

10 February 2021

Consultation on Tranche One of the Early Learning Regulatory Review

We are pleased to provide comment to the Ministry of Education on Tranche One of the Early Learning Regulatory Review.

About us | Ko mātou

Te Rito Maioha Early Childhood New Zealand (ECNZ) is an Incorporated Society of members committed to high quality early childhood education for every child. Established in 1963, the organisation is an influential leader in shaping today's early childhood sector through advocacy, policy, tertiary education qualifications and professional development programmes.

We advocate for early childhood education services and the teachers | kaiako who provide education to thousands of infants, toddlers, and children | tamariki. Our members are drawn from a diverse range of community-based, privately-owned, early childhood education centres, kindergartens and homebased services.

Te Rito Maioha is also a registered Private Training Establishment (PTE) with the highest Category One rating for a tertiary provider. We are accredited and approved by New Zealand Qualifications Authority (NZQA) to deliver a range of undergraduate, graduate, and postgraduate qualifications (levels 4-9), including specialist teacher | kaiako education, both nationally and internationally.

We are committed to achieving high-quality teaching and learning by:

- increasing teachers' | kaiako knowledge of Te Tiriti o Waitangi and Aotearoa New Zealand's dual cultural heritage
- providing access to online blended delivery of undergraduate, graduate, and postgraduate tertiary education programmes leading to recognised and approved qualifications
- promoting quality teaching and leadership through ongoing professional learning and development programmes
- providing a range of unique resources and services to our members.

General Comments

We support regulations that reflect the urgency and immediacy in acting, where health and safety is at risk. We generally agree with the 11 proposals that are included in this tranche of the review. We would like to provide specific feedback on either the content of, or the questions asked about the following proposals:

- Proposal 1: Creating a cancellation pathway based on a service's provisional licence history
- Proposal 2: Issuing a provisional licence to carry out an investigation in the event of an incident involving a child
- Proposal 3: Creating written directions for health and safety matters that require immediate attention
- Proposal 4: Clarifying the provisions for licence amendments when the service provider changes
- Proposal 7: Clarifying the information used to assess an application for a probationary licence

In addition, we have a comment on the draft Amendment Regulations.

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

We agree that where there is evidence that a service is unable to consistently comply with the regulations, that the Secretary should be able to cancel the licence.

In terms of what the Secretary should consider when cancelling a licence (question 3), there needs to be sufficient flexibility for licensing advisors so more serious health and safety breaches do not have as much leeway than less serious. This could work well with the issuing of written directions (Proposal 3). We ask is there a point reached if a service is consistently unable to meet/comply with the regulations that no level of health and safety breach is acceptable?

Proposal 2: Issuing a provisional licence to carry out an investigation in the event of an incident involving a child

By having services displaying the provisional licence with a condition to be met of investigating the incident, there will be greater transparency for not only parents and whānau, but also service staff. This will ensure that all staff are informed of incidents and can have conversations if required.

It is noted that the provisional licence status is supplied to ERO. This will mean that after the service's full licence is reinstated following the investigation, the service's next ERO review will be an Akanuku | Assurance review. This will impact both the service and potentially ERO's planning and workload. Are the processes and protocols between MoE and ERO sufficiently rigorous to assure services the process will be efficient?

Another consequence is that these provisional licences will be included in OIA releases (either in the form of high-level numbers or reasons for the provisional) which could lead to media interest and reputational damage for services.

Proposal 3: Creating written directions for health and safety matters that require immediate attention

The length of time services have to rectify issues (up to 5 working days) may not be sufficient if a tradesperson is required.

We note that regulation 54(A) only states failure to comply **may result** in reclassification to provisional or suspension. Guidance will need to be provided for Ministry licensing advisers so there is consistency in applying discretion.

Is there benefit in trying to describe the circumstances under which the service would need to close to address the issue and at that point have their licence suspended? At what point do you make that decision? And who makes it? Some services could argue they need and can stay open because they don't want to lose funding.

Proposal 4: Clarifying the provisions for licence amendments when the service provider changes

While we agree with the changes proposed, there will need to be accompanying guidance developed for the Ministry website about the new process and actions needed to be taken by an owner when selling a service.

Proposal 7: Clarifying the information used to assess an application for a probationary licence

The changed wording in Clause 8 “any other information the Secretary considers relevant” doesn’t make it clear that this includes both Ministry held information as well as information in the public domain. Potentially this clarification could be added to guidance on the Ministry website about applying for a licence.

Draft Amendment Regulations:

Clauses 6 and 7 refer to an applicant’s involvement in the provision of existing services licensed under section 319N of the Education Act 1989 (as it read before its appeal). Do there need to be similar provisions for applications / licences issued since the Education and Training Act 2020 came into force? i.e., is there also an intent for regulations 7(f)(i) and 8(f)(i) to apply to an applicant’s previous involvement in the provision of an existing service licensed under section 636 of the Education and Training Act?

Make submission to the Ministry of Education by 12 February 2021.

Key contact for Te Rito Maioha Early Childhood New Zealand:

Kathy Wolfe, Chief Executive

kathy.wolfe@ecnz.ac.nz 04 471 6802

