

Document Title: Early Years Inspectorate (EYI) Management of Unsolicited Information & Complaints relating to Early Years Services	Doc. Ref: PPPG/EYI/08-2017	Rev. No: Version 1
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Document Title	
Management of unsolicited information and complaints relating to Early Years Services	
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1.0

Introduction

All unsolicited information received by the Early Years Inspectorate (EYI), incorporating complaints, which relates to the Early Years' Services, shall be assessed, managed and investigated to determine any concerns relating to the safety of children.

All such information will be screened thoroughly. Unsolicited information is defined as any piece of information that relates to the operation of an early years service that has been brought to the attention of the inspectorate but has not been sought or requested or invited.

All this information will be addressed by the Early Years Inspectorate in a manner that is commensurate with the nature and scope of its application to the regulations and examination will be congruent with the following principles:

- **Accessibility:** the examination procedure is accessible and available to all relevant persons.
- **Openness and Transparency:** The examination process must be open, transparent and fair in relation to what it does, how it does it and the result it achieves.
- **Proportionality:** The management process and resolution will endeavour to be proportionate and appropriate to the circumstances of the information received and any subsequent information arising from any investigation initiated.
- **Timeliness:** Investigations where appropriate will be concluded within appropriate timelines
- **Confidentiality:** Those who bring information to the attention of the inspectorate including complainants must be made aware that anonymity cannot be ensured and that this is fully explained before proceeding with any examination under this SOP.
- **Impartiality:** Examining parties shall conduct their activities without prejudice, pre-conceptions or predetermination of outcome.
- **Completeness:** Examining parties shall consider all information necessary to arrive at a suitable and appropriate determination.
- **Ethical Behaviour:** All investigations and examinations shall be conducted in a professional manner and will follow the principles of natural justice.

2.0

Purpose

To describe the process for the receipt and management of all categories of unsolicited information received by the Early Years Inspectorate (EYI),

3.0

Scope

This policy and Procedure applies to:

- All early years services where relevant unsolicited information is received.
- All Early Years Inspectorate Staff involved in the receipt and management of unsolicited information.

4.0

Responsibility

4.1 National Registration Manager :

- Overall responsibility for the oversight of the assessment, management and investigation of unsolicited information relating to the Early Years Services.

4.2 Complaints Officer (CO):

- When required will be assigned Operational assessment, management, investigation and follow up of complaints when identified relating to the Early Years Services. The CO will assist the inspection and registration manager in the examination and management

process. The collation of all data relevant to complaints management will be the responsibility of the complaints officers.

4.3 Inspection and Registration Managers:

- Is assisted by the complaints officers in the screening and management and risk assessment of complaints. The Inspection and Registration Manager will have operational lead on complaint investigations and undertake investigations as appropriate.

4.4 Early Years Inspectors:

- Are responsible under the guidance of their Inspection and registration manager to undertake some categories of onsite compliant investigations and or to carry out service inspections on foot of those complaints as required.

5.0 Legislation and Other Related Documents

Child Care Act 1991 (Pre-School Services) Regulations 2016 (S.I. 221 of 2016)

Early Years Inspectorate (EYI) - Management of On-site Inspections Procedure (Ref: PPG/EYI/02-2016)

Early Years Inspectorate (EYI) - Compliance Rating and Risk Assessment of Inspection Findings Procedure (Ref: PPG/EYI/03-2016)

Early Years Inspectorate (EYI) - Development and Approval of Inspection Reports Procedure (Ref: PPG/EYI/04-2016)

Early Years Inspectorate (EYI) - Registration Decision Procedure (Ref: PPG/EYI/05-2016)

Early Years Inspectorate (EYI) - Regulatory Enforcement Procedure (Ref: PPG/EYI/06-2016)

Early Years Inspectorate (EYI) - Records Structure and Storage Procedure (Ref PPG/EYI/11-2016)

Early Years Inspectorate (EYI) - Inspection Report (Ref: PPG/EYI/ 04-2016)

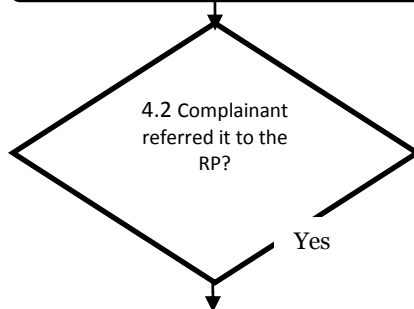
Early Years Inspectorate (EYI) - Inspection Tool (EYIFIT012016/EYIFIT062016)

6.0 Glossary of Terms and Definitions

- Complaint: - Is defined as a expression of grievance or dissatisfaction in respect to the experience, or observations concerning the operations of an early years service
- Vexatious – Is defined as a matter not having sufficient grounds for action or is deemed as a repeatedly notified matter previously addressed, or a notification seeking only to harass or cause distress.

Acceptance

4.1 Complaint Received / Referred

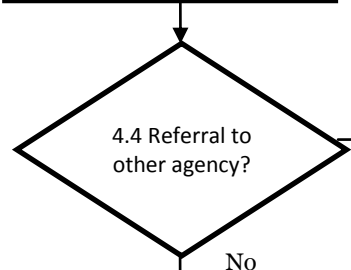


No

4.2 Redirect and follow up

Yes

4.3 Clarification and Acceptance



Yes

4.4 Redirect & Follow Up.

No

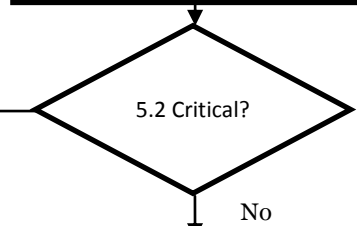
4.4 Referral to other agency?

4.4 Involvement required?

Yes

Risk Rating and Allocations

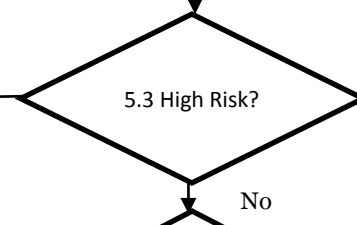
5.1 Develop Complaints Management Plan



Yes

5.2 Complaint Investigation - Onsite (CO/IRM/EYI)

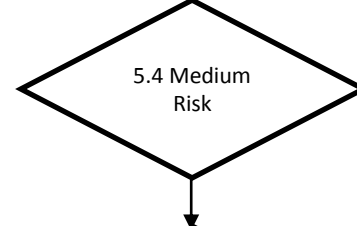
No



Yes

5.3 Complaints Investigation - Onsite (IRM/CO/EYI)

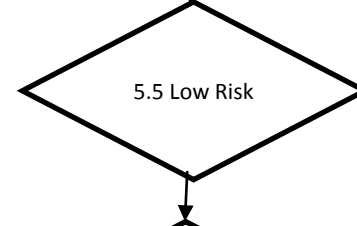
No



Yes

5.4 Complaints Investigation / Inspection - Onsite (IEYI/CO)

Yes

5.5 Triggers Inspection - Onsite (EYI)
Or
RP to Investigate

Complaints Investigation



Yes

5.6 RP to Investigate

6.2 Onsite Investigation (Evidence triangulation)

7.1 Procedure for Acceptance & Processing of Unsolicited Information

All unsolicited information will be assessed and dealt with appropriately. Whilst the majority of unsolicited information will come in the form of a complaint some will not, however irrespective of the category of information it will be examined on its merit.

When unsolicited information is reported as a complaint the following complaint procedure is applied. However please note that all information will be processed in according to the procedures outlined in this document.

A complaint can be received in any format, verbally, via complaints form, letter or email from an individual, or referred from any external agency.

You should complain to the Early Years Inspectorate as soon as possible but not later than 12 months after the action you want to complain about occurred or you became aware of it occurring.

Complaints will be received and processed centrally. All complaints are forwarded to the Early Years Complaints Officer for logging and initial screening. Any person wishing to make a complaint is given contact details for the CO. The Complaints Officer (CO) shall be responsible for the initial engagement with the complainant to ensure all relevant information has being received and verified.

The Complainant is encouraged to discuss their concern firstly with the Early Years' Service Provider. Where the complainant agrees to raise the matter directly with the Registered Provider the Early Years Inspectorate will not become involved at this point but the decision by the complainant will be logged, the complaint will be notified to the relevant IRM as legitimate intelligence which can be used to inform inspection schedules.

The Complaint Officer will:

- Make direct contact with the complainant where possible,
- Engage directly with the complainant to ensure clarity with regards to all aspects of the complaint,
- Document all details on the complaints record (EYI-CPF-001).

The Complainant shall be informed that:

- All reasonable efforts will be made to protect the anonymity of the Complainant. That this cannot be guaranteed as such details may be released by operation of Law. It is Early Years Inspectorate Tusla policy that the name of complainants shall not be released to service providers or in public documents in line with the public interest consideration.
- All complaints, whether anonymous or not will be processed in line with this SOP.
- The information received will be reviewed and verified.
- The Complaints Officer will revert to the Complainant to advise as to how the complaint will be progressed using the complaint acknowledgement letter (EYI-CPF-002).

A complaint may be accepted, not accepted or deemed more appropriate for another agency.

The Complaints Officer shall determine acceptance based on the following criteria:

- Relates to a Registered Service
- Within the remit of the Regulations
- Not deemed as a vexatious complaint, e.g. repeat complaints
- Sufficient information available to process

The Complaints Officer shall determine the complaint cannot be accepted based on the following criteria:

- Not within the remit of the Regulations
- The matter is currently the subject of known legal proceedings
- The matter does not relate to the Social Welfare Acts

- The matter could prejudice an existing investigation by the Garda
- The complaint is a child protection matter which would warrant a referral to Child Protection Services.
- The matter is relevant exclusively to another agency.

Following the review of the information received the Complaints Officer will inform the Complainant whether the complaint has been accepted or not accepted, referred or being managed directly, and projected timeframe using the complaint acknowledgement letter (EYI-CPF-002).

The Complaints Officer shall determine if the complaint is more appropriate to be referred in its entirety to another agency or department, including, however in some cases where the complaint refers to both the Early Years Services Regulations and other state regulations, Tusla may seek the assistance of the relevant body to examine the matters pertaining. Where the matter is deemed following screening to pertain in its entirety to another agency the complainant will be advised and encouraged to do bring their information to the attention of that agency.

It is Tusla policy that all matters of child welfare and protection will be referred to the relevant area child protection service. Other matters pertaining to the Early Years Regulations which have synergy with other state regulations will be assessed on their content, the agencies below may be engaged with during the processing and screening of complaints. (this list is not exclusive)

- Local Authority (Planning / Fire Safety/ Water Testing)
- Environmental Health Services
- Food Hygiene Regulations
- Issues related to the Public Health (Tobacco) Act 2010
- Public Health Department (HSE)
- Health and Safety Authority
- Pobal / DCYA ECCE and Contracting related matters.
- National Vetting Bureau
- Companies Registration Office
- National Early Years Registration Office

Where there are aspects of the complaint that are deemed to specifically require investigation by the Early Years Inspectorate the complaints procedure shall continue as outlined in this policy.

The Complainant shall be informed if the complaint is accepted, not accepted or deemed more appropriate for another agency.

Risk Rating of accepted complaints:

Once a complaint is accepted by the office a risk rating process is applied by the Complaints Officer in collaboration with the relevant Inspection and Registration Manager. This determines the level of risk believed on a balance of evidence to apply to the complaint prior to intervention - (Appendix 1). The core determinant of the risk rating in this policy is the probability of adverse impact or harm on a child or children.

The outcome of the risk assessment by the Complaints Officer (ref 5.0 above) shall determine the approach taken to the management of the complaint – (Appendix 2).

Critical	<ul style="list-style-type: none"> • Onsite complaint investigation • Two complaint investigators (IRM & CO/EYI) • Within x working days
High	<ul style="list-style-type: none"> • Onsite complaint investigation • Two complaint investigators (IRM & CO/EYI) • Within x working days
Medium	1. Onsite complaint investigation (EYI and/or CO) Within x working days.
	2. Triggers inspection * EYI to complete within x working days
Low	1. Triggers inspection * EYI to complete within x working days
	2. CO will revert back to the RP and ask the RP to investigate within a specified timeframe.
Minimal	CO will revert back to the RP and ask the RP to investigate within their own service policy and revert with outcome.

** Note: The IRM will determine the appropriate course of intervention based on local knowledge of the service based on its history of engagement and compliance, and if the complaint is specific or multifaceted. Where an inspection is triggered by a complaint the RP must be advised of same.*

Complaints deemed as suitable for investigation through inspection (i.e. medium or low risk complaints) will follow the EYI inspection process (see note above)

Complaints deemed suitable for investigation by the Registered Provider (i.e low or minimal risk complaints) will be followed up on by the CO.

7.2 Procedure - Onsite Complaint Investigation Process

The complaint management plan (EYI-CPF-003) shall be developed by the Complaints Officer in collaboration with the relevant Inspection and Registration Manager to identify the appropriate process, actions and timeframes to guide the investigation of the complaint.

A summary of the complaint details (EYI-CPF-004) shall be included as part of the plan. This will detail:

- Summary of Complaint
- Specific Issues
- Related Regulations

The summary of the complaint details (EYI-CPF-004) shall be provided to the Registered Provider (or senior staff member) on arrival of an onsite investigation

The onsite investigation shall aim to determine the facts relating to the complaint, to verify its validity. The investigation process shall utilise the triangulation process, which consists of document / records review, observation and interview. The threshold of determination will be made on a balance of probability or a high balance of probability.

Where appropriate verbal feedback will be provided to the Registered Provider at the completion of the onsite investigation. If this is not deemed appropriate the reasons for same will be documented and the RP informed. Equally it may be prudent to issue an immediate action notice depending on the outcomes of the examination.

The specific findings of the onsite investigations shall be documented, via an investigation audit trail (complaint investigation audit trail form EYI-CPF-005). This information shall be utilised to create a written report of the findings (complaint investigation report EYI-CPF-006). This report is to be completed in consultation with the relevant Inspection and Registration Manager.

The complaint investigation report (EYI-CPF-006) shall also identify if the original complaint is:

- **Upheld**
 - Evidence supports import to a level of high balance of probability.
- **Partially Upheld**
 - Where the evidence supports some of the import of the allegation but not all.
- **Not upheld:**
 - A high balance of probability that the evidence does not support the import of the allegation.

The final draft report shall be quality reviewed by the National Registration Office Manager. The draft complaint investigation report (EYI-CPF-006) shall be sent to the Registered Provider by the registration office for review and comment within 10 working days. The Registered Provider feedback and factual accuracy forms must be submitted via the review and comment form (EYI-CPF-007).

Upheld, or partially upheld, complaints shall require the Registered Provider to submit proposed Corrective and/or Preventative Actions relating to the complaint, within 5 working days.

Once returned from the registered provider:

The Complaints Officer shall with the relevant IRM review all aspects of the submission and make a determination on:

- Appropriateness of Review and Comments submission
- Appropriateness of Corrective and/or Preventative Actions proposed

Where warranted by supporting evidence the CO may make alterations to the report or seek in consultation with the IRM to have specific matters re-examined if sufficient doubt has been raised in respect to a finding or the evidence supporting a stated finding.

Based on the findings, and the proposed CAPA's, the IRM shall with the Complaints Officer determine the outcome Risk Rating. The Risk Rating shall determine the necessary follow up actions.

The Complaints Officer/ IRM/EYI will engage directly with the Registered Provider to ensure the CAPA's are addresses comprehensively. The Complaints Officer is required to inform the Registered Provider as to the rationale for the acceptance or rejection of review comments.

The Registered Provider shall be issued, via email, with the final report by the Complaints officer.

The Registered Provider has a right of appeal to the Registration Manager within 10 working days of issue of final report.

If an Appeal is lodged, the Registration Manager acknowledges the appeal (appeals acknowledgement form EYI-CPF-008). The Registration Manager assesses and considers all the evidence, for consideration as follows:

- Investigation went beyond the scope of the complaint.
- Tusla complaints process has not been adhered to.
- A reasonable avenue of inquiry that was not pursued.
- Evidence presented was not given due consideration.

The outcome of the appeal shall be notified to the Registered Provide, via email, within 15 working days. The Registered Provider will be informed via email if this timeframe for appeals needs to be extended.

7.3 Procedure - Complaints Outcome Management

- All complaints, following investigation, that have been risk rated as Critical, shall be referred by the Complaints Officer, to the Registration Manager to determine if an appropriate immediate enforcement actions by the Registration Panel.
- All complaints following investigation, which have been risk rated as High, may be asked to attend a complaint compliance meeting and/or the service may be issued an Immediate Action notice.
- All complaints following investigation or triggered inspection which have been risk rated as Medium, may be issued an Immediate Action notice and/or the service may be asked to provide Corrective and Preventative Actions.
- All complaints following investigation or triggered inspection which have been risk rated as Low, the service shall be asked to provide additional Corrective and Preventative Actions.
- All complaints following investigation, which have been risk rated as Minimal will inform the next inspection.

The Immediate Action and/or agreed Corrective and Preventative Actions shall be continually monitored to ensure that all actions are completed with the agreed timeframes. Evidence of completion may be provided via written updates or, if required, onsite follow up.

The Early Years' Service Provider's file shall be updated by the Inspection and Registration Manager. All records relating to the management of the complaint shall be included.

All complaints data shall be collated and utilised for on-going analysis and audit to help guide the Tusla EYI regulatory processes.

8.0 Review and Audit

An annual audit shall be conducted to evaluate adherence to this policy. The Quality Improvement Manager shall complete this via a review of relevant records, including incident reports, through staff interaction and by utilising the appropriate audit tool. Results of these audits are presented to the Management Team.

9.0

References

British and Irish Ombudsman Association (2007). Guide to principles of good complaint handling accessed at www.bioa.org.uk

Child Care Act (Early Years Services) (Part VIIA) Regulations 2016

MacMillan Dictionary accessed online at
<http://www.macmillandictionary.com/dictionary/british/reference>

Oxford Dictionary (2011). *Concise Oxford English Dictionary*. (Twelfth Edition). Oxford University Press, London.