



An Ghníomhaireacht um
Leanaí agus an Teaghlach
Child and Family Agency

Updated 27th July 2016

Interpretation by Child & Family Agency of Part V, Regulation 20 (1) (a) concerning “adequate and suitable facilities for a pre-school child to rest during the day and night”

There have been a number of representations received from providers post inspection concerning the matter of interpretation of the aforementioned article. Of particular issue has been the matter of a judgement by inspectors of non compliance with this part where children of a certain age grouping do not have a separate designated cot.

Like most legislative statements the phrase “adequate and suitable” are subjective descriptive terms and are not specific in themselves as interpretative criterion. In most jurisdictions the assigned regulator is charged where potential ambiguity exists to provide guidance to both service providers and service users as to the standardised interpretation and application of any regulatory requirement or standard. This principal is common in most statutory regulation systems.

Such interpretations in theory are designed primarily to enhance the safety of the service user , the actual interpretation of the relevant requirement should however be informed by evidence based practice from the sector being regulated and should be informed by any under pinning principal of the primary legislation which created the regulation in the first instance.

The Child Care Act 1991(Early Years Services) Regulations 2016 are the benchmark against which early years services are currently inspected, these regulations were created under Part 12 of the Child and Family Agency Act 2013. The fundamental underpinning postulate of this act is that the welfare of children is paramount above all other considerations or concern. Once an inspectorate have made a determination of the thresholds and practices required to meet a reasonable interpretation of any part it is required under public sector administration law to communicate this to the sector and allow a due notice period of implementation prior to inspection of same.

In July 2016 the inspectorate published on the Early Years Inspectorate Website an interpretative document entitled “Questions Asked to Tusla from the Early Years Sector with regard to Child Care Act 1991(Early Years Services Regulations) 2016.”(This updated the document previously published in April 2013). The document is designed to clarify to the sector an understanding of the matters examined under regulation inspections.

The document is formatted in a Q&A style against each regulation and addresses 14 separate questions in relation to the matter of safe rest and sleep, (see Pages 51-54 inclusive). Question 198 directly provides the inspectorates interpretation of the usage of individual cots, broken down into applicability user groups from 6 months to 2 years as follows:

“While it is desirable for children to have their own cots, this may not always be feasible; therefore an adequate supply of bed linen should be in place to ensure that each child has their own linen. The number of cots provided should ensure that each child’s individual need for sleep or rest can be

facilitated and that children are allowed to sleep or rest when tired. In general, the younger the child the greater the frequency for sleep or rest times. The following is a general guide to help estimate the number of cots needed.

At 6 months, children need approximately 10-11 hours night time sleep and 2 day time naps of 2-3 hours each. Therefore a separate cot for each child at, or under this age is recommended.

At 9 months, children need approximately 10-12 hours night time sleep and 2 day time naps of 1-2 hours each. Therefore cots for $\frac{2}{3}$ [2/3rds] of children in this age bracket is recommended.

At 18 months – 2 years of age, children need approximately 10-12 hours night time sleep and 1 day time nap of 1-2 hours. Therefore cots for half the number of children catered for in that age group is recommended.

At 2 years, children need approximately 11-12 hours night time sleep and 1 day time nap of 1 hour. It is recommended that up to 2 years that sleep or rest needs are accommodated in a standard cot unless the child has a history of climbing out over the cot in which case a floor bed or mat is safer.”

The document uses the phrase “It is recommended.....” however this is not to be considered that is optional but is recommended best practice and therefore the benchmark used by the inspectorate for interpretation of the requirement under this part.

No Evidence base to date has been presented to support the argument that children of certain age groupings should not sleep in a cot.

These requirements have been in an easily accessible format since April 2013 on The Early Years Inspectorate website and congruent to best practice and the sudden unexpected death In Infancy (SUDI) prevention guide support this interpretation. Tusla consider that the interpretation is deemed reasonable and responsible and adheres to transparent practice and procedure. There may be occasion when there is just cause for a child not to use a cot, but this should be the exception and clearly evidenced by the service.

End.