

**TÚSLA**

An Ghníomhaireacht um  
Leanaí agus an Teaghlach  
Child and Family Agency

**EARLY  
YEARS**  
INSPECTORATE

# Escalation & Enforcement

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**Review 2021**

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# Contents

<b>Executive Summary .....</b>	<b>3</b>
<b>1.0 Introduction .....</b>	<b>4</b>
<b>2.0 National Registration Enforcement Panel (NREP) .....</b>	<b>5</b>
3.1 Context .....	5
3.2 Referrals to National Registration Enforcement Panel (NREP).....	6
3.2.1 New Referrals to NREP by Service Region.....	6
3.3 Accepted Referrals to National Registration Enforcement Panel (NREP) .....	6
3.3.1 Accepted Referrals to NREP by location type.....	7
3.3.2 Referrals to NREP by Service Type .....	7
3.3.4 Number of Services at NREP at end of 2021 by region .....	9
3.4 Reasons for referral to National Registration Enforcement Panel (NREP) .....	9
3.5 Issues which contributed to escalation.....	11
3.6 Support for services at escalation or enforcement .....	13
3.7 NREP Outcomes.....	14
<b>3.0 National Conditions Panel.....</b>	<b>14</b>
4.1 Context .....	14
4.2 Referrals to the Conditions Panel .....	15
4.2.1 Referrals to Conditions Panel by Service Region .....	15
4.2.2 Accepted referrals to Conditions Panel by Service Type.....	16
4.2.3 Accepted referrals to Conditions Panel by Number of children attending in services .....	17
4.2.4 Number of Services at Conditions Panel at end of 2021.....	17
4.3 Conditions Panel Outcomes .....	17
<b>4.0 Key Messages .....</b>	<b>18</b>
<b>6.0 Acknowledgements .....</b>	<b>20</b>

## Executive Summary

The Early Years Inspectorate, (part of Tulsa's Children's Services Regulation), is the independent statutory regulator of early years services in Ireland and has responsibility for registering and inspecting preschools, play groups, nurseries, crèches, day-care, and similar services that cater for children aged 0–15 years. The role of the Early Years Inspectorate is to promote and monitor the safety, quality of care and support of the child in early years provision in accordance with the Child Care Act 1991 (Early Years Services) Regulations 2016.

The Early Years Inspectorate's Enforcement & Escalation team oversee required enforcement activity initiated under legislation against services through two panels: the National Registration and Enforcement Panel and the Conditions Panel. Services are referred to the panels for a range of reasons including,

- Consistent and persistent noncompliance with regulation,
- Operation without or contrary to granted registration.
- High or critical concerns following inspection, that pose a risk of ongoing harm to children.

Each year, a small number of early years services are assessed as requiring escalation for consideration of enforcement through the Inspectorate's two panels. This report presents an analysis of those services escalated for enforcement actions and the outcomes of escalation.

The vast majority of the services who engaged with the National Registration Enforcement Panel avoided enforcement sanctions. 26 of the 29 services that were referred to the panel, engaged with the different escalation and enforcement actions and resolved the concerns and non-compliance highlighted on inspection. 4 services received conditions to their registration. Each of these were subsequently de-escalated.

All 23 services considered at the National Conditions panel engaged with the process. 10 services with conditions attached in 2020 were brought forward from 2020 to 2021 and placed under review of this panel. 1 service had conditions proposed but were not attached following successful receipt of representations and 10 services got conditions attached from this panel. Of the 20 services with conditions attached in 2021, 10 were reinspected to assess compliance with the attached conditions and general compliance with the early years regulation. Only 1 service of the 10 services inspected was considered for the re proposal and attachment of conditions. 9 services were fully compliant at the end of their inspection process and no further sanctions were considered.

The value of positive and proactive engagement between services and the Early Years Inspectorate is clear. Good levels of engagement from services considered for enforcement actions consistently resulted in lower levels of sanctions being placed on services. No service met the threshold of removal from the register in 2021. A large percentage of services improved compliance so that no sanctions were considered. Other services had conditions attached to their registration which were then removed following inspection where full compliance was met by the service.

These positive outcomes reinforce the message that continuous engagement and communication is essential between the sector and the Early Years Inspectorate, and we look forward to the continued development of this work.

## 1.0 Introduction

Tusla – The Child and Family Agency was established in 2014 and is responsible for improving wellbeing and outcomes for children in Ireland. Under the Child and Family Agency Act 2013, Tusla is charged with supporting and promoting the development, welfare and protection of children and the effective functioning of families. Children’s Services Regulation (CSR) located within the Quality and Regulation Directorate of Tusla, has responsibility for the effective operation and performance of the agency’s statutory regulation functions.

Children’s Services Regulation has a vision for all regulated services to be safe and happy places for children and young people to live, play, learn and develop.

A clear strategy has been developed to achieve this vision. The strategy sets out four goals, one of which is effective regulation. We aim to regulate services and enforce the relevant legislation, through a world-class regulatory system using the full range of our enforcement powers. Where a service is below standard, we take actions in proportionate, effective, and dissuasive ways to protect children.

The Early Years Inspectorate, (part of Tusla’s Children’s Services Regulation), is the independent statutory regulator of early years services in Ireland and has responsibility for registering and inspecting preschools, play groups, nurseries, crèches, day-care, and similar services that cater for children aged 0–15 years. The role of the Early Years Inspectorate is to promote and monitor the safety, quality of care and support of the child in early years provision in accordance with the Child Care Act 1991 (Early Years Services) Regulations 2016.

As part of business planning, this review of the operation and outcomes of the regulatory escalation and enforcement activity undertaken during 2021 has been completed. The review will inform our enforcement strategy and assist service providers in their ongoing efforts to achieve compliance with the regulations.

The Early Years Inspectorate’s Enforcement & Escalation team oversee required enforcement activity initiated under legislation against services. This report presents an analysis of those services escalated for enforcement actions and the outcomes of escalation.

The Inspectorate’s regulatory enforcement processes are informed by legislation and regulation and by relevant policy. Non-compliance with regulation identified on inspection is mainly addressed through the registered provider’s corrective and preventive actions (CAPA) following inspection. This early-stage intervention is usually sufficient to address shortfalls in the attainment of standards of compliance with regulations. There are a range of escalation and enforcement actions embedded into the different processes across the inspection and registration departments. The Inspectorate has the powers to refuse to register services, remove services from the register, add conditions to their registration or to prosecute services for significant breaches of regulation and or other prescribed parts of the legislation. Consideration of these actions are undertaken by the Inspectorate’s National Registration Enforcement Panel (NREP) and National Conditions Panel (NCP) for early years services.

As of end of December 2021, there were 4,128 early years preschool services and 2,132 school age services on the national register. Each year, a small number of early years services are assessed as requiring escalation for consideration of enforcement through the Inspectorate's two panels. In 2021 a total of 51 services were referred to the Conditions Panel and 29 services were referred to the National Registration Enforcement Panel (NREP).

Early years services are referred to the panels for a range of reasons, predominantly

- Consistent and persistent noncompliance with regulation,
- Operation without or contrary to granted registration.
- High or critical concerns following inspection, that pose a risk of ongoing harm to children.

Both panels are responsible for consideration of appropriate enforcement actions. They ensure that any enforcement that is taken is designed to mitigate or remove any assessed risk to children. Their role is to apply the process of enforcement and ensure adherence to legislation and fair procedures.

We would like to acknowledge the work of early years services across the country for their commitment to providing safe and quality services to children and families. We thank them for their engagement with the inspection process. We would also like to acknowledge the many stakeholders in the sector who support the early years services and work closely with us to promote safety and quality.

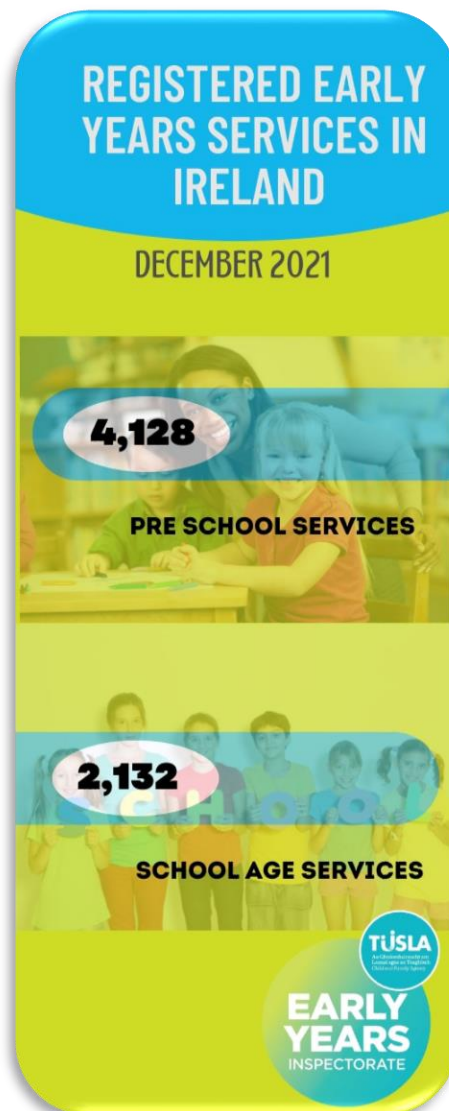
## 2.0 National Registration Enforcement Panel (NREP)

### 3.1 Context

It is policy of inspection teams to refer services who meet a prescribed threshold of non-compliance, to the National Registration Enforcement Panel (NREP) for intervention.

The purpose of the panel is to consider appropriate and proportionate enforcement pathways for any early years services that are escalated from inspection area teams or the registration department. The work of the panel is coordinated and actioned by the National Registration Manager for escalation and overseen by the Head of Registration & Regulatory enforcement.

Generally, the panel convenes at least once a month and under certain circumstances more frequently. In 2021, a total of 15 meetings were held.



### 3.2 Referrals to National Registration Enforcement Panel (NREP)

12 services were under the review of the NREP at the end of 2020. These services were brought forward from 2020 to 2021.

A total of 29 services were escalated during the year. Of these 26 were accepted. The regional breakdown is as follows

#### 3.2.1 New Referrals to NREP by Service Region

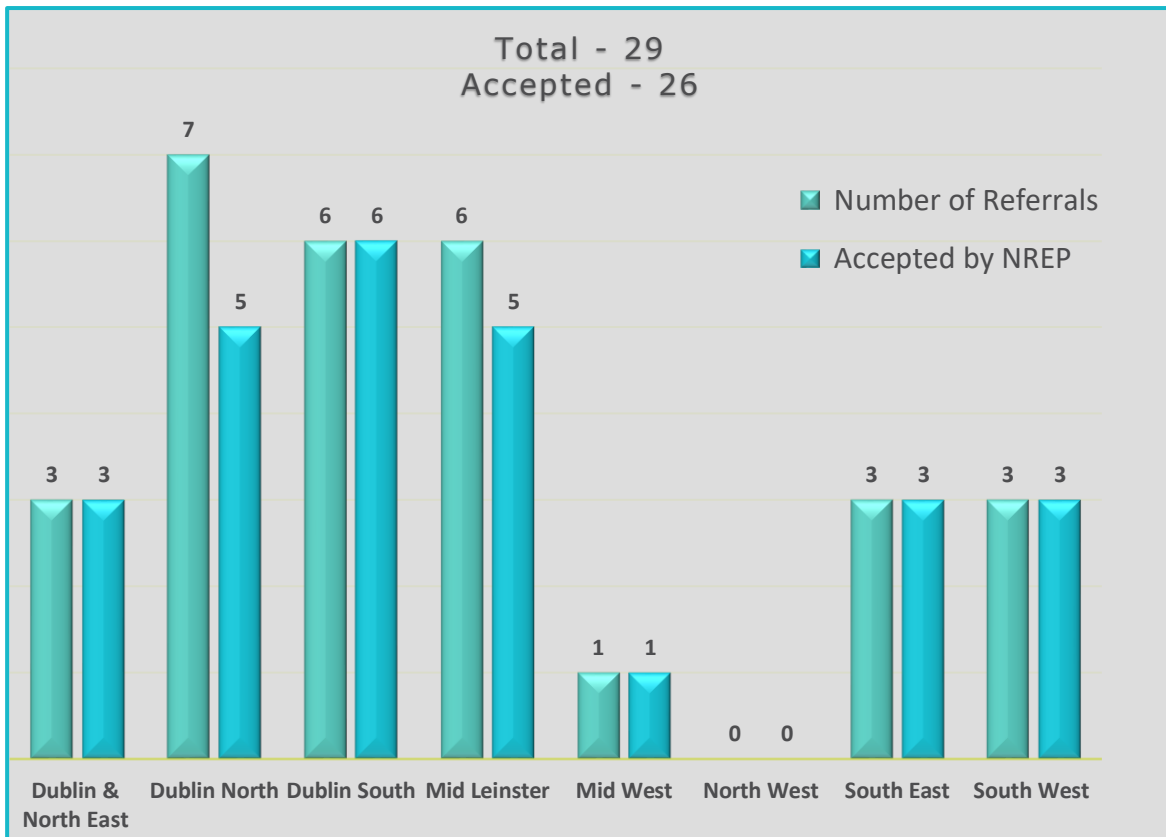


Figure 1- Referrals to NREP by Service Region

Each service referred to the NREP is assessed against the level of non-compliance remaining following the conclusion of the inspection process. Referrals must also meet the prescribed thresholds for escalation.

The 3 services (approximately 10%) not accepted for consideration at this panel did not meet the threshold or were addressed by further intervention by inspectors.

### 3.3 Accepted Referrals to National Registration Enforcement Panel (NREP)

Of the 26 referrals accepted by NREP, the services were based in a range of locations and were of differing service types. The breakdown is as follows,

### 3.3.1 Accepted Referrals to NREP by location type

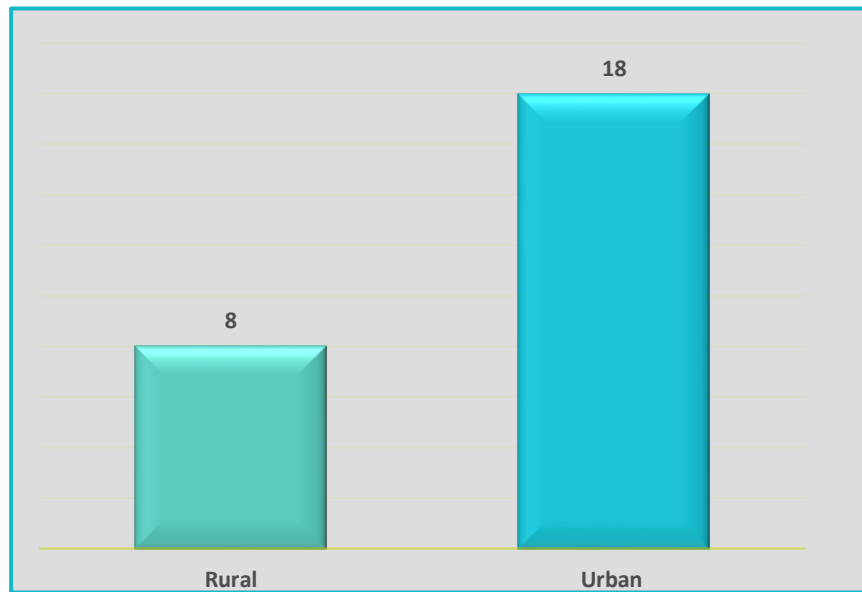


Figure 2- Accepted Referrals to NREP by location type

Services operating in urban locations featured prominently in referrals to the NREP during 2021. These settings tended to be larger and had increased turnover of staff in comparison with rural settings. Larger settings can prove more challenging to supervise and shortfalls of governance was a presenting factor in these settings.

### 3.3.2 Referrals to NREP by Service Type

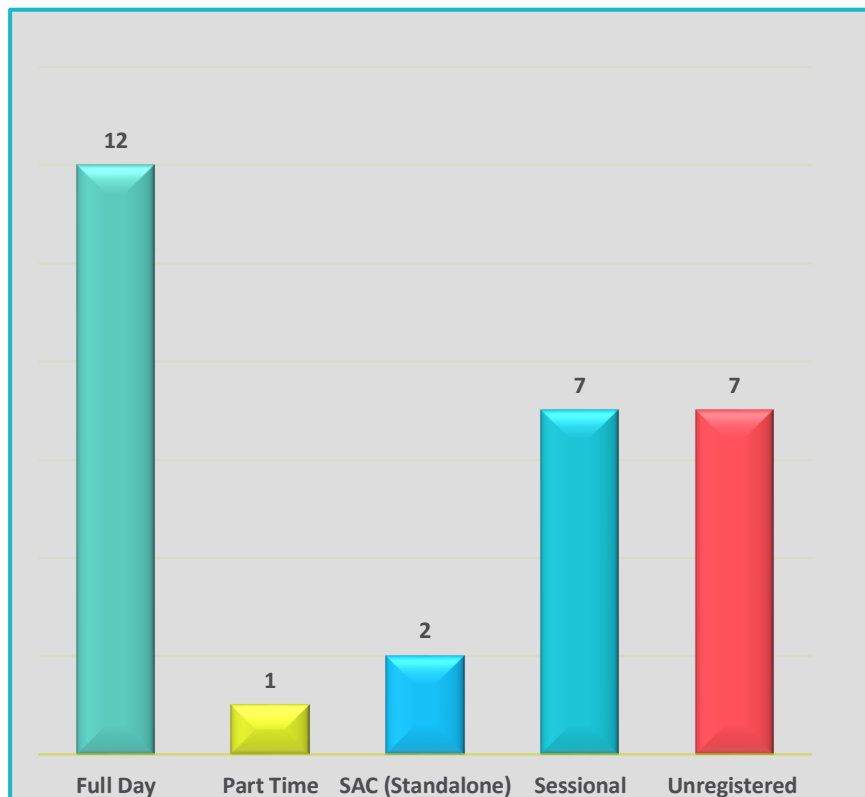


Figure 3 Accepted referrals to NREP by Service Type

7 (24%) sessional services were escalated to NREP in 2021, 1 part time service (3%) and 12 (41%) full day care services who also offer sessional and part time services were also escalated. 7 (24%) services found to be operating without registration were escalated along with 2 (7%) school age care services.

Full day care services formed the highest cohort of referrals and accepted services at NREP at 41%. These services by their nature offer the most extensive childcare, including longer opening hours and a variety of service types operating concurrently. As a result, they have a wider age profile of children and multiple transitions over a longer day. This increases the burden of responsibility for persons in charge and registered providers, and can lead to shortfalls in governance and oversight. This is more likely to occur where those appointed to this role are also part of the adult to child ratio.

### 3.3.3 Referrals to NREP by Number of children attending in services

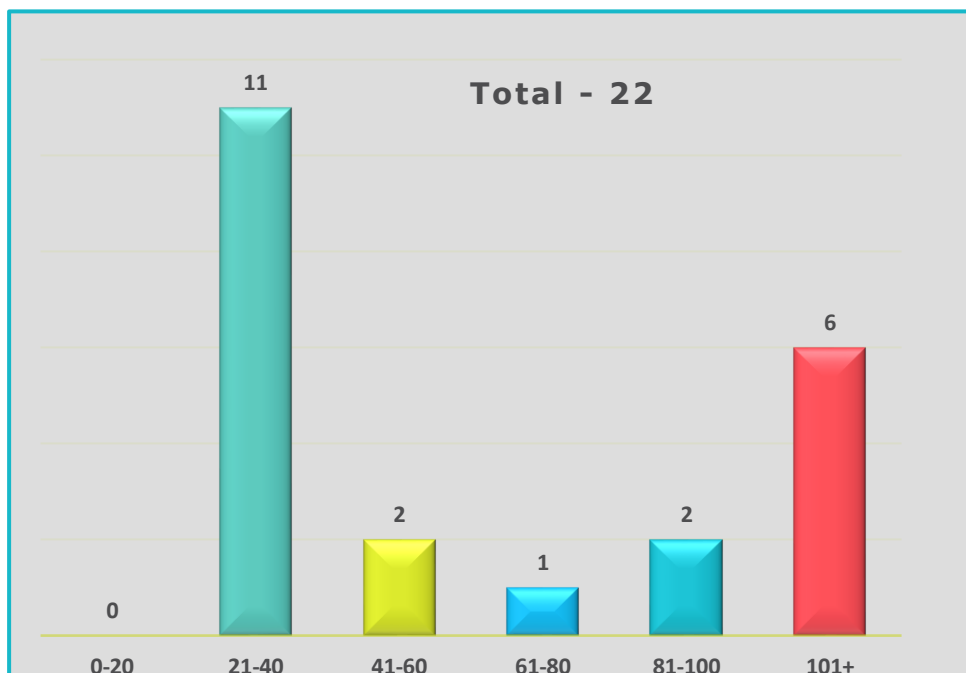


Figure 4 Accepted Referrals to NREP by Number of children.

*Note - This table excludes the seven services escalated due to the operation of an early years service without registration.*

11 services (50%) that were escalated cater for up to 40 children at any one time and 6 services escalated cater for over 100 children at any one time (27%). As noted above, the number of children for the 7 services referred due to operation of an unregistered service have not been included here. Due to unregistered status of the services, the accurate numbers could not be defined.

### 3.3.4 Number of Services at NREP at end of 2021 by region

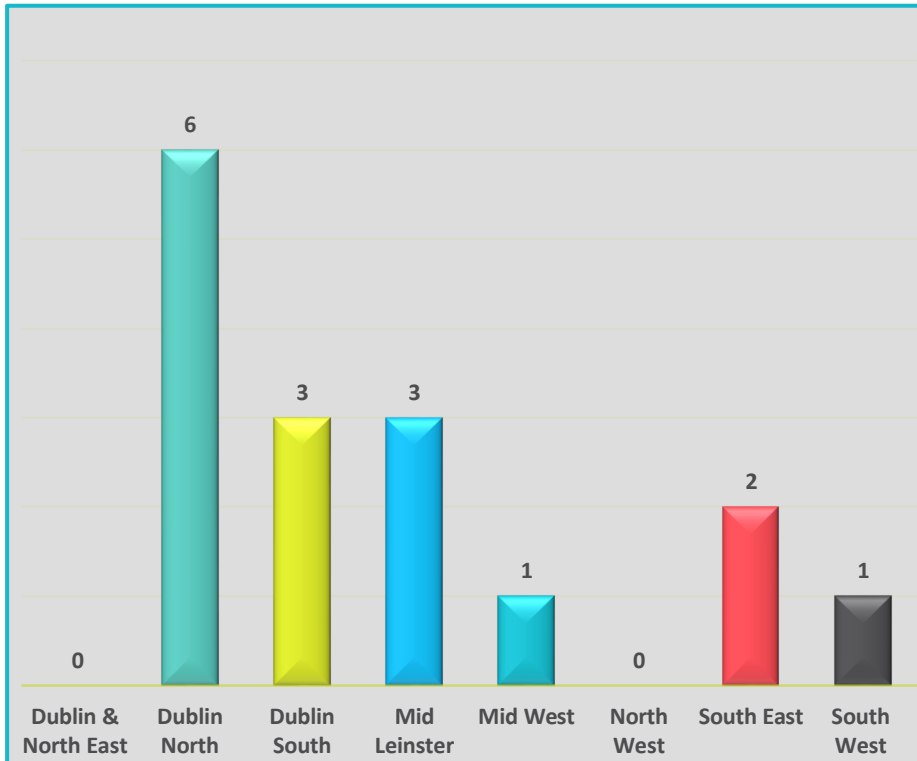


Figure 5 Number of Services at NREP at end of 2021 by region

At year end there were 16 services whose enforcement has commenced in 2021 and was ongoing. 55% of services of 2021 remained on the panel into January 2022.

The number of services in court proceedings at the end of the year remained the same as in 2019. There are 5 services (one standalone service and one service that is part of a chain) in court proceedings. This number includes services that had appealed removal from the register, and/or services that were prosecuted for breaches of regulations.

## 3.4 Reasons for referral to National Registration Enforcement Panel (NREP)

### 3.4.1 Consistent and persistent noncompliance across multiple inspections

The largest number of referrals to the National Registration Enforcement Panel from the inspection teams related to consistent and persistent noncompliance with regulations, compounded by registered providers failing to implement required actions following inspection. In some of these cases, immediate action notices had been issued to services and regulatory compliance meetings had been undertaken. An Immediate Action Notice is issued to a Registered Provider following an inspection where a significant breach of the legislation has been identified and where there is an immediate concern about the safety, health and/or welfare of children. An Immediate Action Notice instructs a service to take a particular course of action which must be complied with in order to address a serious concern immediately or within a defined time period.

In 2021 there was an increasing number of cases where service providers were repeatedly found to have commenced the employment of staff without consideration of garda vetting disclosures as required Garda Vetting Checks were not completed.

#### **3.4.2 Unsolicited Concerns and notifiable incidents submitted to the Early Years Inspectorate**

Where concerns and notifiable incidents are risk rated by the Inspectorate as a critical concern to the welfare of children, these are referred to NREP. All critical concerns and incidents escalated in 2021 related to 6 incidents where children who were unaccounted for a period of time while attending the service on a specific day. In these instances, there was a failure of providers to adequately supervise children in their care.

Engagement with services following such incidents includes an immediate inspection of the service, review of the incident report and risk assessments, and recommendations following these assessments. The Inspectorate seeks assurance that such incidents will not reoccur, including obtaining assurances concerning adequate deployment of staff, clear policies concerning vigilance during busy periods, and ensuring checks are done during outings and outdoor play.

The common theme emerging in these instances was the failure of providers to ensure that children were supervised during key points of transition during the child's day.

#### **3.4.3 Persons confirmed as operating an Early Years Service without registration**

These services are considered high risk, as to operate a service without registration is to deprive children of their right to state supervision and safeguarding.

A total of 7 referrals made to NREP regarding unregistered services were progressed. The 7 services escalated in 2021 engaged with the process. 2 services resolved the matter immediately by reducing their numbers to a level that did not require registration as a childminder. 5 services engaged with the registration process and of these, 4 completed registrations successfully.

While the process of registration is ongoing, services must cease operation until confirmation of registration is obtained. Continued operation without registration will result in the initiation of prosecution.

#### **3.4.4 School Age Services**

In 2021, the first referrals for school age care services for escalation were considered. 2 services were referred due to concerns received regarding several care concerns, operating outside of the terms of their registration, inadequate staffing, and failures to adequately supervise children. School age services where a matter of concern is brought to the attention of the Inspectorate were subject to inspection. 48 concerns were received in 2021 regarding school age care. The number of concerns received by the Inspectorate during 2021 increased and highlighted themes of inadequate supervision of children, inadequate response to or prevention of bullying by services and child welfare concerns.

### **3.4.5 Services operating outside of the terms of their registration**

Toward the end of 2021 the NREP saw an increase in referrals of services operating outside of the terms of their approved registration. These were characterised by some registered providers proceeding to make changes to their services without the required submission of proposals and subsequent approval. In 2022, the inspectorate introduced new procedures to manage such instances, with emphasis being placed on the assessment of risk posed to children by the operation of the unauthorised change. This is discussed further in the next section.

## **3.5 Issues which contributed to escalation**

In addition to the reasons identified above, there are number of themes emerging from the referrals to NREP which reflect shortfalls in the actions of service providers and their managers. These are summarized under the following themes.

### **3.5.1 Management and Recruitment**

Inadequate management and governance are a clear theme leading to escalation. This is characterised by unclear management structures, lack of awareness and implementation of agreed policies and procedures. In these instances, there is a failure by managers to supervise and support staff in their work practices.

In some services, staff have not been appropriately vetted prior to commencement of their role. Another concern is staffing levels, especially during staff breaks and transition periods where the minimum ratio of adults to children is not adhered to.

As mentioned earlier regarding full day care services, we have seen a trend for registered providers and persons in charge to act as part of the staffing ratio and be part of front-line care teams. Whilst this is understandable, it can sometimes result in these persons being diverted from the key functions of oversight and supervision of the service.

### **3.5.2 Health, Welfare and Development of children**

Findings include risk assessments not being completed especially following a critical incident in the service or recommendations following an incident not being actioned. Ongoing neglect or underdevelopment of care rooms suitable for the age profile of children. Failure to provide sufficient outdoor activities and/or limited time outdoors. Failures to introduce programs to support the development of relationships between children and staff members.

### **3.5.3 Safeguarding Health, Safety & Welfare of Children**

Issues include-ongoing shortfalls, such as infection control, fire safety issues, storage of equipment, inappropriate use of sleep mats and inadequate management of known risks.

### **3.5.4 Records and Policies in relation to a pre-school service**

Issues include - Children's records not complete or not available, staffing records not complete or not available, policies in the service not adhered to or policies that are not adequate for the service.

### **3.5.5 Facilities for rest and play**

Services with concerns in this area were found to be failing to provide suitable space for children to sleep, inadequate sleep facilities available for the numbers of children attending and/or the age profile of the children. Ongoing insufficient numbers of cots for the children present and ventilation issues were also identified.

### **3.5.6 Overreach by providers or prioritisation of business concerns**

In some circumstances, providers are overextending their services to accommodate requests from parents. Whilst this may be understandable, there are examples where this has resulted in poor governance, lost opportunities for effective governance and oversight and causing adverse harm to children. Providers have advised the inspectorate that rather than turn away parents, they may proceed to operate outside their authorised registration. In some instances, providers have taken deposits from parents or have made commitments that they subsequently feel cannot be reneged upon. Some providers unfortunately prioritised business interests over their regulatory responsibilities.

### **3.5.7 Services escalated from National Conditions Panel**

Some services have been escalated from the National Conditions Panel to NREP where the provider has failed to comply with the terms of an attached condition. This is most serious as failure to comply with the terms of a condition is an offence under 58K of Part 12 the Child and Family Agency Act 2013

### **3.5.8 Missing Children**

Analysis of how and when children went missing in services determined that most children gained access through unlocked or unsecure doors and gates without the staff being aware for a period of time.

Supervision of children, good record keeping and conducting regular risk assessments and audits of the service including checking exit and entry points to ensure security is vital in preventing children going missing. Following a critical incident, the service must review and reflect on why something has happened and how it can be prevented from happening again.

The six concerns escalated to NREP related to children who become unaccounted for during a particular preschool day. These children tended to go missing during transition periods in the day and were not missed until returned by either parents or members of the public. These incidents, whilst unintended, were all preventable and characterised by an absence of acceptable vigilance. Whilst it is always possible for staff to become distracted whilst multi-tasking, it is not acceptable to have no awareness of a child's whereabouts until informed by a third party. Some of these children experienced near misses, such as wandering onto public roads, whilst unsupervised.

### **3.5.9 Family Run Businesses**

Increasingly, family run businesses are being escalated for consideration of enforcement. It has been our experience that governance practices can be impacted by interpersonal relationships where family members are joint owners. It is challenging for family members to provide oversight of each other's role and practice. We have also encountered lack of clarity regarding management responsibility in these services. In some cases, there was no evidence of functional governance in place. This can be significantly mitigated by the introduction of clear organisational responsibility structures.

## **3.6 Support for services at escalation or enforcement**

### **3.6.1 Support Agencies**

There are several support agencies available to early years providers who may need assistance with service improvement and/or development, such as the county childcare committees or Better Start. There are others who provide mentoring support services.

As part of the escalation pathways, referrals can be made by the Early Years Inspectorate to such agencies to seek assistance for services by consent. Providers can also refer their own service to the different support agencies for assistance and guidance. However, most who are escalated to NREP do not proactively seek or avail of the support services or if they have, did not engage in a meaningful way.

Where services do engage with additional supports it is a positive action and significantly aids registered providers in targeting the areas of need in their services. This is particularly helpful to target problematic areas such as how to develop and maintain corrective and preventive action to address the non-compliance found on inspection.

### **3.6.2 Regulatory Enforcement Meetings**

A regulatory enforcement meeting is one of several interventions utilised by the National Registration Enforcement Panel. The purpose of these meetings is to offer a final opportunity for the service to address the concerns and non-compliance outstanding from all previous escalation actions and avert the need for further enforcement. The services can send written representations prior to and after these meetings. This meeting does not ordinarily highlight any new concerns as they would have been identified previously through correspondence and compliance meetings.

These meetings give clear guidance and clarity on why previous representations have not addressed non-compliances or what remains outstanding in relation to issues and concerns. The meeting seeks assurance from the registered provider regarding previous corrective and preventive actions that were either not put in place or not maintained from one inspection to another.

These meetings have proved to be very beneficial for the services and improved the quality of the representations received which resulted in successful registration and less enforcement actions and sanctions being placed on services.

### 3.7 NREP Outcomes

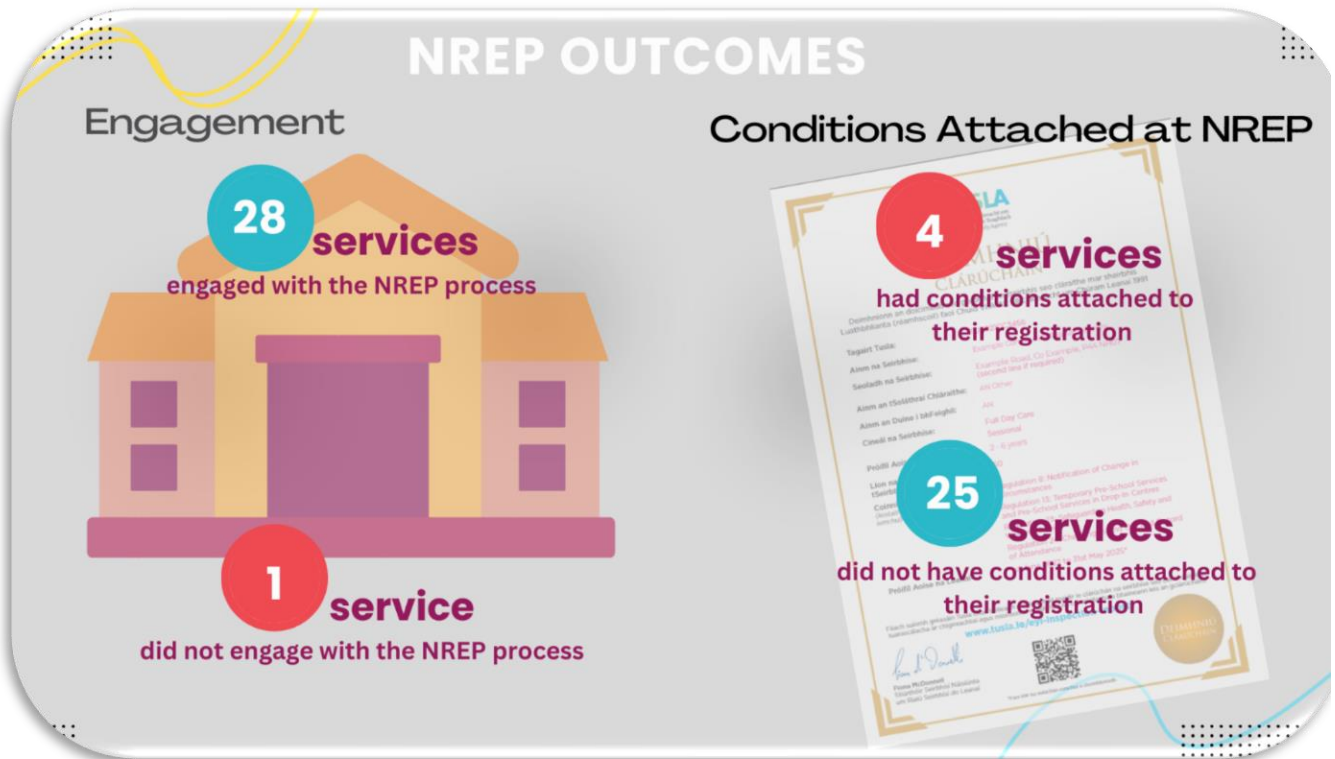


Figure 6-NREP Outcomes

The vast majority of the services who engaged with the National Registration Enforcement Panel avoided enforcement sanctions. 26 of the 29 services that engaged with the different escalation and enforcement actions resolved the concerns and non-compliance highlighted on inspection. 4 services received conditions to their registration. Examples of conditions attached to services' registration included Management and Recruitment (e.g. governance, supervision of staff, qualifications and vetting) Health, Welfare and Development (e.g. staff interaction with children and development of rest and play areas) and Safeguarding of Children (e.g. infection control and general safety).

## 3.0 National Conditions Panel

### 4.1 Context

Article 58D of Part 12 of the Child and Family Agency Act 2013 makes provision for a provider to be registered with a condition or conditions attached to that registration.

As part of this process, the Early Years Inspectorate may propose to attach a condition or conditions to the registration of the early years service provider. The purpose is to provide a pathway for the provider to address the outstanding non-compliance. Adherence to a complied condition by a provider is mandatory. Conditions may apply limitations to how the service can operate which correlate directly to the identified in the service. For example, a condition may stipulate that the service cannot have children under a certain age in the service until such time as certain issues are resolved and/or certain criteria are met.

Alternatively, conditions may require the service to provide specific evidence of remedial actions taken to address non-compliance within a defined timeframe. Before conditions are attached, the provider will have an opportunity to demonstrate how the relevant issues/risks will be resolved. They have the right to make representation in relation to the proposal of a condition or to appeal the proposal through the District Court.

The purpose of this panel is to consider all proposals to add conditions to Early Years Service's registration and to track proposed and attached conditions to completion. This panel meets every 4 to 6 weeks. In 2021, a total of 11 meetings were held.

#### **4.2 Referrals to the Conditions Panel**

Those escalated for consideration of the proposal of the attachment of conditions are services that have not satisfactorily addressed non-compliances found on inspection. Services referred to this panel by inspectors will have first had their non-compliances considered under other escalation actions such as immediate actions notices, review of corrective and preventive actions or a regulatory compliance meeting. There were 51 services in total referred to this panel for consideration of enforcement action.

Like NREP referrals are reviewed and assessed and considered considering the risk of harm the non-compliance poses to children. The nature of the conditions applied are proportionately to its function in the protection and safeguarding of children who attend the service. Conditions are applied not just to simply address the non-compliance, but to address its root cause. The nature of the conditions applied vary greatly but share a common goal to assist registered providers to achieve ongoing compliance with regulations. They also present an opportunity to providers to demonstrate their capacity to demonstrate the effectiveness of their quality assurance systems.

As a result, conditions are commonly applied to the governance and management of a service or to staff training where it is believed that poor performance results from inadequate oversight or preparation of staff. Conditions by their nature are targeted, transient and sufficient if implemented to meet the regulation shortfall. Some conditions however are applied permanently, especially those related to limitations of premises capacity identified by fire safety or planning permission or insurance.

##### **4.2.1 Referrals to Conditions Panel by Service Region**

A total of 51 services were referred to the Conditions Panel in 2021. 23 referrals were accepted.

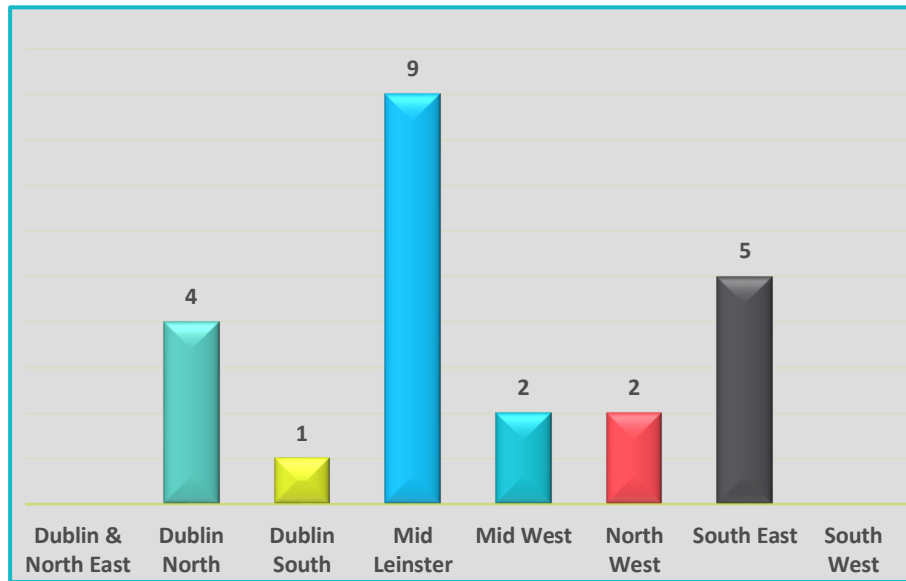


Figure 7 Accepted referrals to Conditions Panel by Service Region

#### 4.2.2 Accepted referrals to Conditions Panel by Service Type

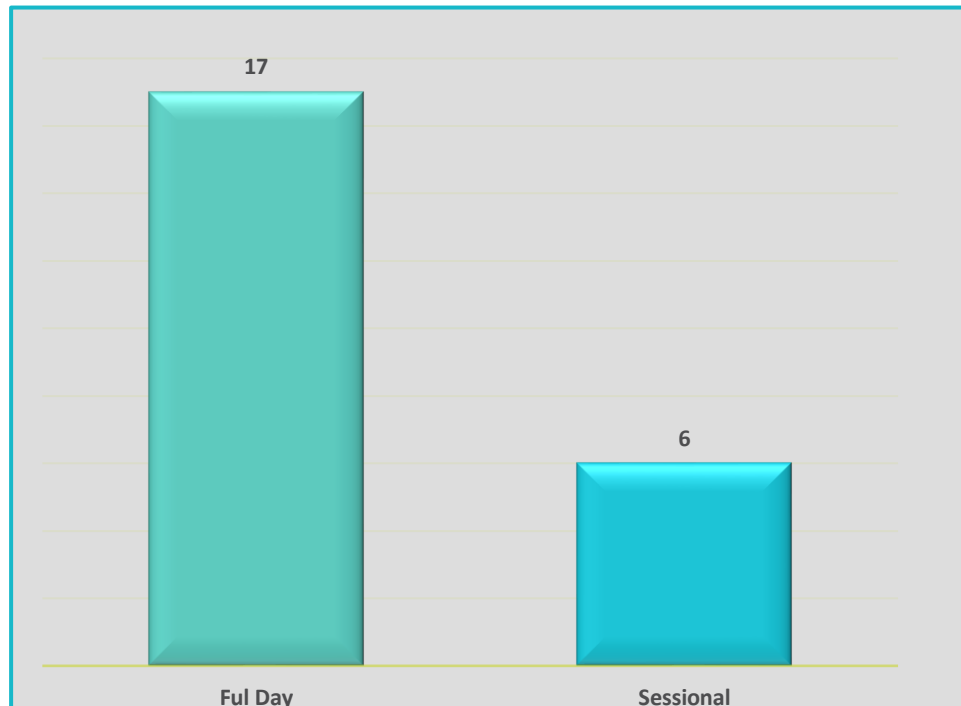


Figure 7 Referrals to Conditions Panel by Service Type

There were 6 sessional services and 17 services offering full day care including part time and sessional services escalated to the conditions panel. In 2021, only early years services were escalated to the conditions panel, there was no escalation of a school age service in 2021.

#### 4.2.3 Accepted referrals to Conditions Panel by Number of children attending in services

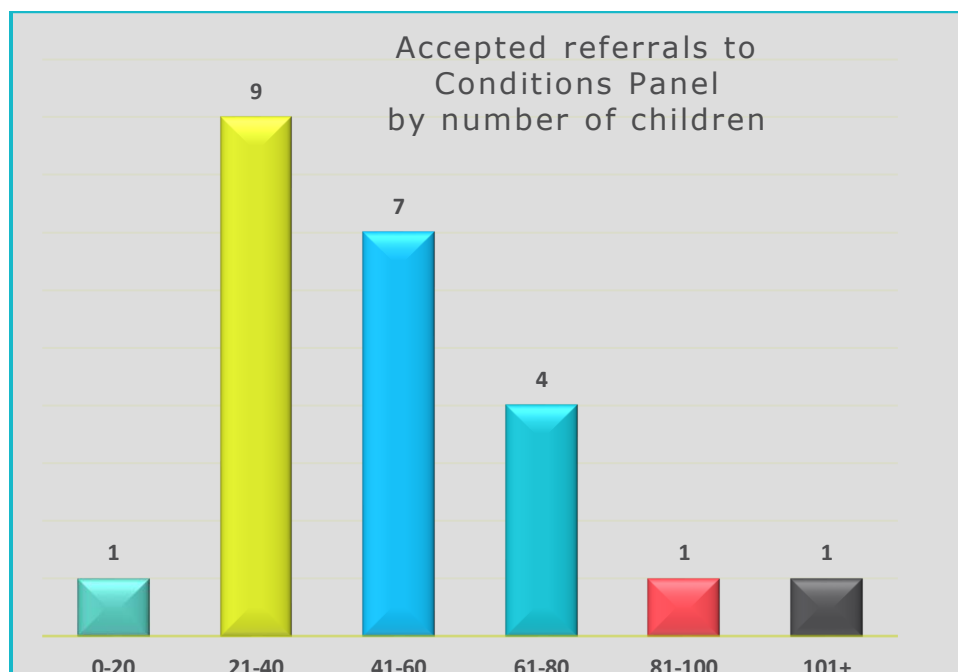


Figure 8 Referrals to Conditions Panel by Number of children

Most of the services escalated to conditions panel can accommodate between 20 and 60 children.

#### 4.2.4 Number of Services at Conditions Panel at end of 2021

There were 5 new submissions at conditions panel at the end of 2021. A further 9 services with conditions attached during 2021 remain under the review of this panel. A total of 51 services were referred to the national conditions panel for consideration of the attachment of conditions. Each new submission is assessed and considered for acceptance or other actions. 28 services were not accepted for this panel and alternative actions were requested. Actions included re-inspection of service with focus on the corrective and preventive actions and previous outstanding non compliances and a regulatory compliance meeting with the service and/or a final request for outstanding documentation on remaining non compliances.

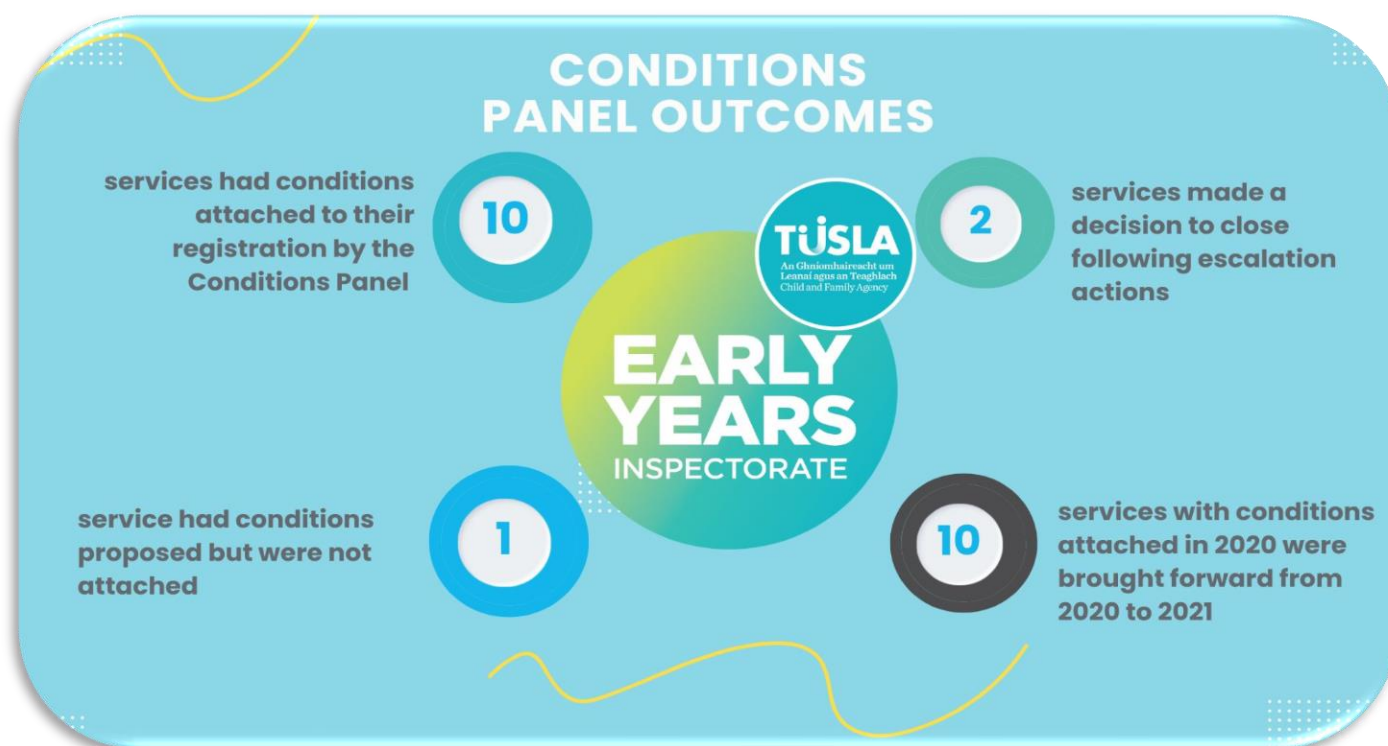
#### 4.3 Conditions Panel Outcomes

All services escalated to the National Conditions Panel during 2021 engaged with the process. Any service that receives an attachment of one or more condition is inspected during the timeframe of the condition(s). Following these inspections, only 1 service was considered for the continuation of conditions. 9 services were inspected in 2021 were compliant at the end of the inspection process and had their condition(s) removed. Examples of conditions attached to services' registration

included Management and Recruitment (e.g. governance, supervision of staff, qualifications and vetting) Health, Welfare and Development (e.g. staff interaction with children and development of rest and play areas) and Safeguarding of Children (e.g. infection control and general safety).

The feedback from inspectors was very positive and each service had improved across all regulations inspected. Each of the 9 services were considered compliant at the end of the inspection process.

2 services made the decision to close down during the escalation process, these decisions were taken for a range of reasons and not just as a result of any enforcement action alone.



## 4.0 Key Messages

### 5.1 Services operating outside of registration status

Providers operating outside of their registration status place children at risk, however well intentioned. The Inspectorate has increased its enforcement activity in this area as the risks posed to children are particularly significant where the service has increased its the number of children in attendance. Where the Inspectorate is not satisfied that children are safe and secure, measures are taken to ensure the provider reverts to approved registration. This is not desirable and may result in a reduction of capacity, and anger from parents. It is incumbent upon providers where they make a change to their service to provide the Inspectorate with 60 days' notice of the proposed change. Unauthorised changes, where they cannot be readily regularised may cause significant distress to families and the service and its staff.

## **5.2 School Age Services**

There is a perception that school age services pose less challenge to providers in their operation. As the general public have become more aware of their regulated status, the number of concerns being submitted to the inspectorate has increased. Providers are encouraged to ensure the same level of vigilance and operational quality to such services.

The incidents which led to enforcement have resulted from an insufficient number of staff present in the service to cater for the full needs of the children. This is not to suggest that providers were found to have failed to meet the minimum staff ratios, but that in these instances, the minimum was not sufficient to supervise the needs and movements of the children who attend their service. Providers should be mindful that their staffing obligation is not confined to meeting the ratio alone but to also having enough staff to meet the needs of the children and to ensure that they are adequately supervised.

## **5.3 Support for services in the enforcement process**

There are times where engagement is hampered by emotional reaction to the escalation process. Some providers may feel that escalations are unwarranted or unfair. This can understandably lead to providers becoming anxious or worried which can result in delayed engagement with the process. Providers who find themselves in this position should not hesitate to speak with the Early Years Inspectorate staff who will assist them.

Providers, especially those who may feel overwhelmed with the prospect of enforcement or potential removal from the register, may feel discouraged at being unable to meet the requirements. If this occurs, it is advised that an external support organisation is engaged to provide aid and support. If the provider is not in a position to seek assistance, the Early Years Inspectorate can make a referral on their behalf. Early, proactive engagement with support organisations does result in positive outcomes for those facing enforcement.

## **5.4 Engagement**

The inspectorate will not seek to remove services from the register where the appropriate degrees of improvement can be achieved and maintained by the provider. Statistically, providers who engage proactively with the corrective and preventive action (CAPA) process if required following an inspection, do not find themselves subject to enforcement.

Those that still have difficulties after the CAPA process, who engage with the inspection teams during any Regulatory Compliance Meeting (RCM) usually achieve positive outcomes.

Essentially the same is true of engagement of all aspects of the process. In the case of services at NREP, 26 services who engaged meaningfully avoided any regulatory sanction. 51 services were initially considered for the sanction of proposed conditions. From the initial assessment other actions were considered. Alternative actions were considered for 28 services in 2021 which resulted in avoidance of sanctions being placed on their registration. All 23 services at the National Conditions panel engaged with the process. 10 services with conditions attached in 2020 were brought forward from 2020 to 2021 and placed under review of this panel. 1 service had conditions proposed but were not attached following successful receipt of representations and 10 services got conditions attached from this panel. Of the 20 services with conditions attached in 2021, 10 were reinspected to assess compliance with the attached

conditions and general compliance with the early years regulation. Only 1 service of the 10 services inspected was considered for the re proposal and attachment of conditions. 9 services were fully compliant at the end of their inspection process and no further sanctions were considered.

However, continued vigilance to completion and sustaining of commitments made at CAPA or any other process is equally essential to avoid future problems re-emerging.

From our review of 2021, the theme of positive and proactive engagement with services shines through. The level of engagement with services considered for enforcement actions has resulted in lower levels of sanctions being placed on services. No service met the threshold of removal from the register in 2021. A large percentage of services improved compliance so that no sanctions were considered. Other services had conditions attached to their registration which were then removed following inspection where full compliance was met by the service. These positive outcomes reinforce the message that continuous engagement and communication is essential between the sector and the Early Years Inspectorate, and we look forward to the continued development of this work.

## 6.0 Acknowledgements

This report was prepared by the Enforcement & Escalation team which is part of the Early Years Inspectorate's Registration and Enforcement Office. Its development was overseen by Denise Collins, National Registration Manager (Escalation and Enforcement) and Mike Corcoran, Head of Registration and Regulatory Enforcement, with support of Cian Davis, Regulation Support Officer.

QMS Reference	02/2023 EYI-REP
Version	V1.0
Date	20/03/2023