

Sharpening the Practice

A review of the Ministry of Education's management of and processes for early learning complaints and incidents

January 2019

Overview

This review of the Ministry of Education's Early Learning Complaints and Incidents processes has been undertaken for Sector Enablement and Support at the request of the Secretary for Education.

One of the Ministry's roles is to support early learning services to provide the best possible education and care for children, and to ensure that services are consistently meeting regulated standards. Complaints are one way that the Ministry can identify services that may not be meeting the needs of the children in their charge.

In documented policy and day-to-day practice there is a clear commitment by Ministry personnel to take all complaints seriously, assess each concern, investigate if necessary and act on findings as required. This review has been guided by the assumption that claims are managed in accordance with this commitment.

Review brief

This review assesses the effectiveness of the Ministry's management of early learning complaints and incidents and recommends improvements in three key areas.

1. Ministry processes and systems for the effective management of ECE complaints are fit for purpose and are consistent with the Ministry's complaints management policy.
2. Ministry practice is timely, well-communicated and effective.
3. Ministry response when complaints about early learning services are upheld is timely and appropriate.

Contextual background to the review

The regulatory framework requires that:

- All early learning services have processes in place by which parents and whānau can complain if they're not happy with an aspect of their child's education and care.
- Early learning services tell the Ministry of Education when there is a serious injury, illness or incident involving a child at a service that requires notification to an agency such as Oranga Tamariki, New Zealand Police, WorkSafe or the Education Council.

Context

There were 4,600 licensed early learning services and kōhanga reo operating in New Zealand in 2017. In addition there were 927 certificated playgroups providing early learning services. All services must meet minimum standards in order to receive and keep their licence or certification to provide education and care.

The Ministry received a total of 339 complaints about early learning services and certificated playgroups in 2017. The number of complaints received is small when compared to the 5,527 early learning services and the more than 200,000 children that attend these nationwide.

Ministry processes

- The majority of complaints from parents and whānau and from early learning staff should be resolved at the service level. Service providers that are responsive to parents' and their staff's concerns are more likely to resolve complaints without the need for Ministry intervention.
- Parents and whānau, staff or members of the public can come to the Ministry if they are not satisfied with the response they have had from a service or if the complaint is serious in nature
- The Ministry takes every complaint seriously and carefully assess each one. Where appropriate, some are referred back to the service to resolve.
- The Ministry investigates where there is sufficient evidence, and upholds an allegation where it is substantiated either in part or in full. If an allegation is substantiated, officials recommend a course of action to the service.
- As part of the early learning complaints process, for the last five years the Ministry has published summaries of complaints alongside the actions services were required to undertake.

- In serious incidents the Ministry will work with the other agencies in their investigation. If required the Ministry also investigates.

Approach

The review process included a mix of interviews and discussions with:

- relevant Ministry personnel at national and regional level and at different levels of management
- agency managers and personnel that have an interest in the complaints and incidents process
- sector peak bodies
- members of the public who have had experience with the complaints process.

At National Office the interviews and discussions sought broad insights and perspectives about:

- operational policy design and implementation;
- the legal environment associated with the complaints process;
- the design and operation of tools and resources;
- the documents in use to support the complaints process;
- the analysis of data and its use; and
- National Office staff oversight responsibilities for the implementation of policy and training and development in the regions.

Regionally the interviews and discussions sought in-depth insights about:

- the day-to-day operation of the complaints and incidents process;
- regional management of the complaints process;
- the interface with the sector and complainants; and
- training and development practices.

Interviews and discussions with agency managers sought information about:

- how effective the interface was between their agency and the Ministry;
- what constructive and effective practices currently operate and;
- what suggestions there were for improving/enhancing the relationship when dealing with complaints.

At sector and public level the interviews and discussions sought an understanding about:

- what they knew and understood about the Ministry's complaints and incidents process;
- what was working well; and
- what could be improved, based on either their members' or their own experiences.

A full list of personnel involved is listed in *Appendix one*.

How well is the Ministry responding to Early Learning complaints and incidents overall?

Ministry staff use day-to-day processes well to manage the complaints and incidents they receive. They understand and respond to the necessity to take every complaint seriously and record and action these using the workflow tool and other resources.

As noted above, the proportion of complaints received in 2017, and in recent reporting years, is relatively small (5%) when compared to the overall number of early learning services. Each one of these is important and staff are generally very good at ensuring that the complainant receives a timely and satisfactory response within the expected service standards.

Not all complaints are investigated. Some may be either referred to the service's own complaints procedure, referred to another agency for an appropriate response or not progressed at the complainant's request. Of the 297 complaints investigated in 2017, just under a half were upheld based on evidential investigations.

Where appropriate, staff take a range of effective actions at regional level. Most often these take the form of providing advice and guidance to services, providing ongoing monitoring and support and/or providing professional learning and development through SELO (Strengthening Early Learning Opportunities).

In recent years the trend has been for staff to receive more complaints than in previous reporting years about health and safety and/or abuse or neglect. This may be attributable to increased awareness of responsibilities under the Health and Safety at Work Act 2015 and the requirements of the Vulnerable Children Act 2014 (*Early Childhood Education Complaints and Incidents Report 2017*). It is these complaints where staff and their immediate managers need very nimble and responsive actions to guarantee that a child's safety is not compromised.

The Ministry's response is dependent on the urgency with which such complaints are escalated for action. An effective response, especially where there are breaches of one or more regulatory requirements involving child safety or neglect, can result in provisional licensing, suspension or cancellation of licence. Staff are generally using these options well.

There are always ways to improve/enhance policy and practice. There is a strong sense that staff at national and regional level want to find the best ways of using their current expertise and resources to ensure that the complaints and incidents' processes are fit for purpose and operate in the best interests of the child and their whānau. The following sections and recommendations offer an opportunity to reflect on some areas where the practices for responding to complaints and incidents could be sharpened.

Information gained from interviews, discussions and analysis of documentation can be broadly grouped in four thematic areas.

- 1 Child safety must be at the forefront.
- 2 Coherence is critical to an effective response and process.
- 3 Learning from what is known underpins continuous improvement.
- 4 Credibility relies on high levels of communication and collaborative ways of working.

Emerging themes

1 Child safety must be at the forefront

Children cannot speak for themselves about the quality of the education and care that they receive in an early learning environment. The legislation, regulatory framework and duty of care required of adults exists to ensure that a child receives the very best that these responsibilities demand.

Intervening on a child's behalf

Legislation is clear that the Chief Executive (the Secretary for Education) is the regulatory authority. The Secretary has the operational responsibility for licensing and the duty for regulatory stewardship under the State Sector Act.¹ She has the prerogative to act on behalf of the child.

A number of Ministry policy documents outline the response required when a complaint of a serious nature is received - ie where a child is in a dangerous or potentially dangerous situation. While the powers to intervene on behalf of the child are clear, the effectiveness of the action is dependent on a nimble and highly responsive process on receipt of a complaint.

The immediacy with which a serious complaint or incident is escalated so that it can be dealt with at the appropriate level is critical. Effective management of the response underlines the necessity for highly attuned and trained staff and one-up managers who know when and how to act.

Broadly speaking, there are five areas for consideration. These include understanding and actively managing risk, updating the Regulations so these are fit for purpose and the strategic use of licensing interventions.

How well are levels of 'risk' understood and managed by frontline staff?

There is variability in how well frontline staff understand and enact the risk identification process.

- Effective escalation is dependent on close oversight of complaints and incidents regionally. The timeliness and urgency of escalation is most evident where there are staff who have a high level of early learning experience. They are generally more confident in making judgements to support intervention and hasten the action required.
- The matrix of risk levels essential for making decisions about whether/when to escalate requires exemplars to support decision making. Some regions have developed their own versions to ensure staff are knowledgeable about the boundaries between categories, but this could be done nationally.
- Regular training in risk identification is an important element underpinning staff confidence. Where this is lacking, staff resort to a workflow recording process rather than using the process to confer about early escalation.

¹ State Sector Act – S32 (1) (d) (ii) State Sector Amendment Act 2013 (2013 No 49).

- A risk assessment should be part of the initial receipt of a complaint in Knowledge Base (KBase).² This could strengthen and inform planning of immediate and subsequent actions.
- High risk complaints involving matters of child safety should result in immediate suspensions rather than provisional licensing. Judgments have to be made with this in mind. Time is of the essence in responding effectively.

How visible are managers in the complaints process?

The level of active management by education managers varies between regional teams. Effective and timely decision making at education manager level is critical in child safety.

The complaints process is underpinned by a set of service standards with attendant timelines. The standards give surety about the Ministry's coherence and consistency when responding to a complaint. For the most part, complaints and incidents are assessed within 15 working days as required.

However, education managers need to ensure that where there is a potential child safety issue they are proactively involved from the point the complaint is received. Education managers have a level of experience that allows them to add intuitive value to consideration of the evidential triggers when a complaint is received.

- The expected standard requires that education managers are notified of any element of 'risk' within one working day, or immediately where a child's health and/or safety may be at risk. Such instances must not go unreported or acted upon for any longer period.
- In some regions, education managers are able to step back because they have confidence in the high level of advice they receive from their lead/education advisers. Some KBase entries show education manager approval for recommended action, but no evidence that she/he has been looped in on any change in approach arising from agreed recommended action/s.
- Education managers play an important role in the decision to use unannounced visits where there is evidence of risk to child safety and/or practices that contravene safety regulations. They should receive information at the earliest point in the process to help prompt swift action in the complaints process.
- The introduction of an automatic notification function in the system may help increase managerial oversight at the point of logging in KBase. Education managers would have greater oversight earlier in the process.

² KBase is the primary tool used in all regions for recording, assessing and actioning incoming complaints and incidents. It is a workflow system used for early learning and was introduced in 2006.

How fit for purpose are the Education Regulations?

The Early Childhood Regulations (the Regulations) are the tool for providing a safe environment for children. They form part of the Regulatory Framework alongside the Education Act 1989 and the Licensing Criteria.

- The Regulations were promulgated in 2008 and are a now decade old. They need updating to take cognisance of the changing early learning landscape.
- A lot has happened in the intervening years in terms of the burgeoning numbers of children in early learning services, the size and complexity of some services and the growth in different service provision.
- Visits to services can expose the ambiguity and inexact nature of some regulations and licensing criteria. Where there is a lack of clarity, there is room for provider/service interpretation and this can make the process of 'getting it right' long-winded. This is not in the best interests of children or their whānau.
- The increasingly litigious nature of some services in the sector underlines the lack of clarity in some regulations and serves to take the focus away from the core business of education and care.
- Some regulations focus more on paper than practice, with a consequent shift away from quality. A case in point is the requirement to have a process for managing staff performance - but not the practices that support, enhance and develop quality education and care.
- In some cases where breaches are identified and a provisional licence issued, the process can become a progression of support and re-issue, only to identify further breaches and have to repeat the process.

Provisional licensing or suspension of licence?

Ministry staff use the provisional licensing intervention far more than they use suspension. However, some regions have had occasion to use the latter more recently. In some cases suspension has been used because services have not taken licence breaches seriously and have not responded effectively within the required timeframes while on a provisional licence.

- Suspending a licence means that no child can attend the centre while the suspension is in place. This can have a negative impact on children where family or work commitments require the ongoing provision of early learning education and care.
- The judgement to suspend has to be balanced with considerations about child safety and there is evidence that Ministry staff give this prime importance.
- There are workload implications where suspensions are instituted, as new services need to be found for children from the suspended centre. This time/people resource (in one case, in excess of 180 hours) has to be absorbed by the region.
- Using suspension when necessary sends a strong message to the sector. Services become more aware that Ministry staff have a low tolerance for poor

quality and there is likely to be greater support for this more decisive way of addressing any risks to children's safety and education.

The use of unannounced visits

Regions use unannounced visits judiciously. An unannounced visit is most often undertaken when there is an immediate risk, either potential or real, to child safety and well-being and/or when Ministry staff need to verify the service's operation in relation to areas that could be temporarily changed if they had prior information about the visit.

- The option is used in the most risky situations and the visit is underpinned by information that Ministry staff can justify, such as repeated complaints of a serious nature. Although the visits are more stressful for the service, they provide a better picture of what is actually happening at a point in time.
- The service provider or contact is notified when Ministry staff arrive at the centre unless it is expected that they will be present. If they are not present when staff go into the centre, they are contacted from the centre. These courtesies are well known to staff.
- Staff undertaking visits need to do so professionally so that they are not perceived to be overly intrusive. There is some evidence from early learning peak bodies that they have received complaints from members of this sort of behaviour especially since the Provider Assessment Group's programme has begun.
- *He taonga te tamaiti*, the draft strategic plan for early learning, recommends the use of a more rigorous monitoring programme including the use of unannounced visits by Ministry (and the Education Review Office). This recommendation is part of goal one - raising quality for children by improving regulated standards. It may be timely to plan strategically to use this type of approach to monitoring.

2 Coherence is critical to an effective response and process

Achieving a high level of regional consistency in the effective management of complaints and incidents is as important to inward facing Ministry operations as it is to the outward facing relationship with the sector and the public. Complainants are very ready to identify regional variation in the responses they receive.

There are good reasons for coherent management and reliable recording of complaints and incidents. These include:

- As a matter of public accountability
- As a record for future reference
- As a link to information about a person or service
- To obtain data for further analysis
- As an accurate record for OIA and information requests.

Most importantly, regional coherence is an important aspect of safety for all involved. Ministry personnel have to balance the accuracy and consistency of their records with the need to act with pace and urgency where necessary.

KBase was designed to capture and control interactions between the education advisers and, in this case, early learning services. As a workflow system it focuses exclusively at a process level, and is fundamentally engineered around a set of defined and sequenced tasks that can be repeated. There are key points where peer review is built in and managerial oversight and approval required.

How effective is KBase as the primary tool for managing the complaints process?

There are varying opinions about the use and effectiveness of KBase as a primary process tool. Some staff are very keen on it while others believe it is 'clunky' and in need of improvement. One thing that all agree on is that it is only as good as the person using it.

Additionally, care must be taken not to allow the KBase process to drive the pace and timeliness that should be accorded the action and resolution of complaints and incidents – especially where child safety is at risk.

There is evidence that staff are sometimes diverted from the complaints workflow because of other commitments. This risks a number of detrimental effects especially in terms of urgency, timeliness and resolution. A careful watch at management level is necessary to ensure workloads are balanced so that the complaints work is progressed.

- There has been a lot of recent work to look at ways to improve KBase, simplify the way complaints are categorised and provide guidance and clarification to support staff to manage the process in a transparent, consistent way. This a good start and should be progressed as soon as possible.
- Induction and ongoing training are vital. For staff who are new and for those who use the tool less frequently, support when needed helps confidence and improves consistency of use.
- Stable staffing certainly helps consistency. There are difficulties where there are considerable staff changes. Not knowing how to use the tool effectively has the potential to jeopardise the integrity of both the complaints process and the use of KBase.
- As a repository for data, KBase provides good input and process information, but it is not an analysis tool. Data has to be extracted and manipulated to analyse trends. Lodging data in different places makes analysis difficult when trying to build a systemic picture of concerns and continued poor performance.
- The process could benefit from separating complaints and incidents. This would streamline the way each is dealt with.
- Aligning KBase categories with the relevant regulations and criteria might help minimise confusion and ensure that each complaint is categorised to reflect the alleged breach.

- There is value in making KBase categories more specific to early learning. As a dual early learning and school workflow tool, it can be confusing for users.
- KBase has now been in use for over 10 years and there is a case to consider either a rebuild or significant improvements as necessary.
- If KBase is not rebuilt, it could be time to consider moving to a case management system. Some internal thinking has been done about this approach, but as yet it has not been progressed. The benefits accrue from having a single view of all interactions with a service or complainant. KBase features - such as control, escalation, defined steps - are embedded into a case management system.

The case for enhancing the use of data at regional level

The monthly report on early learning complaints to the SE&S management team is a useful source of data and a platform for discussion and further action. The presentation of analysed data could be improved if there was more discussion around what the data means for improved performance – ‘why is this so?’ and ‘what now?’.

It could be useful if regions were able to present their own monthly data with specific answers to the issues affecting their area. Hawkes Bay–Tairāwhiti and Canterbury-Chatham Islands are finding ways to use both qualitative and quantitative information to work proactively with their teams and there would be merit in this work being shared more widely.

- A dashboard has been developed as a useful tool for active case and process management. The dashboard provides managers with timely, regionally-based information sourced from up-to-date data.
- Managers can see at a glance:
 - the active cases
 - the length of action
 - where to place their priorities
 - commonalities by service and complaint/incident
 - distribution of staff workload and performance.
- It provides a vehicle for decisions about pace and urgency in responding to complaints and gives leaders visibility of the data and the basis to ask the bigger questions about what needs to be done better or differently.
- Similarly, Canterbury-Chatham Islands extract data manually to get quantitative information about how well the team is responding to complaints and incidents.
- They ask similar questions of the data – what is open/closed and why, where are the workload issues and why, what is the nature of complaints, where are the services that continue to be of concern and what can be done differently?

Most regions have data analysts who assist in assembling data. Some analysts are very proactive and innovative in their solutions. The recent approval for analysts to have access to ELI will significantly support their regional work. Training will occur in early 2019.

3 Learning from what is known underpins continuous improvement

In-depth training to improve practice

At both a national and regional level there is a desire to find ways of improving day-to-day-practice and learning from experience. This attitude is worthy, but should be backed by planned training and development so that staff are fully confident and knowledgeable.

The focus on continuous improvement begins at regional level. It has its basis in robust induction and training. There is variation in how this is currently carried out.

- Training packages, whether for new or more experienced staff, should be developed at national level with input from regional staff. There are various models and modules in use at present. These need rationalising so that everyone is receiving the same training messages, particularly with regard to understanding risk.
- There is a strong pool of regional expertise in the operational management of complaints and incidents. These people know how to respond effectively to early learning complaints, how and when to act decisively in matters of child safety and have built constructive relationships with sector. There could be considerable merit in harnessing their skills to support a more coherent approach in this area.
- Staff - such as lead/ senior advisers and education managers - with early learning experience have little opportunity meet together and build coherence in regional practice. This was a common occurrence prior to 2014 and benefits ensued from being able to develop consistent practice.
- There is a lot of policy and practice documentation about the complaints and incidents process (see appendix for a sample). The 'across business' nature of the source documents can be confusing for the Ministry's early learning staff, and there is a need to rationalise these so that there is unambiguous guidance.

Moderation and peer review practice

There could be merit in instituting cross-regional moderation to ensure a coherence and consistency in responding to complaints. There is evidence of informal moderation in some adjacent regions already.

Lead/senior advisers could moderate a percentage of completed complaints and incidents to determine how effectively the process was managed and to provide feedback to staff. Regular moderation is a way of strengthening and improving practice as well as providing assurance about coherence and consistency of practice.

The moderation process should go hand in hand with clarifying expectations for the peer review process. Currently the approach to peer review is inconsistent. Care needs to be taken so that peer review is robust and not a 'rubber stamping' exercise. Clarification and guidance for the peer review role is important firstly at the initial risk assessment stage and secondly on completion of the response actions.

Is there a culture of continuous improvement?

There is a growing focus on continuous improvement and embedding this in practice. Both nationally and regionally, staff are using data to inform their practice, but there is a lack of coherence in the way things are done.

There is plenty of scope to improve practice. Much of this is tied up with the need to improve staff training and the opportunities for senior managers to meet more regularly to discuss improvements to practice (as noted above).

There are three other aspects that could enhance the focus on continuous improvement.

- Shifting the monthly and annual reporting from analysis of numbers and trends to evaluating what is known, what can be learnt and most of all what can be done differently to improve process and practice.
- Shifting the mindset is needed among some staff who see complaints 'as another thing to deal with' in their daily work programme to one where they see a purpose in learning from what the complaint or incident is telling them.
- Responding effectively and in a timely fashion is part of the core work – not a distraction from other work. Ministry policy provides the minimum standards for a complaints process that must be followed in the event that a complaint is received, but the regional culture about dealing with these in a responsive and timely manner is critical.

4 Credibility relies on high levels of communication and collaborative ways of working

Coherence with other agencies

In responding to complaints and incidents, the Ministry has useful working relationships with the Education Review Office (ERO), The Education Council of Aotearoa New Zealand (the Council), the New Zealand Police and the Ministry for Vulnerable Children – Oranga Tamariki (MVCOT).

The strength and nature of these relationships varies regionally. Where these are well established, the agencies add considerable value to the core work undertaken by the Ministry.

The Education Review Office

- ERO has regular meetings in all 10 regions with the Ministry personnel, where matters about services of concern are shared. These meetings are a vehicle to share what is known, particularly where there are recent or ongoing complaints.

- The depth of engagement varies across the regions, but in the best instances there are strong and trusted relationships that enable information sharing and cross checking about what each agency knows. Where the Ministry informs ERO about specific complaints, ERO can be more focused in their evaluation of the service.
- Part of each discussion involves shared information about Category 1 and 2 services and the support these services need to improve their performance. Coincidentally, these centres' own staff are often the source of complaints or concerns.
- Although this is rarely used now, there is the facility to ask ERO to undertake a Special Review – an in-depth look at an area of concern or of persistent complaints. Where appropriate, this is an option that has value but seems to have fallen by the wayside.
- Confusion can arise in the sector when there are issues that ERO finds have not been identified, particularly around licensing. These are prime opportunities for both agencies to work together to discuss why decisions have been made, and ERO and the Ministry should continue to work together on complaints to ensure a consistent approach.
- As noted above, *He taonga te tamaiti*, the draft strategic plan for early learning, is proposing to introduce a consistent and rigorous programme of monitoring, including unannounced visits by the Ministry and ERO. Serious concerns around one service could trigger an automatic review of all of a service provider's other licences. This may be an opportune time to think about what this might mean for both agencies.

The Education Council

- There has been recent work at a National level between Council and Ministry staff to see how better connectedness might be achieved. Understanding each other's roles, especially related to the complexity of the early learning sector, is important.
- The Council has used the most recent annual report on complaints and incidents to match names where relevant. This has enabled them to see where there are gaps and those where there are clear matches. Council staff would like to be involved at the draft report stage.
- It is easier for the Council to track teachers in schools than early learning services and this adds time to investigations when urgency is required. The Council is looking to replace their spreadsheet system with software that will provide visibility over complaints/complainants. It is intended for online use.
- The Council will take into account anonymity while the Ministry is investigating a complaint, but where child safety is at risk from a teacher/adult, it will act quickly to suspend the practising certificate while the Ministry is carrying out a license investigation. It is a matter of acting in tandem where there is serious risk.

- At the regional level, most contacts between the Ministry and the Council have tended to be ad hoc relationships where staff have known who to ask to get things done. This is not ideal for consistent monitoring of early learning complaints so a dedicated email address has been set up specifically for Ministry use. This is yet to be socialised.
- A draft protocol between the Council and the Ministry has been developed to set out the processes for notifying each other where information is received that is relevant to each party's statutory function and which may impact on the well-being of children in early childhood education. This draft is the result of regular meetings instituted between two bodies and a timely mechanism to ensure coherence in the respective roles.

Multi-Agency interface

- When a complaint is assessed the support or advice of other agencies is sought if required. In 2017, 17 percent of the complaints received were referred to other agencies. Legal requirements must be followed when the health, safety and wellbeing of children is at risk. This includes notifying the appropriate agency.
- The Ministry works alongside agencies such as the Police and MVCOT when children are at serious risk, WorkSafe NZ when there accident or injury and the Education Council when professional conduct and/or competency are at issue.
- Multi-agency responses can take time. That is why complaint cases remain open for much longer periods than service standards require.
- There has been one really good recent example of how a multi-agency approach can add significant educative value to the sector and local community. The approach stemmed from an initial complaint that widened to include multiple allegations including inappropriate child treatment, harassment and inappropriate behaviours.
- In response the Ministry lead the delivery of a training package throughout Hawkes Bay-Tairāwhiti which involved over 400 educators and parents. The multi-agency approach included the Police, MVCOT and the Ministry as well as a teacher educator. All parties were heartened by this sort of educative approach.

Sector and public credibility

During the course of this review several early learning peak bodies and interest groups gave their views on how effectively and credibly the Ministry responds to complaints and incidents. They also reflected on the quality of communication and the level of accessibility they experience with the Ministry.

- In general people feel confident that there is a system that enables complaints to be made to the Ministry and that these complaints will be treated seriously.
- Some in the sector believe that the Ministry does not have a documented process outlining its approach to investigating complaints. Clarifying this with the sector is a key priority.

- There is a perception that when a complaint is made to the Ministry, staff do not refer the complainant to the service or ascertain whether they have gone to the service in the first instance. It should be communicated to the sector that these are procedural matters written into the KBase process, which all Ministry staff must follow. In addition, there will be instances where it is not safe for the complainant to go to the service and it should be made clear as to why this might be.
- The sector lacks clarity about what happens when the Ministry follows up a complaint by visiting a centre. There is a belief that these visits are an opportunity to find more 'wrong' with the centre when the initial complaint appears easily remedied. This approach is seen as 'low trust' and 'punitive'. There is scope to explain the rationale for why on-site visits are undertaken especially with regard to children's safety and education being at the fore.
- To ensure transparency it may be useful to spend time either with a small representative group or with the wider Early Childhood Advisory Committee (ECAC) group to ensure there is clarity about how the complaints and incidents process works.
- There is considerable apprehension about the role of the Provider Assessment Group. Peak bodies do not know what the rationale is for this group and want further clarification on the roles of the Ministry staff involved. The concept of unannounced visits is generally supported, providing the service is treated respectfully. This is a perception matter but the process is worth revisiting.
- Kindergartens as a group tend to deal with the majority of their complaints in-house. Their regional associations, plus their senior management system, means that they have the resources to manage complaints internally. However, if a parent /family is dissatisfied with the way an association has dealt with a complaint this can and does end up as a complaint or concern lodged with the Ministry for investigation. The associations are generally confident in working with the Ministry to seek resolution.
- There is a general perception that there is regional variability in the way Ministry officials deal with complaints. Some of this appears to be based on personal experiences.
- Stakeholders appreciate being kept in the loop during the complaints process and particularly like being told about the resolution.
- The Kōhanga Trust would appreciate some protocols around their interface with the Ministry with regard to being informed about complaints being investigated, particularly where there are other agencies involved. The Trust has previously asked for this to be instituted.
- There is value in advocacy groups having a channel to discuss their concerns. To help this to be effective, there should be one key point of regular contact. In the case of an organisation like the Teachers Advocacy Group (TAG), this has now been achieved and should be maintained.

Looking Forward

This section discusses how the Ministry's complaints and incidents process could be improved and enhanced in four areas. Recommendations are made as part of the discussion.

Intervening on a child's behalf

The immediacy with which a serious complaint or incident is escalated so that it can be dealt with at the appropriate level is critical in responding. Effective management of the response underlines the necessity for highly attuned and trained staff and one-up managers who know when and how to act.

Recommendation

Ensure all staff involved in the complaints process – including Managers - have training to identify risk, as set out in the risk matrix. Provide exemplars so that staff understand and are confident about the boundaries between risk categories.

The Early Childhood Regulations (the Regulations) are the tool for providing a safe environment for children. They are now a decade old and should be updated to take cognisance of the changing early learning landscape.

Ambiguities in some regulations are exposed when visits are made to services. The lack of clarity and room interpretation in some regulations can make change in the best interests of children difficult and long-winded.

Recommendation

Consider updating the Education Regulations so they are fit for purpose in the current early learning environment

An unannounced visit is most often undertaken when there is an immediate risk (either potential or real) to child safety and well-being or when Ministry staff need to verify a service's operation without giving prior notice.

Regions use this option judiciously. Given the recommendation in *He taonga te tamaiti*, the draft strategic plan for early learning, for the use of a more rigorous monitoring programme, including the use of unannounced visits, it would be timely to look at how and when regions make use of this approach.

Recommendation

Look into how the use of unannounced visits might be integrated as part of wider monitoring of early learning services that are persistent poor performers and where multiple complaints have been made.

National and regional coherence

KBase is the primary tool used in all regions for recording, assessing and actioning complaints and incidents. There are varying opinions about the use and effectiveness of KBase. It has now been in use for over 10 years and there is a case to consider either a rebuild or significant improvements to ensure greater consistency in its use.

Because it is designed as a workflow tool, care must be taken not to allow the KBase process to drive the pace and timeliness that should be accorded to the action and resolution of complaints and incidents. KBase is effective for those who operate it as required and in a timely manner, but there are too many for whom the need for training and updating result in the process being too slow.

It is difficult to access systemic information from KBase because it deals primarily with one complainant or one service. Where there is a provider with multiple services the issues may extend further than that one service or complaint. There have been recent examples of this and of the consequent difficulties of resolving matters when these have not been within sight.

There has been a lot recent thinking about how the tool could be improved. If KBase is to remain the primary tool for recording complaints and incidents, these improvements should be progressed as soon as possible. On the other hand it could be time to move to an alternative approach such as case management.

Recommendation

In the short term, progress the suggestions for improvements to KBase and in the medium to longer term investigate whether this tool is the most appropriate way to capture complaint information and progress it in a timely and accurate manner.

There are some really innovative approaches being implemented in different regions. It would be useful if there was a vehicle for this to be shared nationally, especially as the business focuses on ways to improve the management of complaints.

Most regions have data analysts who assist in assembling data. Some are very proactive and innovative in their solutions. It would be useful if these people had regional access to ELI. Access is currently available through National Office, but the time lag in getting the information when needed can limit the usefulness of the information.

Recommendation

In the interests of greater consistency, explore ways to share regional expertise and innovation. Consider regional access to ELI as part of this approach.

Continuous improvement focus

The quality of induction and training for the complaints process is inconsistent across regions. There are various models and modules in use, but these need rationalising so that everyone is receiving the same training messages, particularly with regard to understanding risk.

Additionally, there is a lot of policy and practice documentation about the complaints and incidents process. The 'across business' nature of the source documents can be confusing for early learning so that there is clear guidance.

Recommendation

One training package should be developed at national level with input from the strong pool of regional expertise.

Recommendation

Rationalise the policy and guidance documentation on the complaints process.

Staff such as lead/ senior advisers and education managers with early learning experience have little opportunity meet together and build coherence in regional practice. This was a common occurrence prior to 2014 and benefits ensued from being able to develop consistent practice.

These staff should have a key role in instituting a cross-regional moderation process to ensure a coherence and consistency in responding to complaints. They should moderate a percentage of completed complaints and incidents to determine how effectively the process is managed and to provide feedback to staff.

Recommendation

Find regular opportunities for relevant staff with early learning experience to meet regularly to build regional coherence. Build in a moderation component to their roles.

In monthly and annual reporting there is a need to move to a more evaluative focus. This will involve shifting from the analysis of numbers and trends to evaluating what is known, what can be learnt from this data and most of all what can be done differently to improve process and practice.

Recommendation

Improve the quality of monthly and annual complaints and incidents reports by asking broader evaluative questions of the data.

Communication and collaboration for credibility

The agencies

The Ministry has useful working relationships with the ERO, the Education Council, Police and MVCOT. The strength and nature of these relationships varies regionally. But where these are well established, the agencies add considerable value to the core work undertaken by the Ministry.

There are a number of comments in the body of the report where existing relationships could be strengthened regionally and respective roles clarified so that these are better understood.

There is a role at national level through regular meetings with agency senior managers to ensure that regions know who to contact or how to go about making contact where necessary. Where there is an established relationship between agencies, the contacts should be maintained in a constructive and reciprocal manner.

The sector and public

Some sector groups have a limited understanding about how the Ministry complaints and incidents policy and processes work. This is largely a communication matter and there is considerable work to do to clarify what happens.

The sector also lacks clarity about what happens when a Ministry regional office follows up a complaint by visiting the centre. This may be a provisional licensing visit and it may be announced or unannounced. There is scope to better explain the rationale for why on-site visits are undertaken, especially with regard to matters of child safety and quality of education.

Recommendation

Urgently communicate the Ministry's policy and process through the most appropriate vehicles that will reach not only the peak bodies but sector members. Include information about on-site visits.

Appendix one

List of personnel involved in interviews, meetings and discussions during the course of this review between 18 September and 24 November 2018.

National Office, Wellington	
Interviewee	Position
Helen Hurst	Acting Associate Deputy Secretary Operational Delivery, Sector Enablement and Support
Suze Strowger	Associate Deputy Secretary Operational Delivery, Sector Enablement and Support
Jan Breakwell	Chief Legal Adviser, Legal Services Strategy Planning and Governance
Nancy Bell	Acting Group Manager, Early Learning Resourcing and Operations, Sector Enablement and Support - Director Early Learning
Jane Chirnside	Acting Group Manager Performance and Capability, Sector Enablement and Support
Elsbeth Maxwell	Manager Early Learning Operational Policy and Design Sector Enablement and Support
Rob Hanratty	Manager Funding & Assurance ECE, Sector Enablement and Support
Colin Meehan	Manager, Early Learning Implementation Planning, Sector Enablement and Support
Clare Hendra	Lead Analyst, Business Analysis and Systems, Sector Enablement and Support
Karen Quinn	Lead Adviser, Early Learning Operational Policy and Design Sector Enablement and Support
Hannah Stansfield	Senior Adviser, Early Learning Operational Policy and Design Sector Enablement and Support
Joel Gapes	Senior Adviser, Early Learning Operational Policy and Design Sector Enablement and Support
Teresa Ross	Team Leader, Business Analysis and Systems, Sector Enablement and Support
Jibu Stephen	Senior Analyst, Business Analysis and Systems, Sector Enablement and Support
Alex Shaw	Analyst, Business Analysis and Systems, Sector Enablement and Support

Regional office level	
Hawkes Bay – Tairāwhiti	
Roy Sye	Director of Education
Cherreen Exeter	Manager Education
Hayley Whittaker	Lead Adviser Kāhui Ako
Carys Lloyd	Lead Adviser
Auckland	
Tanya Harvey	Deputy Director of Education
Marlene Rei	Senior Adviser Early Learning
Lisa Thomson	Senior Adviser Early Learning
Cindy Mercado	Senior Adviser Early Learning
Canterbury – Chatham Island	
Vanessa Goodwin	Manager Education
Simon Blatchford	Principal Adviser
Jo George-Scott	Lead Adviser Early Learning
Wellington	
Jim Greening	Manager Education
Carlee Simmonds	Lead Adviser Early Learning
Shona Humphrey	Senior Adviser Early Learning
Agencies – Sector Bodies	

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Appendix two

Service Standards

1. I will acknowledge complaints within one working day.
2. I will raise any complaint received with my manager within one working day, or immediately where a child's health and/or safety may be at risk.
3. I will assess the complaint using the Ministry's complaints policy principles within 15 working days.
4. I will inform the complainant and my manager if the complaint will take more than 15 working days to assess and recommend an outcome.
5. Where the complaint has been referred to another organisation, I will follow up with the complainant within 25 working days to ensure that the complaint has been acted on and offer Ministry support if required.

Appendix three

Source documents for reference during the course of the review

Documentation and training resources		
1	Recording ECE Complaints	A 'how to' sheet providing guidance to for the use of KBase.
2	Complaints Management – Roles and Responsibilities	Info sheet 01: the relevant roles and responsibilities of different levels within the Ministry.
3	SE&S External Complaint Guidance	Info sheet 02: procedural sheet to guide the recording of a complaint.
4	Complex Complaints – How to proactively engage with legal	Info sheet 03: guidance to staff about how to engage with legal services where there is complexity around the circumstances.
5	What to include when recording information	Info sheet 04: Guidance on file notes and recording decisions (* staff contact information out-of-date).
6	Risk Assessment Guidelines – Criteria for Prioritising Risk	Info sheet 05: Matrix of risk levels essential for decision making on whether/when to escalate a complaint.
7	File note Guidelines – Guidance for Prioritising Risk	Info sheet 06: Accuracy responsibilities in relation to OIA Act 1982 requests.
8	SE&S Module: Complaints Policy and Recording	A training module that steps through the requirements to record, investigate and resolve complaints/incidents.
9	Complaints Management Process Map	Flowchart showing timeline / points of intervention and escalation associated with the different stages of complaints' process. Applies to both early learning services and to schools (May 2016).
10	Complaints Process overview document	Internal process guidance. Includes information about service standards, practice guidance and documentation. Applicable to early learning and schools. SE&S Hub –Confluence (modified May 2018).
11	Information on how the Ministry deals with complaints 2BES1224	Overview guidance about organisational policy and scope regarding complaints.