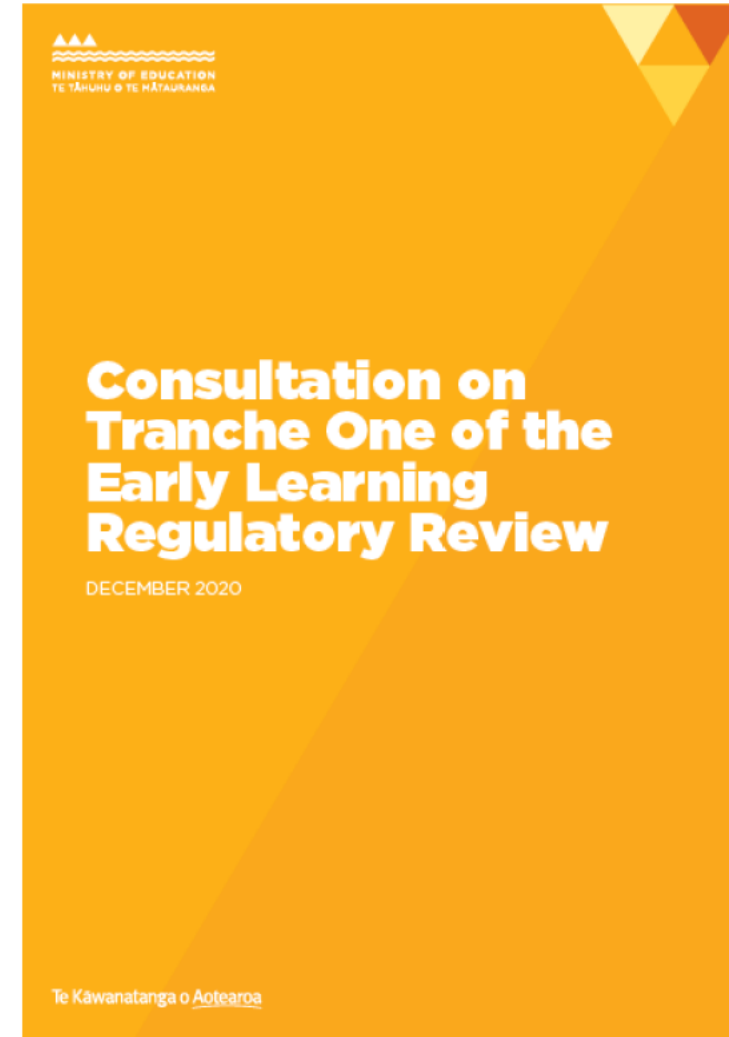


Feedback and changes

Tranche one proposals

Survey respondents

- We received **258** responses to the survey
 - **87%** were either early learning service owners/managers, or were early learning teachers/educators
 - **72%** were associated with the education & care part of the ECE sector
 - **Over half** (52%) were from either Auckland, Wellington or Canterbury
- We also received 21 written submissions



Proposals with little or no changes

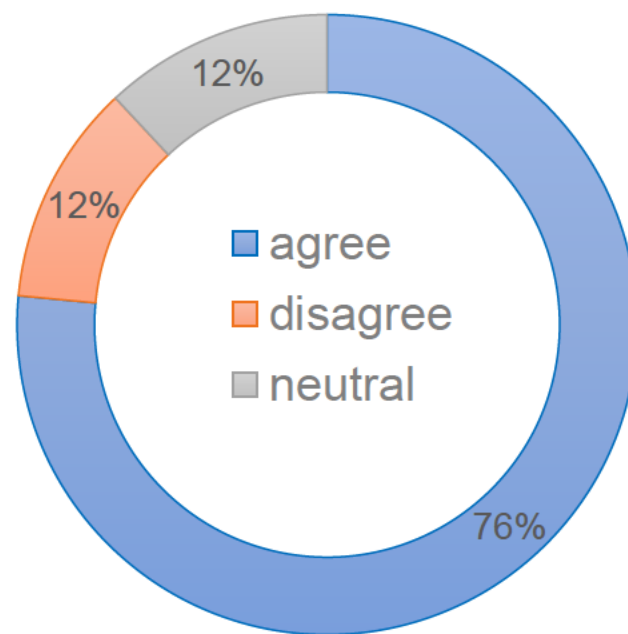
Proposal 8 | Increasing the minimum room temperature from 16 degrees to 18 degrees Celsius



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

76% agreed

- Needed for **public health** reasons



12% disagreed

- **Outdoor play** may impact on the ability to maintain this temperature

Proposal 8 | Increasing the minimum room temperature from 16 degrees to 18 degrees Celsius

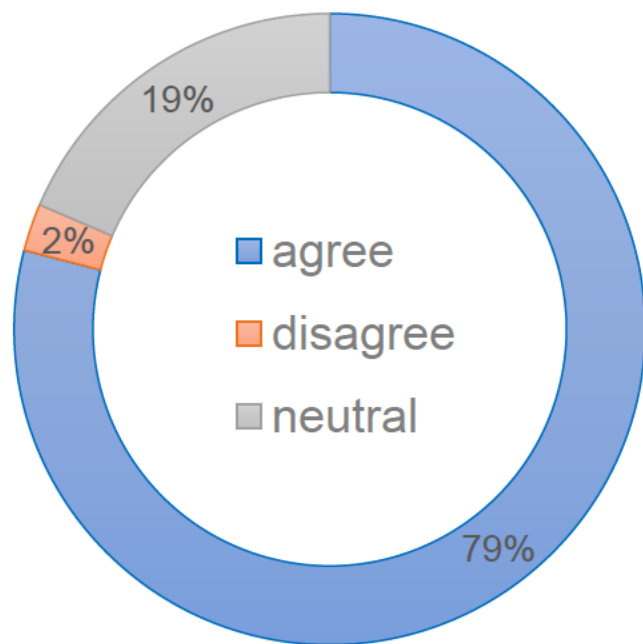


Response	Rationale
<p>No change to the proposed increase of the minimum room temperature.</p>	<ul style="list-style-type: none">• The World Health Organisation has a strong level of confidence around the public health benefits from having residential living spaces at 18 degrees, but states that a higher temperature may be necessary for vulnerable groups such as young children.• This requirement is also in line with requirements in overseas jurisdictions for early learning services.

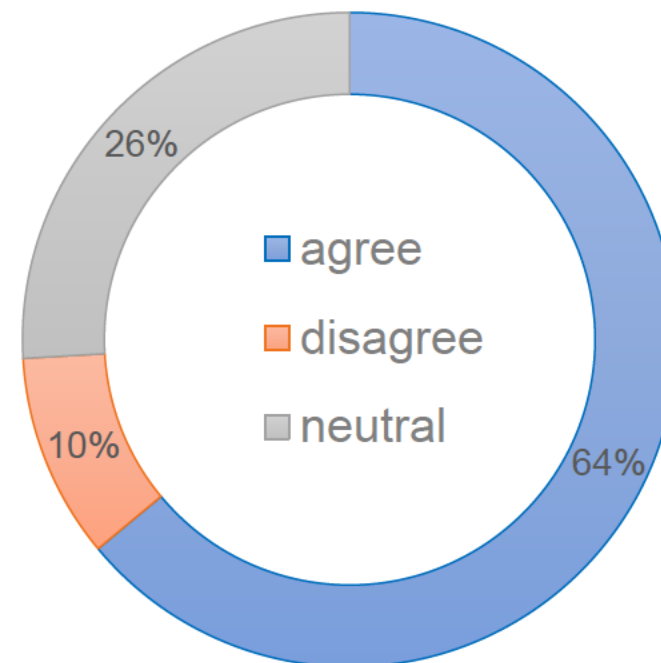
Proposal 9 | Clarifying that the fee for a new licence is payable upon application and is non-refundable



Do you agree that having the fee **payable upon application** better meets the purpose of the application fee?



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



Note there were no free text questions for this proposal

Proposal 9 | Clarifying that the fee for a new licence is payable upon application and is non-refundable



Response	Rationale
<p>No change to the proposed wording of Regulation 5 and revocation of Regulation 25 of the Education (Early Childhood Services) Regulations 2008.</p> <p>The fee amount will be updated from \$2756.25 to \$2817.50 to reflect the current GST of 15%.</p>	<ul style="list-style-type: none">• We have been made aware that the current fee was set when GST was at 12.5%. Section s78(3)(a) of the Goods and Services Tax Act 1985 allows for any changes in GST to flow through to any prescribed fees.• The stated fee in the regulations will change from \$2756.25 to \$2817.50 to reflect the fact that GST is now 15%. This is the fee that is currently collected and stated on the application form (EC1), so the amount applicants are charged will not be changing.

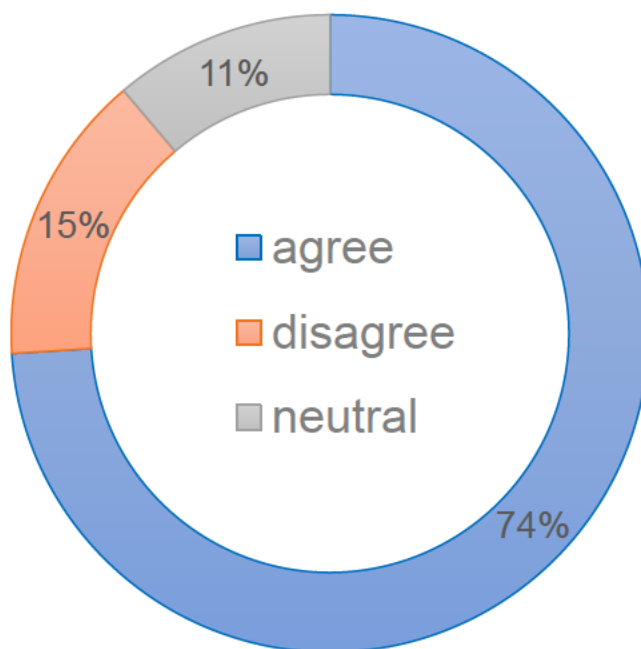
Proposal 10 | Consolidating existing person responsible requirements



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

74% agreed

- **Clearer** than the current regulations.
- Persons responsible in teacher-led centres, home-based services and hospital-based services should hold an **early childhood teaching qualification**.



15% disagreed

- Need to clearly **distinguish between different items** in Schedule 1 with lines.
- Needs to **define 'recognised qualification'** clearly in the Schedule itself.

Proposal 10 | Consolidating existing person responsible requirements



Response	Rationale
The Ministry will consider formatting concerns through the re-drafting process.	Differentiating between the items in Schedule 1 should help stakeholders interpret the regulations correctly.

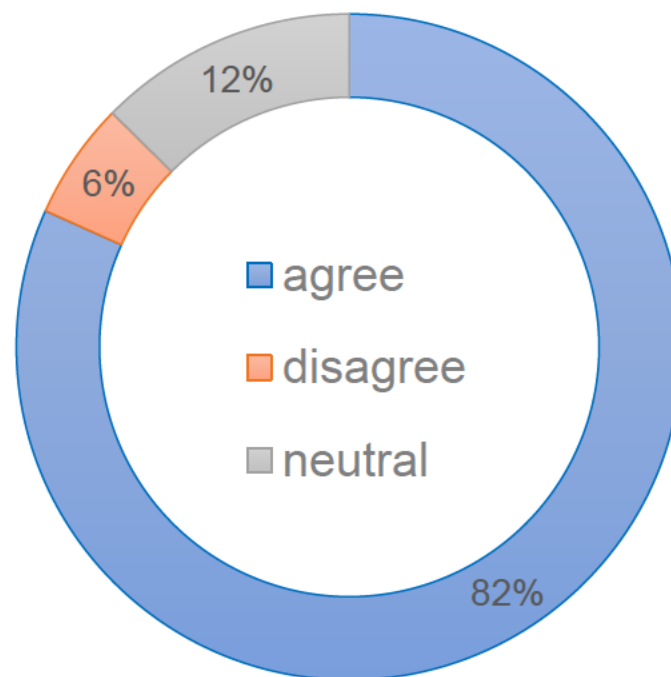
Proposal 7 | Clarifying the information used to assess an application for a probationary licence



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

82% agreed

- Important that all **relevant information** is considered



6% disagreed

- Information needs to **be based on sound evidence**, be fair and transparent
- Review process for decisions to **dispute** validity of information

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



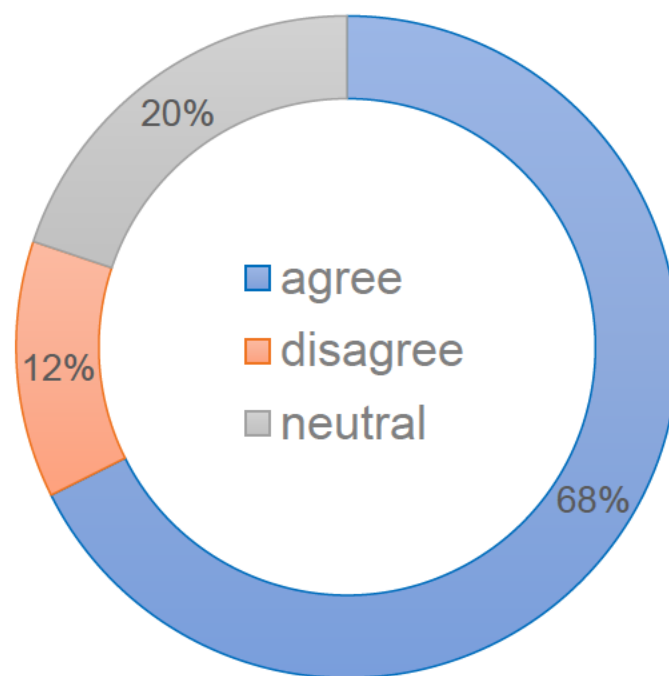
Response	Rationale
No change to the proposed wording of Regulation 11(1)(b)	<ul style="list-style-type: none">Any information that we use will still need to meet evidentiary standards.A service provider will be provided with the opportunity to respond to any negative inferences drawn from the assessment of any information not provided with an application.We will be considering changes to the application form to ensure that applicants are providing us with the relevant information, such as provisional licensing history and details of persons who are considered the service provider, such as Directors.

Proposal 5 | Removing the 21-day minimum notice period for suspensions for change of control

Do you agree that we should remove the 21-day minimum notice period for suspensions for **change in control** of a service provider without a licence amendment?

68% agreed

- Support for more timely protection of children's health and safety



12% disagreed

- Impact on children, whānau and staff
- Timing for transition to a new service
- Reduce instead
 - 7.5 day average

Proposal 5 | Removing the 21-day minimum notice period for suspensions for change of control



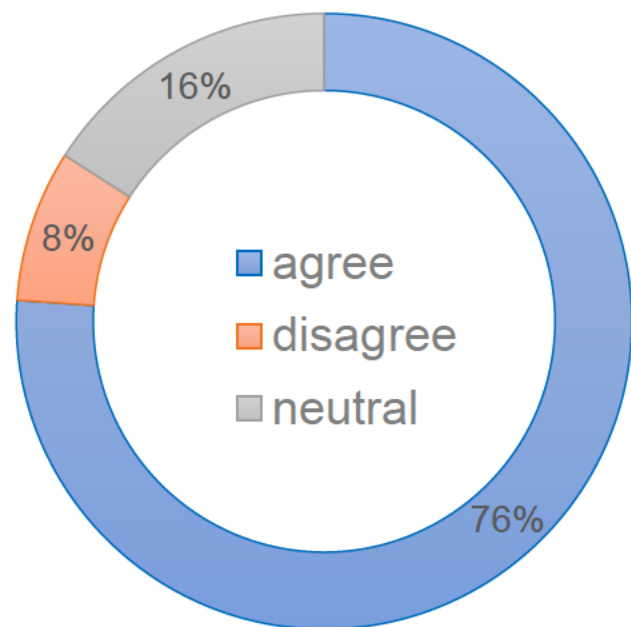
Response	Rationale
No change proposed.	<ul style="list-style-type: none">• If a service provider is no longer controlling the service and the new service provider has not been approved by the Secretary, there needs to be the ability for immediate action to ensure the health and safety of children.• The Secretary still has the discretion to provide a longer notice period.• A primary consideration would be weighing up the impact a suspension is likely to have on the community against the risk of allowing the service to continue to operate with an unapproved service provider.

Proposals that received significant feedback or
will be changing following consultation

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



Do you agree that the proposed wording of Regulation 33 would **better reflect** that service providers **have to apply** for an amendment before there is a change in the identity of the service provider?



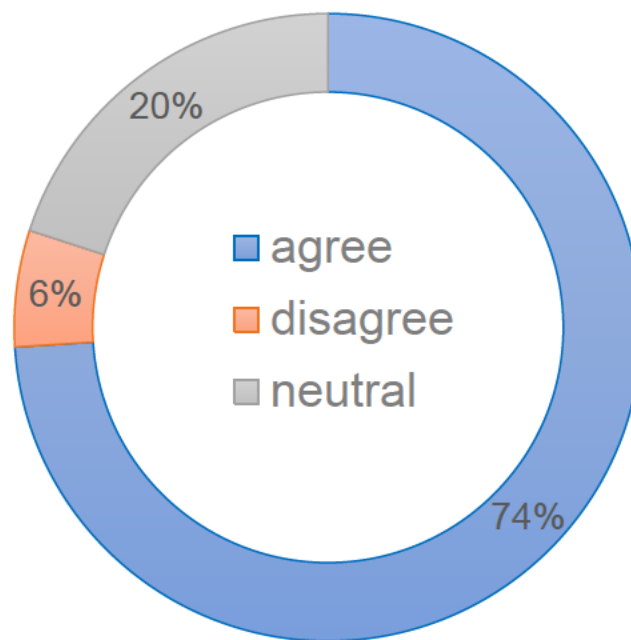
76% agreed

- Support for greater protection for children's health and safety.

8% disagreed

- This will impact the sale and purchase process and community-based services.

Do you agree that the proposed wording of Regulation 33 would **better reflect** that the Secretary has the **discretion** to use appropriate assessments?



74% agreed

- Support for greater protection for children's health and safety.

6% disagreed

- Clarification on nature and intensity of assessments needed

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



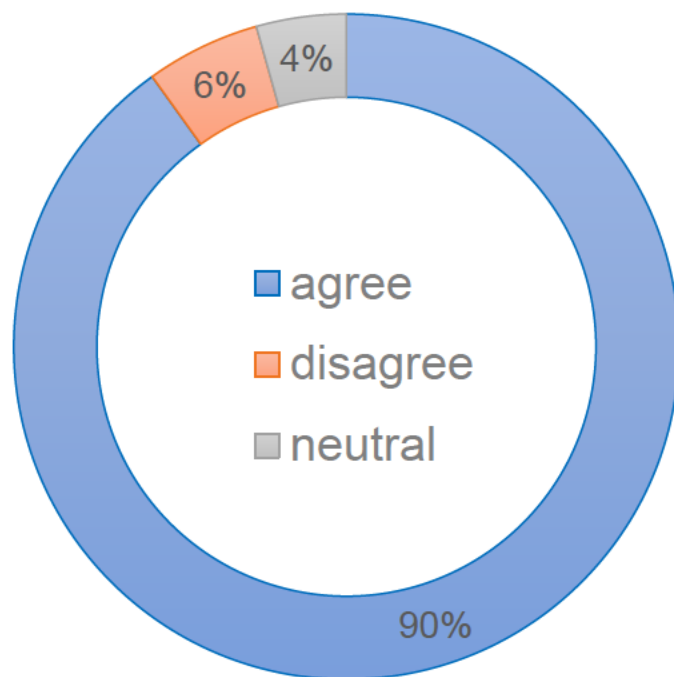
Response	Rationale
<p>We intend to progress this proposal unchanged to make it clear that the Secretary:</p> <ul style="list-style-type: none">• must be advised and approve of any change in the identity of the service provider before any change is made.• has the discretion to use any assessments used for granting a probationary licence and/or for granting a full licence.	<ul style="list-style-type: none">• The Secretary needs to know of and approve those who run an early learning service to ensure the health and safety of children. Applications to amend a licence should not be issued automatically.• The intent of this change is to make it clear what we expect from service providers who wish to make a change in name, a substantive change to their governance or ownership, or sell a service.• Where there is a substantive change or a sale, service providers will need to allow at least 30 working days for an assessment to take place.• The increased scrutiny for licence amendments when a service provider makes a change aligns with the additional measures we are looking to introduce in network planning.

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

Do you agree that the Secretary should be **able to cancel a licence** when there is evidence that a service provider is **not consistently complying** with the regulations?

90% agreed

- **Health and safety** of children should be the highest priority



6% disagreed

- There is **inconsistency** across regions
- Suggested factors to **consider**:
 - Staff management
 - ERO reports
 - Co-operation level of service

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



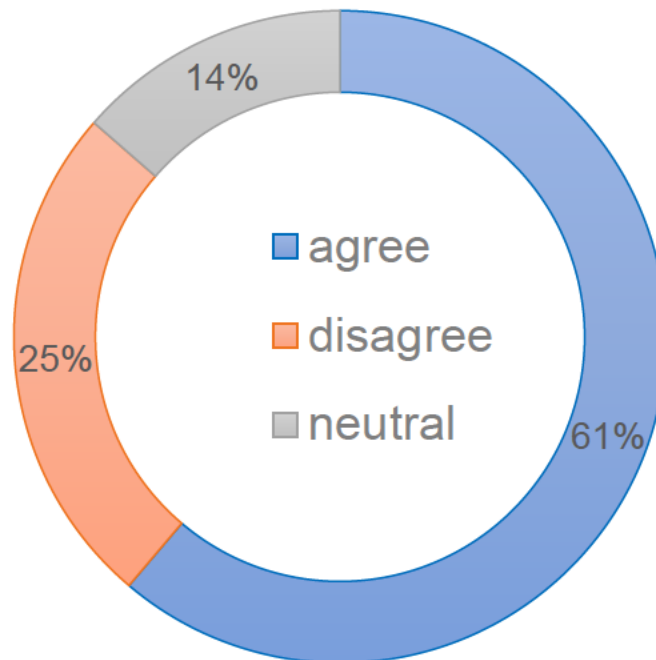
Response	Rationale
<p>Amend to exclude provisional licences issued under regulation 15(1)(c) and (ca) – in the case of an investigation, where the investigation did not result in a finding of breach of regulations.</p> <p>We are considering further operational mechanisms to address the concerns raised around inconsistency.</p>	<ul style="list-style-type: none">• We are being more explicit by removing the ability to consider provisional licences reclassified in the case of a complaint that warrants investigation (Reg 15(1)(c) and (ca)) as grounds for cancellation.• We are not proposing to amend the regulations to introduce a limit on the frequency or time between provisional licences as we do not want to limit the discretion of the Secretary, as every situation is fact-specific.

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

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

61% agreed

- Important to place the provider on provisional and to be able to **take immediate action** for child safety



25% disagreed

- 'incident' needs to be **well defined**
- Should only be used for **serious** incidents
- Concerns that this is inconsistent with the principles of **natural justice**
- **New category of licence** – Under investigation

73% agreed that clause 9(1) made these changes **clear**

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



Response	Rationale
<p>No change proposed to the drafting of the new Regulation 15(1)(ca), but exclude it from the grounds in which a service may have their licence cancelled under proposal 1.</p>	<ul style="list-style-type: none">• When a child suffers a serious injury, we need a mechanism to require a service provider, or an investigative agency, to undertake an investigation.• The service provider will be required to provide us a report outlining what occurred and what actions the service has taken to minimise the risk of this occurring again.• Not all complaints and incidents will be assessed by the Secretary as requiring investigation. Since 2011, we have only issued a provisional licence referencing 15(1)(c) an average of 7 times a year.• We are recommending excluding a provisional licence reclassified in the case of an incident not be included as one of the grounds for cancellation as per proposal 1.

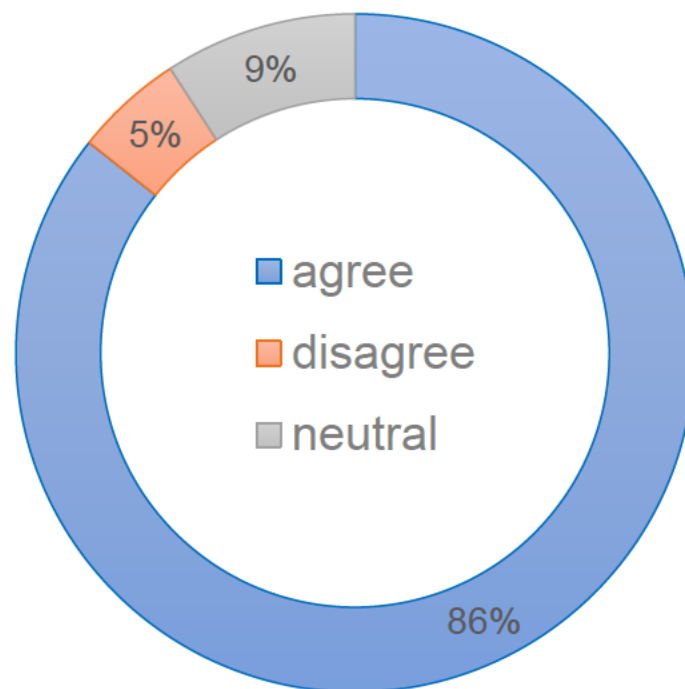
Proposal 3 | Creating written directions for health and safety matters that require immediate attention



Do you agree that this approach to issuing written directions strikes **the right balance** between requiring a service to immediately address health and safety matters while allowing them to safely remain open?

86% agreed

- The **health and safety** of children should be paramount



5% disagreed

- Needs to be **tailored to individual** situation
- Mechanism could **hide non-compliance**
- **Clear** definition around an immediate risk to health and safety.

90% agreed the Secretary should be able to **suspend** a licence, or **reclassify** it as provisional, **if a service has not complied** with the written direction within the specified timeframe

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



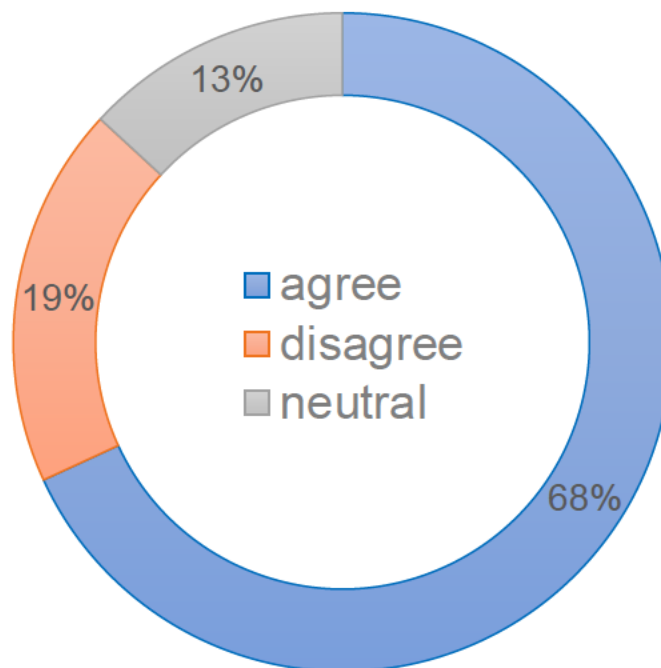
Do you agree that up to **5 working days** is an appropriate length of time for a service to comply with a written direction?

68% agreed

- Should be dealt with as **quickly** as possible

19% disagreed

- Not enough time for admin & logistic **delays**
- Issues with accessing **tradespeople**



Consistent comments for both agree and disagree

- **Flexibility** in timeframes
- Length of time it can take to **access tradespeople**

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



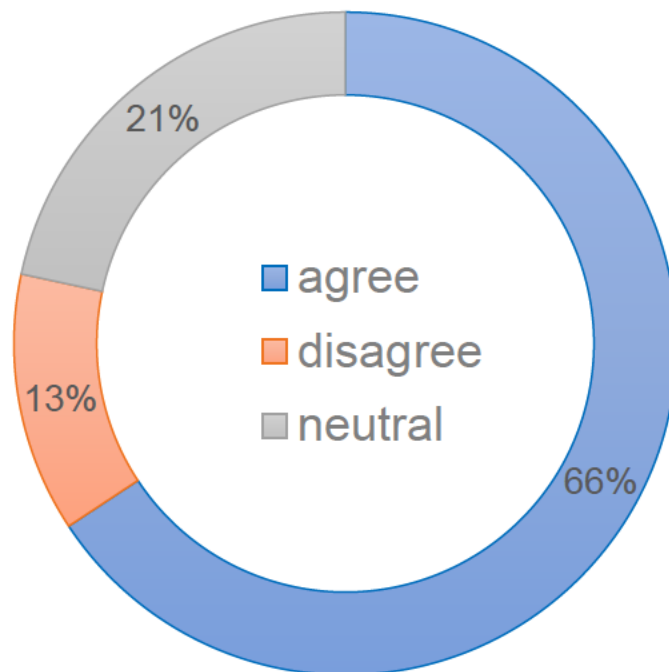
Response	Rationale
<p>No change to the proposed wording of Regulations 3 and 15(1)(d).</p> <p>Propose changing the new Regulation 54A(3) to extend the date of compliance from ‘up to 5 working days’ to ‘up to 10 working days’.</p>	<ul style="list-style-type: none">• The feedback was generally supportive, but with many expressing concern about accessing tradespeople within 5 working days. Suggestions varied between 24 hours and 4 weeks.• We will be extending the timeframe for compliance to ‘<u>up to</u> 10 working days’ in response to this feedback, to balance the health and safety of children and staff, and the ability of the service provider to safely remedy the issue in a timely manner.• We are retaining the ability of the Secretary to reclassify the licence as provisional or suspend the licence in the case of non-compliance with the written direction within the specified timeframe for both accountability, and health and safety reasons.• In all circumstances, the service provider would be required to demonstrate that the health and safety matter would be isolated or mitigated for the service to continue to operate.

Proposal 6 | Removing the 21-day minimum notice period for suspensions for not returning an invalid licence

Do you agree that we should remove the 21-day minimum notice period for suspensions **for not returning a full or probationary licence** when it is invalid?

66% agreed

- Support for more timely protection of children's health and safety



13% disagreed

- Impact on children, whānau and staff
- Not good grounds for suspending a license
- Reduce instead
 - 7.8 day average

Proposal 6 | Removing the 21-day minimum notice period for suspensions for not returning an invalid licence



Response	Rationale
We intend to remove the current Regulation 30(3) and 15(2)(a) from the Education (Early Childhood Services) Regulations 2008.	<ul style="list-style-type: none">• The rationale for requiring services to return the invalid licence was to ensure the correct licence was always displayed and that parents and whānau were made aware if a service's licence had been reclassified as provisional.• This appears ineffective, given how easy it is now to make copies of a licence. A service could still display a full licence even after returning it.• The requirement is an unnecessary compliance burden.• We will explore other options to ensure that parents and whānau are made aware of their service's licence status.

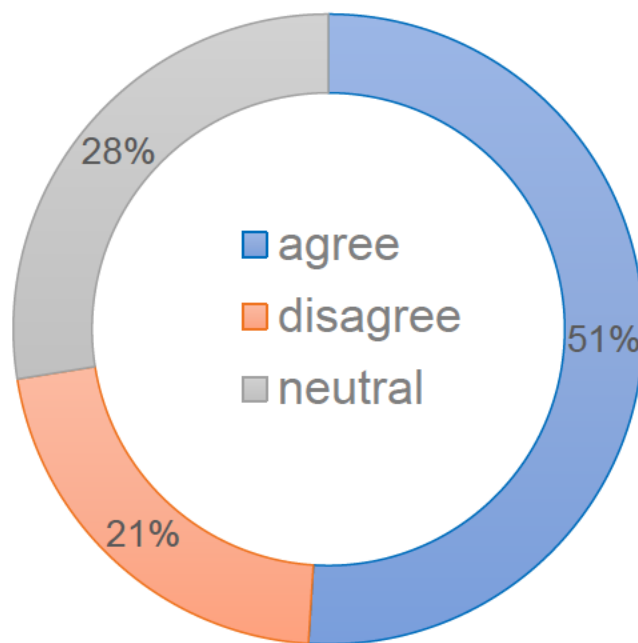
Proposal 11 | Amending the licensing criteria for philosophy statements, self-review and annual planning, requiring services to demonstrate regard for the NELP



Do you agree that the proposed changes to the licensing criteria provide services with **enough information on how to demonstrate having regard** to the National Education and Learning Priorities?

51% agreed

- Self-review should be called internal evaluation to align with ERO
- NELP is beneficial and should align with *Te Whāriki* and *He Māpuna te Tamaiti*
- Should be supported with PLD and examples of quality practice



21% disagreed

- This adds more layers of compliance and paperwork
- NELP should not be in the philosophy statement

Proposal 11 | Amending the licensing criteria for philosophy statements, self-review and annual planning, requiring services to demonstrate regard for the NELP



Response	Rationale
<p>The Ministry will progress with proposed changes to the licensing criteria for self-review (GMA6), and align terminology with internal evaluation.</p> <p>The Ministry will not progress with changes to philosophy statement (GMA5) or annual planning criteria (GMA8).</p>	<ul style="list-style-type: none">• Guidance will be updated in a phased approach, as more information and support for the NELP becomes available.• We will first ask services to become familiar with the NELP in the context of what they are doing and what they can do differently. Services should focus on strengthening relationships with learners, whānau and their communities.• Further licensing criteria changes may be explored in 2022.



Next steps on tranche one

- Following our conversation today, we will be briefing the Minister ahead of working with the Parliamentary Counsel Office on drafting the final regulations and seeking Cabinet approval for the changes.
- We are starting to think about how we should communicate these changes to the sector ahead of implementation.
 - Do you have any thoughts on how we can best communicate these changes with the sector?
- We are also working on the operational policy and guidance ahead of implementation.
- We are yet to work out the date for the new regulations to come into effect.

What else did we hear?





General themes and additional comments

- Review the requirement for the person responsible.
- Ensure that parents and whānau are aware of the licensing status of their child's service.
- Improve the complaints process especially for teachers.
- Improve ratios/group size/across licence ratios.
- Improve physical environment, including health, safety and wellbeing for children and teachers.
- Consider a review mechanism for Ministry decisions.
- Establish tiered interventions for non-compliance based on severity or impact on children.
- Review funding for early learning services.
- Better treatment of teachers from their employer including bullying.

Possible scope of tranche 2 & 3



Tranche 2

- Regulating for 80% qualified (plus associated qualification standard changes)
- Network planning and licensing changes to support implementation
- Review the requirement for the person responsible
- Options for ensuring that parents and whānau are aware of the licensing status of their child's service

9(2)(f)(iv)

s 9(2)(f)(iv)



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**