

Submission to the Education and Workforce Committee on the Education and Training (Early Childhood Education Reform) Amendment Bill

Introducing Mana Mokopuna – Children’s Commissioner

Mana Mokopuna – Children’s Commissioner is the independent Crown entity with the statutory responsibility to advocate for the rights, interests, participation and well-being of mokopuna (all children and young people) under 18 years old in Aotearoa New Zealand, including mokopuna aged over 18 but under 25 years of age if they are, or have been, in care or custody.

We independently advocate for and with mokopuna within the context of their families, whānau, hapū, iwi and communities, based on evidence, data and research, including the perspectives of mokopuna.

Our work is grounded in the United Nations Convention on the Rights of the Child (the Children’s Convention), Te Tiriti o Waitangi and other international human rights instruments. We are a National Preventative Mechanism under the Optional Protocol to the Convention Against Torture, meaning we monitor places where mokopuna are deprived of their liberty, including in the care and protection, youth justice, youth mental health and intellectual disability spaces.

We have a statutory mandate to promote the Children’s Convention and monitor the Government’s implementation of its duties under the Convention, and to work in ways that uphold the rights of mokopuna Māori including under Te Tiriti o Waitangi. We place a focus on advocating for and with mokopuna who are experiencing disadvantage, and we recognise and celebrate mokopuna and all their diversity.

Our moemoeā (vision) is *Kia kuru pounamu te rongo* – *All mokopuna live their best lives*, which we see as a collective vision and challenge for Aotearoa New Zealand.

Summary & Recommendations

1. Given the statutory mandate of Mana Mokopuna, this submission is focussed on the potential impact of the Education and Training (Early Childhood Education Reform) Amendment Bill (the Bill) on the rights, interests, participation, and well-being of mokopuna in relation to early childhood education (ECE¹) in Aotearoa New Zealand. In particular, Mana Mokopuna is concerned the Bill:

- is progressing while other key ECE reforms are still being worked through
- fails to ensure the rights of mokopuna are the first and primary consideration in ECE regulation and decision-making, and
- fails to ensure Te Tiriti o Waitangi is a primary consideration in ECE regulation and decision-making.

¹ We use the acronym ECE (early childhood education) to include ‘childcare’ services recognising that these are fundamentally about supporting positive early childhood development. Pre-school learning environments cater for childhood development through play and social interaction with others, food provision, providing basic physical necessities, and supervision. All aspects including ‘care’ can be considered part of mokopuna education.

**For more information
please contact:**

Matt Langworthy

Manager Rights,
Insights & Advice

Matt.Langworthy@
manamokopuna.org.nz

2. From a process perspective, we are also concerned about the fast-track nature of the ECE Regulatory Review, the fragmented approach to consulting on and implementing key reform proposals, and the lack of further consultation with key stakeholders as reform proposals are refined and progressed.
3. A summary of our position on ECE is provided in an appendix to this submission and on our website.²

Recommendations

4. Because of these concerns, Mana Mokopuna recommends:
 - the Bill is paused until work on all the proposed reforms has been completed and further consultation is undertaken with key stakeholders on final reform proposals, and
 - the Government undertakes a Child Impact Assessment³ of the final reform proposals to ensure they uphold children's rights and prevent or mitigate negative consequences for children.
5. Should the Bill proceed, we recommend the purposes, objectives and principles proposed in the Bill are amended to:
 - recognise and protect all children's rights under the Children's Convention
 - explicitly state that children's rights are the first and paramount consideration in ECE regulation and decision-making
 - clearly state that Te Tiriti o Waitangi must be given effect in ECE regulation and decision-making, and
 - require the Director of Regulation to undertake Child Impact Assessments to ensure they are exercising their functions, duties and powers consistently with the Children's Convention and Te Tiriti o Waitangi.

Pause the Bill to ensure effective consultation on all ECE reform proposals

6. Mana Mokopuna holds significant concerns about the fast-tracked and fragmented nature of the ECE reform process, as also expressed by other key stakeholders across the ECE sector, including leading ECE academics.⁴
7. While the views of key stakeholders across the ECE sector were sought at the start of the ECE Regulatory Review process,⁵ there was no further consultation with key stakeholders when the Ministry of Regulation finalised its key recommendations to the Government. This is concerning as this Bill was developed to partly give effect to those recommendations. The Ministry of Education echoed these concerns in its Regulatory Impact Statement on the Bill, stating it fails Cabinet's quality assurance criteria for impact analysis due to "the tight constraints on the options considered, the limited analysis of the impacts, costs and benefits, and lack of consultation on the proposals imposed by the

² [PS Early Education.pdf](#)

³ [Child Impact Assessment Tool - Ministry of Social Development.](#)

⁴ [Call for government to halt decision-making on ECE regulatory review report is widely supported.](#)

⁵ [Early Childhood Education \(ECE\) regulatory sector review | Ministry for Regulation.](#)

timeframe" and that "given these constraints we consider that insufficient information and analysis have been provided to support decisions."⁶

8. Additionally, a separate, short, consultation on changes to ECE licensing criteria, which are key to protecting children's rights in ECE settings, has only recently been completed and the Government's response is not yet known. The Government is proposing to significantly revise current licensing criteria to ensure "they are proportionate, effective, and support quality without overburdening providers."⁷ There is a widespread concern across the ECE sector that the Government's proposed changes, particularly in relation to curriculum standards and a shift away from a qualified teacher workforce, could increase the risk of unsafe and lower quality education and care for children and poorer working environments for staff.⁸ Concerningly, the Government is also proposing to remove licensing criteria that require ECE providers to acknowledge Māori as tangata whenua, to support children's right to cultural confidence, and teach about Te Tiriti o Waitangi.⁹
9. We recommend the Bill is paused until these different workstreams are completed and ECE stakeholders, as well as teachers, parents, caregivers and the wider community, can have a full picture of what reforms the Government proposes across all aspects of the sector and have the opportunity to analyse the changes in their totality and further express their views on the reform package as a whole, before key changes, including those proposed under the Bill, are brought into effect.
10. We also recommend the Government undertakes a Child Impact Assessment of all the proposed changes to ensure they uphold children's rights and prevent or mitigate negative consequences for children. This would include seeking out and considering the perspectives of mokopuna themselves.

If the Bill proceeds, make children's rights the first and primary consideration in ECE regulation

11. Given the direction of ECE reforms, it is vital that the purposes, objectives, and principles of ECE regulation and monitoring are amended as we recommend in paragraph 5 above, so that children's rights and best interests are at the centre of the system.
12. A key finding of the ECE Regulatory Review was that the ECE regulatory system is out of date and lacks defined outcomes, objectives and principles for decision-making. It recommended defining in legislation clear outcomes, objectives and principles for ECE regulation and aligning with government priorities for early childhood education.¹⁰ The justification given was that the current purpose of ECE regulation, as defined in section 14 of the principal Act, is "narrowly focused on the regulatory outcomes related to children's education, their health and safety, and enabling parental choice of different kinds of ECE service types" and that the principal Act could be updated to include wider government priorities, such as supporting the choice of parents and caregivers to participate in the labour market.¹¹

⁶ RIS - Proposals responding to the ECE regulatory sector review.pdf p.8.

⁷ 1286 ECE Licensing Criteria Consult v04d.pdf p.15.

⁸ ECE Licensing Criteria changes: Advice to the Ministry of Education.

⁹ The small regulatory shift that could have big impacts on mokopuna Māori | RNZ News.

¹⁰ Regulatory-Review-of-Early-Childhood-Education-summary-v3.pdf p.6.

¹¹ Regulatory-Review-of-Early-Childhood-Education-full-report-v2.pdf para.120.

13. Mana Mokopuna supports the current legislation's "narrow" focus on children's rights to quality education, development, health, safety and well-being and is strongly of the opinion that any changes to the legislation must continue to prioritise children's rights in the same way. This aligns with the Government's commitment as a States Party to the Children's Convention to recognise and protect children's rights and its obligation to "take all appropriate legislative, administrative, and other measures" to support the implementation of children's rights in Aotearoa New Zealand.¹² This includes ensuring all children can access quality ECE and get the best start in life.
14. We wish to emphasise to the Committee that submitters on the Regulatory Review expressed a similar view with many stating that children's rights and best interests must be paramount in ECE reforms.¹³
15. While we acknowledge the Bill retains the current legislation's references to children's rights in the new purpose, objectives and principles, we are concerned that in adding other objectives to the purpose, objectives and principles, children's education, health and safety are no longer the primary focus of the legislation or a primary consideration for decision-making. Future decision-making could align more closely with business needs and labour market participation, at the cost of the rights and best interests of children - for whom ECE exists.
16. We particularly acknowledge the guiding principle proposed for new section 27D that: "the health, safety, and well-being of children receiving early childhood education is paramount." We note, however, that the new Director of Regulation only has to *consider* this principle when exercising their functions, duties, and powers, rather than give effect to it, as they are required to in relation to the purpose and objectives (which make no reference to how children's rights should be prioritised over other considerations).
17. We recommend the Bill is amended to make it clear that children's rights are the first and primary consideration in ECE regulation and the Director of Regulation must give effect to children's rights and best interests when exercising their functions, duties and powers. We also recommend that the Director of Regulation uses Child Impact Assessments to ensure they are exercising their functions, duties and powers consistently with the Children's Convention.
18. For a key example of how legislation makes children's rights and interests the paramount consideration in decision-making, we refer the Committee to sections 3 to 5 of the Care of Children Act 2004.¹⁴

Ensure all children's rights are recognised and prioritised in ECE regulation

19. We recommend the proposed purpose, objectives and principles are further refined to ensure they fully capture all children's rights protected by the Children's Convention and which the Government is obligated to recognise and protect in the ECE context. This could be done by specifying that ECE regulations must give effect to the core principles of the Children's Convention relating to non-discrimination, the best interests of the child, the right to life, survival and development, and the right for children to express their

¹² Article 4 of the Children's Convention.

¹³ [ECE-Regulatory-Review-what-submitters-said-October-2024.pdf](#) para. 26.

¹⁴ [Care of Children Act 2004 No 90 \(as at 06 October 2023\)](#), Public Act – New Zealand Legislation.

views. This would help ensure key children's rights not explicitly recognised in the proposed amendments, such as children's rights to an inclusive and culturally appropriate and relevant education, are included and upheld in the ECE context and given effect by the Director of Regulation when exercising their functions, duties and powers.

20. We recommend the proposed purpose, objectives and principles are also amended to clearly state that Te Tiriti o Waitangi must also be given effect in ECE regulation and decision-making. This would reflect the principal Act's purpose, which includes establishing and regulating an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships.¹⁵ It would also explicitly recognise and protect the rights of mokopuna Māori under Te Tiriti o Waitangi, the rangatiratanga rights of their whānau, hapū and iwi in the ECE context, and require the Director of Regulation to give effect to Te Tiriti o Waitangi when exercising their functions, duties and powers. We note that ECE regulatory reform for kōhanga reo is being undertaken in partnership with the Kōhanga Reo National Trust Board, but over four-fifths of mokopuna Māori do not attend kōhanga reo, so it is vital that *all* ECE provision is regulated in ways that give effect to Te Tiriti o Waitangi to ensure the rights of mokopuna Māori are upheld.
21. It is also essential the purposes, objectives and principles are strengthened in these respects considering the widespread concern, and legitimate risk, that future changes to ECE licensing criteria could negatively affect children's rights and protection. It will therefore be imperative that the Director of Regulation is charged with giving effect to children's rights and Te Tiriti o Waitangi when they exercise their functions, duties, and powers, which include licensing, monitoring, and enforcing compliance in ECE, handling complaints and incidents, and providing support, information, and guidance to service providers, parents, and caregivers to help raise awareness of what quality ECE looks like.

Conclusion

22. Mana Mokopuna calls for the Bill to be paused until work on all the proposed ECE reforms has been completed and further consultation has been undertaken with key stakeholders on final reform proposals, including with mokopuna and their whānau.
23. Before progressing any further, the Government must assess whether the final reform proposals - including those put forward in the Bill - uphold children's rights and prevent or mitigate negative consequences for children, in line with its obligations under the Children's Convention.
24. If the Bill proceeds, we strongly urge the Committee to recommend all of the measures outlined in this submission to strengthen the Bill from a children's rights perspective, as you are obligated to do as signatories to the Children's Convention, give effect to Te Tiriti o Waitangi, and ensure all children in Aotearoa New Zealand can access quality ECE that is responsive to their needs, protects their rights and gives them a strong start in life.

¹⁵ Section 4(d) of the Education and Training Act 2020.

Early childhood education

"I love playing on the monkey bars, puzzles, reading, drawing circles, reading books, drawing, drawing houses; I love everything, I love it all; I am going to smile all my days and all my weeks."

Mokopuna in ECE¹

All mokopuna have the right to experience high quality early childhood education and care, supporting them to have a strong start in life.

All mokopuna (children and young people) are taonga (treasures) with an inherent right to achieve their full potential. High quality early childhood education (ECE)² is known to contribute to a strong start in life and is a right from birth.³

The United Nations Committee on the Rights of the Child makes clear that children's rights must be realised in their early childhood to have the best chance of avoiding poor outcomes later in life. To achieve this, numerous enablers must be in place, not least of which includes universal, free ECE, robust and inclusive early childhood policies, and accessible, affordable childcare for working parents.⁴

ECE begins at home, where mokopuna and their whānau (families) learn and grow together. ECE providers and related services can also play a key role in supporting the social, physical, emotional, and cognitive development of mokopuna in safe, inclusive environments.

In Aotearoa New Zealand, kōhanga reo (whānau-led Māori language immersion ECE) has led the way in indigenous early childhood education. Kōhanga reo, puna reo (teacher-led Māori language non-immersion ECE), and Pacific language nests (family-led or teacher-led ECE) are essential parts of the ECE system and must be supported to meet the needs and rights of Māori and Pacific mokopuna. ECE must include all mokopuna, including accommodating mokopuna whaikaha (disabled children) and care-experienced mokopuna, through high quality teaching and accessible environments that are fully inclusive, non-stigmatising and supportive of mokopuna and their whānau.

Early childhood is the best opportunity we have to invest in the wellbeing of mokopuna to ensure every mokopuna can grow up thriving and participating in society. As well as helping mokopuna secure a strong start in life, it offers significant economic and social returns for the nation.^{5 6 7} We have previously highlighted the Government's duties and obligations to ensure all mokopuna learn and develop to their fullest potential; we continue to advocate for all mokopuna to enjoy the positives outcomes of their rights to early education.⁸

Our calls to action

We call on the Government and relevant government agencies to:

- **Enable universal and equitable access to high quality ECE** by investing in diverse options for whānau, through subsidies, tax rebates, and parental leave payments.
- **Ensure equitable access to kōhanga reo and puna reo for mokopuna Māori**, giving effect to Te Tiriti o Waitangi and their rights as tangata whenua.
- **Enable centres that support cultural diversity and diverse languages** spoken in Aotearoa New Zealand, particularly Pacific language nests.
- **Resource provision of ECE for all mokopuna whaikaha**, so they are fully included and have their particular needs accommodated including neurodiversity and high and complex needs.
- **Resource community social services to support parents and caregivers as first teachers**, equipping whānau to make informed choices about how they care for their mokopuna in their early years.
- **Ensure children's rights are reflected in ECE regulations**, such as rights to recreation and play, to have a say on decisions that affect them, to be safe, to learn in healthy environments and to develop to their fullest potential. This requires a children's rights impact assessment to ensure ECE regulations prioritise the best interests of mokopuna.
- **Support a child-centred ECE workforce** with kaiako (teachers) who are trauma-informed, knowledgeable about neurodiversity and other whaikaha needs, and qualified to provide high quality, safe learning environments. This requires teachers to be well-trained, consistent, and responsive to mokopuna needs, modelling and supporting social and emotional learning, and engaging positively with whānau.
- **Elevate child protection and safeguarding** by monitoring ECE centre policies and practices, providing operational guidance for ECE kaimahi (staff) to recognise and respond appropriately to signs of child maltreatment and requiring foundational and ongoing training in child protection and safeguarding, and ensuring regulations uphold safe environments including adequate teacher-child ratios.

What mokopuna say

Mokopuna have told us their early childhood environment is important to them, including for play, relationships, safety and stability.

"[What matters most to me is] spending time with family."

Mokopuna, age 2⁹

Mokopuna and their whānau have identified that learning is among the things that matter most to them in the first 2000 days.

"[What matters most to my mokopuna] reading and communicating, engaging with my surroundings."

Parent of mokopuna, age 2¹⁰

We asked mokopuna to tell us what was important for their wellbeing from early childhood through to adolescence, to inform the refresh of the Government's Child and Youth Wellbeing Strategy.¹¹ Many shared their thoughts about the value of teachers.

"Having teachers who understand more about learning difficulties so they can help kids with disabilities."

Mokopuna Māori, age 13¹²

"Teachers who know me."

Mokopuna¹³

Endnotes

¹ [2018, Education Matters to Me Key Insights. Office of the Children's Commissioner and NZSTA.](#)

² We use the acronym ECE (early childhood education) to include 'childcare' services recognising that these are fundamentally about supporting positive early childhood development. Pre-school learning environments cater for childhood development through play and social interaction with others, food provision, providing basic physical necessities, and supervision. All aspects including 'care' can be considered part of mokopuna education.

³ This includes but is not limited to the Children's Convention articles: Art. 28/29 - to learn and develop to their fullest potential; Art. 5 - the rights and responsibilities of parents /whānau to make decisions about mokopuna care; Art. 24 - to be afforded the highest possible standard of health, Art. 31 - the right to recreation and play.

⁴ General Comment No. 7 (2005) Implementing child rights in early childhood CRC/C/GC/7/Rev.1. See <https://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/GeneralComment7Rev1.pdf>

⁵ James Heckman Nobel prize winner for his economic analysis of ECE investment, [developing a theory of life-course returns](#) from investing in human capital at early years.

⁶ [Devercelli, A. and Beaton-Day, F. 2020. Better Jobs and Brighter Futures: Investing in Childcare to Build Human Capital. Washington DC.](#) World Bank

⁷ [UNESCO Investing in early childhood care and education yields life-long benefits](#)

⁸ Mana Mokopuna (2024), Submission to the Ministry for Regulation on the Regulatory Sector Review of Early Childhood Education. See [20240829 Mana Mokopuna Sub_MinRegulation_ECCE vA26467836 \(1\).pdf](#)

⁹ Postcard completed in engagement with mokopuna at Newtown Festival, Wellington, 2025.

¹⁰ Mokopuna engagement from Newtown Festival, March 2025 (postcard informed by parent, unpublished).

¹¹ ["You need to get in early, as soon as you see people struggling": Understanding the life-course journey](#) Mana Mokopuna 2024 mokopuna engagement for the Child and Youth Strategy.

¹² *ibid*

¹³ [Education Matters to Me - Key Insights.](#) Mana Mokopuna 2018 engagement.