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**Rights
in Early
Childhood**



The UN Committee on the Rights of the Child encourages States to develop a positive agenda for rights in early childhood. The Convention calls for an understanding that early childhood is not merely preparation for adulthood and requires that children, including the very youngest children, be respected as persons in their own right.

Summary from General Comment 7 of the UN Convention on the Rights of the Child

Chapter Grade:

C



Early Childhood Ireland @EarlyChildhdIreland

Commenting, our CEO @TeresaHeeney notes #First5 represents the culmination of an important period of research, discussion & cooperation on ensuring the best possible outcomes for children under 5 in Ireland. The focus on children's rights & increased funding is very positive.

19 Nov 2018



5.1 Quality in Early Childhood Education and Care

Section Grade:

C-

➔ Government Commitment

A Programme for a Partnership Government commits to:

Review and reform the inspection regime in respect of the Early Childhood Care and Education (ECCE) Programme.

▶ **Progress: Steady**

Assess the quality of the first pre-school scheme, withdrawing funding from providers that do not meet quality standards.

▶ **Progress: Stalled**

'Quality in Early Childhood Education and Care' receives a 'C-' grade in *Report Card 2019*, a slight increase on last year's 'D' grade.⁶⁴⁷ The grade reflects steady progress on reforming and strengthening the regulatory inspection regime of Tusla, the Child and Family Agency and introducing the Department of Education and Skills' early education inspections. However, non-compliance with basic health, safety and welfare standards in regulated childcare settings is of great concern. The continued development of the Department of Education and Skills' inspections is promising. The commitments to develop an integrated inspection regime presents a once-in-a-lifetime opportunity to improve and track quality standards in ECEC settings. This grade would have been higher had the quality audit been commenced.

⁶⁴⁷ The term Early Childhood Education and Care (ECEC) is used in *Report Card 2019* to denote the care and education of children from birth to six years. ECEC is the term used by the European Commission. ECEC refers to any regulated arrangement that provides education and care for children from birth to primary school - regardless of the setting, funding, opening hours or programme content - and includes centre and family day-care; privately and publicly funded provision; pre-school and pre-primary provision. Working Group on Early Childhood Education and Care, *Proposal for key principles of a Quality Framework for Early Childhood Education and Care Report of the Working Group on Early Childhood Education and Care under the auspices of the European Commission* (European Commission 2014) 69. *First 5* adopts the same definition, but uses the term Early Learning and Care (ELC), Government of Ireland, *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028* (Stationary Office 2018) 26.

All children, including those in early childhood, are holders of rights enshrined in the UN Convention on the Rights of the Child.⁶⁴⁸ The UN Committee on the Rights of the Child recognises the pivotal role parents play in the early education and care of their children, as well as the State's key role 'in providing a legislative framework for the provision of quality, adequately resourced services, and for ensuring that standards are tailored to the circumstances of particular groups and individuals and to the developmental priorities of particular age groups, from infancy through to transition into school'.⁶⁴⁹ The Committee points out that early childhood institutions, services and facilities must conform to quality standards⁶⁵⁰ such as the requirement that staff are suitable and sufficient in number, use child-centred practices and curricula, hold current understandings of child rights and development theory and practice, and are trained to work with young children.⁶⁵¹

Every child has the right to development, to care and assistance, to education, and to be protected from any form of harm, abuse or neglect⁶⁵² in particular young children.⁶⁵³ Where a child's right has been violated, there must be an effective accountability process, including the availability of remedies and sanctions.⁶⁵⁴ Regardless of whether early childhood services are supplied by public authorities or by non-state providers, the State is obliged to regulate and monitor the quality of provision to ensure that children's rights are protected and their best interests served.⁶⁵⁵ This is normally done through a registration and inspection regime.

First 5: What does it do for quality?

First 5 includes the following Strategic Actions to enable access to early learning and care supports and services:

- Improve initial training and CPD for all early childhood staff.
- Professionalise ELC; support employers to attract and retain a high-quality workforce.
- Develop, enhance and implement national standards for early childhood supports and services.
- Develop mechanisms to raise the professional status of the ELC (and school-age childcare) workforce and support employers to offer more favourable working conditions to attract and retain staff.

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014 –2020 lists children's early years as one of seven priorities and aims to raise the quality of early years care and education services.⁶⁵⁶ In November 2018, the Government fulfilled its commitment to deliver an early years strategy, with the publication of *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028*.⁶⁵⁷ The content and implementation of the Strategy is vital to the delivery of the Programme for Government commitments to prioritise quality affordable

648 UNCRRC, 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 3.

649 *ibid* para 31. Ireland's ECEC sector is privately provided but receives public funding. In 2017/18, 68 per cent of services were private and 32 per cent were community providers. Pobal, *Early Years Sector Profile Report 2017–2018* (Pobal 2018) 8–9.

650 *ibid* para 23.

651 *ibid*.

652 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRRC).

653 UNCRRC, 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 3; para 36 (a). Young children are least able to defend themselves against any infringement of their rights, to comprehend what may be happening in the case of abuse or neglect, or to seek the protection of others.

654 UNICEF, *Rights in Principle and Accountable in Practice: Child rights and social accountability in the post-2015 world*, Background Paper (UNICEF UK 2014) 1.

655 UNCRRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 32.

656 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (DCYA 2014) Commitment xi.

657 Government of Ireland, *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028* (Stationary Office 2018).

childcare⁶⁵⁸ and to 'drive quality throughout the sector by investing in the professionalisation of the workforce'.⁶⁵⁹ An initial three-year implementation plan is expected to be published in May 2019.⁶⁶⁰

► Review and Reform of the Inspection Regime:

To have a positive impact on child development, early childhood education and care (ECEC) services must be high-quality and safe.⁶⁶¹ Regulatory frameworks play a central role in assuring appropriate conditions for children's early learning and care, and in informing how early years educators work with children.⁶⁶² Monitoring and inspection systems are essential to a regulatory framework that can enhance the level of quality in ECEC settings to improve child outcomes.⁶⁶³ These systems can also hold the State accountable for the establishment and maintenance of proper standards.⁶⁶⁴ There are currently two separate inspection regimes for ECEC services. They are run by Tusla, the Child and Family Agency and the Department of Education and Skills.

Tusla Inspections: The Child Care Act 1991 (Early Years Services) Regulations 2016 (the Regulations) brought into force significant changes to in the regulation of childcare services. They apply to ECEC services for children from birth to six years who are not attending primary school.⁶⁶⁵ Tusla's Early Years Inspectorate is the independent statutory regulator of ECEC services and focuses on the safety, health, welfare and development of children in the services.⁶⁶⁶ From 2019, Tusla

will also regulate the school-age childcare sector.⁶⁶⁷ In 2018, relevant reforms included:

- The further development of the Inspectorate's governance structure and the development of a policy document to support the Inspectorate's registration, operation and quality functions.⁶⁶⁸
- The launch of the first Quality and Regulatory Framework (QRF) to support compliance with the Regulations.⁶⁶⁹
- The reform of the eligibility criteria to apply to be a Tusla Early Years Inspector to include a wider range of disciplines, including, for the first time, ECEC graduates.⁶⁷⁰
- The review of the inspection report template with the aim of supporting parents to understand inspection outcomes.⁶⁷¹

The Regulations introduced vital legal reform to safeguard babies and young children in childcare services, making non-compliance an automatic offence and providing Tusla with enforcement powers to amend a service's registration or to deregister and close services. Previously,

658 Government of Ireland, *Programme for Partnership Government* (Stationery Office 2016) 75.

659 *ibid* 78.

660 Early Childhood Ireland, 'ECI Welcomes the First 5 Strategy' <<https://bit.ly/2FqthjG>> accessed 8 January 2019.

661 For a description of what quality looks like in ECEC services and our analysis on the extent of quality in Irish services, see our submission on the Early Years Strategy. Children's Rights Alliance, *Submission on the Early Years Strategy* (Children's Rights Alliance 2018).

662 OECD, Encouraging Quality in Early Childhood Education and Care (ECEC), *Research Brief: Minimum Standards Matter* <<http://bit.ly/2B4pUtY>> accessed 15 November 2017.

663 OECD, *Starting Strong IV: Monitoring Quality in Early Childhood Education and Care* (OECD 2015).

664 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 23, 32.

665 SI No. 221/2016. For analysis, see Children's Rights Alliance, *Report Card 2018* (Children's Rights Alliance 2018) 92-95.

666 The initial development of the Inspectorate was analysed in *Report Card 2017* and *Report Card 2018*. Tusla, *Annual Report 2016 of Tusla – Child and Family Agency's Early Years Inspectorate* (Tusla 2017) 5.

667 Department of Children and Youth Affairs, 'New Registration System Brings School Age Childcare into Affordable Childcare Scheme' <<https://bit.ly/2FJLxpi>> accessed 8 January 2019.

668 Communication received by the Children's Rights Alliance from Tusla's Early Years Inspectorate, 3 January 2019.

669 The QRF provides separate guidance to five different types of childcare services, outlines Tusla's interpretation of the Regulations, and sets out the parameters against which services are inspected. It will be piloted in the first quarter of 2019. Tusla, 'Tusla Launches Quality and Regulatory Framework for the Early Years Sector' <<https://bit.ly/2U8Hq9y>> accessed 2 October 2018; Communication received by the Children's Rights Alliance from Tusla's Early Years Inspectorate, 3 January 2019.

670 Department of Children and Youth Affairs, 'Minister Zappone announces supports for quality improvements in the childcare sector, including €1.2m First Aid training fund' (DCYA, 5 September 2018) <<https://bit.ly/2NgGdNp>> accessed 2 October 2018; *Tusla, Child and Family Agency v Irish Nurses and Midwives Organisation, Workplace Relations Commissions, LRC 21641*, December 2017. Traditionally, only Public Health Nurses were eligible to be Early Years Inspectors but concerns were raised about whether Public Health Nurses had the necessary expertise in ECEC to adequately carry out the role. Nine early years inspectors will be recruited in 2019, in addition to the existing 50 inspectors. Communication received by the Children's Rights Alliance from Tusla's Early Years Inspectorate, 3 January 2019.

671 Communication received by the Children's Rights Alliance from Tusla's Early Years Inspectorate, 3 January 2019. Tusla's Inspection Outcome Reports available online at: <<https://bit.ly/2FJ2rEi>> accessed 29 November 2018.

enforcement required recourse to the courts.⁶⁷² In 2018, two services were deregistered and closed by Tusla, the first closures since the Regulations came into force on 30 June 2016.⁶⁷³

An analysis of 2017 inspection reports under the Regulations found high levels of compliance with the standards relating to premises, insurance, and staffing levels, while the lowest levels of compliance were with the standards safeguarding the health, safety and welfare of the child; management and recruitment; and record keeping.⁶⁷⁴ Tusla's *Early Years Inspectorate Annual Report* contained a number of serious findings in relation to non-compliance with regulations and serious injury to children⁶⁷⁵ and showed that staff in almost 10 per cent of the services inspected under the Regulations did not have the required first aid training.⁶⁷⁶ It is welcome that the DCYA allocated €1.2m to a first aid training fund for Tusla-registered providers in 2018.⁶⁷⁷

Pobal data indicates that in May 2018, 309 staff members working directly with children did not meet the minimum qualification requirement.⁶⁷⁸ This must be addressed as minimum qualification levels are a foundation for children being provided with a quality service. *First 5* commits that by 2028, the early learning and care centre-based workforce will be graduate-led, with at least 50 per cent of staff working directly with children holding an appropriate degree-level qualification.⁶⁷⁹ This has the potential to improve the quality of the wider ECEC system.

The Regulations require childcare providers to have a comprehensive complaints management process in place and, in addition, anyone can provide unsolicited information to Tusla's Early Years Inspectorate if they have a concern about a setting. A national standardised child risk assessment process was established in 2017 to determine the management plan for dealing with concerns.⁶⁸⁰

Department of Education and Skills' Inspections: In 2016, the Inspectorate of the DES introduced Early Years Education Inspections (EYEl) to provide 'evaluative information, advice and support regarding the quality of education provision' in services participating in the Free Pre-school Scheme (FPSS).⁶⁸¹

The EYEl are part of the Department of Education and Skills' Inspectorate division and they evaluate the nature, range and appropriateness of children's early educational experiences in the FPSS.⁶⁸² Educational provision in other rooms in childcare settings that are not operating the FPSS is not subject to inspection, however *First 5* commits to extending EYEl to younger children to complement the work of the Tusla Early Years Inspectorate.⁶⁸³ This is very positive – every child has a right to a quality service and the State remains accountable to young children of all ages for levels of quality. The DES is currently reviewing the EYEl model in order to amend it to facilitate its extension to all ECEC provision to children from birth to six years/primary school entry.⁶⁸⁴ The DES anticipates that an extensive consultation process and trial of this revised inspection framework will occur in 2019.⁶⁸⁵

The *Education Action Plan 2016-2019* commits to 1,200 EYEl over the period of the Plan;⁶⁸⁶

672 Children's Rights Alliance, *Report Card 2017* (Children's Rights Alliance 2017) 34.

673 Communication received by the Children's Rights Alliance from Tusla's Early Years Inspectorate, 3 January 2019.

674 Tusla, *Annual Report 2017 of Tusla Child and Family Agency's Early Years Inspectorate* (Tusla 2018) 22; Communication received by the Children's Rights Alliance from Tusla's Early Years Inspectorate, 3 January 2019.

675 Tusla, *Annual Report 2017 of Tusla Child and Family Agency's Early Years Inspectorate* (Tusla 2018) 22.

676 *ibid.*

677 Department of Children and Youth Affairs, 'Minister Zappone announces supports for quality improvements in the childcare sector, including €1.2m First Aid training fund' (DCYA, 5 September 2018). <<https://www.dcy.gov.ie/docs/EN/Press-Releases-copy-dcy-gov-ie-2018/81/4902.htm>> accessed 2 October 2018.

678 Pobal, *Early Years Sector Profile Report 2017-2018* (Pobal 2018) 101. None of these staff were students or volunteers, had Grandparent Declarations, or were in the process of gaining a qualification of NFQ Level 5, as of May 2018. They were also not solely employed in SAC services and were obliged to have a minimum NFQ level 5 qualification under the Regulations.

679 Government of Ireland, *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028* (Stationary Office 2018) 161.

680 Tusla, *Annual Report 2017 of Tusla Child and Family Agency's Early Years Inspectorate* (Tusla 2018) 30.

681 Department of Education and Skills Inspectorate, *A Review of the Early-Years Education-Focused Inspection April 2016-June 2017, Insights and Future Developments*, (DES 2018) 7. Introduced in January 2010, the FPSS aims to provide early learning in a formal setting for children before they commence primary school. All children from two years eight months to five years six months/primary school entry, are now eligible for two full academic (78 weeks) years under the scheme. Early years inspections are carried out in accordance with the Education Act 1998 and are funded by the Department of Children and Youth Affairs.

682 *ibid.*

683 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 21 December 2018.

684 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 20 December 2018.

685 *ibid.*

686 Department of Education and Skills, *Action Plan for Education 2016-2019* (DES 2016) 33.

1,889 had been conducted by 15 December 2018, 691 of these in 2018.⁶⁸⁷ There are 1,248 inspection reports available online.⁶⁸⁸

Early years education inspections are based on a quality assessment framework that incorporates the key elements of best practice in early education and care under four broad areas of quality: context and processes to support learning and development; children's learning experiences and achievements; and management and leadership for learning.⁶⁸⁹ The first national report of the inspections from the first full year of implementation was published in 2018.⁶⁹⁰ The report expressed the view that settings provide a rich range of learning experiences and enjoyable, play-based opportunities, but recognised challenges such as the need for providers to work closely with parents and the potential for improving how providers use the national curriculum and quality frameworks, Aistear and Siolta.⁶⁹¹ A 2018 report, collating the findings of the 2017/2018 inspection reports, found that three quarters of settings provide a 'very good' or 'excellent' context for learning, less than half 'excellent' or 'very good' processes to support learning, two thirds were evaluated as having 'very good' or 'excellent' management and leadership; and the children in another two thirds of settings had 'very good' or 'excellent' quality learning experiences and achievements.⁶⁹² These findings suggest that the implementation of *First 5's* quality improvement and assurance actions should be a priority in its first implementation plan due in 2019.

A revised *Guide to Early Years Education Inspection (EYEI)* was published in June 2018.⁶⁹³ It includes a

welcome improvement - the introduction of a Follow-Through Inspection model. This model evaluates how settings have implemented the actions advised in previous inspection reports.⁶⁹⁴ In 2018, 35 EYEI 'Follow Through Reports' were published.⁶⁹⁵

► Coordinating inspections:

There are concerns that having two separate Inspectorates intensifies the 'split' within the ECEC system where services for three to six year olds are considered 'early education' and are subject to both Tusla and Department of Education and Skills inspections, while services for children under three are considered 'childcare' and are subject only to Tusla inspection.⁶⁹⁶ Children under three also benefit from learning and development; the split means that the incentivisation and evaluation of educational quality is weaker for children under three. This creates the need for a transparent, two-way referral procedure between the two Inspectorates.⁶⁹⁷

First 5 contains a necessary commitment to recognise ECEC provision on an equal footing and to 'addressing the current disparity in approaches between provision for 0-3 and 3-6 year olds'.⁶⁹⁸ It specifies steps to 'integrate and coordinate inspection and quality supports ... building on existing practice between the Inspectorates and Better Start National Quality Development Service'.⁶⁹⁹ *First 5* also commits to establishing formal mechanisms to align and coordinate the policy, practice and implementation work of the Departments of Children and Youth Affairs, and Education and Skills, in respect of early learning and care, commencing with a joint Memorandum of Understanding.⁷⁰⁰

687 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 20 December 2018.

There are 17 full-time equivalent early education inspectors.

688 *ibid.*

689 Department of Education and Skills, *Guide To Early Years Education Inspection (EYEI)* (DES 2018) 16.

690 Department of Education and Skills Inspectorate, *A Review of the Early-Years Education-Focused Inspection April 2016-June 2017, Insights and Future Developments*, (DES 2018). The report aims to provide composite findings from an analysis of inspection reports prepared by the DES Inspectorate under the four areas of quality. The report does not provide any quantitative data on levels of quality as assessed using the five quality grades, instead providing a general overview of findings.

691 *ibid.* 14.

692 Prevention and Early Intervention Unit, *Early Learning and Childcare - Focused Policy Assessment No. 5* (Department of Public Expenditure and Reform 2018) 34-35. The EYEIs do not include a quality threshold, therefore the Prevention and Early Intervention Unit in the Department of Public Expenditure and Reform adopted a threshold of at least 'very good'.

693 Department of Education and Skills, *Guide To Early Years Education Inspection (EYEI)* (DES 2018).

694 *ibid.* 8. The model supports the State's accountability for quality achievement by services and supports quality improvement and the recognition of quality educational practice.

695 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 20 December 2018.

696 Toby Wolfe, Bernie O'Donoghue Hynes and Noreen Hayes, 'Rapid Change without Transformation: the Dominance of a National Policy Paradigm over International Influences on ECEC Development in Ireland 1995-2012', [2013] 45(2) *International Journal of Early Childhood* 19-205.

697 Start Strong, *Early-years Education-focused Inspections*, Submission to the Department of Education and Skills (Start Strong June 2015) <<http://bit.ly/2jLhVxc>> accessed 18 December 2017.

698 Government of Ireland, *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 - 2028* (Stationary Office 2018) 107.

699 *ibid.* 108.

700 *ibid.* 154.



Pobal data indicates that in May 2018, 309 staff members working directly with children did not meet the minimum qualification requirement. This must be addressed as minimum qualification levels are a foundation for children being provided with a quality service.

In the meantime, the DCYA and the DES are working to coordinate the development and delivery of ECEC inspection, audit and mentoring functions through a high-level Operations and Systems Alignment Group (OSAG)⁷⁰¹ and memoranda of understanding.⁷⁰² The MoU will also provide for communication and collaboration in relation to inspection planning and is expected to be in place in early 2019.⁷⁰³

Quality Audit of Free Pre-school Scheme⁷⁰⁴ and Funding Withdrawal:

A Programme for a Partnership Government included a commitment to develop and implement a single ECEC quality audit tool. Periodic quality audits of ECEC provision were first recommended in 2015 and funding was allocated in Budget 2016.⁷⁰⁵ The proposed audit was due to develop and implement measurement instruments to assess the quality of a representative sample of Tusla-registered ECEC services⁷⁰⁶ to provide a baseline for the subsequent assessment of the impact of quality-raising measures.⁷⁰⁷ A procurement process did not result in the award of a tender as no bids met the Department's requirements.⁷⁰⁸

First 5 re-commits to develop measurement tools to assess the quality of early childhood services commencing with a tool to measure and monitor the quality of practice in ECEC settings.⁷⁰⁹

First 5 also commits to develop 'a compliance framework and financial guidelines to underpin public funding in ECEC and school-age childcare, with an agreed mechanism to withdraw funding from settings that do not meet contractual requirements' such as quality.⁷¹⁰ These commitments are welcome because no child should be in a low quality service, and such services should not receive public funding.

701 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017. The OSAG is led by the Department of Children and Youth Affairs and comprises representatives from the Department of Education and Skills Inspectorate, Tusla's Early Years Inspectorate, Pobal, and the Better Start National Quality Development Service, managed by Pobal on behalf of the Department of Children and Youth Affairs.

702 Memoranda of Understanding (MoU) were signed in 2018 to support coordination between the DES Inspectorate and Tusla's Early Years Inspectorate, as well as between Tusla's Inspectorate and Better Start Quality Development Service. Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 21 December 2018.

703 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 20 December 2018 and Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 21 December 2018. The first event to encourage integrated working between the inspectorates occurred in 2018. This MoU, which is expected to be signed in early 2019, will clarify the roles and responsibilities of both the DES and the DCYA in relation to early learning and care.

704 *The Programme for Partnership Government* commits to 'review and assess the quality of the first pre-school year'.

705 Children's Rights Alliance, *Report Card 2018* (Children's Rights Alliance 2018) 95. *The Programme for a Partnership Government* commitment states that the audit was of services for children in the FPSS only, but the DCYA extended its remit to include all registered ECEC settings.

706 MerrionStreet.ie, Irish Government News Service, 'Procurement for the provision of Services to Measure and Assess the Quality of Early Years Provision in Ireland' (*MerrionStreet.ie*, 5 April 2017) <<http://bit.ly/2B6D9dC>> accessed 26 November 2018.

707 *ibid.*

708 Communication received by the Children's Rights Alliance from

the Department of Children and Youth Affairs, 21 December 2018.

709 Government of Ireland, *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028* (Stationary Office 2018) 168.

710 *ibid.* 107.

Quality in Early Childhood Education and Care

Immediate Actions for 2019



Tusla's Early Years Inspectorate could continue to focus on inspecting and demanding improvements on the standards in relation to the health, safety and welfare of children.

To ensure that Tusla can complete its inspection work, the Department of Children and Youth Affairs should fund and support improvements to services in 2019.



Prioritise the procurement of the ECEC quality audit tool and its implementation in 2019.

A quality audit would help to provide a picture of the quality of children's experiences in ECEC settings which is not afforded by the current dual inspection regime. The audit should be progressed in 2019.



Prioritise *First 5* actions that improve the integration and coordination of inspection regimes and quality supports for ECEC for all children from birth to primary school entry, alongside actions that improve the quality of services.

These actions should be prioritised under the forthcoming three-year *First 5* implementation plan.

5.2 Subsidised and School-Age Childcare

Section Grade:

C+

➔ Government Commitment

A Programme for a Partnership Government commits to:

Introduce subsidised high-quality childcare for children aged nine to 36 months, continue to support subsidised childcare places, and streamline existing schemes to make them more accessible.

▶ **Progress: Steady**

Introduce a new system to support and expand quality after-school care for school-age children.

▶ **Progress: Steady**

'Subsidised and School-Age Childcare' receives a 'C+' grade in *Report Card 2019*, up from last year's 'C' grade. The grade reflects the progress that has been made in delivering the legislative framework for the Affordable Childcare Scheme and the success of the interim September Measures in distributing larger sums of public subsidies to an increasing number of children. However, the Affordable Care Scheme has yet to be implemented and there is insufficient evidence of improved childcare service affordability for parents and access to services for children. The grade also reflects continued steady implementation of the School-Age Childcare Action Plan, particularly the speedy development of a regulatory framework.

The UN Convention on the Rights of the Child requires States to provide appropriate assistance to parents and guardians in relation to their child-rearing responsibilities.⁷¹¹ Children of working parents have the right to benefit from childcare services and facilities for which they are eligible.⁷¹² The UN Committee on the Rights of the Child calls on States to ensure that all young children are guaranteed access to appropriate and effective services, including programmes of health, care and education specifically designed to promote their well-being, paying particular attention to the most vulnerable groups of young children, including those experiencing poverty and those at risk of discrimination.⁷¹³

⁷¹¹ UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 18(2) and (3).

⁷¹² *ibid* Art 18(3).

⁷¹³ UNCRC, 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 24.

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014 – 2020 commits to remove barriers to employment through increasing the affordability of quality and accessible childcare and after-school services.⁷¹⁴ It commits to improving children's learning and development outcomes through increasing access to high-quality, affordable early years education,⁷¹⁵ acknowledging the link between service affordability for parents and access for children. It further commits to lifting approximately 100,000 children out of consistent poverty by 2020. In 2018, almost 200,000 children accessed free or subsidised early years and school-age childcare.⁷¹⁶

► Affordable Childcare Scheme:

In October 2016, the Minister for Children and Youth Affairs announced the establishment of the Affordable Childcare Scheme (ACS).⁷¹⁷ The ACS will replace existing targeted subsidy schemes with a streamlined single subsidy scheme (excluding the Free Pre-School Scheme (FPSS)) and aims to provide 'a system of progressive financial support towards the cost of childcare.'⁷¹⁸ This subsidy is needed in Ireland because inequality of access to childcare is particularly pronounced.⁷¹⁹ The participation rate for children in low-income families is just 12 per cent, less than a quarter of the participation rate for children from high-income



families (57 per cent).⁷²⁰ In 2016, almost 40 per cent of parents that did not use formal childcare services for pre-school children cited financial reasons, the third highest rate in the EU.⁷²¹ Almost 13 per cent of parents had 'great difficulty' affording formal childcare services, the fourth highest in the EU, while less than half found it 'fairly easy', 'easy', or 'very easy'.⁷²²

Budget 2019 allocated €574 million to childcare, an 18 per cent increase on the previous year.⁷²³ Alongside funding the FPSS, Better Start Quality Development Service and the inspection regimes, the allocation will fund the introduction of the ACS. In addition, it would fund the increased income thresholds for high earners and the lower threshold which was increased from the original threshold of €22,700 to €26,000 net annual household income.⁷²⁴ These increases will mean that four out of five eligible families with children will benefit financially from the scheme. This is very welcome as it will allow more low-income families to benefit from the highest subsidy rates under the ACS, although it is notable that the original income threshold of €22,000 was never implemented.

The Childcare Support Act 2018 places the ACS on a statutory footing and was enacted in July 2018 and partially commenced by year's end.⁷²⁵ The Act has a number of positive provisions, including a limit on

714 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (DCYA 2014) Commitment 4.6.

715 *ibid* xiv.

716 Department of Children and Youth Affairs, 'Budget 2019 - Information Pack' <<https://bit.ly/2CIK8vh>> accessed 15 October 2018.

717 Department of Children and Youth Affairs, 'Budget 2017: Department of Children and Youth Affairs Statement by Dr Katherine Zappone, Minister for Children and Youth Affairs' (DCYA, 11 October 2016) <<http://bit.ly/2AuJbsl>> accessed 24 January 2019. The new scheme will provide a universal childcare subsidy to parents of children between the ages of 24 weeks and 36 months (or up until the child qualifies for the ECEC programme, if later) and an income-related subsidy for children from 24 weeks to 15 years of age. The scheme will allow for childcare during term-time and holidays.

718 Department of Children and Youth Affairs, 'Policy Paper on the Development of a new Single Affordable Childcare Scheme' <<http://bit.ly/2h4tNrx>> accessed 24 January 2019, 14.

719 European Commission, 'Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the development of childcare facilities for young children with a view to increase female labour participation, strike a work-life balance for working parents and bring about sustainable and inclusive growth in Europe (the "Barcelona objectives")' Brussels, 8.5.2018 COM(2018) 273 final, <<https://bit.ly/2U8WpA0>> accessed 24 January 2019, 19.

720 *ibid*.

721 *ibid* 18.

722 *ibid* 19.

723 Department of Children and Youth Affairs, 'Budget 2019 - Information Pack' <<https://bit.ly/2CIK8vh>> accessed 24 January 2019.

724 *ibid*.

725 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Written Answers, Affordable Childcare Scheme, 20 September 2018 [37902/18]



participation in the Scheme to childcare providers that are registered with Tusla, the Child and Family Agency.⁷²⁶ This ensures that only regulated services subject to inspection under national regulations are included in the Scheme and there is a legal basis for sanctions, or even closure, should a service not meet minimum regulatory standards. The Act also includes quality enhancement through more rigorous contractual quality conditions and financial quality incentives,⁷²⁷ providing the Department of Children and Youth Affairs (DCYA) with a mechanism to make multi-annual investments to improve and maintain the quality of services.

The extent to which children will benefit from the targeted subsidy under the ACS will depend on their parents' engagement in training and work. Parents in work or training could qualify for up to 40 hours targeted subsidy per week, compared with up to 15 hours per week for those who are not.⁷²⁸ The linking of the targeted subsidy to parental hours of work or training could potentially limit the benefits of early

childhood care and education (ECEC) and school-age childcare services for children if they cannot access the level of subsidy they need. However, the Act provides a flexible access route to subsidies for named groups of vulnerable children by permitting the Minister for Children and Youth Affairs to enter agreements with five named statutory agencies to refer and sponsor children for subsidies on, for example, child welfare or family support grounds, or to support homeless or asylum-seeking families to access education and integration supports.⁷²⁹ It is important that these agreements are flexible and child- and family- centred, and that the Department and the agencies are allocated the necessary funding to deliver on the ACS's objectives to reduce child poverty and improve child outcomes.

It is expected that the regulations underpinning the operation of the ACS will be published and applications for the Scheme will open in October 2019.⁷³⁰ To counter the delay in implementing the ACS, the Government introduced the 'September Measures', to provide 'a level of subsidy' to make childcare 'more affordable' for parents.⁷³¹ 72,546 children benefitted from universal

⁷²⁶ Childcare Support Act 2018, s 1.

⁷²⁷ Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Seanad Éireann debate, Childcare Support Bill 2017: Second Stage, 18 April 2018.

⁷²⁸ Department of Children and Youth Affairs, 'Affordable Childcare Scheme, Childcare Support Bill, Frequently Asked Questions, December 2017' <<http://bit.ly/2WfITOL>> accessed 24 January 2019.

⁷²⁹ Childcare Support Act 2018, s 14 and Schedule 2.

⁷³⁰ Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 20 December 2018.

⁷³¹ Department of Children and Youth Affairs, 'Government announces plans for the delivery of more affordable childcare

Funding on Childcare Subsidies by Department of Children and Youth Affairs

● Allocated ● Spent

	2016 ↓	2017 ↓	2018 ↓	2019 ↓
Funding to childcare subsidies (millions)	€86.8m €56m	€91m €77.9m	€90m €134.9m	€121.1m Expected
Number of children	31,000	65,000	72,546	72,500 Expected

Source: Report Card 2018 and Communications from Pobal, 21 January 2019 and the Department of Children and Youth Affairs, 29 January 2019.

and targeted subsidies through these measures in the programme year from January to December 2018.⁷³² An additional allocation of €34 million was made available in Budget 2019 to respond to the increased demand for the interim schemes.⁷³³ The September Measures will remain in place until the end of the next programme year.⁷³⁴ At the end of 2018, there was not one single streamlined childcare subsidy programme.

More than 29,000 children of less than three years of age attended ECEC settings and benefited from the Universal Childcare Subsidy from January to December 2018,⁷³⁵ an increase on the previous year.⁷³⁶ However, eligibility for subsidies does not guarantee access to services because only half of the 4,435 Tusla registered nationally services operated the

universal subsidy in 2017/2018.⁷³⁷ This disparity may reflect that a substantial number of childcare services do not offer services to babies and young children despite the availability of the universal subsidy.⁷³⁸

The extent to which the subsidies have reduced childcare costs for parents may vary based on a variety of factors such as the rising costs in childcare fees⁷³⁹ and the fact that the fees charged by childcare providers vary by service type, level of area deprivation and by location (county and rural/urban).⁷⁴⁰ The Department of Children and Youth Affairs has indicated that an

this September, Statement by the Minister for Children and Youth Affairs, Dr Katherine Zappone and Minister for Social Protection, Leo Varadkar' (DCYA, 12 April 2017) <<https://bit.ly/2ROA6ml>> accessed 6 November 2017.

732 Communication received by the Children's Rights Alliance from Pobal, 24 January 2019.

733 Communication to the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2019.

734 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 20 December 2018.

735 Communication received by the Children's Rights Alliance from Pobal, 24 January 2019.

736 Pobal, *Early Years Sector Profile Report 2016–2017* (Pobal 2017) 51.

737 Communication received by the Children's Rights Alliance from the Tusla Early Years Inspectorate, 24 January 2019. Only 2,202 services operate the Universal Childcare Subsidy compared with 3,417 operating the income-based Community Childcare Subvention Programme in private and community childcare services in 2017/2018.

738 Pobal, *Early Years Sector Profile Report 2017/2018* (Pobal 2018) 60.

739 In 2018, the average cost of childcare services for parents rose for the second time in six years. The total average increase over 2016/2017 and 2017/2018 is €10.89 per week. Published administrative data provides average fees, and does not capture variations in fees or outlier fees – having this data would provide a more rounded picture of the extent to which the September Measures have met the goal of reducing childcare costs for parents. Secondly, fees charged by childcare providers vary by service type, level of area deprivation and by location (county and rural/urban). Pobal, *Early Years Sector Profile Report 2017/2018* (Pobal 2018) 78.

740 Pobal, *Early Years Sector Profile Report 2017/2018* (Pobal 2018) 10.

independent review of the cost of delivery of quality childcare will be published in 2019 to provide evidence on the appropriateness of the DCYA's subsidy rates.⁷⁴¹

The extent to which the DCYA's subsidies reduce parents' childcare costs when deducted from childcare fees is one indicator of the subsidies' impact, the other is the proportion of their income that parents spend on childcare, i.e. how affordable it is. While the Act sets out parental eligibility for childcare subsidies, it does not deal with affordability of childcare for parents.⁷⁴² Apart from services operating the FPSS⁷⁴³ there is no restriction on the level of fees that a provider can charge. Before the 'September Measures' were introduced, families spent on average 12 per cent of their disposable income on childcare.⁷⁴⁴ As yet, there is no follow-up *Growing Up in Ireland* data to indicate the impact of the September Measures in reducing these percentages. As part of the proposed reform of the funding model under *First 5*, the Government has committed to develop an appropriate mechanism to control fees charged to parents in return for increased State investment in affordability, quality and sustainability.⁷⁴⁵ The Government will need to make significant year-on-year investments directly into services to ensure that controlling fee control does not lead to low quality services for children.

IT System: In July 2018 the contract to develop a new IT system was awarded to enable automatic assessments of online ACS applications in a timely and user-friendly manner.⁷⁴⁶ It is important to ensure that the eligibility of parents for subsidies and the level of those subsidies can be determined efficiently and effectively. The absence of the IT system to implement the September Measures meant that childcare providers had to undertake the administration associated with determining parents' eligibility for the subsidies. An additional €55 million

in payments has been allocated to support childcare providers to undertake this extra work in administering public childcare subsidies for 2017, 2018 and 2019.⁷⁴⁷

► School-Age Childcare:

This *Report Card* series analyses the Government commitment to develop a school-age childcare system because four- and five-year-olds in primary school use these services.⁷⁴⁸ Ireland has the highest proportion of four-year-olds in primary school in the OECD at 31 per cent.⁷⁴⁹ The main purpose of school-age services is to care for children outside normal school hours, whereas the purpose of ECEC is primarily educational and developmental. The overall number of children availing of school-age childcare (SAC) and the number of schools, community or youth services offering SAC is unknown.⁷⁵⁰ In 2017/18, 25,290 children availed of a DCYA-subsidised SAC place.⁷⁵¹

In line with its commitment in *A Programme for a Partnership Government* to introduce a new system of quality afterschool care for SAC,⁷⁵² the DCYA and the Department of Education and Skills (DES) jointly published the *Action Plan on School-Age Childcare* in March 2017.⁷⁵³ The Action Plan is Ireland's first policy on

741 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 20 December 2018.

742 Service affordability is usually expressed as a proportion of a family's income. There is no policy in Ireland on what an 'affordable' proportion is to spend on childcare.

743 The FPSS is a fully Government-controlled fee as providers cannot charge parents over and above the capitation rate they receive from the Department of Children and Youth Affairs.

744 Helen Russell et al, *Maternal Employment and the Cost of Childcare in Ireland* (ESRI 2018) viii. This increased to 16 per cent for lone parent families and 20 per cent for families with the lowest incomes in Ireland.

745 Government of Ireland, *First 5, A Whole of Government Strategy for Babies, Young Children and their Families 2019-2028* (Stationary Office 2018) 143.

746 Department of Children and Youth Affairs, 'Contract awarded to deliver IT system for the Affordable Childcare Scheme' (DCYA, 9 July 2018) <<https://bit.ly/2Rd2LwG>> accessed 2 October 2018.

747 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 20 December 2018.

748 Section 22 of the Childcare Support Act 2018 defines a 'school-age service' as any early years service, play group, day nursery, crèche, day-care or other similar service which (a) caters for children under the age of 15 who are enrolled in primary or post-primary education, (b) provides a range of developmental and recreational activities, taking place outside of school hours, the purpose of which is childcare and (c) the basis for access to which is made publicly known to the parents and guardians of the children. It excludes services solely for the arts, youth work, sport, tuition, religious teaching or settings that are subject to inspection prior to the commencement of the section on 17 February 2019.

749 Department of Education and Skills, 'Education at a Glance OECD Indicators, A Country Profile for Ireland, Statistics Section, September 2018' <<https://bit.ly/2FZ9tEnf>> accessed 24 January 2019, 7.

750 Inter-Departmental Group on Future Investment in Early Years and School-Age Childcare and Education, 'Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland' (DCYA 2015) <<http://bit.ly/1GDVkBn>> accessed 6 February 2017, 56.

751 Pobal, *Early Years Sector Profile Report 2017/2018* (Pobal 2018) 63.

752 Department of the Taoiseach, *A Programme for a Partnership Government 2016* (Department of the Taoiseach, 2016) 78.

753 Department of Children and Youth Affairs and Department of Education and Skills, *Action Plan on School-Age Childcare* (DCYA/DES 2016). School-age childcare is defined as: 'Childcare which encompasses a wide range of non-scholastic, safe, structured programme offerings for school-going children aged four to 12 years, whether provided by childminders or in formal settings. The service operates outside of normal school hours, i.e., before school, after school and during school holidays,



The Government will need to make significant year-on-year investments directly into services to ensure that introducing fee control does not lead to low quality services for children.

services during term-time and during school holiday periods.⁷⁵⁴ It commits to the development of quality standards and a quality assurance system for SAC services and the development of a SAC qualification for practitioners.⁷⁵⁵ It considers the issue of capital grants to expand the supply of SAC places and the funding of transport from schools to SAC services and recommends maximising the use of schools and other existing community facilities for the provision of SAC services 'where demand exists and where it can be facilitated by the school patron/ trustees'.⁷⁵⁶

The Action Plan anticipated that the development and implementation of non-regulatory SAC quality standards would precede regulations. However, in order to provide a legal basis for SAC settings to operate the ACS, regulations are being introduced in a two-stage process.⁷⁵⁷ Initial regulations, the Child Care Act 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018,⁷⁵⁸ were published in December 2018, and will be commenced on 18 February 2019,⁷⁵⁹ allowing services to apply to register with Tusla from this date.⁷⁶⁰ Comprehensive SAC regulations are expected to replace these initial regulations and will be developed over 2019.⁷⁶¹ The draft quality standards developed by the DCYA's Working Group on Quality Standards over 2017/2018 will be finalised in 2019,⁷⁶² and include standards

on include leadership, governance and service management as well as a programme of activities for SAC settings.⁷⁶³ In Budget 2019, €0.45m was allocated to the Tusla Early Years Inspectorate to begin registration⁷⁶⁴ which is a good strategy to mainstream, regulate and support these services. Non-regulatory quality standards developed in 2017/2018 by a DCYA Working Group will be progressed in 2019.

The additional SAC funding, announced by the Minister for Children and Youth Affairs in June 2018, is welcome.⁷⁶⁵ The funding aims to increase capacity for SAC provision, through the establishment of new services and the expansion or improvement of existing services. It provided €0.76m for new places and €0.25m for essential maintenance and repair.⁷⁶⁶ Through this funding, 807 new SAC places were created.⁷⁶⁷

The *National Development Plan 2018-2027* allocated €156 million to the DCYA in capital investment from 2018 to 2022 including €32 million for 2019.⁷⁶⁸ This investment provides the Government with an opportunity to assess and forecast the demand for quality SAC and ECEC services and the capacity in these sectors to meet demand. It also serves to address under- and over-supply in communities around the country through existing public and private facilities and new builds. To provide truly accessible ECEC and SAC for children, along with childcare subsidies, places must be available in high-quality services close to families' home or within easy access of transport links.

*First 5*⁷⁶⁹ commits to a new funding model for ECEC and SAC which will result in a rise in quality over the lifetime of the Strategy as investment increases, meaning that how the State subsidises and invests in ECEC and SAC services will enter a new phase of development, beyond that initially envisaged in *A Programme for a Partnership Government*.

excluding the weekends. The same children attend the service on a regular basis and access to the service is clearly defined by agreement with parents/guardians. The main purpose of the service is to promote children's holistic development and to care for children where their parents are unavailable.'

754 Department of Children and Youth Affairs and Department of Education and Skills, *Action Plan on School-Age Childcare* (DCYA/DES 2017) 4.

755 *ibid* 6-9.

756 *ibid*. It is notable that the Department of Education and Skills' *Action Plan for Education 2016-2019* proposes additional capititation to schools for the provision of buildings for afterschool care. Department of Education and Skills, *Action Plan for Education 2016-2019* (DES 2016) 59.

757 Toby Wolfe, 'Presentation to the National Childhood Network, Seminar on School-Age Childcare' 17 November 2018, Unpublished.

758 Child Care Act 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 (S.I. No. 575/2018).

759 SI No. 575/2018. Department of Children and Youth Affairs, 'New Registration System Brings School Age Childcare into Affordable Childcare Scheme' (DCYA, 27 December 2018) <<https://bit.ly/2UineCd>> accessed 7 January 2019.

760 Department of Children and Youth Affairs, 'Childcare Support Bill, Frequently Asked Questions, December 2017' <<http://bit.ly/2CVuijD>> accessed 8 January 2018.

761 Toby Wolfe, 'Presentation to the National Childhood Network, Seminar on School-Age Childcare' 17 November 2018, Unpublished.

762 *ibid*.

763 *ibid*.

764 Department of Children and Youth Affairs, 'Budget 2019 - Information Pack' <<https://bit.ly/2CIk8vh>> accessed 24 January 2019.

765 Department of Children and Youth Affairs, 'Minister announces total of €6.87m in Capital funding to be awarded to Early Years and School-Age Childcare this summer (DCYA, 1 June 2018) <<https://bit.ly/2M1kDsH>> accessed 24 October 2018.

766 *ibid*.

767 Toby Wolfe, 'Presentation to the National Childhood Network, Seminar on School-Age Childcare' 17 November 2018, Unpublished.

768 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Dáil Debates, National Development Plan, 11 July 2018 [514-515/18].

769 Government of Ireland, *First 5, A Whole of Government Strategy for Babies, Young Children and their Families 2019-2028* (Stationary Office 2018) 174.

Subsidised and School-Age Childcare Immediate Actions for 2019



Continue to increase investment in high quality ECEC and SAC services in 2019, through the Affordable Childcare Scheme and the National Development Plan.

There should a clear funding line to implement provisions in the Childcare Support Act 2018 relating to vulnerable children to deliver its potential as a prevention and early intervention measure.



Using the revised funding model promised under *First 5*, evaluate the current funding model and develop a model that adequately recognises the costs of providing high-quality, accessible services to children and young people, that are affordable to and valued by parents and communities.

The funding model should also invest in a professional, socially-valued early years workforce and develop well-planned, sustainable ECEC and SAC services.



Develop more comprehensive SAC regulatory standards in 2019.

The second set of school-age regulatory standards should support SAC services and improve their quality.

5.3 Childminding

Section Grade:

C

➔ Government Commitment

A Programme for a Partnership Government commits to:

Support the development of a phased programme of reforms for childminding.

▶ **Progress: Some**

'Childminding' receives a 'C' grade in *Report Card 2019*, an improvement on last year's 'D' grade. The increase in the grade reflects the publication of the report and recommendations of the Working Group on Reforms and Supports for the Childminding Sector and the fact that only Tusla-registered childminders can participate in the Affordable Childcare Scheme. However, the childminding action plan was not delivered in 2018 as promised and the sector remains largely unchanged with the vast majority of childminders unregistered and unregulated.

Young children receiving care and education services in the homes of childminders have the same rights under the UN Convention on the Rights of the Child as children receiving centre-based services, including the right to services that conform to quality standards.⁷⁷⁰ Noting that young children form strong emotional attachments to their parents or other caregivers from whom they seek and require nurturance, care, guidance and protection,⁷⁷¹ the UN Committee calls on all non-state providers of services (whether for-profit and non-profit) to respect the principles and provisions of the UN Convention. The Committee reminds States of their primary obligation to ensure implementation of the Convention, their responsibility for service

770 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 23.

771 *ibid* para 5.

provision for early childhood development,⁷⁷² and their obligation to monitor and regulate the quality of non-state provision to ensure that children's rights are protected and their best interests served.⁷⁷³

► Reforming Childminding:

A childminder is a self-employed person who provides a childminding service.⁷⁷⁴ The Child Care Act 1991 (Early Years Services) Regulations 2016 and the Child Care 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 define a childminding service as a pre-school service/ school-age service offered by a person who single-handedly takes care of pre-school /school-age children⁷⁷⁵ in the childminder's home, for more than two hours per day, except where exemptions apply.⁷⁷⁶ Only childminding services catering for four or more pre-school children, who are unrelated to each other are subject to the 2016 Regulations and are required to register with Tusla.⁷⁷⁷ In 2018, to avoid the premature registration of childminding services that are currently exempt, the Child Care Act 1991 was amended to ensure that childminders caring for a specific number of school-age children do not fall within the scope of new school-age childcare regulations.⁷⁷⁸ In order to be exempt from registration with Tusla,

the maximum number of children a childminder can care for at any one time is six (other than their own children) with no more than three children of pre-school age.⁷⁷⁹ The exemptions mean that children are receiving a service in private homes, paid for by their parents, and child safety and the quality of the service is neither regulated nor monitored.

The exemptions and the overall lack of regulation and state oversight of the sector also mean that there are no accurate data, only estimates, on the numbers of childminding services in Ireland and of children availing of services. The Department of Children and Youth Affairs estimates that there are 35,000 childminding services caring for an estimated 88,000 children.⁷⁸⁰ In a 2016 survey, parents indicated that 10 per cent of children aged 12 years and under were cared for by childminder, au pair or nanny services.⁷⁸¹ At the end of 2018, 106 childminders were Tusla-registered⁷⁸² and Tusla is of the view that a significant number of paid childminders who are not exempt from regulation remain unregistered.⁷⁸³

To date, there has not been a national strategy dedicated to the development of these services to children and families. In September 2016, the Department of Children and Youth Affairs established a Working Group on Reforms and Supports for the

772 *ibid* para 32.

773 *ibid*.

774 Office of the Minister for Children, *National Guidelines for Childminders* (Stationery Office 2006) 29.

775 A pre-school child is defined in the Child Care Act 1991 (Early Years Services) Regulations 2016 (SI No. 221/2016) as a child who is under six years of age and who is not attending primary school. The childminder's own children may be included.

776 Section 58 of the Child Care Act 1991 exempts childminders taking care of one or more pre-school child who is related to the child or the spouse of a relative; where the child or children being cared for are in the same family other than the childminder's own children and a childminder taking care of not more than three pre-school children from different families other than their own children. The Child Care 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 exempts childminders caring for not more than six children (other than childminder's own children) at the same time and not more than three of these children can be of pre-school age. For example, a childminder can care for three pre-school and three school-age children at the same time, or five school-age and one pre-school child at the same time, without having to register with Tusla. Department of Children and Youth Affairs, 'Child Care 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 – Frequently Asked Questions' <<https://bit.ly/2Tbr5Ay>> accessed 7 January 2019.

777 Child Care Act 1991 (Early Years Services) Regulations 2016, Statutory Instrument (SI No 221) Regulation 12.

778 Select Committee on Children and Youth Affairs, *Childcare Support Bill: Minister for Children and Youth Affairs*, 27 February 2018.

779 These numbers refer to the maximum numbers and ages of children that a childminder can care for at the same time without being legally obliged to register with Tusla. However, a childminder can care for a maximum of 12 school-age children singlehandedly at the same time. Department of Children and Youth Affairs, 'Child Care 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 – Frequently Asked Questions' <<https://bit.ly/2Tbr5Ay>> accessed 7 January 2019.

780 The Working Group on Reforms and Supports for the Childminding Sector, 'Pathway to a quality support and assurance system for childminding, Volume 1: Summary report of the Working Group on reforms and supports for the childminding sector' <<https://bit.ly/2sHd56f>> accessed 29 November 2018, 16.

781 Central Statistics Office, *Quarterly National Household Survey Module on Childcare, Quarter 3, 2016* (CSO 2017) 1. Note that the CSO Quarterly National Household Survey Module on Childcare does not distinguish between a childminder, nanny or au pair. Childminding services operate in the childminder's home and childminders are self-employed, while nannies and au pairs operate in the child's home. Au pairs are legally designated as employees of parents, while nannies are also often employees.

782 Communication received by the Children's Rights Alliance from the Early Years Inspectorate, Tusla, 3 January 2019.

783 The Working Group on Reforms and Supports for the Childminding Sector, 'Pathway to a quality support and assurance system for childminding, Volume 1: Summary report of the Working Group on reforms and supports for the childminding sector' <<https://bit.ly/2sHd56f>> accessed 29 November 2018, 21.

Childminding Sector⁷⁸⁴ with the aim of producing proposals for the Minister for Children and Youth Affairs on necessary reforms and supports.⁷⁸⁵ In March 2018, the Working Group published its report *Pathway to a quality support and assurance system for childminding*, which made 20 key recommendations to reform the childminding sector in Ireland including:

- Legislative amendments to provide a more comprehensive legal definition of a childminding service, so that childminders minding one or more children of pre-school and school-age in their own home are required to be Tusla-registered and regulated;
- The development of minimum regulatory standards for childminding services for children from birth to 15 years;
- The development of appropriate quality standards for childminding in line with national quality and curriculum frameworks;
- The establishment of a National Childminding Office to deliver the Childminding Action Plan, including the creation of a system of staffed childminding networks to support childminders.⁷⁸⁶

In 2018, the Department of Children and Youth Affairs introduced a number of incentives to improve safety and quality within the childminding sector including specific first aid training and a post-award bursary to support childminders who obtain a QQI Level 5 qualification, a pre-requisite for registration with Tusla.⁷⁸⁷ The Department intends that all regulated childminders will hold a minimum qualification.⁷⁸⁸

784 The Working Group was chaired by Childminding Ireland, a membership-based organisation representing childminders and comprised Tusla, Pobal, Department of Children and Youth Affairs, Childcare Committees Ireland, Children's Rights Alliance, the National Childcare Voluntary Collaborative and Better Start.

785 Children's Rights Alliance, *Report Card 2017* (Children's Rights Alliance 2017) 43.

786 The Working Group on Reforms and Supports for the Childminding Sector, 'Pathway to a quality support and assurance system for childminding, Volume 1: Summary report of the Working Group on reforms and supports for the childminding sector' <<https://bit.ly/2sHd56f>> accessed 29 November 2018, 13, 24, 27, 35.

787 Department of Children and Youth Affairs, 'Minister Zappone announces supports for quality improvements in the childcare sector, including €1.2m First Aid training fund' (DCYA, 5 September 2018) <<https://bit.ly/2TaFygm>> accessed 24 January 2019.

788 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 21 December 2018.

In Budget 2019, the Minister for Children and Youth Affairs allocated €0.5m to develop a team of Childminding Support Officers to support the registration of childminders with Tusla and to help them upskill to meet required regulatory standards, which will be introduced in the coming years.⁷⁸⁹ All of these commitments are positive: they potentially support the implementation of the Working Group recommendations on the initial minimum regulatory standards for childminders under a reformed model. Further investment and resources are required to fully deliver reform.

First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019-2028 was published in November 2018.⁷⁹⁰ Childminding is central to the reform of the Early Childhood Education and Care (ECEC) system under the Strategy, specifically the extension of regulations and supports to all paid childminders.⁷⁹¹ Publication of the proposed Action Plan for Childminding is expected in early 2019⁷⁹² with the aim of progressing wider regulation and support for childminders.⁷⁹³

Parents may only use Tusla-registered services to avail of the childcare subsidies provided under the 'September Measures' or interim measures in place since September 2017 in advance of the full implementation of the Affordable Childcare Scheme (ACS). The Childcare Support Act 2018 also limits participation in the ACS to childcare services - both ECEC and school-age - that are registered with Tusla.⁷⁹⁴ This policy is welcome from a child's rights perspective. Public monies should not be used to fund childcare that is of unknown quality and is not subject to regulation and inspection. The ACS offers a significant incentive to encourage childminders to register and the opportunity to receive support to improve the quality of their services.

By registering with Tusla, childminders are open to periodic inspection by Tusla's Early Years Inspectorate.

789 Department of Children and Youth Affairs, 'Budget 2019, Information Pack', <<https://bit.ly/2TULCJG>> accessed 25 October 2018.

790 Government of Ireland, *First 5: A Whole of Government Strategy for Babies, Young Children and their Families 2019-2028* (Stationary Office 2018).

791 *ibid* 11.

792 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 20 December 2018.

793 Government of Ireland, *First 5: A Whole of Government Strategy for Babies, Young Children and their Families 2019-2028* (Stationary Office 2018) 158.

794 Childcare Support Act 2018, s 1.



2016 data on the childcare use and preferences of parents in Ireland show that 10% of children aged 12 years and under were cared for by childminder, au pair or nanny services. This equates to approximately 88,000 children.

In Tusla's analysis of 1,563 inspections carried out in 2017, only 40 were registered childminding services.⁷⁹⁵ Of these, 83 per cent were found to comply with the regulations assessed, however the report acknowledged the very low level of data relating to childminding services.⁷⁹⁶ Notably childminders are not named as mandated persons with a legal obligation to report child protection concerns to Tusla under the Children First Act 2015. However, registered childminders are required to have a Child Safeguarding Statement.⁷⁹⁷ While some unregistered childminders voluntarily undertake Children First child protection training there is no onus on them to do so.

Childminders have highlighted that key components in the national regulatory standards for ECEC services are not suitable to a home-based environment as they were designed for centre-based childcare services.⁷⁹⁸ For example standards relating to premises and space, and to nappy changing and sleeping requirements are very different in both settings. In a consultation to inform the work of the Childminding Working Group, childminders cited the inappropriateness of the regulations as a disincentive to register with Tusla, and expressed a wish for specific childminding standards regulations tailored to the home-based context.⁷⁹⁹

The Department of Children and Youth Affairs has committed to develop appropriate regulatory standards, with the Tusla's Early Years Inspectorate as regulator,⁸⁰⁰ on foot of the Childminding Working Group's recommendation.⁸⁰¹ In September 2018, Tusla's Early Years Inspectorate published a document outlining its interpretation of the requirements for childminders' compliance with the Child Care Act 1991 (Early Years Services) Regulations 2016 for pre-school

children as part of the new Quality and Regulatory Framework (QRF)⁸⁰² with input from Childminding Ireland.⁸⁰³ The accessible interpretation of the 2016 Regulations specifically for childminding services, coupled with the dedicated funding in Budget 2019 to support the registration of childminders with Tusla, are two positive steps to encourage childminding services to register with Tusla. Furthermore, the commitment in *First 5* to conduct a review of the 2016 Regulations and the accompanying QRF in light of different settings including home-based settings, to ensure proportionate regulation,⁸⁰⁴ is welcome.

The Working Group on Childminding identified an insufficiency of national supports for childminders to improve the quality of their services.⁸⁰⁵ The childminding sector requires radical reform and State recognition to ensure that it is properly regulated and supported. The childminding action plan should recognise, support and promote the important contributions that childminders can make to children's learning and development outcomes.

The action plan on childminding is due to be published in early 2019. This plan is essential to ensure progress in terms of regulating the childminding sector and providing the supports necessary to improve and assure quality services for children.

795 Tusla, 'Early Years Inspectorate Annual Report 2017' <<https://bit.ly/2T6zbud>> accessed 22 November 2018, 20.

796 *ibid* 23.

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Childminding Immediate Actions for 2019



Publish the action plan on childminding as a matter of urgency in 2019 to ensure the gradual reform and support of the childminding sector.

The Government should publish the proposed action plan on childminding to reform and support the sector. The plan must address issues of investment, quality, regulation and inspection. The plan should also address the issue of supporting childminders to improve their facilities and practices to meet appropriate minimum regulatory standards and quality standards.



Prioritise the regulation and registration of childminding services in the *First 5* implementation plan due by May 2019.

The amendment made to the Child Care Act 1991 exempting many childminders from regulation and registration could further weaken children's right to safe, quality services if childminding regulation is not prioritised.



Provide adequate resources to Tusla's Early Years Inspectorate to support the registration of childminders and conduct early years inspections.

To ensure that Tusla can manage any increase in childminding registrations, financial and personnel resources should be made available. The Early Years Inspectorate will also require adequate resources to meet demand and ensure oversight of the services.