

# 2018 Early Childhood Education Complaints and Incidents Report

This report summarises the complaints and incident notifications the Ministry of Education received in 2018 about licensed early childhood education services, ngā kōhanga reo and certificated playgroups (early learning services).

## Overview

In 2018, there were 5,471 early learning services operating in New Zealand. These were comprised of 4,563 licensed early childhood education and care services and ngā kōhanga reo, and 908 certificated playgroups providing parent-led education and care opportunities for children.<sup>1</sup>

The Ministry of Education is responsible for ensuring all licensed and certificated services are meeting regulated standards. Managing and responding to complaints is one way we identify that a service may no longer be meeting the needs of participating children.

Parents, whānau, early learning staff and the wider community can raise a complaint or concern with their licensed early learning service or certificated playgroup at any time.

Our licensing criteria requires all licensed early learning services to have a complaints procedure in place that is on display for visitors to the service. Most complaints should be able to be resolved directly between the complainant and the early learning service and will not require Ministry intervention.

If a complainant is not satisfied with the service's response to their concern, they can complain directly to the Ministry of Education. This can be done anonymously should the complainant wish.

We assess each concern we receive, investigate if necessary and act on our findings when intervention is required. We take all complaints seriously and work with the service concerned to ensure children are participating in quality early learning environments.

The total number of complaints received in 2018 identified that a small number of services did not meet our expectations for providing children with quality education and care. A summary of all complaints received in 2018 is outlined in Appendix 1.

This is the third year that we are reporting on incident notifications received in 2018. Early learning services are required to notify specified agencies, such as WorkSafe New Zealand, New Zealand Police and Oranga Tamariki | The Ministry for Children when a serious injury, illness or incident involving a child has occurred. Our licensing criteria requires services to notify us of this at the same time.

Many early learning services also choose to voluntarily notify us of other incidents that have occurred when children are present at the service. All incident notifications received by the Ministry in 2018 are outlined in Appendix 2.

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<sup>1</sup> As at July 2018, Education Counts.

## Complaints received, investigated and upheld in 2018

A complaint is any communication received by the Ministry from a person who is unhappy, concerned or not satisfied with a situation, process or decision at a licensed or certificated early learning service. We receive complaints from a range of people, including parents, whānau, early learning staff and members of the community.

### Complaints received

In 2018, we received 430 complaints about early learning services and certificated playgroups. These complaints were made in relation to 345 early learning services (including playgroups), or 6.3% of the early learning sector.

While we have seen an increase in the total number of complaints received compared to previous reporting years, this figure reflects a low proportion of the 5,471 early learning services operating in New Zealand at this time.<sup>2</sup>

### Complaints investigated

The Ministry of Education assesses every complaint to determine whether further investigation is required to address the complainant's concerns.

Children's education, safety and wellbeing are the key drivers of any investigation into a complaint. In 2018, we investigated 91% of all complaints received (391 complaints).

The remaining 39 complaints did not require further investigation. These complaints were either:

- resolved by the service provider before an investigation could be undertaken;
- referred to the service's complaints procedure and managed directly between the service and complainant;
- referred to another agency that can most appropriately respond to the complainant's concerns; or
- the complainant withdrew their complaint and the Ministry was satisfied the complaint did not indicate a risk to the education, safety or wellbeing of participating children.

### Complaints upheld

A complaint is upheld when, after investigation, it is found that regulated standards have not been met by the service or the Ministry considers improvement is required in a particular area related to the complaint.

In 2018, we upheld 56.5% of all complaints investigated (221 individual complaints). These 221 upheld complaints related to 176 early learning services, or 3.2% of all services operating in 2018. Complaints most commonly upheld in 2018 were related to:

- health and safety (17% of all complaints received);
- behaviour management (10% of all complaints received) and;
- supervision (9% of all complaints received)<sup>3</sup>

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<sup>2</sup> As at July 2018, Education Counts.

<sup>3</sup> Note a single complaint can be counted against multiple categories.

A further 170 complaints were identified as ‘not upheld’ following investigation. A complaint is determined as ‘not upheld’ when:

- the complainants concerns were unable to be substantiated throughout the investigation process; and/or
- there was no evidence of non-compliance occurring at the service in relation to the complaint.

While our investigation may find that a complaint is ‘not upheld’, many services choose to further strengthen areas of practice to exceed regulated standards. For example, a service may choose to undertake an internal review of relevant policies and procedures, participate in professional learning and development or work with the complainant directly to strengthen relationships.

**Table 1. Total number of complaints received, investigated and upheld between 2013 and 2018**

	2013	2014	2015	2016	2017	2018
Complaints received	246	360	342	331	339	430
Complaints investigated	162	205	183	245	297	391
Complaints upheld	79	106	104	163	166	221

### Responding to complaints

The Ministry can take a range of actions when responding to and managing complaints about licensed early learning services, including:

- providing the service with advice and guidance;
- undertaking a review of the service’s policies and procedures;
- working with the service to identify areas of improvement to implement within a specified timeframe;
- providing ongoing monitoring and support for the service, including government funded professional learning and development (namely SELO: Strengthening Early Learning Opportunities); or
- implementing a regulatory response.

Our approach to managing and responding to complaints is informed by the nature and severity of the complaint and whether the service has a history of regulatory non-compliance. In many cases, services will proactively identify steps to address a complainant’s concerns and it is not necessary for the Ministry to intervene further.

### Implementing a regulatory response

When we identify that a service is not meeting one or more regulatory requirements, the service may be placed on a provisional licence or have their licence suspended or cancelled. We take this course of action when we have concerns for the safety or wellbeing of children or when a serious allegation is under investigation by another agency.

In 2018, 13% of all early learning services that received a complaint had their licence amended to provisional, or were suspended or cancelled as a result of one or multiple complaints:<sup>4</sup>

- 34 services were placed on a provisional licence following the receipt of 44 complaints – a service that is placed on a provisional licence must demonstrate compliance with specified conditions within a prescribed timeframe before being returned to a full licence;
- 6 services had their licences suspended following the receipt of 11 complaints; and
- 5 services had their licence subsequently cancelled as a result of 10 complaints.

### **Referrals to other agencies**

In 2018, 73 referrals were made to other agencies in relation to 48 complaints (11.2% of all complaints received).

Upon receiving a complaint, we make an assessment to determine whether it is necessary to refer the complainant to another agency or for us to participate in a multi-agency investigation.

There are clear legal requirements that must be followed when the safety and wellbeing of children may be at risk, which includes notifying the appropriate agency.

Agencies can be notified of a concern by a parent or family member, the Ministry of Education, the early learning service or a member of the public. In serious cases, we will investigate a complaint alongside agencies such as:

- WorkSafe New Zealand when there has been a serious injury or accident;
- the New Zealand Police and Oranga Tamariki | The Ministry for Children when children's safety is at risk; or
- the Teaching Council when professional conduct or competency of a registered and certificated teachers is of concern

In other cases, advice or support from another agency may be requested.

### **Incident notifications**

In 2018, we received incident notifications from 271 early learning services, or 5% of the sector. As per previous reporting years, the incident notifications we received in 2018 included a mixture of voluntary and mandatory notifications.

#### *Mandatory incident notifications*

In 2018, we received 150 incident notifications from early learning services that were also referred to other agencies.<sup>5</sup>

Mandatory notifications must be made to the Ministry when an incident has occurred that requires notification to another specified agency (including WorkSafe New Zealand, Oranga Tamariki | The

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<sup>4</sup> Note a single service can have its licence amended more than once.

<sup>5</sup> Note, not all incidents referred to other agencies in 2018 met the relevant agency's threshold for notification.

Ministry for Children and the Teaching Council). This requirement was introduced from May 2016 for all services.<sup>6</sup>

Our licensing criteria requires all services to record incidents, injuries and illnesses and report these to the child's parents and/or whānau. All services must have a documented process for responding to incidents and illnesses, and they must check their premises and facilities each day for potential hazards.

### *Voluntary incident notifications*

In 2018, we received 165 voluntary incident notifications from services that chose to notify us about a particular incident or event.

Services may choose to notify us of an incident when they require support with a particular situation or wish to keep the Ministry informed of events that have occurred at the service. We encourage all services to contact us should they require support or advice when managing and responding to an incident.

### **Responding to Incidents**

The majority of incident notifications made in 2018 did not require any further involvement from the Ministry.

In some instances, we may need to investigate an incident further to determine whether the service is continuing to meet licensing requirements. In other cases it may be more appropriate for us to contribute to an investigation being led by another organisation.

Like complaints, we respond to incident notifications in a number of ways, including:

- requiring the service to provide an incident report or evidence of mitigation of any hazards,
- providing advice and support to the service on policies and practices,
- undertaking a licensing assessment visit if there is evidence of non-compliance in relation to the incident, or
- in serious cases, the Ministry's Traumatic Incident team will visit and support the service to continue operating.

### **Regulatory response**

Further action is required when we determine that an incident requires our investigation and regulated standards have not been met by the service. A service's licence can be amended to provisional, suspended or cancelled as a result of an incident investigation.

Of all incident notifications received in 2018:

- 7 services had their licence amended to provisional;
- 1 service had their licence suspended and subsequently cancelled.

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<sup>6</sup> HS34 of the Licensing Criteria for Centre-based Education and Care Services 2008; HS33 of the Licensing Criteria for Home-based Education and Care Services 2008. All incident notifications under this criterion must be accompanied by evidence of the notification to the specified agency.

## Trends

### Complaints

- In 2018 we received, investigated and upheld more complaints compared to previous reporting years. However, the number of services with upheld complaints continues to reflect a small proportion of the sector, at 3.2% of all early learning services, compared to 2.6% in 2017.

**Table 2. Complaints received 2017 – 2018<sup>7</sup>**

	2017	2018
Complaints received	339	<b>430</b>
Total number of services that received a complaint	286	<b>345</b>
Proportion of the sector that received a complaint	5%	<b>6.3%</b>
Proportion of the sector with an upheld complaint	2.6%	<b>3.2%</b>

- The increase in the number of complaints received may be partly attributed to increased awareness and confidence among parents, whānau, early learning staff and members of the community regarding the roles and responsibilities of early learning services and the Ministry of Education.
- In 2017, we reported an increase in the number of complaints received related to **health and safety**. This trend has not continued in 2018, as we have seen a decrease in the number of complaints received and upheld relating to health and safety. This may demonstrate increasing understanding among services working with the new health and safety requirements introduced in 2015.<sup>8</sup>
- In 2017 we also reported an increase in complaints received and upheld relating to **abuse or neglect**. This trend has not continued in 2018, as we have not seen an increase in the number of complaints upheld against abuse or neglect. This may indicate services are generally meeting, or getting better at meeting their obligations under the Children’s Act 2014, which has strengthened requirements for reporting abuse or neglect.
- In 2018, we also saw an increase in the number of complaints received related to **employment practices**. This may be attributed in part to work undertaken with stakeholder groups to increase confidence in raising concerns with the Ministry about issues that impact on the quality of the teaching and learning environment.
- We also received and upheld more complaints in relation to service’s **complaints procedures**. This means that in 2018 we heard from more complainants who were unhappy with how a service managed their initial concerns at a service or service provider level. This

<sup>7</sup> Note that in 2016, and earlier years, we did not report on the total number of services that received a complaint.

<sup>8</sup> The Health and Safety at Work Act 2015 places a positive duty on organisations to keep people safe from harm by proactively identifying and managing potential health and safety risks. For more information on the Health and Safety at Work Act 2015, see <http://www.education.govt.nz/assets/Documents/Ministry/Initiatives/Health-and-safety/ECE/Implementing-the-Health-and-Safety-at-Work-Act-2015-guide-for-els.pdf>

suggests further work may be needed to assist some service providers to understand their roles and responsibilities in managing and responding effectively to complainants.

- This year we have identified an increase in complaints received and upheld related to **ratios, supervision and behaviour management**.
- We will continue to monitor emerging trends and note that the draft Strategic Plan for Early Learning has also made a number of recommendations to lift regulated standards across the early learning sector. For example, improving adult:child ratios for infants and toddlers and regulating group size. The draft Plan is expected to be finalised later this year at which point approved recommendations will be incorporated into the Ministry's work programme.

### ***Incident notifications***

- Consistent with the increase in complaints received in 2018, we have also seen an increase in the number of **incident notifications** received compared to previous reporting years.
- Incident notifications can cover a range of events that may occur at an early learning service that relate to children, staff and other adults. For example, early learning services are required to notify us in the event of an outbreak of illness, in addition to notifying the Ministry of Health.
- Consistent with previous years, we received a combination of voluntary and mandatory incident notifications from early learning services in 2018.<sup>9</sup> We report on all incident notifications we receive, including those that are not required to be notified under our legislation.
- The majority of incident notifications received in 2018 related to incidents that early learning services chose to voluntarily notify to the Ministry. In 2018, we released the *2017 Early Childhood Education Complaints and Incidents Report*, through which we published summaries of all incident notifications received from early learning services for the first time. The release of this information may have contributed to more services choosing to notify the Ministry of similar events that occurred throughout 2018 compared to previous reporting years.
- We encourage all services to contact us should they have a concern about an incident or event that has occurred. We will continue to monitor incident notification trends to identify any related work that may be needed to clarify requirements and support the sector when managing and reporting on incidents.

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<sup>9</sup> Our regulatory framework requires all early learning services to notify us of incidents involving children that require notification to another agency, such as the Ministry of Health, or WorkSafe. This requirement was introduced in May 2016. Early learning services may also choose to voluntarily notify us of an incident, particularly when they require our support or assistance.

## Appendices: Data tables

**Table 3. Complaints received by Ministry of Education region**

Region	Complaints received	Services with complaints received	Total services <sup>10</sup>	% of total services
Tai Tokerau	19	15	292	5.1%
Auckland	154	125	1675	7.5%
Waikato	34	30	524	5.7%
Bay of Plenty / Waiariki	24	22	477	4.6%
Hawke's Bay/ Tairāwhiti	38	28	351	7.9%
Taranaki/ Whanganui/ Manawatu	24	19	386	4.9%
Wellington	50	37	637	5.8%
Nelson / Marlborough / West Coast	11	8	212	3.7%
Canterbury / Chatham Islands	65	51	539	9.4%
Otago / Southland	11	10	377	2.6%
<b>Totals</b>	<b>430</b>	<b>345</b>	<b>5470</b>	

**Table 4. Complaints upheld by Ministry of Education region**

Region	Complaints upheld	Services with complaints upheld	Total services <sup>11</sup>	% of total services
Tai Tokerau	9	7	292	2.4%
Auckland	66	54	1675	3.2%
Waikato	20	18	524	3.4%
Bay of Plenty / Waiariki	15	15	477	3.1%
Taranaki / Whanganui / Manawatu	16	13	386	3.3%
Hawke's Bay/ Tairāwhiti	22	17	351	4.8%

<sup>10</sup> Excludes Te Aho o Te Kura Pounamu – The Correspondence School, which is nationwide.

<sup>11</sup> Above.



Region	Complaints upheld	Services with complaints upheld	Total services <sup>11</sup>	% of total services
Wellington	33	22	637	3.5%
Nelson / Marlborough / West Coast	7	5	212	2.3%
Canterbury / Chatham Islands	28	20	539	3.7%
Otago / Southland	5	5	377	1.0%
<b>Total</b>	<b>221</b>	<b>176</b>	<b>5470</b>	

**Table 5. Complaints received by service type**

Service Type	Complaints received	Services with complaints received	Total services	% of total services
Education and care <sup>12</sup>	372	295	2592	11.4%
Home-based	34	29	434	6.7%
Kindergarten	16	13	654	1.9%
Kōhanga reo	6	6	453	1.3%
Playcentre	1	1	407	0.3%
Playgroup	1	1	908	0.1%
Hospital-based	0	0	22	n/a
Correspondence School	0	0	1	n/a
<b>Total</b>	<b>430</b>	<b>345</b>	<b>5471</b>	

<sup>12</sup> Education and care refers to teacher-led, centre-based services, excluding kindergartens.

**Table 6. Complaints received<sup>13</sup> and upheld<sup>14</sup> by category**

Type of complaint	Description	Received	Upheld
Abuse or neglect	Allegations of physical or emotional injuries inflicted on children, including verbal abuse, isolation of children and physical harm	59	16
Accidents	Allegations of poor accident management procedures, including insufficient reporting of accidents to parents, children injuring each other and accidental injuries suffered by children	55	20
After-school care	Allegations of services providing an out-of-school service for over-5s while simultaneously providing a licensed ECE service for under-5s	3	1
Behaviour management	Allegations of poor behaviour management strategies used by teachers	77	45
Child leaving premises	Allegations of children accidentally leaving a service due to unsecure premises or a lapse in staff supervision	6	5
Complaints procedure	Allegations of dissatisfaction with the service's complaints procedure or the response of a service to a complaint	50	25
Curriculum	Allegations of poor curriculum quality, such as using inappropriate materials or poor implementation of Te Whāriki	53	23
Employment practices	Allegations of wrongful dismissals, poor staff management and poor employment policies	56	22
Enrolments	Allegations of service enrolment policies being unclear, changed with insufficient notice or not meeting the needs of the community	15	5
Exclusions	Allegations of children or caregivers being asked to leave a service with insufficient notice or reason	6	1
Excursions	Allegations of dissatisfaction with excursion procedures, including policies, staffing, communication and hazard mitigation	6	4
Fees	Allegations of overcharging, lack of transparency surrounding fees and subsidies and lack of communication regarding fee changes	34	7
Fraud	Allegations of services making fraudulent claims about children's attendance to the Ministry for funding purposes	26	3

<sup>13</sup> As a complaint can relate to more than one category, the figures in this table do not represent the total number of complaints received in 2018.

<sup>14</sup> A complaint is upheld when, after investigation, it is found that regulated standards have not been met by the service or the Ministry considers improvement is required in a particular area related to the complaint.

Type of complaint	Description	Received	Upheld
Health and safety	Allegations of general problems with health and safety policies and procedures, including hazard management, food policies, child protection policies and smoking	112	73
Hygiene	Allegations of poor hygiene levels including head lice, child illness and cleaning products used	16	6
Learning support	Allegations of staff lacking the skills, experience or resources needed to appropriately respond to the learning support needs of children	15	9
Management and administration	Allegations of problems with the management and policies of a service including staff turnover, resources, relationships with, and communication from, management	65	33
Noise	Allegations regarding the levels of noise at a service. Generally received from neighbouring homes or businesses	7	3
Premises and facilities	Allegations of problems with the services premises, such as lack of space, lack of heating or unsafe playground equipment	41	27
Privacy	Allegations of children's, parents' or teachers' information being shared without permission	6	1
Ratios	Allegations that there are not enough staff present for the amount of children attending the ECE service	84	27
Supervision	Allegations of insufficient supervision of children attending the service	82	39
Teacher behaviour	Allegations of staff behaving inappropriately, generally towards parents rather than children	8	1
Teacher suitability	Allegations that staff are unsuited to care for children	21	10
Transportation	Allegations of problems with a service's transport arrangements, such as insufficient seating or insufficient supervision on transportation	5	2

The table below shows the number of complaints that resulted in a licensing amendment and the number of individual services that had their licence amended as a result of a complaint.

While some services had their licence amended as a result of multiple complaints, others had their licence amended to more than one status i.e. moving from a provisional licence to a suspension or cancellation.

**Table 7. Licensing amendments from complaints**

Licence change	Number of services	Number of complaints
Provisional licence	34	44
Suspension	6	11
Cancellation	5	10
<b>Total</b>	<b>45</b>	<b>65</b>

The table below shows the number of times specified agencies were involved in complaints in 2018. Note some complaints involved more than one agency.

**Table 8. Complaints referred to another agency**

Agency	Referrals
Oranga Tamariki   Ministry for Children	24
Teaching Council of Aotearoa New Zealand	22
New Zealand Police	19
WorkSafe New Zealand	3
Ministry of Business, Innovation and Employment	2
Ministry of Health	2
Local Council	1
<b>Total</b>	<b>73</b>

**Table 9. Incident notifications received by the Ministry of Education**

Region	Incidents received	Services with incident notifications received	Total services <sup>15</sup>	% of total services
Tai Tokerau	14	13	292	4.5%
Auckland	73	65	1675	3.9%
Waikato	34	30	524	5.7%
Bay of Plenty / Waiariki	37	35	477	7.3%
Taranaki / Whanganui / Manawatu	8	8	386	2.1%
Hawkes Bay / Tairāwhiti	35	24	351	6.8%
Wellington	30	26	637	4.1%
Nelson / Marlborough / West Coast	15	11	212	5.2%
Canterbury / Chatham Islands	58	48	539	8.9%
Otago / Southland	11	11	377	2.9%
<b>Total</b>	<b>315</b>	<b>271</b>	<b>5470</b>	

**Table 10. Incident notifications received by service type**

Service Type	Incidents received	Services with incident notifications received	Total services	% of total services
Education and care <sup>16</sup>	273	232	2592	9.0%
Home-based	12	10	434	2.3%
Kindergarten	21	21	654	3.2%
Kōhanga reo	2	2	453	0.4%
Playcentre	4	3	407	0.7%
Playgroup	3	3	908	0.3%
Hospital-based	0	0	22	0
Correspondence school	0	0	1	0
<b>Total</b>	<b>315</b>	<b>271</b>	<b>5471</b>	

<sup>15</sup> Excludes Te Aho o Te Kura Pounamu – The Correspondence School.

<sup>16</sup> Education and care refers to teacher-led, centre-based services, excluding kindergartens.

The table below shows the number of incident notifications that resulted in a licensing amendment in 2018.

**Table 11. Licensing amendments from incident notifications**

Licence change	Number of services	Number of incidents
Provisional licence	7	8
Suspended and subsequently cancelled	1	1

**Table 12. Incident notifications referred to another agency**

Agency Notified	Received
Oranga Tamariki   Ministry for Children	55
WorkSafe New Zealand	49
New Zealand Police	45
Teaching Council of Aotearoa New Zealand	26
Ministry of Health	21
<b>Total<sup>17</sup></b>	<b>196</b>

<sup>17</sup> A single incident may result in a referral to multiple agencies.