



A Guide to Inspection in Early Years Services

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1. Introduction

Tusla's Early Years Inspectorate is the independent statutory regulator of early years services in Ireland. It is responsible for inspecting early years services, playgroups, day nurseries, crèches, day care, and similar services catering for children aged 0–6 years that are listed on the Early Years Services National Register. Collectively, these organisations are referred to as 'early years services' and are described in legislation as 'preschool services'.

The Early Years Inspectorate is committed to ensuring that children attending early years services are safe, that they receive appropriate care and have a positive experience where they can develop and learn in a quality early years service. This is achieved through the registration, inspection and enforcement processes prescribed by law and implemented by the Tusla Early Years Inspectorate.

The aim of this guide is to inform registered service providers and other stakeholders about the inspection process, the decisions that are taken on inspection, and actions that may follow from the inspection. Registered service providers are responsible for ensuring that the requirements of the legislation are met within their services, including identifying and controlling any risks that may arise within their premises.

1.1. Legislation

Regulatory inspections are carried out in order to comply with the following legislation:

The Child Care Act 1991 (Early Years Services) Regulations 2016 were published in May 2016 and were enacted in June 2016. The regulations are the statutory instrument for the regulation of early years services catering for children under the age of 6 years who are not attending primary school.

The Child Care Act 1991 (Early Years Services) (Amendments) Regulations 2016 which made slight amendments to the regulations came into force on 31 December 2016.

Part 12 of the Child and Family Agency Act amended the Child Care Act, 1991 (as inserted by section 92 of the Child and Family Agency Act), known as Part VIIA, describes the legal provisions for the supervision of early years services.

The Child Care (Pre-school Services) Regulations 2006 (the previous legislation surrounding early years services) were revoked with the commencement of the 2016 regulations.

Inspections are carried out by eight Regional Inspectorate teams and are coordinated and managed nationally. Data is reviewed nationally and regionally to ensure optimum use of resources so that services which present the highest risk are subject to a higher inspection frequency.

2. Scope and purpose

Under legislation, the Early Years Inspectorate is obliged to ensure that inspections are carried out regularly and with appropriate frequency in early years services, in order to verify that the relevant requirements of the appropriate legislation are adhered to in full.

The purpose of this guide is to detail the main components of an early years service inspection. This will inform the registered service provider of the approach to regulatory inspections which are aimed at securing and sustaining compliance with relevant legislation by early years services. It should be regarded as an explanation of normal procedures, as inspections will differ according to the evidence observed and provided.

The guide should be read in conjunction with the Regulatory Enforcement Policy Tusla Early Years Inspectorate and the Registration Policy: New Applications Tusla Early Years Inspectorate.

3. Inspection of an early years service

The primary function of the inspection process is to verify that the relevant requirements of the legislation are fulfilled by registered service providers operating early years services.

Regulatory inspections under the Child Care Act 1991 (Early Years Services) Regulations 2016 and the Child Care Act 1991 (Early Years Services) (Amendments) Regulations 2016 aim to determine the extent to which:

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

To this end, the inspector is required to undertake inspections of early years services to:

- determine the nature and scope of the early years service, in order to ensure compliance with the terms of their registration
- assess legislative compliance
- assess any risks or hazards that may be present in the service on the day of the inspection
- assess the effectiveness of the risk management processes that are in place, in order to ensure that children are safe in the service
- identify non-compliances in the service and breaches of associated regulations
- consider appropriate enforcement action that is proportionate to risk, in order to ensure that compliance with all regulations is achieved
- promote good practice through continuous engagement with the registered service provider on the regulations and the requirements needed, so as to ensure compliance
- assess quality through the lens of both structural and process quality

3.1. Principles of early years regulatory inspections

The principles of regulatory inspections carried out by the Early Years Inspectorate are underpinned by all relevant legislative requirements and best practice guidelines. In particular, inspections are guided by the: *Children's Services Regulation: Regulatory Enforcement Policy*, *Children's Services Regulation: Supporting Quality Early Years Provision: Registration*,

¹ *OECD Best Practice Principles for Regulatory Policy: Regulatory Enforcement and Inspections.*

Figure 1 Principles of early years inspection



4. Prioritisation of services for inspection

Effective regulatory practice requires that inspections are carried out regularly, using a prioritisation inspection model. Account must be taken of any inherent risks in the service, the provider's record of compliance, the reliability of the process and practices in place, and the provider's record in addressing non-compliances identified on previous inspections.

Services are prioritised for inspection based on the size and type of service, age profile of the children attending, and the history of regulatory compliance. Where the Inspectorate identifies that a service has strong internal control mechanisms in place and can evidence compliance with regulation, the inspection frequency may be reduced.

5. Inspection of an early years service

5.1. Introduction

Inspections are aimed at assessing compliance with all relevant legislation. The purpose of the inspection is to gain a greater understanding of a service's process, and to identify issues and then measure these against recognised legislation and regulatory best practice. Inspections are designed to ensure the health, safety and welfare of children, and the promotion of their development, as well as to ensure compliance with relevant statutory requirements (S.I. No. 221 of 2016).

The inspection process consists of:

- the inspector carrying out preparatory work to determine the type and scope of the inspection
- reviewing previous inspections, any enforcement actions or data about the service (e.g. Feedback and Concerns, Change in Circumstances)
- carrying out an on-site inspection, which is unannounced in the majority of circumstances
- preparing a conclusion of inspection findings, including an outcome draft report, and identifying compliance and non-compliances
- giving the registered service provider the right of reply to amend or update the report accordingly
- reviewing all correspondence and other relevant documents
- finalising and sending the report for publication, or initiating an enforcement action if the registered service provider is non-compliant with identified significant risk to children.

5.2. Inspection type

Inspections are carried out under an annual inspection programme. As the independent statutory regulator of early years services, the frequency of inspections in services increases where there is a persistent and consistent history of non-compliance. The majority of inspections are unannounced.

Planned inspection

At a minimum, a planned inspection takes place once in a registration cycle (three year), in order to monitor compliance. In addition, early years services that pose the greatest potential risk are prioritised and are inspected more frequently.

Unplanned inspection

In addition to planned inspections, the Inspectorate may carry out immediate or multiple inspections when an enforcement action requires an inspection or when feedback/ concerns are received about a service including

- parental feedback
- notification of incidents
- a change in circumstances request is received from an early years service (e.g. increase in the number of children a service wishes to accommodate) and therefore a fit for purpose inspection is required.

Fit for purpose inspection

Prior to opening a new early years service, providers must apply to register with the Early Years Inspectorate. As part of the assessment of new applicants, a fit for purpose inspection is carried out to determine the suitability of the premises and proposed service provision. A fit for purpose inspection is also carried out where a registered service provider applies to make a change to their registration with regard to the type of service provision, e.g. from sessional to full day; number or age of children catered for; or a change of address. These ***fit for purpose inspections*** are separate from the Inspectorate's planned programme of inspections.

5.3. Inspection process

A summary of the inspection process is provided in Appendix 1.

5.3.1. Preparatory work

The information and documentation submitted in the application for registration is reviewed if the planned inspection is a fit for purpose inspection aimed at enabling a new early years service to open. If the inspection is unannounced, and if it is an inspection of an existing registered facility, the inspector will review previous inspection reports and any other information that is available to them to fully inform their inspection process. Confirmation of the details of the early years service held on the current Early Years Services National Register is noted and is further verified on-site. The relevant regulations to be inspected are decided by the inspector prior to going on-site, but this list can be amended should any issues arise while the inspector is on-site.

Parental involvement

The involvement of parents or guardians in their child's care and education is crucial in the development and well-being of the child; thus, the importance of including the voice of parents/guardians in the early years regulatory inspection process is key for the Inspectorate. Feedback from parents/guardians relating to the early years service that their child attends can be submitted using the Parent Feedback form to the Feedback and Concerns Team of the early years inspectorate. Parental feedback enables parents to express satisfaction or dissatisfaction, and to provide their general views about a particular early years service. This information is made available to the inspector to inform his/her decisions regarding the next inspection.

5.3.2. On-site inspection

As an authorised person, the inspector holds a warrant to conduct inspections pursuant to Section 58I (1) of the Child Care Act, 1991. The inspector will present themselves to an early years service and will produce their warrant and ID (identification card) on arrival. At the

outset, the inspector will engage with the registered provider or designated person in charge on the day and will conduct a preliminary meeting, advising them of the plan for inspection for the day and also to verify the details that are currently held on the Early Years Services National Register. If there are some discrepancies in the details, the inspector will advise the registered service provider that they are required to submit a Change in Circumstances Form to the Registration Office of the early years inspectorate. On the day of inspection, the inspector will ask the registered service provider to produce relevant records.

Structure and process quality

The focus of early years services inspections also includes an assessment of structure and process quality by looking at the practice within the early years services setting, taking into account relationships, interactions, and pedagogical practice (*Children's Services Regulation, Underpinning Pedagogical Principles of Tusla Early Years Inspection Process*). The inspector will observe interactions and analyse whether they are responsive, positive, engaging, and appropriate. It is important that children have access to models of caring behaviour among practitioners and that communication is respectful and reciprocal.

It is imperative that children feel they belong within a service and, more importantly, feel that they have a voice and know that staff have listened to them attentively. The United Nations Convention on the Rights of the Child 1989, Articles 12 and 13, state: "A child's opinion should be taken into account on anything that affects them and children should have information disseminated in a way that enables them to make choices and decisions". The inspector puts this principle at the centre of the inspection process and will determine whether children are being supported with quality interactions that are emotionally connected and that enable confidence, curiosity, and creativity to flourish in everyday activities.

Collation of evidence during the inspection – Relevant evidence is collected using the 'triangulation' method. This includes review of documentation; observation of practices in the early years service; as well as interviews and consultation with management and staff. Examination and assessment of documentary systems will include, for example, examining policies and procedures, reviewing children's records, reviewing care and programme records, observing and engaging with children and examining staff rosters. Assessment will also take place in respect of any hazards or risks that may present on the day of the inspection.

Observation and discussions with staff – Operational practices in the early years service are observed directly during the inspection. This includes observing care, play, and the interactions of staff with children. Interviews and consultations are held with management and staff.

Physical assessment of the premises – The inspector walks through the facility to assess the integrity of the premises and confirm that they are secure. Any part of the facility, or item of equipment or installation that could pose a risk to a child's safety is also assessed.

Inspection in the context of other legislation – Each registered service provider must ensure that the service complies with all legislative requirements. During the inspection, the inspector may identify child safety concerns relevant to other legislation that is not within the remit of the 2016 regulations and that is having, or may have, a negative impact on the health, welfare and/or safety of a child attending the early years service. If this happens, the inspector can request the early years service to provide information on any risk(s). If the inspectorate is not satisfied with the information provided, it can refer the matter to the relevant statutory agency (see Appendix 2) for areas of legislation where concerns could be identified and referrals made.

Feedback meeting – This is a closing discussion that takes place on the day of the inspection between the inspector and the registered service provider or the person in charge, and which outlines compliance and non-compliances identified, breaches in regulations, corrective actions, and recommendations on good practice. A clear indication of the inspection outcome, resulting follow-up actions, and timescale for issuing the draft inspection report will be given.

5.3.3. Inspection findings

Identification of non-compliances – Inspectors assess early years services against a suite of regulations depending on the nature of the service, issues that arise on the day of the inspection, and previous history. Regulations that are met (compliant) and not met (non-compliant) are recorded in the inspection report. When an inspection is complete, all non-compliances with the regulations are assessed and recorded by the inspector. Summary comments are provided in the report reflecting where regulatory requirements are met (compliant) and not met (non-compliant).

Identification of immediate risk – At the time of the inspection there may be non-compliances identified that are deemed to pose a significant risk to the safety, health and welfare of children and that will require an Immediate Action Notice to be issued. The action to be taken by the registered provider will need to be determined according to the circumstances. An Immediate Action Notice will issue to the early years service after the inspection and an immediate response is required, outlining the actions taken to control or eliminate the identified risk.

5.3.4. Inspection report

All early years services inspection reports are developed, reviewed, approved, and published in a consistent and standardised manner. All inspection reports shall identify the evidence gathered, in order to determine compliance. Early years services registered providers shall be given an opportunity to provide feedback in accordance with natural justice and fair procedures. Inspection reports shall be consistent in the application of the regulations, terminology, and overall presentation. A template of the inspection report is provided in Appendix 3.

The initial inspection report shall be drafted by the inspection team and shall contain, but shall not be limited to:

- service details as per the Early Years Services National Register
- details of the inspection undertaken
- identified areas of compliance
- identified areas of non-compliance with regulatory requirements, including potential impact or risk.

Right of reply following inspection – Once the inspection is complete, a draft inspection report and Factual Accuracy Form will be sent to the registered service provider. This process affords the registered service provider the opportunity to rectify any information or details that may not have been reflected in the inspection report. This submission is then reviewed by the inspectorate before the report is finalised.

Fully compliant inspection – If a service has received a fully compliant inspection report, both the reviewed draft inspection report and the Factual Accuracy Form are returned to the inspector. The report is then finalised and published on the Early Years Inspectorate website.

Non-compliant inspection – If a service is non-compliant, a draft inspection report with a Factual Accuracy Form and a request for a **Corrective Action Preventive Action** plan for the non-compliances found on inspection (also known as a CAPA) will be issued to the registered service provider.

CAPA response – A registered service provider of a non-compliant service is given 10 working days to respond to the request for a CAPA. If the resultant response to the inspector is deemed to have rectified all identified non-compliances, then the report can be finalised and can proceed to publication on the Early Years Inspectorate website. If the initial CAPA response does not address all identified non-compliances, the registered service provider may be requested to submit a second CAPA or may be called to attend a Regulatory Compliance Meeting. This meeting will take place with the registered service provider, the relevant inspector, and the Inspection and Registration Manager of the team, and it will seek to confirm or otherwise whether the registered service provider can rectify the non-compliances noted during the inspection.

Determining action in the case of non-compliance – Every effort will be made by the Inspectorate to work in collaboration with the registered service provider to enable them to fulfil their obligation to comply with all relevant legislation. In the event that the early years service still remains in breach of regulations, a Regulatory Compliance Meeting with the registered service provider, the inspector, and the relevant Inspection and Registration Manager may be scheduled depending on the severity of the issues. This meeting will identify any outstanding breaches and will give the registered service provider the opportunity to seek clarification on the draft report and the non-compliances noted therein. The Inspectorate may propose to attach a condition or conditions to the registration of the early years service. The purpose of conditions of registration is to reduce the risk associated with unresolved non-compliance in the early years service.

If these processes do not resolve outstanding breaches or where immediate and or significant risk is identified, it may be necessary to escalate the service to the National Registration and Enforcement Panel, in order to ensure that compliance is achieved. This action is measured against the risk posed to children.

Details of the Early Years Inspectorate escalation and enforcement processes are provided in the Regulatory Enforcement Policy Tusla Early Years Inspectorate.

Appendix 1: Inspection process map



Appendix 2: Other legislative requirements

The Building Regulations 1997–2019

The Building Regulations and the related Technical Guidance Documents – for example:

- Heating requirements as set out in the [Department of the Environment, Community and Local Government \(2014\) Technical Guidance Document J: Heat Producing Appliances](#)
- Lighting requirements as set out in the [Department of the Environment, Heritage and Local Government: Technical Guidance Document M: Access and Use: Building Regulations 2010](#)
- Ventilation requirements as set out in the [Department of the Environment, Heritage and Local Government 2009 Technical Guidance Document F on Ventilation](#)
- Fire safety requirements as set out in the [Department of the Environment, Heritage and Local Government 2006 Technical Guidance Document B on Fire Safety](#).

Further information is available at www.housing.gov.ie/

Child safeguarding

- [Children First: National Guidance for the Protection and Welfare of Children 2017](#).

Fire safety

- Fire safety legislation, fire certification and associated technical guidance documents issued by the [Department of the Environment, Heritage and Local Government in 2006](#).

Food safety and hygiene, including water supply, for example:

- Food Hygiene Regulations 1950–1989, the European Communities (Hygiene of Foodstuffs) Regulations 2006 (S.I. No. 369), Regulation, EC 178/2002 and Regulation (EC) No 852/2004
- Further information on Environmental Health Services is available at: www.hse.ie/eng/services/list/1/environ.

Tobacco control

[Public Health \(Tobacco\) Act 2002](#)

Note: These are examples of the current potential referrals that can be made when the Inspectorate considers that there is a real and potential risk to children.

This is not a definitive list of examples, and it may be added to as necessary. However, the early years service will be advised of any proposed referral in advance.

Appendix 3: Inspection Report Template (cover page)

TUSLA REGULATORY INSPECTION REPORT



TUSLA Identifier:	
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Name of Service:	
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Address of Service:	
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Email Address:	
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Name of Registered Service Provider:	
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Type of Service Registered:	Full Day Care	<input checked="" type="checkbox"/>
	Part-Time	<input checked="" type="checkbox"/>

Date(s) of Inspection:								

No of Pre-School Children present during Inspection:	AM		PM	

Address of the Early Years Inspectorate:	
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Inspection undertaken by:	
Title:	Early Years Inspector

Areas which were the subject of this Inspection		
Governance	Health, Welfare and Development	Safety

Authority to Inspect
The Tusla Early Years Inspectorate carries out inspections of Early Years Services under Section 58(J) of the Child Care Act 1991 (as inserted by Section 92 of the Child and Family Agency Act 2013).

Conditions If Applicable	
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