



Early Years Inspectorate

Regulatory Notice

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Title:	Services Operating Outside of their approved Registration
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1.0 Context

Early Years Services are required to become registered before they can become operational. The application approval process involves the assessment of several features of a proposed service.

The assessment of applications for Early Years Service is a two-stage process. Firstly the information supplied on the application form and the required documentation submitted through the portal are assessed. Then, once the Early Years Inspectorate is satisfied that the application submission is complete, the premises where the proposed service will operate is inspected to determine that it is suitable to provide services in line with the particulars of the application. This is called a “fit for purpose” inspection.

The primary areas assessed through the two-stage of service suitability are as follows.

1. That the registered provider and person in charge are suitable persons to be in charge of or carry on an Early Years Service.
2. That the premises are suitable and safe to provide the service type applied for.
3. That the premises are safe for use through examination of statutorily required fire safety documentation.
4. That suitable sleep areas and rooms are provided where required.
5. That the premises are suitable for the age profile of the children proposed to be cared for.
6. That the premises are suitable for use as an Early Years Service through examination of statutorily required planning permission.
7. That there is sufficient floor space for proposed number of children to be accommodated.
8. That there are sufficient and suitable sanitary facilities for the number of children and those who work in the premises.
9. That there is a sufficient number of qualified staff to care for the proposed number of children in attendance.

School Age Care settings do not currently require a fit for purpose inspection as part of their registration approval assessment. However once registered, a school age service may be inspected and premises suitability checks can be carried out.

Once a service is registered and the details are published on the national register, the registered provider, if they wish to alter the particulars of their registration, must apply through a change in circumstance process in advance to do so.

The process of approval is designed to ensure that the changes being made are subject to the same rigour of assessment that was applied to the original suitability verification process. Changes to some service particulars which are not approved can place children at risk.

2.0 Pre- Approval of Changes to registration

It is a requirement of the regulations to ensure that all proposed changes are notified to the Early Years Inspectorate registration office 60 days in advance of the change coming into effect. (see Regulation 8 of the Child Care Act 1991 (Early Years Services) Regulations 2016 (S.1. 221 of 2016) & Regulation 7 of the Childcare Act 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 (S.I. No. 575/2018)

This period is designed to allow Early Years Inspectorate time to assess the information in relation to the proposed alteration and ensure that the premises is suitable to provide for the change proposed

A temporary Early Years Service is required to provide 7 days' notice to the registration office in advance of the change coming into effect.

It is important to note that changes cannot be made unless they are a) notified according to the timeframes above and b) formally approved by the Early Years Inspectorate.

3.0 Categories of Change in Circumstance request

There are two broad categories of change requests

Category 1 requests are those that are considered administrative only such as change of service email addresses, contact phone numbers, change of Person in Charge etc,

Category 2 requests are those that require a fit for purpose inspection to assess their suitability such as a new or altered premises, an increase in the number of children, change in age profile of children or change in service type.

All change requests are of equal importance and will be processed only when they are submitted on the appropriate application form with all of the required supporting documentation.

4.0 Compliance Response following failure to notify the Early Years Inspectorate of a change.

Where a registered provider is found to have operated a change without approval, the matter will be subject to appropriate assessment and intervention. Children being placed at unnecessary and avoidable risk is treated very seriously and regulatory intervention will be taken in all instances.

Category 1 changes that have been actioned without approval must be regularised through the approved Change in Circumstances process without delay. Such changes will not be backdated, nor will the Early Years Inspectorate accept any liability for errors that have accrued from a failure of a providers to do so.

Category 2 changes which have been actioned without approval are usually identified on inspection or via the Early Years Inspectorate's Feedback and Concerns process. The

inspectorate's first priority is to ensure that the change as operated is not posing any risk, discomfort or harm to the children being cared for.

The following escalation processes will be applied

1. Where the inspectorate is satisfied that a resultant risk has been identified, an immediate action notice will be issued to the provider instructing mitigation to address the identified risk to children will be undertaken and confirmed.
2. The registered provider will be required to attend a meeting with the regulatory enforcement team to address the circumstances under which the change was made without prior approval.
3. The registered provider may seek to regularise their registration only where the appropriate documentation to support the change they have made is immediately available. The provider will not be afforded a sustained period to commence securing of the necessary documents.
4. Regularisation can only be facilitated through the change in circumstances process. The record of these changes will not be backdated.
5. Where regularisation cannot be achieved, the registered provider will be directed to cease operation of the unauthorised change on the grounds that ongoing risk to children will not be permitted. The registered provider will be afforded a limited time period to do so, this will allow those most affected to be informed.
6. Failure to comply with a direction issued by the inspectorate or the submission of false or misleading information will result in escalation for enforcement, up to and including prosecution for noncompliance with the regulations and duties mandated by the relevant legislation.

The Early Years Inspectorate's primary concern is the safety and wellbeing of children. The inspectorate does not accept any liability or responsibility for losses by registered providers arising from the enforcement of regulations and will provide information as appropriate to Pobal, local authorities and any relevant body as necessary.