

## Early Years Regulation Reform Programme

### Questions asked at the briefing on the 7<sup>th</sup> November 2013

- 1(i). Number of Inspectors in Dublin – needs to be addressed soon
- (ii). Registration: Registrar ultimate decision on:
  - a) Who makes the referral
  - b) Does the provider have recourse to the courts to challenge the decision of the registrar

(Question from Joe Rynn, DCCC)

- 1(i) *It is intended to fill the vacant areas in the first instance followed by additional support to the Dublin region. Filling of posts is dependent on budgetary provision and resources will be allocated according to greatest need.*
- (ii) *It is envisaged that inspectors will make recommendations to the registrar based on evidential findings on inspection. The registrar is not obliged to accept the recommendation. It is envisaged that a post of National Registrar will be established to deal with complaints and appeals from the Regional Registrar. The ultimate recourse for the provider is ultimately the courts.*

2. Will there be a weighting scale of compliance with the criteria of each national standard?

(Question from Michelle Hart BCCN)

*A final decision has not been made on whether a weighting system will apply to each standard. However services that require further follow up will be identified – what services pose a high risk or low risk. What is most important is the consistency of evidential gathering across services. It is necessary to keep the system as clear and simple as possible. With registration, while all services notified on enactment of the legislation will be deemed registered it is anticipated that many services will be re-registered over the initial 3-year period with conditions attached.*

- 3(i). Employing new Inspectors – what range of qualifications?
- (ii). Environmental Services will there be a team approach or separate service inspections?
- (iii). C/E personnel? Supernumerary or not what is the current position?
- (iv). Not possible to be compliant with Regulation 8 – up to 16 week Garda Vetting Unit please comment
- (v). Is there a right of reply to condition attached to proposed registration decision?
- (vi). The ongoing review research document – will it be published?
- (vii). What is the next level of consultation?

(viii). Are standards open to consultation and change?

(Questions from Teresa Heeney, Early Childhood Ireland)

- 3(i) *Currently there are a range of qualifications held by the Inspectors predominately with Public Health Nursing background but we also have inspectors with Social Care, Childcare, Paediatric Nursing and Educational backgrounds. The Children and Family (C & F) office are open to other disciplines being part of the inspectorate.*
- (ii) *The current position is that there are a range of Inspection processes involving the Environmental Health services. This will change with Registration; C & F have a Memorandum of Understanding which outlines how both services will continue to work together. Environmental Health involvement will be standardised across the country with regard to inspection under a Registration system – that is to say that the same process of inspection will be applied to every service.*
- (iii) *Community employment personnel are currently counted as part of the workforce, however it is proposed to move in the future to a system where C/E personnel will be supernumerary, this will be done in a manner that is realistic, fair and reasonable and will be cognisant of the sustainability of the service. Notice of any such changes to the current practice will be notified to service providers in good time.*
- (iv) *The Garda Vetting process raises an abundance of issues which C & F are working through with the DCYA, Garda Vetting Unit and the Data Commissioner, notwithstanding the fact that employers are carrying a huge risk where staff are not garda vetted.*
- (v) *A right of reply is always inherent in any process. The registrar will be the arbitrator and will be trained in this regard. All decisions will be transparent and evidenced based. Decisions made under the current system of Notification allows for “slide”. This will not be the case in a Registration system. There will be challenges with the new system of Registration – 1<sup>st</sup> phase will be transition, 2<sup>nd</sup> phase must be fully compliant.*
- (vi) *There is currently no reason not to publish the proposed document.*
- (vii) *Consultation is central to all development but the crux is limited time. The C & F want to consult and will consult as widely as possible but are limited in many instances given the time constraints on some developments. C & F are always open and welcome any suggestions or improvements. It is the intention of C & F to further consult with regard to Registration.*
- (viii) *The National Standards for Pre-School Services are within the remit of the DCYA. C & F’s will implement the National Standards – publication of same is imminent.*

4. Montessori not currently inspected are they deemed registered or managed as a new service when registration received?

(Question from Ruth Shorthall, SDCC)

*If the Montessori service is in existence and notified to us on implementation of registration – 1<sup>st</sup> January 2014 and congruent with the definition of the legislation will be deemed to be registered.*

5. Have recent discussions regarding a professional registration of early Years practitioners and childminders as a solution to Garda clearance difficulties arising when staff turnover takes place occurred?

(Question from Grainne McKenna, Fingal CCC)

*The matter of transfer of clearances between employers will ultimately be a matter for An Garda and the Data Commissioner. The social care council does not include child care professional on its register. Childminders are included with the exception of those detailed under the Child Care Act as being exempt. Garda Vetting and Data Protection constraints are the employer's responsibility. The issue of who is the "Employer" being defined in the legislation will go a long way in solving the Garda Vetting issue. A Garda vetting cert is technically only valid on the day it was issued.*

6. Concerns re: garda vetting/students cannot give garda vetting to student on student placements.  
Data Protection V's Garda Vetting Regulation 8.  
What is the current state of play?

(Question from Maire Mhic Mhathuna)

*The issue arises as there are two conflicting pieces of legislation required – Data Protection and Regulation 8. The New Vetting Bill may resolve this. The Data Commissioner is aware of the dilemma. Some colleges have overcome the issue of Data Protection by obtaining the consent of the student to furnish the provider with a certified copy of Garda vetting. C & F needs to continue to seek a resolution in the conflicting legislation of the Data Protection and Pre-school Regulations legislation.*

7. Childcare professional: None compliant because 2 pieces of legislation are contradictory.

3 issues:       (a)     Students, level 5 & 6 unable to get placement  
                     (b)     Cost of Registration for service providers  
                     (c)     Training – how is all this information to be rolled out to providers?

(Question from Maria Quinn, ACP)

- 7(a) *The position of C & F has not changed with regard to Garda vetting and the necessity for the provider to provide evidence to the Inspector that the student has been Garda/Police vetted. A non compliance will be documented if vetting is not available. A SOP was introduced and remains in place and is fair and reasonable and allows the provider time to obtain the vetting.*
- (b) *The cost of registration is within the remit of the DCYA to determine.*
- (c) *Training for providers remains within the remit of the DCYA and not within C & F.*
8. Will the requirements set out by the Minister recently regarding minimum levels of qualifications be set out in the amended Regulations or in the Standards mentioned? Do you know if there will be any recognition of prior learning?

(Question from Eugene Waters, Wicklow CCC)

*Minimum qualification requirements are set out in the revised National Standards for Pre-school services. Recognition of prior learning is not within the remit of C & F. It is within the remit of the DCYA to address in the first instance.*

9. When will school aged children be regulated? When will this start? E.g. Sept 2014

(Question from Jean Kelly, Roscommon CCC)

*There is no commencement date agreed. The process of regulation of school aged children has not yet been agreed, further consultation regarding the mechanism of operation will be required. Possibly the development of Regulations for school aged children. However, it is clear that the sector will be regulated under the newly amended Part VII of the Child Care Act 1991 of the legislation.*

10. Any idea on time frame for regulation of school aged children?

(Question from Avril McMonigle, Donegal CCC)

*Not at this time.*

11. Will summer camps and breakfast clubs be included in school age childcare regulation when it is part of the school aged childcare service offered?

(Question from Ademar Keenan, Leitrim CCC)

*It is possible that some may be included but this will need further examination.*

12. When registration is enacted how will registration decisions be determined, will it be on adherence to regulation or to the new standards?

(Question from Marie Cuddihy, Wicklow CCC)

*The process of Registration will be outlined in advance of commencement to the new inspection process. Conditions may be attached to a registration similar to improvement notices. A Registration process is ongoing and has 2 phases. Phase I looks at areas requiring pre-opening approval such as premises, records, Garda vetting etc. Phase II will be the inspection against National Standards.*

- 13(i). Clarity re: Fire Certificate, Planning Permission  
(ii). Editorial Boards – Is an editorial process is being applied to retrospective reports?

(Question from Oonagh Fleming, Kerry CCC)

- (i) *New services will be required to have Planning permission and Fire Certification. Existing services however will be required to show that they are compliant and have a suitable premises to operate a childcare service i.e. fire safety certificates and demonstration of exempted planning where applicable.*
- (ii) *With retrospective reports there is a limited quality assurance and editorial. Reports which have been sent cannot be changed. We check that the relevant redactions of personal information and the compliance and non-compliance judgement/statement is completed. With inspection reports from 1<sup>st</sup> July 2013 there is a robust editorial process in place at Regional and National level which is currently time consuming however has made a positive impact on the quality of inspection reports.*

14. Are all existing providers when transitioned to registration starting from a blank sheet in terms of existing compliance.

(question from Rita Melia, Early Childhood Ireland)

*Existing providers are deemed registered and therefore by default are presumed compliant with the legislation which places explicit responsibility on the provider to ensure that once enactment has occurred that they are actively compliant with the Regulations at all times.*

15. Will there be a check between DCYA/C & F that services in receipt of funding are notified for the service in regard to the service type? E.g. sessional service getting funding from DCYA but listed as a part time service with them

(Question from Aine Gahon, Carlow CCC)

*All applications for registration will be checked against existing DCYA and Pobal registers, however services will be applying for consideration as a specific service type under registration which may be different from their current operation. They will be inspected against their registered service type.*

16. Are the current inspection tools to be used to inspect against standards?

(Question from Teresa Heeney, Early Childhood Ireland)

*No we will revise the current inspection tools and methodology for coherence with the new National Standards.*

17. Will planning permission be retrospective?

(Question from Joy O'Driscoll, Wexford CCC)

*This needs further discussion with the local authorities. Should planning permission be deemed exempted the onus is on the service provider to show evidence from the local authority that no enforcement action will be applied.*

18. Garda Vetting: we are fortunate to have a dramatic improvement to 5 – 10 weeks. Police clearance – cost involved? ICPC – 60.00, Can C&F do anything to support providers with the expense for international Police vetting?

(question from Marie Crystal, Family Resource Centre)

*Certificates for Police vetting is a once off payment of past residence abroad of a worker unless the worker is translocating between different jurisdictions. The costings of this is outside the remit of the Pre-School Inspectorate.*

19. Concern re: new services opening up will they be prioritised for the pre opening Inspection particular in areas that have currently no early years Inspector.

(Question from Liz McGlone, Meath CCC)

*It is intended to fill the vacant areas in the first instance followed by additional support to the Dublin region. Filling of posts is dependent on budgetary provision and resources will be allocated according to greatest need. However, no new service applicant from the 1<sup>st</sup> January 2014 will be refused or left on a long waiting list as a result of vacant inspection posts; all will receive a pre-opening inspection.*

20. Very pleased with what I heard today – Good with a Capital “G”. I was involved in a study in Roscommon, which found high levels of stress amongst childcare providers – due to the level and speed of change in requirements in childcare regulation and funding schemes over the last 10 years, and particularly the fact that all these changes happen over their heads.

Now more stress on providers arising from further changes over their heads, despite a context where the “change is good”. How can providers be supported to ensure stress level are minimised?

(Question from Des Curley, Connaught Group)

*C & F, Voluntary organisations and County Childcare Committees (CCC) need to be supportive to providers. C & F will give due notice of changes and provide information at every juncture. It is our intention to reassure not to alarm the sector. All mechanisms such as voluntary organisations and CCC’s will be called on to provide support to providers.*

21. Will the review being undertaken include complaints?

(Question from Sharon Dunne, Barnardos)

*No, Inspection reports fro the period January 2012 to May 2013 are only being reviewed within the commissioned research.*