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**Inspections in
Early Childhood
Education and Care**

Tusla: Early Years Inspectorate – the Statutory Regulator

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Introduction

Tusla, The Child and Family Agency was established on 1st January 2014 and is responsible for improving well-being and outcomes for children in Ireland. Tusla has responsibility for regulating specified services for children and now manages all regulatory functions under the Children's Services Regulatory division. These children's services regulations include:

- ♦ Early years (pre-school) inspection services
- ♦ Registration of school age services
- ♦ Non-statutory alternative care (residential and foster care agencies)
- ♦ Alternative education assessment registration services (home schooling and independent schools)
- ♦ Child safeguarding statement unit

The Agency operates under the Child and Family Agency Act 2013 (Government of Ireland, 2013).

Children's Service Regulation (CSR)

The role of the Children's Service Regulation Directorate within Tusla is to provide public assurance and confidence that Tusla's regulatory programmes operate to the highest standards, within evidence-based practice

in accordance with legislation (Tusla, 2019). The Early Years Inspectorate functions under the Director of Children's Services Regulation. It is the independent statutory regulator of early years service provision and its role is to promote and monitor the safety and quality of care and support of the child in early years provision in accordance with the legislation. The Early Years Inspectorate implements its role by assessing applications for registration and inspecting registered services as outlined below (Tusla, 2018a).

1. Pre-schools, playgroups, crèches, childminders and drop-in services

The Early Years Inspectorate registers and inspects pre-schools, playgroups, crèches, childminders (who care for more than three children) and drop-in services. Its remit covers children age 0-6 years and its authority is underpinned by Part 12 of the Child and Family Agency Act 2013 and the 2016 Early Years Regulations (Government of Ireland, 2013). The Early Years Inspection service was first introduced in 1997, under Part VII of the Child Care Act 1991 (Government of Ireland, 1991), which gave effect to the Child Care (Pre-School Services) Regulations 1996 providing for a



system of notification and inspection. The regulations were subsequently revised in 2006 and placed greater emphasis on the health, welfare and development of the child. The Minister for Children and Youth Affairs published the Child Care Act 1991 (Early Years Services) Regulations 2016 (Department of Children and Youth Affairs, 2016a) and the Child Care Act 1991 (Early Years Services) (Amendment) Regulations (Department of Children and Youth Affairs, 2016b) on 4th July and 30th December 2016 respectively. These revised regulations build on Part 12 of the Child and Family Agency Act 2013, provide for the inclusion of school age services and also enhance the enforcement powers of the Inspectorate to include a requirement for services to be registered prior to operation. This legislation and these regulations provide the basis for inspections carried out by the Tusla Early Years Inspectorate¹.

2. School age services

The CSR registration office registers school age services. A 'school age service' means any early years service, play group, day nursery, crèche, day-care or **other similar service**:

- ◆ That caters for children **under the age of 15 years** enrolled in a school providing primary or post primary education.
- ◆ That provides a range of activities that are developmental, educational and recreational in manner, that take place outside of school hours, and the primary purpose of which is to care for children where their parents are unavailable.
- ◆ Where the basis for access to which is made publicly known to the parents and guardians of the children.

Registration of school age services was introduced on the 2nd January 2019 with the publication of the Child Care Act 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 (Department of Children and Youth Affairs, 2018). Services that solely provide activities relating to the arts, youth work, competitive or recreational sport, tuition or religious teaching are not defined as school age services under the Childcare Act 1991 Revised January 2019 (Government of Ireland, 2019). Prior to the introduction of this legislation, the Minister for Children and Youth Affairs signed the Childcare Support Act 2018 (Commencement) Order 201. This order will enable registered school age services to participate in the affordable childcare scheme from its introduction in autumn 2019. The registration of school age services commenced on the 18th February 2019².

Benefits of Regulating Early Years Services

Many positive benefits of regulation in early years services have been identified. These are highlighted in the Report of the Expert Advisory Group in the Early Years Strategy (Department of Children and Youth Affairs, 2013) as follows:

- ◆ Safeguarding children against harmful practices
- ◆ Ensuring that minimum standards are met
- ◆ Supporting the translation of quality standards into practice
- ◆ Providing parents and the public with an assurance that services are of a consistent quality
- ◆ Setting benchmarks against which service providers can develop, enhance and maintain services for children

The Early Years Inspectorate regulatory function of registration and inspection are underpinned by a range of quality processes which support the implementation of regulation.

Registration

The 2016 Regulations define the meaning of an early years service and set out the requirements for registration. The Early Years Inspectorate regulatory registration functions include:

- ◆ **Initial registration** of new services. Processing applications through which potential Early Years Services may register or be refused registration with Tusla. This includes the process from the initial application, inspection, decision-making and communication of the final decision to the Registered Provider.
- ◆ Processing the **continued registration** of existing services and **representations** received from or on behalf of registered providers in relation to proposed decisions made at registration panel. All early years services are entitled to make representation concerning the intent of proposed decisions or conditions associated with registration. Part 12 of the Child and Family Agency Act 2013 makes provision for an applicant or a registered provider to make representation to Tusla or appeal to the District court on a decision made by Tusla in regard to the registration of a service.
- ◆ Receiving and processing **notifiable incidents**. Registered early years services are required to notify Tusla in writing within three working days of

1 <https://www.tusla.ie/services/preschool-services/>

2 <https://www.tusla.ie/services/family-community-support/school-age-services/>

becoming aware of any specific incidents occurring in the service. These incidents are:

- » When a child goes missing from the service.
 - » The death of a child.
 - » A child or adult diagnosed with an infectious disease.
 - » Closure of the service following an incident in the service.
 - » Where a child sustains a serious injury in the service which requires medical attention. 254 incidents had been notified to the Early Years Inspectorate at the end of December 2018.
- ◆ Receiving, processing and management of all notifications of proposed **changes in circumstances**. A registered provider is required to inform Tusla of a change in circumstances under Regulation 8 of the 2016 Regulations. The changes in circumstances are specified in the Changes in Circumstances Form as set out in schedule 4 of the regulations³. At the end of 2018, a total of 1,384 changes in circumstances were notified to the Early Years Inspectorate.
 - ◆ Receiving and managing **unsolicited information**⁴. 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. All unsolicited information received by the Early Years Inspectorate that relates to the early years service is assessed, managed and examined to determine if any concerns relating to the safety of children exists and the appropriate level of intervention that should be taken. Information, including concerns and comments, provides a valuable source by which service delivery standards can be monitored and reviewed by the Early Years Inspectorate. A total of 413 unsolicited information submissions relating to early years services were received in 2018 (Tusla, 2019).
 - ◆ Management of information regarding registered services that are **operating outside of their registration status**. In Ireland, a person is required in accordance with Part 58D(2) Section 12 of the Child and Family Agency Act 2013 to make an application to the Agency to be registered in the register if they propose to provide a prescribed early years service. Part 58D(1) Section 12 of the Child and Family Agency Act 2013 sets out that a person shall not provide a prescribed early years service unless his or her name is entered in the register as a provider of that service.
 - ◆ Management of information regarding **unauthorised services (services not on the Register)** is received and processed by the Early Years Inspectorate.

Inspection

The purpose of inspection is to improve the service for the children attending early years services, raise the standard where necessary and make the children's experience in the service better. In essence, the regulator under the 2016 regulations seeks to improve four key outcomes for children in registered early years settings (Hanafin, 2014):

- ◆ The service is well governed
- ◆ The health, welfare and development of each child is supported
- ◆ Children are safe in the service
- ◆ The premises are safe, suitable and appropriate for the care and education of children

Inspection processes are underpinned by the principals of proportionality, accountability, effectiveness, fairness, reasonability, transparency and intelligence (Walshe & Shorthall, 2004) with children's well-being at the heart of inspection.

On-site inspections of early services are undertaken in a structured and consistent manner. Evidence of compliance is assessed by the Inspector. The Inspector:

- ◆ Reviews any information and documentation submitted in the application for registration.
- ◆ Considers any documentary evidence of how the regulations are being implemented within the service. This may include, for example, the examination of policies and procedures, the review of service records, children's records, staff training records, programme of activities records, rosters, incident and complaint records and risk register(s).
- ◆ Interviews and consults with management and staff.
- ◆ Observes the operational practices in the service, including care, play, interactions of staff and children, and how suitable the premises and facilities are for children's care and learning.

During inspection, if an inspector identifies a critical risk to the safety or welfare of a child this is brought to the attention of the service for immediate remedy as a matter of urgency. An immediate action notice is also sent to the registered provider. This may also necessitate escalation to the registration panel.

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3 <https://www.tusla.ie/services/preschool-services/notification-of-change-in-circumstances-form/>

4 <https://www.tusla.ie/services/preschool-services/where-to-get-advice-if-i-have-a-difficulty-or-a-complaint-about-a-service/>



Inspections take place in respect of new applications and in certain instances where services notify a change in circumstances. These are referred to as ‘Fit for Purpose (FFP) Inspections’. The vast majority of inspections, however, are undertaken in relation to existing registered services and a number of inspections are also undertaken in response to complaints received. The Early Years Inspectorate carried out 2,513 inspections in 2018; 480 (24%) more than 2017. There were 4,435 early years services on the register of services in December 2018, 49 fewer than December 2017. Over 100 new applications to become a registered provider were received in 2018, continuing to reflect the impact of the changes to the Early Childhood Care and Education Programme introduced by the Government and the new Child Care Act 1991 (Early Years Services) Regulations 2016, which commenced in June 2016 (Tusla, 2019).

Inspection report

Following the inspection of a service, the Inspector prepares a report on the findings of the inspection. This draft report details the findings of the inspection with regard to governance of the service, supports for the health, welfare and development of the child, the safety of the service and the safety and the suitability of the premises and facilities. The registered provider is provided with an opportunity to respond to the report using the factual accuracy form and to respond to any non-compliance identified by completing the corrective and preventive action template⁵. All inspection reports are reviewed at a regional registration panel for consideration for initial registration or continued registration. Following completion of this reporting process, services approved for registration and continued registration are issued with a final inspection report to the registered provider, which is subsequently published by Tusla. Over 4,855 Early Years Inspection reports were published on the Tusla website at the end of 2018 (Tusla, 2019).

Management of escalation procedures

Tusla Early Years Inspectorate will utilise its powers of regulatory enforcement where registered services have been identified with critical risks and/or areas of regulatory non-compliance. The registered provider is required to act on all aspects identified as non-compliant. Demonstration of immediate corrective actions and ongoing preventive measures must be clearly identified in the corrective and preventive action plan completed by the service for non-compliances identified. These actions are required to rectify the non-compliance by eliminating or minimising the risk so that it no longer poses a danger.

All actions must include timeframes. Where the registered provider fails to comply with the legislative requirements, including any conditions applied to the registration status of the service, Tusla initiates enforcement action. In determining appropriate and proportionate regulatory enforcement action, consideration is given to the nature of the risk and/or non-compliance requiring enforcement as well as the provider’s response and previous history of compliance.

Escalation processes can include:

- ◆ Compliance meeting with the registered provider
- ◆ Escalation of the service to the National Registration Panel
- ◆ Regulatory enforcement meeting

Enforcement can include:

- ◆ Application of conditions
- ◆ Proposal to removal from the register
- ◆ Prosecution

Effectiveness of Regulatory Inspection

Tusla’s Early Years Inspectorate regulatory process can demonstrate the impact that inspection has on service provision. The Early Years Inspectorate annual report for 2017 (Tusla, 2018a) details an analysis of the findings relating to 500 randomly selected non-compliant regulations demonstrating the effectiveness of the inspection process in addressing issues arising. This analysis illustrates how the vast majority of services were reported to have achieved compliance across all non-compliant regulations (83%; 414) at the time the inspection report was issued. A further 10% (n = 52) submitted information that was deemed compliant, but would need to be verified at the next inspection that took place (not verified). Only 7% (n = 34) of non-compliant regulations had not been addressed at the time the report was issued.

Recent Developments

The Early Years Inspectorate as independent statutory regulator of early years services in Ireland constantly strives to be transparent in its practices, but also to work collaboratively with all stakeholders in the early learning and care sector. It was in this context of service improvement and collaborative engagement that the inspectorate sought to develop a Quality and Regulatory Framework (Tusla, 2018b) for the early years learning and care sector.

5 <https://www.tusla.ie/services/preschool-services/focused-inspection-tool-and-outcome-reports/>

The Quality and Regulatory Framework

The Early Years Inspectorate developed a Quality and Regulatory Framework (QRF) to support registered Early Years Services to comply with the 2016 regulations. The QRF does this by setting out the core regulatory requirements in a transparent way, bringing together evidence-based, national and international research and best practice in early years. The QRF aims to support registered providers in achieving compliance with the regulations and enhance the safety and care of children who attend these services. The QRF is child-centred, with a specific focus on the quality and safety of the care provided directly to children using the services.

Tusla Early Years Inspectorate, in collaboration with the Department of Children and Youth Affairs, launched the Quality and Regulatory Framework on Wednesday 5th September 2018 in Dublin⁶.

The journey to develop the Quality and Regulatory Framework (QRF) for the early years sector began in 2015. A need for this type of framework emerged from the early years sector itself and from the findings of research commissioned by Tusla in 2014 (Hanafin, 2014). Both highlighted a need for greater clarity in the requirements for compliance with the Early Years Regulations. The development of the QRF has been underpinned by a comprehensive, systematic and participative approach (Tusla, 2018c) that involved wide ranging consultations with key stakeholders including:

- ◆ Providers
- ◆ Parents
- ◆ The Early Years Inspectorate
- ◆ Many organisations across all stakeholders in the early years sector in Ireland
- ◆ International peers and regulatory organisations
- ◆ Guidance of the European Commission

In conjunction with developing a QRF, the Early Years Inspectorate also worked in partnership with Barnardos to provide specific and targeted assistance in developing a suite of documents to support services with regulatory compliance (Tusla, 2018d):

- ◆ Developing Policies, Procedures and Statements in Early Childhood Education and Care Services – A Practical Guide
- ◆ Sample and template policies, procedures and statements for centre-based services

- ◆ Context of Early Childhood Education and Care in Ireland
- ◆ Rights of the Child

Sample childminding policies, procedures and statements were also developed to assist childminders.

This framework and associated sample and template policies, procedures and statements will support registered providers in achieving compliance with the regulations and, through that, enhance the safety and care of children who attend these services. It will also support and promote standardisation across the Inspectorate.

Additional current developments and collaborations include:

- ◆ **Publication of inspection reports** in an easily accessible format on the Tusla website⁷.
- ◆ Development of a **question and answer document** relating to registration of services⁸.
- ◆ Development of **policy documents** to support the registration, operation, and quality assurance functions of the inspectorate
- ◆ Establishment of a **memorandum of understanding** with Better Start quality development service⁹.
- ◆ Extending the **eligibility criteria** for working as an Early Years Inspector¹⁰.
- ◆ Development of documentation and processes to **support school age registration**¹¹.
- ◆ Ongoing engagement with the Early Years Inspectorate **consultative forum**, established in 2015 to provide opportunities for stakeholders and representative organisations to contribute to the ongoing reform and development of the Early Years Inspectorate¹².
- ◆ Continuing engagement with the Early Years Inspectorate **regulatory support forum** established in 2017. As a key support network for early years providers the Early Years Inspectorate continues to brief the forum on key initiatives and updates to current policy, practice and protocol decisions of the Early Years Inspectorate¹³.
- ◆ Continued dissemination of Early Years Inspectorate regulatory updates, alerts and information through the Early Years Inspectorate **quarterly newsletter**, which acts as a two-way communication mechanism whereby providers can have their questions responded and any issues raised clarified¹⁴.

6 <https://www.tusla.ie/news/tusla-launches-quality-and-regulatory-framework-for-the-early-years-sector/>

7 <https://www.tusla.ie/services/preschool-services/creche-inspection-reports/>

8 <https://www.tusla.ie/services/preschool-services/new-providers/>

9 <https://betterstart.pobal.ie/Pages/Home.aspx>

10 <http://www.childrensdatabase.ie/docs/EN/Press-Releases-copy-dcya-gov-ie-2019/81/4583.htm>

11 <https://www.tusla.ie/services/family-community-support/school-age-services/>

12 https://www.tusla.ie/uploads/content/TOR_Consultative_Group.pdf

13 https://www.tusla.ie/uploads/content/EYI_Regulatory_Support_Forum_Terms_of_Reference_for_web_site.pdf

14 <https://www.tusla.ie/services/preschool-services/early-years-newsletter/>



“ Tusla’s regulatory approach is one of performance improvement through assessment for compliance with regulations to ensure that services are safe, well governed, support the health, welfare and development of children, and that the facilities and premises are a suitable place for children’s learning and care. ”

Some Planned Future Developments

Early years services have been subject to regulatory inspection for over 20 years in Ireland since the first pre-school regulations were published in 1996. Tusla’s regulatory approach is one of performance improvement through assessment for compliance with regulations to ensure that services are safe, well governed, support the health, welfare and development of children, and that the facilities and premises are a suitable place for children’s learning and care. Some planned future developments include:

- ◆ Identify how the Early Years Inspectorate can best ensure that **parents have a voice** in the overall statutory inspection process of early years services.
- ◆ Identify how the Early Years Inspectorate can best ensure that the **voice of the child** is included in the statutory inspection process of early years services.
- ◆ Continue **implementation the Quality & Regulatory Framework (QRF)** across the early years sector.
- ◆ Conduct **research** on the **regulation of childminders** in other jurisdictions and commence consultation with the sector.
- ◆ **Develop ICT** system for the inspectorate to further support regulatory function of registration and Inspection.
- ◆ Continue to enhance **collaborative practice** with stakeholders and relevant organisation.

For more information on Tusla Early Years Inspectorate see
<https://www.tusla.ie/services/family-community-support/pre-school-services/>

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