



Discussion Paper 1

Quality-based Contracting (QBC) for ECE Governance and Service Provision

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Quality-based Contracting (QBC) for ECE Governance and Service Provision

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Quality-based contracting (QBC) is an alternative model for the provision of early care and education, that replaces the current regulated licensing system with a contract for service system. The model sits within a wider legislative and policy reform framework, and may either:

- a) be established under a new arm of the Ministry of Education, with a clear responsibility for quality care as well as quality education, and including structures specifically designed for this purpose, or;
- b) be established under a proposed Early Years Ministry, responsible for care and education in early years (see ECE Reform Discussion Paper 3).

It is essential when reading this paper to know that it is not designed for implementation within the current structures of the Ministry of Education, or to use the current mode of operation of the Education Review Office. It is a fresh, purpose-built approach. All references to the Government or 'the Ministry' in this paper could be either of the options above.

It is a positive model – looking to motivation for quality and success rather than relying only on regulatory compliance, to achieve better outcomes for children. It is a model that favours better quality providers, irrespective of the ownership type or educational philosophy.

Key features of the model are:

- 1 A new Government department specifically for early care and education.
- 2 Government responsibility for quality of care and child wellbeing.
- 3 Government responsibility for workforce support.
- 4 Government responsibility for stability, capacity and diversity of service provision.
- 5 Fixed price for volume, quality-based contracting (no negotiation on funding per child-hour).
- 6 Contract continuance based on quality of provision and reduction of risk to children.
- 7 Competition for new contracts based on a history of high quality provision, or a clear demonstration of understanding of high quality design and delivery (new providers).
- 8 Gradual removal of worst quality services and locations – end of contract.

- 9 Promotion of diverse provision – sessional, various pedagogies and cultures, home-based, Playcentre, and innovative provision such as forest/bush kindergartens.
- 10 Teaching workforce regarded as colleagues of the Ministry, with responsibility for reporting on quality of provision.
- 11 Active communication with teachers, parents, and providers.
- 12 Government funded and coordinated research and collaboration with sector providers for quality of care and education, including joint development of technical solutions.

The transition point between the licensing and QBC systems can be implemented seamlessly, as a replacement of standard forms (all licence parameters remaining the same, while the governance method changes). Contract negotiation processes apply only to new/extended contracts, and end of contract processes, so consequently there should be no initial disruption of, or cost to, ECE Services. Ongoing costs to the Government would need the assessment of a suitable working group, but there would be both costs and savings. The QBC system does not in itself incur extra costs on the ECE Services, except minor costs in the planning and demonstration of new centre quality and suitability, and a quality-based competitive process only for the Government initiated new services (fixed-price tendering). It utilises commercial motivations and competition for good, by placing providers in a contractual environment in which the only mechanism for competition is genuine quality of provision.

The model provides a governance mechanism and departmental structure to enable comprehensive, cost-effective implementation of the Ministry of Education’s Strategic Plan for Early Learning 2019 – 2029.

Contents

1	Overview	3
2	The current system – a failure of care	5
3	Child protection - managing provider motivation in a commercial environment	6
4	The role of Government	7
5	Progressive quality improvement	8
6	Assessing quality	11
7	Departmental structure for QBC	13
8	Transition	15
9	Operational example of new service development	16
10	Q & A	17

1 Overview

QBC shifts away from the current regulated market structure to a contract for service model. In this model, the provider is essentially the Government, but service delivery is outsourced to organisations of suitable quality, performing under contract. Contracts can be ended because of poor performance, and the system will be designed to favour the better performing service providers. 'Performance' will be based in the first instance on the likely quality of a child's experience of care and education that a contractor can offer, and subsequently on observed delivery. Service delivery under this system is a privilege, not a right. **The system is not designed to be punitive, but rather to encourage quality.**

The contractual mechanism

The contract is to be the primary quality assurance mechanism and incentive for quality service delivery. The contract for service will define both the service provider and the service locations. A provider may continue to provide services, but may lose locations from its contract if they are not considered suitable for quality ECE and care.

While baseline quality requirements such as minimum space or temperatures will be regulated, the contractual environment will include other quality measures, for example, staff stability (good staff retention), a requirement for service managers to be suitably qualified, the provision of space to engage in active play (the ability to run, for example), ready access to natural environments, or being breastfeeding-friendly.

The competitive contractual environment will provide an automatic incentive for services to be more creative in providing good spaces for children (and parents), beyond specific contractual minima. The Ministry will regularly review the contracted providers to identify those at the top and bottom of service quality. New or known high quality services looking to open in areas with poor quality may be used to replace those who do not have contracts renewed.

The diversity of current service providers means that some providers are too big to fail in entirety without serious disruption to children and parents. The needs of working parents must be considered, and this mandates against any large-scale loss of contract. There are at least three mechanisms available to address this:

- 1 Removal of individual locations from a contract
- 2 Statutory management, as has been used in schools
- 3 Notification to parents of a service's status, both for the purpose of encouraging remedial action, and as forewarning that a service may lose its contract.

2 The current system – a failure of care

The current regulated market model of ECE and care service provision has been allowed to run for a few decades. This has provided an opportunity to gauge its effectiveness and identify strengths and weaknesses. On the positive side, it has allowed considerable diversity, and the development of ECE under a number of educational philosophies, including unique formats such as Te Kohanga Reo and Playcentre. There are some excellent providers, including some businesses with a clear focus on quality for children. Unfortunately, the ECE sector has also included small and large organisations that have treated ECE and care as “just like any other business”. The result has been some dismal standards of service provision and exploitation of the workforce. It is not only a provider issue, however. The Ministry of Education drive for ‘participation’ has ignored quality, even to the extent of actively promoting maximum occupancy. The market and Ministry approaches have not favoured quality. We need an alternative model that retains diversity while returning to an ethos of quality care and education.

Current issues in the sector include:

- A failing workforce – high levels of stress, injury, sickness and bullying, along with a teacher shortage
- Indications from University of Otago research of poor indoor physical conditions and non-compliance
- Poor quality outdoor environments based on minimum space per child
- Opening of new services in locations contrary to Ministry of Education guidelines or public health advice
- Teacher surveys (Child Forum, Teachers’ Advocacy Group) reporting poor conditions and ratio breaches
- News media reports of very distressing and abusive conditions encountered by early childhood teachers.

In proposing a different system, we have to accept that provision will be by a diverse range of private and community providers, including a competitive commercial sector. This means that any system that replaces the current one must address *all of* the various underlying motivations in the commercial sector and other NGOs, or it will incur the same failures as the current system. It must work with and manage motivations, providing both incentives and penalties related to quality. This cannot be achieved by regulation and licensing alone, as good quality provision is too complex for regulatory assurance. It requires a business model that makes quality the deciding factor between success and failure; *a system that rewards innovation and effort for quality*. It must be possible to lose a contract not only because of illegality, but also if quality is relatively poor. If we can create such a model then business owners, even when purely commercially motivated, will work to the advantage of children. If we don’t, then those owners and organisations that are primarily commercial in focus will continue to push back on quality, and some children will continue to be exploited as they are now.

Taxpayer funding of poor quality

It is important to note that the current system is a taxpayer-funded system. It is already a partnership between the taxpayer and providers, but one in which the taxpayer is forced to subsidise poor quality providers unless there is a serious, provable legal breach. In the proposed system, the taxpayer, via the Government, has fair choice as to who is state-funded, by the mechanism of contracting.

Another way to view this, is that the Government, in spending taxpayer money, has an obligation to ensure that the money is well spent. This responsibility is better exercised in a contractual arrangement, with choice of provider, than in a licensing system. Licensing is more appropriate where there is no Government subsidy.

3 Child protection – managing provider motivation in a commercial environment

ECE and care in NZ currently operates as a regulated and licensed business environment in which, subject to licence minima, businesses can operate and compete according to their own motivations. There are no requirements for qualifications or experience for service owners or managers, and new licences can be issued to demonstrably poor quality (but legal) providers.

Market manipulation against children's interests

In an ideal market the consumer knows what they want, and is able to select the products that best meet their needs or wants, because they are able to judge the product. The providers compete to meet consumer expectations. Unfortunately, normal commercial activity in most markets involves providers who will seek to manipulate the market, both by manipulating consumer motivation and by exploiting lack of knowledge of a product. This behaviour is to be expected in commercial markets, and is absolutely normal in advertising, even though some or most providers may be ethical and benevolent. An example of both faults could be seen in TV advertisement for 'antibacterial' soap, which used the words, "I love seeing my little explorer out there, but I worry about the germs she could pick up". The advertisement manipulated consumers by generating unwarranted fear (in reality she is likely to be healthier through contact with the natural microbiome), while hiding the antibiotic nature of the product with the term 'antibacterial'. The net effect is anti-health.

The ECE sector suffers from the same ills as any commercial environment, but it is far from an 'ideal' market. In the ECE environment the consumer – the child, has no control, and must rely on an agent, their parent(s), to decide on the product. While some parents will have a good understanding of children's ECE and care needs, many will not, and will have difficulty discerning false advertising from true. In addition, the centre environment (actual quality of ECE and care, ratios, relationships) is hard to assess, and may be taken on trust without any real knowledge of the conditions. This situation has been made worse by incorrect claims from the Ministry of Education. For example, the claim of 98% compliance with regulations was completely unfounded, as the Ministry lacked the

monitoring systems or data to make claims about compliance. Unfortunately, this has made the Ministry of Education an agent of commercial market manipulation against children's interests. Some ECE providers in New Zealand have exploited this situation by using the language of good quality ECE to attract parents, while the reality behind the scenes is not what is advertised. The effect is anti-care and anti-education – ultimately anti-society.

Limitations of regulation as a mechanism for quality

The nature of the market means that that protective intervention is required in children's interests. Regulations are very blunt instruments for quality and, if too prescriptive, can have perverse results. The regulatory approach places the regulator in a situation of needing to prove non-compliance in order to take action against a provider. Regulations establish a minimum acceptable level of quality, but they do not provide an incentive for better-than-minimum quality. The added problem of commercial pressure to reduce standards can result in the 'drive to the bottom', evident in New Zealand over the past two decades. It is notable that 2008-2010 changes to regulations on ratio 'sharing' and space measurement, both of which reduced quality and increased profit, could only have come about as result of commercial pressure or influence on the Ministry of Education. Regardless of improvement to regulations, this situation will always exist if the current regulated business model continues.

Countering manipulation – market motivation for quality provision

The QBC model reverses the motivational pressures, setting up a market in which the providers are not simply selling to parents, but are *marketing themselves* to a government agency tasked with selecting services according to best quality. The *potential* knowledge base and inspection powers of the Ministry could make it far more difficult to falsely advertise. This requires a change in the makeup and operation the Ministry responsible for ECE and care. Of essential importance is the mechanism of loss of contract based not on breach of regulation, but on failure to compete on real, delivered, quality. Quality is moved from the negative position of a business cost, to the positive and powerful position of a competitive edge and a business survival factor.

If QBC is implemented, it could not only stop current market exploitation against children's interests, but reverse the trend for decades to come. It can use commercial motivation for good, while providing freedom to innovate. Action against children's interests, such as lobbying to drive down regulations or promoting longer day care hours, would be a bad look for providers in this environment. Provider motivation would be a signal for the Ministry. This mechanism helps to defend the Ministry against commercial pressure.

4 The role of government

In the QBC model, the national provision of quality care and education is the direct responsibility of the Government. ECE is treated in the same way as other levels of state funded education, but with the added provision of quality care to enable parents to work if they wish or need to. Service delivery will retain the flexibility of hours for fees present in the current system, but as a voluntary extension of contracted service provision subject to the same quality requirements. In other words, you can provide more hours for fees if you like, but you are still delivering the service under the quality conditions of the contract. It is a highly flexible public service, in which children are the primary benefactors, and secondly, the parents.

The Government will carry a greater responsibility for governance than it does now, and will need to be resourced with necessary structures and expertise at Ministry level. The Ministry will be responsible for managing service continuity while sifting out poorly performing services and locations over time.

Service priorities for quality will be:

- 1 Quality of care
- 2 Quality of environment
- 3 Added value for early learning and development

The Ministry's role will also be one of *quality assistance*, in which the preferred action will be to improve the performance of existing providers, rather than cause disruption by their loss of contract.

The Ministry will also be responsible for encouraging diversity of service provision, to give parents genuine choice. Engagement with the community and daily activities around them, and hearing the conversations of daily life, are necessary to compliment ECE for children. Sessional ECE including Playcentre, should be encouraged, possibly by way of tax credits or another mechanism to assist parents to enrol children in these services. Other options, such as forest kindergartens or home-based ECE and care should also be encouraged.

5 Progressive quality improvement

The Ministry would be tasked with progressively improving the quality of provision, and would be required to report on progress annually. The quality assistance role of the Ministry might include guidelines for good design or good practice, similar to those currently on the Ministry of Education website, but not merely as passive advice.

The Ministry would be expected to actively engage in health and building science, as well as pedagogy, and to seek mechanisms for assistance, e.g. joint ventures with industry.

One long-term objective would be the gradual phasing out of unsuitable locations, particularly those that expose children to environmental contaminants, or prevent inclusion of, or access to, green spaces. For example, there may be an objective to remove such locations from contracts by 2025. Alongside this the Ministry should work with Local Government, schools and other agencies to locate and free up locations suitable for ECE and care.

The Ministry would be required to operate a transparent contractual process with an independent appeal process, to avoid unfair treatment of contractors.

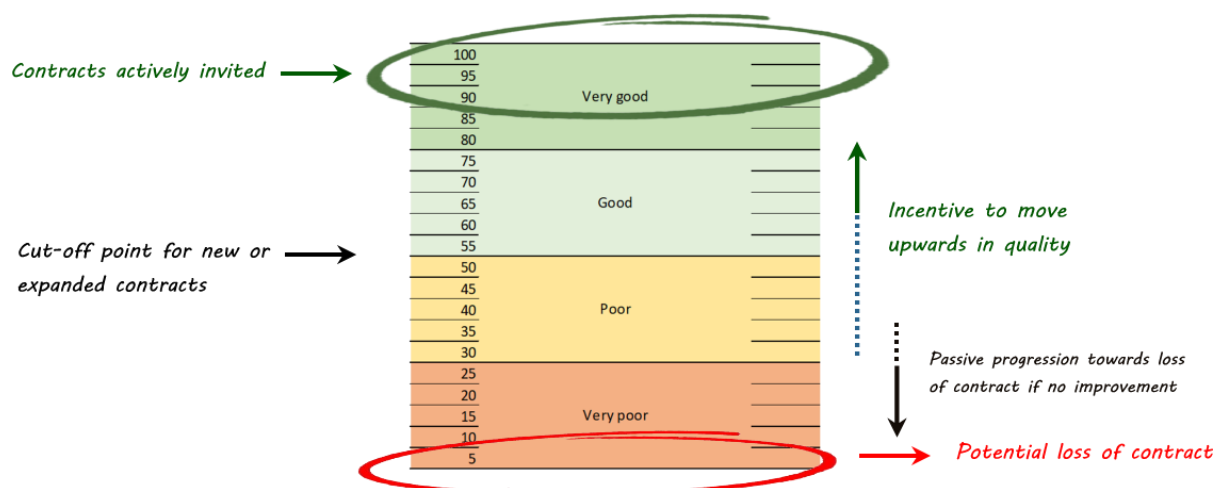
The service providers and the Ministry should maintain transparent and accountable complaints procedures, that ensure both safe complaints processes, and ensure timely and appropriate investigation.

The Ministry should also actively engage with quality improvement research. Cooperation with Ministry-approved research should be a condition of contract (avoiding unreasonable disruption).

Application of quality measures

The quality measures will have limitations on accuracy, but at the quartile level are useful to identify preferred providers, and those at the bottom of the quality scale where continued operation may be detrimental to the children attending. A principle of contracting in this system is that if a business has centres rated *poor* or *very poor*, they should improve those first, before being considered for the opening of a new one. This principle means that the provider and all centres owned by that provider need to have good or very good ratings before being able to expand. This mechanism provides incentive for quality in the middle of the range, and prevents the expansion of low-quality providers. It gives the quality-based system traction.

Figure 1: Quality-based contracting incentives



Example: Teacher retention

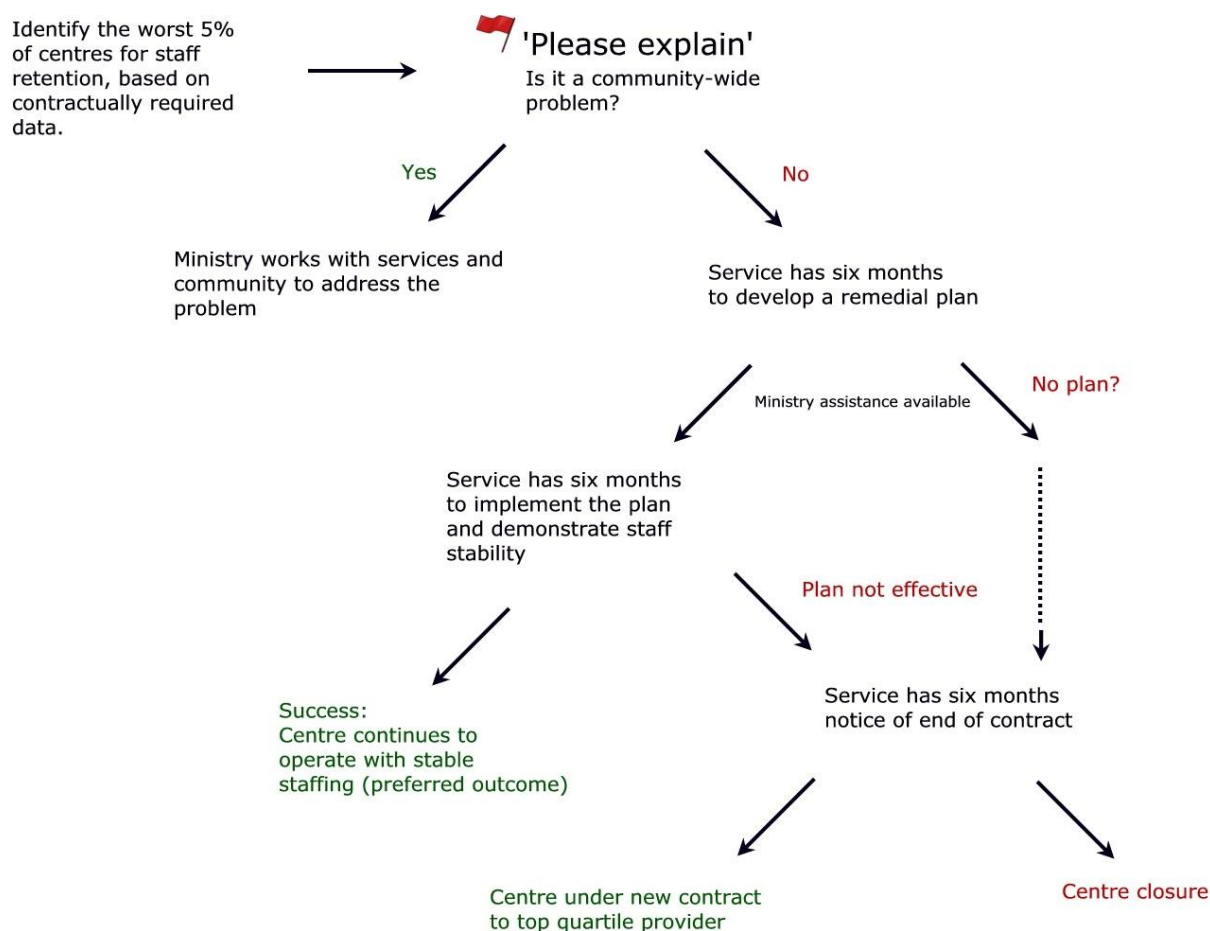
The current teaching workforce is arguably undervalued and demoralised. The current teacher shortage is as likely to be the result of loss from the sector due to poor conditions, disrespect, and physical or emotional injury as well as low pay. It may be possible to attract teachers back if conditions improve. High turnover and teacher shortages seriously impact quality of care, especially for infants. The teaching workforce needs to be protected with reasonable employment conditions, and supported and trusted as a professional group.

At present the Ministry of Education has no mechanism available to deal with issues such as staff bullying or poor conditions, and they are very difficult to deal with in any legislative process. The contractual mechanism provides a relatively easy solution.

- 1 For centre-based services, identify the worst 5% of centres for staff retention.
- 2 Red-flag the contracts, with a 'please explain' request. The service will have six months to identify and explain the reasons for poor staff retention. If (a) there is a community-wide problem affecting teachers (the Christchurch earthquake would have been an example, or cost of living problems, or centres in low socio-economic areas), then the Ministry will work with providers to help find solutions. If the problems are (b) service-specific, the service will need to provide the Ministry with a remedial plan.
- 3 For scenario (b), If the service fails to present a plan, they will be given 6 months' notice of end of contract for that centre. If they produce a satisfactory plan, they will have six months to successfully implement the plan and demonstrate staff stability.
- 4 If the service is successful, they retain their contract and will have improved quality. If they fail, they will have six months' notice of end of contract for that centre. This does not necessarily mean closure, as the service or a centre may be sold by the outgoing provider to a provider with a *very good* quality rating. *Very good* rated services are used here because of the need to turn around a damaged care and education environment.

See Figure 2 on p 9...

Figure 2: Quality-based contracting applied to staff retention



Note: In this example, retention problems are differentiated from recruitment problems. It is teacher turnover, disrupting relationships, that is the critical issue.

The objective is not to close services, but to provide a clear message that poor treatment of teachers (by anyone) is a risk both to children and to the teaching workforce. The Ministry will provide advisory services to help a service improve its staff retention, if requested.

This mechanism has a triple quality improvement effect:

- 1 It removes very poor employers
- 2 It shifts some services from poor to good, or very good
- 3 It sends a message to the whole sector about valuing and supporting the teaching workforce.

Under the contracting system, these improvements do not require the Ministry to expend a lot of resources on investigation of cause, or identification of legal breaches. The measure is performance and risk- based, on the premise that the Ministry should *actively avoid* high risk providers. Where the problem is a management issue, the onus is on the service provider to identify and fix the problem (by, for example, requiring better staff management practice).

6 Assessing quality

Quality in ECE and care is multifaceted and complex. There are at least four separate measurement mechanisms that should be applied:

- 1 Teacher and parent observations.
Teachers observe the day-to-day reality of the ECE environment. Their observations are key to quality monitoring. At present they are largely silenced by their employment situations, but they must be given the status and mechanisms to allow them to function and report in a respected professional manner. Confidential on-line teacher and parent questionnaire systems should be part of this system.
- 2 Spot checks or remote monitoring for simple quantitative measures, including temperatures noise, ratios and presence of qualified teachers. There are relatively inexpensive systems that can remotely monitor and log environmental conditions. Ratios are critical quality measures and need to be subject to spot checks.
- 3 General environmental conditions such as location.
- 4 ERO style reviews that can provide quality scoring on parameters as described below.

Quality measures

The quality measures would be a combination of indicators and empirical measures. Most indicators are also direct quality measures, for example, staff retention is a direct quality measure for stability of relationships, but can also be is also an indicator of the quality of the staff and or staff/management relationships (which would be hard to measure directly).

- | | | |
|---|---|---|
| 1 | Quality of care: | Examples include staff retention, primary caregiver systems, appropriate nappy change rostering and practice, ratios, and attention to developmental or language needs, with appropriate plans for individual children. |
| 2 | Quality of environment: | Examples include appropriate space and spaces – quiet zones, natural spaces outside, air quality, heating and ventilation, breastfeeding space. |
| 3 | Added value for learning and development: | Examples include the range of experiences and opportunities for learning, such as diverse indoor and outdoor spaces and materials, opportunity for experimentation and creativity, excursions, big muscle, fine motor and proprioceptive development, and the teaching methods and skills applied to these. |

Observed quality will always have an element of subjectivity, but there are groupings of quality indicators that can be used, and a quality 'score' is possible. To develop such a system requires

knowledge of the physical and psychological needs of children at various stages, and an understanding of the environments and resources conducive to learning.

Figure 3: The quality model



Examples of observational quality indicators

- Does the outdoor area have enough room to run?
- Is there green space – grass, other natural areas?
- Is there a primary carer system in place with two teachers assigned as primary carers for each child, (essential for infants and toddlers and those with extra developmental needs, e.g. ESL or children with socialisation problems)?
- Does the environment have genuine quiet spaces and retreat spaces?
- Is a culture of care and respect evident?
- Are there spaces for constructive play and learning that are protected from conflict with other activities?
- Do any children appear 'lost' or disengaged?
- Is there a space where parents can feel welcome, and for infants, space for breastfeeding??
- Have individual children's developmental needs been identified, and are there implemented strategies in place to help children who are at risk or disadvantaged?

All of these indicators relate to both the quality of education and the quality of daily lived experience. The structure illustrated on p13 (Figure 4) contains a research and quality work group. Employing the necessary expertise in this group would make the development of effective and reasonable quality indicators practicable.

Ultimately the critical effect of quality assessment will be for those services at the top and bottom of the system. In a contracting environment, those organisations providing best quality will be likely to be favoured in new proposals for provision, while those at the bottom will be most likely to lose contracts. The providers will need to adjust their service provision to meet the quality indicators.

7 Departmental Structure for QBC

The change to the quality-based contracting model would require a new Departmental structure. The Ministry would be much more active in both its management and promotion of quality, and its management of service capacity. Aside from ancillary services such as IT, finance and HR, the Departmental structure could look like this:

Figure 4: Departmental Structure for Early Care and Education under QBC



All of these groups would be staffed at regional as well as national level.

Contract management and compliance

This section is responsible for the contracts with providers, and includes the following:

- Contract specification.
- Contract acceptance – providers and locations.
- Funding management.
- Employment contracts and conditions.
- Regulatory compliance.
- Complaints determination.

Essential skill base includes regulatory, contract and employment law, quality assurance systems, complaints determination, workplace health and safety, and inspection systems.

Capacity and diversity management (Strategic plan Goal 4.1)

This section manages the analysis of the sector for regional and local capacity and the provision of a range of service types. It will work closely with sector communication, and help direct the contract management group.

- Child population forecasting.
- Identification of gaps or deficits in service provision.
- Identification of capacity risk, including loss of capacity from service removal.
- Understanding of various forms of provision, including sessional, home-based, Kohanga Reo, and various philosophies of ECE and care.
- Understanding of special needs provision.

Essential skill base includes data analysis, risk analysis and forecasting, ECE and care provision types and philosophies (informed by the research, quality and training group).

Research, quality and training

This group is a centre of ECE and care expertise. It is responsible for continuous quality improvement, keeping up to date with and sponsoring research, working with support service providers, and taking an active role in guiding pre-service qualifications and in-service training. This is also the group responsible for quality assessments of centres, replacing the current ERO reviews. Research and quality are holistic, meshing pedagogy and care.

- Maintaining knowledge of international research.
- Sponsoring and assisting NZ ECE sector research.
- Designing and analysing quality surveys and assessment criteria.
- Quality assessment and ranking.
- Working with providers of systems and equipment, e.g. heating systems, architecture, play design.
- Guiding teacher training and in-service training to ensure a balance of pedagogical and care theory and practice, and knowledge of human development.

Essential skill base includes research, training and technical collaboration, with in depth knowledge of the ECE sector.

Sector communication and inter-agency relationships

This group is the communications nerve centre, actively inviting and collecting information from parents, teachers, providers, and as practicable, from children. It works closely with the capacity and diversity management group, to inform them of sector needs. It works with the contract management and compliance group, providing feedback from providers on system efficiency and gaps. It is responsible for two-way communication with providers about service needs and directions. It is also responsible for promoting and supporting relationships with other government agencies such as health and social support, as well as schools.

- Managing quality surveys
- Parent liaison – what do parents need?
- Provider communications – advertising for service needs, signalling directions in contracting
- Teacher liaison and support (teachers are to be viewed by the Ministry staff as colleagues) – observations, concerns, complaints (relayed to the contracts team), requests.
- Wider education sector collaboration.
- Government agency collaboration.
- NGO collaboration.

Essential skill base includes communication, networking, and provision of an open and approachable government agency environment.

8 Transition

The proposal can be implemented seamlessly as far as provision of services is concerned, and it shifts both the operation of Government, and providers, to a greater quality focus. It has costs by way of a more robust governance system, but balancing these costs will be many downstream health benefits, including cost recovery on physical, mental, and emotional health, as well as educational benefits.

All existing licenced ECE Services would be transferred to contracts, unless they pulled out of service provision, or were already on final notice. In the first year:

- 1 All services would be required to conduct parent and teacher surveys for quality, the results of which would be used to prioritise services for contract review.
- 2 Staff retention would be prioritised as a criterion for contractual review.

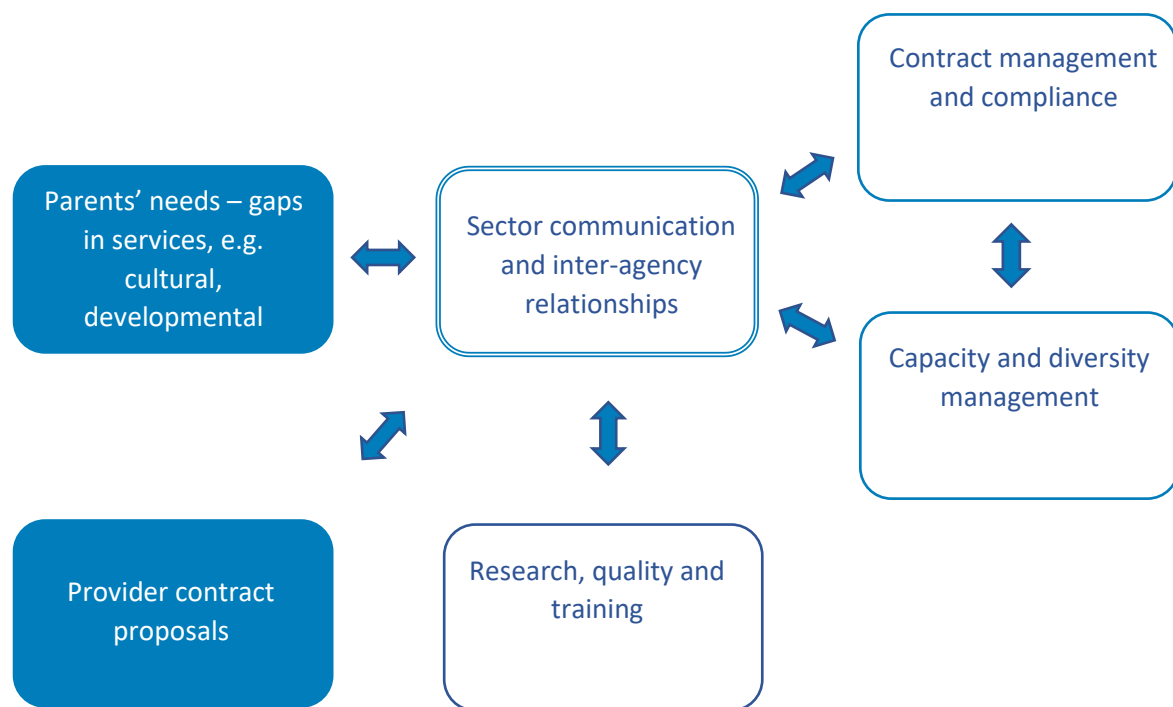
The transition would *not* require existing services to negotiate contracts for existing licenses; the licence would be replaced with a standard contract to the same parameters (maximum numbers of children, etc) as the licence.

Following the first year, aspects such as management qualification, centre location and quality of environments and programmes would be progressively included on a planned and prioritised basis.

9 Operational example of new service development

In this model, parents are actively invited to inform the local Ministry office of their needs. Figure 5 illustrates a situation in which there is a lack of services with outdoor areas suitable for children with sensory, limb or gross motor disabilities, in a particular locality. The research and quality team informs the communication team of the design and approaches that will help. The communication team checks with the capacity and contract teams before advertising for services to provide the missing needs. The existing service providers may choose to meet this need in their existing services, or they or a new provider may offer to establish a new service. Innovation is welcomed. The contracts team incorporates the advice of the research and quality team in the contract, and the capacity team assesses whether the establishment of a new service will produce over-supply of services. If the answer is yes, the contracts team will be ready to flag an end of contract (6 months to one year's notice) to the poorest performing provider in that locality. The mechanism is commercially fair, and the result is service provision better suited to needs, along with overall quality improvement.

Figure 5: Operational example: Information flow for additional services



10 Q & A

The following are responses to questions posed during discussions with various ECE groups.

1 *Does contracting rather than licensing mean a move to a more commercial environment?*

No, QBC addresses an environment that is already substantially commercial, but the current system does not adequately address commercial drivers. In the contracting environment, the Government is the provider, and new service development will be managed to ensure capacity and avoid over-supply.

2 *Will the ability to lose contracts cause too much uncertainty for providers?*

No. The Government will be required to maintain capacity, so loss of contract will only occur for the worst performing centres or providers, and will only affect a small percentage of centres in any one year. A normal end of contract process would be 12-18 months, with opportunity to improve. The objective is improvement, not loss of services. The Ministry will also be active in its engagement with good providers.

3 *Will providers be able to demand compensation for a loss of business?*

This will need legal consideration, but it is not uncommon for a change in law, needed to protect society, to cause some loss of business without compensation. There may be a case to be made where loss is neither because of poor performance nor known bad location or practice, but if for example, a centre was knowingly located contrary to Ministry of Education guidelines for health (exploiting the licensing process), compensation would not be justified.

4 *Will a competitive environment encourage non-collegial behaviour to obtain a contractual advantage?*

Hard to envisage. The contracting process is required to be transparent and subject to appeal. Decisions favouring one provider in a competitive process will be open to scrutiny. In fixed price for volume, quality-based contracting, it is hard to imagine a 'secret' quality advantage.

5 *Will the quality measurement system allow for various pedagogies?*

Yes. The Government will have diversity of provision as a performance goal. The use of 'added value for learning' flags an approach that is based in richness of learning and development opportunity, rather than a narrow definition of learning.

6 *Will it result in a centralised system, out of touch with regional or local needs?*

No. Each Ministry regional office will have its own *capacity and diversity* unit, and its own *sector communication and inter-agency relationships* unit. These two units together will have responsibility for identifying needs in their regions, in communication with parents, teachers and service operators.

7 *Will it increase bureaucracy and transaction costs?*

There will be a cost associated with the administration of contracts, but unlike many Government contracting processes, the vast majority of contracts will be standard-form, very similar in variable detail to current licensing. The Ministry of Education already schedules maximum numbers and required ratios. There will be a need for a specialised team to handle aspects of the contractual process, but the processes will be conducted according to clear guidelines. In the transition, there is no need to negotiate new contracts for existing services, it is simply a rollover from license to contract.

8. *If teachers are to report on their centres, will it place them at risk?*

Teacher feedback will be online, secure and confidential. The focus on teacher care inherent in the system would make it dangerous for a provider to attempt to threaten teachers. It would place their contract at risk.

9. *Could a disaffected teacher use the reporting system to attack an employer?*

They could, but if their report was inconsistent with those of other teachers at the service, it would be treated with caution.

10. *If the action is at the top and bottom of the system, would middle-of-the-range services be able to avoid improving?*

There is less incentive in the middle of the range for providers not wishing to grow. For those who do wish to grow, the good/poor (50th percentile) threshold is critical. This is the line that determines the ability to obtain new or expanded contracts. The whole system is designed to gradually improve however, so where percentile measures are used, a centre can slip down the system by doing nothing to improve.

11. *Why can't the current system deliver the improvements you are wanting?*

The licensing system is a minimum standard system, in which ownership of an ECE centre is a business right, provided that you meet minimum legal standards. It has no mechanism (such as the 50th percentile quality threshold for new contracts) to encourage quality. Removal of a poor quality service requires demonstration of non-compliance, which may be difficult or impossible to prove.

12. *If a good provider takes over a poor quality centre, would they then be penalised for having a poor quality centre?*

This would run contrary to the overall goal of quality improvement – so, no. In fact, this kind of activity would be encouraged. To contractually manage this situation, there would be two quality assessment /development tools applied:

- 1) To get the contract to operate the centre, you would need to be already in the 'good' or 'very good' service provider range, so good quality management (e.g. a trained centre manager, good care and ECE practice), should not be a problem.
- 2) The remaining improvements are likely to physical, so the new operator would provide a prioritised improvement schedule to the satisfaction of the Ministry, aimed at achieving a good or very good environment within say, one year.

There is potential for service providers to specialise and develop skills in exactly this kind of activity. Active assistance from the Ministry for quality improvement (e.g. grants for urgent elements of an upgrade) could be considered.