

# Consultation on additional tranche two proposals

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# Proposal 1: Allowing new conditions to be added to a provisional licence



- We propose to amend the regulations to:

Allow new conditions to be added to a provisional licence, at the discretion of the Secretary of Education where this is considered fair and appropriate, to be met by a new deadline, but no later than 12-months from when the licence was reclassified as provisional

- New conditions will have new deadlines for services to meet, and services can request an extension to these conditions.
- The Secretary will have discretion when adding new conditions to a service's licence, to ensure that the overall impact of any enforcement action is considered and proportionate to the situation.

# Proposal 2: Providing a definition of ‘permanently ceased to operate’



- We propose to amend the regulations to:

Insert a definition of ‘permanently ceased to operate’ as when:

1. the service provider has notified the Ministry of Education that it has permanently ceased to operate; or
2. the Ministry of Education is made aware that a service has not been operating for a defined minimum period as evidenced by two or more of the following criteria:
  1. there being no children enrolled and/or attending the service; or
  2. there being no staff employed or engaged and working in the service, or
  3. the service provider has not claimed early childhood education funding.

As part of this consultation, we’re also seeking your views on whether the defined minimum period for a service not being in operation (before being deemed to have permanently ceased to operate) should be:

- three months or more, or
- six months or more

# Proposal 3: Providing for temporary service closures



- We propose to amend the regulations to:

Allow the Secretary to grant a service provider, on application, approval to temporarily close the service for a period of up to three months, with the possibility of extension on request

- The decision to allow a temporary closure will be at the discretion of the Secretary and subject to an application being received from the service provider.
- This proposal would enable service providers to temporarily close their services for up to three months, with the possibility of an extension upon request. This timeframe is based on current practice and is expected to give service providers sufficient time to address reasons for the service closure.

# Previous consultation on person responsible requirements



- Consultation feedback in 2021 on the proposal for persons responsible to be locally-based was supportive.
- However, consultation feedback was mixed on a definition for locally-based.
- Consultation feedback noted that neither a geography-based or time-based definition of locally-based would work.
- We are consulting again on a definition of locally-based, given the proposal is quite different from the previous consultation proposal.

# Proposal 4: Defining locally-based for persons responsible



Define 'locally-based' for licensed home-based education and care services as when the person responsible must:

1. either reside, or have a permanent place of business from which they carry out their daily responsibilities, in the same local area as the educator(s) for which they are responsible

- Under this proposal, persons responsible would need to reside or have business in the same local area where they conduct their day-to-day duties and responsibilities.
- This proposal is expected to provide service providers with more flexibility in meeting the person responsible requirements than the options we previously consulted on.

# Proposal 4: Defining locally-based for persons responsible



Define 'locally-based' for licensed home-based education and care services as when the person responsible must:

2. be in sufficiently close proximity to the educator(s) and children for which they are responsible to be able to fulfil the obligations of their role, including but not limited to overseeing the day-to-day education and care, comfort, and health and safety of the children

- Under this proposal, persons responsible would need to be in close physical proximity to where they conduct their day-to-day duties and responsibilities.
- This aims to reduce the risk of the wording 'local area' being interpreted as being an area larger than intended (e.g., being within NZ rather than Australia).

# Proposal 4: Defining locally-based for persons responsible



Define 'locally-based' for licensed home-based education and care services as when the person responsible must:

3. be contactable by the educator(s) for whom they are responsible at all times those educators are providing education and care during the operating hours of the licensed early childhood service

- Under this proposal, persons responsible would need to be contactable when services are open, to meet their requirements under regulation 28(2).
- The proposal makes it clear that the definition of locally-based is about persons responsible being contactable when needed, not just about being physically close to services.



# Proposal 4: Defining locally-based for persons responsible



Define 'locally-based' for licensed home-based education and care services as when the person responsible must:

4. be able to attend in person, within a reasonable travel time for the location, if requested to do so by the educator to ensure the health and safety of children or if otherwise required in the event of an emergency

- Under this proposal, persons responsible would need to be able to physically get to the educators' home in a reasonable time to respond to anything urgent that is within the scope of their duties and responsibilities.
- This proposal focuses on persons responsible being able to attend in person in events of emergency or in interests of health and safety of children in care. This is to ensure the person responsible role doesn't become too onerous or impractical.

# Providing feedback



- We're keen for your feedback on these proposals.
- Information on how to provide feedback to this consultation can be found on the Education Conversation website, including the different ways you can provide feedback, including:
  - **Survey** (in English or te reo Māori)
  - **Email** at [Earlylearning.regulatoryreview@education.govt.nz](mailto:Earlylearning.regulatoryreview@education.govt.nz)
  - **Post** to:  
Early Learning Regulatory Review (*Additional tranche 2 proposals AND/OR Definition of locally-based*)  
Ministry of Education  
PO Box 1666  
Wellington 6140
- The consultation closes on **17 February 2023**.
- If you have any questions about the consultation or on the proposals, please email us at [Earlylearning.regulatoryreview@education.govt.nz](mailto:Earlylearning.regulatoryreview@education.govt.nz)



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