

16 October 2025

Consultation on the Education (Early Childhood Services) Amendment Regulations 2005

We are pleased to provide comment to the Ministry of Education on the Education (Early Childhood Services) Amendment Regulations 2005.

We support the Government's intent to strengthen the regulatory framework by ensuring enforcement is proportionate, transparent, and firmly focused on safeguarding the health, safety, and wellbeing of tamariki.

These amendments respond to the findings of the 2024 sector review, which identified an over-reliance on blunt enforcement tools such as licence reclassification, suspension, and cancellation. By introducing a broader suite of graduated tools, clarifying thresholds for intervention, and strengthening transparency measures, the amendments create opportunities to address non-compliance in a way that better supports safe, high-quality early learning environments.

We are concerned that Regulatory Impact Statement states that the Amendment Regulations fail to meet Cabinet's Quality Assurance criteria due to limited analysis of impacts, costs and benefits, and a lack of consultation on the proposals.

Our submission emphasises the need to strike a balance between maintaining strong regulatory oversight so the kaiako, whānau and the general public have confidence that our early learning services provide safe, nurturing, teacher-led early learning.

Based on the questions raised in the Discussion Document dated 22 September 2025, specific recommendations to each of the proposed regulatory changes and mitigate risks are provided.

Section 4: Regulation 15 amended - Reclassification of Licences as Provisional

The amendment to regulation 15 seeks to raise the threshold for reclassifying probationary or full licences as provisional. This amendment will ensure that licence downgrades are only used for repeated or unresolved non-compliances. We support this change as it responds to the sector's view that current enforcement tools do not give the Ministry any flexibility and are being applied too bluntly.

Implementation considerations

The Director will need to:

- develop consistent national guidance and training for decision-makers
- ensure service providers receive clear notices explaining how each enforcement tool applies and its potential role in reclassification including plain-language examples of when reclassification would and would not apply
- establish a right for service providers to respond before reclassification is confirmed, and
- ensure an independent and transparent appeal pathway is available.

Transparency

Annual reporting of provisional licences will need to include in the grounds for issuing a provisional licence, which areas of regulation 15(1)(a) or (b) triggered the provisional licence.

Unintended consequences

It is important that an accumulation of minor issues does not unfairly trigger provisional status. If this is the case, service providers may become wary of proactively notifying the Ministry of issues that may arise.

Impact on health and safety of children

This amendment supports the health and safety of children by introducing fast escalation protocols for immediate risks to children's safety and wellbeing.

Section 5: Regulation 16 amended – Conditions of provisional licence

The amendments to regulation sixteen aim to improve clarity around the conditions of provisional licences. By requiring revised provisional licences with specified dates for compliance, the regulation will create transparency for service providers and families and reduce ambiguity around what is required to regain full or probationary status.

This amendment will make compliance expectations clearer for service providers which can only be a positive move.

Implementation considerations

The Director will need to:

- Train regulators to ensure consistent application across regions.
- Require written explanations for each condition imposed.
- Provide compliance support (advisors, resources, guidance) to help service providers meet conditions.

Other feedback

We ask whether the Ministry will continue to provide support for smaller services through SELO or a similar mechanism?

Section 6: Regulation 17 amended – duration of provisional licence

The amendment to regulation seventeen is designed to reinforce that provisional licences are temporary measures, requiring services to meet additional conditions before returning to full or probationary status. This is appropriate in principle, as it prevents services from remaining in a prolonged state of partial compliance.

The risk, however, lies in the rigidity of the timelines and the potential for licences to be cancelled when services are close to meeting their conditions but encounter unavoidable delays.

Suggested changes

We suggest that the current regulations 16(3) – *The Secretary may, at any time until the last permitted date for extension, extend a date specified under subclause (1)(b) or (1A)(b) by specifying a later date* – and 16(4) – *A date specified under subclause (1)(b), (1A)(b), or (3) may not be later than 12 months after the date on which the notice under regulation 15(1) was given to the service provider* – be shifted to sit under regulation 17 as these are both related to the duration of a provisional licence.

Implementation Considerations

The Director will need to:

- Introduce a structured review before cancellation decisions.
- Train regulators to ensure consistent application across regions.
- Provide targeted support (advisors, technical assistance, relief funding) to help service providers comply.
- Require transparent communication of decisions, including rights to extension and appeal.
- Publish annual reporting on provisional licence outcomes (cancellations, extensions, average durations).

Section 7: New regulations 29A to 29F – graduated enforcement tools and public notice

The introduction of regulations 29A to 29F is intended to broaden the regulator's enforcement toolkit. This change is appropriate and timely, responding directly to the regulatory review's finding that the existing tools were too blunt. It also aims to provide parents and whānau with clearer information about compliance matters.

Regulation 29A – Record of non-compliance

The ability to record non-compliances will allow the Director of Education to better understand what is happening in services and see if there are patterns of non-compliance over time. We note that the regulations say the Director **may** keep a written record. Consistency of when a written record is kept, and what for, will be crucial.

Regulation 29B – Formal warning

This new regulation will be a useful tool for lower-level non-compliances that can be quickly and easily rectified.

Regulation 29C – Written direction to remedy risk to health and safety

With this new regulation, how will it work alongside the current regulation 15(1)(ca) that allows a provisional licence to be issued when there is an incident involving a child? There will need to be clearly defined thresholds for Ministry staff to ensure the use of each enforcement tool is consistent.

Regulation 29C requires that health and safety risks be remedied within 24 hours or, at most, ten working days. These short compliance windows may be unworkable for some service providers, particularly if the issue involves infrastructure or staffing that cannot be resolved immediately.

Regulation 29D – Specialist help

While this is both positive and supportive, depending on a service's location, size or income it may create additional burden or inequity. To overcome this inequity, the Director of Regulation must establish a funded pool of approved specialists (similar to SELO or its equivalent) so there is equitable access across the motu.

Regulation 29E – Improvement plan

While we agree with requiring a service provider to prepare, implement, and complete an improvement plan, some smaller service providers may not have the capability to do this. There will need to be guidance and template plans available for service providers so they know what is expected of them.

Regulation 29F – Public notice of non-compliance

While mandatory public notification will only occur where a provisional licence is issued or a licence suspended or cancelled, public notices could inflict reputational harm that is disproportionate to the severity of the issue, especially where the matter has already been remedied.

We ask how will public notification be made? If it is on the Ministry's website, it must be easy for members of the public to find and must be kept up to date. We also ask, once a service's licence is returned to full or the service is no longer non-compliant, how will the notice of non-compliance be 'lifted'?

General Implementation considerations

The Director will need to:

- Provide regulator training and case study-based guidance to ensure consistency in the use of all the tools in regulations 29A to 29E.
- Require annual reporting on the use and outcomes of each enforcement tool.

Section 8: Regulation 30 Amended - Suspension of Licences

This amendment raises the threshold for suspending licences by requiring evidence of an immediate risk to children's health, safety, or wellbeing, in addition to the existing criteria. The intent is to reserve suspension for the most serious circumstances, ensuring proportionality in regulatory responses. This is an appropriate adjustment, as suspension disrupts children, families, and staff, and should not be used lightly.

Service providers whose licence is suspended may struggle to address risks within the time available, particularly if they involve structural or systemic issues. Mitigation should focus on ensuring suspension is not the default response. The Director should support continuity of care for affected families, for example by facilitating temporary placements in nearby services or providing guidance on emergency arrangements. This would help balance child safety with minimising unnecessary disruption for families and communities.

Wording Adjustments

- Specify that suspension should only be used where risks cannot be managed through less disruptive tools.
- Require the Director to consider continuity of care for families when suspending a licence.

Section 9: Regulation 32 Amended - Cancellation of Licences

The proposed amendment to regulation 32 removes outdated references and aligns cancellation provisions with the new enforcement framework. Cancellation remains the most serious regulatory sanction, intended for cases where services fail to meet compliance requirements despite repeated interventions.

The Director should publish clear guidance on the circumstances that warrant cancellation, including illustrative examples. This would enhance consistency and predictability. It is also important that service providers retain robust rights of review and appeal, ensuring fairness and accountability in the most serious regulatory decisions.

Section 10: Regulation 39A Amended - Exceptional Circumstances

Te Rito Maioha supports the intent of the amendment to Regulation 39A, which empowers the Director of Regulation to extend compliance timeframes by up to three months during a declared state of emergency or epidemic notice.

This is intended to provide flexibility in extraordinary circumstances where service providers cannot reasonably meet deadlines. The intent is appropriate, as it prevents services from being penalised during crises beyond their control.

However, the limitation of this power to declare emergencies may be too narrow. Services also face significant disruptions in other contexts, such as severe workforce shortages, unexpected property damage, or supply chain breakdowns. Without flexibility to extend timeframes in these situations, service providers may be unfairly penalised despite making genuine efforts to comply.

Section 11: Regulation 54A Revoked - Written Directions

The revocation of regulation 54A consolidates enforcement powers under regulation 29C, which allows the Director to issue written directions to remedy risks to health and safety. The intent is to simplify the framework and strengthen regulatory tools by replacing an older, more limited provision with a more flexible mechanism. This is a sound adjustment that reduces duplication and makes the regulatory framework clearer.

Mitigating this will require a tiered approach to compliance deadlines, matched to the severity and complexity of the risk. For example, imminent risks to children's physical safety could appropriately require action within 24 hours, whereas less immediate risks could allow longer timeframes. Transitional guidance and communication will also be essential, helping service providers understand how the new framework operates and ensuring consistency in its application.

Section 12: New Regulation 59A - Public Notice of Complaints/Incidents

The insertion of regulation 59A empowers the Director to give public notice, or require service providers to inform parents, when an investigation into a complaint or incident is undertaken. The aim is to increase transparency and close information gaps, ensuring families are kept informed of high-risk issues under investigation. This is appropriate in principle, as it recognises the importance of trust and accountability in early childhood education.

The risks lie in timing and perception. Public notices about investigations could unfairly damage a service's reputation before findings are reached, even if the complaint is unsubstantiated. This could reduce enrolments and undermine staff morale. There is also the danger that families or staff might hesitate to raise concerns for fear of triggering damaging publicity.

To mitigate risks, public notices should be strictly factual, limited to the essential information, and non-prejudicial. Confidentiality protection must be in place for complainants and staff, to ensure

concerns can still be raised safely. Once investigations conclude, follow-up updates should be provided to clarify outcomes and describe any remedial actions taken. This balanced approach would preserve transparency while minimising reputational harm and encouraging continued openness in reporting.

Conclusion

Te Rito Maioha supports the overall intent of the Education (Early Childhood Services) Amendment Regulations 2025.

The proposed amendments represent an important step toward creating a regulatory framework that is more proportionate, transparent, and effective in safeguarding the health, safety, and wellbeing of tamariki.

We particularly welcome the introduction of a broader and more graduated set of enforcement tools, clearer thresholds for intervention, and stronger accountability measures. These reforms have the potential to reduce reliance on blunt sanctions and instead provide regulatory responses that are aligned with the seriousness of the issue.

At the same time, it is essential that implementation reflects the realities of early childhood education services. The risks of rigid timelines, inequitable impacts on smaller or rural services, and unintended reputational harm must be carefully managed. Strong safeguards, flexibility, and clear guidance will be needed to ensure that these reforms strengthen confidence in the system without undermining service quality or sustainability.

If implemented well, the amendments will not only enhance trust in regulatory processes but also help ensure that tamariki across Aotearoa have safe, nurturing, and high-quality early learning experiences.

Te Rito Maioha looks forward to working with the Ministry to ensure these changes deliver on their promise of a contemporary regulatory environment that strengthens both accountability and the provision of all types of ECE – teacher-led, home-based, parent-led and kōhanga reo.

About Te Rito Maioha

Te Rito Maioha is an Incorporated Society of members committed to high quality early education for every child. Established in 1963, we are an influential leader in shaping today's early childhood sector through advocacy, policy, and delivering tertiary education qualifications and professional development programmes for current and future early childhood and primary education teachers.

Our bicultural kaupapa, te reo Māori me ōna tikanga, is embedded throughout everything we do and teach. We are committed to ensuring the success of our Pacific nation students across the motu by growing authentic relationships that embrace students' whānau and communities across our programmes.

Through our membership we advocate for early childhood education services and the kaiako who provide education to thousands of infants, toddlers, tamariki and young people. Our members are drawn from a diverse range of community-based, privately-owned, kindergarten and homebased early childhood education services and teachers.

Te Rito Maioha is a registered Private Training Establishment (PTE) with the highest rating for a tertiary provider in Aotearoa New Zealand. We are accredited and approved by the New Zealand Qualifications Authority (NZQA) to deliver a range of early childhood and primary school

undergraduate, graduate, and postgraduate qualifications (levels 5-9), including specialist kaiako education, both nationally and internationally.

The organisation has delivered teacher education since 1980 and is governed by a Council made up of elected and appointed members, led by a National President and supported by a National Kaumātua. Our national office is in Wellington and our teaching staff are employed at 11 regional education centres | takiwā ako throughout Aotearoa New Zealand.

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 blended delivery through online and face-to-face, with practical real-life exposure and experiences through 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 advocacy and a range of unique resources and services to our early childhood education members;
- collaborating with New Zealand and international partnerships to strengthen research and teacher education.

Make submission to ECE.Regulations@education.govt.nz by 17 October 2025.

Key contact for Te Rito Maioha Early Childhood New Zealand: Kathy Wolfe, Chief Executive.