



16 February 2021

Susan Bates  
[fyi-request-14407-104c6944@requests.fyi.org.nz](mailto:fyi-request-14407-104c6944@requests.fyi.org.nz)

Dear Susan

Thank you for your email of 6 January 2021 to the Ministry of Education requesting the following information:

*"...Please send me the minutes of all meetings of this Committee. [Advisory Committee for Regulation Review Early Childhood Education]"*

Your request has been considered under the Official Information Act 1982 (the Act).

We have identified that there are three documents that fall within scope of your request attached as **Appendix A**. We are releasing these three documents to you in full.

As you may be aware that the Early Learning Regulatory Review (Sector) Advisory Group was established in 2020 to provide sector insights into the regulatory review, and there have been three meetings since the group was established.

For further information on the Early Learning Regulatory Review Advisory Group, including the Terms of Reference, can be found on the Ministry's website at:  
[Early Learning Regulatory Review Advisory Group - Terms of Reference – Education in New Zealand](#)

The Ministry now proactively publishes responses under the Act on our website. As such, we may publish this response on our website after five working days. Your name and contact details will be removed.

Thank you again for your email. You have the right to ask an Ombudsman to review this decision. You can do this by writing to [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz) or Office of the Ombudsman, PO Box 10152, Wellington 6143.

Yours sincerely



Dr Andrea Schöllmann  
**Deputy Secretary**  
**Education System Policy**

# Minutes

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## Early Learning Regulatory Review Sector Advisory Group – 1<sup>st</sup> meeting

<b>Date</b>	Thursday 27 August 2020, 9.30am-10:45am
<b>Venue</b>	Room 4.07, Mātauranga House, 33 Bowen St., Wellington, Zoom
<b>Chair</b>	John Brooker, Group Manager, Education System Policy
<b>Attendees (Ministry)</b>	Siobhan Murray, Senior Manager, ECE Policy, Education System Policy (ESP) Kirsty Macdonald, Senior Policy Analyst, ECE Policy, ESP Jace Mowbray, Senior Policy Analyst, ECE Policy, ESP Philippa Casagrande, Policy Analyst, ECE Policy, ESP Kathryn Cammell, Graduate Policy Analyst, ECE Policy, ESP Elsbeth Maxwell, Manager, ECE Operation Policy & Design, Sector Enablement and Support (SE&S) Karen Quinn, Lead Advisor, ECE Operation Policy & Design, SE&S Sam Johnston, Senior Advisor, ECE Operation Policy & Design, SE&S Thomas Osborne, Senior Advisor, ECE Operation Policy & Design, SE&S
<b>(Members)</b>	Peter Reynolds, CEO, Early Childhood Council Jo Lambert, General Manager, Barnardos Sarah Alexander, CEO, ChildForum Calmar Ulberg, CEO, Counties Manukau Kindergarten Association Fiona Hughes, Deputy CEO, BestStart Educaare Timothy Wong, CEO, Evolve Education Group Emma Norrie, Area Manager, Evolve Education Group Cathy Wilson, Executive Officer, Montessori Aotearoa New Zealand Raewyn Overton-Stuart, Manager Director, PAUA Sean McKinley, General Manager, Playcentre Aotearoa Andrew Philipps, CEO, Provincial Education Catherine Bell, Senior Policy and Engagement Advisor, Te Rito Maioha Arapera Royal Tangaere, Kaihere Kaupapa Kounga, Te Kōhanga Reo National Trust
<b>(Secretariat)</b>	Chris Jamieson, Policy Analyst, ECE Policy
<b>Apologies</b>	Pauline Winter, General Manager, CEO Auckland Kindergarten Association Shelley Hughes, Education Organiser, NZEI Te Riu Roa

*Note: These notes capture the themes of the discussion and key points made. They do not necessarily represent a shared view of the group and there may be differing perspectives on some points. They are not intended as comprehensive minutes of the meeting.*

<b>Overview of the Review</b>
<ul style="list-style-type: none"> <li>• The Ministry outlined the purpose and process for the review – see slides 2-3 of the Powerpoint presentation.</li> <li>• Specifically discussed was the purpose of the Sector Advisory Group:               <ul style="list-style-type: none"> <li>○ to provide sector perspectives and input into the Review. Note that all three tranches of the Review involve at least one round of public consultation, so the Advisory Group is not the only source of sector input into the Review</li> <li>○ to provide advice on particular groups the Ministry should engage with during tranche one.</li> </ul> </li> <li>• The Ministry noted that the group is not expected to write a report or make recommendations to the Minister. Members of the group are free to provide input as part of the public consultation.</li> <li>• The meeting and its contents are confidential and should not be shared beyond the Group.</li> <li>• The aim is to have meetings every two to three months. The next meeting will take place before formal consultation on tranche one starts.</li> </ul>
<b>Scope of the Review</b>
<ul style="list-style-type: none"> <li>• The scope of tranche one was recently approved by Cabinet. The Ministry outlined the scope of tranche one. See slides 6-12 of the Powerpoint presentation.</li> </ul>
<p><i>Information used to assess applications</i></p> <ul style="list-style-type: none"> <li>• Question about what evidence informed the proposal to clarify that any relevant information can be used to assess applications for probationary licences.</li> <li>• The Ministry noted that there are some examples of applications where service providers have not been as forthcoming as they could have been, e.g. some services have not declared debt or have applied under different names.</li> </ul> <p><i>Network planning</i></p> <ul style="list-style-type: none"> <li>• Question about how the Ministry proposes to communicate with the sector about network planning and planned provision. It was suggested that this change could be difficult for services currently going through the licensing process.</li> <li>• The Ministry explained that the implementation of network planning provisions in the Education and Training Act are delayed by two years. If a service provider applies for a licence before it comes into force, they will not need to go through the first stage process. The Ministry will include some messaging about the timing of network planning as part of its broader communications on the Review.</li> <li>• One member suggested that it would be worthwhile doing some work to ensure the financial viability of services operating in remote locations. The Ministry indicated this is likely to be considered in the work on planned provision from the Early Learning Action Plan.</li> </ul> <p><i>Regulating for 80%</i></p> <ul style="list-style-type: none"> <li>• There was some discussion about what would happen to services unable to meet the 80% requirement after it has been regulated. Currently, services unable to comply with the 50% requirement, or other regulations, are put on provisional licences and are given a timeframe to meet the requirements. If a service is unable to meet this standard within the specified timeframe, then its licence may be cancelled.</li> </ul>

- The Ministry will consider this as part of its work on regulating for 80% qualified teachers and is mindful that there may be tight teacher supply in some areas.
- A question was raised about whether the Ministry would consider Montessori trained teachers to count towards the 80% requirement in teacher-led centres. MANZ response to this is that it very much depends on the Montessori training as to whether this would be supported by MANZ.
- One member noted that there is an intention to improve outcomes for children, but sometimes there are unintended consequences. For example, it is easy to use agency relievers to reach 80%, but this does not necessarily improve child outcomes.

*Reviewing the funding system*

- One member indicated that the funding system needs to be reviewed and suggested that the regulatory review should take this into consideration.
- The Ministry explained that the Review is focused on regulatory settings, so funding is not in scope. However, the Ministry is aware that funding and regulatory issues can be interlinked.
- The Ministry also noted that policy work on regulating for 80% will likely involve aligning funding and regulatory rules for teacher qualification requirements.

*Regional inconsistency*

- One member commented that there are inconsistencies between the regulations, the Ministry’s guidelines and oral advice from Ministry officials. The member explained that they received different advice on acoustic panelling for two different services, but that these should be consistent advice across the sector.
- The Ministry asked for the specific examples to be sent through and to discuss offline with the member. Sometimes differing advice is due to differences in the particular services.

*Review of Tomorrow’s Schools*

- One member asked about whether the Review of Tomorrow’s Schools will feature in the regulatory review.
- The Ministry noted that it would check the status of the Review of Tomorrow’s Schools and how that may influence the review.

*Other matters*

- The Chair noted the difficulties some members had logging into Zoom and mentioned he looked forward to meeting face-to-face in the future. Noted that Ministry officials would be willing to have offline discussions with members unable to take part in the discussions.
- The Ministry asked members to provide the Ministry with feedback on the review, what languages the consultation document should be translated into, and suggestions on what specific groups the Ministry should engage during tranche one of the review.

Action items	Responsibility	Deadline
The Ministry will provide some messaging about the timing of network planning in its broader communications on the Review.	Kirsty	Alongside announcement of the Review
The Ministry will check the status of the Review of Tomorrow’s Schools and how it will factor into the Regulations Review.	John	Before the October meeting

<p>The Ministry to send the Powerpoint presentation to members.</p>	<p>Siobhan</p>	<p>27 August</p>
<p>The Ministry to schedule a meeting in October prior to public consultation on Tranche One</p>	<p>Kirsty</p>	<p>TBC</p>
<p>Members to provide via  <a href="mailto:Earlylearning.regulatoryreview@education.govt.nz">Earlylearning.regulatoryreview@education.govt.nz</a>:</p> <ul style="list-style-type: none"> <li>• feedback on the Review</li> <li>• advice about what languages the discussion document for tranche one should be translated into</li> <li>• suggestions for particular groups the Ministry should target Tranche One engagement to.</li> </ul>	<p>Members</p>	<p>Ongoing</p>

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# Minutes

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## Early Learning Regulatory Review Sector Advisory Group – 2<sup>nd</sup> meeting

<b>Date</b>	Thursday 5 November 2020, 1.00pm-2:30pm
<b>Venue</b>	Zoom, Mātauranga House, 33 Bowen St., Wellington
<b>Chair</b>	John Brooker, Group Manager, Education System Policy
<b>Attendees (Ministry)</b>	Kirsty Macdonald, Senior Policy Analyst, ECE Policy, ESP Philippa Casagrande, Policy Analyst, ECE Policy, ESP Chris Jamieson, Policy Analyst, ECE Policy Sam Hughes, Policy Analyst, ECE Policy, ESP Elspeth Maxwell, Manager, ECE Operation Policy & Design, Sector Enablement and Support (SE&S) Karen Quinn Lead Advisor, ECE Operation Policy & Design, SE&S Sam Johnston, Senior Advisor, ECE Operation Policy & Design, SE&S Joel Gapes, Senior Advisor, ECE Operation Policy & Design, SE&S
<b>(Members)</b>	Sarah Alexander, CEO, ChildForum Arapera Royal Tangaere, Kaihere Kaupapa Kounga, Te Kōhanga Reo National Trust Esther Tinirau, Te Kōhanga Reo National Trust Jo Lambert, General Manager, Barnardos Pauline Winter, General Manager, CEO Auckland Kindergarten Association Raewyn Overton-Stuart, Manager Director, PAUA Calmar Ulberg, CEO, Counties Manukau Kindergarten Association Cathy Wilson, Executive Officer, Montessori Aotearoa New Zealand Catherine Bell, Senior Policy and Engagement Advisor, Te Rito Maioha Fiona Hughes, Deputy CEO, BestStart Educaare Emma Norrie, Area Manager, Evolve Education Group Andrew Philipps, CEO, Provincial Education Thomas Tawhiri, General Manager, Playcentre Aotearoa
<b>(Secretariat)</b>	Sam Hughes, Policy Analyst, ECE Policy
<b>Apologies</b>	Peter Reynolds, CEO, Early Childhood Council Timothy Wong, CEO, Evolve Education Group Jill Bond, CEO, New Zealand Kindergartens

*Note: These notes capture the themes of the discussion and key points made. They do not necessarily represent a shared view of the group and there may be differing perspectives on some points. They are not intended as comprehensive minutes of the meeting.*

Overview and purpose
<ul style="list-style-type: none"> <li>• The Ministry outlined the purpose of the session – eliciting feedback on tranche one proposals.</li> <li>• The Ministry outlined the proposed timeframe for consultation on tranche one proposals – starting late-November and finishing at the end of January 2021. There was concern that this wasn't enough time during Christmas and New Year. There was a general view that consultation should run until mid-late February.</li> <li>• One member also asked whether any other reviews of the early learning sector are taking place at the same time as consultation on tranche one proposals. The Chair clarified that at this stage, no other related reviews are taking place.</li> </ul>
Review proposals
<p><i>New licence fee</i></p> <ul style="list-style-type: none"> <li>• Question about the impact this would have on new community-based services. Possible affordability issues for community-based services if they have to reapply, when the fees are non-refundable.</li> <li>• The Ministry noted that there are very few instances where community-based services need to reapply for a new licence.</li> </ul> <p><i>Application for probationary licence</i></p> <ul style="list-style-type: none"> <li>• Question about what 'other information' the Ministry proposes to use.</li> <li>• The Ministry confirmed that only information that might be relevant to the application would be considered e.g. Ministry records of service providers' history, fit and proper status.</li> </ul> <p><i>Timing of application for licence amendments for change in identity</i></p> <ul style="list-style-type: none"> <li>• Discussion centred around how long the change in identity process currently takes and therefore how this change might impact the sale and purchase of services.</li> <li>• The Ministry confirmed this process can take some time, but it needed to be comprehensive to ensure that children are not put at risk. It was also noted that it is not Ministry practice to restart this process if applications do not contain all the necessary information.</li> </ul> <p><i>Review of licence amendments for change in identity</i></p> <ul style="list-style-type: none"> <li>• It was felt that it was important that this change was consistently and transparently applied to avoid services feeling targeted.</li> <li>• Some members voiced their concern that existing Ministry processes can draw out change in service provider identity which can be challenging for parties involved.</li> <li>• The Ministry noted the need to ensure any new processes introduced to facilitate a change of service provider identity were transparent and consistently applied. The Ministry also confirmed that it would continue to be a two-stage process, which includes a three-month check</li> </ul> <p><i>Incident involving a child</i></p> <ul style="list-style-type: none"> <li>• One member thought that proactively moving service providers on to a provisional licence indicates that something might be wrong before a problem is actually confirmed. Service providers would also be expected to notify the Ministry of investigations that could lead them being put on a provisional licence.</li> <li>• Another member thought this change should only apply to more serious investigations of service providers that warranted investigation. Another member also questioned whether services which</li> </ul>

notified the Ministry that they were carrying out an investigation would automatically be reclassified as a provisional licence.

- The Ministry noted that this proposal is focused on how services can be reclassified as a provisional licence when an investigation is warranted but there may have been no complaint. Any move to a provisional licence wouldn't be automatic.
- One member queried the extent to which the Ministry would rely on services to carry out an investigation.
- The Ministry clarified that it would rely on service providers to carry out investigations, although there may be scope for Police and Worksafe to be involved depending on the incident in question.

#### *Use of provisional licence history*

- Members generally felt that the reasons for being put on a provisional licence, and not the number of times this has happened, were more important when considering provisional licence history. Some members thought the Ministry should provide more detail about the criteria or situations that would trigger a move to cancel a licence.
- One member thought the Ministry does not apply a consistent set of rules across the sector, suggesting that large service providers are held to a higher standard than smaller service providers. Another member agreed that standards are inconsistently applied across the sector.
- The Ministry agreed to provide strong guidance on how this regulatory change would apply and noted that cycling on and off of provisional licences will only be considered at the individual licence level.
- The Ministry also noted that if a service provider had any concerns with licensing decisions or perceived inconsistencies, they should raise specific instances with regional Ministry offices.

#### *Written direction for health and safety matters*

- A couple of members noted that in urban and remote areas, finding contractors to rectify health and safety issues often takes longer than 5 working days.
- The Ministry noted that consideration would need to be given as to how to manage an instance where the availability of contractors meant that a safety issue could not be rectified in 5 working days but could still be mitigated while the service continued to operate.
- One member indicated that the health and safety of children should be the paramount concern.

#### *Removing the 21-day notice period for suspensions*

- A couple of members wondered what support would be provided to help move children to other services following a suspension.
- The Ministry confirmed it already provides assistance in situations like this.

#### *Increasing the minimum room temperature*

- One member noted that increasing room temperatures would increase services' energy bills.

#### *National Education and Learning Priorities (NELP)*

- One member asked whether the Ministry was shifting its language from self-review to internal evaluation. They believed internal evaluation was more forward looking and therefore preferable.
- Another member asked if giving regard to the NELP was necessary, when services are already implementing *Te Whāriki*.
- The Ministry will welcome any feedback on these issues as part of the public consultation process. The Ministry clarified that the NELP focus on priority areas across the education system and that



they may change over time as priorities change. The Ministry also indicated that the implementation of *Te Whāriki* varies across services.

*Final comments*

- One member asked if the Ministry could please send out any changes made to the discussion document and draft regulations following the meeting.
- The Ministry agreed to send the draft discussion document to the group, including any changes to the document based on the group’s feedback before starting consultation. Members would have one week to review the document. It may not be possible to share the draft regulations with the Group at the same time as they are yet to be finalised with the Parliamentary Counsel Office.

Action items	Responsibility	Deadline
The Ministry to send the draft discussion document to members, noting how it has responded to the group’s feedback from the day	Kirsty	12 November
Members to provide feedback on the framing of the draft discussion document	Members	19 November
The Ministry to schedule next meeting in the New Year	Kirsty	TBC
Members to provide feedback on the review via <a href="mailto:Earlylearning.regulatoryreview@education.govt.nz">Earlylearning.regulatoryreview@education.govt.nz</a>	Members	Ongoing

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# Early Learning Regulatory Review

Sector Advisory Group meeting – 27 August 2020

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# Context for the Review

The Ministry is reviewing the early learning regulatory system to ensure it is **clear and fit-for-purpose to support high quality educational outcomes**

- Addresses recommendations of the **Review of Home-based ECE** and the **Early Learning Action Plan**
- Includes consideration of the **Ministry's regulatory role**
- Considers **clarity and usability** of the regulatory framework

The Minister of Education recently agreed to the terms of reference for the Review which outlines the scope and process.

# Process for the Review

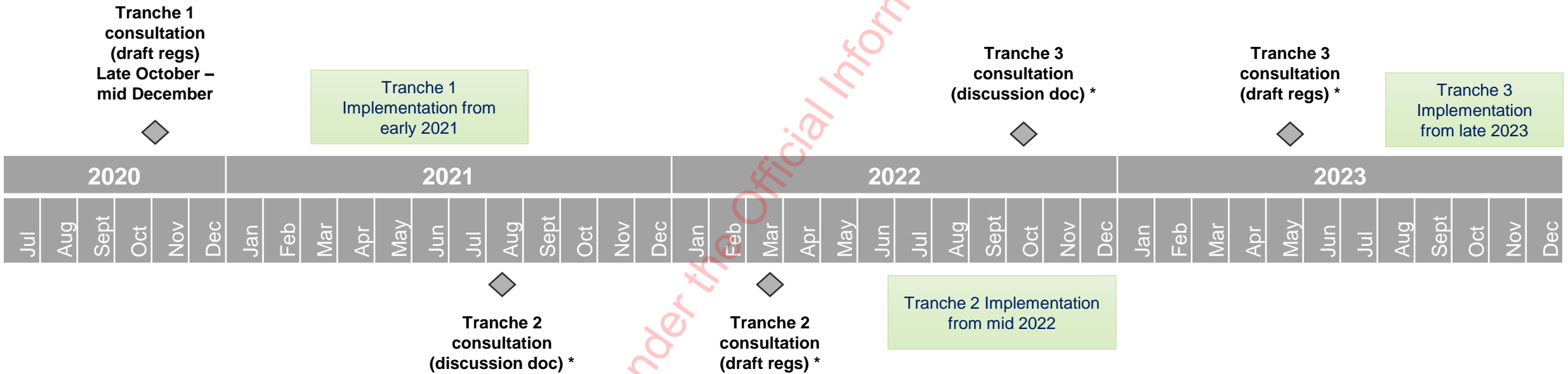
The Review will be undertaken in three tranches to ensure high priority issues are prioritised first:

- Tranche one **targets regulatory gaps** that need attention
- Tranche two **progresses regulations** signaled in the Early Learning Action Plan and the Review of Home-based ECE
- Tranche three requires **more policy work and engagement** with the sector

There will be a series of engagements with the sector throughout the process, including consulting on an exposure draft of any proposed regulatory changes.

# Timeline for the Review

As at 27.07.20



\* indicative timeframes only

# Sector Advisory Group

- We are convening this Group as one way to draw on knowledge from across the sector and to seek your advice and feedback throughout the Review
- We want these sessions to be free and frank; therefore, we ask that all materials and discussions are kept confidential.
- The meetings will be held via Zoom every two-three months or more frequently as required (for example if a number of issues require a more in-depth discussion)
- We would like to catch up with you in October prior to the consultation starting

# Tranche One proposals

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# Tranche one - overview

Cabinet has approved the scope for tranche one, with an 8 week consultation beginning in late October or early November.

Proposals fall into two areas:

- Changes relating **new services** or those with a **change in circumstance**
- Changes relating services that have **compliance issues**

We will also be consulting on three other proposals:

- Increasing the **minimum room temperature** from 16 to 18 degrees
- Clarifying the **person responsible requirements** as defined in Regulations
- Updating the licensing criteria to set out the expectations for services regarding the **National Education and Learning Priorities**



# Changes relating to new services

1. Clarifying that the **fee for a new licence** is payable upon application and is non-refundable, as this is not currently clear in the regulations
2. Clarifying that any relevant information can be used to assess an **application for a probationary licence** rather than only the information provided by the applicant
  - Currently, only information provided by the applicant can be taken into account when granting a probationary licence (Regulation 11 (1)(b))
  - This means that an applicant can choose to hide relevant information, such as previous regulatory breaches

# Changes relating to services with a change in circumstance

3. Clarifying the following for licence amendments when the service provider changes:
- a) service providers are required to apply for a licence amendment **before any proposed change** in the identity of the service provider (rather than after the change)
    - This is to ensure that anyone about to operate in the market has met the fit and proper test and other suitable assessments before operating
  - b) the phrase “**review the licence**” can include the assessments used for granting a probationary licence and/or for granting a full licence
    - We want to ensure that new service providers are put through an appropriate level of assessment

# Changes relating to services with compliance issues

## 4. Amendments relating to provisional licences:

- a) adding 'incident at a service involving a child that requires investigation' to the matters that could lead to a provisional licence
  - The current Regulations only allow a provisional licence to be issued during an investigation if there has been a complaint, but not for an incident such as a medical event or an accident
- b) adding the ability for the Ministry to cancel a licence based on provisional licence history and the likelihood that the service is unable to sustain compliance
  - There are situations where a service may be cycling on and off a provisional licence for the same or similar breaches which is putting children at risk of harm

# Changes relating to services with compliance issues

5. Creating the ability to issue written directives for health and safety matters that require immediate attention
  - There are currently limited options to deal with immediate health and safety issues where there is a risk of harm to children
  
6. Removing the 21 day minimum notice period to suspend a service's licence:
  - a) for not returning a full licence when reclassified as provisional
  - b) when the service is no longer in the control of the service provider
    - This will allow more discretion around the time in which a suspension will take effect, thereby reducing risks to children

# Other proposals

7. Increasing the **minimum room temperature** from 16 to 18 degrees
  - This would align with the World Health Organisation guidelines for residential living spaces
  
8. Clarifying the **person responsible requirements** as defined in Regulations
  - This would make it explicit in Schedule 1 of the Regulations that the person responsible needs to be registered and certificated with the Teaching Council
  
- Updating the licensing criteria to set out the expectations for services regarding the **National Education and Learning Priorities**
  - There is a requirement for all services to have regard to the NELP from 1 January 2021

# Tranches two and three

Tranche Two will cover:

- Regulating for **80% qualified**, including looking at aligning regulatory and funding criteria
- Looking at the **settings for market entry and planned provision** to ensure supply and quality of services
- **Effective Treaty partnership**, active protection of taonga, and enabling Māori authority and agency
- The aim is to have tranche two completed by **mid-2022**

Tranche Three will cover:

- Improving adult:child **ratios**
- Reviewing remaining aspects of the **licensing system**
- Evaluating the **role of the Ministry and other actors in the system** to ensure high quality provision and curriculum delivery
- Will likely result in a complete rewrite of the regulations
- The aim is to have tranche three completed by **late 2023**

# Next Steps

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# Next steps

- Consultation on tranche one will begin in late October or early November.
  - We want to ensure that we consult with a diverse range of stakeholders. Please let us know if you have suggestions of services, service providers or other stakeholders that would be particularly interested in these proposals
- We are looking to convene this Group every two-three months with the next meeting in October
- As work progresses we may have ad hoc discussions on specific topics where we invite other interested parties to be part of the conversation
- If you have any issues you would like us to particularly consider please let us know via email
- We will provide you with a copy of this presentation so if you have anything you want to feedback after today then do so. But we ask that you keep this information confidential at this stage



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**



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