

Consultation on Tranche One of the Early Learning Regulatory Review

DECEMBER 2020

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How to have your say

If you want to provide feedback on the proposals in this document, you can complete a survey at <https://consultation.education.govt.nz/ece/consultation-on-tranche-one-of-the-early-learning>. You can also send a more detailed written submission to either Earlylearning.Regulatoryreview@education.govt.nz or this postal address:

Early Learning Regulatory Review
Ministry of Education
PO Box 1666
Wellington 6140
New Zealand

The exposure draft of the regulations are available to view at <https://www.education.govt.nz/assets/Documents/Early-Childhood/Consultation-draft-Education-Early-Childhood-Services-Amendment-Reg-v1.7.pdf>

The Ministry of Education requires feedback by 12 February 2021.

If you have any questions about making a submission, or would like more information, please email Earlylearning.Regulatoryreview@education.govt.nz.

Process

The information provided in submissions will be incorporated into the Ministry's policy development process and will inform advice to the Minister of Education.

Your submissions will become public information. This means that a member of the public may ask for a copy of your submission under the Official Information Act 1982. Any submission summary we create as a result of this consultation may also mention your submission. Please tell us if you do not want your name included.

Please also set out clearly in the cover letter or email accompanying your written submission if you have any objection to the release of any information in the submission. It would also be helpful if you outlined which parts you consider should be withheld, together with the reasons for withholding the information. The Ministry will take this into account and will consult with submitters when responding to requests under the Official Information Act and if a summary of submissions is published.

Introduction

What is the early learning regulatory framework?

Early learning services (services) provide education and care for children before they start school. While it is not compulsory, almost all children attend an early learning service at some point.

The early learning sector is diverse, with a range of private and community-based services available to parents and whānau. This includes education and care centres, kindergartens, ngā kōhanga reo, playcentres, home-based early learning services, hospital-based services and playgroups.

The government sets the minimum standards for licensed services and certified playgroups and ensures those standards are met. These standards are set out in the early learning regulatory framework. Strong regulatory standards are important because research shows that high quality early learning services provide a platform for children and tamariki to succeed as lifelong learners.

There are three tiers to the regulatory framework for licensed early learning services.

1. The Education and Training Act 2020 defines service types and empowers regulations and criteria to be developed.
2. The regulations, as set out in the Education (Early Childhood Services) Regulations 2008 (the primary regulations), establish the licensing process and set the minimum standards that all services must follow.
3. The third tier, the licensing criteria, are used to assess compliance with the minimum standards set out in the regulations.

Certified playgroups are governed by their own regulations¹ and certifying criteria. Only licensed services and certified playgroups can receive government funding for children's attendance. The tranche one proposals largely relate to licensed services.

What are the licence types?

There are three licence types for licensed services – probationary licences, full licences, and temporary relocation licences.

A probationary licence is the first step in the licensing process, with every new licensed service starting on this licence. Probationary licences are issued when the Secretary for Education (the Secretary) is satisfied that the service complies with, or is likely to comply with, the regulated standards.² This is important because some standards can only be assessed fairly when a service is operating.

Full licences are granted to services when the Secretary is satisfied that they comply with all minimum standards set out in the regulations.³

A temporary relocation licence can be granted if the service is temporarily relocated to another premises. The premises must either comply with relevant standards or conditions imposed by the Secretary.⁴

Licensing sanctions

The Secretary may reclassify a service with a full or probationary licence to provisional if satisfied that:⁵

- » the service does not comply with the regulations
- » the service does not comply with all the conditions subject to which its licence was issued
- » a complaint lodged against the service provider alleging non-compliance warrants investigation
- » the service has not complied with a written direction from the Secretary within a reasonable time.

A service's licence can also be suspended in certain circumstances.⁶ For example, if it is not in the interests of children attending for the service to continue operating.

1 [Education \(Playgroups\) Regulations 2008](#).

2 Education (Early Childhood Services) Regulations 2008, [reg 11 Grant of probationary licence](#) and [reg 8 Fit and proper persons](#).

3 Education (Early Childhood Services) Regulations 2008, [reg 13 Grant of full licence](#).

4 Education (Early Childhood Services) Regulations 2008, [reg 18 Grant of temporary relocation licence](#).

5 Education (Early Childhood Services) Regulations 2008, [reg 15\(1\) Secretary may reclassify licence as provisional licence](#).

6 Education (Early Childhood Services) Regulations 2008, [reg 30 Suspension of licences](#).

Similarly, in limited circumstances, the Secretary must cancel a service's licence.⁷ For example, if a service's licence has been suspended and they have not complied with the conditions specified in the notice effecting the suspension within a reasonable period.

Why are we doing the Review?

The Ministry has identified a number of areas in the regulations which could be improved in order to enhance the quality of provision and children's health, safety and education. The nature of the early learning sector has also changed significantly since these regulations took effect in 2008. Higher numbers of children are likely to participate in early learning, and at a younger age and for longer hours. The number of licensed services has also increased, with different levels of growth between service types.

The purpose of the Review is to ensure that the regulatory system is clear and fit for purpose to support high quality educational outcomes for our youngest learners. It is also designed to enhance the Ministry's role as regulator and steward of the system.

The Review will be completed in three tranches to ensure the urgent issues are prioritised first. Areas that require more work will be considered in later tranches. This includes some of the recommendations from the Early Learning Action Plan and the Review of Home-based ECE.

What are we consulting on now?

This discussion document covers tranche one proposals. These proposals target parts of the regulatory system that currently pose a degree of risk to children's health, safety and wellbeing, and address regulations which would benefit from clarification.

Tranche one proposals would amend the regulations and licensing criteria in eleven ways:

1. Creating a cancellation pathway based on a service's provisional licence history.

2. Issuing a provisional licence to carry out an investigation in the event of an incident involving a child.
3. Creating written directions for health and safety matters that require immediate attention.
4. Clarifying the provisions for licence amendments when the service provider changes.
5. Removing the 21-day minimum notice period for suspensions for change of control.
6. Removing the 21-day minimum notice period for suspensions for not returning an invalid licence.
7. Clarifying the information used to assess an application for a probationary licence.
8. Increasing the minimum room temperature from 16 degrees to 18 degrees Celsius.
9. Clarifying that the fee for a new licence is payable upon application and is non-refundable.
10. Consolidating existing person responsible requirements.
11. Amending the Licensing Criteria for philosophy statements, self-review and annual planning, requiring services to demonstrate regard for the Statement of National Education and Learning Priorities (NELP).

The Ministry aims to implement these proposals in 2021.

⁷ Education (Early Childhood Services) Regulations 2008, [reg 32 Cancellation of licences](#) and [reg 17\(4\) Duration of provisional licence](#).

Proposal 1:

Creating a cancellation pathway based on a service's provisional licence history

The problem

Currently, there is no statutory limit to the number of times a service can be put on a provisional licence. A service will be returned to a full licence if it meets the conditions within the specified timeframes. There are particular circumstances where the Secretary must cancel a service's licence.⁸ This means that a service can potentially cycle on and off a provisional licence for not complying with the regulations, including repeated breaches of the same regulation.

If a service is cycling on and off a provisional licence, it is unlikely to be consistently complying with the regulations. This is particularly concerning for services repeatedly being put on a provisional licence for the same type of breach. This pattern of behaviour could be putting children's health, safety, and education at risk.

Suggested changes and benefits

In Clause 12 of the draft regulations, we are proposing to amend regulation 32 to give the Secretary the power to cancel a licence based on a service provider's provisional licence history for that service. The Secretary would be able to consider a service provider's licensing history before deciding whether to issue the service with a further provisional licence or cancel the licence entirely.

As part of this process, the Secretary would consider the likelihood of the service provider being able to meet the conditions set out in the provisional licence, and may take into consideration the service provider's previous behaviour with that service.

12 Regulation 32 amended (Cancellation of licences)

- (1) In regulation 32(1)(d)(iii), replace "." with "; or".
- (2) After regulation 32(1)(d), insert:
 - (e) the service provider for a licensed early childhood service—
 - (i) has previously had a probationary or full licence reclassified as a provisional licence; and
 - (ii) is currently not compliant with 1 or more of the following:
 - (A) the curriculum standard: general set out in regulation 43;
 - (B) the qualifications, ratios, and service-size standard: general set out in regulation 44;
 - (C) the premises and facilities standard: general set out in regulation 45;
 - (D) the health and safety practices standard: general set out in regulation 46;
 - (E) the governance, management, and administration standard: general set out in regulation 47; and
 - (iii) is not likely to comply with those standards in the future.

Questions

If there is evidence that a service is unable to consistently comply with the regulations, should the Secretary be able to cancel the licence?

Would it be more appropriate for the Secretary to continue to reclassify a service's licence as provisional without having a pathway to cancellation?

What do you think the Secretary should consider when cancelling a licence and should this be more explicit in the regulations? For example, the number or frequency of provisional licences.

⁸ Education (Early Childhood Services) Regulations 2008, [reg 32 Cancellation of licences](#) and [reg 17\(4\) Duration of provisional licence](#).

Proposal 2:

Issuing a provisional licence to carry out an investigation in the event of an incident involving a child

The problem

Services can have their full or probationary licence reclassified as provisional in certain circumstances.⁹ One circumstance is if there has been a complaint that the Secretary considers warrants investigation. There may be times when the Secretary is notified of other incidents (not via a complaint) that the Secretary considers warrants investigation. In these situations, the Secretary does not have the ability to reclassify the licence as provisional ahead of an investigation to determine if there has been a breach of the regulations.

Suggested changes and benefits

The Secretary needs to be able to reclassify a licence as provisional as soon as they are made aware of such an incident involving a child. With this power, the Secretary would be able to require that an investigation takes place and that the Ministry is kept informed of progress and that the investigation is completed in a timely manner. Depending on the specific condition, either the service and/or a third party would undertake the investigation.

In Clause 9(1) of the draft regulations, we propose to insert regulation 15(1)(ca) to clarify that the Secretary can issue a provisional licence while an investigation is carried out.

9 Regulation 15 amended (Secretary may reclassify licence as provisional licence)

- (1) After regulation 15(1)(c), insert:
- (ca) an incident involving a child has occurred at the early childhood service for which the licence was issued, and the Secretary considers that the incident warrants investigation; or

Questions

Do you agree that the Secretary should have the ability to reclassify a licence as provisional following an incident involving a child while an investigation takes place?

Do you agree that Clause 9(1) would make it clear that the Secretary may reclassify a licence as provisional after being notified of an incident while an investigation takes place?

⁹ Education (Early Childhood Services) Regulations 2008, [reg 15\(1\) Secretary may reclassify licence as provisional licence](#).

Proposal 3:

Creating written directions for health and safety matters that require immediate attention

The problem

There are two regulatory tools available to the Secretary when a service needs to address a health and safety matter. If a service has breached the regulations, the Secretary can reclassify a service's licence as provisional or suspend the licence.

These tools can cause delays in addressing health and safety matters that are posing a risk to children and staff and therefore require immediate attention.

An alternative approach, where the Secretary informally asks for a service to address a health and safety matter, does not form part of a service provider's licensing history. There is also no sanction available if the service provider does not comply with the informal request, unless the issue is serious enough to warrant a provisional licence or suspension.

Suggested changes and benefits

We are proposing to expand the situations where the Secretary can issue written directions to include health and safety matters that require immediate attention. This would mean that the Secretary would require a service provider to immediately address a health and safety matter without needing to reclassify the licence as provisional or suspend the licence. This tool would only be used in situations where the issue can be dealt with quickly and safely while the service remains open.

This new mechanism could be used independently, or in combination with, the stronger licensing interventions outlined in the regulations.

The benefit of this change is that it improves the Secretary's ability to address health and safety matters effectively, reducing risks to children and staff, without needing to resort to more intensive licensing sanctions such as suspending the licence.

Clause 14 of the draft regulations inserts regulation 54A into the primary regulations. This would enable the Secretary to issue a written direction to a service provider to remedy an immediate health and safety issue.

Clause 4 also defines what is meant by an 'immediate health and safety risk' and indicates that the risk should be able to be dealt with safely while the service continues to operate. This definition would be inserted into the interpretation section of the primary regulations.

Clause 14 proposes that the written direction will need to specify the length of time that the service provider will have to comply with the direction, which must be no longer than 5 working days.

Clause 14 has also been drafted to make it clear that if a service does not comply with a written direction, the Secretary may suspend its licence or reclassify it as a provisional licence. Clause 9 would amend regulation 15 to enable the Secretary to reclassify a licence as provisional if the written direction is not complied with within the specified timeframe.

14 New regulation 54A inserted (Secretary may direct service provider to remedy immediate health and safety risk)

After regulation 54, insert:

54A Secretary may direct service provider to remedy immediate health and safety risk

- (1) The Secretary may, in writing, direct the service provider of a licensed service to remedy an immediate health and safety risk.
- (2) In directing the service provider of a licensed service to remedy an immediate health and safety risk, the Secretary may impose any conditions that the Secretary thinks fit relating to the risk and the continued operation of the service.
- (3) The direction must include the date by which the service provider is to have remedied the immediate health and safety risk, which must be a date not later than 5 working days after the date of the direction.
- (4) For the avoidance of doubt, a failure to comply with a written direction under this regulation may result in the reclassification of the service's licence as a provisional licence under regulation 15 or the suspension of the service's licence under regulation 30.

4 Regulation 3 amended (Interpretation)

In regulation 3, insert in its appropriate alphabetical order:

immediate health and safety risk means a thing or an activity that, in the opinion of the Secretary,—

- (a) is, or is likely to be, a breach of these regulations; and
- (b) is a risk to the health and safety of any person; and
- (c) is capable of being remedied safely while the relevant early childhood service continues to operate

9 Regulation 15 amended (Secretary may reclassify licence as provisional licence)

- (2) Replace regulation 15(1)(d) with:

(d) the service provider for a licensed early childhood service has not complied with a written direction from the Secretary under these regulations (other than a written direction issued under regulation 54A) within a reasonable time; or

(e) the service provider for a licensed early childhood service has not complied with a written direction from the Secretary under regulation 54A within the time specified in that direction.

Questions

Does this tool strike the right balance between requiring a service to immediately address health and safety matters while allowing them to stay open and protecting the health and safety of the children and staff at the service?

Do you agree that services should have up to 5 working days to rectify the health and safety issue, or do you think that the 5 working days should apply in all situations? Is 5 working days an appropriate length of time?

Do you agree that the Secretary should be able to suspend a licence (if it is not in the interests children to attend) or reclassify it as a provisional licence if a service has not complied with a written direction within a specified timeframe?

Proposal 4:

Clarifying the provisions for licence amendments when the service provider changes

The problem

An existing service provider operating a service must apply for a licence amendment¹⁰ if there is a change in the identity of the service provider.¹¹ Before accepting or declining the licence amendment, the Secretary must be satisfied that the proposed service provider is a ‘fit and proper person’ and must ‘review the licence’.

Currently, the regulations for licence amendments when the service provider changes do not clearly state that the application needs to be made before the change occurs, or what is meant by ‘reviewing the licence’.

The lack of clarity means that some service providers use the licence amendment process to effectively start a new service rather than applying for a new licence. This may pose a degree of risk to children’s health, safety and education. Changes are needed to make it clear that before operating, every person proposing to run an early learning service is assessed as a fit and proper person and that the service will be able to comply with regulations.

Suggested changes and benefits

Clause 13(1) amends regulation 33(1)(c) of the primary regulations to clarify that service providers must apply to the Secretary for a licence amendment if there is a proposed change in the identity of the service provider operating the service before the change occurs.¹²

Clause 13(2) inserts regulation 33(4A) into the primary regulations. This would clarify that the phrase ‘review the licence’ gives the Secretary

discretion to use any assessments used for granting a probationary licence¹³ and/or for granting a full licence.¹⁴

13 Regulation 33 amended (Amendment of licences)

- (1) Replace regulation 33(1)(c) with:
 - (c) the service provider wants to make any change in the identity of the service provider operating the licensed early childhood service.
- (2) In regulation 33(2), replace “or amend any of the particulars specified in it” with “amend any of the particulars specified in it, or decline to amend the licence”.
- (3) In regulation 33(4), replace “or amend any of the particulars specified in it” with “amend any of the particulars specified in it, or decline to amend the licence”.
- (4) After regulation 33(4), insert:
 - (4A) In reviewing a licence under subclause (4), the Secretary may consider, to the extent relevant, any matter referred to in regulations 11(1) and 13. service’s licence under regulation 30.

Questions

Do you agree that Clause 13(1) would better reflect that service providers have to apply for an amendment before there is a change in the identity of the service provider?

Do you agree that Clause 13(2) would better reflect that the Secretary has the discretion to use appropriate assessments?

¹⁰ Education (Early Childhood Services) Regulations 2008, [reg 33\(1\)\(c\) Amendment of licences](#).

¹¹ If a service is no longer under the control of its licensed service provider, the Secretary can suspend the licence. Education (Early Childhood Services) Regulations 2008, [reg 30\(2\) Suspension of licences](#).

¹² Education (Early Childhood Services) Regulations 2008, [reg 33\(1\)\(c\) Amendment of licences](#).

¹³ Education (Early Childhood Services) Regulations 2008, [reg 11 Grant of probationary licence](#).

¹⁴ Education (Early Childhood Services) Regulations 2008, [reg 13 Grant of full licence](#).

Proposal 5:

Removing the 21-day minimum notice period for suspensions for change of control

The problem

The service provider must apply for a licence amendment if there is going to be a change in the identity of the service provider operating the service.¹⁵ If a service is no longer under the control of its licenced service provider, the Secretary can suspend the licence,¹⁶ which prevents the service from operating and receiving government funding. The notice period for the suspension must be at least 21 days after the day on which the notice of a suspension is given.¹⁷

The 21-day minimum notice period could pose a risk to children’s wellbeing, as the service could be controlled by people that have not been through appropriate assessments.¹⁸

Suggested changes and benefits

We are proposing to remove the 21-day minimum notice period for suspensions if a service is no longer under the control of its licensed service provider. This would allow the Ministry to respond more promptly to risks to children’s health and safety. A suspension could take effect immediately upon notice of the suspension or at a later date. This timeframe would align with the timeframes for suspensions for other grounds.

When a service’s licence is suspended, the Ministry would continue to work with families to find alternative provision.

Clause 11 of the draft regulations would mean that any suspensions can take effect on a day specified in the notice effecting it and may be immediate.

11 Regulation 31 amended (Effects and consequences of suspension)

- (1) In regulation 31(1), replace “regulation 30(1)” with “regulation 30”.
- (2) Revoke regulation 31(2).

Questions

Do you agree with removing the 21-day minimum notice period for suspensions when there is a change in the identity of the service provider? (Clause 11)

Do you think there would be any difficulties arising from this change?

As an alternative, do you think the minimum notice period should be set at a number lower than 21 days rather than removing it completely?

15 Education (Early Childhood Services) Regulations 2008, [reg 33\(1\)\(c\) Amendment of licences.](#)

16 Education (Early Childhood Services) Regulations 2008, [reg 30\(2\) Suspension of licences.](#)

17 Education (Early Childhood Services) Regulations 2008, [reg 31\(2\) Effect and consequences of suspension.](#)

18 Education (Early Childhood Services) Regulations 2008, [reg 33\(4\) Amendment of licences.](#)

Proposal 6:

Removing the 21-day minimum notice period for suspensions for not returning an invalid licence

The problem

If a service has been put on a provisional licence it must return its licence to the Secretary.¹⁹

If the service provider does not return the full or probationary licence during this period, the Secretary can suspend the licence, which stops it from operating and receiving government funding.²⁰ The notice period for the suspension must be at least 21 days after the day on which the notice of a suspension is given.²¹

When a service is on a provisional licence, it may need to resolve significant issues which pose a degree of risk to children’s health, safety and education. Services must prominently display the current licence.²² If the invalid licence is still on display, parents and whānau may not have the opportunity to avoid the risks listed on the provisional licence.

Suggested changes and benefits

We are proposing to remove the 21-day minimum notice period for suspensions for not returning an invalid licence. This would enable the Ministry to respond more promptly to any risks.

The suspension could take effect immediately upon notice of the suspension or at a later date. This timeframe would align with the timeframes for suspensions for other grounds. When a service’s licence is suspended, the Ministry would continue to work with families to find an alternative service.

Clause 11 of the draft regulations amends regulation 31(1) and revokes 31(2) of the primary regulations. This means that any suspension can take effect on a day specified in the notice effecting it and may be immediate.

11 Regulation 31 amended (Effects and consequences of suspension)

(1) In regulation 31(1), replace “regulation 30(1)” with “regulation 30”.

(2) Revoke regulation 31(2).

Questions

Do you agree with removing the 21-day minimum notice period for suspensions for not returning a full or probationary licence when it is invalid? (Clause 11)

Do you think there would be any difficulties arising from this change?

As an alternative, do you think the minimum notice period should be set at a number lower than 21 days rather than removing it completely?

19 Education (Early Childhood Services) Regulations 2008, [reg 15\(2\)\(a\) Secretary may reclassify licence as provisional licence](#).

20 Education (Early Childhood Services) Regulations 2008, [reg 30\(3\) Suspension of licences](#).

21 Education (Early Childhood Services) Regulations 2008, [reg 31\(2\) Effect and consequences of suspension](#).

22 Licensing Criteria for centre-based ECE services, [GMA1 Display of information](#); Licensing Criteria for hospital-based ECE services, [GMA1 Display of information](#); Licensing Criteria for Kōhanga reo, [GMA1 Display of information](#).

Proposal 7:

Clarifying the information used to assess an application for a probationary licence

The problem

Currently, the Secretary must grant a probationary licence if they are satisfied on reasonable grounds that a service is likely to comply with the curriculum, health and safety standards, and the governance, management, and administration standards.²³

The current wording implies that the Secretary can only assess applications based on information provided by the applicant, rather than any relevant public or Ministry-held information. If applicants do not provide all relevant information, we ask if there is anything they would like to add to their application. However, the applicant may continue to withhold information.

Suggested changes and benefits

We are proposing to amend the regulations relating to the granting of a probationary licence to clarify that the Secretary can draw from public or Ministry-held information, as well as information provided by the service provider, when assessing licence applications.

The major benefit of this change is that it clarifies that the Secretary can use all relevant information to assess applications for probationary licences. It should also speed up the process for applicants if relevant information is missing from their application for any reason.

8 Regulation 11 amended (Grant of probationary licence)

In regulation 11(1)(b), after “applicant”, insert “and any other information the Secretary considers relevant”.

Questions

Do you agree with how the proposed regulations have been drafted?

²³ Education (Early Childhood Services) Regulations 2008, [reg 11\(1\)\(b\) Grant of probationary licence.](#)

Proposal 8:

Increasing the minimum room temperature from 16 degrees to 18 degrees Celsius

The problem

Currently, licensed services must keep the minimum indoor room temperature to at least 16 degrees Celsius.²⁴ However, this minimum does not comply with World Health Organisation guidelines, which recommends a minimum of 18 degrees for residential living spaces. During COVID-19 Alert Level 3, the minimum temperature for services was increased to 18 degrees for public health reasons.

Suggested changes and benefits

We are proposing to permanently increase the minimum indoor temperature to 18 degrees Celsius in the Licensing Criteria for licensed services. This would improve the health, safety and comfort for children attending early learning services.

Questions

Do you agree that the minimum indoor room temperature in the licensing criteria should increase from 16 to 18 degrees Celsius?

²⁴ Licensing Criteria for centre-based ECE services, [HS24 Room temperature](#); Licensing Criteria for hospital-based ECE services [HS8 Room temperature](#); Licensing Criteria for home-based ECE services, [HS21 Room temperature](#); Licensing Criteria for Kōhanga reo, [HS24 Room temperature](#).

Proposal 9:

Clarifying that the fee for a new licence is payable upon application and is non-refundable

The problem

Service providers pay a one-off fee when applying for a new licence. This is designed to cover some of the costs that the Ministry incurs when processing and assessing applications. This is important because the licensing process typically requires considerable time and resource.

Currently the wording implies that an application can be made and processed before the fee is paid.

Suggested changes and benefits

In Clause 5, we are proposing to merge the regulations relating to the application for a new licence²⁵ and the licensing fee²⁶ to clarify that the fee is payable on application and is non-refundable. This is consistent with the cost recovery intent of the fee and should incentivise service providers to submit high quality applications from the outset, so they only pay the fee once.

5 Regulation 5 amended (Applications for licences)

- (1) In the heading to regulation 5, after “**licences**”, insert “**and application fees**”.
- (2) In regulation 5, insert as subclauses (2) and (3):
- (3) The application must be accompanied by an application fee of \$2,756.25.
- (4) The fee is inclusive of goods and services tax and is non-refundable.

10 Regulation 25 revoked (Licensing fee)

Revoke regulation 25.

Questions

Do you agree that having the fee payable upon application and non-refundable better meets the purpose of the application fee?

25 Education (Early Childhood Services) Regulations 2008, [reg 5 Applications for licences](#).

26 Education (Early Childhood Services) Regulations 2008, [reg 25 Licensing fee](#).

Proposal 10:

Consolidating existing person responsible requirements

The problem

In teacher-led centres,²⁷ hospital-based services and home-based services, a person responsible must hold a recognised qualification²⁸ and be registered and certificated with the Teaching Council of Aotearoa New Zealand.²⁹ This requirement is set out across the primary regulations, the Education (Registration of Early Childhood Services Teachers) Regulations 2004, and the Education and Training Act 2020.

In 2019, during consultation on changes to the person responsible requirement in teacher-led centres, several respondents suggested requiring the person responsible to hold a practising

certificate. This shows that there is some misunderstanding of the person responsible requirement within the sector.

Suggested changes and benefits

We propose clarifying the practising certificate requirement for these services in Schedule 1 of the primary regulations. This should enhance sector understanding of the requirement.

Questions

Do you agree that the proposed changes to Schedule 1 are clear and easy to follow?

Schedule 1	
Qualification requirements	
Service	Requirement
Licensed education and care centres affiliated with Te Whānau Tupu o Aotearoa – Playcentre Aotearoa	Person responsible must hold recognised qualification
Licensed education and care centres affiliated with Te Kōhanga Reo National Trust Board	Person responsible must hold recognised qualification and practising certificate
Licensed home-based education and care services	Person responsible must hold recognised qualification and practising certificate
Licensed hospital-based education and care services	Person responsible must hold recognised qualification and practising certificate
Licensed education and care centres not affiliated with either of the following:	
» Te Whānau Tupu Ngātahi o Aotearoa – Playcentre Aotearoa:	
» Te Kōhanga Reo National Trust Board	
All services recognised as a teacher led service (as defined in regulation 44(4))	50% of required staff must hold recognised qualification

²⁷ Teacher-led kōhanga reo and playcentre are excluded from the practising certificate requirement under the Education (Registration of Early Childhood Teachers) Regulations 2004.

²⁸ Education (Early Childhood Services) Regulations 2008, [reg 3 Interpretation](#) and [sch 1 Qualification requirements](#).

²⁹ Education (Early Childhood Services) Regulations 2008, [reg 3 Interpretation](#); Education (Registration of Early Childhood Services Teachers) Regulations 2004, [reg 6 Meaning of person employed in teaching position](#); and the Education and Training Act 2020, [s 92 Restrictions on appointment of teachers](#); [s 93 Restrictions on continued employment of teachers](#).

Proposal 11:

Amending the licensing criteria for philosophy statements, self-review and annual planning, requiring services to demonstrate regard for the Statement of National Education and Learning Priorities (NELP)

The context

Education legislation requires all licensed early learning services to have regard to the Statement of National Education and Learning Priorities (NELP).³⁰ The NELP set out the Government's education priorities across the education system for early learning services, schools and kura to help every child and young person to progress and achieve their aspirations.

In late 2019, the Ministry consulted on the NELP within *Shaping a Stronger Education System with New Zealanders*.³¹ Following the feedback, the Government finalised its priorities for inclusion in the NELP and announced these on 13 November 2020. Service providers are required to have regard for the NELP in how they govern and manage their licensed early learning service.

You can read the proposed amendments to the GMA licensing criteria for the philosophy statement, self-review and annual planning processes in the Appendix at the end of this document.

Questions

Do you agree that the proposed changes to the licensing criteria provide services with enough information on how to demonstrate having regard to the NELP?

Are there any examples of practice or areas that you would like to see covered in the guidance?

Suggested changes and benefits

We propose amending existing governance, management and administration (GMA) licensing criteria for licensed early learning services relating to philosophy statements,³² self-review³³ and annual planning.³⁴ The proposal means service providers will be required to document and demonstrate how the NELP will be central in the planning, operation and self-review/internal evaluation³⁵ of a licensed early learning service.

³⁰ Introduced in Education Act 1989, [s 1A Minister may issue statement of national education and learning priorities](#), now Education and Training Act 2020, [s 5 Minister may issue statement of national education and learning priorities](#); Education (Early Childhood Services) Regulations 2008, [reg 47 Governance, management, and administration standard: general](#).

³¹ The NELP consultation material is available on the [Kōrero Mātauranga website](#).

³² Licensing Criteria for centre-based ECE services, [GMA5 Philosophy statement](#); Licensing Criteria for hospital-based ECE services, [GMA5 Philosophy statement](#); Licensing Criteria for home-based ECE services, [GMA4 Philosophy statement](#); Licensing Criteria for Kōhanga reo, [GMA5 Philosophy statement](#).

³³ Licensing Criteria for centre-based ECE services, [GMA 6 Self-review](#); Licensing Criteria for hospital-based ECE services, [GMA6 Self-review](#); Licensing Criteria for home-based ECE services, [GMA5 Self-review](#); Licensing Criteria for Kōhanga reo, [GMA6 Self-review](#).

³⁴ Licensing Criteria for centre-based ECE services, [GMA8 Annual plan](#); Licensing Criteria for hospital-based ECE services, [GMA8 Annual plan](#); Licensing Criteria for home-based ECE services, [GMA7 Annual plan](#); Licensing Criteria for Kōhanga reo, [GMA8 Annual plan](#).

³⁵ The Education Review Office uses internal evaluation to mean the use of robust processes to systematically inquire into and evaluate the effectiveness of policies, programmes, and practices. It is an important component of self-review. ERO guidance on conducting internal evaluation, *Effective Internal Evaluation for Improvement*, is available online: <https://www.ero.govt.nz/assets/Uploads/Effective-internal-evaluation-for-improvement.pdf>.

Appendix:

Proposed amendments to documentation required under licensing criteria relating to philosophy statements, self-review and annual planning

This proposed amendment to licensing criteria applies to the documentation required for all licensed early learning services related to the following criteria:

- » Philosophy statement: GMA5 of the licensing criteria for centre-based ECE services, hospital-based ECE services, and kōhanga reo / GMA4 of the licensing criteria for home-based ECE services.
- » Self-review: GMA6 of the licensing criteria for centre-based ECE services, hospital-based ECE services, and kōhanga reo / GMA5 of the licensing criteria for home-based ECE services.
- » Annual planning: GMA8 of the licensing criteria for centre-based ECE services, hospital-based ECE services, and kōhanga reo / GMA7 of the licensing criteria for home-based ECE services.

The licensing criteria for all licensed services are available online at <https://www.education.govt.nz/early-childhood/licensing-and-regulations/the-regulatory-framework-for-ece/licensing-criteria/>.

Proposed changes to the current licensing criteria are in bold below.

PHILOSOPHY STATEMENT - GMA5/GMA4

Current wording

Criterion:

A [philosophy](#) statement guides the service's operation.

Documentation required:

A written statement expressing the service's beliefs, values, and attitudes about the provision of early childhood education and care.

Rationale/Intent:

The criterion aims to ensure that the service has information available for parents and staff about the philosophy that underpins their provision of early childhood education and care. This information supports the collaboration between parents and the service to achieve positive outcomes for children.

Proposed new wording

Criterion:

A [philosophy](#) statement guides the service's operation.

Documentation required:

A written statement expressing the service's beliefs, values, and attitudes about the provision of early childhood education and care. **The statement also demonstrates how the service's philosophy has regard to the Statement of National Education and Learning Priorities (NELP).**

Rationale/Intent:

The criterion aims to ensure that the service has information available for parents and staff about the philosophy that underpins their provision of early childhood education and care. This information supports the collaboration between parents and the service to achieve positive outcomes for children, **and aligns with the Statement of National Education and Learning Priorities (NELP).**

SELF-REVIEW - GMA6/GMA5

Current wording

Criterion:

An ongoing [process](#) of self-review helps the service maintain and improve the quality of its education and care.

Documentation required:

1. A process for reviewing and evaluating the service's operation (for example, learning and teaching practices, [philosophy, policies, and procedures](#)) by the people involved in the service. The process is consistent with [criterion GMA4](#), and includes a schedule showing timelines for planned review of different areas of operation.
2. [Recorded](#) outcomes from the review process.

Rationale/Intent:

The criterion is to ensure that services have processes for continual improvement to maintain the quality of the education and care provided to children. It is underpinned by the belief that ongoing self-review is part of good management and administration.

Proposed new wording

Criterion:

An ongoing [process](#) of self-review and **internal evaluation** helps the service maintain and improve the quality of its education and care.

Documentation required:

1. A process for reviewing and evaluating the service's operation (for example, learning and teaching practices, [philosophy, policies, and procedures](#)) by the people involved in the service. The process is consistent with [criterion GMA4](#), and includes a schedule showing timelines for planned review of different areas of operation.
2. [Recorded](#) outcomes from the review process, **which identify how the service has regard for the Statement of National Education and Learning Priorities (NELP) in its operation.**

Rationale/Intent:

The criterion is to ensure that services have processes for continual improvement to **maintain support** the quality of the education and care provided to children. It is underpinned by the belief that ongoing self-review and **internal evaluation** is part of good management and administration.

ANNUAL PLANNING - GMA8/GMA7

Current wording

Criterion:

An annual plan guides the service's operation.

Documentation required:

An annual plan identifying 'who', 'what', and 'when' in relation to key tasks undertaken each year.

Rationale/Intent:

An annual plan is part of good business practice and will show the Ministry of Education how the service intends to ensure ongoing compliance with all regulatory requirements and criteria.

Proposed new wording

Criterion:

An annual plan guides the service's operation.

Documentation required:

An annual plan identifying 'who', 'what', and 'when' in relation to key tasks **undertaken the service intends to undertake** each year, and **how key tasks will have regard to the Statement of National Education and Learning Priorities (NELP).**

Rationale/Intent:

An annual plan **is part of good business practice** and will show **the Ministry of Education** how the service intends to ensure ongoing compliance with all regulatory requirements, **criteria, and the Statement of National Education and Learning Priorities (NELP).**

...the first time I saw you, I was struck by your smile. It was like a warm blanket on a cold day. I remember the way your eyes sparkled when you laughed, and how your hair smelled like sunshine. You were everything I needed in a partner, and I knew from that moment on that you were the one.

...I never thought I would find someone who understood me so completely. You were my rock, my confidante, and my best friend all in one. We spent countless hours talking about our dreams, our fears, and our hopes for the future. You encouraged me to pursue my passions and supported me through every challenge I faced. You were my anchor in a sea of uncertainty, and I knew that no matter what, you would be there for me.

...I will cherish the memories we shared together forever. From our first date to our last, every moment was precious. I will miss your touch, your voice, and your presence. But I know that you are out there somewhere, and I hope you are happy. I hope you found someone who loves you as much as you loved me. I hope you are still smiling and laughing, just like you always were. I hope you are still the beautiful, kind, and wonderful person that you were when we first met.

...I love you, and I always will. You were my heart, my soul, and my everything. You were the love of my life, and I will miss you every day. But I know that you are still with me, and I know that you are still watching over me. I know that you are still smiling at me from above, and I know that you are still the love of my life. I will always love you, and I will always be grateful for the love that you gave me.

...I hope you are happy, and I hope you are still smiling. I hope you are still the beautiful, kind, and wonderful person that you were when we first met. I hope you are still the love of my life, and I hope you are still my heart, my soul, and my everything. I will always love you, and I will always be grateful for the love that you gave me.

We **shape** an **education** system that delivers
equitable and **excellent outcomes**

He mea **tārai** e mātou te **mātauranga**
kia **rangatira** ai, kia **mana taurite** ai ōna **huanga**