



An Ghníomhaireacht um
Leanaí agus an Teaghlach
Child and Family Agency

Questions asked to Tusla¹ Early Years Inspectorate

With regard to:

Child Care Act 1991 (Early Years Services)
Regulations 2016

For Early Years² services

¹ Child and Family Agency

² The reader should note that the term 'Early Years Services' is an overarching term that will include Pre-School Services. In some instances the term 'Pre-School services' will be used – reflecting the contents of the appropriate regulation. It must be noted that the terms “pre-school services” and “early year’s services” are used interchangeably on some occasions throughout this document.

DISCLAIMER: This document is not and cannot be considered as a comprehensive set of procedures in regard to the Regulations nor can it be taken as a legal interpretation. This document has been designed to assist the reader in understanding issues addressed in the regulation.

Author: Tusla, Early Years Inspectorate

Date Compiled: 06.07.2016

Revision date: 25.07.2016

Contents Table

Part I, Preliminary and General	7
<i>Regulation 1, Title and Commencement</i>	7
<i>Regulation 2, Interpretation</i>	7
<i>Regulation 3, Revocation</i>	8
<i>Regulation 4, Prescribed Early Years Service</i>	8
<i>Regulation 5, Fees</i>	8
Part II, Registration and Register.....	9
<i>Regulation 6, Registration of Pre-school Service</i>	9
<i>Regulation 7, Register</i>	14
<i>Regulation 8, Notification of Change in Circumstances.....</i>	15
Part III, Management and Staff	16
<i>Regulation 9, Management and Recruitment</i>	16
<i>Regulation 10, Policies, Procedures etc. of Pre-school service.....</i>	34
<i>Regulation 11, Staffing Levels.....</i>	35
<i>Regulation 12, Childminders</i>	38
<i>Regulation 13, Temporary Pre-school service and Drop- in centres</i>	41
Part IV, Information and Records.....	42
<i>Regulation 15, Record of Pre-school Child</i>	42
<i>Regulation 16, Record in relation to pre-school service.....</i>	43
<i>Regulation 17, Information for Parents</i>	44
<i>Regulation 18, Copy of Act etc.</i>	44
Part V, Care of Child in Pre-school Service	44
<i>Regulation 19, Health, welfare and development of child.....</i>	44
Regulation 20, Facilities for Rest and Play	48
Regulation 21, Equipment and Materials	54
Regulation 22, Food and Drink.....	55
Part VI, Safety	56
Regulation 23, Safeguarding health, safety and welfare of child	56
Regulation 24, Checking in and out and record of attendance	59
Regulation 25, First aid	59
Regulation 26, Fire Safety Measures	61
Regulation 27, Supervision	62

Regulation 28, Insurance	63
Part VII, Premises and Space Requirements.....	63
Regulation 29, Premises.....	63
Regulation 30, Minimum Space Requirements	65
Part VIII, Notifications and Complaints.....	67
Regulation 31, Notification of Incidents	67
Regulation 32, Complaints	68
Part IX, Inspection and Enforcement.....	69
Regulation 33, Furnishing of Information to Agency.....	69
Regulation 34, Inspection	69
Regulation 35, Enforcement and Execution	70
Miscellaneous Questions	70

Introduction

This question & answer document was developed following the briefing sessions that the early years inspectorate had with the sector in May and June 2016. Questions gathered came from providers, city & county childcare committees and from stakeholder groups. Attendance at the briefing sessions was 3,835.

The aim of this document is to assist the sector in understanding the regulatory requirements and support in compliance with the Child Care Act 1991 (Early Years Services) Regulations 2016. It is Tusla's intention to add to the questions as issues are raised. As you may already be aware Tusla have a stakeholder consultative group whom we engage with frequently. The members of the stakeholder group are on our website and any additional questions that you require to be included can be forwarded to them. Further information on the consultative forum is available at: http://www.tusla.ie/uploads/content/TORConsultative_Group.pdf

This document is structured in a manner that reflects the 2016 Regulations and only addresses the questions received to date from the sector. This document should be read in conjunction with Child Care Act 1991 (Early Years Services) Regulations 2016 and Part 12 of the Child and Family agency Act 2013. Both available at: <http://www.tusla.ie/services/preschool-services/>

The document will be added to and updated on an ongoing basis on receipt of questions and clarification requests from the sectors, which are welcomed. The queries received will be collated periodically and the sector will be informed when an updated version has been published on the Tusla website.

Summary.

The following table is a summary of the new statutory requirements in the 2016 Regulations and the corresponding questions and answers which may be useful as a short guide. Some components of the 2006 Regulations and the associated explanatory guide which are now revoked have been imported into the Child Care Act 1991 (Early Years Services) Regulations 2016. Those elements that have been imported from the previous regulations are not included in this table. Full text and requirements for Child Care Act 1991 (Early Years services) regulations 2016 are available at: <http://www.tusla.ie/services/preschool-services/> In addition the full text of the regulation is given in this Question and Answer document at the beginning of each regulation.

Regulation	Summary Note	Page of 2016 Regulations	Corresponding Question & Answer.	Page
2 Interpretation	Definition of terms referenced in regulations e.g. Director, unpaid worker, contractor etc.	5, 6, 7 & 8	2 to 7	7
6 Registration of Preschool service	Sets out requirements for registration	8	16 to 36	10-14
7 Register	Details required to be entered into a Register of Approved services, available to the public on the internet.	10	37	15
8 Change of Circumstance	The information required to be notified to Tusla when the services has a change in service provision	11 and 43- Schedule 4 page 43	38, 39	16
9 Management & Staffing	(4) Qualification requirements & exemptions.	11 - 13	40 to 133	17-33
10 Policies and procedures of the service as per schedule 5.	The policies, procedures and statement required.	13 and 44- schedule 5	134 to 140	34-36
14 Review of preschool service	A review of the quality safety and care provided including maintaining a written record.	15	158, 159	41
15 Record of a preschool child	Retention of records for a period of 2 years as defined.	16	160	43
16 Record in relation to preschool service	Retention of record for a period of 5 years as defined.	17	161	44
19 Health, Welfare & Development of the child	Regulation of the use of and access to internet by children, photographing and recording Children	18	173	46
20 Facilities for rest and Play	Outdoor Space; Requirements for services registered Prior to 30 th June 2016 and those registered after the 30 th or services moving premises.	19	181, 182,183	49-50

24 Checking in and Out and record of attendance	A designated person is required where there are more than 15 children attending the service. Requirement for retention of records for a period of 1 year as defined.	20	N/A	N/A
25 First Aid	A person trained in First Aid for children is available First aid box is securely stored and in a conspicuous place ³	20-26	229 - 234	59-60
26 Fire Safety Records	Retention of records for a period of 5 years as defined.	21	235	61
27 Supervision	Children are supervised at all times	21	238 - 241	62
28 Insurance	The service must be adequately insured.	21	242	63
31 Notification of Incidents	Tusla must be notified within 3 working days when any of the incidents listed occur.	22	262 - 268	67-68
32 Complaints	Requirement for service to have a complaints policy and procedure as detailed. Retention of record for a period of 2 years as defined.	23	269	69
Schedules				
1. Application Fees		25	8 - 15	8-9
2. Application Form for Registration of Preschool service (other than Temporary)		26 - 34	16	10
3. Application Form for Registration of Temporary Pre-school Service		35- 42	17	11
4. Form for Notification of Change in Circumstances		43	38, 39	16
5. Policies, procedures and statements		44- 47	134 - 139	34-35
6. Adult: Child Ratio		48	141 - 148	37-38
7. Minimum Space Requirements		49	256 - 261	65-67

³ Imported from explanatory Guide of 2006 Regulations

Part I, Preliminary and General

Regulation 1, Title and Commencement

Q1. When do the 2016 Regulations come into effect?

A: The Child Care Act 1991 (Early Years Services) Regulations 2016 came into effect on the 30th June 2016.

Regulation 2, Interpretation

Q2. What is a clear definition of “premises”?

A: A premises is defined in relation to a pre-school service to include a building or part of a building, and any out offices, yard, garden or land appurtenant thereto or usually enjoyed therewith in which an early years service is being or is proposed to be carried on.

Q3. What is meant by the term “contractor”?

A: A contractor means a person who carries out work in the service under a contract of work for pre-school services, a necessary and regular part of which consists mainly of the person having access to or contact with children attending the service. Examples of contractors include: persons who are engaged to carry out activities with the children on an intermittent or regular basis e.g. music/arts/crafts/sports/workshops etc. Such persons must never have unsupervised access to children. Persons who carry out work in the service not directly involving the children but who may have access to or contact with the children e.g. persons engaged to carry out works or repairs in the service on a contractual basis. Such persons must never have unsupervised access to children.

Q4. What is meant by the term “employee”?

A: The term “employee” means a person who has entered into or works under a contract of employment with the registered provider. All adults employed by the registered provider.

Q5. What is meant by the term “director”?

A: The term “director” means a body corporate, means a director within the meaning of the Companies Act 2014 (No. 38 of 2014) and in the case of a board of management established under Section 14 of the Education Act 1998 (No. 51 of 1998), means each member of such a board.

Q6. What is meant by the term “unpaid worker”?

A: The term “unpaid worker” means a person who works in the service but is not remunerated for such work by the registered provider e.g. volunteers, students, trainees etc.

Q7. What is meant by the term “person in charge”?

A: The term “person in charge” means the person who has the day to day charge of the service. This may be the registered provider.

Regulation 3. Revocation

Regulation 4. Prescribed Early Years Service

Regulation 5. Fees

5. (1) Subject to this Regulation, the fee specified in column (3) of Schedule 1 opposite a particular reference number specified in column (1) of that Schedule is prescribed for the purposes of section 58D(3) as the fee to accompany an application under section 58D(2) (the “application fee”) in respect of a class of pre-school service specified in column (2) thereof at that reference number.
- (2) Subject to paragraph (3), where a registered provider provides more than one class of pre-school service in a pre-school service, the application fee payable by the registered provider shall be the highest fee applicable to the classes of pre-school service provided in that service.
- (3) Where a childminding service includes an overnight service the application fee payable by the childminder shall be the fee applicable to a childminding service.
- (4) An amount equal to the application fee payable in respect of a pre-school service other than a temporary pre-school service is prescribed, subject to paragraph (5), for the purposes of section 58B(2)(d) as the fee payable annually by the pre-school service towards the cost of inspections under Part VIIA (the “annual fee”).
- (5) No annual fee shall be payable by a registered provider in the year in which the registered provider makes an application for registration in respect of the pre-school service.
- (6) The Agency shall, on an annual basis, notify the registered provider of the annual fee to be paid to it by that provider in respect of the pre-school service and such fee shall be payable on or before 30 September of the year concerned.

Q8. Is an “application fee” and an “annual fee” required to be paid by a service in the one year i.e. apply to have my service registered early in the year will I also have to pay the annual fee in the same year?

A: No. An application fee and an annual fee is not required to be paid by the service in the one year. The “Application fee” is an initial once off fee payable to accompany an application for a service to be registered with Tusla, Early Years Inspectorate (new services). The processing of the application will not proceed without the relevant application fee payment. “Annual Fee”- The annual fee will be paid annually in the month of September when a service is registered and not in the year of registration.

Q9. Will waiver of fees apply?

A: There is no provision within the 2016 Regulations for waiver of fees.

Q10. Does a childminder who has a separate sessional service and has a second person to run it have to pay 1 or 2 fees?

A: These are treated as two separate pre-school services. Therefore each service must be registered. Two separate fees will apply.

Q11. Does a childminder who provides an overnight service have to pay 2 fees?

A: No, in this instance it is treated as one – therefore the fee applicable to childminding is payable on application for registration and annually thereafter.

Q12. Will the fees be collected from all pre-school services at the same time each year?

A: Yes, the annual fee will be collected before the 30th of September of each year. The pre-school services will be notified by Tusla.

Q13. What are the fees payable?

A: The fees payable are set out in Schedule 1 of the Child Care Act 1991 (Early Years Services) Regulations 2016 available and also:
<http://www.tusla.ie/services/preschool-services/early-years-inspectorate-update#Fees>

Q14. Does the fee apply to a temporary pre-school?

A: Yes. A temporary pre-school is required to pay an application fee each time a temporary pre-school is registered.

Q15. Does a full day care service providing part time and sessional service have to pay a fee for each class of service provided?

A: No, where more than one class of service is provided in the early years service, the application fee and thereafter the annual fee payable is the highest fee in the class of service being provided. In this instance the full day care fee will be payable.

Part II, Registration and Register

Regulation 6, Registration of Pre-school Service

6. (1) The form set out in Schedule 2 is prescribed for the purposes of section 58D(3) for pre-school services other than temporary pre-school services.

(2) The form set out in Schedule 3 is prescribed for the purposes of section 58D(3) for temporary pre-school services.

(3) A person who proposes to provide a pre-school service other than a temporary pre-school service shall make an application under section 58D(2) in respect of the pre-school service at least 3 months before the person proposes to commence the service.

(4) A person who proposes to provide a temporary pre-school service shall make an application under section 58D(2) in respect of the pre-school service at least 21 days before the person proposes to commence the service.

(5) A person making an application under section 58D(2) shall enclose with the form set out in Schedule 2 or 3—

(a) a copy of the vetting disclosure received from the National Vetting Bureau of the Garda Síochána in accordance with the Act of 2012 in respect of—

(i) the person,

(ii) where the person is a body corporate, each director of the body, and

(iii) where the person in charge is different to the registered provider, the person in charge,

(b) in so far as is practicable, where a person specified in clause (i), (ii) or (iii) of paragraph (a) has lived in a state other than the State for a period of longer than 6 consecutive months, vetting information in respect of the person obtained from the police authorities in that state,

(c) 2 references in writing in respect of himself or herself that demonstrate that he or she is a suitable person to provide a pre-school service, including one from his or her most recent employer, if any, or where the person is a body corporate, two such references in respect of each director of the body,

(d) a floor plan of the interior design of the premises—

(i) setting out each room on the premises, and

(ii) specifying the dimensions of each room intended for inclusion in the calculation of clear floor space under Regulation 30 and the amount of clear floor space in each such room,

(e) a floor plan of the external areas, if any, of the premises available for the use of children attending the service,

(f) such documentation as demonstrates that the person making the application has valid and appropriate insurance cover for the pre-school service, and

(g) a copy of—

(i) the policies, procedures and statements specified in subparagraphs (a) to (f) of paragraph 1 of Schedule 5, and

(ii) the safety statement (within the meaning of the Safety, Health and Welfare at Work Act 2005) of the service (if any).

(6) Where an application is made pursuant to section 58D by the registered provider of a pre-school service or by a person who proposes to provide a preschool service, the Agency, prior to deciding whether to register the provider concerned pursuant to subsection (5) of that section—

(a) shall assess the information provided by the person applying, and

(b) may visit the premises where the pre-school service is being, or is proposed to be, provided, as the case may be.

Existing Services:

Q16. Can a service in operation prior to the 30th June 2016 continue to operate after the 30th June 2016 if the Statutory Declaration Form was not completed and submitted?

A: No. As the service will not be deemed registered and listed on the approved register of pre-school services. It will be an offence under Part 12 of the Child and Family Agency Act 2013 to be in operation. The Child and Family Agency Act can be accessed at <http://www.irishstatutebook.ie/eli/2013/si/502/made/en/print>

In the absence of registration should a service propose to operate after 30th June 2016, it must undertake the registration process as a new service as outlined in the Child Care Act 1991 (Early Years Services) Regulations 2016.

Q17. How can a new service become registered?

A: All pre-school services seeking registration must:

- a) Provide at least 3 months notice prior to the proposed commencement of the service
- b) Provide at least 21 days notice in respect of temporary pre-school services
- c) Make an application to Tusla to be placed on the register of approved pre-school services using the forms set out in schedule 2 or schedule 3 (schedule 3 applies to Temporary pre-school services only)
- d) The application must be accompanied by the relevant documentation requested with the application and as set down in Regulation 6 (5) of the Child Care Act 1991 (Early Years Services) Regulations 2016
- e) The appropriate fee as set down in schedule 1, Application Fees, of the 2016 Regulations must accompany the application.
- f) On receipt of application, Tusla will assess the information provided by the applicant.
- g) The service will then be visited to ascertain whether the service is “ fit for Purpose” i.e suitable to operate as an early years service. This inspection visit will be undertaken prior to the service commencing operation.
- h) Tusla will determine whether the service:
 - Will be registered
 - Will be registered, with a condition or conditions attached to the registration
 - Will be refused registration
- i) Where a provider is deemed to be registered (with or without conditions) a further inspection of the service will take place within 3 months of commencement of operation.

A registration form can be accessed at: <http://www.tusla.ie/services/preschool-services/early-years-pre-school-inspection-services/registration-form>

Q18. What happens when I am deemed registered?

A: When an early years provider is registered with Tusla, this information is available on the register of registered providers on the Tusla website. All registered providers will receive a certificate of registration. This can be displayed.

Q19. Can an applicant be refused registration and why?

A: Yes. For example:

- The premises in which the service is proposed to operate does not comply with the 2016 regulations.
- The proposed operation of the early years service is not in compliance with the 2016 regulations.
- The applicant has been convicted of an offence under Part 12 of the Child and Family Agency Act 2013.
- The applicant has been convicted of an offence that in Tusla’s opinion renders the applicant unfit to operate or be in charge of such a service.
- The applicant has failed within 21 days of request to furnish the Agency (Tusla) with the reasonably required information.
- The applicant has furnished the Agency with information that is false or misleading.

All early services of registered providers will be inspected under the 2016 Regulations

Q20. How long will it take from application to registration?

A: It is anticipated in the early stages of registration it may take up to 4 months from initial receipt of the application, fee and all the required documentation which is required to be in order. Tusla are committed to reducing this timeframe. Where documentation is incomplete or clarification is required from the applicant the process will take longer.

Q21. As a registered provider when do I need to re-register?

A: A registered provider will be required to re-register within 3 years of registration however a registered provider will continue to be inspected in the interim period.

Q22. Can a registered service be deregistered?

A: Yes, Tusla can remove a registered provider from the register, examples include:

- The premises in which the service is provided does not comply with the regulations.
- The operation of the early years service is not in compliance with the 2016 regulations.
- The applicant has been convicted of an offence under Part 12, Amendment of the Child Care Act, 1991.
- The applicant has been convicted of an offence that in Tusla's opinion renders the applicant unfit to carry on or be in charge of such a service.
- The applicant has failed within 21 days of request to furnish the Agency with the reasonably required information or where the applicant has furnished the Agency with information that is false or misleading.
- A condition attached to registration has been contravened.

Q23. What are the duties of a person providing an Early Years Service?

A: A registered provider is required to be operating in accordance with the statutory requirements of the state as set down in the Child Care Act 1991 (Early Years Services) Regulations 2016 and Part 12 of the Child and Family Agency Act 2013 (Article 58G). A registered provider is assumed to be compliant with regulations at all times.

Q24. An inspection will take place within "3 months" – clarify 3 months?

A: For any new services who registers with Tusla from 30th June 2016. An inspection will take place within 3 months of registration of a new service to assess continued registration.

Q25. Does Tusla have an advisory role before registration?

A: No. The early years inspectorate as a regulator of pre-school services do not undertake advisory visits to early years services. Information regarding registration of pre-school services and inspection processes under the 2016 regulations are available on the early years inspectorate webpage of Tusla <http://www.tusla.ie/services/preschool-services>. In addition pre-school services may source additional information and support from relevant county & city committees, agencies and supportive organisations in the early year's sector.

Q26. Will there be a facility with new services to engage with Tusla at the planning stage?

A: There is no facility for pre-school services to engage with Tusla for the purposes of advising on planning however Tusla will have all necessary information for potential new providers on the requirements for registration on the Tusla website. A new service will have a "fit for purpose visit" prior to opening. This is not an advisory visit as there is a conflict of interest where a regulator provides an advisory service and then inspects the service. There is a significant support and information available from the county/city child care committees, voluntary organisations and support of organisations in the Early Years Sector.

Q27. Who is the Registered Provider?

A: The registered provider is the person who has signed the registration application form/statutory declaration form and carries the legal responsibility under the 2016 Regulations and Part 12 of the Child and Family Agency Act 2013 for the operation of the service in compliance with the legislation.

Q29. Will I receive a certificate of registration?

A: Yes. Once registration is approved each service is registered and placed on the Register and will receive a certificate of registration.

Q30. When do I need to complete the detailed registration form in Schedule 2?

A: Any **new** service seeking application for registration after the 30th June must complete the application form as per Schedule 2.
Existing services that have been deemed registered and their names placed on the approved register of pre-school services from the 30th June 2016 will be required to reregister their service within the next 3 years by completing the application form in Schedule 2. Tusla will advise pre-school services as to when they will be required to commence the re-registration process. It is anticipated this will commence in 2017.

Q31. What is required for a safety statement?

A: Section 20 of the Safety, Health and Welfare at Work Act 2005 requires that an organisation produce a written programme to safeguard:

- the safety and health of employees while they work
- the safety and health of other people who might be at the workplace, including customers, visitors and members of the public

The Safety Statement represents a commitment to their safety and health. It should state how the employer will ensure their safety and health and state the resources necessary to maintain and review safety and health laws and standards. The Safety Statement should influence all work activities, including

- the selection of competent people, equipment and materials
- the way work is done
- how goods and services are designed and provided

It is essential to write down the Safety Statement and put in place the arrangements needed to implement and monitor it. The Safety Statement must be made available to staff, and anyone else, showing that hazards have been identified and the risks assessed and eliminated or controlled.

Additional information available:

1. Safety Health And welfare at work Act 2015:
http://www.hsa.ie/eng/Legislation/Acts/Safety_Health_and_Welfare_at_Work/SI_No_10_of_2005.pdf
2. Safety Statement:
http://www.hsa.ie/eng/Topics/Managing_Health_and_Safety/Safety_Statement_and_Risk_Assessment/
http://www.hsa.ie/eng/Topics/Managing_Health_and_Safety/Safety_Statement_and_Risk_Assessment/#WhatisaSafetyStatement

Q32. For someone new opening a service do they need a professional to do drawings or can they submit their own where planning permission is not required?

A: Yes. In order to ensure accuracy submitted drawings should be by an appropriately experienced or qualified person in this area. In the event where planning permission is not required any drawings, plans must be accurate and to scale.

Q33. Are planning permission and a fire safety certificate required for registration?

A: Yes. All registered early years services are required to have appropriate planning permission, fire safety certificate and comply with the building regulations of the state unless exempted by the appropriate authorised authority. This is required for each new service requesting registration. All existing services will be required to submit documentary evidence of planning permission and fire safety certification except where exemptions are applied.

Q34. Why will you have to re-register after 3 years and does the registration last for 3 years?

A: Registration is a legal requirement for an early year's service to operate, early years service cannot operate unless it is registered. The Act makes provision for the re-registration of a service every three years. This means that a service must be registered in order to operate at a minimum every 3 years. This requirement is set out in Article 58(4) of Part 12 of the Child and Family Agency Act 2013 which permits the maximum period of registration to be 3 years. However inspection can occur at any time during the three years.

Q35. What is the requirement for a summer camp where early years children attend (0-6 years)?

A: Summer camps which provide early years services are considered Temporary services and are required to be registered, if not already registered.

Q36. An inspection of new services will take place within 3 months – is this from the time the application form is submitted?

A: No, a new service will have a "fit for purpose" initial inspection prior to commencement of operation. Thereafter, the service will be inspected 3 months after the initial successful registration to ensure continued registration.

Regulation 7, Register

7. (1) The register shall be available for inspection by members of the public by means of the internet.

(2) The following details, in addition to those specified in section 58C(2), are prescribed for the purposes of that section as to be contained in the register:

(a) the name, if any, of the pre-school service;

(b) the name of the person in charge of the pre-school service (if different to the registered provider);

(c) the date from which the registration of the pre-school service takes effect (if different from the date of registration);

(d) in the case of an application in respect of a temporary pre-school service, the dates on which the service is to be provided;

(e) whether the pre-school service offers one or more of the following classes of service:

- (i) Childminding service;
- (ii) Full day care service;
- (iii) Overnight pre-school service;
- (iv) Part-time day care service;
- (v) Pre-school service in a drop-in centre;
- (vi) Temporary pre-school service;
- (vii) Sessional pre-school service;

(f) the age profile of children for which the service is registered to provide services;

(g) any condition attached to registration.

Q37. What is the Register?

A: “The Register” is a list of Registered early years services and contains the following information at a minimum which is available to the public on the Tusla website

- Name of registered provider
- Address of the premises in which the service is provided
- The number of children each service can accommodate
- The date of registration of the early years service
- Any other details required by regulations made under section 58B, Part 12.

Regulation 8. Notification of Change in Circumstances

8. (1) A registered provider of a pre-school service other than a temporary pre-school service shall, subject to paragraph (3), notify the Agency in writing of any proposed change in the details in relation to the pre-school service contained in the register pursuant to section 58C(2) of the Act or Regulation 7(2) at least 60 days before it is proposed that the change would take effect.

(2) A registered provider of a temporary pre-school service shall, subject to paragraph (3), notify the Agency in writing of any proposed change in the details in relation to the pre-school service contained in the register pursuant to section 58C(2) of the Act or Regulation 7(2) at least 7 days before it is proposed that the change would take effect.

(3) Where a registered provider has been unable for good and proper reason to notify the Agency within the time specified in paragraph (1) or (2), as the case may be, of a change in the details in relation to the pre-school service contained in the register pursuant to section 58C(2) of the Act or Regulation 7(2), the registered provider shall notify the Agency in writing of the change as soon as possible thereafter.

(4) The form set out in Schedule 4 is prescribed for the purposes of a notification under paragraph (1), (2) or (3).

(5) A registered provider of a pre-school service other than a temporary preschool service who ceases to carry on the pre-school service shall, not later than 28 days after the cessation of the service, give notice in writing to the Agency of the cessation.

Q38. What are the changes in circumstances that you need to notify Tusla?

A: A registered provider is required to inform Tusla of any of the following change in details to the application/re-registration (as set in schedule 2) as per the form for Notification of Changes in circumstances as set out in schedule 4 of the 2016 Regulations:

1. The name, if any, of the early years service
2. Address of the premises in which the service is provided
3. Reference number of the service
4. Change of Service name
5. Change of Service address
6. Change of Registered provider
7. Change of Legal name of company
8. Change of Person in charge
9. Change in service type
10. Number of children to be accommodated
11. Profile of children to which the service is registered to provide services*.

*Profile of children refers to; a change in the number of children catered for e.g. an increase/decrease in the number catered for, and on a change to the age range of children catered for.

Any of these changes can be informed to Tusla using the Change in circumstances form available at: <http://www.tusla.ie/services/preschool-services/notification-of-change-in-circumstances-form>

Q39. Is it a requirement that 60 days notice is given to Tusla prior to a change in circumstances as per regulation 8(1), what if this amount of notice cannot be given due to the nature of the change in circumstance?

A: Yes, the requirement for 60 days notice is necessary where the change in circumstances is known to the service.
In the event that the 60 days notice cannot be given for good and proper reason, regulation 8 (3) requires that the notice of the change in circumstances be given as soon as possible once known. This notice must be given in writing in the form prescribed under schedule 4. The changes required to be notified to Tusla are set out under Section 58C(2) of the Act and Regulation 7(2) of the 2016 Regulations.

Note: 60 days notice does not apply to temporary pre-school services.

Part III, Management and Staff

Regulation 9, Management and Recruitment

(a) the service has a designated person in charge and a named person who is able to deputise as required,

(b) at all times during the period when the pre-school service is being carried on, the designated person in charge or the named person referred to in subparagraph (a) is on the premises, and

(c) there is a clear management structure in the service that identifies the lines of authority and accountability in the service and the specific roles and responsibilities of each employee and unpaid worker.

(2) A registered provider shall ensure that each employee, unpaid worker and contractor is suitable and competent taking into consideration the nature of the needs of children, including by—

(a) consideration of references from the person’s past employers, if any, and in particular the most recent employer, if any,

(b) consideration of references from reputable sources in the case of a person who has no past employers,

(c) consideration of the vetting disclosure received from the National Vetting Bureau of the Garda Síochána in accordance with the Act of 2012 in respect of the person, and

(d) ensuring, insofar as is practicable, that where a person has lived in a state other than the State for a period of longer than 6 consecutive months, he or she provides police vetting from the police authorities in that state.

(3) The procedures specified in paragraph (2) shall be carried out prior to any person being appointed, assigned or allowed access to or contact with a child attending the pre-school service.

(4) A registered provider shall ensure that, without prejudice to the generality of paragraph (2) and subject to paragraphs (5) and (6), each employee working directly with children attending the service holds at least a major award in Early Childhood Care and Education at Level 5 on the National Framework of Qualifications or a qualification deemed by the Minister to be equivalent.

(5) Paragraph (4) shall apply—

(a) on or after 31 December 2016 in respect of pre-school services registered on or before 30 June 2016, and

(b) on or after the date of registration in respect of all other pre-school services.

(6) Paragraph (4) shall not apply before 1 September 2021 to a person who—

(a) has signed a declaration on or before 30 June 2016 to the effect that he or she intends to retire from employment in a pre-school service before 1 September 2021, and

(b) is in possession of a letter from the Minister confirming that paragraph (4) shall not apply to him or her before that date.

(7) A registered provider shall ensure that all employees, unpaid workers and contractors are appropriately supervised and provided with appropriate information, and where necessary training, including in relation to the following:

(a) the policies, procedures and statements of the service specified in Schedule 5;

(b) Part VIIA (inserted by section 92 of the Child and Family Agency Act 2013 (No. 40 of 2013)) of the Act, and

(c) these Regulations.

Q40. Can the manager/supervisor cover to do lunch relief etc for other staff as required, provided it is not inconsistent with their duties as Manager/Supervisor?

A: Yes, The manager/supervisor can cover for short breaks however from December 31st the manager /supervisor will be required to be compliant in regard to the qualification requirement of the regulations. The Adult/ child ratio must be maintained at all times.

Q41. Does the manager of the early years service or crèche have to be supernumery or can they be part of the ratios provided?

A: The manager does not have to be supernumery once managerial duties do not detract from direct childcare and vice versa. Only managers working directly with the children, who hold the relevant qualifications or exemption, can be included in the calculation of adult/child ratios. Staff records should reflect who is covering for breaks in the service.

Q42. Are you permitted to cater for different age groups within the one room provided you have the necessary space requirements?

A: Yes, subject to meeting the Regulation requirement once the provider has the appropriate space, adult/child ratio and can demonstrate the programme of activities for the age range in attendance. It is the provider's responsibility to demonstrate the ages and time spent within the service for all children which will assist the inspector to correctly calculate the adult/ child ratios and space ratios for the service.

Q43. Can another person deputise for the Person in Charge other than the named deputy?

A: Yes. Another person can deputise for the person in charge other than the named deputy. The service must name and document the person in charge on a day to day basis within the service and name and document the person or persons who deputise in the absence of the person in charge or both. The service must have a clear management structure in place that identifies the lines of authority and accountability in the service. Each person's role and responsibilities must be clear. A written record of the management structure, roles and responsibilities of each employee and unpaid worker must be maintained.

Q44. Who is the person in charge and who is the deputy for the multiples?

A: The "person in charge" means the person who has day to day charge of the service. A person in charge must be on the premises. Where the person cannot be on the premises there must be a person nominated to deputise in their absence.

Q45. Are 'Persons in Charge' site specific?

A: Yes. There must be a person in charge or deputy in each premise if you are a service within a multiple.

Q46. With regard to a registered provider who has a number of services can the person in charge be the same for all?

A: Yes. The registered provider can be the same for all services but there must be a named person in charge for each service.

Q47. Can a single handed provider have a person who is able to deputise as required and will the Inspectorate be looking for this?

A: It is not a requirement of Regulation but best practice indicates that a single handed provider has a person who is available to deputise for them. Where a single handed operator chooses to have a deputy to deputise for them this person must comply with the qualification and vetting requirements and be capable of running the service in the absence of the sole operator.

Note: Deputy is defined by the Oxford English dictionary as "A person who is appointed to undertake the duties of a superior in the superior's absence".

A deputy is not an "emergency person". The requirement for the emergency contact person for the provider who works single handily is not required to have a qualification but is required to be Garda / Police vetted and have the required references.

Q48. What is “an emergency person”?

A: An emergency person applies to sessional services where one adult is caring for 11 children or less or a single handed childminder. “An emergency person” is an adult who is available within 10 minutes of calling the person and must be capable of knowing what to do without instruction and provide additional support in the event of an emergency. The emergency person must be familiar with the service and in a position to provide assistance. The emergency person must have Garda vetting disclosure and (police vetting where applicable) and references.

Q49. Does the “emergency person” need to have a Level 5 qualification or equivalent?

A: No, As the emergency person is only required in the event of an emergency, i.e. where there is a serious, unexpected, or dangerous situation requiring immediate action. (Oxford English dictionary)

Note: “An emergency person” is not a deputy.

Q50. Do National Quality Development Services (NQDS, Better Start) personnel require vetting?

A: Staff of the **NQDS** is vetted by their employer, Pobal which is sufficient for inspection purposes.

Q51. Staff who have only part of their level 5 completed are they seen as non- compliant from December 31st 2016?

A: Yes.

Q52. If a staff member changes their mind in relation to the grandfathering clause, does this have to be done within a specific timeframe?

A: Any member of staff wishing to avail of the qualification exemption was required to do so before the commencement of the Regulations on 30th June.

Q53. For staff studying for their level 8 qualification but who do not possess a level 5 or 6 qualification are they non- compliant?

A: This concern is currently under consideration with Tusla who are engaging with the DCYA, third levels colleges & the Quality and Qualifications Ireland. A response will issue in the near future

Q54. Is the registered provider required to have a qualification?

A: Where the registered provider is working directly with children attending the service, he/she must hold at a minimum, a major award in Early Childhood Care and Education at Level 5 on the National Framework of Qualifications or a comparable qualification deemed equivalent by the Minister as set out. A list of the qualification equivalent can be downloaded/viewed on:

<http://www.dcy.gov.ie/viewdoc.asp?fn=/documents/earlyyears/20160422DCYAEarlyyearsQualifications.pdf>.

Q55. Are participants in the Department of Social Protection, Community Employment (CE) schemes included in adult: child ratios?

A: They are currently included in the adult: child ratio however from 31st December 2016 any CE participant who holds a major award in Early Childhood Care and Education at level 5 on the National Qualification Framework or a qualification deemed equivalent or is exempted under the “Grandfathering clause” and has the documentary evidence to support same will continue to be included in the adult: child ratio. Where any employee or unpaid worker, which includes a CE worker, holds a grandfathering declaration and are working with the children and counted within the adult/child ratio they will be compliant with this element of regulation 9.

Note: From 1st January 2017 CE workers who do not have the qualification requirements will not be included in the adult/child ratios however can continue to work directly with children.

Q56. Can you clarify if CE workers are allowed (if they meet the minimum qualification requirements) be considered part of the child/staff ratio requirements?

A: Yes, from 1st January 2017 where a CE worker holds a major award in Early Childhood Care and Education at Level 5 or a qualification deemed equivalent by the Minister as set out. A list of the qualification equivalent can be downloaded/viewed on : <http://www.dcy.gov.ie/viewdoc.asp?fn=/documents/earlyyears/20160422DCYAEarlyyearsQualifications.pdf>

Q57. Are room leaders required to have qualifications level 6 on the NFQ or equivalent?

A: This is a requirement for the ECCE scheme. It is not a requirement for compliance with Regulation. The requirement for compliance with the 2016 Regulations is that each employee working directly with children must hold a major award in Early Childhood Care and Education at level 5 on the National Framework of Qualifications or a comparable qualification, or is exempted under the “Grandfathering clause”, and has the documentary evidence to support same.

Note: Additional qualification requirements may be required for participants in state funding schemes and further clarification can be obtained from the Department of Children and Youth Affairs or further information available on: www.dcy.gov.ie

Q58. Does a student come under the term of “unpaid worker” even if they are only there to observe?

A: Yes, a student is considered under the definition of unpaid worker.

Q59. Can a student be relief staff in a service on a day where the adult/ child ratio is not compliant?

A: No. Not unless they are an employee of the service and satisfy all requirements under the regulations.

Q60. I am a student holding a QQI(FETAC previously) award in early years at Level 5 on the NFQ working towards a QQI award at level 6 on the NFQ. I am on placement from my college in a service however the registered provider at times requests me to work as an employee at times in the service. Will my Garda vetting disclosure from the college satisfy the Garda vetting disclosure requirement?

A: No, the Garda vetting disclosure will satisfy the college placement requirement however if you revert to an employee of the registered provider then the provider is required to have sought the Garda vetting disclosure on all staff members for themselves as Garda disclosure is not transferrable.

Q61. For employees in services from 1st January 2017 who do not have a major award in ECCE at level 5 on the NFQ or comparable equivalent, what are the consequences?

A: From the 1st January 2017 (where the service is registered before 30th June 2016) a service will be deemed non compliant for those employees, who are working directly with children who,

- do not hold a major award in Early Childhood Care and Education at level 5 (on the National Framework of Qualifications)
- Or have a comparable qualification deemed equivalent
- Unless exempted under the “Grandfathering clause” however the documentary evidence to support same is not available.

A non-compliance may also incur if CE participants were included as part of adult/child ratio prior to the 31st December 2016 and have not been replaced by Qualified staff (Level 5 NFQ as per the Regulations).

Where a non compliance occurs regarding the qualification requirement, the registered providers will be given an opportunity to address the non compliance and advise Tusla of the corrective action and preventative action that will be put in place. The non compliance with the qualification requirement will be risk assessed proportionate to the risk posed to the children as a consequence of the non compliance and can be escalated to the Inspection and Registration Manager, an immediate action notice can be issued, a meeting convened with the registered provider or the matter can be escalated to the Registration Panel for consideration.

Q62. Do the qualification requirements apply to childminders and relief workers?

A: Yes.

Q63. Will the relief staff person need to be qualified?

A: Yes

Q64. For services registered from 1st July, does the Qualification requirement apply?

A: Yes. Qualification requirements apply from the date of registration of all new services registered with Tusla from 1st July 2016.

Q65. Grandfathering Clause – does the employer have any say in relation to which staff member applies or is it down to the individual? Is it age related?

A: Regulation 9(6) (a) (b) refers to what is commonly called the “Grandfathering clause” – Any member of staff wishing to avail of the qualification exemption was required to do so before the commencement of the Regulations on 30th June. Information on the application process in regard to this can be obtained from the department of Department of Children and Youth Affairs: www.dcy.gov.ie or your local city/county childcare committee:

<https://www.pobal.ie/FundingProgrammes/EarlyEducationandChildcare/Pages/CCCs.aspx>).

Grandfathering applies to all unqualified staff who wish not to participate in education and training for awards at level 5 on the NQF if they choose this option they must leave employment in the sector by 01/09/2021.

Q66. Can you apply for the Grandfathering clause and then change your mind and opt to achieve an award at level 5 on the NFQ?

A: Any member of staff wishing to avail of the qualification exemption was required to do so before the commencement of the Regulations on 30th June. Persons who have availed of the exemption will not be entitled to support under the Learner Fund. However, there is nothing to prevent such persons from undertaking a course of study at their own expense to achieve the Level 5 qualification.

Q67. I am a cook and work in the Kitchen only. I do not supervise children. Is an early years qualification at Level 5 required?

A: No. Only staff/ relief staff who work directly with children require a level 5 qualification. Therefore if you do not possess a level 5 qualification you may not work directly with children unsupervised.

Q68. Do I need new references for existing staff?

A: No, you do not need to get new references for existing staff ,if you have references previously on file and they are validated and there has been no break in employment. All employees, unpaid workers and contractors must be vetted through the taking up of past employer references, including the most **recent** employer reference from reputable sources, prior to any person being appointed or assigned or being allowed access to or contact with a child in the pre-school service. All references and verification⁴ of these should be placed on the individuals file. It should be noted that ‘Character References’ are not acceptable where other more appropriate alternatives are available. Character references must not be collected instead of employer reference.

Q69. In relation to references, some staff are working for more than 5 years in a service. Can I as the registered provider give them a reference?

A: Yes. References from previous employment are acceptable. In addition where a person has been in your employment for 5 years or more, the registered provider as their employer can give the staff member a reference.

Q70. If the Board members and Board of Directors do not work directly with the children why should they have to be vetted?

A: Yes. Board members and Directors of a Board must be vetted. Two different pieces of legislation apply; Garda vetting disclosure is not confined to those working directly with children. Members of Boards of Management and Board of Directors are in a position of power and authority and within their powers of authority may have access to or contact with children in the early year’s settings.

Q71. What is the requirement for a Board of Management in relation to vetting?

A: The Board of Management are required to be Garda & Police vetted and have 2 references available ,even if they do not work directly with children.

Q72. Where a Special Needs Assistant (SNA) is employed by parents of the children, who applies for Garda vetting disclosure?

A: If the SNA is appointed by another service, that service will be responsible for Garda vetting disclosure (i.e. HSE). If the parent has employed the SNA privately it is the responsibility of the registered provider to process the Garda vetting disclosure and it must be on file in the early year’s service.

⁴ Verifying, validating, confirming, checking and vetting are terms that are used interchangeably in this document.

Q73. What kind of references are required for the Board of Management?

A: It is the same requirement as for all employees, unpaid worker or contractor in an early years service. References in the first instance should be from the most recent employer or where there is no past employer from a reputable source.

Q74. Should all records with regard to references and verification of references be placed on file?

A: Yes. Regulation 16(2) requires that all documentation relating to references, Garda disclosure and Police vetting be retained for a period of five years from the date on which the person to whom the document or record relates **commenced** working in the service. These records must be maintained for the duration of the employment should the staff member remain working in the service for longer than 5 years.

Q75. Are references required for relief staff and an emergency person?

A: Yes. All relief staff and emergency contact person must be “vetted”⁵ through the taking up of past employer references, including the most **recent** employer reference or from reputable sources, prior to any person being appointed, assigned or being allowed access or contact with a child in the early years service.

Q76. The regulations state that references must be from reputable sources in the case of a person who has no past employers. Who is a ‘reputable source?’

A: Referees should be persons who are well regarded and respected; they should not be family members. Referees should have firsthand knowledge and experience of the person. An acceptable reference will clearly state that the person is known to the referee and in what capacity and is considered suitable by them to work with children. All references should be received in writing⁶ by the person carrying on a pre-school service. Reputable means “highly regarded, well thought of, (well) respected” [Oxford Dictionary].

Q77. How many references should be taken up by the person carrying on the early years services in respect of each employee, unpaid worker and contractor?

A: At minimum there should be 2 references taken up in accordance with Our Duty to Care: the principles of good practice for the protection of children & young people (DOHC 2004, Section (v) pg.8⁷. one of these references should be from the person’s last employer.

Q78. What about existing ‘single handed’ child minder / sole practitioner – who will obtain and examine the references in regard to them?

A: The registration office of the Early Years Inspectorate will examine these as part of the re-registration process of each service as it arises. The documents will be obtained by the person themselves and forwarded to the registration office when requested.

⁵ The word “vetted” is used to reflect the fact that the word “vetting” is used in the regulation

⁶ Adopted from Section (v) page 8 of “Our Duty to Care – the principles of good practice for the protection of children & young people”, DOHC 2004 and Section (v) page 8 of “Our Duty to Care – the principles of good practice for the protection of children & young people”, DOHC 2004.

⁷ Page 8 of “Our Duty to Care – the principles of good practice for the protection of children & young people”, DOHC 2004.

Q79. Should references be validated⁸ [*confirmed and checked*] in respect of employee, unpaid worker or contractor?

A: Yes, the registered provider must ensure that all references in the first instance are in writing⁹ that is addressed, dated and signed. All references should then be confirmed¹⁰ and checked by telephone, letter or personal visit by the registered provider with the person who wrote the reference. Details of which must be recorded on the file.

The registered provider must ensure that they are satisfied as to the character and suitability and relevant experience of the employee, unpaid worker and contractor prior to any person being appointed or assigned or being allowed access to a child in the early years service. In the event that an employer is not satisfied with a particular reference they can consider the option of obtaining another relevant reference which must be validated in detail. It is important to remember that all issues [which may include positive and/or negative comment] contained in an employee reference form must be assessed / taken into account by the employer and recorded on the file.

Q80. What is deemed acceptable as validation?

A: Validation is where the registered provider has dated and signed the record that was taken in regard to checking a reference of a staff member.

Q81. Can a childminder validate the references of his/her family?

A: No, it will be undertaken by the registration office in due course when the childminder is requested to re register.

Q82. What do you classify as ongoing training?

A: The Regulations require that all staff receive appropriate information and where necessary training which includes:

1. The policies, procedures and statements of the service which are specified in Schedule 5.
2. Specific practice requirements relating to the regulations.
3. Training in relevant care practices as fire safety, first aid, etc. as deemed necessary.

Q83. Should an early year's service ensure that the identity of prospective staff is confirmed?

A: Yes. The registered provider should ensure that the identity of the applicant is confirmed against some statutory only documentation (ID card, driving licence or passport) which gives his or her full name, address together with a signature and photograph.

Q84. What do you mean by the term CE Worker and how are they classified under the regulations?

A: They are considered a trainee/student

⁸Verifying, validating, confirming, checking and vetting are terms that are used interchangeably in this document

⁹ Refer to Section (v) page 8 of "Our Duty to Care – the principles of good practice for the protection of children & young people", DOHC 2004.

¹⁰ Verifying, validating, confirming, checking and vetting are terms that are used interchangeably in this document.

Q85. What is meant by the term “student”?

A: The term student in this document applies to any person who is participating on courses provided by:-

- a. Providers offering validated programmes leading to QQI¹¹ awards at level 5 on the NFQ or higher or comparable equivalent award. This can include private and public providers.
- b. Third level education sector¹²
- c. Transition Years student.

Prior to any decision made by the registered provider to facilitate a student placement – it is imperative that at least 2 references from reputable persons are sought in writing and are confirmed and checked. As stated above – all references must be requested from someone in a position to form an opinion of the person and who has firsthand knowledge and experience of the student. The references can be from the college, previous school, previous employment or work experience or from any independent person in the community. Garda vetting disclosure (Police vetting where applicable) is required for all students over the age of 18 years.

Q86. What about “Transition Year Students”?

A: A “Transition Year Student” is a student participating in an Approved Transition Year in a Department of Education and Science approved secondary / second level school. Prior to any decision made by the registered provider carrying on an early years service to facilitate a transition year student placement – it is imperative that at least 2 references from reputable persons [one being from the school that the student attends] are sought in writing and are confirmed and checked. As stated above – all references should be requested from someone in a position to form an opinion of the person. In other words the person who writes a reference must have firsthand knowledge and experience of the student. The references can be from the secondary / second level school, previous employment or work experience or from any independent person in the community. A transition year students must not be left alone with any child in the early years service. They must be accompanied at all times by a staff member. Garda vetting disclosure (and police vetting where applicable) is required for all transition year students over the age of 18 years.

¹¹ Quality And Qualifications Ireland : QQI (Quality and Qualifications Ireland) is a state agency established by the [Quality Assurance and Qualifications \(Education and Training\) Act 2012](#) with a board appointed by the Minister for Education and Skills. QQI functions include those previously carried out by the Further Education and Training Awards Council (FETAC); the Higher Education and Training Awards Council (HETAC); the Irish Universities Quality Board (IUQB) and the National Qualifications Authority of Ireland (NQAI).

In the area of qualifications, QQI are responsible for maintaining the ten-level [NFQ](#) (National Framework of Qualifications). QQI are also an awarding body and set standards for awards QQI make in the NFQ.

QQI validate education and training programmes and make extensive awards in the Further Education and Training sector including in the Education and Training Boards. QQI also make awards in Higher Education mainly to learners in private providers. The universities and institutes of technology largely make their own awards. QQI also provide advice on recognition of foreign qualifications in Ireland and on the recognition of Irish qualifications abroad. As a new function of QQI, will also publish a directory of providers and awards in the NFQ.

¹² The third-level education sector in Ireland consists of universities, institutes of technology, and colleges of education - collectively known as higher education institutions or HEIs. Third-level qualifications are Levels 6-10 in the [National Framework of Qualifications \(NFQ\)](#). The Framework is a [system of 10 levels](#) which allows national and international educational qualifications to be compared.

An important point with regard to students:

Students must not be allowed to supervise children in an early years service. They must be accompanied at all times by a member of staff. Students cannot be regarded as staff and therefore cannot be considered as part of the adult / child ratio. They cannot be treated as staff: they are supernumerary.

Q87. If all references have been received in writing and have been confirmed and checked and they are satisfactory, can the person start in the early years service?

A: No, as it would not be compliant with regulation, not until a decision has been made after both references and the processed Garda vetting disclosure form / Police vetting has been received by the person carrying on the early years service.

Q88. As a registered provider of an early years service I am having difficulty in obtaining a completed reference form from a staff member or there is difficulty in verifying its contents – what can I do?

A: It is important to ensure that you document if this is the case and then ask the staff member to provide another reference. It is important to question why this is the case and document any concerns. It is the responsibility of the registered provider to be satisfied with all person suitability prior to commencement of working in the service.

Q89. What is the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 (No. 47 of 2012)?

A: The Act makes provision for the protection of children and vulnerable persons and it provides for the establishment and maintenance of a national vetting bureau (children and vulnerable persons) database system. This provides for the establishment of procedures that are to apply, in respect of persons who wish to undertake certain work or services or activities relating to children or vulnerable persons. Full text of the Act can be found at: <http://www.irishstatutebook.ie/eli/2012/act/47/enacted/en/print.html>

Q90. When did the “Act of 2012” come into effect?

A: The National Vetting Bureau Children & Vulnerable Persons Act, 2012 commenced on 29th April 2016.

Q91. How does the National Vetting Bureau Children & Vulnerable Persons Act, 2012 impact on my early years service?

A: From the 29th April 2016 it is a criminal offence not to have Garda vetting disclosure when working with children and vulnerable adults.
If a person was employed in a service before April 29th 2016 and when Tusla inspect and it is found that there is no Garda vetting disclosure, it will result in:

- A non compliance on the inspection report
- Conditions will be added to the registration.

Where new staff members commences in a service after the 29th April 2016 and the staff member has no Garda vetting disclosure on Inspection Tusla early years inspectorate will be asking the registered provider to remove the person from the service until the Garda vetting disclosure is received in the Inspectorate.

Q92. Are all employees, unpaid workers and contractors in an early years service required to have Garda vetting disclosure / Police vetting prior to being appointed or assigned or being allowed access to a child in a pre-school service?

A: Yes. The regulation clearly states this – please see Article 9(3) of the regulations.

Q93. Should all records with regard to Garda vetting disclosure and Police Clearance be placed on a file in the early year’s service?

A: Yes. Regulation 16(2)(a) requires that all documents relating to Garda/police vetting and reference be retained for a period of 5 years from the date of **commencement** of work in the service.

Q94. What is the role of the National Vetting Bureau?

A: “The National Vetting Bureau (NVB) provides vetting on behalf of relevant organisations employing personnel to work in a full-time, part-time, voluntary or student placement capacity with children and/or vulnerable adults. An individual must make a written application through the organisation to which their area of work is affiliated”. [“Children First: National Guidance for the Protection and Welfare of Children”

Q95. I am a registered provider carrying on an early years service – what do I do to get Garda vetting disclosure for my staff?

A: Early year’s services/ childminders who are members of the Early Childhood Ireland Association (ECI) should make contact directly to process vetting applications.
<https://www.earlychildhoodireland.ie/work/operating-childcare-service/garda-vetting/>

early years services/childminders who are **not** members of the above mentioned organisations can make contact with Barnardos. Accessing vetting through Barnardos’ Vetting Service will be advised of the process by Barnados:
<http://www.barnardos.ie/what-we-do/our-services/specialist-services/vetting-service.html>

At the request of the Department of Children and Youth Affairs (DCYA), Barnardos is assisting in the processing of Garda vetting disclosure applications for a number of groups/organisations who are not directly registered with the National Vetting Bureau.

Q96. What jurisdiction does Garda vetting disclosures cover?

A: Garda vetting disclosure covers both Northern and Republic of Ireland.

Q97. I have recently taken up residence in the Republic Ireland and have never lived in Ireland previously; do I need Garda vetting disclosure?

A: Yes, If you are 18 years or older , once you have resided in Ireland for a period longer than 6 consecutive months it becomes a requirement to have a Garda vetting disclosure.

Q98. If the applicant is a person who has lived / worked outside of the state for lengthy periods of time – how can police vetting be obtained from the country / countries that they lived / worked in?

A: The person is required to provide an original Police Vetting Certificate/s from the country / countries that they have lived / worked in for a period of longer than 6 consecutive months when they were aged 18 years and over. This applies to international applicants as well as Irish applicants who have resided / worked abroad. Employers should take reasonable steps to verify Police vetting from other countries and these attempts should be recorded on the individual's file.

In order to obtain police vetting from countries outside of the Irish jurisdiction where you have lived for a period of more than 6 consecutive months it is advisable to contact the relevant embassy/consulate in Ireland who will be in a position to advise on the most up to date information regarding the application process and requirements.

Note: Fingerprinting may be required for overseas police vetting for some countries. Where fingerprints are required they must be of a high quality –it would be best to determine which Garda station in your area would be the best to have them taken if required.

Q99. What does “in so far as it is practicable” mean (Regulation 9(2)d)?

A: In so far as it is practicable means that there is evidence of a paper trail of the application process for the police vetting and evidence that the application has been denied/refused/is unobtainable. Every reasonable effort has been made to obtain vetting. Tusla keep updated of the countries where Police vetting cannot be obtained .

Q100. I am an employee and I have lived in the UK for more than 6 consecutive months, what do I need?

A: An International Child Protection Certificate is required. Available from: ACRO Criminal Records Office (ACRO) – further details available from: <https://www.acro.police.uk/icpc/>

Q101. All of my Police Vetting, references and Qualifications are in another language (not English or Irish); do I need to have them translated into English?

A: Yes, all documents not already in Irish or English will need to be translated.

Q102. What is an International Child Protection Certificate (ICPC)?

A: The International Child Protection Certificate (ICPC) is a criminal records check for UK nationals, or non UK nationals who have previously lived in the UK, looking to work with children overseas,

The ICPC is a criminal records check against police and intelligence databases in the UK that reveals any convictions or reasons as to why someone should not work with children. ACRO will make checks on police intelligence, assess that intelligence and will make a decision on whether or not to issue an ICPC on the basis of that intelligence. If the applicant is refused, the fee will be returned to the applicant. The ICPC is similar to the Disclosure and Barring Service (DBS) check (formerly the CRB check) that is required for anyone working professionally with children in England and Wales.

Q103. Is an ICPC different to a Subject Access?

A: Yes. A Subject Access request is a person's right under Freedom of Information, to request what information (if any) is held about them in the Police National Computer (PNC). A subject access is not acceptable as police vetting from the UK. Section 56 of the UK Data Protection Act is designed to protect individuals against 'Enforced Subject Access'. This section makes it a criminal offence in the UK to ask someone to obtain a 'Subject Access' report for anything other than their own personal use. This closes loopholes of prospective employers requesting staff to obtain subject access instead of formal vetting routes which would disclose information to them that they were not legally entitled to see. Subject Access includes personal information, non-conviction data, not guilty verdicts and other information which could have an impact on those individuals' prospects. Basically, Subject Access should be for an individual to obtain information held about themselves and not for third party use.

The ICPC process is completely separate to this and whilst it is compiled using information from the Police National Computer (PNC), this is conviction only information which has been requested solely for the purpose of employment with young or vulnerable people with additional database checks relevant to the field.

Q104. I have police vetting from Disclosures Scotland. It is a basic disclosure, is this still valid?

A: A Basic Disclosure contains only convictions considered unspent under the Rehabilitation of Offenders Act 1974 (UK) and is limited. While it was valid at the time it was obtained and was best practice information available at the time it is now the ICPC which is considered a more valid document as it is more comprehensive. The ICPC is a criminal records check against police and intelligence databases in the UK that reveals any convictions or reasons as to why someone should not work with children. ACRO will make checks on police intelligence and will make a decision on whether or not to issue an ICPC on the basis of that intelligence. It is advisable to update information from the UK by obtaining an ICPC. Further information on Disclosures Scotland can be found on; www.disclosurescotland.co.uk/disclosureinformation/index.htm

Q105. I am a sole Operator/childminder and I lived in the UK for more than 6 consecutive months how can I obtain Police vetting?

A: In order to secure Police vetting for yourself as a sole operator/childminder you must apply to ACRO Criminal Records Office (ACRO) – further details available from: <https://www.acro.police.uk/icpc/>

Note: In addition each sole operator/childminder applying for an international Child Protection Certification from ACRO must enclose a letter from your early year's inspector with the application to ACRO to secure same. Details of your local early year's inspector are available here: <http://www.tusla.ie/services/preschool-services/early-years-inspectors>

This letter is not required for any employees within your service only for the registered provider or sole operator/childminder.

Q106. Does an early year's service have to undertake Garda vetting disclosure for students?

A: No. It has been agreed that third level colleges and organisations will :

- A certified copy of the Garda vetting disclosure will be provided to the registered early year's provider by the student or relevant person.
- Where a positive disclosure has been identified, the college or organisation will advise the registered provider in writing of the outcome of the assessment of the returned information.

The police vetting is the property of the individual who applies for it and it is returned to the applicant. The registered provider will take a copy of the original police vetting and certify that it is a true copy of the original by signing and dating the copy having seen the true original. The individual retains the Police vetting.

Q107. Can the police vetting that was previously sought in another service suitable to be used in my service?

A: Yes, the police vetting is the property of the individual who applied and receives it. The registered provider will take a copy of the original police vetting and verify that it is a true copy of the original by signing and dating the copy having seen the true original. The individual retains the police vetting on leaving the service.

Q108. I have an 'applicant', employee, unpaid worker or contractor who wants to work either on a paid or voluntary basis who have been Garda Vetted but who has not any Police vetting certificates for when they lived and worked outside of Ireland for more than 6 months consecutively – can they commence work?

A: No. Regulation 9 (3) clearly states that vetting must "be carried out prior to any person being appointed, assigned or allowed access to or contact with a child attending the preschool service". As stated - Employers should take reasonable steps to verify Police vetting from other countries and these attempts should be recorded on the individual's file. In other words a 'paper trail' of all efforts made to verify police vetting should be recorded on file.

Q109. I have an 'applicant', employee, unpaid worker, contractor who wants to work either on a paid or voluntary basis who has Police vetting certificates for the time that they have lived/worked outside of Ireland but they have not been Garda vetted – can they commence work?

A: No. Regulation 9 (3) clearly states that vetting must "be carried out prior to any person being appointed, assigned or allowed access to or contact with a child attending the preschool service".

Q110. Is Garda vetting disclosure required for support staff who regularly visit early years services to give specialised classes?

A: Yes, where there is a contract entered into and / or where the person attends the Early Years Service on a regular basis. Additionally, general safety measures should be in place to safeguard the children such as not permitting such persons unsupervised access to children.

Q111. Is it necessary for a registered provider to apply for Garda vetting disclosure when a student is placed in their service?

A: No. It is the accepted practice that colleges as the relevant organisation (employer) in the Republic of Ireland apply for Garda vetting disclosure prior to placement. Prior to any placement the college must allow the registered provider consideration of the vetting disclosures received by the college from the National Vetting Bureau of the Garda Síochána in accordance with the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 (No. 47 of 2012).

Additionally if the student; who is over 18 years; has either lived or worked abroad they must have police vetting certificates. This specific information will allow the person carrying on an early years service to make informed decisions with regard to any placement.

Q112. As a registered provider carrying on an early years service is it necessary for me to receive a copy of the processed vetting from the relevant vetting or provider organisation and place it on the file of the staff member?

A: Yes. The registered provider must ensure that they have been given consideration of the vetting disclosure received from the National Vetting Bureau of the Garda Síochána in accordance with the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 (No. 47 of 2012).

Q113. What about 'single handed' child minder / sole practitioner – who will examine the processed Garda vetting disclosure Form and Police vetting clearance [where appropriate] in regard to them?

A: The 'single handed' child minder / sole practitioner will obtain Garda vetting disclosure through the relevant organisation as well as obtaining police vetting certificate/s as necessary. The early year's inspector will examine these as part of the inspection process.

Q114. Should Garda vetting disclosure be obtained for "Transition Year Students"?

A: Where as Transition year student is under 18 years they will not be the subject of Garda vetting disclosure.

Where the transition year student is over 18 years the National Vetting Bureau will facilitate Garda vetting disclosure. Where a transition year student is over 18 years and has lived in another jurisdiction for longer than 6 months Police vetting from that country is additionally required.

Q115. If the processed Garda vetting disclosure form has been received and is satisfactory but all the references have not been received - can the person start in the early years service?

A: No, not until a decision has been made after all references and the processed Garda vetting disclosure and Police vetting [where appropriate] has been received by the person carrying on the early years service.

Q116. What happens if the relevant organisation (e.g. Barnardos) receives a processed disclosure that indicates a recorded conviction in regard to an 'applicant'?

A: In the normal manner this information will forward to the employer. It is the employer's responsibility to consider the contents of the processed Garda vetting disclosure before any decision is made to employ the person.

Q117. What happens if the ‘person carrying on the pre-school service’ receives a processed Garda vetting disclosure that indicates a recorded conviction in regard to an ‘applicant’?

A: It is the registered providers responsibility to consider the contents of the processed Garda vetting disclosure before any decision is made to employ the person.

Q118. What is the current time frame for processing Vetting applications?

A: The National Vetting Bureau has committed to a turnaround time of 48 hours from receipt of the documentation from the relevant organisation into their e-vetting portal to return to relevant organisation. This does not include the individual application to the relevant organisation and the return to the individual from the relevant organisation. Tusla has been advised that the turnaround time from application by an individual to return to the applicant can take up to 9 days currently.

Q119. Can a processed Garda vetting disclosure be transferable where a childcare assistant employed by an organisation (e.g. Enable Ireland) is allocated to different pre-schools?

A: Yes, as the person is employed for example by Enable Ireland however the registered provider for each service must have consideration of the vetting disclosures received from the National Vetting Bureau

Q120. Is a processed Garda vetting disclosure transferable where a childcare assistant is employed by a number of organisations (e.g. Barnardos & Enable Ireland)?

A: No. Each organisation (employer i.e. Barnardos & Enable Ireland) is required to process their own staff in regard to Garda vetting disclosure which will necessitate that some persons are “re-vetted” by the National Vetting Bureau more than once. The registered provider of an early years service must have consideration of the vetting disclosure received from the National Vetting Bureau prior to making any decision about any person [contractor/employee/unpaid worker] being allowed access to or contact with children.

Q121. I am a registered provider with many inspectors/ support agency staff calling am I entitled to ask for Identification?

A: Yes, It is very important that the identification of persons calling to an early year’s service is checked and the registered provider in all instances is entitled to ask and view prior to allowing access. The policy of the early year’s inspectorate is that they show their warrant and ID on arrival at a service.

Q122. Why do the governing bodies have to be vetted?

A: All people engaged in any activity in early year’s provision, including Boards of Management must be vetted. Vetting is not confined to those working directly with children under the 2016 regulations. Members of governing bodies are in a position of power and authority and within their powers of authority may have access to or contact with children in the early year’s settings.

Q123. Who in the childminders household is required to have Garda vetting disclosure?

A: All the members of the household who are 18years or older.

Q124. I have two services a homework club and crèche. Re Garda vetting disclosure, can staff move between both places?

A: Yes, that is acceptable as it is the same employer.

Q125. Is Garda vetting disclosure required for parents who go on occasional outings with the pre-school?

A: No, it is not required; parents on outings should work in a supportive role to the pre-school staff. They should not be allowed unsupervised access to other people's children.

Q126. If a parent, member of community, e.g. doctor, fireman etc. is coming in to do a presentation to the children is vetting required?

A: No, it is not required, however parents, visitors should not be allowed unsupervised access to other people's children.

Q127. Do visitors [persons who make once – off visits] to the early years service require Garda vetting disclosure?

A: No, it is not required. Visitors should not be allowed unsupervised access to children in the early years service.

Q128. Will a relief person for childminders or single handed sessional services be required to have police vetting?

A: Yes, Where a single handed operator chooses to have a deputy to deputise for them the deputy must comply with the qualification and vetting requirements and be capable of running the service in the absence of the sole operator.

*Note: Deputy is defined by the Oxford English dictionary as "A person who is appointed to undertake the duties of a superior in the superior's absence".
A deputy is not an "emergency person".*

Q129. Are Garda vetting disclosure and Police vetting different?

A: Yes. Garda vetting disclosure applies to the Island of Ireland both North & South and can be obtained through the relevant organisation from the National vetting Bureau. Police vetting applies to all counties outside of the Irish jurisdiction.

Q130. What is the requirement for relief staff who are only required to work 1 – 2 days per year?

A: A relief member of staff is required to be compliant with all of the relevant regulations including regulatory qualification and vetting requirements.

Q131. We have a lot of parents volunteering for outings etc – is Garda vetting disclosure required?

A: Not required if they only have access to their own child. They should never have sole access to other children on the outing or be given unsupervised access.

Q132. How often will Garda vetting disclosure need renewal?

A: Currently the inspectorate is not seeking re-vetting of staff that has vetting completed. While the 2012 Act makes provision for re-vetting, there is no period of time set. The inspectorate is advised that best practice in social care settings is every 3 years.

Q133. Are all the Early Years Inspectors vetted?

A: Tusla recruitment requires all Early Years Inspectors to be vetted. This is undertaken at recruitment stage.

Regulation 10, Policies, Procedures etc. of Pre-school service

10. A registered provider of a pre-school service shall ensure that the written policies, procedures and statements specified in Schedule 5 are in place for the service.

Q134. What is a Statement of Purpose and Function?

A: This is defined in Schedule 5 of the Regulations. "Statement of purpose and function" in relation to a pre-school service, means a description of the service, including-

1. Who the service is aimed at
2. The class/ type of service provided (Full Day Care, Sessional, Child Minder, Drop in Service, Part Time).
3. The hours of the service
4. The age range of the children catered for in the service, and
5. The number of children that can be catered for in the service

Q135. What policies and procedures does Tusla require a provider to have?

A: The following is a list of policies required as detailed in Schedule 5 of the Regulations:

1. (a) statement of purpose and function
- (b) complaints policy
- (c) policy on administration of medication
- (d) policy on infection control
- (e) policy on managing behaviour
- (f) policy on safe sleep
- (g) fire safety policy
- (h) inclusion policy
- (i) outings policy where children attending the service are brought on such outings
- (j) policy on accidents and incidents
- (k) policy on authorisation to collect children
- (l) policy on healthy eating
- (m) policy on outdoor play where such play is provided to children attending the service
- (n) policy on overnight services where the service is an overnight pre-school service
- (o) policy on staff absences
- (p) policy on the use of the internet and photographic and recording devices
- (q) recruitment policy
- (r) risk management policy
- (s) settling-in policy
- (t) staff training policy
- (u) supervision policy

Q136. Our policy and procedure manual is a huge document which parents are welcome to read. Is it enough to have it available for parents or am I requested to provide all parents with a copy?

A: A copy of the full policies and procedures of the service should be available to parents/guardians on the premises at all times. Regulation 16(3) and 17 require the provider to make the policies and procedures available to parents/guardians of a child currently attending the service and those proposing to attend the service. It may be useful to provide all parents with a brief summary of policies and additionally invite referral to the larger document where clarification or greater details is sought. In addition to the policies and procedures a statement of the service purpose and function is also required.

Q137. Copy of policy on Safe Sleep – is this required for sessional services?

A: It is not required in sessional services if children do not require a sleep. A rest area or quiet area for children to sit and relax is sufficient.

Q138. Where providers have several child care facilities is it acceptable to have a common manual of policies and procedures and similarly generic information on the service?

A: It may be acceptable to have a common manual of policies and procedures provided they are appropriate and relevant to each service. However local differences or information specific to the service should be incorporated.

Q139. Do existing services have to submit policies?

A: All services are expected to have all policies in place. Time will be given for services to develop the new policies detailed in the regulations. A number of policies required under previous regulations will continue to be inspected against on inspection of the service under the relevant 2016 regulations. Existing services registered before 30th June 2016 will be advised when they are required to submit all policies and procedures. New services registered after the 30th June will be required to have all policies in place prior to commencement of operation. They will be examined during the inspection process.

Q140. Are nurses required on outings as the first aider?

A: No. A person trained in first aid for children should be present on all outings with children. The 2016 regulations do not necessarily require a nurse to attend on outings. The qualification requirement is set down under Regulation 25 (1).

Regulation 11. Staffing Levels

11. (1) Subject to this Regulation, a registered provider shall ensure that there is at all times an adequate number of adults working directly with the children attending the pre-school service.

(2) Subject to paragraphs (4) and (5), a registered provider of a full day care service or a part-time day care service shall ensure that at all times the minimum ratio of adults to children specified in column (3) of Part 1 of Schedule 6 opposite a particular reference number specified in column (1) of that Part in respect of the age range of the children specified in column (2) thereof at that reference number is satisfied.

(3) Subject to paragraph (5), a registered provider of a sessional pre-school service shall ensure that at all times the minimum ratio of adults to children specified in column (3) of Part 2 of Schedule 6 opposite a particular reference number specified in column (1) of that Part in respect of the age range of the children specified in column (2) thereof at that reference number is satisfied.

(4) Subject to paragraph (5), where a registered provider contemporaneously provides—

(a) a sessional pre-school service, and

(b) a full day care service or a part-time day care service, or both, the minimum ratio of adults to children applicable for the duration of the sessional pre-school service in respect of the children attending that service shall be the ratio specified in paragraph (3).

(5) Paragraphs (2) to (4) shall not apply before 1 September 2016 in respect of IMEB accredited services.

(6) A registered provider of a pre-school service in a drop-in centre or a temporary pre-school service shall ensure that at all times the minimum ratio of adults to children specified in column (3) of Part 3 of Schedule 6 opposite a particular reference number in column (1) of that Part in respect of the age range of the children specified in column (2) thereof at that reference number is satisfied.

(7) A registered provider of an overnight pre-school service shall ensure that at all times the minimum ratio of adults to children specified in column (3) of Part 4 of Schedule 6 opposite a particular reference number in column (1) in respect of the age range of the children specified in column (2) thereof at that reference number is satisfied.

(8) Without prejudice to paragraphs (2) to (7)—

(a) a registered provider of a pre-school service other than a child-minding service or a sessional pre-school service shall ensure that there are at least 2 adults on the premises at all times,

(b) a childminder shall ensure that a second person familiar with the operation of the service and in a position to provide assistance to the childminder in operating the service is, at all times, within close distance of the service and available to attend the service to assist the childminder in the event of an emergency, and

(c) a registered provider of a sessional pre-school service shall ensure that, where the person in charge operates the service single-handedly, a second person familiar with the operation of the service and in a position to provide assistance to the person in charge in operating the service is, at all times, within close distance of the service and available to attend the service to assist the person in charge in the event of an emergency.

(9) In assessing compliance with the adult:child ratios specified in Schedule 6, unpaid workers and, where applicable, the person referred to in Regulation 24(2), shall not be taken into account.

(10) In this Regulation—

“IMEB” means the Irish Montessori Education Board Trust Limited;

“IMEB accredited service” means a full day care service, a part-time day care service or a sessional pre-school service that is accredited by IMEB.

Q141. Can you clarify if CE workers are allowed (if they meet the minimum qualification requirements) be considered part of the child/staff ratio requirements?

A: Yes, from 1st January 2017 where a CE worker holds a major award in Early Childhood Care and Education at Level 5 or a qualification deemed equivalent by the Minister as set out. A list of the qualification equivalent can be downloaded/viewed on : <http://www.dcy.gov.ie/viewdoc.asp?fn=/documents/earlyyears/20160422DCYAEarlyyearsQualifications.pdf>

Q142. What is the adult/child ratios required in each service?

A: Schedule 6 of the 2016 Regulations clarifies the adult/child ratios required for each class/ type of service.

Q143. What are the adult/child ratios for children aged (2.5 years – 5 years) attending a sessional service in a Full Day Care Setting?

A: The adult/child ratios are 1:11 for any child availing of the ECCE scheme and attending a Sessional Service (up to 3.5 hours). The adult/child ratio of 1:8 is effective after 3.5 hours (when the ECCE sessional session has finished) and the child is staying on in the Full Day Care Service for the remainder of the day. A child can only attend an ECCE scheme once a day (i.e. a child may not attend a second ECCE sessional service in the am and/or pm). The times that the sessional service runs must be recorded.

Q144. What is meant by “close by” for the emergency person in respect to a single handed sessional registered provider?

A: An emergency person” is an adult who is available to attend the service within a 10 minute period and knows her designated role and responsibilities when contacted in an emergency and can act without instruction. It is the registered provider’s responsibility to ensure that the emergency person is available to the service when operating and must have Garda vetting disclosure and (police vetting where applicable) and references fulfilling the requirements of Regulation 9.

Q145. What is the Adult/Child ratio requirement on outings?

A: The adult/child ratio is determined by the registered provider undertaking a separate risk assessments for each outing. The following considerations must be determined:

- Potential Risks and/or Hazards associated with the outing
- The number of adults required to adequately maintain the supervision and safety of all pre-school children.
- Additional needs of children
- Public accessibility if applicable
- Management of all risks identified prior to the outing
- All relevant policies and procedures in the service.
- Insurance requirements.

Q146. I am a single handed sessional provider. Am I required to have another adult on the premises while the service is in operation?

A: No, however a second person familiar with the operation of the service and in a position to provide assistance to the children in operating the service is, at all times, within close distance (less than 10 minutes)of the service and available to attend the service to assist the childminder in the event of an emergency (emergency contact person).

Q147. I am a single handed provider, what reasonable measures are expected of me to take to ensure the safety of the children in my care?

A: All reasonable measures to ensure the safety of the children must be taken as follows:

1. A working telephone must be available on the premises
2. Key emergency numbers available i.e. GP, hospital and ambulance
3. Consent from parents for emergency medical treatment on each child
4. Up to date first aider available who is trained in First Aid for children.
5. Emergency contact person is vetted in compliance with Regulation 9.

Because experience informs us that emergencies can arise, it can be anticipated that the need for the assistance of another person may arise in such circumstances, for this reason you must have a named emergency contact person available and who is in compliance with the requirements of Regulation 9 regarding vetting requirements.

Q148. Is extra staff required for toileting/nappy changing if the adult/child ratio is compliant with the Regulations?

A: In general no, however in cases where the layout of the building or the current practice of nappy changing compromises upon supervision, the Inspector may request changes to address the safety of the children (e.g. relocation; change in practise; additional staff etc)

Regulation 12. Childminders

12. (1) A childminder shall ensure that—

(a) there are no more than 5 pre-school children in his or her care at any given time, including his or her own pre-school children,

(b) subject to paragraph (2), there are no more than 2 children under the age of 15 months in his or her care at any given time, including his or her own pre-school children, and

(c) there is a working telephone on the premises.

(2) A childminder may have more than 2 children under the age of 15 months in his or her care at any given time where all such children are siblings of each other.

Q149. How many children can a childminder care for?

A: A childminder can care for no more than 5 preschool children in his/her home at any given time. This includes the childminders own early years children, unless the childminder is applicable to the exceptions for childminders. No more than two of the children can be under the age of 15 months (except where the children are siblings) including the childminders own children.

Q150. What are the exemptions in relation to childminders?

A: The exemptions from provision of Part 12 of the Child and Family Agency Act 2013 are set down under 58L as follows:

1. The care of one or more children undertaken by a relative of the child or children or the spouse of such relative.
2. A person taking care of one or more children of the same family and no other such children (other than the persons own such children) in their own home.
3. A person taking care of no more than 3 children of different families (other than that person's own pre-school children) in that person's home.

Q151. If I am a childminder in my own home looking after 5 children can I employ another person to assist?

A: Yes, even though it is not a requirement of the regulations. A childminder can employ another person to assist, however no more than 5 preschool children can be cared for in a childminding service. In addition the second person must meet all of the regulatory requirements including qualification and vetting requirements under Regulation 9.

Note: a childminder is a person who provides a childminding service who singlehandedly takes care of pre-school children, which may include the childminders own children, in the persons home for more than 2 hours per day. No more than two of the children can be under the age of 15 months (except where the children are siblings) including the childminders own children.

Q152. Can a childminder notify as providing a sessional service and a Childminding Service, simultaneously, if so, what does Tusla expect?

A: There are some cases where this is acceptable provided the childminder has adequate provision and meets the legislative requirements to run a sessional service that does not compromise her childminding service. The childminder cannot run the day to day activities of the sessional service at the same time as his/her childminding service
Tusla Early Years Inspectorate processes this as two separate registrations with two separate related fees. It is assessed on a case by case basis. Tusla inspectorate will evaluate any proposal requesting this.

Note: a childminder does not need to register her/ his childminding service following completion of the sessional service if he/ she care for 3 or less children.

Q153. Can a childminder operate an Early Childhood Care and Education (ECCE) service (for 3- 3.5 hours) as part of his/her notified Childminding Service

A: Yes they can once they remain within the maximum number participating which is set in the regulations as 5 pre-school children.

**Q154. What is expected of childminders in relation to:
Nappy changing facilities**

A: A nappy changing mat is suitable and sufficient but must be located in a designated sanitary area where there is nearby suitable hand washing facilities. Good hygiene practice must be adhered to, refer to the Infection Control Guidelines for an early years service, (Management of Infectious Diseases in Childcare Facilities and Other Childcare Settings www.hspc.ie/A-Z/Lifestages/Childcare).

Rodent proofing

A: The home must be pest-proof and good hygiene practices must be followed to prevent a pest problem.

Shatter-proof lighting

A: In all instances safe means of lighting protection should be used.

Thermostatically controlled water

A: Hot water for use by the pre-school children must be thermostatically controlled to a temperature not exceeding 43° C to facilitate hygienic handwashing without risk of scalding the children.

Fire fighting equipment and smoke alarms

A: Fire fighting equipment and smoke alarms are required in accordance with building / fire regulations and where appropriate arising from requirements specified by a fire officer.

Q155. What does an inspector require in a childminding setting to meet the requirements for type of care or programme provided in the service?

Programme of Activities/Care Requirements:

A: The planning of activities and routines should be influenced by appropriate early year's standards. Therefore the core philosophy and aims of the service should be identified in the childminders policies.

A general daily timetable of routines should show a reasonably predictable sequence of activities that is flexible around the needs of the children. Core routines identified could include meal and snack times, rest periods, short periods of scheduled key activities e.g. story time, outdoor play, songs and rhymes etc and predominance on times for spontaneous play activities.

Recorded observations on each child which captures their time and progress while in the service. Observations can consist of written records or books, and photographs. It may be useful to use the observation records as a communication book between the childminder and home setting for sharing key information on care routines; fun and learning experiences from during the day; interests shown by child; and other observations or relevant information. Notes on individual children's interests can be used to forward plan activities that link into their areas of interest. Consideration could be given to the visual attractiveness of the observations/ communication records, as these will become treasured keepsakes for many parents.

Records:

A: Documentation as referenced in the National Assessment Framework (2011) http://www.tusla.ie/uploads/content/TUSLA_INSPECTION_TOOL_.pdf which demonstrates that each child's learning development and wellbeing is adequately facilitated must be available. Documentation can be in different formats (diary, memo, book and file record etc) and is determined by the age and stage of development of the children catered for in the service. Their programme of care/activities for childminders who are engaged in the Early Childhood Care and Education (ECCE) scheme is expected to provide the same level of detail in a pre-planned programme as with Sessional Services. Childminders who cater for a predominantly younger range of children will have a greater emphasis placed on children's observation/communication records on inspection.

Regulation 13. Temporary Pre-school service and Drop- in centres

13. (1) A registered provider of a temporary pre-school service or a preschool service in a drop-in centre shall ensure there are no more than 24 children attending the service at any given time.

(2) A registered provider of a temporary pre-school service shall ensure that no child attends the service for longer than 8 hours consecutively.

(3) A registered provider of a pre-school service in a drop-in centre shall ensure that no child attends the service for longer than 2 hours consecutively

Q156. What is the maximum number of children that can attend a temporary pre-school service or temporary drop-in service?

A: A maximum of 24 children can attend at any one time with no child attending for more than 8 hours consecutively in a temporary drop-in and no more than 2 hours consecutively in a drop-in centre.

Q157. Who is responsible for the signing in and out of children in a drop- in centre?

A: The registered provider is responsible to ensure all children are signed in and out of a drop-in centre. Where more than 15 children attend in a drop in centre an employee or unpaid worker must be designated responsibility for signing in and out children.

Regulation 14, Review of Pre-school Service

14. A registered provider of a pre-school service other than a temporary preschool service shall ensure that—

(a) at regular intervals, being intervals of not more than one year, a review is carried out in respect of the quality and safety of care provided by the pre-school service to pre-school children attending the service, including a review of the policies, procedures and statements of the service, and

(b) a record of each such review is maintained for a period of 3 years after the review is carried out.

Q158. What is the annual review of the service?

A: The annual written review of the service includes a review of the quality and safety of care provided and includes a review of all policies, procedures and care practices in the service. A copy of the review and its processes must be made available for inspection purposes. This is a new requirement and will not be inspected until further notice.

Q159. What records are required to be retained under regulation 14(b)

A. A record of annual review as required under 14(a) is required to be maintained in the service for a period of 3 years after the review is carried out.

Part IV, Information and Records

Regulation 15. Record of Pre-school Child

15. (1) A registered provider of a pre-school service other than a pre-school service in a drop-in centre or a temporary pre-school service shall ensure that a record in writing is kept in respect of each pre-school child attending the service containing the following particulars:

- (a) the name and date of birth of the child;
- (b) the date on which the child first attended the service;
- (c) the date on which the child ceased to attend the service;
- (d) the name and address of a parent or guardian of the child and a telephone number where that parent or guardian or a relative or friend of the child can be contacted during the hours of operation of the service;
- (e) authorisation for the collection of the child;
- (f) details of any illness, disability, allergy or special need of the child, together with all the information relevant to the provision of special care or attention;
- (g) the name and telephone number of the child's registered medical practitioner;
- (h) record of immunisations, if any, received by the child;
- (i) written parental consent for appropriate medical treatment of the child in the event of an emergency.

(2) A registered provider of a pre-school service in a drop-in centre or of a temporary pre-school service shall ensure that a record in writing is kept in respect of each pre-school child attending the service containing the particulars specified in subparagraphs (a), (d), (e) and (f) of paragraph (1).

(3) A record in writing referred to in paragraph (1) or (2) shall be open to inspection on the premises by—

- (a) a parent or guardian of a pre-school child but only in respect of the record relating to that child,
- (b) an employee who is authorised in that behalf by the registered provider, and
- (c) an authorised person.

(4) A registered provider shall ensure that a record in writing referred to in paragraph (1) is retained for a period of 2 years from the date on which the child to whom it relates ceases to attend the service.

(5) A registered provider shall ensure that a record in writing referred to in paragraph (2) is retained for a period of 2 years from the date on which the child attends the service.

Q160. What records are required to be retained under regulation 15(4)(5)?

A: Regulation 15 (4) requires that the record of the child's details as detailed in regulation 15(1) must be retained in the service for a period of 2 years from the date on which the child to whom it relates **ceases to attend** the service. This applies to all services except drop in and Temporary services.

15(5) requires the record of the child's details as detailed under 15(2) must be retained in the service for a period of 2 years from the date on which the child **attends** the service. Applies to drop in and Temporary services only.

Regulation 16. Record in relation to pre-school service

16. (1) A registered provider shall ensure that a record in writing is kept of the following information in relation to the service:

- (a) the name, position, qualifications and experience of the person in charge and of every other employee, unpaid worker and contractor;
- (b) details of the class of service and the age profile of children for which the service is registered to provide services;
- (c) details of the adult:child ratios in the service;
- (d) the type of care or programme provided in the service;
- (e) the facilities available;
- (f) the opening hours and fees;
- (g) the policies, procedures and statements the service is required to maintain in accordance with Regulation 10;
- (h) details of attendance by each pre-school child on a daily basis;
- (i) details of staff rosters on a daily basis;
- (j) details of any medication administered to a pre-school child attending the service with signed parental consent;
- (k) details of any accident, injury or incident involving a pre-school child attending the service.

(2) A registered provider shall ensure that—

- (a) all documents and records relating to references and Garda and police vetting obtained under Regulation 9(2) are retained for a period of 5 years from the date on which the person to whom the document or record relates commences working in the service, and
- (b) a record referred to in subparagraph (h), (j) or (k) of paragraph (1) is retained for a period of 2 years from the date on which the child to whom it relates ceases to attend the service, or in the case of a preschool service in a drop-in centre or of a temporary pre-school service, for a period of 2 years from the date on which the child attends the service.

(3) A record referred to in paragraph (1) shall be open to inspection on the premises, and the documents and records referred to in paragraph (2)(a) shall be open to inspection whether on the premises or elsewhere, by an authorised person.

(4) A record referred to in paragraph (1) shall be open to inspection on the premises by a parent or guardian of a child but only in respect of information concerning that child.

(5) For the purposes of operating the pre-school service, a record referred to in paragraph (1) shall be open to inspection on the premises by an employee who is authorised in that behalf by the registered provider.

Q161. What records are required to be retained under regulation 16(2)(b)

A: All records in relation to references, Garda vetting disclosure and police vetting must be retained for a period of **5 years** from the date on which the person to whom they relate commenced in the service(See part b above)

Regulation 17. Information for Parents

17. A registered provider shall ensure that a parent or guardian of a child proposing to attend the service is provided with the information referred to in subparagraphs (a) to (g) of Regulation 16(1).

Q162. What information on staff must be provided to parents?

A: The name, position, qualifications and experience of the person in charge and of every other employee, unpaid worker and contractor should be made available to parents.

Q163. In our service we have a notice board displaying information on our staff. Is this sufficient for parents/visitors?

A: Yes, It is sufficient to use a notice board, once it includes the names, position & qualifications of all staff members.

Regulation 18. Copy of Act etc.

18. A registered provider shall ensure that a copy of Part VIIA (inserted by section 92 of the Child and Family Agency Act 2013 (No. 40 of 2013)) of the Act and of these Regulations is kept on the premises and the said copies shall be open to inspection on the premises by—

- (a) a parent or guardian of a child attending or proposing to attend the service,**
- (b) an employee, unpaid worker or contractor, and**
- (c) an authorised person.**

Q164. Am I required to keep a copy of the act on my premises?

A: Yes, a registered provider is required to have a copy of Part V11A (inserted by section 92 of the Child & Family Agency Act 2013) Childcare Act and of the 2016 Regulations. Both available at: .
<http://www.tusla.ie/services/preschool-services/>

Part V, Care of Child in Pre-school Service

Regulation 19. Health, welfare and development of child

19. (1) A registered provider shall, in providing a pre-school service, ensure that—

- (a) each child’s learning, development and well-being is facilitated within the daily life of the pre-school service through the provision of the appropriate activities, interaction, materials and equipment, having regard to the age and stage of development of the child, and**
 - (b) appropriate and suitable care practices are in place in the pre-school service, having regard to the number of children attending the service and the nature of their needs.**
- (2) A registered provider shall ensure that no corporal punishment is inflicted on a pre-school child whilst attending the service.**
- (3) A registered provider shall ensure that no practices that are disrespectful, degrading, exploitive, intimidating, emotionally or physically harmful or neglectful are carried out in respect of a pre-school child whilst attending the service.**

(4) A registered provider shall ensure that a pre-school child shall not be—
(a) permitted access to the internet,
(b) photographed, or
(c) recorded,
while attending the pre-school service other than in accordance with the terms of the consent of a parent or guardian given in the form specified in the service's policy on the use of the internet and photographic and recording devices.

Q165. Does the National Assessment Framework (2011) continue to underpin Regulation 19(a)?

A: Yes. The National Assessment Framework (2011) is the assessment tool for Regulation 19(a) and seeks to assess four areas regarding the extent to which the Health, Welfare & Development of the Child is supported and facilitated In an Early Years setting.

http://www.tusla.ie/uploads/content/TUSLA_INSPECTION_TOOL_.pdf

The 4 areas examined are:

- The extent to which the personal care provided meets the basic needs of the infants and children.
- The extent to which the relationships around children are supported.
- The extent to which the physical and material environment supports the development of children.
- The extent to which the programme of activities and its implementation support children's development.

The inspection process takes account of all children in the service on the day of inspection.

Q166. Why are Aistear and Síolta not included in the new Regulations? There are common elements in the new Regulation 19 reflecting Aistear and Síolta.

A: Síolta and Aistear are the National Quality & Curriculum frameworks which have been embraced by the DCYA as appropriate evidence based practice methodology for the Irish context. Practice frameworks are not included in regulation documents.

Q167. What level of child observation/assessment is expected?

A. Observations/assessments should capture the progress of the child in a service in a holistic manner which reflects the overall philosophy of the service. Observation/assessments should be used to inform the planning of activities to enhance the learning and development of each child.

Q168. Is a provider required to provide for 'messy' play?

A. It is the choice of the Registered Provider whether messy play is provided. Messy play experiences do not have always to be on a large scale, and its primary function is to provide for open ended play with sensory stimulating materials. If the service can demonstrate that it is not essential for the facilitation of each child's learning development and well being within their model and philosophy of care. However, messy play provision does not conflict with any of the recognised early year's philosophies, and its value in providing sensory exploratory experiences, imaginative stimulation and communication enhancement is well documented. Through messy play, children can experience different tactile sensations; use their imagination in handling and shaping the materials to become whatever they wish; exercise their fine and gross motor skills moulding, carrying and shaping; and discover important science and mathematical principles as a side effect of play.

Q169. What is the requirement where natural materials are used?

A: The materials must be non-toxic and non-hazardous. Some activities using natural materials that may include risky play experience are mud play, water features, open ended materials, field trips, climbing trees, tending to open fires; woodwork etc will require an appropriate risk assessment and procedures for safely managing this. However the promotion of safe play should not be used to avoid giving children experiences of “risky/ adventurous” play activities, which when carefully done by skilled practitioners can provide thrilling experiences, eliminate certain phobias, and provide valuable opportunities for children to learn how to safely assess and manage such risks themselves.

Q170. Does the Inspectorate take consideration of the different philosophies and pedagogy in early year’s services?

A: Yes, all philosophies and pedagogy are respected. All philosophies and pedagogy contribute to facilitate children’s development. Providers while remaining true to one philosophy can also incorporate aspects from other Early Years philosophies, adding new dimensions without distracting from their core philosophy.

Q171. How frequently is it required to provide a change of environment for children e.g. outdoor play?

A: All children (0-6 years) attending a pre-school service should have a change of environment at a minimum once in the day which can include daily outdoor play time.

Q172. Can different age ranges of children be accommodated in one room?

A: Yes, once a risk assessment has been undertaken to ensure the safety of all the children being accommodated e.g. the risk to where babies roll, crawl, or could choke on small parts, risk of tripping, or younger children being stepped on by older children. In addition where mixed age ranges are accommodated in the one room, the developmental needs of each child must be met

Q173. What are my responsibilities regarding a child’s access to the internet?

A: The service must have a policy on the use of internet and photographic and recording devices to include the following:

- The roles and responsibilities in relation to the use of technologies by children, including the internet, and photographic and recording devices.
- The required communication and consent requirements of parent(s)/guardian(s) regarding the Service’s use of technology by children, including the internet, and photographic and recording devices.
- The risks associated with the use of technology, including the internet, and photographic and recording devices within the service are identified and appropriately managed.
- All staff must have received training in the policy, be familiar with the policy and its implementation.

Q174. What adult/child ratios are required where a child has evident additional needs that require greater support?

A: The recommended ratios are the *minimum* number of adults required to supervise, care for and work directly with the children in the service. It is the responsibility of each service owner/manager to ensure that sufficient staffs are working directly with the children in the service at all times. The ages of the children, their stage of development, and their particular needs may necessitate higher numbers of adults working directly with the children than is required in the 2016 Regulations.
The provider may allocate additional staff as they choose.
Further information on supporting early years children with a disability is available from the Access & Inclusion Model(AIMS). Further information is available at www.pobal.ie and www.dcy.ie Access and Inclusion Model.

Q175. What is Tusla’s Early Years Inspectorate opinion on the use of template policies with regard to Managing Behaviour?

A: Each service is required to have a policy on managing behaviour appropriate to the age and stage of development of all the children attending including managing children’s challenging behaviour. Where templates are used they must be used appropriately and incorporate current best practice. The practice and policy of managing behaviour must be reflected in the daily life of the service.

Q176. Is there a standard policy on managing behaviour?

A: Each service is required to have a policy on managing behaviour appropriate to the age and stage of development of all children which is in keeping with the philosophy of the service. The policy must:

- Explicitly state that no corporal punishment is permissible at any time in the service.
- Support positive behaviour of the preschool child attending the service
- Specify the approaches for managing challenging behaviour of the preschool child attending the service and assisting the child to manage his/her behaviour as appropriate to the age and stage of development of the child.

There is considerable resource and research available in this area within the Early Years sector.

Q177. What approaches to behaviour guidance and discipline do Early Years inspectors use to inform their assessment of the appropriateness or otherwise of service policies relating to children’s behaviour?

A: The child is treated with respect and dignity at all times and never subjected to practices that are disrespectful, degrading, exploitive, intimidating, emotionally or physically harmful or neglectful, some examples; shouting, isolating, negative language and rough handling. A positive behaviour management policy is required which ensures that practices are age and developmentally appropriate and are supporting the child to manage his/her behaviour. The behaviour management procedures match with the practices within the service provided the policy is based on current best practice, some examples; positive affirmation, correcting behaviour not the child.

Q178. Do Early Years inspectors consider the use of a “bold step” or “time out” is appropriate for pre-school children?

A: Children should never be excluded, ignored, neglected or isolated. Emphasis should be on positively promoting good behaviour, developing the child’s awareness of their emotions and developing empathy with others. There should be a clear understanding of the indications, appropriateness and time limit of any interventions including “time out”. The term “bold step” is not an appropriate term in the early year’s service. Where a time out is appropriately used a child is never left alone or isolated from their peers. On-going behaviour issues may require expert advice or guidance in collaboration with parents. The attitude, demeanour and tone of the voice of the staff is crucial to promoting positive self esteem.

Q179. Is it recommended that we keep documentation of children’s challenging behaviour?

A: Yes, the service’s behaviour management policy must state that a written record should be maintained on a child’s challenging behaviour. This record is maintained in consultation with the child’s parent. Systematic observations by the child’s key worker(s) may be beneficial in identifying the patterns of triggering factors for challenging behaviour, to assist in the formation of an individual care plan, to provide consistency in approaches by different staff and to evaluate the effectiveness of strategies used.

Q180. Are staff required to have special training in dealing with the behaviour of children with additional needs e.g. autism, Attention Deficit Hyperactivity Disorder etc?

A: Yes, staff must have the skills to care for children with additional needs who are attending the service. The service must have a policy on procedures for managing a child’s challenging behaviour and to assist that child to manage their own behaviour in consultation with the parents. The staff caring for the child should be familiar with the policy and how to implement this. There is support and funding available with the Access and Inclusion Model www.dcy.ie to support up skilling and specialises in supporting children with additional needs.

Regulation 20, Facilities for Rest and Play

20. (1) Subject to this Regulation, a registered provider shall ensure that—

(a) having regard to the number of pre-school children attending the service, their respective ages and the amount of time they spend on the premises, there are adequate and suitable facilities for each child to play indoors and, where required by these Regulations, outdoors, during the day, and

(b) there are adequate and suitable facilities for a pre-school child to rest during the day, and in the case of an overnight pre-school service, during the day and the night.

(2) A registered provider—

(a) of a full day care service, a part-time day care service, a sessional preschool service or a childminding service that is registered for the first time on or after 30 June 2016, or

(b) of a full day care service, a part-time day care service, a sessional preschool service or a childminding service that moves premises on or after 30 June 2016,

shall ensure that a suitable, safe and secure outdoor space to which the preschool

children attending the service have access on a daily basis is provided on the premises.

(3) A registered provider of a full day care service, a part-time day care service or a childminding service, other than such a service to which paragraph (2) applies, shall ensure that—

(a) a suitable, safe and secure outdoor space to which the pre-school children attending the service have access on a daily basis is provided on the premises, or

(b) where no such space is provided, the pre-school children attending the service have access on a daily basis to a suitable outdoor space.

(4) Where outdoor space to which the pre-school children attending the service have access is provided on the premises of a sessional pre-school service other than such a service to which paragraph (2) applies, a temporary pre-school service or a pre-school service in a drop-in centre, the registered provider shall ensure that such outdoor space is suitable, safe and secure.

(5) Where pre-school children attending a sessional pre-school service other than such a service to which paragraph (2) applies, a temporary pre-school service or a pre-school service in a drop-in centre have access to an outdoor space other than such a space specified in paragraph (4), the registered provider shall ensure that such outdoor space is suitable.

Q181. What are the requirements for an outdoor play area?

A: The requirements for outdoor space are as follows:

Full Day Care, Part Time and Childminding Services.

Registered on or before 30th June 2016

It is a requirement that where a service has an outdoor area for children **on the premises** it must be suitable, safe and secure.

Services which open after the 30th June 2016 Full Day Care, Part Time and Childminding services must ensure that **access** to suitable safe secure outdoor space is available **on** the premises.

This also applies to any existing services that **move** premises after the 30th June 2016.

Q182. What are the outdoor play area requirements for a sessional service?

A: *Services Registered on or before 30th June 2016*

Full Day Care, Part Time and Childminding

Where **access** to outdoor **on the premises** is provided it must be suitable, safe and secure.

Where no outdoor space is provided **on the premises**, these must **have access** on a daily basis to a suitable outdoor space.

Sessional

Where outdoor space is provided **on the premises** it must be suitable, safe and secure.

For Services Registered on or before 30th June 2016

Full Day Care, Part Time and Childminding

Where **access** to outdoor **on the premises** is provided it must be suitable, safe and secure.

Q183. Services re-registering in 3 years time - Will they then be required to have an outdoor play area?

A: No. Not unless the service moves to a new premises.

Q184. Outdoor Space - What size is required?

A: There is no specified required space but it must be assessed according to the health, welfare and development of the child. The outdoor area must be “fit for purpose” for the children attending. The outdoor play area must be adequate in size to cater for number and ages of all of the children availing of the service. Where the outdoor space is limited in size for all the children to use at one time, it can be utilised in time slots. It must be secured and safe for purpose.

Q185. Can children for a service be escorted to a public play area?

A: Yes, this is regarded as an outing. Policy/procedures in regard to outings must be documented and all staff must be aware of the policy/procedure and able to implement it.

Q186. What are the requirements for outdoor play?

A: The outdoor play environment should provide opportunities for fresh air, physical exercise, experiences of nature and opportunities for challenging risk. Staff must be able to describe the opportunities and activities that the children have access to in the outdoor play area for example; running, team games, nature walk, gardening, climbing etc. When considering what equipment and materials to buy or supply for the outdoor play area, registered providers will take the following into consideration:

- The layout of the outdoor play experiences
- Adequate space for free running/moving space around fixed equipment
- The natural resources that may be already present in the outdoor play area that could enhance a child’s learning and play opportunities in the outdoor play area
- The overall security of the outdoor play area during out of service hours?
- Age/Stage appropriate outdoor play equipment
- Provision of suitable storage facilities indoors and/or outdoors for outdoor equipment when not in use
- Safety measures that are required to ensure that fixed or moveable outdoor play equipment is safe and properly maintained in accordance with manufacturer’s instructions.

Q187. Is fixed equipment e.g. swings, slides, sand, water required in the outdoor area?

A: No. The Regulations do not describe the type of outdoor play equipment and materials that are required for pre-school children. The equipment and materials available in the outdoor play area should support the ethos and philosophy of the service and provide children with play, movement and exploration opportunities that are unique to the outdoor environment. All outdoor equipment must be safe for use, used for the purpose for which it is intended, fitted and used in accordance with manufacturer’s instructions.

Q188. Are providers required to remove all opportunities for challenging/risky play where children could be facilitated to learn about risk taking within safe limits e.g. tree removal, levelling of hillocks, cover streams and other environmentally natural developments in the outdoors?

A: No, the outdoor play should provide children with opportunities for physical play outdoors, to enhance their gross motor development, give them the habits of physical activity for lifelong health and vitality. The outdoor play area should provide opportunities for challenge to facilitate the children's ability to learn about risk and their own capabilities within safe limits.

A documented risk assessment in relation to hazards identified outdoors should be carried out. The risk from identified hazards must be minimised to a safe level. The outdoor play area should offer children the following:

- opportunities to engage, explore and experiment in the environment
- learning opportunities for children to enhance all aspects of their holistic needs, (including social, language, physical and cognitive development).

Q189. Are Local Authority Playgrounds that are accessible within safe walking distance of the service regarded as 'outings'?

A: Use of Local Authority Playgrounds are deemed to be outings. All requirements pertaining to outings must be met and a risk assessment as outlined above of the area should be undertaken prior to each use. All providers should contact their insurance company regarding all pre-school children's outings off the premises.

Q190. What soft fall surfacing is required under outdoor play equipment such as a climbing frame, swing/slide etc?

A: A variety of surfaces can be used to suit the age and stage and play activities of the children attending. All reasonable measures to safeguard the health, safety and welfare of a pre-school child should be taken when choosing outdoor play equipment surfacing. Ground surfacing for commercial outdoor play equipment should meet the requirements as detailed in the relevant National Standards Authority of Ireland guidelines. Manufacturer's guidelines must be followed regarding positioning and provision of appropriate ground surfacing for domestic equipment.

Q191. Does a drop in service or a temporary service need an outdoor play area?

A: No. However where an outdoor play area is provided it must be suitable, safe and secure.

Q192. Is an adult required in the sleep room when children are sleeping/resting?

A: Adult/child ratios must be maintained at all times including when children are sleeping. Sleeping children must be physically monitored as per the services' safe sleep policy; however some circumstances may require an adult to be present in the sleep room, for example:

- An unsettled child
- If a large number of children are sleeping/resting in the Sleep Room (6 children or more)
- If the Sleep Room is not adjacent to the play areas.

Q193. How many adults are required to supervise sleeping/resting children?

A: The adult/child ratios must be maintained at all times within the service. The person in charge should ensure that the placement of all staff is, in accordance with regulations and best practice guidelines on Safe Sleep. This is dependent on the number of children sleeping. Best practice indicates that sleeping children should be checked at least every 10 minutes.

Q194. Where a viewing panel is available is it sufficient to check sleeping/resting children through the viewing panel?

A: No. The adult must enter the room and observe the child at least every ten minutes. It must be recorded whether the child is sleeping, their colour, position and breathing pattern at 10 minute intervals in the Sleep Log.

Q195. Is it a requirement that rooms be “dimmed” when children are sleeping?

A: Yes, It is necessary to create a restful atmosphere conducive to sleep in the sleep room at sleep times; this may include dimmed lighting while at the same time allowing for the safe visual monitoring of resting/sleeping children.

Q196. Is a source of natural light required in the sleep room?

A: Natural light in a sleep room is desirable but not a requirement. This is supplemented by artificial lighting as necessary. Lighting must be adequate and suitable. The lighting in a sleep area must be controlled to adequately facilitate for children’s rest.

Q197. How much space is acceptable around each cot/mat/bed?

A: Cots, sleeping mats and beds should be spaced at least 50 centimetres (half a meter) apart. Staff must be able to easily manoeuvre around the cot/sleeping mat to provide for the children’s care needs.

It is also necessary for infection control management (Management of Infectious Diseases in Childcare Facilities and other Childcare Settings, www.hpsc.ie). Also available at: http://www.tusla.ie/uploads/content/Pre_School_infectprevinfobooklet.pdf

Q198. Is a separate designated cot required for each child under 2 attending the service?

A: The number of cots provided should ensure that each child’s individual need for sleep or rest can be facilitated.

The following is a general guide to help estimate the number of cots needed:

- At 6 months, children need approximately 10-11 hours night time sleep and 2 day time naps of 2-3 hours each. Therefore a separate cot for each child at, or under this age is recommended.
- At 9 months, children need approximately 10-12 hours night time sleep and 2 day time naps of 1-2 hours each. Therefore cots for 2/3(2/3rds) of children in this age bracket is recommended.
- At 18 months – 2 years of age, children need approximately 10-12 hours night time sleep and 1 day time nap of 1-2 hours. Therefore cots for half the number of children catered for in that age group is recommended.
- At 2 years, children need approximately 11-12 hours night time sleep and 1 day time nap of 1 hour. It is recommended that children’s (up to 2 years old) sleep or rest needs are accommodated in a standard cot unless the child has a history of climbing out over the cot in which case a floor bed or mat is safer.
- An adequate supply of bed linen should be in place to ensure that each child has their own linen.

Q199. What are the sleep requirements for children aged 2-3 years?

A: Children should be provided with individual sleep mats or child beds (camp bed/stackable/mats) positioned in a manner that allows ease of access to and around each mat/bed in a room that can be darkened and is quiet during the sleep/rest period. Individual bed linen (sheets/blankets) is provided to each child and is either laundered after each use or reserved for the sole use of that child between laundering (appropriate storage facilities are required for storage of linens that are not laundered after each use to ensure that they do not get mixed together). Appropriate storage is also required for unused clean linens and dirty linens waiting laundering. A child over the age of 2 years may be offered a pillow for use at rest/sleep time.

Q200. Are travel cots acceptable for sleeping children?

A: No, travel cots are designed for occasional use only and have a maximum weight restriction. Additionally, most travel cots have mesh sides that are difficult to clean, creating a potential risk of contamination. Mattresses for travel cots do not provide a comfortable surface for children to sleep on regularly. It is important to note that buggies and car seats are not acceptable for sleep time as they limit a child's natural movement.

Q201. Are Bunk cots acceptable for sleeping children?

A. **No**, concerns are:

Safety Issues:

Under the Manual Handling of Loads regulation in SI 299 of 2007, employers have duties to take appropriate measures or use the appropriate means to avoid manual handling which involves risk and there are other duties which require the employer to carry out risk assessment of manual handling tasks and to put appropriate measures in place to avoid or reduce risk taking account of the factors in Schedule 3 of the Regulation.

The task of lifting children in/out of cots is an example of an activity that would need to be assessed and it is likely that there are high levels of risk related to the hand distance from the trunk, vertical lift region, animate load weight and awkward bending posture if the employee has to reach over into a cot which does not have a variable height adjustment to allow good access to the cot.

In addition there are concerns regarding the risk of fall from a height of a child in the top bunk. Infants who fall from a height of several feet or more can sustain an intracranial haemorrhage (i.e serious bleed inside the skull) and the child in the lower bunk sustaining an injury in the event that the child banged its head on the base of the cot above.

Infection Control Issues:

The recommended 50 cm (half a metre) between cots is not possible when 2 bunk cots are attached to each other thus increasing the risk of cross contamination. Further information available in Management of Infectious Disease in Childcare Facilities and other Childcare settings:<http://www.hpsc.ie/A-Z/LifeStages/Childcare/File,13444,en.pdf>

Q202. Can children over 2 years of age sleep on sleep mats in the pre-school room where they are normally accommodated?

A: Yes, once the needs of all of the children in the room are met. The service must facilitate each child's need for sleep or rest and liaise with parents or guardians in relation to children's sleep patterns/needs. Children must be allowed to sleep or rest when they are tired and not just at a designated time. While all or part of the pre-school room is in use for rest, any children who don't want/need to sleep/rest at this time will need to be accommodated appropriately in another area of the service. If there is only one room available, quiet activities, such as reading, jigsaws, colouring, etc may be organised in another section of the room for non sleeping /resting children.

Q203. Are "Grow Bags" suitable for sleeping children under 2 in a child care setting?

A: Yes, provided they are the correct size for the children wearing them and are worn in accordance with their design i.e. arms through the arm holes and head out the head holes. Also, grow bags come in varying thickness for different seasons. Where grow bags are used ensure they are of suitable weight to keep them warm while sleeping without overheating the child. Manufacturer's instructions should be followed.
If using a baby sleeping bag it should be without a hood, very lightweight and the right size around the neck so the baby won't slip down inside the bag.

Q204. What should be included in a Safe Sleep Policy?

A: Follow the most up to date guidance from:

- First Light (formerly Irish Sudden Infant Death Association (ISIDA) – <http://firstlight.ie/>
- Safe sleep for your baby – reduce the risk of cot death (2016) available at https://www.healthpromotion.ie/publication/fullListing?category=Safety_and_accident_prevention also useful information at: www.firstlight.ie
- Reduce the Risk of Cot death – Early Years Safe Sleeping Guide for Childminders, Foster Carers or a Nursery setting is available at : <http://www.scottishcotdeathtrust.org/skyblucms/resources/early-years-guide-a5-sept-2013.pdf>

Q205. What is considered a rest facility for children in a sessional service?

A: The service should have a quiet space for children to have the opportunity for unstructured quiet activities of choice with soft seating/matting areas available for children to sit or lie down some examples include; view a book, listen to music, do a guided meditation etc. If a sessional service caters for children younger than 2 years a separate sleep area must be provided.

Regulation 21. Equipment and Materials

21. A registered provider shall ensure that there is adequate and suitable furniture, play and work equipment and materials available on the premises of the pre-school service.

Q206. Does the implementation of Regulation 21 allow for the provision of natural materials such as branches, shells, stones, pine cones, leave, “free and found” materials etc?

A: Yes. The Regulations are not prescriptive about the type of equipment and materials available, however they must be suitable to the age and stage of development of the children, be in sufficient quantity, non toxic, in a proper state of repair and maintained in a clean and hygienic condition.

Regulation 22. Food and Drink

22. A registered provider shall ensure that adequate and suitable, nutritious and varied food and drink is available for each pre-school child attending the pre-school service.

Q207. Is it acceptable to have a snack table of nutritious food for children to choose their own food as they need it?

A: Yes. Services have many ways of organising food provision and meal times. It is acceptable to have a snack table of nutritious food as long as the recommended daily nutritional requirements of the child are met. The preparation, storage and service of food should comply with relevant food hygiene regulations.

While the early years service must ensure that adequate and suitable, nutritious and varied food and drink is available for each pre-school child attending the service, all children are different with likes, dislikes and preferred times for eating which must be taken into consideration.

Q208. Is it acceptable to prepare fruit on the premises with the children attending the service?

A: Yes, once it is in compliance with food safety requirements and the age and stage of development of the children.

Q209. Must a provider provide a 3 week menu plan or is a weekly plan sufficient?

A: Yes, A weekly plan which includes all meals, snacks and drinks is sufficient, provided that it is varied, that the food is adequate, suitable and nutritious and meets the daily nutritional requirements of the children attending the service. It should take into account the individual dietary requirements of all children. There are a number of useful resources in this regard including:

The HSE publication: 3- week menu plan: a resource for pre-schools (2006) may be useful as a reference point: https://www.healthpromotion.ie/health/inner/3_week_menu_plan .

Safe Food website: <http://www.safefood.eu/Education/Pre-school.aspx>

National Childhood Network : <https://ncn.ie/index.php/2-ncn/13-nutrition>

Q210. Can parents send in pre-cooked meals?

A: Yes. On receipt of the food the pre-school provider must ensure compliance with the relevant food safety legislation. The responsibility remains with the provider to ensure that the foods and drinks provided by parents are; adequate, suitable, nutritious, varied and that they are stored safely.

Q211. Is a separate dining room required in full day care services?

A: No. It is not a requirement under the Regulations however the provision of a separate dining room can be used to provide a change of environment for the children and to promote the movement and interaction of children.

Q212. Is the pre-school provider required to ensure that children have 2 meal breaks in a 3 hour sessional service?

A: In practice, it is unusual for a 3-hour sessional service to have two meal breaks. However, if a child has not eaten breakfast before a morning session (or lunch before an afternoon session) an additional snack/meal should be offered and be available. This is of particular significance in areas of disadvantage or where children must travel long distances to arrive at the service.

Q213. Is a provider required to have drinking water freely available to the pre-school children e.g. in a jug?

A: Yes. Potable water (fit for drinking) must be available for all the children at all times.

Q214. Is a provider required to provide cutlery other than spoons for children at dinnertime?

A: Cutlery provided to the children for eating their meals must be appropriate to their age and stage of development.

Q215. Does a provider have to adhere to the Food and Nutritional Guidelines for pre-school services?

A: The food and nutritional guidelines are the current recommended guidelines for use by early year's services. Available at :

<http://health.gov.ie/wp-content/uploads/2014/03/Food-and-Nutrition-Guidelines-for-Pre-School-Services.pdf>

They are based on current knowledge of best practice regarding the nutritional needs and highlighted risks associated with certain foods of Early Years school children. The guidelines may be superseded as new research and developments are identified.

Services must cater for children with specific dietary requirements including allergens that necessitate following different guidelines or regimes as advised by the professionals involved in the care of these children www.fsai.ie

Part VI, Safety

Regulation 23. Safeguarding health, safety and welfare of child

23. A registered provider shall ensure that all reasonable measures are taken to safeguard the health, safety and welfare of a pre-school child attending the service and that the environment of the service is safe.

Administration of Medication

Q216. Are providers required to give medication?

A: Yes, where children are required to have medication while attending the service. Regulation 10 requires that there is a policy on administration of medication. All childcare staff must take appropriate actions to ensure the health, safety and welfare of the children in their care. This may include the administration of medication, especially in an emergency situation i.e. febrile convulsion, allergic reactions, seizures and asthma attack. Where there is a requirement to give or supervise an injection type medication the provider must ensure that staff are trained to do so safely. Medication must be given according to the medical instructions given when dispensed. It is the parent's responsibility to ensure that this is facilitated and the provider's responsibility to ensure that they are proficient before undertaking the task.

Q217. Can anti-febrile medication such as Paracetamol be given if contact cannot be made with the parents?

A: This eventuality should be anticipated and the services Medication Policy should be agreed with parents and consent previously sought. When the body temperature in a child rises beyond a safe limit it is important that an anti-febrile agent is administered quickly. As with any medications the amount, time, date and signature is recorded. Parents are advised in accordance with the service Medication Policy.

Q218. Can the service use one anti-febrile agent e.g. Paracetamol (Calpol) bottle as opposed to each child bringing their own bottle?

A: Yes, a registered provider can provide the anti-febrile agent within the service. Additionally where parents provide an anti-febrile it must be clearly labelled with the child's name. The storage, consent and administration of the medicine must be detailed in the medication protocol.

Q219. If a child has specific needs requiring medication, is the provider obliged to administer the medication?

A: Yes, once the Registered Provider has the skills and knowledge to do so. The provider should ensure that the health, welfare and development of the child is adequately facilitated in the service and that a child is not rendered unable to attend if such administration is refused or compromised if delayed. Where the administration of medications requires technical skills e.g. injection or suppositories which are beyond the scope of the staff in the service, the provider should seek guidance/training from the relevant professional in consultation with the parent.

Q220. Is written consent needed to apply sun protection creams supplied by the parent/guardian?

A: No, if the parent gave the sun cream to be applied to their child.

Q221. Is written consent from the parent/guardian needed to apply sun protection creams supplied by the early year's service?

A: Yes, to ensure that the parents are informed and can advise if a previous adverse reaction may have occurred.

Outings

Q222. What is the best method of checking that all children are present at all times when on an outing?

A: A roll call naming the child must be undertaken at various intervals when on outings. A head count is not sufficient as a 'head count' has resulted in children being left behind, either in the service or on an outing.

It is suggested to consider taking a group photograph of the children prior to any outing. In the event of a child going missing it gives the most recent picture of the child & their clothes.

Infection Control

Q223. What infection control precautions should be taken in an early years service.

A: The infection control measures required in an early years setting are set out in the document titled: Management of Infectious Disease in Childcare Facilities and other Childcare Settings available at:

<https://www.hpsc.ie/A-Z/LifeStages/SchoolHealth/File,13445,en.pdf>

Regulation 10 requires that the service has an infection control policy as detailed in schedule 2 specifying the procedure to be followed in the service to protect persons working in the service and children attending the service from the transmission of infections.

Q224. Are pets allowed in a service?

A: Yes, however children's safety must be maintained at all times. Care should be taken in choosing what type of animals are to be kept in the facility to ensure that the health (including allergies), safety and welfare of the children attending the premises is not put at risk. All animals carry some potential health and safety risk. Regular veterinary checks are essential. Useful information regarding child safety and health around pets is available at:

http://hse.ie/eng/health/child/childsafety/csap_pets.html

Q225. Are providers required to have water temperature thermostatically controlled at 43°C or less (<43°C) for children hand washing?

A: Yes. Wash hand basins should have hot and cold mixer taps that are thermostatically controlled to ensure that hot water is no hotter than 43°C to avoid scalding and facilitate hygienic hand washing.

Safety

Q226. What does an "open door policy" mean?

A: An open door policy in general means that an appointment is not required to visit the service and that admittance by the parents/guardians of service users (the children) is allowed at any time during the hours of operation. This is a matter and decision of the registered provider.

Q227. Is cooking of scones, crispy buns, queen cakes etc allowed with the children?

A: Yes, once all hygiene and safety concerns are assessed and safety precautions taken as necessary.

Q228. What is the policy on carbon monoxide monitors?

A: The use of carbon monoxide monitors are recommended where organic fossil fuels such as oil, gas, timber, turf, briquettes or coal (etc) are in use however regular inspection and maintenance of appliances, vents, flues and where necessary chimneys is required to protect occupants of the service from the danger of carbon monoxide. Advice from a qualified expert should be sought prior to the purchase and fitting of CO monitors.

Regulation 24. Checking in and out and record of attendance

24 (1) A registered provider shall ensure that each pre-school child attending the service is checked in and out of the service by an employee or an unpaid worker.

(2) Where there are more than 15 children attending a pre-school service in a drop-in centre, the registered provider shall ensure that one employee or unpaid worker is assigned responsibility for the checking in and out of children.

(3) A registered provider shall ensure that—

(a) no person other than—

- (i) a pre-school child attending the service,
- (ii) a person dropping or collecting such a child,
- (iii) an employee, or
- (iv) an unpaid worker,

can enter the premises without his or her entry being approved by an employee, and

(b) a daily record in writing is kept of the entry on the premises of any such person.

(4) A registered provider shall ensure that a record in writing referred to in paragraph (3)(b) is retained for a period of one year from the date to which it relates.

Regulation 25. First aid

25. (1) A registered provider shall ensure that a person trained in first aid for children is, at all times, immediately available to the children attending the pre-school service.

(2) A registered provider shall ensure that a suitably equipped first aid box for children—

(a) is safely stored in an easily accessible and conspicuous position on the premises, and

(b) is available to the children attending the pre-school service at all times.

Q229. What is the requirement for a service regarding First Aid Training?

A: A person trained in "first aid for children" is required to be available to the children at all times. Currently there is no accredited paediatric first aid course. Where a person has undertaken training in paediatric/first aid for children and has supporting documentation this is acceptable.

Q230. I have just completed first Aid training and would not normally be required to update for 2 years do I need to undertake training in First aid for children .

A: A person trained in "first aid for children" is required to be available to the children at all times.

There is no specific accredited course designed to train staff to provide first aid for children. The DCYA is currently considering recommending that in future childcare staff seeking training in first aid as required under the Regulations should access the First Aid Response (FAR) course provided by a training institution that has been accredited by PHECC.

The First Aid Response (FAR) Standard was designed by the Pre-Hospital Emergency Care Council (PHECC) to offer appropriate training to individuals who require a first aid skill set. The learning objectives in the standard refer to the management of both adults and children (unless stated otherwise). In addition to setting the standards, PHECC is responsible for accrediting (or recognising) training organisations or individual trainers to deliver the training in accordance with Council rules and course approval criteria. Quality assurance of the training is governed by Council's quality review framework.

When the final recommendation has been made, this information will be updated.

Q231. The owner or manager has to have Occupational First Aid as they were responsible for their employees. Does Occupational First Aid include first Aid for Children?

A: Some Occupational First Aid courses include a component on first aid for children. Check with your trainer and if undertaken request documentary evidence to support any training completed.

Q232. Will I be required to have a second person trained in first aid to stay on the premises when I am gone on outings?

A: Yes if there are children remaining in the service and not going on the outing. A person trained in first aid for children must at all times be available to the children attending the service.

Q233. How many first aid boxes does a service require?

A: There should be sufficient first aid requisites in the service for the number of children attending. There should be at least one first aid box on the premises and one available for outings where outings from the service are undertaken. The first aid box should be clearly identifiable. Medicines, creams or ointments should not be stored in the first aid box as they may contaminate the items and create a risk of infection.

Q234. Is it necessary to have written consent from a parent in order for the registered provider to administer first aid to a child?

A: No. The purpose of first aid training is to preserve life, protect from further harm, prevent worsening of condition, and provide relief and reassurances. It does not replace medical treatment. Therefore First Aid treatment is in keeping with a provider's duty to care, and to take all reasonable measures to ensure the health, safety and welfare of children. It would be deemed negligent if staff were to refuse to administer first aid.

Regulation 26. Fire Safety Measures

26. (1) A registered provider shall ensure that a record in writing is kept of—
- (a) any fire drill that takes place in the premises, and
 - (b) the number, type and maintenance record of fire fighting equipment and smoke alarms in the premises.
- (2) The record referred to in paragraph (1) shall be open to inspection by—
- (a) a parent or guardian of a pre-school child attending or proposing to attend the pre-school service,
 - (b) an employee, and
 - (c) an authorised person.
- (3) A registered provider shall ensure that a record referred to in paragraph (2) is retained for a period of 5 years after its creation.
- (4) A notice of the procedures to be followed in the event of fire shall be displayed in a conspicuous position in the premises.

Q235. What fire safety records are required to be retained and for how long?

A: Regulation 26 (3) require that records be retained for a period of 5 years after its creation. The record to be retained refers to the records made available to parents, guardians, employees and authorised persons and includes a record of any fire drills which took place as well as the maintenance records

Q236. How often should a fire drill be carried out? Is it monthly?

A: Fire drills should be carried out on a monthly basis and more frequently if required, e.g. following ineffective fire drill practice; following a fire drill which identified risks; in services where sleeping children or children with disabilities are catered for and where children attend on different days or different sessions.

Q237. What is the requirement in relation to maintenance and checking of fire extinguishers; can I purchase a fire extinguisher and keep it for a year and then buy a new one rather than have a contractor maintain fire extinguishers? NB extinguishers bought in hardware stores?

A: The registered provider must ensure that the fire extinguisher that has been purchased is suitable for use within the setting. This approval must be sought and approved by an appropriate person qualified in Fire Safety. There must be documentary evidence of this approval. A registered provider must ensure that the person(s) utilising the equipment are trained in the appropriate use by a person qualified to do so. It is the registered provider's responsibility to ensure that the equipment is the correct equipment and appropriate for use for the type of service being operated. Consultation with a person appropriately qualified in fire safety is required as to the individual requirement for each service. The 2016 regulations require that the registered provider keep a record of the number, type and maintenance record of fire fighting equipment and smoke alarms in the premises.

Regulation 27. Supervision

27. A registered provider shall ensure that pre-school children attending the service are supervised at all times.

Q238. What is “appropriately supervised” and how do we assess this?

A: Children must be under the direct supervision of a qualified staff member at all times (December 31st 2016 for existing services).
Supervision ensures children’s health, safety and welfare.
Children are supervised primarily by direct observation. Supervision for short intervals by listening is permissible, as long as staff check frequently on children who are out of sight (e.g., those who can use the toilet independently).
Supervision requirements implemented by the Service must be appropriate at all times, including during indoor activities, outdoor activities, meal times, outings and during sleep and are considerate of the individual children’s needs and the activities being implemented and the required adult/ child ratios.

Q239. What exactly is needed under supervision and how should it be documented?

A: The registered provider must ensure that children are appropriately supervised at all times and have written documentation detailing how children are adequately supervised at all times. This supervision shall not infringe on the child’s right to privacy.
The level of supervision of children in the service will be examined through the triangulation process of evidence gathering on inspection, including observation of adult/ child ratios, engagement of staff with children, interactions of staff with children, layout of the premises and access to facilities such as toilets/ nappy changing, sleep practices for children, interviewing staff, review of documentation e.g. policies and procedures, including staff rosters, staff absence policies, facilitation of breaks for staff, risk assessment as appropriate.

Q240. Do 3 year olds need to be supervised when leaving the room?

A: Children are supervised primarily by direct observation, especially during transitions. At all times the age and developmental stage must be taken into account.
Supervision for short intervals by sound is permissible, as long as staff check frequently on children who are out of sight (e.g. those who can use the toilet independently). Children who request privacy and have shown capability to use toilet facilities properly are given permission to use separate and private toilet facilities. Children must remain within hearing range of staff in case assistance is required and to prevent inappropriate behaviour.

Q241. What is acceptable in quiet areas for supervision?

A: Services provide spaces, indoors and outdoors, in which children can avail of, alone time or quiet play in small groups. These spaces should allow constant unobtrusive adult supervision.

Regulation 28. Insurance

28. A registered provider shall ensure that the pre-school service is adequately insured.

Q242. What are the insurance requirements for an early year's service?

A: The service must be adequately insured to include the following:

- Public liability
- Fire & theft
- Building Insurance
- Motor Insurance – where applicable
- Outings Insurance – where applicable

Part VII, Premises and Space Requirements

Regulation 29. Premises

29. A registered provider shall ensure that the premises of the service are—

- (a) of sound and stable structure,**
- (b) safe and secure,**
- (c) kept adequately lit, heated and ventilated,**
- (d) cleaned, maintained and repaired, as required, and**
- (e) equipped with adequate and suitable sanitary facilities.**

Q243. How many ramps are required in a service?

A: We recommend that you consult your local authority.

Q244. What is the requirement in relation to the use of a variety of floor surfaces e.g. carpet?

A: Surfaces provided must be in good repair and maintained in a clean and hygienic condition. Carpets are acceptable once the aforementioned is met.

Q245. Do the Regulations state that a service offering after school care cannot use the same room as a sessional service when not in use?

A: The room can be used by afterschool children when not in use by the early year's children. Any additional equipment used by the afterschool children which is not suitable for use by the early years children must be removed and appropriately stored before the next session for the early years children.

Q246. Do the Regulations state that a service offering after school care cannot use the same outdoor area?

A: The regulations do not state that the afterschool children cannot use the same outdoor area. A risk assessment should be carried out to address potential safety concerns. A risk assessment of having mixed age groupings in the outdoor play area at the same time should be undertaken, which takes into consideration, the size of the space, equipment available, ages of the children and the number of children.

Q247. Does Tusla, Early Years Inspectorate, require written evidence of annual maintenance of heating system?

A: The early years inspectorate can request written evidence to ensure that the heating system is safe so as to ensure that the heating system does not emit offensive or harmful gases, fumes or odours into the premises. Frequency of maintenance is determined by the manufacturers' instruction/maintenance booklets, a heating system engineer and legislation relevant to the specific heating system in use. Tusla do not inspect the heating system.

Q248. What level of ventilation in a sleep room is acceptable?

A: The level of ventilation required is detailed in the building regulations.

<http://www.environ.ie/sites/default/files/migrated-files/en/Publications/DevelopmentandHousing/BuildingStandards/FileDownload,1647,en.pdf>

Q249. Are "Up-Lighters" a suitable and adequate lighting in the play and sleep room?

A: Up lighters are acceptable where the bulb wattage allows for suitable artificial lighting of the room.

Q250. How is it determined in a service that there is sufficient light?

A: The requirement is that there is adequate means of natural lighting provided supplemented by safe and suitable artificial lighting where necessary. All areas should be brightly lit (but not glaring) allowing for play items on the shelves to be clearly visible. This is assessed on a case by case basis.

Q251. Is it a legal requirement to have mechanical ventilation in a toilet if there is a window which can be opened to the outside?

A: Levels of ventilation must be achieved in accordance with building regulations. Department of the environment technical guidance document has the required information available at:

<http://www.environ.ie/sites/default/files/migrated-files/en/Publications/DevelopmentandHousing/BuildingStandards/FileDownload,1647,en.pdf>

Q252. Is there a certain height regulation for wash hand basins?

A: Wash hand basins must be accessible to the children. Suitable step-ups can be used where required.

Q253. Are all WCs required to be low level or can a suitable step up be fitted to adult WCs?

A: No. Suitable step ups can be used where required.

Q254. Is it a requirement to have separate toilets for boys and girls?

A: No. There is no requirement for separate boys and girls toilets within an early year's service.

Q255. Are cleaning schedules required for a service?

A: Yes. Cleaning schedules are required and guidelines for early years services can be found in the document Management of Infectious Diseases in Childcare Facilities and other Childcare Settings available at: <http://www.hpsc.ie/A-Z/Lifestages/schoolhealth/file,13445,en.pdf>

Regulation 30. Minimum Space Requirements

30. (1) Subject to paragraphs (2) to (6), a registered provider shall ensure that adequate clear floor space is available in the premises for the work, play and movement of children attending the pre-school service.

(2) A registered provider of a full day care service or a part-time day care service shall ensure that the minimum amount of clear floor space specified in column (3) of Schedule 7 opposite a particular reference number specified in column (1) of that Schedule in respect of the age range of children specified in column (2) thereof at that reference number is available for each child in that age range attending the service.

(3) A registered provider of a sessional pre-school service or a pre-school service in a drop-in centre shall ensure that a minimum of 1.818 square metres of clear floor space is available for each child attending the service.

(4) Where a registered provider contemporaneously provides—

(a) a sessional pre-school service, and

(b) a full day care service or a part-time day care service, or both,

the minimum clear floor space applicable for the duration of the sessional preschool service in respect of the children attending that service shall be the floor space specified in paragraph (3).

(5) A registered provider of a temporary pre-school service shall ensure that a minimum of 2 square metres of clear floor space is available for each child attending the service.

(6) Subject to paragraph (7), a registered provider of a sessional pre-school service shall ensure that there are no more than 22 children in a room in the service at any time.

(7) Paragraph (6) shall not apply where a registered provider contemporaneously provides—

(a) a sessional pre-school service, and

(b) a full day care service or a part-time day care service, or both.

Q256. Is the space requirement for ECCE classrooms 1.8 sq.m, 2 sq.m or 2.3 sq.m? I have seen all three different amounts and I am very confused as to which applies?

A: The space requirement for each child attending a sessional ECCE service for 3 hours is 1.81sq.m.

This measurement (1.81 sq.m) also applies to full day care children who are availing of the ECCE session for the period of 3 hours while the ECCE is in operation.

A full day-care child attending an ECCE service can only avail of the 1.81sq.m whilst in attendance at their contracted ECCE session.

When the ECCE session is finished the full day/ part time space requirement to the child applies.

Q257. What is clear floor space?

A: Please note clear floor space is clearly defined in **Part 1 of the 2016 Regulations**. “clear floor space”, in relation to an Early Years service, means floor space that is available in the service for children’s work, play and movement after taking into account each of the following:

- (a) storage space;
- (b) furniture, other than furniture that is used directly in relation to the care of children attending the service;
- (c) permanent fixtures;
- (d) areas ancillary to the provision of the pre-school service, including kitchens, toilets, areas designated solely for use for sleeping by the children attending the service or areas designated solely for use for administrative purposes;

Note:

Furniture, play and work equipment (e.g. children’s tables, chairs, sand & water play, child accessible low level shelving that holds and displays children’s toys and equipment, paint/chalk, easels, dress up racks, home corner & library area), used by the early years children do not require additional space in the room.

However where equipment and furniture is stored in the early years room which is not required for use by the early years children it is deemed surplus to requirements. In these circumstances the registered provider has to provide additional space for this.

Some examples where this measurement is deducted from the floor space are:-

- permanent fixtures such as storage cupboards for use by staff or other purposes e.g. cleaning materials or furniture surplus to the needs of the children
- excess storage of stacked chairs and tables in a part of the room;
- areas such as kitchens, toilets, hallways, sleeping and other ancillary areas are also not to be included in the space measurement.

Q258. If there are mixed age groupings which floor area per child applies?

A: The space per child is calculated in accordance with Regulation 30 and detailed in schedule 7. In mixed age groups the space is dependent on the age of each child and their length of stay in the service. The space ratio is not applied uniformly to the room; instead each child’s space requirement is calculated.

Q259. What is a “room”?

A: A part or division of a building enclosed by walls, floor and ceiling. (Oxford English Dictionary, 2016).

Q260. If a sessional service is being operated within a full day care service can they have more than 22 children in one room?

A: Yes, where sufficient space as required is available and this does not negatively impact on the children’s wellbeing.

Q261. What are the minimum space requirements for each service type?

A: The minimum space requirements are set out in schedule 7 and Regulation 30 of the 2016 regulations.

Part VIII, Notifications and Complaints

Regulation 31. Notification of Incidents

31. A registered provider shall notify the Agency in writing within 3 working days of becoming aware of any of the following incidents occurring in the preschool service:

(a) the death of a pre-school child while attending the service, including the death of a child in hospital following his or her transfer to hospital from the service;

(b) the diagnosis of a pre-school child attending the service, an employee, unpaid worker, contractor or other person working in the service as suffering from an infectious disease within the meaning of the Infectious Diseases Regulations 1981 (S.I. No. 390 of 1981);

(c) an incident that occurs in the service and that results in the service being closed for any length of time;

(d) a serious injury to a pre-school child while attending the service that requires immediate medical treatment by a registered medical practitioner whether in a hospital or otherwise;

(e) an incident in respect of which a pre-school child attending the service goes missing while attending the service.

Q262. How should notification of incidents/ significant events be informed to Tusla?

A: A notification of incidents form is available on the Tusla Early Years Inspectorate website at: <http://www.tusla.ie/services/preschool-services/notification-of-incidents-form>

Q263. What is meant by “serious injury”?

A: A serious injury to a preschool child while attending the preschool service is an injury that requires immediate medical treatment by a registered medical practitioner whether in hospital or otherwise.

Q264. What is meant by an “unplanned closure”?

A: An unplanned closure is where the service has to close due to unforeseen events. That is the service has to close unexpectedly. This may be for personal reasons (e.g. bereavement) or any other reason e.g. (burst pipe in the service, external factors, etc.)

Q265. What is a Notifiable Diseases

A: A notifiable disease is a disease that is on the list of diseases (and their respective causative pathogens) contained in the Infectious Diseases Regulations 1981 and subsequent amendments. A list of the notifiable diseases is available at:
<https://www.hpsc.ie/NotifiableDiseases/>

Q266. How will I know when to notify Tusla Early Years Inspectorate of a notifiable disease?

A: The new Regulations detail infectious disease outbreaks as a notifiable event. When you have been contacted by the Department of Public Health Medicine, HSE, in your area and you have been advised that you have a confirmed case as listed you now contact Tusla, Early Years Inspectorate. The Department of Public Health Medicine will advise you as to the next steps regarding precautions to be taken in your premises and follow up of contacts and procedures.

Q267. Does this mean that every time a child is vomiting or has Norovirus that the service must inform Tusla, Early Years Inspectorate?

A: No. Only confirmed cases are notified by the registered provider to Tusla Early Years Inspectorate. Confirmed cases will be advised to you by the Department of Public Health Medicine.

Q268. Will Environmental Health Officers (EHO) investigate Infectious Disease outbreaks?

A: The Department of Public Health Medicine will contact the EHO if required to assist on this.

Regulation 32, Complaints

Complaints

32. (1) A registered provider shall ensure that the complaints policy of the service specifies—

- (a) the procedure to be followed by a person for the purposes of making a complaint in relation to the service,**
- (b) the manner in which such a complaint shall be dealt with, and**
- (c) the procedures for keeping a person who makes such a complaint informed of the manner in which it is being dealt with.**

(2) A registered provider shall ensure that—

- (a) a record in writing is kept of a complaint made to the provider in respect of the pre-school service, and**
- (b) the complaint is duly dealt with in accordance with the provider's complaints policy.**

(3) A record in writing referred to in paragraph (2)(a) shall—

- (a) include the nature of the complaint and the manner in which the complaint was dealt with, and**
- (b) be open to inspection on the premises by an authorised person.**

(4) A registered provider shall ensure that a record in writing referred to in paragraph (2)(a) is retained for a period of 2 years from the date on which the complaint has been dealt with.

(5) The requirement in paragraph (4) is without prejudice to any requirement to retain the record in writing referred to in paragraph (2)(a) under any other enactment or rule of law.

Part IX, Inspection and Enforcement

Regulation 33. Furnishing of Information to Agency

33. A registered provider shall furnish the Agency with such information as the Agency may reasonably require for the purpose of enforcing and executing these Regulations and the information shall be in such form, if any, as may be specified by the Agency.

Q269. Does the wording of the Regulation apply to verbal and written information requested at inspection?

A: Yes it may be in any form. Tusla can request any information that it considers relevant to ensure informed decisions are made when evaluating services during Inspection and registration.

Regulation 34. Inspection

34. (1) The Agency shall, following an inspection by an authorised person of a pre-school service, furnish a report in writing to the registered provider of the outcome of the inspection.

(2) Subject to paragraph (1), the Agency shall take such steps as are necessary to enforce these Regulations in relation to the pre-school service concerned.

Q270. How often do you plan to re-inspect?

A: It is anticipated that a service will receive an inspection on average every 18 months. However, the Early Years Inspectorate is not sufficiently resourced across all areas of the country to meet this timeframe; it will therefore serve as a guideline.

Q271. Why are General (not registration) Inspections unannounced?

A: An unannounced inspection allows for the assessment of the normal day to day running of the service. This provides an important assurance to the public with regards to the standards maintained in a service. The person in charge of the daily operation in the service should inform the provider once the Inspection team arrive for an inspection which would allow an opportunity for the registered provider to be present at some stage during the inspection visit.

Focused inspection, complaint investigation and follow up of conditions of registration if applicable in general will not be announced. Providers will be given every opportunity to respond to the findings of inspections and provide essential clarifications and evidence if requested.

Q272. I consider that 10 days to respond to a report is not reasonable, for example, a provider may be away on holidays?

A: 10 working days is essentially two calendar weeks which is the standard applied by most Inspectorate bodies. We will take into reasonable account any periods of absence during this time frame by the provider.

Q273. Why are reports published?

A: Reports are published as all statutory inspectorates are required to make findings of inspections available to the public. All reports are subject to vigorous quality assurance checks and only published when these checks are satisfied. The Tusla Early Years Inspectorate operates to a standard of full public transparency and accountability and essentially on behalf of the Minister for Children. Parents can make informed decisions in respect of the care and education for their children.

Q274. How long will it take for a report to be issued to me following inspection?

A: Our goal is within 4-6 weeks; however this is dependent on other priority work in the Inspectorate.

Q275. With unannounced inspection – we have concern re care and supervision of the children when service is being inspected if staff are required to assist with inspectors?

A: Inspection teams will take full cognisance of the reality that staff will be required to care for children during the inspection process. A flexible approach and reasonable expectations for provision of information will be applied.

Q276. Do Tusla Early Years Inspectors interact with staff on inspection?

A: Yes, they do, this is an integral part of the inspection process.

Q277. Is the inspection team required to show their warrants authorising them to undertake this inspection?

A: The Inspectors must carry their warrants and photo identification on every inspection and it is always available.

Q278. Following an inspection should non-compliance be discussed with the person in charge before the preschool inspector leaves the service?

A: Yes, aspects of compliances and non-compliances should be discussed with the manager or person in charge at the end of the inspection in the feedback closing meeting.

Regulation 35, Enforcement and Execution

35. These Regulations shall be enforced and executed by the Agency.

Q279. What are the options in relation to escalation of non-compliance and the weighting in relation to this?

A: Providers will be given every opportunity to address identified areas of non compliance. Depending however on the risk that the area of non compliance poses to children, the matter can be escalated to the Inspection and Registration Manager or the Registration Panel.

Miscellaneous Questions

Q280. School aged childcare – are they now regulated?

A: Afterschool services are mentioned in the legislation however there are no Regulations yet drafted and therefore they will not be inspected at this time.

Q281. Can the closing meeting at the end of the Inspection be held in the evenings?

A: In general no, however in exceptional circumstances it may be accommodated.

Q282. Inspection from Tusla and Inspection from DES are confusing to the sector, can this be addressed?

A: The DCYA established an operational system and alignment group which meets regularly. Both inspectorates are part of this process and any/all areas of confusion are identified and progressed appropriately.

Q283. The words Non-compliant for a small item e.g. broken toy and non-compliant for a major incident are not fair, what can be done?

A: We are currently examining our inspection methodology and reference to minor non-compliances where appropriate will be documented on the inspection tool but will not be recorded as a non-compliance on the Inspection Outcome Report.

Q284. The Minister for Education and Science announced to possibly use school buildings for school aged childcare. I am concerned re fragmentation between departments?

A: This matter will be addressed in full once the Department of Children and Youth Affairs (DCYA) finalises regulations for the after school services as provided within early years services.

Q285. What is the working relationships between the County/City Childcare Committees and the Early Years Inspectorate?

A: The working relationships is collaboration between both parties with our stakeholders commences at national level initially with a view to dissemination locally.

Q286. What records are required to be retained and for how long?

A: The **retention period** requirements as set out in **the Child Care Act 1991 (Early Years Services) Regulations**.

Please note the commencement dates for each record vary per regulation e.g some when a person commenced in the service – ceased in service etc.

Regulation:

- 14(b) page 15 - **3 years** – Records of Yearly review of Early Years Service.
- 15(4) page 16 – **2 years** – Record of pre-school child (other than drop in/temporary drop in)
- 15(5) page 16 – **2 years** - Record of pre-school child (drop in/temporary drop in)
- 16(2)(a) page 17 – **5 years** - Record of references, Garda & police vetting
- 16(2)(b) page 17 - **2 years** – Attendance record, staff rosters, accident , incident
- 24(4) page 20 – **1 year** - Entry of persons to premises
- 26(3) page 21 – **5 years** - Fire record
- 32(4) page 23 – **2 years** - Complaints after dealt with

The retention periods stated refer to the period for which the record requires to be retained under the 2016 Regulations.

Q287. Department of Education and Science (DES) are giving notice of their inspection, can the Early Years Inspectorate do the same?

A: DES are inspecting services against the Síolta and Aistear frameworks on behalf of the DCYA. These have no statutory basis and not designed to provide any commentary on Regulation compliance. Tusla inspections are regulatory and are informed by the concept of assumed compliance. Article 58K of the 2013 Child and Family Act, prescribes that the predominant duty of all providers is to remain compliant with the regulations at all times. It is this principle that informs our policy of unannounced inspections. An unannounced inspection allows for the assessment of the normal day to day running of the service. This provides an important assurance to the public with regards to the standards maintained in a service. The person in charge of the daily operation in the service should inform the provider once the Inspection team arrive for an inspection which would allow an opportunity for the Registered provider to be present at some stage during the inspection visit.

Q288. Will the changes in the revised 2016 Regulations be given priority for implementation?

A: Yes, but they will be introduced on an informed, phased basis.

Q289. Are the 2006 Regulations working in conjunction with the 2016 Regulations?

A: No. The 2016 Regulations are operational from the 30th June 2016. The 2006 Regulations were revoked on the 30th June 2016..

Q290. Do the DES Inspectorate look at the curriculum that Tusla inspects also?

A: No, the Tusla inspectorate assess the there is a care plan/ curriculum in place however the DES Inspectorate assess the appropriateness of the curriculum.

Q291. Will the Early Years Inspectorate give guidance in relation to what the Department of Education and Science (DES) Inspectorate require?

A: No, it is important to contact your local DES Inspectorate re contact details is available on their website: www.education.ie

Q292. Will there be a rating of excellence in relation to the level of compliance on the Inspection Reports?

A: Tusla are committed to introducing acknowledgement of excellent practice and this will be considered within the development of the Quality Regulatory Framework.

Q293. What happens if a non compliance is rectified by the person in charge on the day of the inspection?

A: This will be documented on the day of inspection. The non compliance and the steps taken on the day, to rectify the non-compliances will be detailed in the inspection report.

Q294. When will the Quality Regulatory Framework be published?

A: The Quality Regulatory Framework is under development and Tusla Early Years Inspectorate intend to go to public consultation in the autumn with the sector, there after it will be published. The aim is for publication in 2017.

Q295. What do I do if I consider some of the information in my report is inaccurate?

A: There is an opportunity for the registered provider to complete a factual inaccuracy form where it can be documented. Any considered inaccuracies will then be considered by the Inspectorate. A factual accuracy form available at: <http://www.tusla.ie/services/preschool-services/focused-inspection-tool-and-outcome-reports>

Q296. Can records be electronically maintained?

Yes. Regulation 2 defines a record as meaning any record kept or retained in pursuance of the 2016 regulations, including any electronic record, book, card, form, tape, film, note or any record in permanent form including a record that is not in a legible form but which is capable of being reproduced in a legible form.

In addition please note that, a record is defined by the Freedom of Information Act 2014 as including:

“(a) a book or other written or printed material in any form (including in any electronic device or in machine readable form),

(b) a map, plan or drawing,

(c) a disc, tape or other mechanical or electronic device in which data other than visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the disc, tape or other device,

(d) a film, disc, tape or other mechanical or electronic device in which visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the film, disc, tape

or other device, and

(e) a copy or part of anything which falls within *paragraph (a), (b), (c) or (d)*,

and a copy, in any form, of a record shall be deemed, for the purposes of this Act, to have been created at the same time as the record.”