

TÚSLA

An Ghníomhaireacht um
Leanaí agus an Teaghlach
Child and Family Agency

**EARLY
YEARS**
INSPECTORATE

**Questions & Answers
On Statutory Notices and Orders
for the Early Years Sector**

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Frequently Asked Questions for the Early Years Sector on Statutory Notices and Orders

1. Introduction

This Frequently Asked Questions document is designed to provide information to all providers, parents and guardians regarding expanding powers within the Early Years Inspectorate. It should be read in conjunction with the information and resources available on the Early Years Inspectorate Enforcement webpage.

We will update the questions as information changes or new information becomes available. Please regularly check our website.

2. General

1. Q: Do the new enforcement powers apply to childminders?

A: Yes, the new enforcement powers apply to all early years services, which includes childminders, pre-school and school age services.

2. Q: Do the new enforcement powers replace the current Immediate Action Notice (IAN) process?

A: Yes, the new enforcement powers will replace the current IAN process from the 30th of March 2026.

3. Q: How does this differ from what the Early Years Inspectorate is doing at the moment?

A: The difference between our current 'Immediate Action Notice' and the new 'Immediate Action Notice' is that under the new powers, both the Improvement Notice and the Immediate Action Notice have a statutory footing.

4. Q: Where can a Registered Provider get support to assist them resolving the Improvement Notice/Immediate Action Notice?

A: Managing risk in the service and developing an action plan to respond to a Statutory Notice is the responsibility of the Registered Provider. You may be able to seek support from your local City and County Childcare Committee, or other support agency and you may choose to seek legal advice.

5. Q: The legislation refers to risk. How is risk identified in practice?

A: Risk is an issue of significant concern that is of such a nature that if it persists, it will, or is likely to, pose a risk of harm to a child attending the service.

3. Issuing of Improvement Notice/Immediate Action Notice

1. Q: What is the difference between an Improvement Notice and an Immediate Action Notice?

A: An Improvement Notice and Immediate Action Notice differ because of the immediacy of the potential risk identified.

An Improvement Notice is issued when the issue of significant concern is of such a nature that, if it persists, it will, or is likely to, pose a risk of harm to a child attending the service.

An Immediate Action Notice is issued when immediate action is required by the Registered Provider to address an issue that poses an immediate risk of harm to a child attending the service.

2. Q: What are the thresholds for issuing the Notices.

A: An Improvement Notice will issue when the authorised person identifies an issue of significant concern that is of such a nature that, if it persists, it will, or is likely to, pose a risk of harm to a child attending the service.

An Immediate Action Notice will issue when the authorised person identifies an issue that poses an immediate risk of harm to a child attending the service.

3. Q: Will the reporting of non-compliances in the Inspection Report now change?

A: There is no change to the reporting of non-compliances to the regulations identified on inspection.

4. Q: Can a service be issued with more than one Notice on the day of inspection?

A: Yes

5. Q: Can a service receive an Improvement Notice and Immediate Action Notice on the same day?

A: Yes

6. Q: What happens if an Improvement Notice is not complied with?

A: If the Registered Provider does not address the issue within the timeframe specified in the Notice, the Inspectorate can apply to the District Court for an Improvement Order.

7. Q: How is the service notified that they have been issued with an Improvement Notice or Immediate Action Notice?

A: The Statutory Notice will be served on the Registered Provider or Person in Charge in person or by registered post.

8. Q: Can an Immediate Action Notice be appealed?

A: The legislation does not permit an appeal of an Improvement Notice or an Immediate Action Notice.

9. Q: If a previous Notice was served and the issue was fully addressed can a further Notice be served?

A: If the issue persists or reoccurs, a Notice may be served where the Inspector forms the opinion the issue poses a risk to children.

10. Q: In some instances, parents make requests that go against best practice or the Quality and Regulatory Framework. If an Immediate Action Notice is given in these circumstances, but the parent is really insisting on staff following their wishes, how should the service respond?

A: When services are developing policies related to each area of practice, they should underpin their policies with public health and best practice guidance. If a request is subsequently made to the service to act at variance to public health/best practice guidance, the service should refer the person making the request to their policies in the first instance, and reiterate that at all times public health/best practice guidance is followed in the service. Should a practice be observed that is at variance with the service's policy and with public health/best practice guidance, this may result in a Notice being issued.

11. Q: Are we given the opportunity on the day of an inspection to clarify concerns and address the issue that had been identified, that may lead to a Notice being served?

A: The Early Years Inspector will form an opinion in relation to the necessity for a Statutory Notice. The Registered Provider or Person in Charge will be served with the Notice and made aware of the issue identified which resulted in a Notice issuing.

12. Q: Why may a Statutory Notice be served via registered post rather than on site on the day of inspection?

A: The requirement to issue a Statutory Notice may be determined following the on-site inspection, and therefore, it may not be possible to detail the potential Notice whilst on-site. In such instances, the Notice will be served by registered post or in person by the authorised person.

13. Q: Can a provider challenge the factual basis of a Notice?

A: The opinion of the authorised person is used when issuing a Notice. Any response by the Registered Provider to the Notice will be considered in full.

4. Inspection Reports/Publication

1. Q: Can the Improvement Notice or Immediate Action Notice be addressed via the Corrective Actions and Preventative Actions (CAPA) process?

A: No, the Registered Provider will be required to submit a Response to Statutory Notice form, separate to the CAPA process.

2. Q: Will CAPA still be used after an inspection?

A: Yes. The current CAPA process to address non-compliances will not change.

3. Q: Will Notices and/or Orders be published in the Inspection Report?

A: The publication of Notices and/or Orders may be reported in the Inspection Report or the website, or both. The Statutory Notice will be referenced in the non-compliant section of the relevant regulation. Information related to a Statutory Notice will be detailed in a Statutory Notice section of the Inspection Report.

4. Q: If a service is issued with a Temporary Prohibition Order, does this mean the whole service has to close?

A: Yes, a Temporary Prohibition Order will result in the temporary closure of the entire service.

5. Q: If there is an issue in a particular room depending on the risk of harm, would the whole service be closed or would you isolate the Notice to a room?

A: Enforcement powers will be applied proportionately; a Temporary Prohibition Order will apply to a whole service. Where an issue is identified in an individual room this may be closed as part of the Registered Providers response to an Immediate Action Notice, or an Improvement Notice.

6. Q: If a Registered Provider has more than one service, does it mean if a Temporary Prohibition Order is served in one service, all services owned by the Registered Provider must temporarily close?

A: The Temporary Prohibition Order is issued in relation to a specific service.

7. Q: How will I receive my Improvement Order, Immediate Action Order, or Closure Order?

A: These are Court Orders and may be issued by the Court. The Inspectorate will also write to a service issued with a Court Order; however, it is the responsibility of the Registered Provider to comply with the content of a Court Order from the date of issue.

5. Timeframes

1. Q: Is there a specific timeframe for Improvement Notices or Immediate Action Notices to be addressed?

A: The timeframe is determined by the authorised person who identified the issue, taking into account the immediacy of the risk and the impact of the issue identified.

2. Q: Can the Registered Provider ask for additional time to resolve the issue relating to the Improvement Notice or Immediate Action Notice?

A: The Inspectorate may vary the timeframe to comply with a served Notice if appropriate to do so.

3. Q: Will the Registered Provider be invited to a Regulatory Compliance Meeting before an Order is applied for?

A: A Registered Provider may be invited to a regulatory compliance meeting depending on the nature of the risk and engagement. An Order may be applied for where the Inspectorate is satisfied that a Notice has not been complied with.

6. Court Orders

1. Q: What sanctions/penalties can the Court enforce if Notices are not complied with and they go to court?

A: Non-compliance with a Notice is not a specific offence. However, breaching any part of Part VIIA of the Child Care Act 1991, as amended, is an offence. Where the Inspectorate applies for an Order for failing to comply with a Notice, the Court may direct the Registered Provider to comply with the Notice, specify what action to be taken by the Registered Provider and give a time limit to complete that action. The Court may also include any other requirements the Court may consider appropriate.

Failing to comply with an Order issued by the Court is an offence with a penalty of a fine up to €5,000 for each offence.

2. Q: Does the Registered Provider need to seek legal advice if they are issued with an Improvement Notice or Immediate Action Notice?

A: Failing to comply with a Notice is not a direct offence but may lead to further escalation if not complied with. The decision to seek legal advice or not rests with the Registered Provider.

3. Q: Does a Registered Provider need a legal representative to represent them in court if they are notified that there is an application being made for an Order relating to my service?

A: Legal advice may be sought; this is a matter for the Registered Provider.

4. Q: If Improvement Orders or Immediate Action Orders or Temporary Prohibition Orders have been applied for, does the Registered Provider need to attend court?

A: Attendance at Court for an Order application is a matter for the Registered Provider to decide. However, if the Registered Provider is not in attendance, Orders may be made in their absence. Attendance is therefore advisable.

A Temporary Prohibition Order is issued by Tusla, not by a Court.

5. Q: If the issue has been resolved prior to the inspection report going to publication, will that be noted in the inspection report?

A: Yes, the publication of any served Improvement and/or Immediate Action Notices will be via the published inspection report. The Inspection Report may include information on the response of the Registered Provider to the issue and the outcome if available at the time of publication.

7. General Vetting queries

1. Q: Is the translating of documents an additional cost to the Provider?

A: It is the responsibility of the Registered Provider to ensure that required documents are translated by a certified translator. Any cost implications are a matter for the Registered Provider.

2. Q: What is defined as a certified translator?

A: A translator or translation company with an established professional reputation. A certified translation is a translation that has been stamped and signed by the translator and has a certifying statement confirming that the translation is a true, accurate and correct rendering of the document submitted for translation <https://www.atii.ie/find-a-professional/about-certified-translation/>

3. Q: Is translation accepted from a member of staff with the same nationality?

A: No, translations need to be carried out by a certified translator.

4. Q: Does DeepL count as a certified translator?

A: No. DeepL is an automated translation tool and is not considered a certified or accredited translator.

5. Q: Does Tusla have a designated certified translator, or do we have to pay privately for this?

A: No, Tusla does not have a designated translator. It is the responsibility of the Registered Provider to ensure the document has been translated appropriately as required.

6. Q: Does the requirement for certified translation apply to only new applications, or does it also apply to existing documentation?

A: All vetting documents related to all staff, that is not in English or Irish, must be translated by a certified translator and available within the service on the day of inspection. Vetting documentation related to potential staff members should be translated as part of the recruitment process, so that the Registered Provider can make an informed determination as to the suitability of the person for a role that involves access to children.

7. Q: If staff are already employed in the service but do not have their vetting documented translated, do we now need to get these documents translated?

A: Yes, see above.

8. Q: If you have sent Vetting documentation for translation, but it is not returned by March 30th and you get an inspection, will the fact it has been submitted for translation suffice?

A: No. All vetting documentation that requires translation must be available in English/Irish and have been considered by the Registered Provider as part of due diligence to determine that a person is suitable for a role involving access to children, before the person takes up the role.

9. Q: The Garda Vetting process is taking longer now, what is being done to help us speed us this process?

A: The Garda Vetting process is outside of the control of Tulsa. Registered Providers should take expected timeframes into account when seeking Vetting for new, and Re-Vetting for current staff.

10. Q: What do we do if Police Vetting is not attainable?

A: The Early Years Inspectorate expects that International Police Vetting has been obtained (where relevant) for persons in the service with access to children, prior to them taking up their role. There are a very small number of countries where Police Vetting is currently unobtainable, and this will be kept under review by the Inspectorate. However, most countries have systems in place to issue Police Vetting documentation.

Only in very exceptional circumstances, and when accompanied by evidence that the person has exhausted all possible routes to obtaining vetting from a specific country, will the absence of Police Vetting be considered acceptable by the Early Years Inspectorate.

8. Appendix

Please see links here for further support and information on vetting:

- Student Vetting Guidance: [Tusla's guidance document on vetting for students](#)
- A Guide to Garda Vetting Applications: [Garda Vetting Application Tusla - Child and Family Agency](#)
- Vetting of Staff in Early Years Services: [Obtaining Vetting for Employees, Contractors and Volunteers Garda Vetting Application Tusla - Child and Family Agency](#)
- Garda Vetting webpage [Garda Vetting Applications Tusla - Child and Family Agency](#)
- Completing your Garda Vetting application form successfully [here](#).
- Link to Quality and Regulatory Framework [Quality and Regulatory Framework And Question & Answer Documents Tusla - Child and Family Agency](#).
- Regulatory Notice EYI-RN12 renewal of Garda Vetting [here](#).
- Guidance for the Early Years Sector on Statutory Notices and [Orders New Enforcement Powers Tusla - Child and Family Agency](#).

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