



AIDE MEMOIRE

Proposed changes to the early learning regulatory system – implications for Pacific early learning services

Date:	23 July 2020	Priority:	Medium
To:	Hon Jenny Salesa	METIS No:	1235632
From:	John Brooker	Security Level:	In Confidence

Purpose

1. This aide memoire responds to your request for advice on the impact of proposed changes to the early learning regulatory system on Pacific early learning services.

Background

2. The paper, *Proposed changes to the early learning regulatory system*, will be presented to the Social Wellbeing Cabinet Committee on 29 July 2020.
3. The paper seeks Cabinet's agreement to issue drafting instructions and begin public consultation on proposed technical changes to the early learning regulatory system. This is the first tranche of a review of the early learning regulatory system.
4. It is intended that the Review will be completed in tranches, to allow for high priority issues to be dealt with in a timely fashion now, with those areas that require more work to come later.
5. The Cabinet paper focuses on Tranche one, which will address a number of known issues within the current regulatory system. These issues pose a degree of risk to the health, safety and wellbeing of children. They relate primarily to the licensing regime and how the Ministry ensures services are fit to operate and are complying with the regulatory standards.

Impact on Pacific early learning services

6. Pacific early learning services are likely to be impacted by the proposed changes in a similar way to all other licensed services. Certain changes would affect all licensed services, whilst other changes would affect a subset of services depending on their circumstances.
7. All early learning services would have to meet the proposed temperature requirements, in which the minimum room temperature would be raised from 16 degrees to 18 degrees Celsius (a change to the licensing criteria rather than regulations).

8. The requirements for person responsible in teacher-led services would be clarified by inserting the registration and certification requirements. The person responsible is the person within a service who is responsible for the education, care, comfort, and health and safety of the children attending.
9. The rest of the proposed changes would only affect early learning services in specific circumstances. The proposed changes that would affect new services, or those with a change in governance, include:
 - a. clarifying that the fee for a new licence is payable upon application and is non-refundable, as this is not currently clear in regulations
 - b. clarifying that any relevant information can be used to assess an application for a probationary licence (probationary licences are the category of licence for new services) rather than only the information provided by the applicant
 - c. that the following are clarified for licence amendments when the service provider changes:
 - i. 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)
 - ii. the phrase “review the licence” can include the assessments used for granting a probationary licence and/or for granting a full licence.
10. The proposed changes that would affect services that have compliance issues include:
 - a. the following amendments relating to provisional licences (provisional licences are a key lever for ensuring compliance with the Regulations):
 - i. adding ‘incident at a service involving a child that requires investigation’ to the matters that could lead to a provisional licence
 - ii. removing the requirement to place a condition on a provisional licence that has been issued as part of an investigation
 - iii. 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
 - b. creating the ability to issue written directives for health and safety matters that require immediate attention, regardless of whether there are other compliance concerns that warrant a full licensing investigation
 - c. removing the 21 day minimum notice period to suspend a service’s licence:
 - i. for not returning a full licence when reclassified as provisional
 - ii. when the service is no longer in the control of the service provider.
11. The Ministry is considering how to effectively engage with different population groups, including Pacific peoples and Pacific early learning services, as part of the public consultation process.

Proactive Release

It is intended that this Briefing is proactively released as per your expectation that information be released as soon as possible. Any information which may need to be withheld will be done so in line with the provisions of the Official Information Act 1982.