

Ministry for Regulation no match for ECE red tape

Kathy Spencer

The red-tape crusader, David Seymour, promised that his new Ministry for Regulation would cut unnecessary red tape, unleashing higher productivity and wages, and resulting in more innovative goods and services for consumers.

The Ministry for Regulation's first review was into Early Childhood Education and it completed its report in December 2024. Seymour has now announced the next steps in the process, which he says will see a new set of regulations applying by the end of 2026.

So, what has the review delivered so far?

People wishing to run one of New Zealand's 4,138 early childhood education services must meet 98 licensing criteria in order to operate. The requirements are prescriptive in the extreme, and give providers little credit for having any expertise in running a centre, or even common sense.

To me, the degree of prescription is hard to justify given that each person running a service must hold a bachelor's degree in early childhood education and a teacher's practising certificate. At least half of the required staff must also hold a recognised qualification.

But opinions differ among providers, teachers and academics, with some arguing that the regulations need to be tighter and more rigorously enforced, and others wanting higher staff ratios, more qualified staff, and more government funding.

ACT's 2023 election manifesto drew attention to a handful of the 98 requirements to illustrate how onerous and prescriptive the current regulations are, including -

HS9 Sleep: Providers need to keep a detailed record of the time each child attending the service sleeps, and of checks made by adults during that time, which need to be at least every 5-10 minutes, or more frequently according to individual needs.

HS19 Food and nutrition: Providers need to keep a record of all food served during the service's hours of operation (other than that provided by parents for their own children). Records show the type of food provided and are available for inspection for three months after the food is served.

Looking at these two examples, it is little wonder that people working in early childhood education reported that paperwork consumed 27% of their time, on average. Paperwork related to sleep and food alone took up over 2 hours a week for each worker.

The Ministry for Regulation's review made 15 high-level recommendations covering objectives, staff qualifications, workforce training and more.

Although Seymour described these as a "major shakeup", unfortunately, none of the recommendations were specific and all required the Ministry of Education to do more work to turn them into implementable actions.

For example, recommendation 9 says: "Revise licensing criteria to ensure they are proportionate, effective, and support quality without overburdening providers".

But surely that's what we expected the review to do? To actually revise them?

The report went on to say that –

“The line-by-line review and the results of our analysis are both constrained by the Ministry for Regulation’s regulatory review scope and timeframe. We expect the Ministry of Education will wish to review further and they may also need to consult the ECE sector on any proposed changes.”

The report does list the 98 requirements and makes tentative recommendations for change based on its “example framework”. But much of the list is about housekeeping rather than real reform, with suggestions to delete duplicated requirements, merge them, move them to other regulatory tools, or make them easier to understand.

The review suggests that regulation HS19 about food remain as it is. For regulation HS9 about sleep, the Ministry suggests it be amended “to be easier to understand and comply with”.

Seymour’s recent announcements indicate that new criteria will not be developed until the end of September – nine months after the Ministry for Regulation completed its report.

Is this good value from Seymour’s new Ministry for Regulation? The Ministry is very generously resourced with a budget of \$16m (set to increase by \$2m a year for each of the next three years), and staff earning over \$150,000 on average. Its budget dwarfs the \$6m cost of ACT’s previous initiative, the Productivity Commission, which was axed and its budget used to help fund the new Ministry.

The Ministry’s failure to put regulations “on the chopping block” comes on top of two other regulatory debacles sponsored by ACT.

The first own-goal was when Ministry of Justice officials found that the Treaty Principles Bill did not meet the criteria for good law-making set out in Seymour’s proposed Regulatory Standards Bill. Officials found that it fell short by failing to consult, by not considering all options, and by not being the most effective way to provide greater certainty about the Treaty’s principles.

The second was when Seymour’s own Ministry for Regulation found that his Regulatory Standards Bill was not the best way to improve the quality of regulation. Officials suggested that a better and cheaper option was to build on the existing disclosure statement regime and provide for more regulatory oversight.

And now, the Ministry for Regulation has taken the dirty laundry of early childhood education and handed it back to the Ministry of Education, folded.

Kathy Spencer was a Deputy Director-General in the Ministry of Health, a General Manager in ACC and a Tax Manager in the Treasury.