, and likely delays.

Risk of shifting ECE further away from its status as a public good

- Moving core regulatory functions out of the MoE would reverse the progress made since childcare services were incorporated into the education system in 1986 and reinforced by the Before Five reforms. Removing these functions severs the policy and funding links that have anchored ECE within a coherent public education framework.
- Reassigning regulatory responsibility to ERO would be widely perceived as treating ECE as a market-driven service rather than a public good.

Independence and policy insight

- Moving the Director of Regulation to ERO would separate regulatory decision-making from the MoE's operational and policy intelligence, weakening policy design and practical rule-making.
- Independence can be protected through statutory safeguards without relocating the role.

Recommendations

1. Retain all ECE regulatory functions within the Ministry of Education.
2. Do not transfer these functions via the *Education and Training (System Reform) Amendment Bill*.
3. Keep the Director of Regulation as a statutory role within the Ministry of Education.
4. Reconsider only if independent evidence demonstrates clear net benefits, ERO's quality assurance role is protected, capability is proven, and safeguards prevent replication of Ministry stakeholder pressures - supported by readiness assessments and genuine public consultation.

Conclusion

The proposed transfer is not supported by evidence, would undermine integrated stewardship of the ECE system, and introduces significant risk and disruption without clear benefit. All ECE regulatory functions and the Director of Regulation should therefore remain within the MoE.



RECOMMENDATIONS

1. Do not transfer ECE regulatory functions from the Ministry of Education to the Education Review Office

“Regulatory function is about enforcement... ERO’s role is about measuring quality... impossible to do both.”
- Teacher

“Shifting the regulatory role to ERO dilutes the value of compliance.”
- Independent ECE adviser

“Having the regulator sit alongside the reviewer risks independence, transparency and fairness.”
– ECE researcher

- **Rationale:** Keeping regulatory functions within the Ministry of Education best protects children, families, and the ECE sector.
- **Evidence gap:** The Cabinet case conflates the roles of ERO and the Ministry and does not provide sufficient evidence to justify a major structural change.
- **System integrity:** Regulation, licensing, funding, audits, guidance, curriculum development, and prosecutions are interdependent. Moving regulatory functions to ERO would reduce the MoE’s direct, on-the-ground insight gained from advisers visiting services, following up complaints, and investigating incidents. That loss of insight would weaken the MoE’s ability to set strategy, monitor impacts, and respond quickly to emerging risks.
- **Risk to ERO’s role:** ERO’s strength lies in independent quality assurance, reporting, and system improvement. Transferring core regulatory functions would push ERO toward policing and enforcement - roles that differ from its purpose and expertise - and confine it to a narrow regulatory silo. Without access to policy, funding, and system-level context, ERO would be less able to make sound regulatory decisions. The change would dilute ERO’s credibility, reduce the consistency and responsiveness of oversight, and undermine the independence that makes its evaluations trusted across the education sector.

2. Keep the statutory role of Director of Regulation within the Ministry of Education

- **Why:** The DoR’s duties align with the MoE’s policy, funding, and system-level responsibilities.
- **Practical point:** Even with questions about whether it was necessary to create the role, its functions sit clearly within the MoE’s mandate. Moving the DoR to ERO would separate the role from the policy, funding and system infrastructure needed for competent, effective regulation.

3. Do not amend the Education and Training (Early Childhood Education Reform) Amendment Act 2025 to transfer regulatory responsibilities to ERO via the Education and Training (System Reform) Amendment Bill

“They are only proposing to transfer ECE, private schools and hostels. What about state primary, secondary and area schools? What about tertiary?”

- Committee member, community-based centre

“There has been insufficient information circulated, or time given, to engage in informed decision-making about this proposed change.”

- Owner, private centre

- **Why:** Retaining the current legislative settings preserves an integrated policy, funding, and regulatory framework for ECE and signals that the government values the early years on par with schooling.
- **Process and notification concerns:** The proposed transfer was not included in the Bill’s published contents when submissions opened on 19 November 2025 (closing 14 January 2026).
- In practice, the public had **only seven working days** to notice and respond to this proposal (16, 17, 18, 19, 22, 23, 24 December). We only became aware that the Committee was considering this transfer through a press release published on Scoop after 5pm on 15 December 2025. Government departments treat 25 December to 15 January as non-working days for Official Information Act timeframes. In this context, public notification has been insufficient for any legislative change - particularly one as significant as this.
*NOTE: We refer the Committee to the **submission by David Haynes**, which addresses process and consultation issues in detail.*
- **Key regulatory responsibilities that should remain with the Ministry of Education:** Issuing, amending, and revoking licences; providing information, support, and guidance to service providers; proactive monitoring of compliance (including investigations and interventions); enforcement of compliance (including investigations and prosecutions under the Education and Training Act); reporting on compliance to parents and other parties; and sharing licensing and compliance information with other agencies for system stewardship, funding administration, and child protection. Retaining these responsibilities within the MoE is essential for coherent stewardship of the ECE system.

4. Conditions for reconsideration

The OECE would be prepared to reconsider its position and support a transfer of regulatory functions to ERO if the following conditions are met:

“I foresee that centres will lose their special character and we will be meshed into a one-size-fits-all model. This would not work for centres like ours that sit outside the Kōhanga Reo National Trust. ERO need to maintain their neutrality.”

- Kaiako/manager, total immersion Puna Reo

“ERO are unable to review all schools and ECEs regularly now, without adding additional tasks.”

- Business support coordinator, charitable trust

“Stop putting what the market wants over our children...”

- Teacher

- **Robust, independent evidence of need and benefit:** Provide clear, independently verifiable analysis showing that the transfer is necessary, will strengthen system stewardship, and will deliver net benefits. This evidence should include risk assessments and concrete plans to manage or remove identified risks.
- **Protection of ERO’s quality assurance role:** Any new responsibilities must preserve ERO’s independence as an evaluator of education quality and its role in quality assurance. Regulatory and enforcement duties must not undermine ERO’s ability to provide impartial, trusted reviews of how well placed ECE services are to support positive child outcomes.
- **Sufficient resourcing and capability:** ERO must demonstrate it has the staffing, leadership, local presence, training, IT systems, and operational capacity to carry out licensing, monitoring, enforcement, and prosecution without reducing the quality or timeliness of oversight.
- **Guarantees that Ministry of Education problems will not be replicated:** Any transfer must include explicit safeguards to prevent replication of the Ministry’s stakeholder pressures. ERO should remain child-focused and evaluative, and the Director of Regulation’s employment and role should be structured in a way that preserves that focus. ERO must not become vulnerable to provider-driven lobbying or adopt a “service provider as customer” approach.

Meeting these conditions should be demonstrated through independent readiness assessments, detailed transition plans, and transparent consultation with the sector.

If these safeguards are provided, the OECE will review the evidence and consider supporting a transfer.



THE POLITICAL CASE

Ministry for Regulation's review

The ways in which the ERO has developed to support quality delivery has been years in the making. They assess and evaluate practices from a strengths-based perspective with a clear focus on expectations."

– ECE Researcher

"Regulatory function is about enforcing minimum standards. ERO's role is about measuring quality and encouraging improvement in practice. It is impossible to do both effectively at the same time..."

- Teacher

"The two are different functions - one regulatory, one quality education. Merge them and the lines will blur. I've seen it firsthand in Australia's model"

- Visiting teacher, home-based

The political rationale for transferring early childhood regulatory functions from the MoE to ERO appears to rely heavily on the Ministry for Regulation's review of the ECE regulatory system.

Claim: The Ministry for Regulation recommended transferring regulatory functions to ERO.

Reality: None of the 15 recommendations in the Ministry for Regulation's final report propose transferring regulatory functions to ERO.

The review also contains several misunderstandings about how the MoE and ERO actually operate. These inaccuracies raise concerns about the quality of advice provided to Cabinet and the basis on which the proposal was supported.

The Ministry for Regulation's August 2025 newsletter stated that ERO would "take on the sector's primary regulatory role" and that this shift was "identified and enabled" through its review. However, the review itself includes factual errors.

In the review report it is claimed, for example, that ERO reviews occur every three years and that ERO "assesses and identifies compliance issues alongside education quality." In reality, ERO's review cycle ranges from one to five years. While ERO may note compliance concerns, it has no enforcement powers - its role is evaluative, not regulatory.

The review also mischaracterised the Ministry's licensing function by suggesting that MoE simply "assesses and manages" licences. This overlooks a critical responsibility: MoE must actively identify non-compliance through its own investigations and on-site work. It does not rely solely on information from parents, ERO, or other agencies. This distinction matters because it reflects the MoE's role as the agency that undertakes active, on-the-ground regulatory work

“Such a transfer risks a rigid focus on their interpretation of the rules and a loss of focus on serving the diverse communities we work with.”

– Professional leader, kindergarten

“Larger organisations are unfairly advantaged...”

- Visiting teacher, home-based

“A problem will be whether ERO will be accessible to services for queries and for assigning SELO contracts around licensing, as the Ministry is. What will this look like for standalone nonprofit centres?”

- Manager, ECE centre

“ERO staff barely have enough time to do their core work...”

- ECE national leader

“ERO are notorious for never answering the phone...”

- Teacher, ECE

- work that ERO does not perform (therefore there is also no duplication).

These errors point to a deeper issue: MoE and ERO have fundamentally different roles. MoE is the regulator. ERO is not. ERO does not license services, enforce minimum standards, or take compliance action. Its role is to evaluate education quality, focus on child outcomes, and support improvement. Its independence is valuable precisely because it is not involved in enforcement.

The Ministry for Regulation review also overlooked that ERO does not review all ECE services individually. Medium to large organisations, defined as eight or more services, are reviewed at the organisational level rather than service by service. This approach, introduced through ERO’s Savings Programme, gives ERO less direct visibility of individual services than the review implies. It also advantages larger organisations by allowing them to avoid scrutiny of each licensed operation.

Taken together, these inaccuracies show that the political case for transferring regulatory functions to ERO is based on an incomplete - and in some cases incorrect - understanding of how the current system operates.

Improving system performance argument

Claim: Reallocating roles between MoE and ERO will improve system performance.

Reality check - Readiness and capacity concerns: The proposed transition for the new Director of Regulation - employed by the Secretary for Education for two months before being moved to ERO - adds instability. This arrangement risks disruption, discontinuity, and gaps in oversight, particularly in compliance monitoring, enforcement, and complaints handling. These functions directly affect children’s safety and wellbeing

ERO is a small agency that has only recently undergone restructuring. It has lost several ECE positions and does not

“ERO’s review process has already been significantly reduced in scope and depth...”

- Teacher, early intervention

“Each time ERO visited I was appalled reviewers had not worked in homebased - many were former primary school principals. Their lack of understanding created unnecessary discussions, drama, and delays.”

– Kaiako, homebased

“We have good relationships with our MoE liaison who can be contacted about issues beyond licensing. Good people, who often have had recent practical experience, would be lost to the MoE.”

- Owner, private centre

What's the point? It will cost \$\$\$ that could be spent on children. Shifting responsibilities from one department to another doesn't improve anything. Change for changes sake!”

– Teacher

currently have a permanently appointed Chief Executive and Chief Review Officer.

ERO’s 2024 Savings Programme shows the organisation has been under pressure to reduce costs. It cut spending by reducing contractors, slowing recruitment, lowering travel, and changing its ECE review methodology. Even with these measures, ERO reported that the savings were insufficient and further efficiencies were required. This raises real concerns about whether ERO has the capacity, staffing, and infrastructure needed for a complex regulatory role.

Workload pressures are also evident in public service data. The 2025 Public Service Census found that 66% of ERO staff felt staffing levels and workloads prevented them from performing at their best - one of the highest rates in the public sector.

ERO also had the highest proportion of dissatisfied staff across all 41 public service organisations surveyed. These indicators point to an organisation already under strain, not one ready to assume substantial new responsibilities.

Concerns about organisational culture and staff wellbeing have also been raised. An Official Information Act response from the Public Service Commission confirmed that no steps had been taken to improve ERO’s workplace culture or strengthen health, safety, and wellbeing support for staff. These issues matter because effective regulatory work requires strong organisational culture and high levels of staff capability and confidence.

Transferring regulatory functions to ERO now, would not improve system performance. Instead, it would:

- weaken MoE’s ability to carry out its interconnected policy, funding, and stewardship responsibilities.
- risk shifting ERO away from its trusted role in quality assurance and into policing and enforcement - undermining the independence that makes its evaluations credible.
- create new costs, placing further pressure on both agencies when they are already under pressure to deliver more with less. Transferring regulatory functions is not cost-neutral.

“The changeover will add more confusion and delays than there already are with ERO reviews.”

- Manager, private centre

“They will need to organise sufficient staffing for ERO, hand over and training for the systems in place already at MOE. ERO staff will want to change some processes too so that will cause confusion and take extra time.”

- Teacher, private centre

“Keep the status quo and ensure MoE has the funding to support their staff and to support ECE services to understand and meet regulatory standards”

- Playcentre former leader

“MoE ramped up their ‘inspecting’ after being embarrassed by ERO picking up compliance issues.”

- Director of operations, ECE organisation

Duplication and the “confusion” argument

Claim: ECE service providers are confused by overlapping agency activity, so transferring the MoE’s regulatory activities to ERO will simplify interactions.

Reality check: The Ministry for Regulation reported that only “a few submitters” expressed confusion about who the regulator is. This indicates the issue is limited rather than systemic and is more likely due to misunderstandings about the distinct roles of MoE and ERO.

Well-informed providers already understand that ERO has no enforcement powers. They also understand that ERO checks basic standards only to the extent necessary to then engage in doing quality assurance reviews, not as part of a regulatory function.

Implication: Any confusion can be addressed through clearer role statements, joint guidance, provider education, single-point-of-contact arrangements, and improved inter-agency coordination. Transferring core regulatory functions to ERO is a major structural change to solve what is fundamentally a minor communication and service provider understanding issue.

Timely decision-making

Claim: Transferring regulatory functions to ERO will speed up licensing and enforcement decisions by consolidating checks within a single agency.

Reality check: This claim overlooks that ERO is not the only agency that visits ECE services, aside from the Ministry of Education. Other agencies - such as the National Public Health Service, the Ministry for Primary Industries (food safety), and WorkSafe - also carry out essential oversight to ensure services meet health, safety, and environmental standards.

ERO’s reviews can provide early warnings about potential issues, but this is not the same as regulatory decision making.

“For those who don’t have an ERO base in their city (like us), who do we reach out to? I’ve built fantastic relationships with our local Ministry office and I trust their knowledge and expertise.”

- Manager, community centre

“ERO does not provide ongoing support to services that need it, unlike MoE. MoE visits ECE services to monitor compliance and investigate complaints, which means MoE are aware of what is happening. This supports MoE to advise on policy, develop curriculum resources, and set funding rules.”

– Teacher, kindergarten

“ECE will be separated from its professional siblings - primary and secondary. Less professional standing for the sector again.”

- Visiting teacher, homebased

Transferring monitoring and enforcement powers to ERO would not guarantee faster decisions. Timeliness depends on capacity, systems, and processes - not on which agency holds statutory authority.

MoE already has staff on the ground who can act quickly because they license services, investigate incidents, follow up complaints, and administer funding.

Independence for the Director of Regulation

Claim: Moving the Director of Regulation (DoR) to ERO will ensure independence from MoE policy and funding roles.

Reality check: Independence is important, but so is access to operational and policy insight. MoE’s licensing and compliance work generates first-hand evidence about service practice, funding impacts, and system-level risks. Separating the DoR from this information would weaken MoE’s policy advice and reduce its ability to design practical, proportionate rules.

Public-value considerations

Moving core regulatory functions from MoE to ERO would shift the balance between ECE as a public good and ECE as a market activity.

It would also reverse progress made since early childhood services were transferred from the Department of Social Welfare to the Department of Education in 1986 - a pivotal step in recognising childcare as part of the education system. The *Before Five* reforms in 1989 further strengthened this by unifying funding and regulation under a single, coherent framework.

Removing licensing and enforcement from MoE risks fragmenting stewardship and weakening the integrated policy-funding-regulatory model that has supported the system for decades.



SUMMARY

This submission opposes the proposal to transfer early childhood education regulatory functions and the statutory Director of Regulation role from the Ministry of Education to the Education Review Office. The case for change lacks clear, independently verifiable evidence, has not been subject to adequate consultation, and risks weakening the quality and coherence of the ECE regulatory system.

The Ministry of Education is the system steward for early childhood education. Its regulatory functions are closely linked to its responsibilities for policy, funding, curriculum, sector guidance, and system-level oversight. Removing licensing, compliance monitoring, and enforcement from the Ministry would sever these connections, reduce the Ministry's first-hand understanding of service practice, and weaken its ability to identify risks early and provide informed advice to government.

ERO performs a different but equally important role: independent evaluation and quality assurance. Transferring regulatory powers to ERO would push it toward policing and enforcement, undermining its independence and diluting the credibility of its evaluative work. ERO is also not currently positioned to absorb a major new regulatory function given recent restructure, staffing pressures, leadership gaps, and workforce wellbeing concerns.

The political rationale for the transfer - reducing duplication, improving timeliness, clarifying roles, and strengthening independence - does not withstand scrutiny. Evidence of ECE service provider confusion is limited and appears to reflect communication issues rather than structural failure.

The proposal also raises process concerns. The change was not included in the *Education and Training (System Reform) Amendment Bill* when submissions opened, yet the Committee sought feedback on a transfer that the Bill did not mention. Public notice of that consultation was limited to a single press release issued just before the Christmas break, which effectively curtailed meaningful public engagement.

Overall, the proposed transfer would introduce significant risk, cost, and disruption without clear benefit. The Office of Early Childhood Education (OECE) therefore recommends retaining ECE regulatory functions and the Director of Regulation within the Ministry of Education.



CONCLUSION

This submission has outlined the distinct and complementary roles of the Ministry of Education and the Education Review Office, and the importance of maintaining these roles to ensure a coherent and effective ECE system.

The OECE does not support transferring early childhood regulatory functions or the Director of Regulation from the Ministry to ERO at this time. The proposal lacks independently verifiable evidence of need or benefit and has not been subject to adequate consultation.

A transfer of regulatory functions is a significant structural change, and the OECE cannot support it unless the Government or the Education and Workforce Committee provides full, independently verifiable evidence that the shift is necessary and will deliver clear net benefits; demonstrates that ERO's independence and quality-assurance role will be fully protected; confirms that ERO has the resourcing, capability, and local presence required to assume regulatory powers without weakening oversight; and establishes explicit safeguards to prevent the Ministry of Education's ECE service-provider lobby-pressure problems from being replicated within ERO. Only when these conditions are met can the OECE consider supporting a transfer that genuinely strengthens stewardship, protects children, and maintains public confidence in the early childhood system.