

The logo for Túsla, featuring the word 'Túsla' in a bold, white, sans-serif font. The 'ú' has a dot above it. The background of the entire page consists of large, overlapping, wavy shapes in shades of yellow, teal, and blue.

An Ghníomhaireacht um
Leanaí agus an Teaghlach
Child and Family Agency

Children's Services Regulation

The Early Years Regulatory Enforcement Process- Outcomes

This report has been prepared by Research Matters Ltd (www.researchmatters.eu) on behalf of Tusla – Child and Family Agency.

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Foreword

We are delighted to present this report which provides, for the first time, a detailed analysis of outcomes arising from key elements of the regulatory enforcement process.

Tusla – Child and Family Agency, through the Early Years Inspectorate, 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 0–6 years. The role of the inspectorate is to promote and monitor the safety, quality of care and support of the child in early years provision in accordance with the regulations.

Regulation aims to drive improvement; the findings of the analysis presented in this report clearly demonstrate the positive impact made to the quality of early years services as a result of the inspection process. An analysis of 500 non-compliant regulations found that almost 86% of services found to be non-compliant on inspection were compliant at the end of the process.

Tusla's regulatory enforcement process is informed by legislation and regulation. Non-compliance with regulations identified on inspection are in the main addressed by the providers' corrective and preventative action plans. This demonstrates that the greatest level of intervention is at an early stage.

Only a small number of services were escalated to the National Registration and Enforcement Panel over a two-year period, 2018 and 2019. This panel is responsible for overseeing enforcements where services are at risk of losing their registration. Some services had conditions attached to effect improvement, one service was prosecuted, and six services were removed from the register. The findings demonstrate that Tusla acts in a proportionate manner where significant risk is identified and has not been addressed by the provider.

This report underpins the importance of having a robust inspection service in place that focuses not only on identifying problems where they arise, but also working with service providers in a way that effects positive change to improve the quality of early years services.

We would like to acknowledge the work of over 4,300 early years service providers in ensuring that they provide safe and quality services to children and families around the country. We thank them for their engagement with our inspectors and their commitment to meeting regulatory requirements. 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 the quality agenda. Finally, our sincere thanks to Dr Sinéad Hanafin, managing director of Research Matters Ltd, for producing this report.

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Section 1:

Introduction

Overview

The policy for enforcement of early years services legislation is based on a compliance and enforcement continuum that includes promoting compliance through promoting improvement; monitoring and assessing compliance; and responding to non-compliance. The process is underpinned by several key principles. A summary of these is set out in Figure 1. They serve to guide the implementation of Tulsa's early years enforcement policy.

Figure 1 Principles underpinning the regulatory enforcement process

The promotion of regulatory compliance through appropriate engagement with the early years sector and the production of supportive explanatory information to support attainment of compliance.

Taking effective, timely and proportionate enforcement action where an early years service has not met the requirements of regulations.

Ensuring that all regulatory enforcement action is reasonable and necessary in order to protect and safeguard the health, safety and well-being of young children, and to promote quality early years service provision in Tulsa-registered early years services.

Enforcement actions are applied in a fair, transparent way that takes account of the rules of natural justice and right of reply.

Responding to areas where regulatory requirements have not been met

Where the requirements of the 2016 regulations¹ have not been met, action will be taken to clearly communicate the nature of the non-compliance to the early years service provider. Promoting consistency in the regulatory and enforcement process is a priority. However, as the levels and extent of non-compliance vary considerably, the enforcement actions applied

¹ (Child Care Act 1991 (Early Years Services) Regulations 2016).

will be specific to the level and extent of non-compliance in each individual case. Tusla's aims in engaging with services where regulatory compliance has not been met are to:

- Protect children in a timely manner
- Respond in a manner proportionate to the nature of the issues identified on inspection
- Provide early years services with opportunities to improve practices and processes.

Tusla's response takes account of:

- The risk presented to children as a result of regulatory requirements not being met
- The registered provider's history of inspection and compliance with regulation
- The registered provider's response to the non-compliance, including proposed remedial actions and evidence to support these actions
- The registered provider's ability to implement and sustain robust governance structures and associated practices.

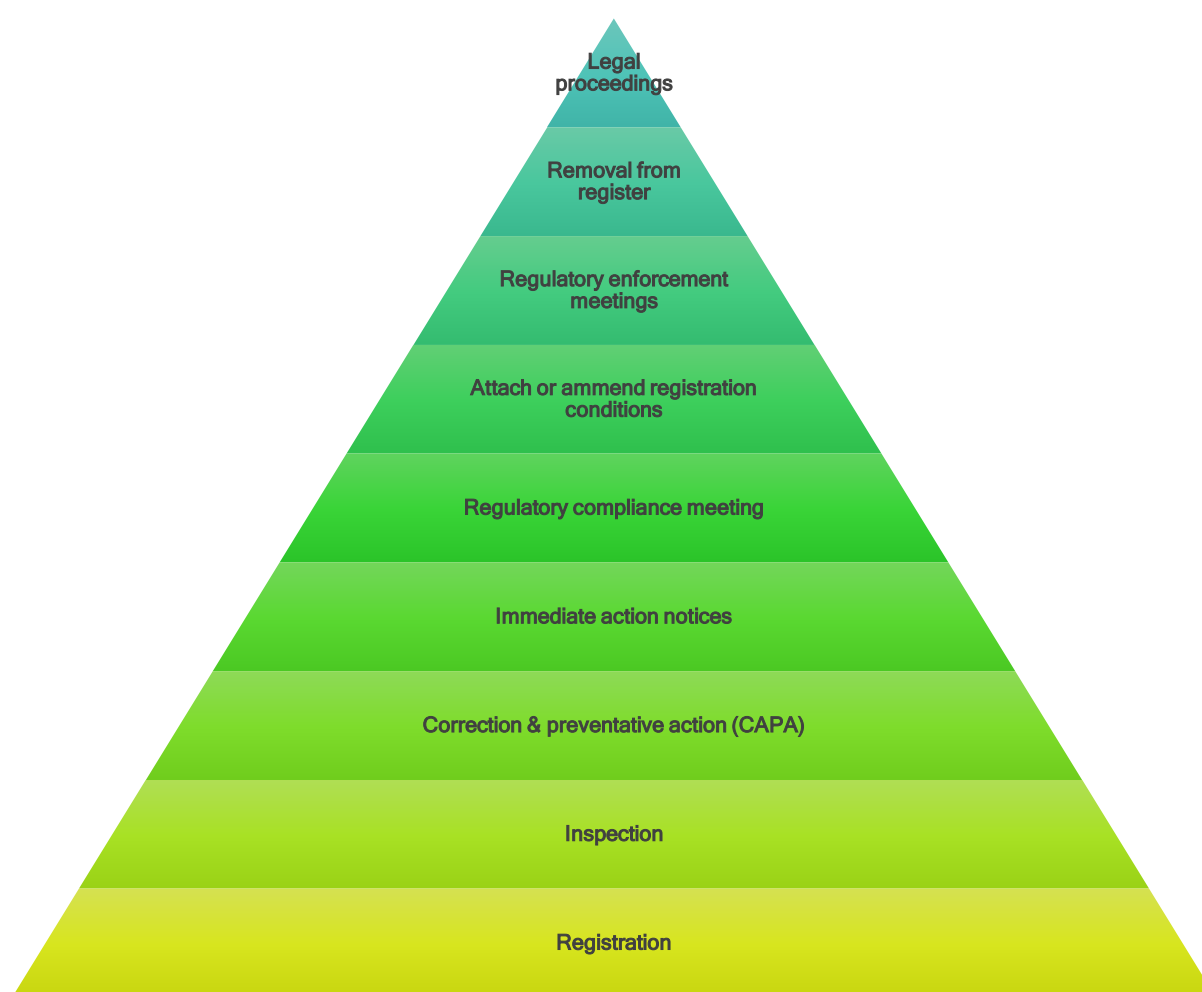
Information and guidance relating to regulatory enforcement, including legislation, rights of appeal and complaints procedures, are available on the Tusla website:

<https://www.tusla.ie/services/preschool-services/a-guide-to-regulatory-enforcement-in-early-years-settings/>

Regulatory enforcement pyramid

Key elements in the continuum are represented in Figure 2 in the regulatory enforcement pyramid which illustrates the steps in the process. It is important to note that escalation of regulatory enforcement action is not always linear. The enforcement pathway will be determined by the specific circumstances of each service.

Figure 2 Regulatory enforcement pyramid



Structure of report

The remainder of this report focuses on a detailed analysis of outcomes arising from the Regulatory Enforcement Process and is presented in a number of different sections as follows:

Section 2 provides an overview of the methodology used to carry out this analysis

Section 3 presents the findings from an analysis of corrective and preventive actions arising from 500 noncompliant regulations arising from inspections carried out in 2018 and 2019

Section 4 provides a quantitative analysis of immediate action notices arising from inspections carried out in 2018 and 2019

Section 5 considers key issues arising from inspections carried out in 2018 and 2019 where conditions were attached to registration

Section 6 presents the findings in respect of removal from the register of early years services.

Section 2: Overview of approach adopted



This section presents information on the aim and objectives of the analysis; reports included in the analysis; analysis of reports; and ethical issues that arose.

Aim and objectives

The aim of the study was to conduct an analysis of the regulatory enforcement process in respect of early years inspections carried out over a two-year period, from January 2018 to December 2019.

The specific objectives were to conduct a quantitative and qualitative analysis of:

1. Corrective and preventive actions (CAPA) that take place following the identification of a non-compliance
2. Immediate action notices
3. Condition(s) attached to a service registration in response to a non-compliance identified during the course of an inspection
4. Data in respect of services removed from the early years services register.

Inspection reports

The basis for the quantitative and qualitative analyses that took place are reports of inspections, collated by Tusla Early Years Inspectorate, carried out in 2018 (1557 reports) and 2019 (1389 reports). The reports provided were in the format of a standardised inspection report used by the inspectorate, and include information about the service, compliance, and non-compliance in respect of each regulation inspected and CAPA to resolve the non-compliance where identified.

All 2018 and 2019 reports were included in the identification of immediate action notices and conditions attached to services. A random sample of 500 non-compliant regulations from 2018 and 2019 inspection reports was generated and formed the basis of the analysis of CAPA included in this report.

Data linkage with Early Years Services Register

In addition to the information available for analysis from the reports, data linkage between the reports received for analysis and the early years services register for 2019 was carried out. This data linkage took place using deterministic linkage procedures and allowed for an analysis of a number of additional variables in respect of early years services. Additional variables include the profit status of the service, the number of staff employed in the service, the provision of school-age services by individual services, and whether the service is one of multiple services or a single service.²

² A multiple service is one where the same registered provider has two or more services on the early years services register.

Analysis of reports

A quantitative analysis was conducted on key variables available in both the Inspection Report (IR)³ and Fit For Purpose (FFP)⁴ reports in addition to those variables available through the data linkage process. Descriptive statistics were generated using R statistical software.

A qualitative analysis using both content and thematic approaches carried out on textual information presented in the random sample of 500 non-compliant regulations. This analysis was supported by the use of NVivo qualitative research software. The analysis focused on understanding non-compliances identified in the reports, including CAPA, immediate action notices and conditions attached to registration.

Ethical issues

All ethical considerations relating to anonymity and good practice in data protection were addressed. Care was taken to ensure that the identity of individual services are not identifiable in this report. It is noted, however, that all reports included in this analysis are freely available through the Tusla website (see: <https://www.tusla.ie/services/preschool-services/creche-inspection-reports/>).

³ Inspection report (IR) of registered services detailing the regulations assessed for compliance.

⁴ Fit-for-purpose (FFB) inspection report detailing the regulations assessed for compliance prior to being approved for registration.

Section 3: Corrective and preventive actions

Key points

An analysis of 500 randomly selected noncompliant regulations demonstrated impacts of the inspection process.

Outcomes from the corrective and preventive action process showed that 85.8% of noncompliant regulations had resulted in verified improvements in the service and a further 3.6% of improvements would be verified at the next inspection.

11% of regulations remained noncompliant at the end of the CAPA process as insufficient improvements had been made.

Improvements to the service as a result of this process were identified in respect of the extent to which :

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

Overview

Where non-compliances are identified on inspection, they are brought to the attention of the registered provider who is then given an opportunity to set out how these non-compliances will be addressed. It entails two components:

- Corrective action(s): the action(s) taken to rectify or eliminate the non-compliance identified.
- Preventive action(s): the ongoing action(s), if any, required to ensure that the non-compliance does not reoccur.

These actions are then submitted to the Early Years Inspectorate for review. Where actions are found to address the non-compliances satisfactorily, the actions are incorporated into the Draft Inspection Report and submitted to the Early Years Registration Panel for consideration; this panel then issues the Final Inspection Report. Throughout the process, the early years inspector is available for clarification and guidance, including directing the registered provider to appropriate sources of information.

In situations where the inspectorate has deemed that the actions outlined in the CAPA will not satisfactorily address the non-compliances, the inspectorate notifies the registered provider and provides further assistance where it is sought. In the event that CAPA information is still not sufficient, the inspectorate escalates the non-compliance(s) to the National Registration and Enforcement Panel in line with the regulatory enforcement policy.

Findings from the analysis of 500 randomly selected noncompliant regulations

The CAPAs set out in response to noncompliances identified were analysed in the random selection of 500 noncompliant regulations drawn from 2018 and 2019. The overall findings show that there are three main outcomes arising:

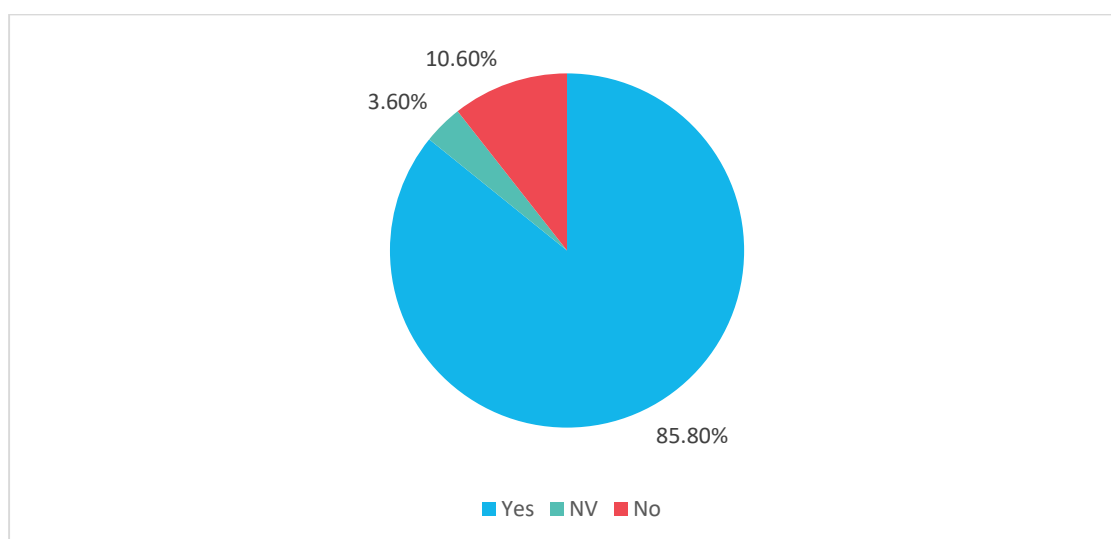
Yes, the compliance has been addressed. The Early Years Inspector is satisfied that the noncompliance has been addressed and evidence of changes made have been submitted and accepted as satisfactory by the inspector.

Yes, but not verified (NV), where the Early Years Inspector was satisfied that the noncompliance has been addressed but that this would be verified at the next inspection.

No. The Early Years Inspector was not satisfied that the necessary changes had been made, and the service remained noncompliant in respect of the particular regulation. In such cases, the issues are then escalated and addressed in line with the regulatory enforcement pyramid outlined above.

As highlighted in Figure 3 the vast majority of regulations were identified as compliant following the CAPA process (85.8%; n = 429) and a further 3.6% (n = 18) were identified as compliant but this would be verified at the next inspection (NV). About one in ten regulations (10.6%; n = 53) were identified as not compliant at the end of the CAPA process.

Figure 3 Outcome of CAPA process



Note: Percentages may not add to 100% due to rounding

Outcomes of individual regulations

Levels of compliance and noncompliance were identified for all 500 regulations included in the analysis. In line with the overall numbers of individual regulations assessed, the highest number included in this analysis are in respect of Regulation 23, Regulation 9, Regulation 19, Regulation 26, Regulation 29 and Regulation 16. Consequently, Regulation 10, Regulation 12, Regulation 25, Regulation 28 and Regulation 32, while almost all compliant at the end of the CAPA process, the numbers included in this analysis are very small (with the exception of Regulation 25, all others are less than five).

In respect of Regulation 8 (63.2%; n = 20) and Regulation 20 (53.8%; n = 13) less than two thirds were deemed compliant at the end of the CAPA process (Table 1).

Table 1 Outcomes from CAPA process by regulation

Regulation number	Focus of regulation	Yes compliant	Yes, compliant but not verified	No, not compliant	Number of regulations assessed
8	Notification of change in circumstances	63.2%		36.8%	20
9	Management and recruitment	84.4%	1.1%	14.4%	90
10	Policies, procedures etc. of pre-school service	100%			1
11	Staffing levels	85%	10%	5%	20
12	Childminders	100%			2
16	Record in relation to a pre-school service	83.3%	6.7%	10%	30
19	Health, welfare and the development of the child	92.3%	3.8%	3.8%	52
20	Facilities for rest and play	53.8%	7.7%	38.5%	13
21	Equipment and materials	66.7%	33.3%		3
22	Food and drink	66.7%		33.3%	3
23	Safeguarding health, safety and welfare of the child	88.8%	5.2%	6%	134
25	First aid	100%			25
26	Fire safety measures	88.5%		11.5%	52
27	Supervision	80%	20%		5
28	Insurance	100%			4
29	Premises	83.3%	2.8%	13.9%	36
30	Minimum space requirements	77.8%		22.2%	9
32	Complaints	100%			1
Total		85.8%	3.6%	10.6%	500

Illustrative case studies

These illustrative case studies provide an insight into the types of regulatory noncompliances and the corrective and preventive actions taken by providers to ensure regulatory compliance. The illustrative cases are taken from full day care services as regulations assessed in full day care were more likely to be found non compliant relative to other types of services⁵. In these case studies it is important to note that an individual service may have been identified as noncompliant in a range of areas, even within the same regulation. For clarity, the case studies presented below, focus on the remediation of one factor only and are intended to be illustrative rather than comprehensive accounts of ways in which the Early Years Inspectorate impact on noncompliances. The illustrative cases presented below demonstrate improvements made to services following regulatory inspection in areas relating to:

- governance
- health, welfare and development of the child
- safety
- premises and facilities

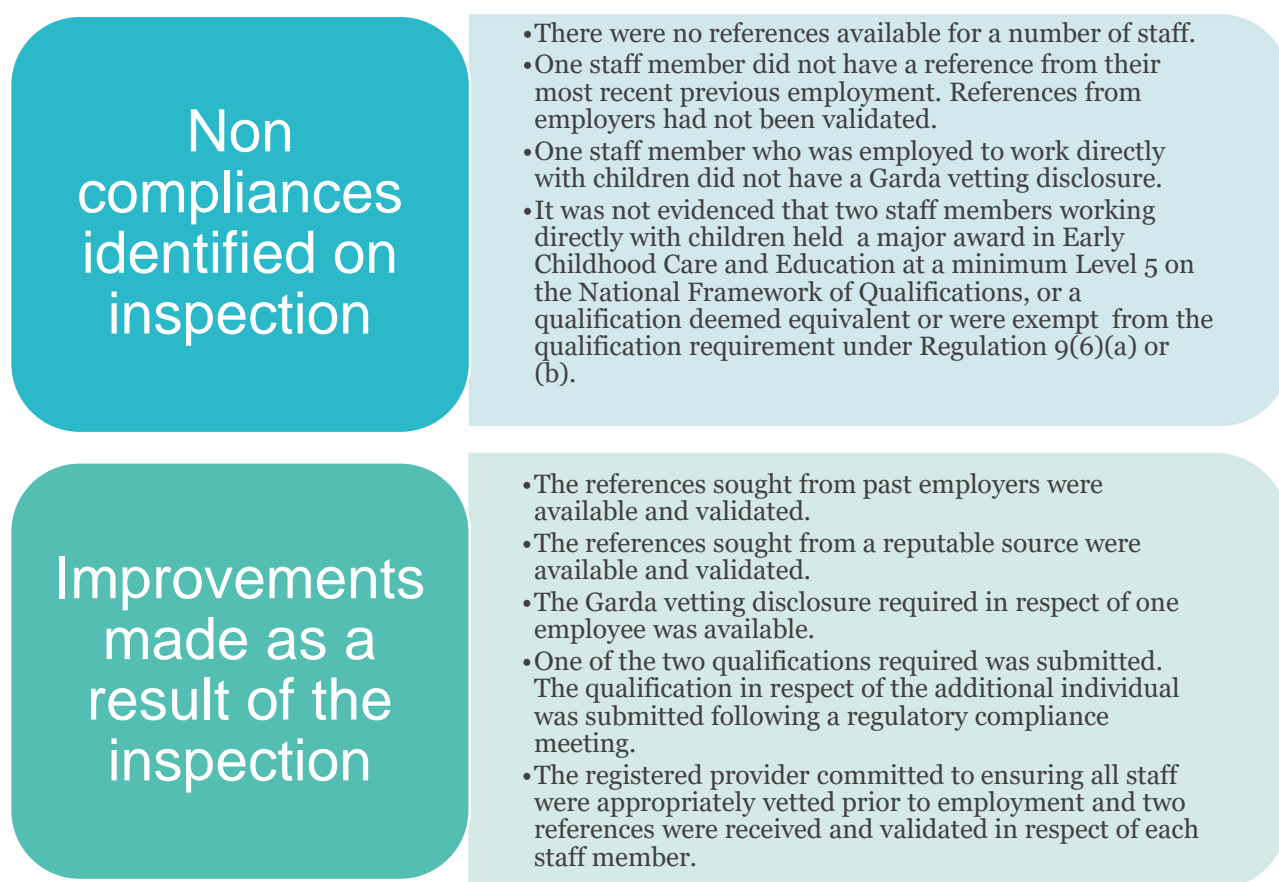
Exemplar 1: Improving the governance of a service

A full-day service that provides a service for a maximum of 25 children aged 1 to 6 years each day from 08.00 to 18.00. The service is located in a commercial premises in an urban area and operates in three rooms on the ground floor of the building. There is an outdoor area located on the premises. The service employs four staff members to work directly with the pre-school children including the registered provider and in addition two staff are employed part-time for domestic duties.

The inspection was an unannounced inspection and focussed on three themes: governance; safety; and the health, welfare and development of the child. The findings on inspection were based on information obtained through examination of documentation, direct observation, and discussion with relevant staff. A follow up inspection took place after two months to review the CAPAs in practice which were submitted in writing.

⁵ Tusla (2020) Child & Family Agency *Early Years Inspection Reports 2018 – 2019, Analysis and Trends*, Dublin: Tusla

Figure 4 Impact of Early Years Inspection process on governance of the service



Other examples of improvements made in other services as a result of inspections:

An adequate number of adults are working with the children at all times and ratios are maintained during key times such as lunch break, drop-off and collection of children including school collection times.

Only childcare staff that hold the minimum qualification requirement of Level 5 will work directly with the children in the toddler/sleep room.

The staff roster ensures that the minimum requirement is maintained.

Medication administration and nappy changing policies have now been developed.

Relevant and up to date information in policies, for example relating to healthy eating, positive behaviour management, outings, infection control and safe sleep.

Improvements in record keeping such as drop-off and collection, administration of medication.

Exemplar 2: Improving the service to better support the health, welfare and development of children attending

The service is a full daycare for profit service located on the grounds of a primary school. The service caters for children aged two to five years and also provides after school services.

There are six staff members working in the pre-school service. All staff have an appropriate qualification in childcare.

Figure 5 Impact of Early Years Inspection process on the health, welfare and development of the child

Noncompliances identified on inspection

- Perishable foods were not stored in a fridge.
- Food at morning snack for the pre-school room was served directly onto the table. Drinking water was not freely available.
- There was no rest area for children in the service. Two children aged two years slept in their buggies for approximately 1.5 hours.
- There was no key person assigned to the care of the children.
- There were no clearly defined interest areas in either of the pre-school rooms in the service. Much of the play equipment was stored in presses with closed doors making it difficult for the children to see and to choose the materials within them. The book shelf was located high on the wall where children could not reach to choose a book.
- All activities were adult led and all were large group activities.
- There was no form of messy play to support children's sensorial development such as sand, water or paint available in the room.
- Five jigsaws were located in a closed cupboard, however all of the five had lots of the pieces missing.
- There was no programme in the pre-school room where there were 11 children aged 2-3 years of age.
- Children were observed to be crying for prolonged periods of time.

Improvements made as a result of the inspection

- The provider worked with a support organisation to improve the quality of childcare provision including in the areas of nutrition and the physical and material environment.
- Perishable food is stored appropriately, drinking water is freely available and food is served from plates.
- At a further inspection, staff in both rooms were observed to speak and interact with children in a more positive way.
- Children were observed to direct their own play to a greater extent and the atmosphere was calm and unhurried.
- The service continues to work with the support agency in a mentoring capacity to enhance and develop quality in relation to children's health, welfare and development.

Other examples of improvements made as a result of the inspection to supporting the health welfare and development of children attending services:

- Staff engaging with an external support organisation to ensure ongoing training.
- Regular structured staff meetings carried out and records of the meetings will be available on file.
- Staff carry out monthly reviews to ensure that age appropriate materials and equipment are being used by the children in their respective playroom.
- Regular centre audits carried out to ensure that the environments are well laid out, resourced and appealing to the children.
- A Curriculum Team comprising practitioners from varying levels to include Key Care Workers, Assistant Managers, Centre Managers and Operations formed to support all staff.

- Handouts have also been issued to the staff team in an effort to support ideas and creativity in selecting resources.
- Staff now ensure that children sit in the correct chairs provided for their age and comfort.
- Physical and material environment provides more sensory & imaginative play and defined areas of play are available for the children.
- Staff offer all children fruit to encourage healthy eating and it is service practice to offer an alternative when they do not eat.
- All staff made aware of all children's dietary needs and alternatives available within the comprehensive menu.
- There is now a daily schedule of outdoor times for children.
- All staff have been updated on the correct procedure for lifting children as per the Behavioural Management Policy of the service.

Exemplar 3: Improving safety for children attending the service

A for profit full daycare service provided in a custom built childcare service in a rural area that can cater for a maximum of 85 children from 07.30 hours to 18.00. The person in charge is office based and the service employs 17 adults to work directly with the children. All of the adults working in the service have a major award in Early Childhood Care and Education.

Figure 6 Improving the service to better support safety for children attending

Noncompliances identified by Early Years Inspector

- The main gate to the service that was separating the service from the roadway did not prevent the egress of an unsupervised pre-school child onto the road.
- The cable of a stereo located adjacent to the matted area in the baby room was within children's reach and posed a choking or trip over hazard. A scissor stored in a container on a low table adjacent to the entrance/exit door of the baby room was within children's reach and posed as an injury hazard.
- There was no barrier in place on the pathway from the main door of the childcare premises to the registered provider's private garden and an unsupervised child could access the registered provider's private garden where there were hazards.
- Handwashing was not carried out by the adults pre and post nappy changing. The two toilet cubicles were not adequately ventilated.
- The records maintained about sleeping checks on children did not refer to the adults checking the children's colour or breathing.

Improvements made as a result of regulatory inspection

- The main gate to the service that was separating the service from the roadway has been made secure by the addition of a padlock to the bolt.
- The cable of a stereo located adjacent to the matted area in the baby room has been secured to the wall.
- A secured gate has been erected on the pathway from the main door of the childcare premises to the registered provider's private garden.
- An area for disposable aprons is now available on the premises to facilitate hygienic nappy changing by the adults. A pedal bin is now provided in the toilet cubicle adjacent to the Montessori room. The registered provider has informed all staff about handwashing being carried out pre and post nappy changing.
- The extractor wall vents in the internal two toilet cubicles adjacent to the Montessori room are now functioning correctly. The two toilet cubicles are adequately ventilated.
- The records have been revised to ensure all aspects of the child's sleeping pattern are addressed

Other examples of direct improvements to safety as a result of inspection:

- Safety gate provided at the bottom of the stairs.
- Cleaning agents now stored in a secured storage area out of children's reach.
- Shock absorbing ground surface provided in the outdoor play area.
- Monthly fire drills carried out at the service.
- Wall units anchored.
- Exit and entry doors secured to prevent unauthorised entry and prevent children leaving the premises unsupervised.
- Disposable aprons and supply of vinyl gloves made available to facilitate hygienic nappy changing by the adults.

- Settings on the boiler used for providing thermostatically controlled hot water altered to ensure that the water from the hot taps is controlled to a temperature of no more than 43 °Celsius (to prevent the risk of scalding when children are handwashing).
- All medicines and tubes of medicated creams are now labelled with the appropriate child's name.
- Personal belongings of the children attending the service are no longer stored on the floor but on high shelving.
- All mattresses in the sleep room are now well fitting in the cots as recommended by the "Safe Sleep for Under 2's" Best Practice Guidelines for Childcare Facilities.

Exemplar 4: Improving the service to better support the premises and facilities

A full daycare service provided between 07.30 and 18.00 and which caters for children aged 1 year to 6 years. Services offered include daycare, sessional and school age care for up to 70 children. The service is located in a residential area and six adults work in the service including the registered provider and relief staff member. All staff members hold appropriate qualifications in Early Childhood Care and Education.

Figure 7 Impact of Early Years Inspection process on premises and facilities

Noncompliances to the premises and facilities identified by Early Years Inspector

- The radiator covers in the toddler room were damaged, had sharp corners and were in a poor state of repair.
- A loose light switch in the ECCE room was observed on the day of inspection, the light fitting was in a poor state of repair and this may also pose a potential safety hazard.
- There was a loose tap in the children's sanitary area adjacent to the toddler room. The sink area around this tap was not sealed and posed a potential risk for the spread of infection.
- Evidence of chipped paint on walls and furniture (bookshelves), radiator covers in the ECCE rooms.
- The chairs and floor were damaged and cannot be maintained in a clean and hygienic condition.
- Inadequate number of wash hand basins in the sanitary area. There was no second wash hand basin for children attending the toddler room for effective hand washing to prevent the spread of infection as the sink was shared with the adults who were washing their hands after changing nappies.

Improvements made as a result of regulatory inspection

- Radiator covers have been repaired.
- The light switch in the ECCE room has been secured.
- The loose tap in the sanitary area of the toddler room has been repaired and the sink area around the tap sealed.
- Walls and furniture have been cleaned.
- Some chairs have been replaced.
- The damaged floor (leak stained) has been deep cleaned and covered with a mat as the stain cannot be corrected without replacing the entire flooring.
- An additional sink has been made available.
- The registered provider has committed to monitoring issues arising.

Other examples of improvements made as a result of the regulatory inspection to the premises and facilities:

Fences and gate erected to ensure the safety of the children.

Ventilation improved including cleaning of all vents.

Additional sanitary wear installed, including sinks and toilets.

Deep cleaning of specific areas and commitment to maintain the building in a clean condition.

Walls washed and painted where required.

Adequate heating at all times.

Broken window panes replaced.

Black areas of dampness inspected, repaired and treated and leaks fixed.

All floors in the building are continuously washed on a daily basis and the floors in the sanitary facilities are washed twice a day.

Broken toys removed.

Summary

In summary, the CAPA process takes place where noncompliances are identified on inspection and the registered provider is given an opportunity to set out how these noncompliances will be addressed. An analysis of 500 randomly selected regulations assessed as noncompliant by EYIs showed that on completion of the CAPA process, the vast majority of regulations were identified as compliant (85.4%; n = 429). In addition, it was reported that compliance was addressed in a further 3.6% (n = 18) of regulations but it was noted that this would be verified by the EYI at the next inspection. About 10.6% (n = 53) of regulations continued to be noncompliant following completion of the CAPA process.

Section 4:

Immediate action notices

Key points

197 immediate action notices in respect of regulations assessed in 2018 reports are included in this analysis. About one third fewer immediate action notices were included in the regulations assessed in 2019 reports amounting to 110 in total.

- Immediate action notices were most likely to be identified in reports of inspections in:
 - the DML region (31% of all notices issued in 2018 and 32.7% of all notices issued in 2019),
 - full daycare services (73.6% of notices issued in 2018 and 56.4% in 2019)
 - services with 0 to 5 employees which accounted for about half of all immediate action notices issued
 - for profit services (78.6% in 2018 and 82.5% in 2019)

Services where immediate action notices are issued are more likely to be noncompliant.

- The mean average number of noncompliant regulations in these reports was 5.14 compared with about 1.8 found in the overall analysis of reports (1.73 in 2018 and 1.91 in 2019).

The focus of the notices remained the same in both years.

- Regulation 9 (Management and recruitment) accounted for about 55.4% of all notices and the main issue related to noncompliance in respect of personnel not being Garda/Police vetted.
- This was followed by Regulation 23 (Safeguarding health, safety and welfare of the child) which accounted for about one quarter of all notices issued (24%). Within this regulation, slightly more than one third of notices were issued in respect of unsafe sleep although there were a wide variety of issues arising.

Overview

When there are incidences of non-compliance with the regulations, identified as part of an inspection process, which are deemed by the early years inspector as a significant risk to the health, safety and wellbeing of the children in the service, an immediate action notice is issued. The immediate action notice directs the registered provider to take immediate action with regard to the specific issue. Immediate action notices when they are initiated are recorded in the early years inspection report.

This section presents a quantitative analysis of the characteristics of services where immediate action notices were issued in respect of all regulations assessed as noncompliant in 2018 and 2019 reports provided for analysis. The following section provides details of the regulations around which immediate action notices were issued and the section concludes with examples arising from notices issued.

Characteristics of services

Over 300 (n = 307) immediate action notices were included in this analysis and those issued in 2018 accounted for almost two thirds (64.2%; 197). One hundred and ten immediate action notices were issued in 2019 reports included in this analysis accounting for 35.8% of the total.

Almost all immediate action notices were issued during the course of unannounced inspections with only seven notices issued during announced inspections in 2018 and only two during announced inspections in 2019.

Key characteristics of the services where these notices were issued are now presented.

Geographic distribution of services issued with immediate action notices

The region with the highest number of immediate action notices in 2018 was DML (n = 61; 31%) followed by DNE (n = 52; 26.4%). About one quarter of these notices were issued to services in the West areas (n = 48; 24.4%). The lowest number were in the South (n = 36; 18.3%) (Table 2).

Table 2 Number and percentage of immediate action notices by region in 2018 and 2019 reports included in analysis

	2018		2019		Total
	Number	%	Number	%	
DML	61	31%	36	32.7%	97 (31.6%)
DNE	52	26.4%	16	14.5%	68 (22.1%)
South	36	18.3%	32	29.1%	68 (22.1%)
West	48	24.4%	26	23.6%	74 (24.1%)
	197	100%	110	100%	307 (100%)

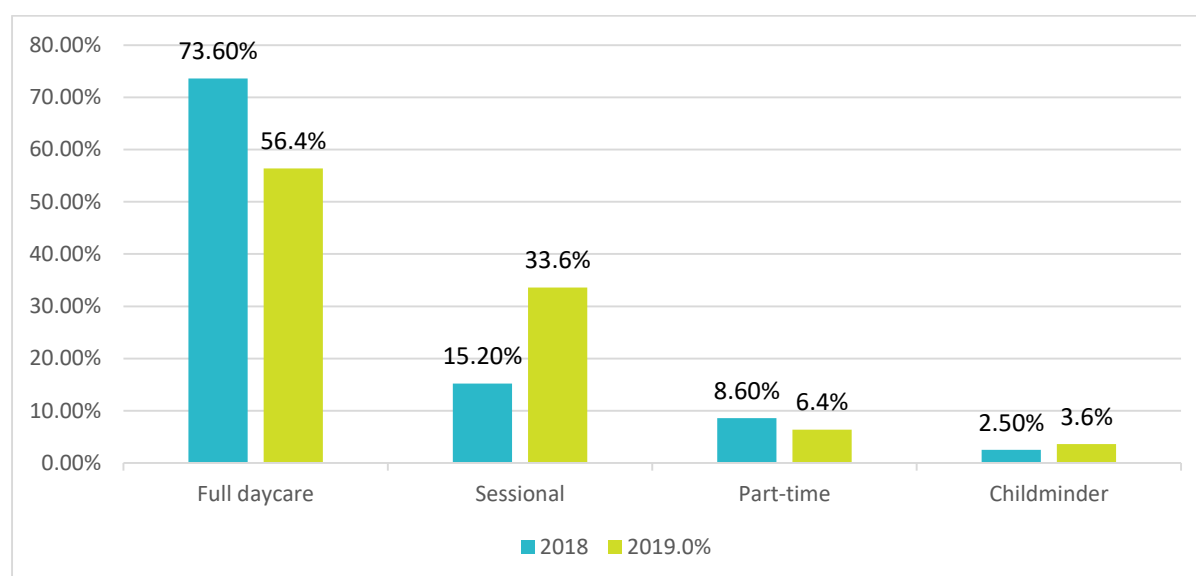
Note: Percentages may not add to 100% due to rounding

The region with the highest number of immediate action notices in 2019 was the DML region (n = 36; 32.7%). The region with the lowest number of notices issued was the DNE region (n = 16; 14.5%). About one quarter of all immediate action notices issued in 2019 were in services in the West region (n = 26; 23.6%) and about 30% (n = 32; 29.1%) in the South (Table 2).

Type of services

In 2018, almost three quarters (73.6%; n = 145) of immediate action notices were issued in respect of regulations assessed in full daycare services, 15% (15.2%; n = 30) in reports of sessional services and almost one in ten (8.6%; n = 17) in reports of part-time services. Five immediate action notices (2.5%) were issued in respect of regulations assessed in childminder services (Figure 8).

Figure 8 Immediate action notices issued by type of service in 2018 and 2019



Note: Percentages may not add to 100% due to rounding

Just over half of the 110 immediate action notices issued in 2019 (56.4%; n = 62) were in reports of regulations in full daycare services, about one third (33.6%; n = 37) in reports of regulations in sessional services and 6% (6.4%; n = 7) in reports of regulations in part-time services. Four immediate action notices were issued in reports of childminder services (3.6%).

Size of the service

Between 46.7% (2018) and 57.3% (2019) of immediate action notices were issued in respect of regulations assessed in services that reported having 0-5 employees. About 8.6% (n = 17) of the notices issued in the 2018 analysis were issued to services with more than 20 employees and a similar proportion (9.1%) were issued to services with more than 20 employees in 2019. About one quarter of notices (24.4%; n = 48) issued in respect of regulations included in the 2018 analysis were to services with 6-10 employees and this proportion was similar (22.7%; n = 25) for those included in the 2019 analysis (Table 3).

Table 3 Number and percentage of immediate action notices in 2018 and 2019 according to the number of employees

	Number of notices issued 2018	% of notices issued 2018	Number of notices issued 2019	% of notices issued 2019	Total number of notices issued
0-5 employees	92	46.7%	63	57.3%	155
6-10 employees	48	24.4%	25	22.7%	73
11-20 employees	40	20.3%	12	10.9%	52
More than 20 employees	17	8.6%	10	9.1%	27
Total	197	100%	110	100%	307

Note: Percentages may not add to 100% due to rounding

Other characteristics of the services

Information was available on the profit status for 98% (n = 301) of services identified in this analysis as having been issued with an immediate action notice. Of these, there were 192 in 2018 and 109 in 2019. In the 2018 analysis, 78.6% (n = 151) of the 192 immediate action notices were issued to for profit services and in 2019, ninety (82.5%) of the 109 reports were identified as for profit.

Information was available regarding school age provision in respect of 172 of the 197 services issued with immediate action notices in 2018 and 105 of the 110 services in 2019. Of these 61.1% (n = 105) of immediate action notices in 172 reports in the 2018 analysis were issued to services who also provided school age services while about 38.9% were issued to services who did not. In 2019, this proportion was lower (52.3%; 55) in the 105 reports where information was available on school age services.

Information was available regarding whether a service was one of a multiple service was available in respect of 193 services in 2018 and on 109 in 2019. The vast majority (85.4%; n = 165) of immediate action notices in the 2018 reports included in this analysis were issued to single services and only 14.5% (n = 28) issued in respect of a service that was one of a multiple service. A similar situation was identified in 2019 where 79.8% (n = 87) immediate action notices were issued to single services and 20.1% (n = 22) issued in respect of a service that was one of a multiple service.

Overall levels of noncompliance

Across the 307 reports where immediate action notices were issued the number of noncompliant regulations ranged from 1-15 with a mean average of 5.14. It is of note that this is considerably higher than the number of noncompliant regulations in the overall analysis of inspection reports where the mean average number was less than 2 (1.73 in 2018 and 1.91 in

2019). This suggests that services where immediate action notices are issued are more likely to be noncompliant across a range of regulations.

Focus of immediate action notices

In total, 307 immediate action notices were identified in the analysis of reports. In 2018, 197 immediate action notices were issued and in 2019, there were 110, a decrease of about one third. Across both years, however, the areas of noncompliance remained similar.

Regulation 9 (n = 170) accounted for the highest number of immediate action notices issued in both years followed by Regulation 23 (n = 74). Issues arising in respect of all regulations in respect of the focus of the immediate action notice are presented below.

Table 4 Regulation number and focus of immediate action notices issued in 2018 and 2019 reports analysed

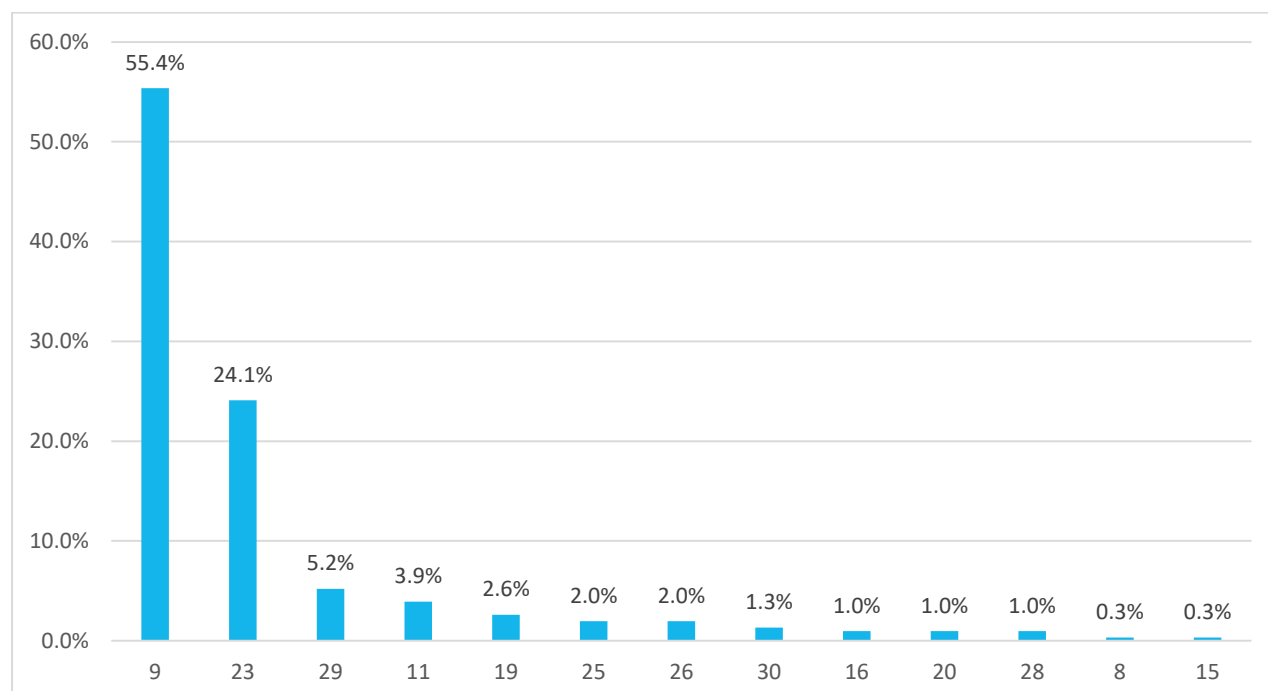
Regulation number	Focus of regulation	2018 number of immediate action notices	2019 number of immediate action notices	Total number of immediate action notices	Issues arising
8	Notification of change in circumstances	1	0	1	More children attending the service than allowed for on the register (n = 1)
9	Management and recruitment	114	56	170	All notices referred to Garda vetting not being in place for members of staff (n = 170)
11	Staffing levels	9	3	12	Adult child ratio too low (n = 12)
15	Record of a pre-school child	1	0	1	Registration forms for children attending the service incomplete (n = 1)
16	Record in relation to a pre-school service	3	0	3	Policies inadequate (n = 2); record of attendance incomplete (n = 1)

19	Health, welfare and the development of the child	5	3	8	Additional supports needed for children with special needs (n = 1); behaviour management (n = 3); issues arising in respect of nappy changing (n = 1); unsafe practices with children (n = 1); multiple issues (n = 1); unsafe sleep practices (n = 1)
20	Facilities for rest and play	3	0	3	Inadequate facilities for rest and sleep (n = 2); outdoor play area inadequate (n = 1)
23	Safeguarding health, safety and welfare of the child	39	35	74	Unsafe sleep (mainly related to room temperature) (n = 27); multiple issues (n = 11); fire safety (n = 10); blind cords unsafe (n = 10); other (n = 16) (e.g. access to the service, allergy management, infection control issues, obstruction of exits, unsafe play area, rodent infestation, transport of children, water too hot)
25	First aid	3	3	6	Person with first aid training not

					available at all times in the service (n = 6)
26	Fire safety measures	2	4	6	Fire safety not adhered to (n = 6)
28	Insurance	3	0	3	Insurance certificate not available in the service on day of inspection (n = 3)
29	Premises	10	6	16	Air temperature too hot (n = 4) or too cold (n = 8); cleaning programme not documented (n = 1); sanitary facilities inadequate (n = 3)
30	Minimum space requirements	4	0	4	Service overcrowded (n = 4)
Total		197	110	307	

As noted in Table 4 almost 90% (88.9%) of immediate action notices across both years were issued in respect of four regulations, these being Regulation 9 (55.4%), Regulation 23 (24.1%), Regulation 29 (5.2%) and Regulation 11 (3.9%). This is illustrated in Figure 9.

Figure 9 Percentage of immediate action notices issued by regulation number



Note: Percentages may not add to 100% due to rounding

Examples of main issues arising

The main issues arising in respect of the two main regulations around which immediate action notices are issued are now considered along with the corrective and preventive actions and outcomes.

Regulation 9

Regulation 9 accounts for more than half of all immediate action notices (n = 170) issued and an analysis shows that in 85% of cases the noncompliance was satisfactorily addressed.

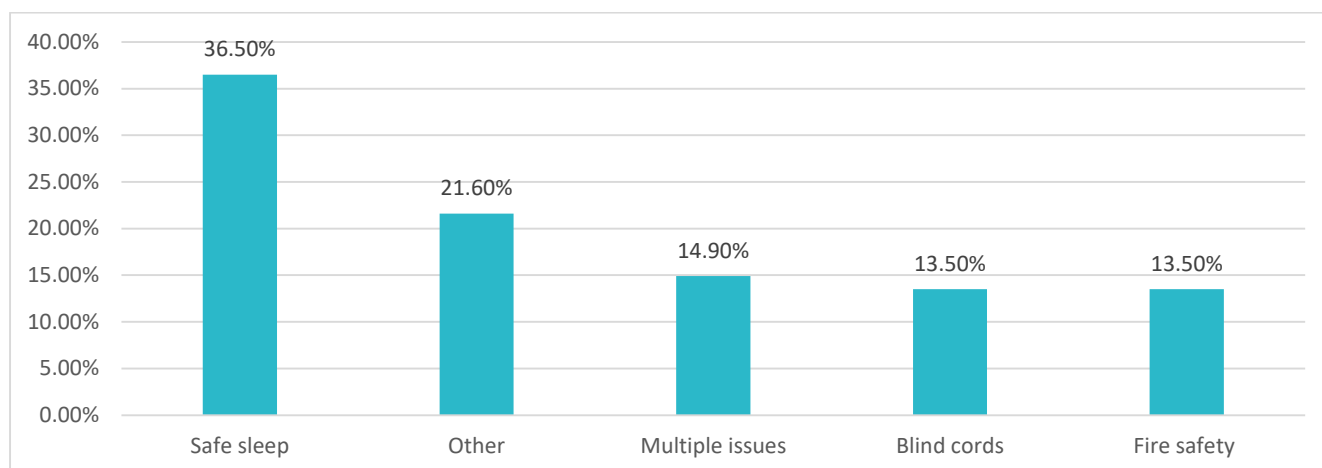
Examples of issues arising
<ul style="list-style-type: none"> • Three adults did not have Garda vetting disclosures available for inspection. • Police vetting was not available in respect of two adults who had worked outside the jurisdiction for a period of longer than six consecutive months. • International Police vetting disclosures available for three adults had not been translated into English and therefore could not be interpreted.

Outcomes
<ul style="list-style-type: none"> • Yes, the noncompliance has been satisfactorily addressed (n = 145; 85.3%). • No, the noncompliance has not been satisfactorily addressed (n = 15; 8.8%). • Other (5.9%; n = 10): service closed (n = 2); individual no longer working in the service (n = 3); individual not working with children until Garda vetting received (n = 5).

Regulation 23

The regulation with the second highest number of noncompliances relates to Regulation 23 (n = 74) which focusses on safeguarding the health, safety and welfare of the child. The issues arising are presented in Figure 10 which shows that issues relating to safe sleep (36.5%; n = 27) accounted for more than one third of immediate action notices, multiple issues relating to children's safety (14.9%; n = 11), blind cords (13.5%; n = 10) and fire safety (13.5%; n = 10).

Figure 10 Percentage of various issues arising in respect of Regulation 23



Note: Percentages may not add to 100% due to rounding

A number of issues (16; 21.6%) were identified in respect of the category 'other' and these are presented in Table 5.

Table 5 Issues included under the category 'other'

Issue arising	Number	% of overall
Infection control	3	4.1
Water too hot	4	5.1
Transport of children	2	2.7
Unsafe access	2	2.7
Access	1	1.4
Allergy management	1	1.4
Obstruction of exits	1	1.4
Outdoor play area	1	1.4
Risk of sunstroke	1	1.4
Total	16	21.6

Note: Percentages may not add to 100% due to rounding

An example of how issues arising in respect of safe sleep were dealt with following issue of an immediate action notice are presented in Figure 11.

Figure 11 Response to immediate action notice in respect of safe sleep

The room temperatures in the three sleep rooms were recorded between 22.6 °Celsius and 25.7 °Celsius during the two days of the inspection. The recommended sleep room temperature is between 16 °Celsius and 20 °Celsius.

1) The staff were made aware of the higher temperatures. 2) Cooling fans were put in each of the sleep rooms. 3) Windows and doors were opened in an effort to cool the rooms down quickly. 4) Every child was closely monitored. 5) Blankets for the children were reduced. 6) The maintenance team were called immediately and the heating times were lowered as was the thermostat.

The CAPA and evidence was reviewed and adequately addressed the noncompliances and included measures to prevent a recurrence in the future.

Outcomes arising from Regulation 23

About three quarters of immediate action notices (75.7%) were satisfactorily resolved through the CAPA process and a further 6.7% (n = 5) were resolved satisfactorily but needed to be verified at the next inspection. The situation was not resolved in 13.6% (n = 10) of cases. In three cases it was noted that the service closed.

Table 6 Outcomes from immediate action notice

Outcome	Number	%
Yes, noncompliance addressed	56	75.7
No, noncompliance not addressed ⁶	10	13.6
Yes, noncompliance addressed but not verified	5	6.7
Service closed	3	4
Total	74	100

⁶ Non compliances not addressed through the CAPA process are escalated in accordance with the early years inspectorate regulatory compliance policy:

https://www.tusla.ie/uploads/content/Early_Years_Inspectorate_Enforcement_Policy.pdf

Note: Percentages may not add to 100% due to rounding

Summary

This section has presented an analysis of immediate action notices which are issued when there are incidences of noncompliance with the regulations which is deemed by the Early Years Inspector as a significant risk to the health, safety and wellbeing of the children in the service. In the 2018 reports analysed 7,863 regulations were assessed and in 2019 reports analysed there were 8,625 regulations assessed. In total there were 307 immediate action notices and of these 197 (64.2%) were issued in 2018 and 110 (36%) were issued in 2019.

Immediate action notices were most likely to be identified in reports of inspections in the DML region (31% of all notices issued in 2018 and 32.7% of all notices issued in 2019). In 2018 the South region (18.3%) accounted for the lowest number of immediate action notices while in 2019 the lowest number were in the West region (23.6%). Full daycare services are most likely to be issued with an immediate action notice and in 2018, this type of service accounted for 73.6% while in 2019, it accounted for more than half (56.4%). Services with 0 to 5 employees accounted for about half of all immediate action notices issued. The majority of notices were issued to for profit services (78.6% in 2018 and 82.5% in 2019) and this proportion is similar to that found in the overall analysis of reports.

Services where immediate action notices are issued are more likely to be noncompliant and the mean average number of noncompliant regulations in these reports was 5.14 compared with about 1.8 found in the overall analysis of reports (1.73 in 2018 and 1.91 in 2019). While there was a decrease of about one third in the number of immediate action notices issued in 2019 over 2018, the focus of the notices remained the same. Regulation 9 (Management and recruitment) accounted for about 55.4% of all notices and the main issue related noncompliance in respect of personnel not being Garda/Police vetted. This was followed by Regulation 23 (Safeguarding health, safety and welfare of the child) which accounted for about one quarter of all notices issued (24%). Within this regulation, slightly more than one third of notices were issued in respect of unsafe sleep although there were a wide variety of issues arising.

Section 5: Conditions attached to registration

Key points

Conditions were attached to 206 services (13.2%) of the 1,557 reports of services in the 2018 analysis and to 140 services (10%) of the 1,389 reports of services in the 2019 analysis

- In 2018, services in the West region accounted for only 15.5% (n = 32) of the reports with conditions attached to services and this was considerably lower than those in the DNE (30.6%) and DML (29.6%) regions.
- In the 2019 analysis, about one third of reports of services with conditions attached were in the DML region (32.1%; n = 45) compared with less than 20% (n = 25; 17.9%) from the DNE region.

Services identified in reports as most likely to have conditions attached

- Full daycare services (60.2% in 2018 and 52.9% in 2019),
- For profit services (77.5% in 2018 and 78.9% in 2019),
- Services that also provide school age services (52.7% in 2018 and 52.2% in 2019),
- Single services (81.1% in 2018 and 86.1% in 2019) and
- services with 0-5 employees

Reports of services with conditions attached have, on average, a higher number of noncompliant regulations (4.29 in 2018 and 2019) compared with reports of services where a condition is not attached.

- The regulations most likely to be identified are Regulation 9 (87 in 2018 and 49 in 2019), Regulation 23 (64 in 2018 and 34 in 2019), 58G Child and Family Agency Act 2013 (49 in 2018 and 48 in 2019) and Regulation 29 (31 in 2018 and 11 in 2019).

Overview

Article 58D of Part 12 of the Child and Family Agency Act 2013⁷ makes provision for a provider to be registered with a condition or conditions attached to that registration. The regulatory enforcement process is therefore a legal process and may result in the application of conditions of registration, removal from the register of early years services, court proceedings, and/or prosecution.

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 registered provider will have an opportunity to demonstrate how the relevant issues/risks will be resolved. The registered provider has the right to make representation to Tusla in relation to the proposal of a condition or to appeal the proposal through the District Court.

Overall number of conditions identified in reports analysed in 2018 and 2019

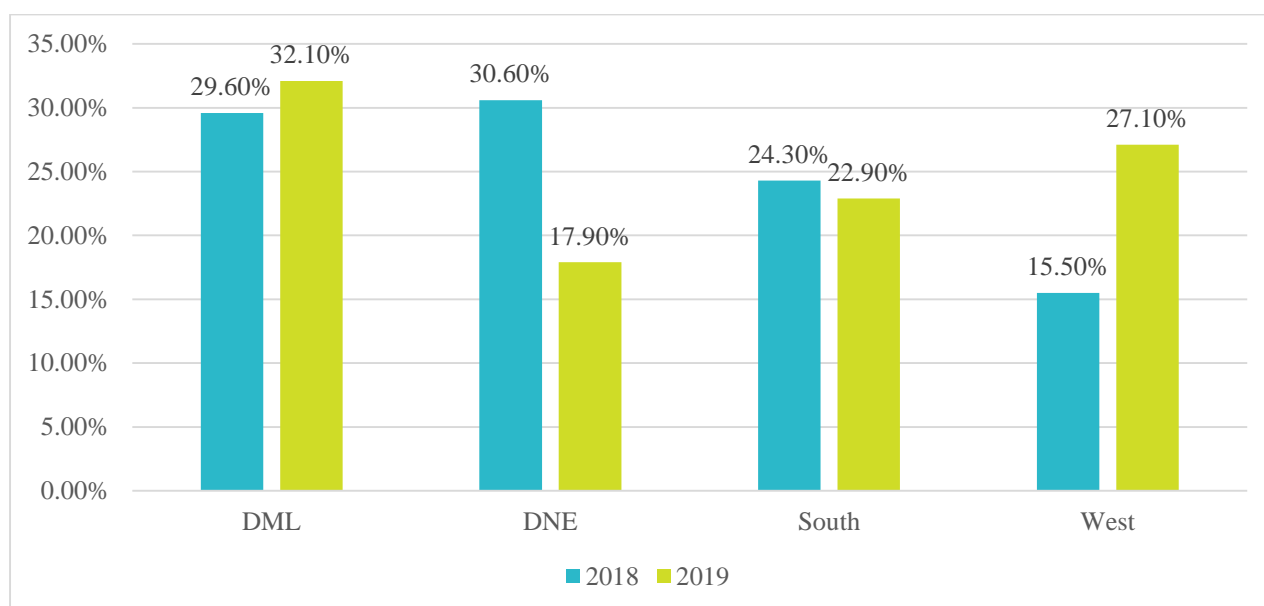
Conditions were attached to 206 services (13.2%) of the 1,557 reports of services in the 2018 analysis and to 140 services (10%) of the 1,389 reports of services in the 2019 analysis

Regional distribution of registration conditions

In 2018, the West region accounted for only 15.5% (n = 32) of the reports with conditions attached to services. The highest proportion of reports with conditions attached to services were in the DNE (30.6%; n = 63) and DML (29.6%; n = 61) regions. The South region accounted for about one quarter of reports (24.3%; n = 50) with conditions attached (Figure 12).

⁷ See <http://www.irishstatutebook.ie/eli/2013/act/40/section/92/enacted/en/html#part12>

Figure 12 Regional distribution of services with conditions attached for 2018 and 2019



Note: Percentages may not add to 100% due to rounding

In the 2019 analysis, about one third of reports of services with conditions attached were in the DML region (32.1%; n = 45) compared with less than 20% (n = 25; 17.9%) from the DNE region. About one quarter of reports of services with conditions attached to their registration were in the South (n = 32; 22.9%) and the West (n = 38; 27.1%). Over the two year period, the DML region accounted for 30.6% (n = 106), the DNE for 25.4% (n = 88), the South for 23.7% (n = 82) and the West for 20.2% (n = 70) of reports of services with conditions attached in this analysis.

Characteristics of services

Information was available in respect of the profit status for 200 services with conditions attached to their registration in 2018 and of these, about three quarters were for profit (n = 155; 77.5%) compared with 22.5% (n = 45) of not for profit services.

Table 7 Profit status of services with conditions attached to their registration

Type of service	Number 2018	% 2018	Number 2019	% 2019
Non Profit	45	22.5	29	21%
Profit	155	77.5	109	78.9%
Total	200	100	138	99.9%

Note: Percentages may not add to 100% due to rounding

These findings were similar in 2019 and more than three quarters of reports of services reported to have conditions attached to their registration were for profit (n = 109; 78.9%) compared with 21% (n = 29) of not for profit services.

Information was available about whether services also provided school age services for 186 services in 2018. Almost 100 of the reports of services (n = 98; 52.7%) with conditions attached also provided a school age service while 88 (47.3%) did not.

In the 2019 data, this information was available in respect of 132 services and of these, 52.2% (n = 69) were reported to also provide a school age service while 47.8% (n = 63) did not.

Information was available on whether a service was one of a multiple for 201 services in 2018 and of these, about one in five (18.9%; n = 38) were one of a multiple service while more than 80% were not (n = 163; 81.1%). A similar situation arose in 2019 where 13.9% (n = 19) of the 137 services for which this information is available were reported to be one of a multiple service while the vast majority of services were not (n = 118; 86.1%).

Types of service

In 2018, about 60% (60.2%; n = 124) of reports of services with conditions attached were full daycare and this was followed by sessional services which accounted for about 30% (n = 64; 31.1%). Fifteen (7.3%) part-time and three (1.5%) childminder services were identified in the analysis (Table 8).

Table 8 Number and percentage of different types of services with conditions attached to registration in 2018 and 2019 analysis

		Childminder	Drop-In	Full Day	Part-Time	Sessional	Total
2018	Number	3	0	124	15	64	206
	%	1.5%	0%	60.2%	7.3%	31.1%	100%
2019	Count	2	2	74	13	49	140
	%	1.4%	1.4%	52.9%	9.3%	35%	100%
	Total	5	2	198	28	113	346

Note: Percentages may not add to 100% due to rounding

A lower proportion of reports of services with conditions attached in the 2019 analysis compared with 2018 were full daycare (52.9%; n = 74). A slightly higher proportion were sessional services (35%; n = 49). Thirteen (9.3%) part-time, two (1.4%) childminder and two (1.4%) drop-in services were identified in the analysis as having conditions attached to their registration (Table 8).

Size of service

In 2018, about half of reports of services (50.7%; n = 104) identified as having conditions attached had between 0 and 5 employees and a further 20% (19.8%; n = 41) had between 6 and 10 employees. A similar proportion (21.3%; n = 44) were identified as having between 11 and 20 employees while 8% (8.2%; n = 17) had more than 20 employees.

Table 9 Number and percentage of services with conditions attached according to number of employees

2018			2019	
Number of employees	Number of services	% of services	Number of services	% of services
0 to 5	104	50.7%	76	54.3%
6 to 10	41	19.8%	32	22.9%
11 to 20	44	21.3%	20	14.3%
More than 20	17	8.2%	12	8.6%
Total	206	100%	140	100%

Note: Percentages may not add to 100% due to rounding

The findings for 2019 are similar to those of 2018 and about half of services (54.3%; n = 76) reported to have conditions attached had between 0 and 5 employees and about a quarter (22.9%; n = 32) had between 6 and 10 employees. Twenty services (14.3%) were reported to have between 11 and 20 employees while 8.6% (n = 12) had more than 20 employees.

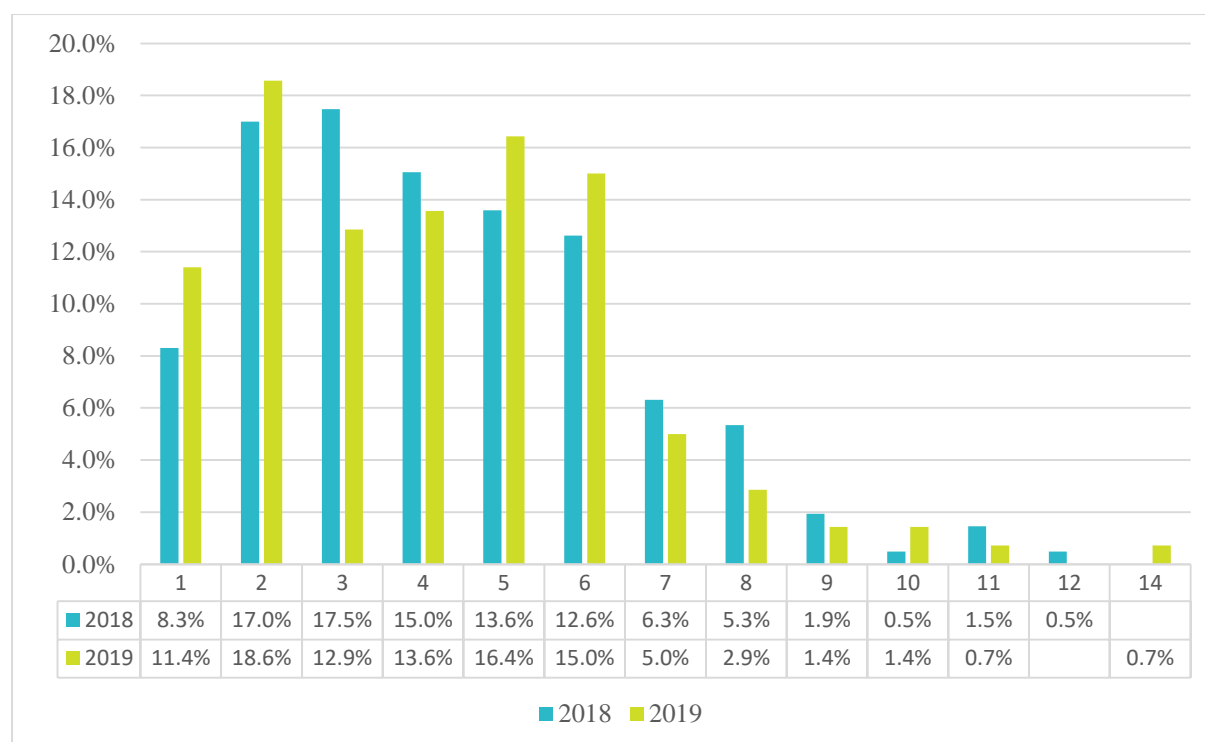
Announced and unannounced inspections

In both 2018 and 2019 almost all inspections in respect of services reported to have conditions attached were unannounced. In 2018, 93.7% (n = 193) of the inspection reports included in the analysis were unannounced and in 2019, 96.4% (n = 135) were unannounced. In both years, one inspection was in respect of a Fit For Purpose inspection which is always by appointment with no children present.

Number of noncompliant regulations

In 2018, the number of noncompliant regulations in reports where conditions were attached ranged from 1 to 12 with a mean average of 4.29 noncompliant regulations. About 42% (n = 88; 42.8%) were reported to have between 1 and 3 noncompliant regulations and a similar proportion (n = 85; 41.2%) reported to have between 4 and 6 noncomplaint regulations. Thirty-three services (16.4%) were reported to have 7 or more noncompliant regulations.

Figure 13 Percentage of reports in 2018 and 2019 analysis according to the number of noncompliant regulations



Note: Percentages may not add to 100% due to rounding

Similar type findings were identified in 2019. The number of noncompliant regulations ranged from 1 to 14 with a mean average of 4.29 noncompliant regulations. Just over 40% (n = 60; 42.9%) were reported to have between 1 and 3 noncompliant regulations and a similar proportion (n = 63; 45%) reported to have between 4 and 6 noncompliant regulations. Seventeen services (12.1%) were reported to have 7 or more noncompliant regulations (Figure 13).

Regulations identified with conditions attached

There were 346 reports of services where conditions were attached included in this analysis. Within this, 501 regulations were identified as a rationale for the condition being attached meaning that in some services more than one regulation was identified.

The regulations most likely to be identified in reports to registrations with conditions are Regulation 9 (n = 136; 39.3% of reports), Regulation 23 (n = 98; 28.3%) and Article 58G Child and Family Agency Act 2013 (n = 97; 28%). Regulations 32, 25, 30 and 20 were identified in 10 or fewer reports as reasons why conditions were attached to registration.

Table 10 Non Compliant regulations leading to attachment of conditions by number and percentage of reports

Regulation number	Focus of regulation	Number of times regulations identified in 2018 reports	% of 2018 reports that identified these conditions	Number of times regulations identified in 2019 reports	% of 2019 reports that identified these conditions	Total	%
8	Notification of change in circumstances	14	6.8%	15	10.7%	29	8.4%
9	Management and recruitment	87	42.2%	49	35%	136	39.3%
16	Record in relation to a pre-school service	10	4.9%	1	0.7%	11	3.2%
19	Health, welfare and the development of the child	15	7.3%	12	8.6%	27	7.8%
20	Facilities for rest and play	8	3.9%	1	0.7%	9	2.6%
23	Safeguarding health, safety and welfare of the child	64	31.1%	34	24.3%	98	28.3%
25	First aid	2	1%	1	0.7%	3	0.9%
26	Fire safety measures	29	14.1%	10	7.1%	39	11.3%
29	Premises	31	15%	11	7.9%	42	12.1%
30	Minimum space requirement	7	3.4%	2	1.4%	9	2.6%
32	Complaints	1	0.5%	0	0%	1	0.3%

58G Child & Family Agency Act 2013		49	23.8%	48	34.3%	97	28%
Total		317		184		501	

Note: Percentages may not add to 100% due to rounding

Notification of conditions attached

Where conditions are attached to registration the registered provider is provided with a written account of the proposed condition and the relevant legislation along with their right to appeal.

A number of examples are now provided of information presented to registered providers in respect of the condition attached to their registration. In some cases it is noted a further opportunity is provided at this stage to submit the relevant information to the Early Years Inspectorate (See Figure 14a, Figure 14b, Figure 14c and Figure 14d).

Figure 14a Examples of conditions attached to services (1)

Article 58G Child & Family Agency Act 2013

- Action:** Structures and regular audits are required to be put in place in order to establish and maintain appropriate oversight and management of the service. The findings of these audits should be recorded and maintained for inspection purposes.

Regulation 8 - Notification of change in circumstances

- Action:** The service must operate within current registration status until written approval has been granted.

Regulation 9 - Management and recruitment

- Action:** Submit all outstanding and validated qualifications to the Early Years Registration Office within 21 days.
- Action:** Submit to the Early Years Registration Office the following within 21 days:
 - the outstanding Garda vetting .
 - the outstanding and validated references.
 - the outstanding Police vetting .
- Action:** As the registered provider, you must ensure that individuals with outstanding current Garda vetting do not have access to children at your service until satisfactory vetting has been secured.

Figure 14b Examples of conditions attached to services (2)

Regulation 11 - Staffing levels
<ul style="list-style-type: none">•Action: Submit to the Early Years Inspectorate within 21 days, evidence that the correct adult child ratios are being maintained with suitably qualified staff.
Regulation 16- Record in relation to pre-school se
<ul style="list-style-type: none">•Action: Submit the revised policies as listed below to the Early Years Registration Office within 21 days: The administration of medication; Safe Sleep; Infection Control; Outings.
Regulation 19 - Health, welfare and development of the child
<ul style="list-style-type: none">•Action: Submit to the Early Years Registration Office within 21 days evidence that:<ul style="list-style-type: none">•the outdoor play area has been developed to include defined interest areas for children to play;•suitable fencing has been erected to ensure that the outdoor area is safe and secure for children attending your service.•Action: Provide the Early Years Registration Office with copies of documentation in relation to programme planning and evidence that observations or the recording of each child's learning is undertaken on a consistent basis.•Action: Provide documentary evidence within 21 days to the early years registration office that the noncompliance identified under physical and material environment and programme of activities have been addressed. Please also include confirmation of engagement with { name of mentoring service}.

Figure 14c Examples of conditions attached to services (3)

Regulation 20 - Facilities for rest and play

- Action:** Submit within 21 days documentary evidence to the Early Years' Registration office:
- All children up to the age of two years within the service have access to, and sleep in a standard cot. The number of cots provided within the service should be appropriate to the number of children within the service.

Regulation 23- Safeguarding the health, welfare and safety of the child

- Action:** Submit photographic evidence to the Early Years Registration Office within 21 days of receipt of this letter that the surface of the outdoor area has been repaired/replaced to ensure it is no longer a trip hazard for the children attending your service.
- Action:** Submit documentary evidence to the Early Years Registration Office within 21 days of receipt of this correspondence that written parental consent is available for each child for the administration of antifebrile medication in the event of an emergency.
- Action:** Submit documentary evidence to the Registration Department within 21 days showing that the firefighting equipment has been serviced.

Regulation 25 - First aid

- Action:** Submit documentary evidence within 21 days to the Early Years Registration Office that the noncompliances under Regulation 25 have been addressed.
- Action:** Submit immediately to the Early Years Registration office that a person trained in first aid for children is available to the children at all times.

Regulation 26 - Fire safety measures

- Action:** Immediately submit evidence the smoke alarms in the service have been serviced.
- Action:** submit immediately a record of the number, type and maintenance record of fire fighting equipment and smoke alarms in the premises.

Figure 14d Examples of conditions attached to services (4)

Regulation 29 - Premises

- Action:** Submit documentary evidence to the Early Years Registration Office within 21 days of receipt of this letter that the room temperature is within the range of 16 to 20 °Celsius in the sleep areas and all other areas are within a range of 18 to 22 °Celsius.
- Action:** Submit to the Early Years Registration Office, documentary evidence that your service has immediately reduced the number of children attending the service to *, until such time that adequate sanitary facilities are provided i.e. there is one toilet and one wash hand basin for every 11 early years children.

Regulation 30 - Space requirements

- Action:** The proposed condition under Regulation 30 will now be applied to your service. Your service must ensure that it operates within the regulations at all times. The number of children attending this room must be reduced to ensure that the minimum amount of clear floor space specified in schedule 7 is available to each child.

Regulation 32 - Complaints

- Action:** You are required to adhere to your service's complaint policy and with the requirements within Regulation 32.

Section 6: Removal of early years services from the register

Key points

Four services were issued with a notice of intention to remove from the register in 2019

Two services were removed from register in 2018 and four services were removed from the register in 2019

There was 1 prosecution in respect of a service in 2019

Overview

Removal from the register of early years services may be considered when a service provider has failed to achieve and/or sustain compliance, and where the Early Years Inspectorate believes, on reasonable grounds, that persistent and/or significant risk to the safety, health and/or welfare of children remains. The National Registration and Enforcement Panel is authorised by Tusla to oversee the application of registration and enforcement legislation carried out under the remit of the Children's Services Regulatory functions.

Where removal is deemed necessary, a notice of removal of the service from the register is issued to the registered provider. The registered provider retains a right of appeal through the District Court. Where the registered provider does not make an appeal or where an appeal is unsuccessful, the service is removed from the register.

Prosecution

Section 58K of the Child and Family Agency Act 2013 makes provision for the agency to initiate legal proceedings in specified circumstances. It is most serious for a provider or a person in charge to be convicted of an offence under the Early Years legislation. Since the introduction of the Child Care Act 1991 (Early Years Services) Regulations 2016, the Early Years Inspectorate is prohibited from registering any person or persons as a provider of an early years service who has been convicted under this legislation. It is Tusla Registration policy to pursue prosecutions in the following circumstances:

- A person or agency has operated an unregistered early years service.
- Failure to comply with a condition of registration.
- A person or persons has failed to co-operate with or has impeded an inspection officer in the course of their duties.
- A person has failed to allow an authorised officer access to an early years service.
- A person or agency has failed to cease operating once removed from the register of services.
- A person or agency who has given notice of voluntary closure but has continued to operate an early years service.
- A person or agency who impedes the Inspectorate by way of deliberate deception or the provision of false information.

Table 11 Notice of intention to remove from register and prosecutions

	Notice of intention to remove from register	Removed from register	Prosecutions
2018		2	
2019	4	4	1

The prosecution taken in 2019 was in respect of a provider who was operating an unregistered early years service.

Removal from the register of early years services

Removal from the register of early years services may be considered when a service provider has failed to achieve and/or sustain compliance, and where the Early Years Inspectorate believes, on reasonable grounds, that persistent and/or significant risk to the safety, health and/or welfare of children remains. The registered provider has the right to make representation to Tusla in relation to the proposal of a condition or to appeal the proposal through the district court.

Removal from the Register

The number of early years services removed from the register is very small. In 2017 no services were removed from the register. In 2018 two services were removed and in 2019 four services were removed from the register further information available at:

https://www.tusla.ie/uploads/content/Early_Years_Inspectorate_Enforcement_Action_Feb_20.pdf

Legal proceedings

Only one service was subject to legal proceedings in 2019 and this was due to operating without registration. The outcome of these proceedings was that the Probation Act was applied.

