

Independent Report on a Public Consultation on a Review of Regulations for Early Learning and Care

March 2023

Prepared for the Department of Children, Equality, Disability, Integration and Youth
by ACE Communication Ireland.



**An Roinn Leanaí, Comhionannais,
Míchumais, Lánpháirtíochta agus Óige**
Department of Children, Equality,
Disability, Integration and Youth



Context

This report presents an independent review and analysis of survey responses, submissions, and outcomes from focus groups in relation to the Public Consultation on a Review of Regulations for Early Learning and Care.

This report was commissioned by the Department of Children, Equality, Disability, Integration and Youth, and produced by ACE Communication Ireland.

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The Department of Children, Equality, Disability, Integration and Youth has commissioned and funded this public consultation. The views and opinions contained in this report are those of participants, summarised by the authors, and do not necessarily reflect the views of the Department.

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1. Executive Summary

1.1. Introduction

In 2019, the then Minister for Children and Youth Affairs announced that a review of the enforcement powers of the Tusla Early Years Inspectorate (Tusla EYI) would be undertaken by the Department of Children and Youth Affairs (DCYA). The review would look at strengthening the enforcement powers of the Tusla EYI to allow it to intervene more promptly where it had concerns about significant breaches of regulations by a service. It would examine the possibility of providing powers to Tusla EYI to close down or suspend services immediately, where it had significant safety or welfare concerns. The review would consider how parents can be informed at the earliest possible opportunity of serious concerns about a service being investigated by Tusla EYI.

Work on the review commenced in 2019 but was paused during the Covid-19 pandemic. The Minister for Children, Equality, Disability, Integration and Youth recommenced the review in 2021.

1.2. The public consultation

The public consultation was launched in March 2022 and the views of a wide range of stakeholders sought.

There were two phases to this consultation. Phase 1 involved written submissions and online surveys, with Phase 2 comprising of a series of focus groups.

In total, 20 written submissions were received by the Department, and 504 surveys were completed. 25 individuals took part in the focus groups at Phase 2.

1.3. The key findings

1.3.1. Regulator power

Whilst the majority of participants believed that Tusla EYI has sufficient powers to address general quality issues in services, there was support for strengthening the Regulations in particular areas, such as temporary closure of a registered service where significant welfare or safety concerns arise, and immediate closure of unregistered services.

While the consultation noted strong support across the stakeholder groups for temporary closures due to safety concerns, this support was dependent on a number of safeguards being implemented. The most commonly requested safeguard was

consistency in the application of the Regulations by inspectors. Connected to this, there was broad agreement that there should be transparency around the types of non-compliances that might trigger these new enforcement powers with several participants proposing a grading system of risks and breaches.

There was also support for provision of additional enforcement options in legislation such as immediate action notices and improvement notices.

A small majority of participants agreed that where more minor breaches of the Regulations occur, lesser penalties, such as fines, should apply, with providers given a short timeframe to put non-compliances right before fines are imposed. Some providers expressed concern about the additional financial pressures that fines would place on them.

Overall, there was little tolerance for unregistered services. There was strong consensus that unregistered services should be closed but mixed views on whether this should be permanent and how, or if, these services should be supported.

There was considerable support for an expansion of the Regulations to enable Tusla EYI to assess, at registration and re-registration, whether a proposed registered provider/person in charge is a “fit person” to operate a service, and to assess, at any point in the registration period, whether a proposed registered provider/person in charge remains a “fit person” to operate a service.

In relation to the introduction of a “fit person” regulation, several participants stressed the need to have agreement between the DCEDIY, Tusla EYI and the sector on what constitutes a fit person. Suggested factors in the determination of a ‘fit person’, included Garda vetting and references, qualifications, experience, knowledge of the Regulations and sector, communication and management skills. The majority of parents felt persons should be excluded if they had managed a service that was previously closed by Tusla EYI. Participants were unanimous that a service should only be removed from the register for a very serious and legitimate reason.

It was recommended by some participants that consideration be given to the protection of staff where a service is closed. Educators, providers, and representative organisations commented on loss of earnings, potential damage to professional reputation, and the impact on the health and wellbeing of staff.

1.3.2. Implementation of the Regulations

A small number of providers and educators expressed concern that the Regulations are a 'one size fits all' approach which does not accommodate different service types.

Some participants sought additional clarity in specific areas, including nappy changing facilities, Garda Vetting, staff ratios, floor space, healthy eating policies, and risky play¹.

There was strong support across all stakeholder groups for including specific and detailed provisions in relation to safe sleep, facilities for rest, and minimum space requirements for facilities for rest and sleep in the Regulations.

The majority of participants said that the Regulations create an unnecessary administrative burden and that this places large pressure on providers, particularly smaller services. There was broad agreement that elements of the administration requirements could be further streamlined or reduced without impacting negatively on the quality of services.

The change in 2022 to the re-registration process was welcomed by some providers and noted to have had a positive impact. Some participants completing the survey were in favour of having no fixed period attached to registration. Several providers and educators asked for more advice and support from Tusla EYI during the registration and re-registration process.

1.3.3. Outdoor provision

There was strong support for the inclusion of minimum outdoor space requirements in the Regulations. A large majority of participants agreed that the Regulations should include minimum standards for facilities in services operating wholly outdoors, for example, outdoor toilets, washing and changing facilities. Some requested a set of specific regulations for fully outdoor services, expressing the view that the current Regulations are inappropriate, whilst others felt the current Regulations could be adapted.

¹ Risky play can broadly be defined as physical, expressive and exciting play, which involves an element of risk, challenge and adventure. It is fun, exhilarating and even somewhat scary (NCCA, 2021).

A number of providers said they were unsure what is expected of a wholly outdoor service and would welcome clearer guidance on this.

Whilst it was accepted that standards of health and safety must be maintained, it was suggested that any regulations for outdoor services must address the need for 'risky or adventurous play'.

Most participants agreed that the Regulations should include minimum standards for facilities to be provided in outdoor spaces attached to services operating mostly indoors. There was concern that these must not be overly prescriptive or excessive, and any changes should be phased in over time. Some participants argued strongly that any amended minimum outdoor space requirements should make allowances for existing services with limited or no outdoor space. Where a service has limited or no outside space, participants supported a creative approach to ensure children do not miss out on key learning and experiences.

1.3.4. Communication with Parents

There were mixed views in relation to sharing of information with parents. While 75% of respondents overall thought that parents had sufficient access to information about the quality of services, there was broad agreement that parents should be informed directly and quickly about serious breaches and immediate action notices. Most parents felt they should also be informed directly about improvement notices but there were mixed views from other stakeholder groups. Some providers and educators expressed concern about sharing information on other actions/notices or minor non-compliances with parents as this might cause undue concern or damage their reputation.

There were diverse views on who should be responsible for sharing information with parents. Both Tusla EYI and the service was the most popular view, followed by the service, with a much smaller number of participants saying Tusla EYI only. Generally, it was accepted that the provider should be given the opportunity to communicate information to parents first following an inspection. Many parents and representative groups felt providers should be required to confirm that they have done this. If key information is not shared by the provider or if a provider refuses a request for information, then Tusla EYI should have a responsibility to step in.

The majority of participants supported a balanced approach to information sharing, grounded in an open and honest relationship between the provider and parents. It was agreed that open communication between the provider and parents is an essential component of a good quality service.

There was overwhelming support for the provision of assistance to parents in cases where a service is closed by Tusla EYI, either temporarily or permanently. There was no consensus on who should provide this assistance. Where a service is closed at short notice, parents requested financial supports and the contact details of other local providers.

There was strong agreement that children's voices should be 'reflected in every aspect of the inspection process'. The voice of parents, as their children's strongest advocates, should also be solicited. Some providers and managers were cautious about involving parents as they were concerned that some may have 'their own agenda' or be 'unfairly critical'. Several providers said they would be reluctant to take on the additional burden of gathering feedback from parents during an inspection.

Some parents were aware that they could make a complaint directly to Tusla EYI, but it was suggested that this information should be more widely available, and the process should be as simple as possible.

Participants proposed a range of actions to improve engagement with and access to information for parents. These included providing information in different formats and languages including Plain English, a public awareness campaign or information leaflets for parents about Tusla EYI, a more user-friendly Tusla website, and changes to the Regulations to ensure providers have communication policies and parents are informed of the outcomes of an inspection.

1.3.5. Sharing information with the public

Participants were divided on whether additional information in relation to service quality and enforcement actions should be made available to the wider public. Many providers, in particular, were concerned about sharing information with the public. It was suggested that 'how much information is given, to who, and when, should be reflective of the level of risk to children'.

Most participants agreed that additional information on minor non-compliances does not need to be shared with the public. It was recommended by some that following an inspection, a brief summary of the findings could be made available on the Tusla website until the full report is ready, on the grounds that this might offer reassurance to parents that there were no major non-compliances or enforcement actions.

The current method of sharing information with the public in relation to service quality and enforcement actions is through the Tusla website. This is still the most

popular option amongst stakeholders. Some participants suggested that there should be more awareness raising amongst the public that inspection reports are available on the website.

1.4. Additional topics raised

The consultation also captured a range of views and suggestions in relation to topics which are outside the scope of this review. The information has been shared with the DCEDIY.

2. Introduction

The regulation of Early Learning and Care (ELC) services is provided for in the Child Care Act 1991 (as amended by the Child and Family Agency Act 2013) and the Child Care Act 1991 (Early Years Services) Regulations 2016. The Act provides substantial powers to the Tusla Early Years Inspectorate (Tusla EYI) in relation to registration, inspection and enforcement. The Regulations set out the minimum standards ELC services must meet in order to register with the Tusla EYI and to operate an ELC service. The purpose of the Regulations is to secure the health, safety and welfare and promote the development of children attending early learning and care services.

In 2019, the then Minister for Children and Youth Affairs announced that a review of the enforcement powers of the Tusla EYI would be undertaken by the DCEDIY and the Chair of Tusla had been consulted to get the views of the Board on the matter. The review would look at strengthening the enforcement powers of the Tusla EYI to allow it to intervene more promptly where it has concerns about significant breaches of Regulations by a service. It would examine the possibility of providing powers to Tusla EYI to close down or suspend services immediately, where it had significant safety or welfare concerns. The review would consider how parents can be informed at the earliest possible opportunity of serious concerns about a service being investigated by Tusla EYI.

The review would also take the opportunity to examine lessons learned from the implementation of the Regulations since 2016, looking particularly at any significant gaps in the Regulations, or areas for clarification or streamlining. It would examine whether the implementation of the Regulations is meaningful and pragmatic.

Work on the review commenced in 2019 but was paused during the Covid-19 pandemic. The Minister for Children, Equality, Disability, Integration and Youth recommenced the review in 2021.

2.1. The Public Consultation

One integral part of the review is the public consultation, which was launched in March 2022. The regulation of ELC services impacts a wide range of stakeholders, and the Minister sought to obtain the views of these stakeholders and the wider public during the review.

There were two phases to the public consultation:

- Phase 1 took place between March and May 2022. It provided an opportunity for stakeholders to make a written submission and/or complete an online survey.
- Phase 2 took place from August to October 2022. It provided an opportunity for stakeholders to take part in a series of focus groups.

This report details the public consultation process. It describes the main findings from both Phase 1 and Phase 2 of the process. It also briefly outlines important views and ideas expressed during the consultation process, but which are outside the remit of this review.

3. The Consultation Process

The Minister for Children, Equality, Disability, Integration and Youth launched the public consultation on the 23 March 2022. A comprehensive consultation process followed with key stakeholders across the ELC sector. These included parents, educators, managers, providers, childminders, representative and support organisations, academics, students, elected representatives, and members of the public. Participants came from a range of different service types including private and community services, and single and multi-centre providers. There was representation from different parts of the country, and from both rural and urban settings. Significantly more women participated in the consultation than men, which reflects the sector in general.

The public consultation process was managed by the Department of Children, Equality, Disability, Integration and Youth (DCEDIY). Participants were recruited via information on the website and social media, and through established networks and representative organisations.

3.1. Phase 1

There were two strands to Phase 1 of the public consultation. A short background paper was made available to participants (Appendix 1) on the gov.ie website. Participants were encouraged to read this before contributing to the consultation.

Participants were asked to consider their contribution under three key themes:

1. Does the Regulator have sufficient powers to address poor quality?
2. Are there issues arising in implementation of the Regulations that require changes to legislation or to the Regulations?
3. Are there changes to legislation or the Regulations that would give parents better access to information on the quality of services?

3.1.1. Written submissions

This strand of the consultation process was open to individuals or organisations from 23 March 2022 to 27 May 2022 (Appendix 2). The call for written submissions was available in English and Irish.

The call for submissions sought views across four areas:

- Regulator Powers

- Implementation of the Regulations
- Outdoor Provision
- Information for Parents

Each area had a summary of the current position and identified specific areas where views were being sought.

In total, 20 written submissions were received – 3 from individuals and 17 from organisations. Of the 17 organisations, 8 were representative organisations and networks, and 9 were from individual ELC providers or from a chain of providers. There were a mix of private and community providers.

3.1.2. Survey

During Phase 1 of the process, key stakeholders and the general public were invited to complete an online survey (Appendix 3). The survey was available in English and Irish. This strand opened on 23 March 2022 with a closing date of 06 May 2022.

The survey included very specific guidance. Thirty questions were organised into four main sections:

- Section 1 - Does the Regulator have sufficient powers to address poor quality?
- Section 2 - Are there issues arising in implementation of the Regulations that require changes to legislation or to the Regulations? Are the Regulations supporting quality in practice for outdoor services?
- Section 3 - Are there changes to legislation or the Regulations that would give parents better access to information on the quality of services?
- Section 4 – Further views on adjustment of other areas in the Regulations.

For most questions, participants were provided with a statement and asked to indicate whether they Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree or Don't Know. They were also given the opportunity to provide additional commentary or more specific detail at certain points in the survey.

In total, 504 surveys were completed. 140 participants indicated that they were representing an organisation in their survey response. The majority of these organisations (128) were ELC services, with a mixture of private and community providers. In a small number of cases, there was more than one survey response from an individual provider or chain.

364 said they were responding as individuals. These individuals were asked to identify their role (Table 1).

Table 1 – Participant Roles

Participant Role	Total Numbers
Owner/Provider	183
Educator	83
Parent / Carer	39
Member of the Public	7
Tutor/Academic	5
Childminder	2
Student	3
Elected Representative	1
Other	6
Total	329

35 participants identified as having more than one ELC related role (Table 2).

Table 2 – Multiple Roles

Participant Roles	Total Numbers
Owner/Provider and Educator	12
Parent/Carer and Educator	10
Educator and Student	2
Educator and Tutor	1
Parent/Carer and Tutor	1
Owner/Provider and Educator and Parent	4
Owner/Provider and Educator and Tutor	1
Owner/Provider and Educator and Parent/Carer and Student	1
Owner/Provider and Educator and Parent/Carer and Tutor	1
Educator and Childminder and Parent/Carer and Tutor and Student	1
Owner/Provider and Educator and Parent/Carer and Tutor and Student	1
Total	35

3.2. Phase 2

At the outset of Phase 2, the written submissions and survey responses from Phase 1 were analysed. This analysis informed the planning and facilitation of a series of online focus groups with key stakeholders. A topic guide was developed to identify gaps in the data collected at Phase 1 and support further exploration of emerging themes (Appendix 4). This topic guide was agreed with the DCEDIY.

Participants were recruited in a number of ways:

- Participants at Phase 1 were asked if they would be willing to take part in focus groups at Phase 2 of the consultation. Those who expressed an interest (220 approximately) were sent an email offering them the opportunity to take part in a focus group. All were offered at least one date with some offered a choice of dates.
- The DCEDIY advertised the focus groups on social media.
- The DCEDIY contacted members of the ELC Stakeholder Forum².
- The National Parents' Council emailed their members to offer parents the opportunity to have their voices heard.

The focus groups were scheduled mainly in the evening. However, participants were given the option to contact the research team if the date or time did not suit them. Those that expressed an interest in taking part were accommodated wherever possible. Participants were given the contact details of the facilitator if they wanted to ask questions and a link to information about the consultation. The facilitator asked participants to outline any supports that they might require to access the focus groups. A sample invitation email can be found at Appendix 5.

² The Early Learning and Childcare Stakeholder Forum is a consultative forum established by the Department of Children, Equality, Disability, Integration and Youth with stakeholders in the early learning and care and school age childcare sector. Members include groups representing children, families, childcare providers, childcare staff, academics and other groups with an interest in early learning and childcare as well as State bodies involved in the regulation, policy development or delivery in the area including Tusla, Pobal, Childcare Committees Ireland and the Department of Education.

Five focus groups were conducted during October 2022. Four of these focused on a specific stakeholder group, whilst one was a mixed group:

- Focus Group 1 – Educators
- Focus Group 2 – Parents/Carers
- Focus Group 3 – Representative and support organisations
- Focus Group 4 – Mixed stakeholder group
- Focus Group 5 – Owners/Providers

In total, 25 people took part in the focus groups. Some of the participants at Phase 2 had also contributed to Phase 1 of the process.

The participant profile is outlined below (Table 3).

Table 3 Focus Group Participant Profile

Participant Role	Total Numbers
Owner/Provider	9
Representative and Support Organisations	7
Educator	5
Parent/Carer	3
Tutor/Academic	1
Total	25

The duration of each focus group was approximately 90 minutes. A note taker was present for each group. In the main, the groups ran smoothly with minimal technical difficulties.

The topic guide was adapted for each focus group to ensure the most relevant questions were put to each stakeholder group. The facilitator followed the guide whilst also allowing the discussion to develop in a natural way and provide opportunities for all participants to have their say.

Although the numbers participating in the focus groups were small, the discussions generated rich data. Participants welcomed the opportunity to voice their opinions and engaged freely, sharing their experiences and ideas.

3.3. Data management and analysis

The data collected during Phases 1 and 2 consisted of personal data, written submissions, surveys, and focus group transcripts. All data from the project was stored securely and in line with data protection and storage policies.

The names of participants, providers, organisations, or any other identifiers are not used in this report. Codes were used for participants during the data analysis. The coding information was stored separate to the data and destroyed once analysis was complete. The data was organised and coded manually.

4. Findings from Phase 1

This section outlines the findings from the written submissions and provides a breakdown of the survey responses. Where there is a divergence of views between stakeholder groups, this is identified. However, this was only noted in a small number of areas.

For the purpose of the survey analysis, the responses from participants identifying as a member of the public, childminder, tutor/academic, student, elected representative etc. are grouped into the category called 'other'.

4.1. Regulator power

The Tusla EYI is the independent statutory regulator for the sector with responsibility for registering services, inspecting against the Regulations and bringing enforcement action where necessary. The 2013 amendment of the Child Care Act 1991 and the 2016 Regulations together provided substantial new powers to Tusla EYI, including the powers to maintain a register, refuse to register a service, apply certain conditions to a registered service, remove a service from the register if they are not operating in line with the Regulations, prosecute a person who is operating an unregistered service, and prosecute a person who does not comply with a condition of registration.

Tusla EYI does not have the power to immediately and temporarily close a service, even where there are concerns about significant breaches of the Regulations.

Where a service is operating without registration, Tusla EYI may seek a Court Order to enter the service, may instruct the service to cease operating and may bring a prosecution against the service; however, it does not have the power to immediately shut the unregistered service.

Participants understood that the DCEDIY is considering the introduction of powers to enable Tusla EYI to close an unregistered service or for immediate temporary closure of a registered service where it has significant welfare or safety concerns. The DCEDIY is also considering including some additional enforcement powers in legislation which may enable Tusla EYI to take swift action where it has a significant concern about a service or a particular aspect of a service but where closure of the service is not necessary or appropriate. This might include statutory improvement notices, statutory immediate action notices and penalties for non-compliance.

Depending on the severity of the non-compliance, these actions could be taken immediately or as part of an escalated enforcement path.

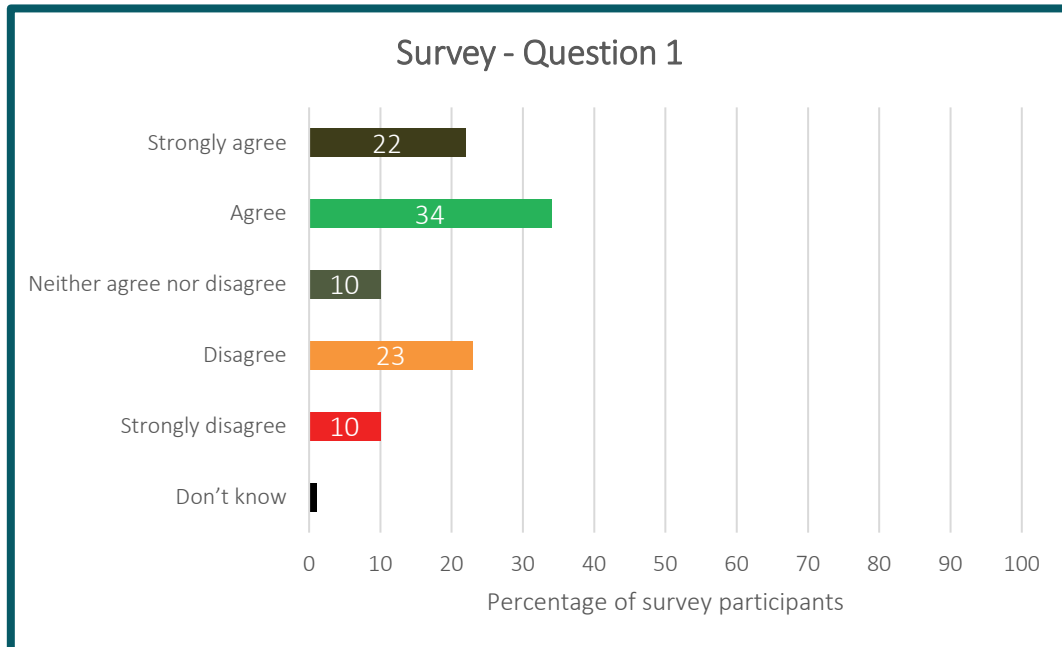
4.1.1. Enforcing the Regulations

Whilst the majority of participants believed that Tusla EYI has sufficient powers to address general quality issues in services, there was support for strengthening the Regulations in particular areas, such as temporary closure of a registered service where significant welfare or safety concerns arise, and immediate closure of unregistered services.

Overall, 56% of survey participants in Phase 1 agreed or strongly agreed that the current Regulations provide Tusla EYI with sufficient powers to address poor quality in ELC services (Figure 1). Some participants expressed frustration as they felt current enforcement powers are not being used sufficiently.

33% disagreed or strongly disagreed. Parents were more likely to disagree than other stakeholder groups, with almost two-thirds expressing the view that Tusla EYI currently does not have sufficient powers to address poor quality in ELC services.

Figure 1: The current Regulations provide Tusla EYI with sufficient powers to address poor quality in ELC services.



46% of participants agreed or strongly agreed that Tusla EYI's powers of enforcement of Regulations should be strengthened (Figure 2A). Parents (72%), others (74%) and

educators (60%) had the highest numbers in agreement, whilst 52% in the provider group disagreed or strongly disagreed with this statement (Figure 2B).

Providers were fearful that new powers would be given to Tusla EYI but might not be implemented in a fair and transparent manner. Participants identified the need for safeguards against unjustified actions or unfairness.

Whilst I welcome Tusla taking action against providers where there are significant welfare and safeguarding risks for children, I would be cautious about overly strengthening its powers without clarity on what exactly this entails and how the sector would be reassured that these powers would be applied proportionately and fairly.

Figure 2A: The Tusla EYI’s powers of enforcement of Regulations should be strengthened.

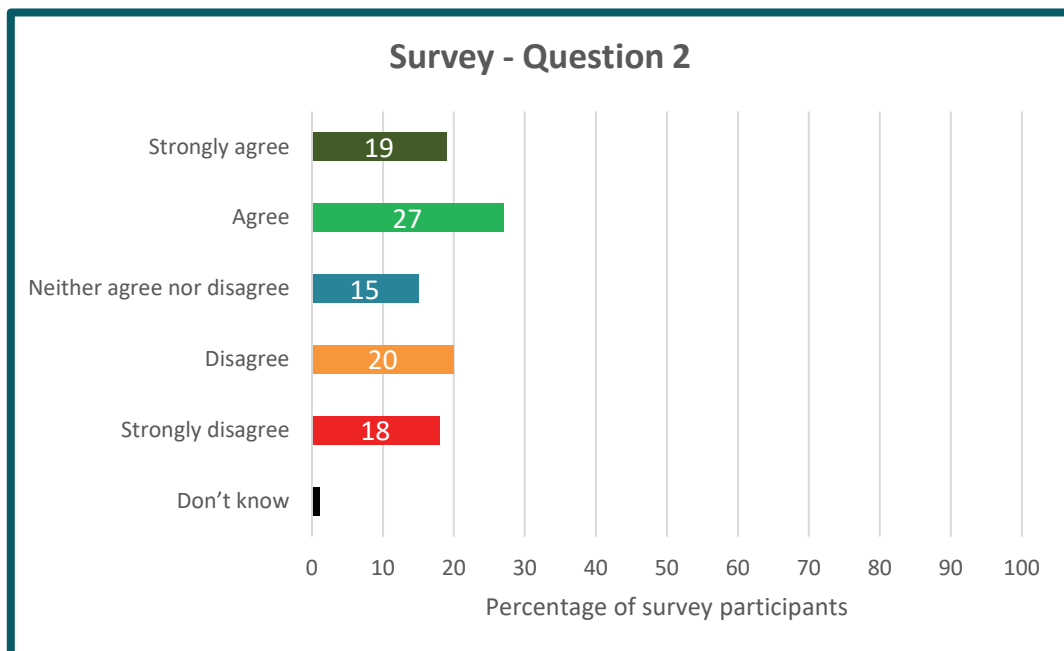
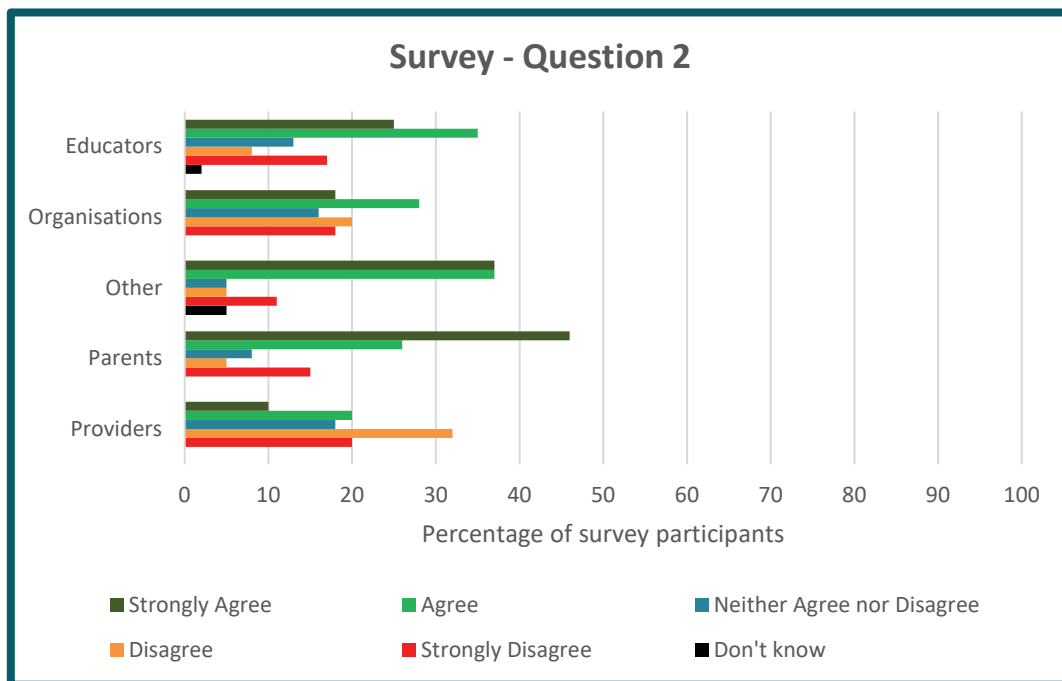


Figure 2B: The Tusla EYI’s powers of enforcement of Regulations should be strengthened – breakdown by stakeholder group.



Overall, there was very strong agreement (71%) across the participant groups that the Regulator’s powers should be strengthened to provide for immediate temporary closure of a service where significant safety or welfare concerns are identified (Figure 3).

This agreement was dependent on a number of safeguards being implemented. The most commonly requested safeguard was consistency in the application of the Regulations by inspectors. Educators, providers, and representative organisations noted significant differences between inspectors in relation to non-compliances.

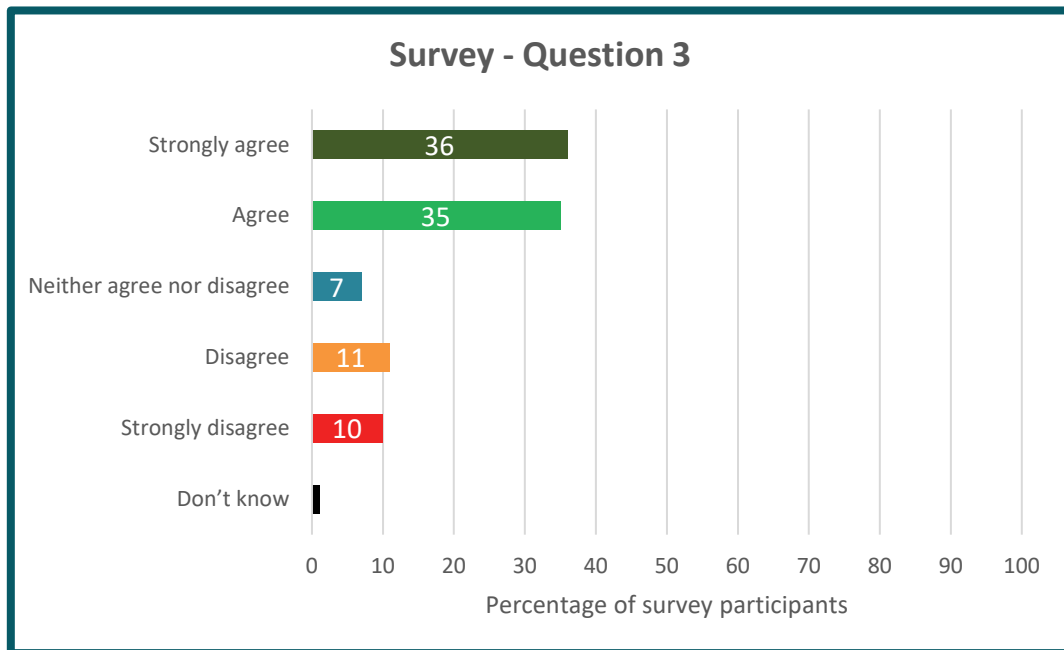
We need to have a baseline for all inspectors to follow on each Regulation. Commonly what is allowed in one service is not allowed in another.

I think the inspectors all need to be looking for the same things...every time we have inspections there has been a number of differences from the last that an inspector would recommend or tell us to change...the regulations are not changing enough for things to be different in two years.

A number of providers asked for a clear appeals process to be established.

At present there is no real appeal process of Tusla decisions, one has to go to the courts. This needs to be addressed.

Figure 3: The Regulator’s powers should be strengthened to provide for immediate temporary closure of a service where significant safety or welfare concerns are identified.



4.1.2. Clear definition of risk and levels of non-compliance

Participants were very vocal in their request for more information on the types of risks and non-compliances that might lead Tusla EYI to exercise any enhanced powers.

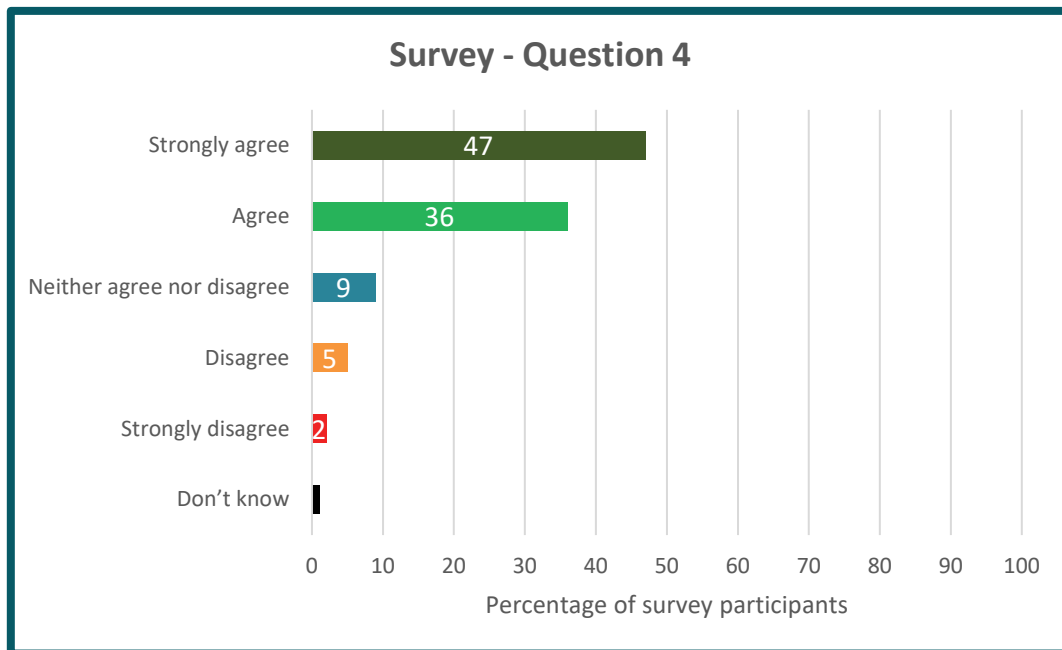
Several participants across the stakeholder groups proposed a grading system of risks and breaches, for example, low/medium/high, or a traffic light system with red indicating major breach and so on. It was felt that such a hierarchy would remove ambiguity, reduce a lack of consistency amongst inspectors, and make clear to services, parents, and the public the risk-rating that applies to each non-compliance. Providers and organisations felt strongly that any such system should be developed in partnership with the sector prior to any enhanced powers being awarded.

During focus group discussions, examples were given of minor non-compliances which some participants suggested did not pose a major risk to children and would be graded as low. Other participants did not agree with these examples and graded those risks more highly. Examples include positioning of cots, exit doors, or fridge temperatures.

4.1.3. Supports for parents

There was very high support (83%) for the provision of assistance to parents in cases where a service is closed temporarily by Tusla EYI (Figure 4). There was no consensus on who should provide this assistance.

Figure 4: Where Tusla EYI temporarily closes a service due to significant safety or welfare concerns, alternative arrangements for parents and children should be put in place.



4.1.4. Unregistered services

There was strong consensus (70% agree or strongly agree) that unregistered services should be closed (Figure 5A), but mixed views on whether this should be permanent and how, or if, these services should be supported to register. Some participants felt this should be managed on a case by case basis, taking into consideration the reason why the service is unregistered, for example, if a lapse in registration is due to an administration error or illness.

A slightly higher percentage of providers (24%) and others (26%) disagreed with the immediate closure of unregistered services (Figure 5B).

Figure 5A: The Regulator’s powers should be strengthened to provide for immediate closure of a service which is operating without being registered.

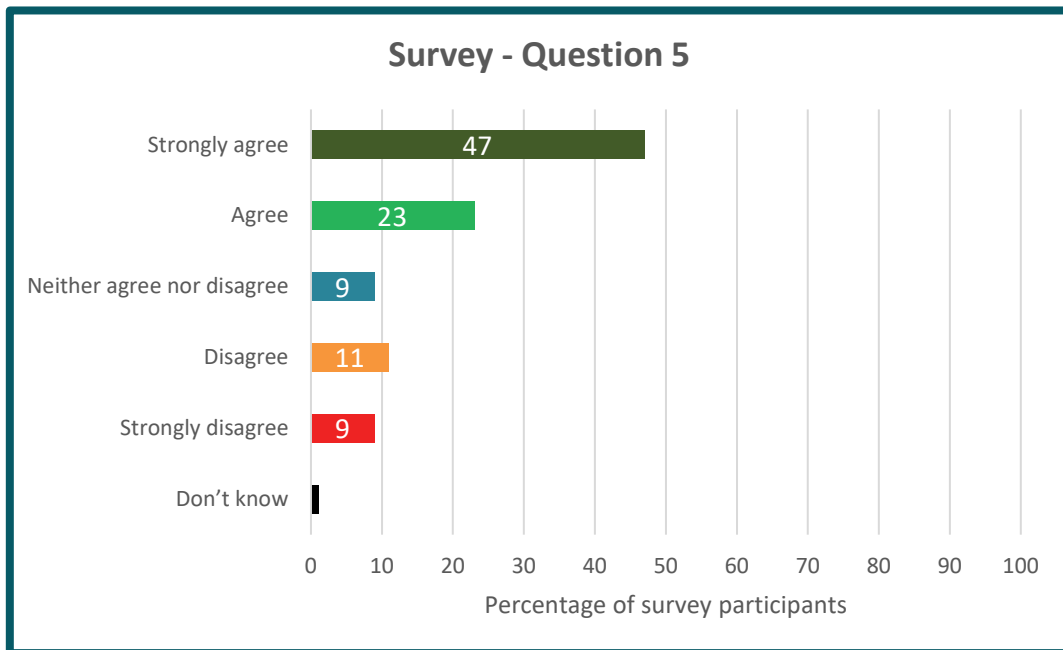
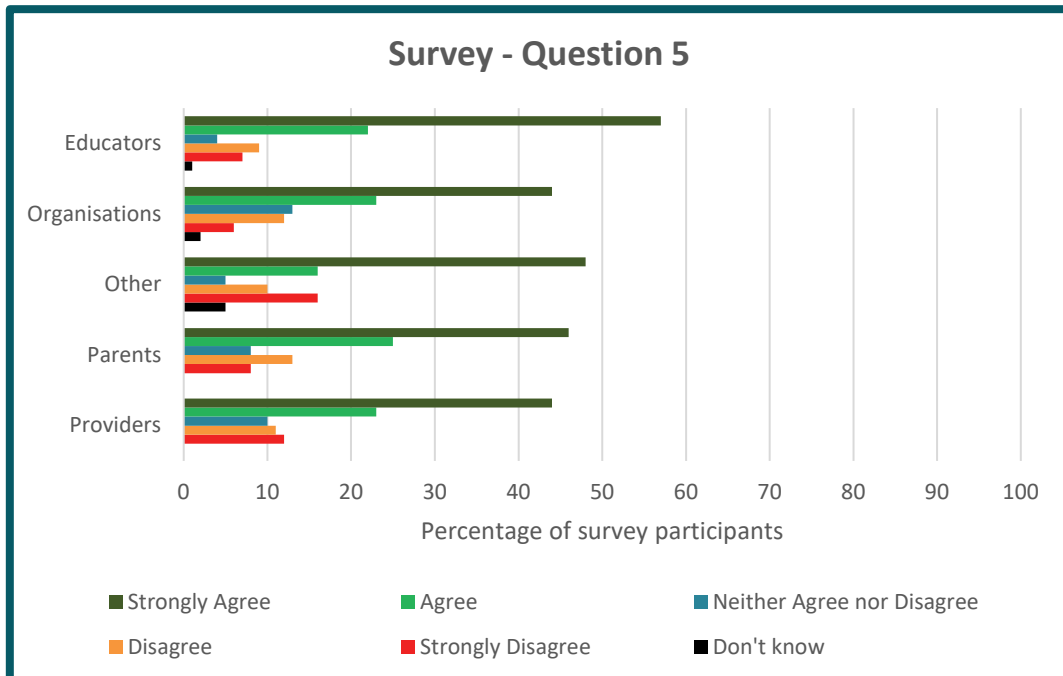


Figure 5B: The Regulator’s powers should be strengthened to provide for immediate closure of a service which is operating without being registered – breakdown by stakeholder group.



4.1.5. Additional enforcement options

Around 60% of participants agreed that the Regulator’s powers should be strengthened to provide for Statutory Improvement Notices, including escalation to court issued Improvement Orders (Figure 6).

A similar number agreed that the Regulator’s powers should be strengthened to provide for statutory Immediate Action Notices, including escalation to court issued Immediate Action Orders (Figure 7).

Parents, educators and others showed the highest support for these changes. 19% of providers and 17% of those representing organisations neither agreed nor disagreed with these changes.

Figure 6: The Regulator’s powers should be strengthened to provide for statutory Improvement Notices, including escalation to court issued Improvement Orders.

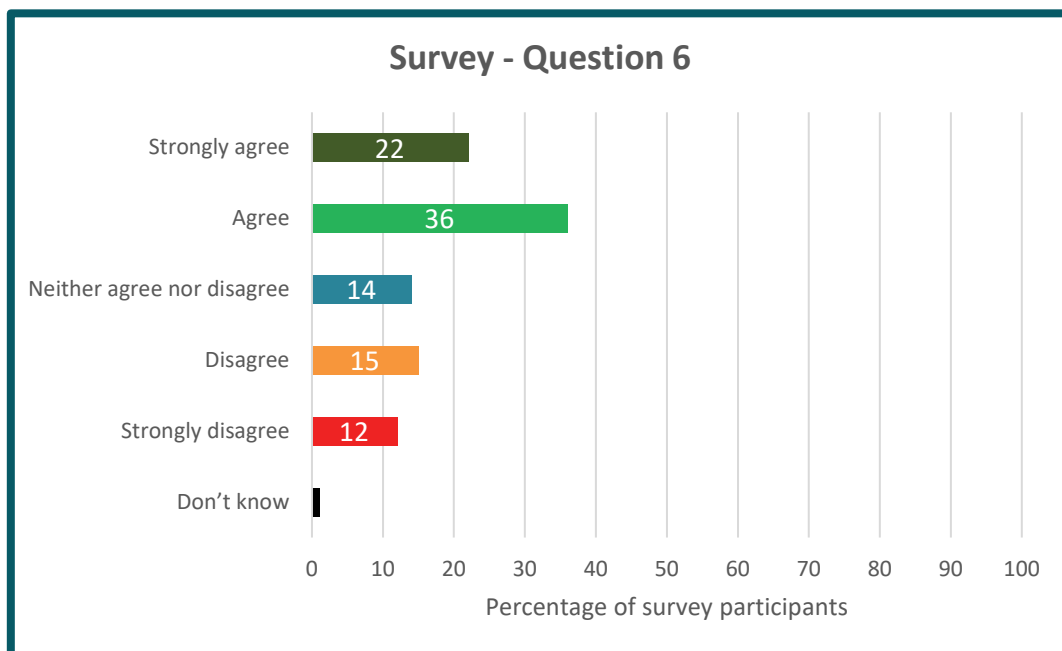
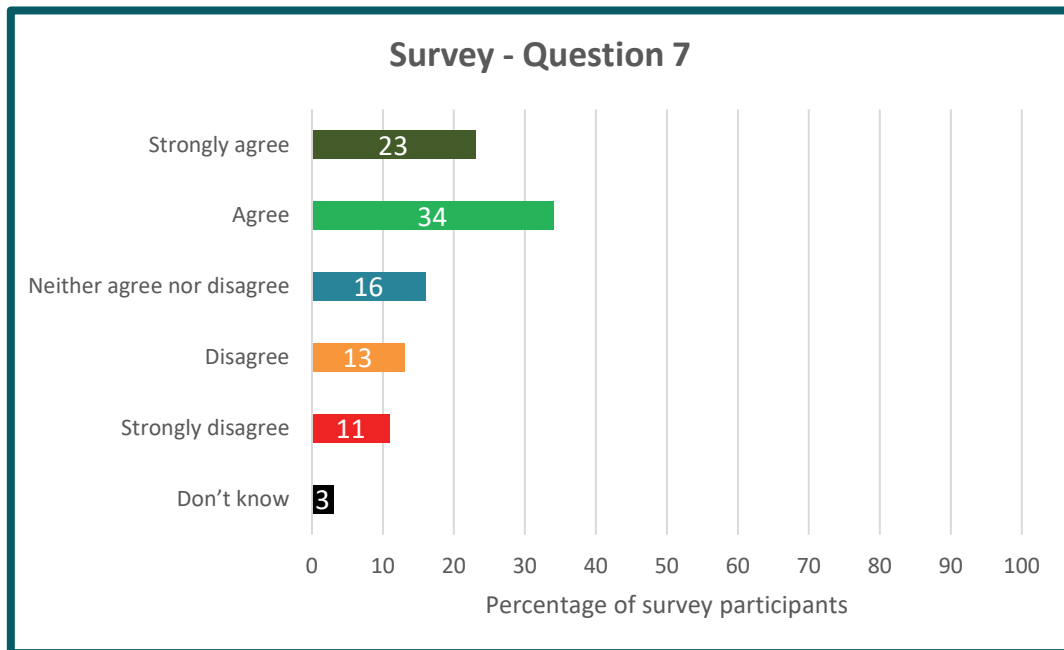


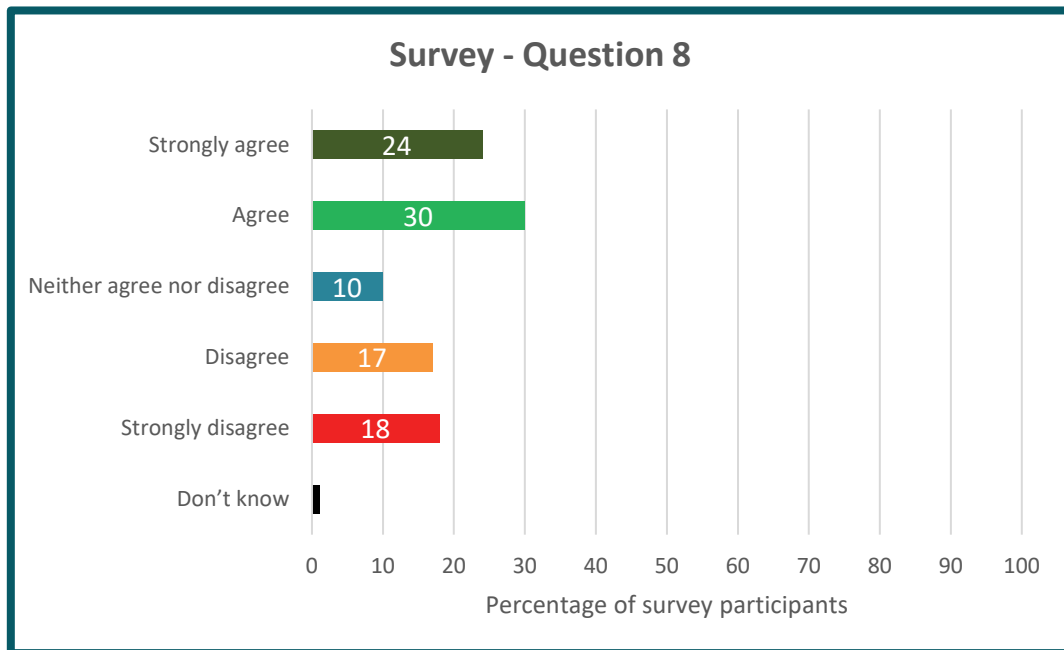
Figure 7: The Regulator’s powers should be strengthened to provide for statutory Immediate Action Notices, including escalation to court issued Immediate Action Orders.



There were mixed views on whether the detail of these notices and orders should be shared with staff, parents, and the public. Parents and educators supported the sharing of information, but providers were less keen, believing that it may damage their reputation in the longer-term.

A small majority of participants agreed that where more minor breaches of the Regulations occur, lesser penalties, such as fines, should apply (Figure 8).

Figure 8: Where more minor breaches of the Regulations occur, lesser penalties should apply (e.g. fines).



Only a small number of participants commented on the application of lesser penalties such as fines, and the views were mixed.

Financial penalties might incentivise owners to put things in place.

Minor breaches can happen but are fixable. Operators need to be given a chance to rectify them in an agreed time scale. If this is not done, then further action should be taken. However, the current process works well, and we should continue to work in this manner where providers can submit a CAPA³ form and have time to rectify and improve a minor breach once it poses no immediate risk to the children, staff or families of the service.

Providers expressed concern about the additional financial pressures this would place on them.

³ Corrective and Preventive Action (CAPA) provides the service with an opportunity to detail and provide evidence in relation to what corrective and preventive actions they have taken to ensure that non-compliances found at inspection are resolved and how they will prevent the non-compliance from occurring again. (<https://www.tusla.ie/services/preschool-services/early-years-providers/early-years-enforcement/a-guide-to-regulatory-enforcement-2/>)

A number of representative organisations and providers emphasised the need for additional engagement with the sector around the specific details of additional enforcement options.

The actual stakeholders of the process should be involved in designing an enforcement process which is fit for purpose and is sustainable.

One organisation proposed the establishment of a Rapid Response Team. This team would *'engage with services that are suspended from operation under any new laws, or, in the current regulatory regime, intervene in services that have significant and persistent non-compliances. The purpose of this team would be to provide a more instructive and comprehensive form of support and direction to a service identified as having significant issues'*.

Some participants encouraged Tusla EYI to acknowledge the positive aspects of a service as much as the negative ones. They believed that recognising quality services should be a key part of the inspection process.

The importance of follow-up inspections, within a short time period, was highlighted. This is to ensure that services implement the advised changes.

4.2. Implementation of the Regulations

The review provides an opportunity to address issues that may have arisen during implementation of the current Regulations since they came into force in 2016. Participants were advised that the DCEDIY is taking the opportunity of this review to consider if any adjustments are necessary to improve the connection between the Regulations and quality practice. This could necessitate the amending of text where there exists a lack of clarity in relation to Regulations, removing administrative burden or streamlining processes. This may include requirements in relation to registration, management and staffing, information and records, care of children, safety, premises, notifications and complaints, and inspection.

4.2.1. Clarity of the Regulations

There was a lack of consensus amongst participants around the clarity of the Regulations.

The primary legislation is very clear and should not change. It is the guidance and Tusla's interpretation of the regulations in the EY Quality and Regulatory Framework which is at times both over prescriptive and unclear. There are

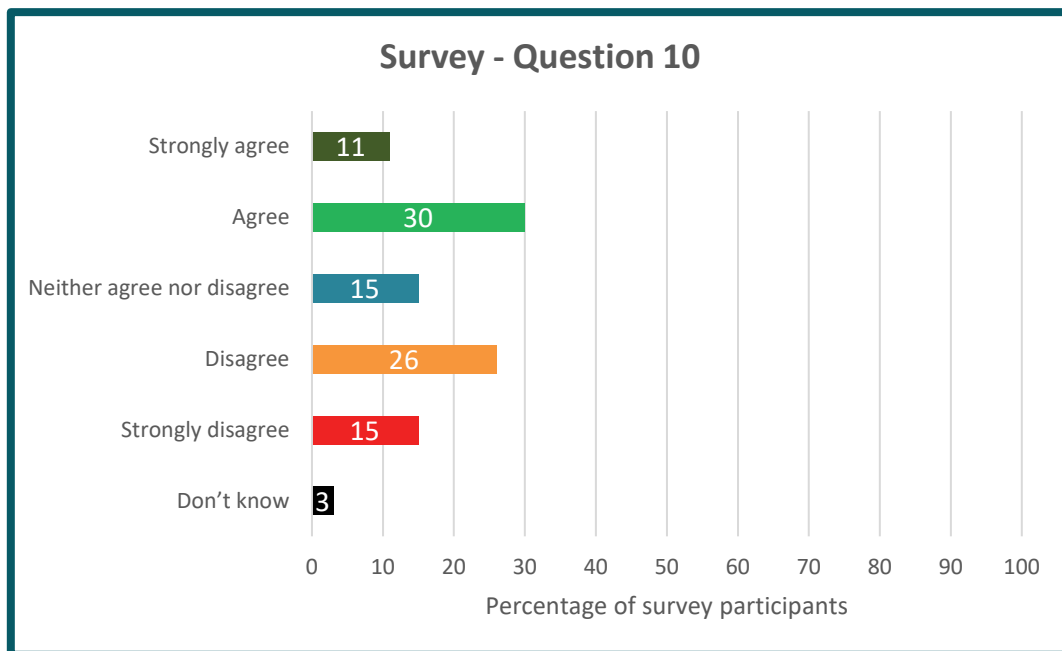
number of examples where the interpretation of the primary legislation is not clear with inspector's own views often contradicting others on the same issue.

A lot more clarity is needed so we can understand and implement the regulations fully.

A significant number of participants indicated in their survey response that they neither agreed nor disagreed with the statement 'The Regulations are clear and do not require any further clarification'.

The remainder of participants were split 50:50 on the clarity of the Regulations (Figure 9).

Figure 9: The Regulations are clear and do not require any further clarification.



Some participants sought clarity in a number of areas. Some of these relate to the legislation but most relate to interpretation of the Regulations or are issues of practice. Examples of issues on which further clarity was sought are:

- Appropriate nappy changing facilities in all settings for children up to the age of 6 years. Some participants said that clarity is required to ensure non-discriminatory access for all children irrespective of whether they are toilet trained.
- Garda Vetting for Board members and other workers that do not work with the children directly but may be on site while children are in attendance.

Applications are not always accepted by the Garda National Vetting Bureau and service may be considered to be non-compliant as a result.

- The rationale for the different staffing ratios, for example, ECCE sessions and full or part-time care.
- Floor space – some participants said that a simpler formula is needed which is easier for everyone to understand, including clarity of whether door areas and storage areas be included.
- Healthy eating policies and the provision of meals. In particular, parents sought guidance on the rationale behind some healthy eating choices.
- How to offer risky play in a way that meets the Regulations.
- Children attending services if they are unwell, for example, have a high temperature.
- The specific immunisations that need to be noted in the record of immunisations.

4.2.2. Elements of the Regulations that need to change

Participants were asked if they would change any elements of the Regulations. Some participants expressed the view that the Regulations should not change, arguing that change brings confusion and takes time to get used to.

A significant number of participants, across the stakeholder groups, requested that the language in the Regulations be simplified so it is easier for everyone to understand. There were also requests for additional staff training and user guides.

Make the wording more accessible to those that do not have a law degree.

Some staff members struggle to understand the wording of the regulations.

Should be more clear, basic English and perhaps colour coded into sections.

A user guide would be helpful, clarifying points, and giving examples of practice and how settings can improve their existing practice.

Several participants suggested that the wording in the Regulations needs to be revised to ensure consistent enforcement. They felt that the current wording was 'too broad', 'vague', and 'open to subjectivity'. Participants identified words such as 'suitable', 'adequate', and 'appropriate' as examples of this.

Many participants reiterated the difficulties they have experienced with the inspectors' interpretation of the Regulations.

Have information in black and white so that it can't be interpreted to mean a dozen different things to different inspectors.

A small number of providers and educators expressed concern that the Regulations are a 'one size fits all' approach which does not accommodate different service types.

A small number of specific changes were requested by some participants:

- Provision for safe calm spaces in all settings where a child can take a break from noise and activity when they feel overwhelmed. This was said to be particularly important for highly sensitive children and children who have experienced trauma.
- All services for children under 3 years to have a Key Person system to ensure that babies and young children can form the relationships and attachments that are crucial to their wellbeing and development. It was stated that for babies and young children, close relationships and attachments with their main carers are crucial for their wellbeing and healthy psychological development. It was also stated that a child's first attachments with their parents and other key caregivers form the basis for the development of their future relationships.
- Clear wording in the Regulations to ensure providers know that they cannot open their service without a 'fit for purpose' inspection.
- The inclusion of Child Safeguarding Statements and Child Safeguarding Policies and Procedures in the Regulations. Child Safeguarding is not currently a regulatory requirement under the Child Care Act 1991 (Early Years Services) Regulations 2016. It was suggested by some participants that a Child Safeguarding Training Strategy should also be a regulatory requirement under the Early Years Regulations along with the Regulatory Inspection of Specified Procedures of the Children First Act 2015.
- The Regulations should be strengths based and there needs to be scope for self-assessment for services who are regularly compliant.
- The Regulations need to focus more on the quality of interaction and engagement that each child experiences. There should be a section on the

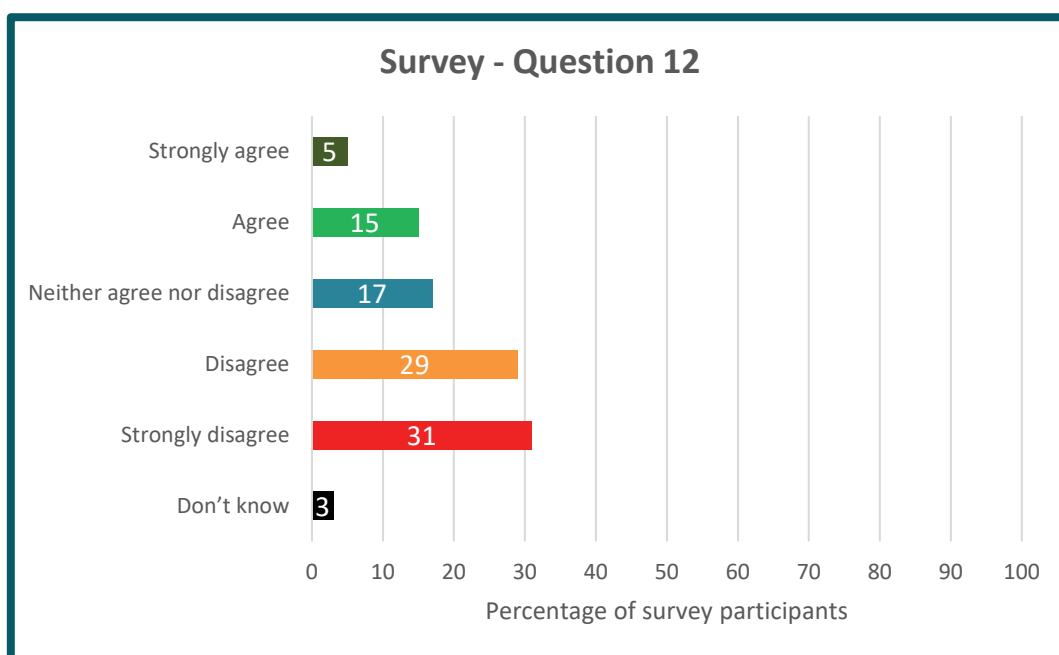
children at every inspection - Are they happy? Are they learning? Are they having fun? Are the staff in room engaged?

- The current Regulations need to be strengthened as, while they permit the Regulator to ask for a level of documentation in support of a registration application, Tusla EYI's power to refuse registration and the grounds on which refusal might be granted are unclear. Children's rights and best interests should guide policymakers in deciding on the grounds for refusal.

4.2.3. Reducing the administrative burden

The majority of participants (60%) said that the Regulations do create an unnecessary administrative burden. This percentage was consistent across the different stakeholder groups, with the exception of parents, half of whom responded with 'neither agree nor disagree' or 'don't know' (Figure 10).

Figure 10: The Regulations are appropriate and do not create any unnecessary administrative burden.



Many participants stated that the paperwork is excessive, and that this places a significant burden on providers, particularly smaller services.

The problem is that one form does not fit all. I find a lot of the requirements are based on full-time day services not the small ones like me.

Smaller schools are subjected to voluminous administrative burden that significantly detracts from their educational and care objectives.

There was frustration with the amount of duplication of paperwork.

When the information has been provided previously it should be kept on file and not asked for again. The registration process was difficult and time consuming and we were asked repeatedly for documentation that we had already sent in.

A number of participants and representative organisations requested that one system/portal be used for all interactions with the State. All relevant documentation could be uploaded to this system and updated as necessary. The information could then be accessed by the relevant authorities when required. It was suggested that this could significantly reduce workload and duplication.

A few participants acknowledged that the recent streamlining of the re-registration process alleviated some of the administrative burden on services. Some participants were familiar with these changes, and others were not. This is reflected in the comments in this section.

There was broad agreement that elements of the administration requirements attached to the Regulations could be further streamlined or reduced without impacting negatively on the quality of early learning and care services.

The importance of sufficient non-contact time for staff was emphasised by some providers and educators to allow for essential administrative work as well as for planning and development. This would ensure that administration requirements do not impact negatively on quality. Parents expressed concern that the volume of paperwork could impact on the quality of education and care that their child receives.

Participants proposed a number of measures to support streamlining:

- Notify services the day before or morning of an inspection so one person could be out of ratio to assist the inspector. It was noted by some providers that it is extremely difficult to provide the inspector with all the documentation they require whilst at the same time caring for children.
- Give a clear list of what an inspector requires on their visit so this could all be laid out in advance. Reduce the need to upload copies of information on the inspection day as this was said by some participants to be exceptionally time consuming for providers.
- Provide services with template forms for all requirements in an easy to use manner.

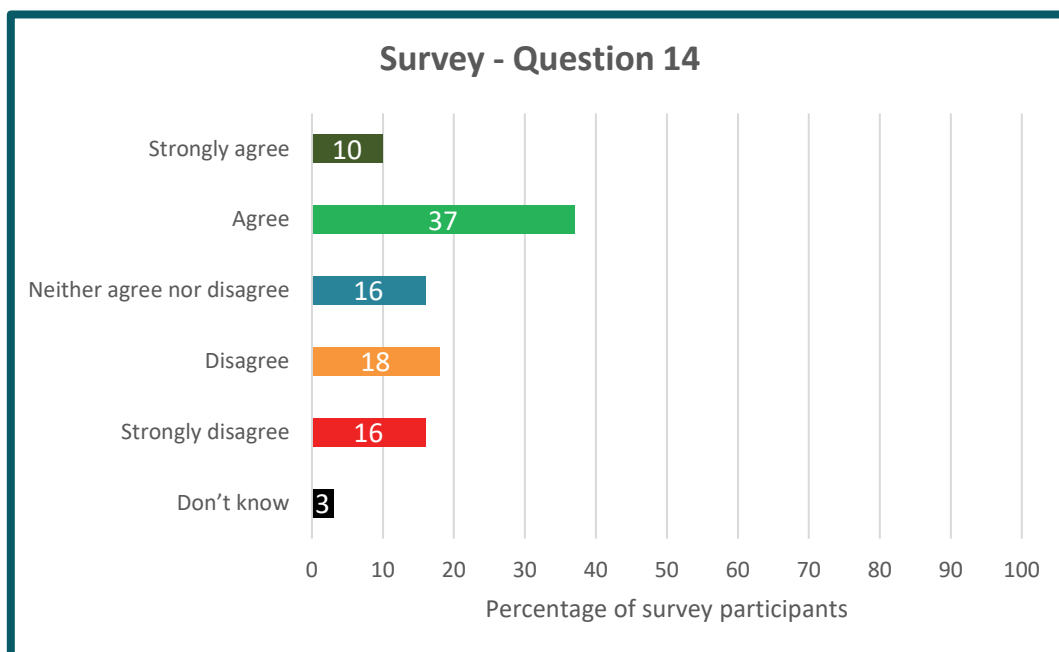
- Simplify the login system and reduce time wasted filling in details that can be pre-populated.
- Have one online portal where providers can upload, store, and update documentation/have a system that retains the information. Unless there is a change in circumstance, there should be drop down options available.
- Streamline all inspection systems so the same documentation could cover multiple inspection requirements.
- Support providers to complete more tasks online, for example, notification of incident forms, or change in circumstances.
- Provide a point of contact for each provider to answer their queries.
- Remove the need to have a copy of the Act on the premises. Forward a link to the relevant people instead.
- More emphasis on Aistear themes such as identity, belonging, and wellbeing. This should be inspected through interactions, key worker system, time spent outdoors daily etc.

4.2.4. The Registration and Re-Registration Process

Tusla EYI's current powers include the power to maintain a register of early years services. All services must be registered with Tusla EYI in order to operate.

Participants were asked if the registration process for services as set out in the Regulations is appropriate in terms of length and detail given the importance of ensuring services meet minimum quality standards.

Figure 11: The registration process for services as set out in the Regulations is appropriate in terms of length and detail given the importance of ensuring services meet minimum quality standards.



16% of participants said they neither agreed nor disagreed with this statement. Higher percentages of parents, and others, such as members of the public, tutors, and students, responded with 'neither agree nor disagree' or 'don't know'.

The remainder of participants were split with around 47% agreeing that the registration process is adequate and does not require change, and 34% disagreeing, with some suggesting that the process is slow, inefficient, costly, and needs a complete overhaul.

The registration and re-registration processes should not be changed.

Far too much administrative and paperwork on an already overworked and underpaid sector.

As with changes to the Regulations, some participants felt that any further changes to the registration or re-registration process might cause confusion.

The current registration cycle is 3 years, at the end of which services must apply to Tusla EYI to remain on the register for a further 3 year period. There were more comments on the re-registration process than registration itself. Some comments may have been on the previous (2019) re-registration process which was still being finalised during 2022 when this consultation took place. In the meantime, a new, more streamlined re-registration process has been introduced for end 2022.

Re-registration should be removed, any changes should be re-registered through the form 'change of circumstances'.

The re-registration process has been a disaster and creates huge stress and an overburden of administration and duplication of paperwork.

...Maybe for initial registration it is ok to ask for a broad level of detail and documents but for re-registration a provider should be able to state, where possible, that no changes have occurred since initial registration and that the original submission still applies. The re-registration should be streamlined to cut out repetitive tasks and time wasting.

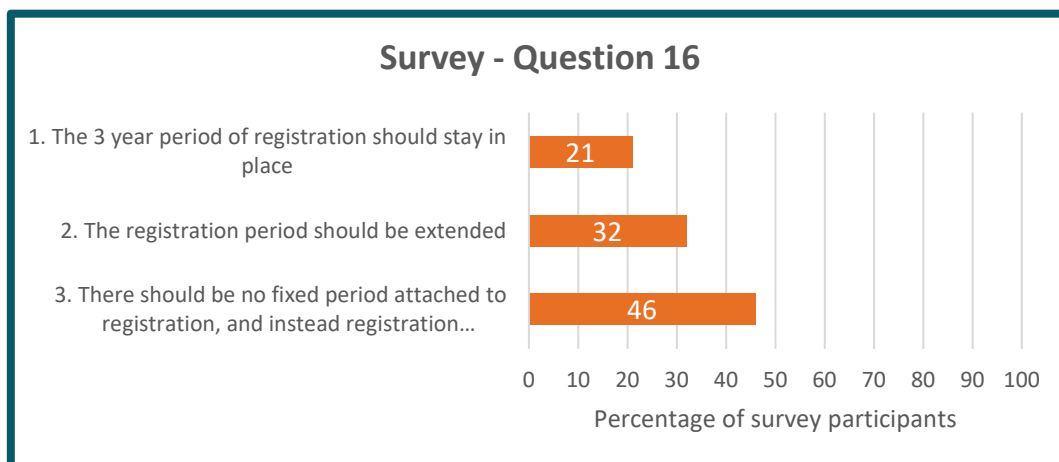
A number of providers and organisations suggested in their submissions that re-registration should be every 5 years. 46% of participants completing the survey were in favour of having no fixed period attached to registration, and instead registration documents should be checked at inspection (Figure 12).

Re-registration should be streamlined with only necessary updates on premises/manager/suitable person, Garda vetting, etc. Re-registration should be every 5 years.

Understandably a new service should and must supply all relevant documentation that Tusla EYI require at present. However, if a service is open for a period of time there should be more trust in the re-registration process and a minimum amount of documents should be required.

Most providers and organisations were more in favour of extending the registration period or having no fixed period attached to registration and instead registration documents should be checked at inspection, than keeping the 3 year period of registration in place. The most popular option within providers and educators was having no fixed period attached to registration, and instead registration documents checked at inspection.

Figure 12: The current registration cycle is 3 years, at the end of which services must apply to Tusla EYI to remain on the register for a further 3 year period. Please indicate which of the proposed options you believe should apply to the registration period in future.



Several providers and educators asked for more advice and support from Tusla EYI during the registration and re-registration process. Some participants reported poor communication with Tusla EYI. They highlighted difficulties making contact with Tusla EYI by phone and delays in getting a response by email if they had a query. One participant suggested a pre-registration meeting, whilst another proposed a mentoring system for providers.

4.2.5. The introduction of a “fit person” regulation

A person applying to Tusla EYI to become a registered provider must submit, with their application for registration of an ELC service, a copy of the Garda Vetting disclosures and two references from previous employers in relation to themselves, and, if they are not the person in charge, in relation to the person in charge. The DCEDIY is considering introducing a “fit person” regulation. This would enable Tusla EYI to look at other criteria when assessing whether someone is suitable to be a registered provider/person in charge, for example, the provider’s record of compliance with the Regulations.

Approximately 55% of participants supported an expansion of the Regulations to enable Tusla EYI to assess, at registration and re-registration, whether a proposed registered provider/person in charge is a “fit person” to operate a service (Figure 13A).

77% of parents and two-thirds of educators agreed or strongly agreed with this proposal. A slightly lower number of participants representing organisations agreed or strongly agreed (59%).

By comparison, providers were more divided, with 16% neither agreeing or disagreeing, and the remainder divided with 43% saying they agreed or strongly agreed and 41% saying they disagreed or strongly disagreed (Figure 13B).

Figure 13A: The Regulations should be expanded to enable Tusla EYI to assess, at registration and re-registration, whether a proposed registered provider/person in charge is a “fit person” to operate a service.

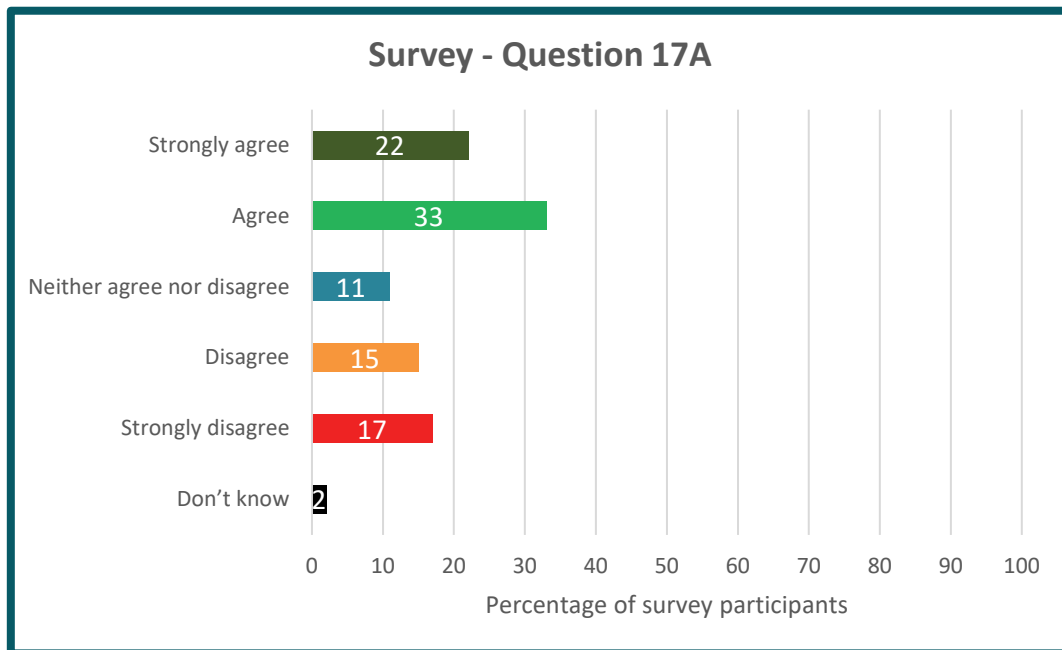
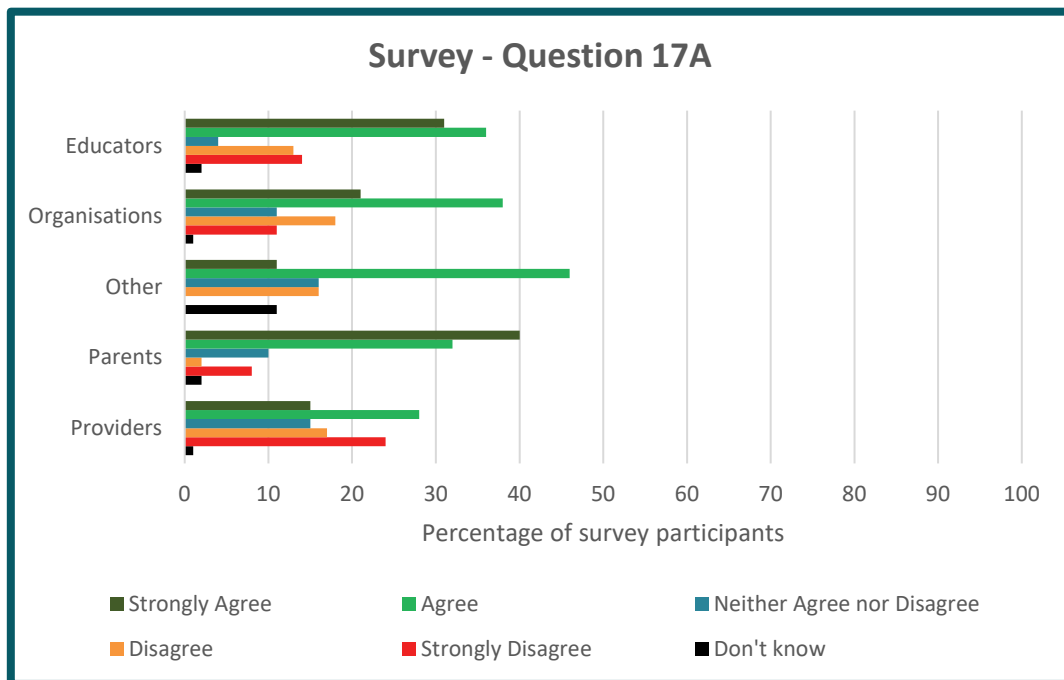
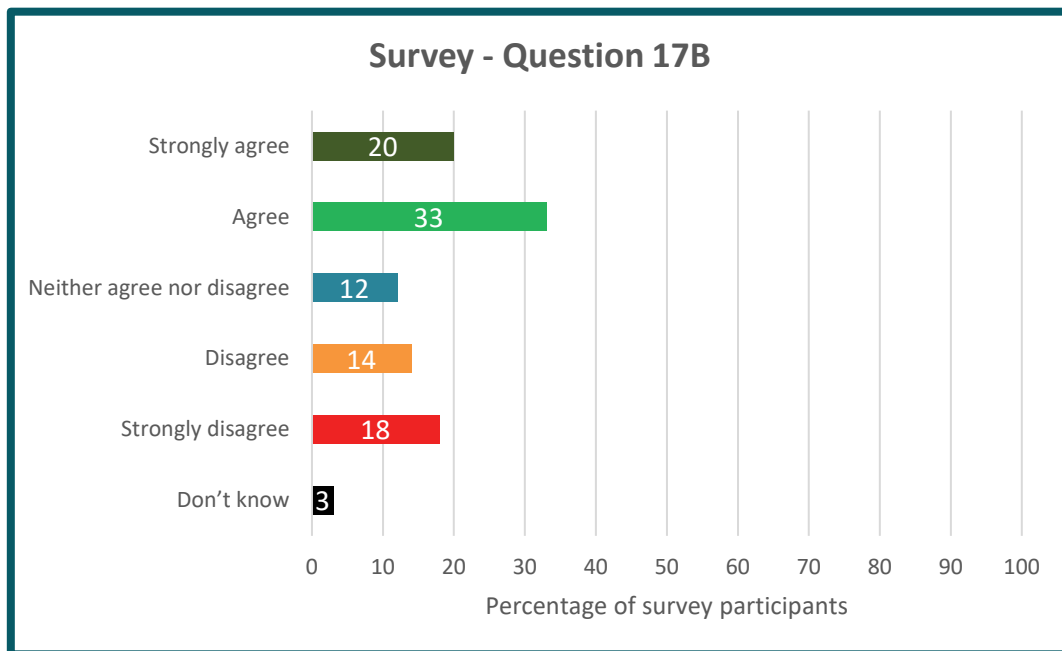


Figure 13B: The Regulations should be expanded to enable Tusla EYI to assess, at registration and re-registration, whether a proposed registered provider/person in charge is a “fit person” to operate a service – breakdown by stakeholder group.



A similar number (53%) supported an expansion of the Regulations to enable Tusla EYI to assess, at any point in the registration period, whether a proposed registered provider/person in charge remains a “fit person” to operate a service (Figure 14).

Figure 14: The Regulations should be expanded to enable Tusla EYI to assess, at any point in the registration period, whether a proposed registered provider/person in charge remains a “fit person” to operate a service.



Again, providers were more divided – 42% agreed or strongly agreed, 45% disagreed or strongly disagreed. Some providers were reluctant to support the idea due to concerns around consistency and transparency. Several were of the belief that it is the role of the service/employer alone to identify an appropriate person to run their service.

The lack of a statutory professional body regulating the early learning and care profession in Ireland, was one reason given for supporting an expansion of the Regulations to look at a ‘fit person’, and to exclude individuals who pose a risk from an approved service.

Any person operating a service for young children should be able to prove that they are a “fit person” to have responsibility for the care and education of young children. Linking this requirement to registration would provide some protection against those who have shown disregard for regulatory requirements, or those who have a record of causing harm to children, setting up new services, including those under different guises.

The quality of the provision of care is highly dependent on the quality of the leadership. Simply stating that the staff is 'competent' leaves room for

negotiating compromises and this should never be the case in a leadership position.

Some participants stressed the need to have agreement between the DCEDIY, Tusla EYI and the sector on what constitutes a fit person. They questioned what type of non-compliances would be a reason for a person to be deemed 'unfit'. They also asked if qualifications should be considered in the determination of a fit person.

I agree in principle but clear criteria for 'fit person' need to be agreed within the sector, with a mechanism for appeal.

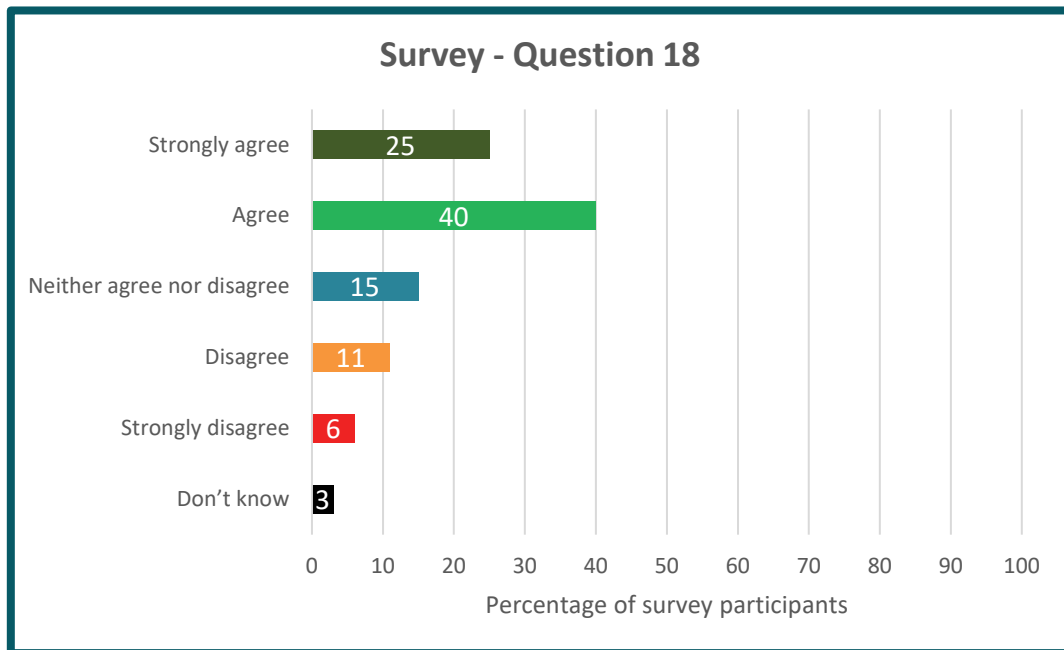
Linking registered providers with records of compliance with regulations would not be a suitable way to determine a "fit person" within the current inspection system.

4.2.6. Safe sleep

Regulation 20 (b) requires that services provide adequate and suitable facilities for a child to rest. There is no further specific detail on this requirement set out in Regulation; however, guidance on how services can comply with this requirement is set out in the Tusla EYI Quality and Regulatory Framework (QRF). In Phase 1, the consultation set out to examine whether further detail should be provided in regulation in relation to the requirements for rest.

There was strong support across all stakeholder groups (65%) for including specific and detailed provisions in relation to safe sleep and facilities for rest in the Regulations (Figure 15).

Figure 15: Specific and detailed provisions in relation to safe sleep and facilities for rest should be included in the Regulations.



There was also considerable support (60%) across the stakeholder groups for minimum space requirements for facilities for rest and sleep to be set out in the Regulations (Figure 16).

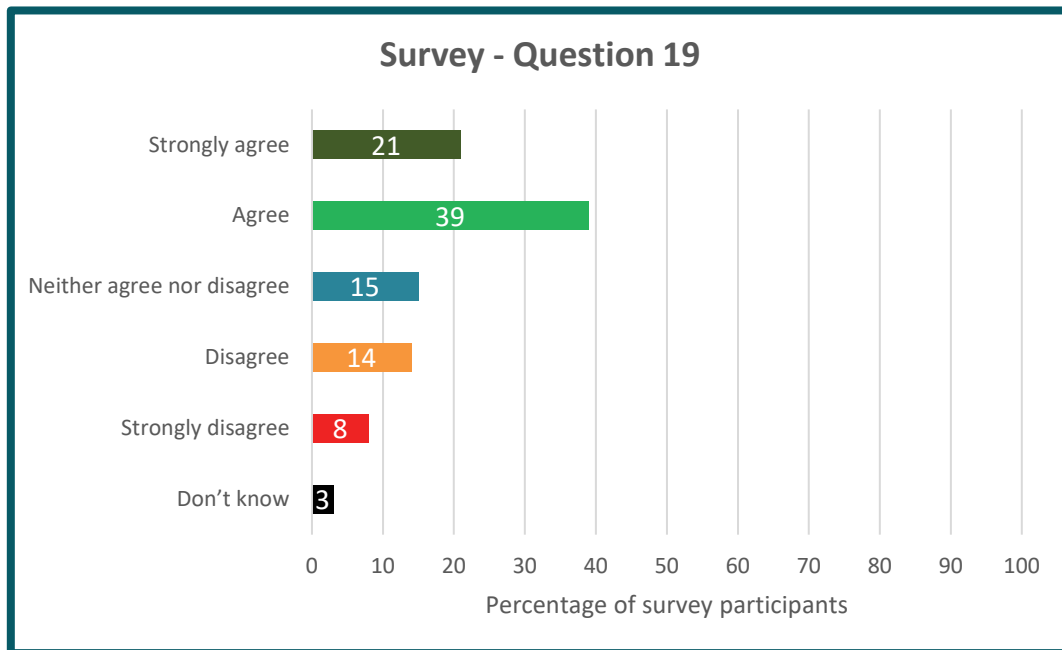
A small number of providers and organisations disagreed with Tusla EYI’s interpretation of the Regulation in the QRF. Some participants felt that the specific space requirements should be transparent, and evidence based.

Suitable sleep arrangements for children under 2 years remains an issue for the sector with many providers choosing to no longer provide care for this cohort of children as the interpretation of the regulation is excessive.

There was concern that this interpretation could further reduce the number of spaces available for babies and that this would have a negative impact on families.

I feel that it is unrealistic for facilities to cater for children under 2's sleeping in a cot. Many bigger facilities would have a large under 2 population who require additional space for cots meaning that less children are able to be facilitated in the centre on a daily basis resulting in a lack of availability for parents.

Figure 16: Minimum space requirements for facilities for rest and sleep should be set out in the Regulations.



A significant number of participants requested clarification on the evidence base which informs the Regulations in relation to safe sleep.

We need the evidence which supports the inspectorate's criteria in relation to safe sleep to be transparent and presented/agreed with stakeholders within the sector.

In particular, two participants noted that:

There is no national or international evidence to suggest that children from 14 months should sleep in a cot. Tusla's interpretation of suitable sleep arrangements is unique and does not align with guidance in any other jurisdiction and does not appear to be evidence based.

The requirement for children under 2 years of age to sleep in a cot is outdated. In many other countries a holistic approach to sleep is taken. This practice needs to be reviewed.

4.3. Outdoor provision

The number of services operating wholly outdoors or spending more time in their outdoor space has increased in recent years, particularly since the onset of Covid-19. The Regulations require that children have access to outdoor spaces either on the

premises or accessible on a daily basis. The Regulations do not set down minimum standards for such space. There is no definition in the Regulations of what constitutes an “outdoor service”.

Participants were informed that the DCEDIY would like to address this gap in the Regulations and include specific minimum requirements for outdoor services and outdoor spaces attached to services. The introduction of specific regulatory requirements in relation to outdoor space would provide clarity to services and would set the minimum standards against which the Regulator can inspect services. Some services have limited or no outdoor space and any proposed change to the Regulations would need to take this into account.

Almost two-thirds of participants agreed that the Regulations should include minimum outdoor space requirements (Figure 17). Over 70% of parents, educators and organisations agreed or strongly agreed. 55% of providers agreed or strongly agreed.

Figure 17: The Regulations should include minimum outdoor space requirements.

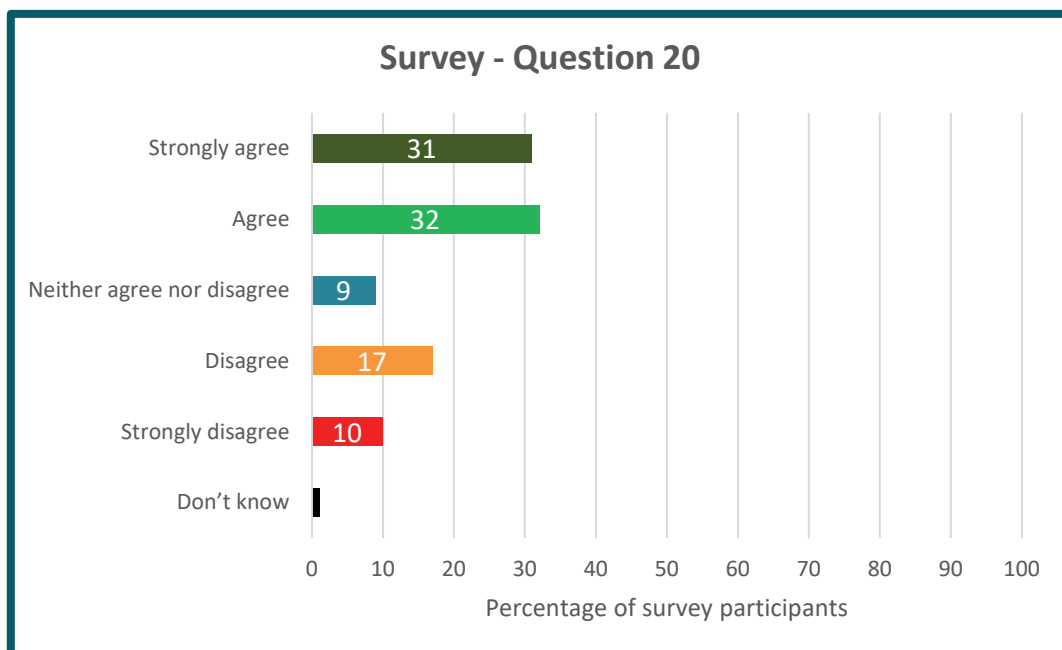
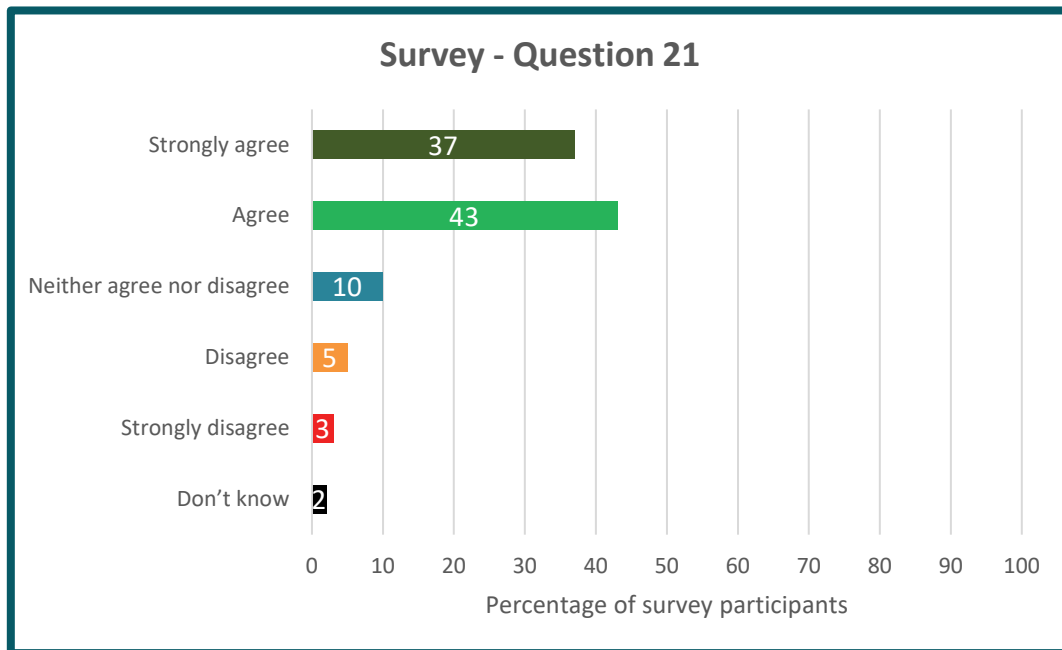


Figure 18: The Regulations should include minimum standards for the facilities to be provided in services operating wholly outdoors.



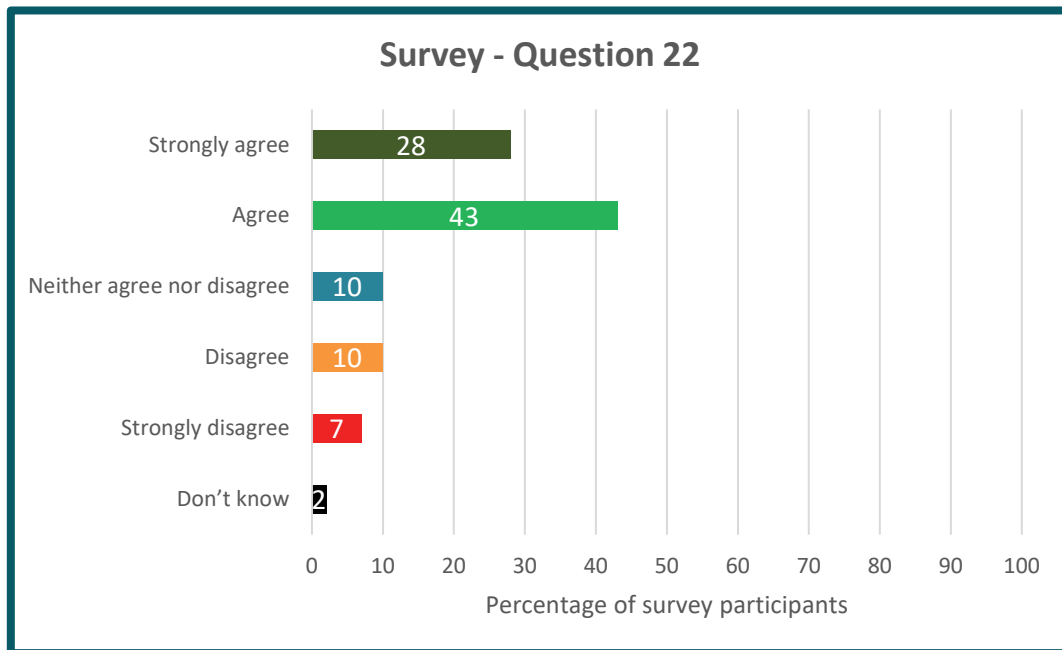
A large majority of participants supported the view that the Regulations should include minimum standards for facilities to be provided in services operating wholly outdoors (Figure 18).

Some participants requested a set of specific Regulations for fully outdoor services, expressing the view that the current Regulations are inappropriate. It was suggested that these should be developed in partnership with providers. Others felt that this may be premature, and that the current Regulations could be adapted to apply to wholly outdoor services. One provider noted:

In the absence of specific regulations, outdoor services are dependent on inspectors using a common sense approach when interpreting the current Regulations and applying them to outdoor services.

A large majority (71%) of participants also agreed that the Regulations should include minimum standards for facilities to be provided in outdoor spaces attached to services operating mostly indoors (Figure 19). This was supported across the stakeholder groups. However, there was concern that these must not be overly prescriptive or excessive, and any changes should be phased in over time.

Figure 19: The Regulations should include minimum standards for the facilities to be provided in outdoor spaces attached to services operating mostly indoors.



Most participants agreed that outdoor spaces should:

- Provide warm, comfortable shelter with safe, hygienic spaces for eating, changing, toileting, and facilities for children who may need quietness to rest or who may become unwell while at the setting.
- Provide adequate water safety and sun protection.
- Ensure children and staff are safe and protected if there are extreme weather conditions.
- Provide stimulating spaces and a diverse range of experiences.
- Provide for babies as well as children.

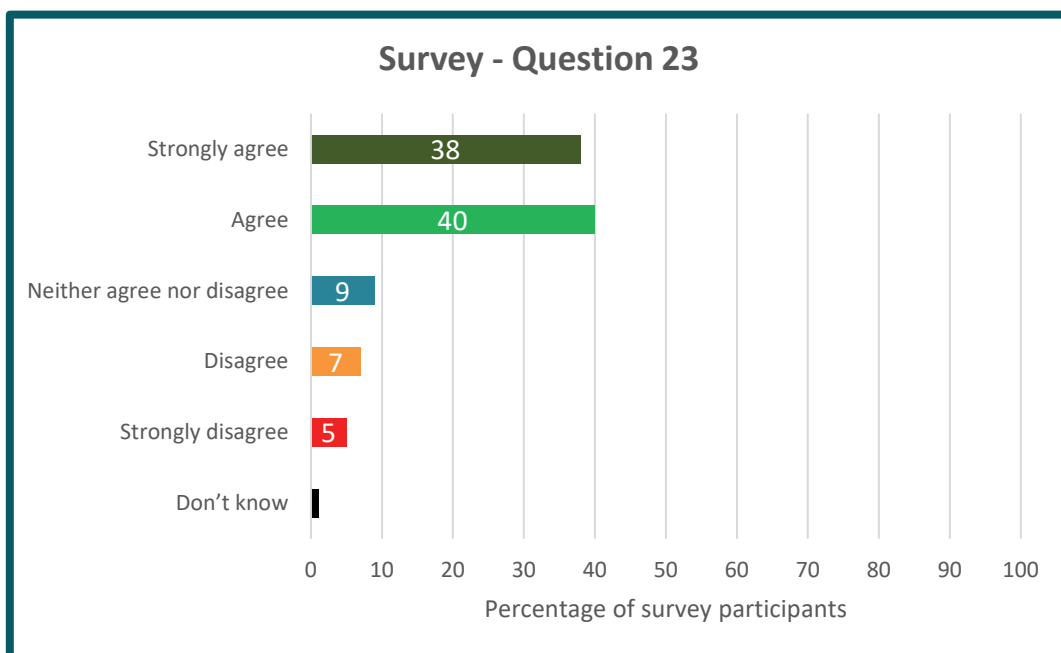
Some participants highlighted a number of issues and put forward a range of ideas in relation to outdoor provision:

- A clear definition of what constitutes an 'outdoors service' in legal terms is needed.
- Clarity is needed on appropriate supervision levels in an outdoor environment.
- Could the outdoor space be considered when setting numbers and considering space requirements?

- Regulations based on a philosophy of outdoor play that embraces benefit to children as well as ‘risk’ are required.
- The size of the outdoor space is not always an indicator of quality in outdoor play. How the space is used is probably more important than the actual size of the space.
- Regulations must guide on the provision of suitable outdoor clothing.
- Greater regulation may exacerbate complexities with planning permission.
- Further consultation is needed with providers, educators, parents, and children on outdoor provision.

Participants strongly agreed that any amended minimum outdoor space requirements should make allowances for existing services with limited or no outdoor space (Figure 20).

Figure 20: Any amended minimum outdoor space requirements should make allowances for existing services with limited or no outdoor space.



The challenges faced by providers in urban settings and city centres were acknowledged. However, the benefits to children of spending time outdoors were highlighted and the majority of participants agreed that we must have quality environments where children’s needs can be met.

It is unfair to discriminate for services that do not have an outdoor space, but it may be helpful to regulate that an outdoor area such as local park/sports hall be used so that children have time outdoors.

The child capacity of a service should not determine the minimum outdoor space requirements, but the outdoor space requirements set a maximum child capacity of that outdoor space at any given time. The service should utilise efficient and effective time management to ensure that different groups of children can avail of the outdoor space keeping in line with the outdoor space capacity.

4.4. Sharing information

4.4.1. Information for parents

There is currently no legal requirement for services to share inspection outcomes directly with parents or to notify parents if they are subject to regulatory enforcement action. Inspection reports and the date of the last inspection of a service where an inspection has taken place, but the inspection report is not yet finalised, are made publicly available on the Tusla website. If a service has been notified that it is being removed from the register, that information is also published on the Tusla website. Participants were asked if they thought that changes to the legislation were required to give parents better access to information about a service.

Approximately 78% of participants agreed that parents have sufficient access to information about services held by the Regulator (Figure 21). Parents were less sure about this than other participant groups, with only half in agreement.

Figure 21: Parents have sufficient access to information about services held by the Regulator.

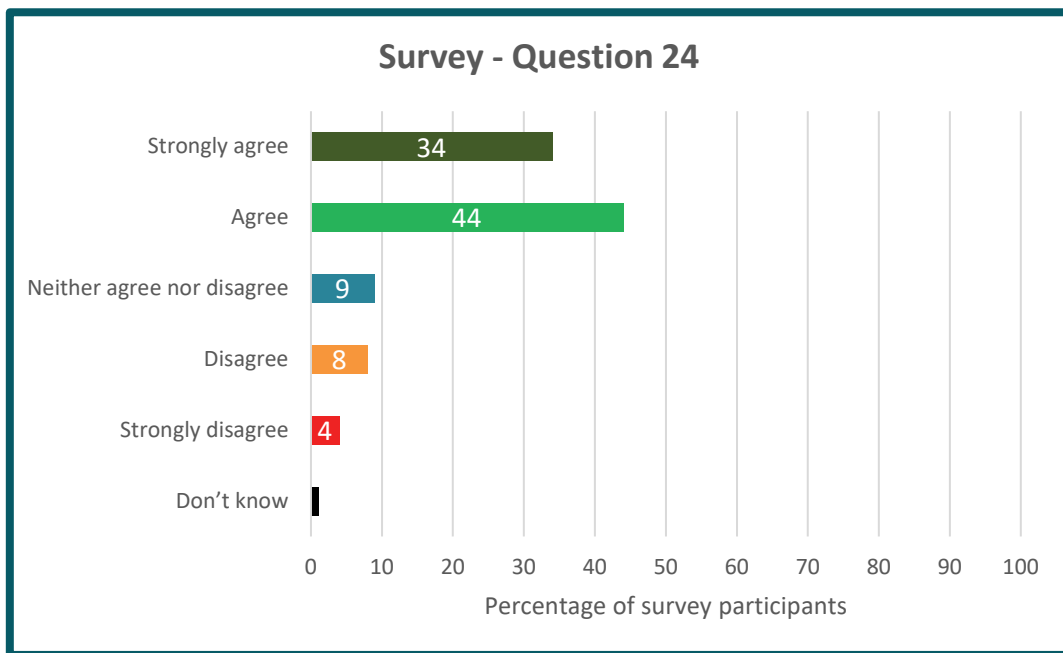
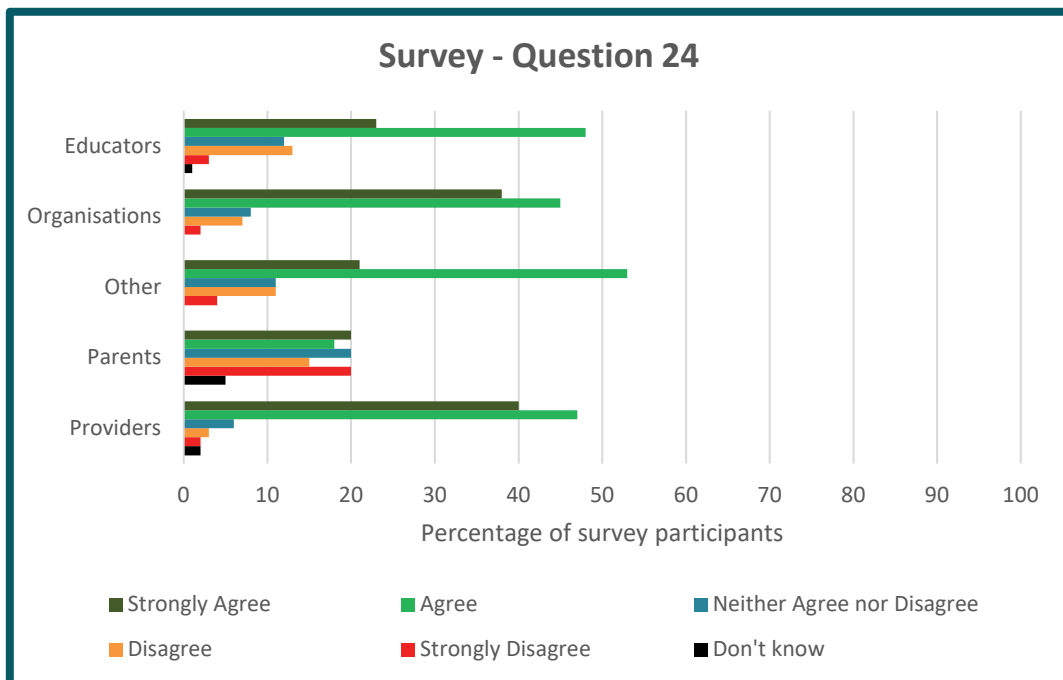


Figure 21B: Parents have sufficient access to information about services held by the Regulator – breakdown by stakeholder group.



The written submissions and survey responses indicated a wide variation in practice, but the majority of participants supported a balanced approach to information sharing, grounded in an open and honest relationship between the provider and parents.

Any and all information that informs parents on the quality of the service their child attends, or may attend, should be shared with parents and guardians.

There were mixed views on the accessibility to parents of information on the Tusla website, with some concern expressed that only a limited number of parents have the knowledge and skills to engage with this.

The current practice of accessing reports through the Tusla website works well.

This only works for parents from certain socio-demographic backgrounds.

A small number of educators and providers suggested that it is the sole responsibility of parents to seek out any information they require. Many parents felt the opposite believing the responsibility lies with providers to make the information available.

Some participants proposed actions to improve engagement with and access to information for parents. These included:

- The provision of information in more accessible formats, for example, Plain English versions of the Regulations and inspection reports.
- Improvements to the Tusla website so it is more user-friendly.
- The provision of information in different languages.
- The identification of any outstanding non-compliances or enforcement actions alongside inspection reports on the Tusla website.
- A requirement in the Regulations for parents to be informed of an inspection and the outcomes of that inspection.
- A requirement for providers to demonstrate their communication processes with parents to Tusla EYI.
- The inclusion of notification and communication with parents in the Early Years Inspectorate Enforcement Policy.
- A requirement that providers display inspection reports, enforcement actions, and other relevant information in a prominent place in the setting, and on any online platforms where they communicate with parents.
- Services could display a one-page compliance report for parents.
- A reminder link to the Tusla website could be sent to parents from the provider once the inspection has taken place and the report is available.

- A requirement that inspection reports be automatically emailed to all parents by the provider or by Tusla EYI.
- Every parent should be provided with an information leaflet about how to access Tusla EYI reports. This could be a leaflet provided to the parent by a public health nurse at one of the child's development checks.
- A star system may benefit parents where services are awarded one, two, or three stars based on their inspection outcome with one star being allocated for poor quality and numerous non-compliances, two stars for minor non-compliance and three stars for a fully compliant service.
- A public awareness campaign to highlight the role of Tusla EYI, the Regulations, the inspection process, and where parents can access information.

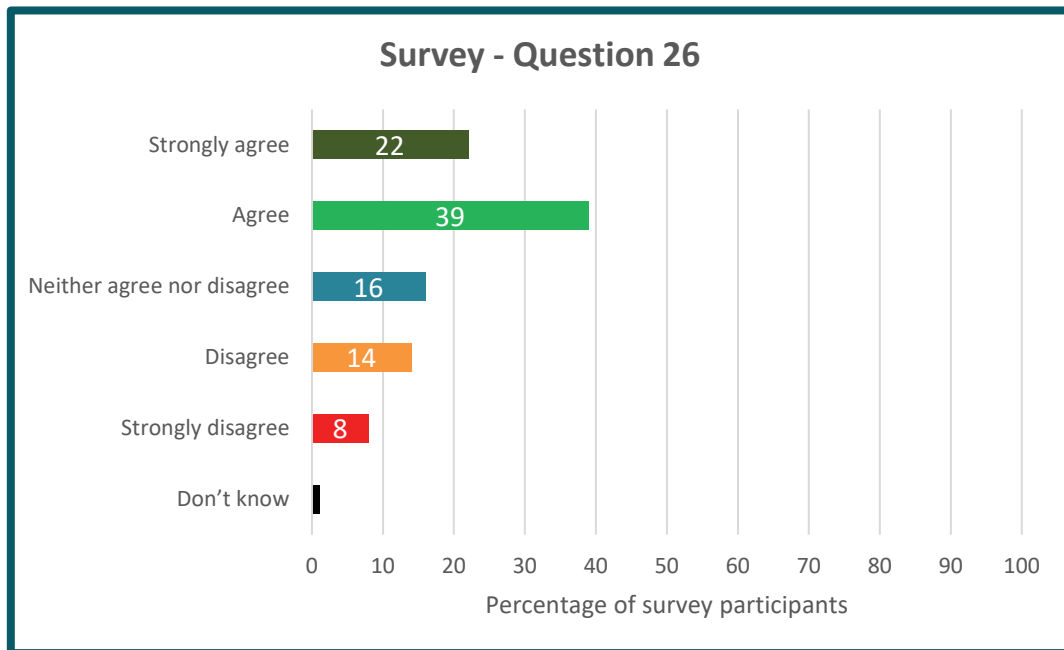
Current practice under UK Ofsted regulations is for providers to send an email to parents in the event of an inspection...This would be useful in Ireland as currently there is no requirement.

The report should be completed by the inspector in simple and easy to understand language so that all parents can understand. A simple summary of positives and any non-compliances need to be explained.

Parents don't know how to access these reports because the system in place is too complicated to navigate.

There was agreement across all stakeholder groups (61%) that parents should be informed directly and quickly about serious breaches and immediate action notices (Figure 22).

Figure 22: Parents should be informed directly of significant concerns that the Tusla EYI has in relation to a service.



79% of parents and 71% of educators agreed or strongly agreed with this statement, but only 47% of providers felt the same. Providers were concerned that parents may get information too early. They were also concerned about fairness and balance.

Services have a right to due process and no information should be shared until it has been proven in court.

Most parents believed they must be informed as soon as possible where there is any significant risk to their child’s health, safety, or wellbeing. Parents felt they should also be informed directly about improvement notices but there were mixed views from other stakeholder groups.

Some providers and educators expressed concern about sharing information on other actions/notices or minor non-compliances with parents as this might cause undue concern or damage their reputation.

Whether services should be legally obliged to communicate enforcement information with parents should depend on the level of risk to children. If the non-compliance is high risk there should be an obligation on the service to inform parents.

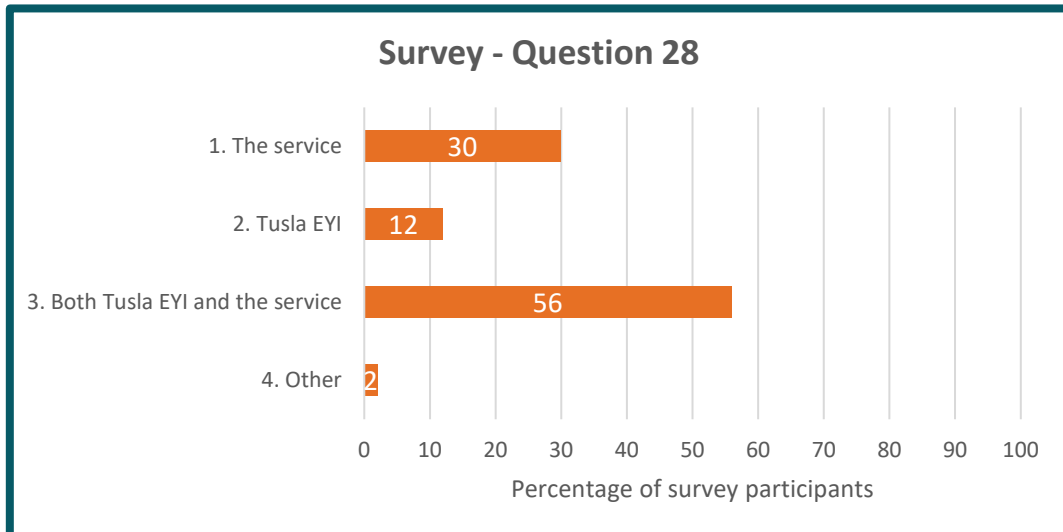
Only serious or critical information should be shared with parents...not things that can be corrected quickly by the provider/person in charge. If all information is shared it would indicate that the service is not providing excellent childcare and would cause trust issues between parents and provider/person in charge.

I think it would also be a good idea to highlight quality practice that is observed. It would instil confidence in families and boost service moral. The process can be very daunting for services, and I feel that such a system would help make it easier for providers to showcase their best practice.

There were diverse views on who should be responsible for sharing information on significant breaches or concerns with parents. Both Tusla EYI and the service was the most popular view (56%), followed by the service (30%), and then a much smaller number of participants said Tusla EYI only (12%).

Parents (84%) and educators (70%) advocated strongly for both the service and Tusla EYI to be responsible for sharing information.

Figure 23: Who do you think should be responsible for sharing information on significant concerns with parents?



Many providers stressed that high quality services work in partnership with their parents, and therefore are in the best position to lead out on sharing information in a balanced way. They believe the service should have the opportunity to inform parents first and to respond to their questions and concerns. An open and honest approach promotes trust between families and providers. Some providers noted that in-person communication is the best way to engage with their parent group.

A number of participants commented on the need for information to be shared in an open and honest way with staff too.

The majority of participants agreed that in the event that a service refuses or does not communicate essential information to parents or fails to respond to a parental request for information, then Tusla EYI should take action to ensure parents have this information.

It was noted that Tusla EYI might also support providers to communicate information, for example, if there is a child protection issue.

If there are more sensitive child protection or safeguarding issues in a service, then both Tusla and the provider should work together to communicate the matter to parents in a clear and supportive manner.

4.4.2. Information for the public

Participants were divided on whether additional information in relation to service quality and enforcement actions should be made available to the wider public (Figure 24).

Figure 24: Additional information in relation to service quality and enforcement action being taken against services should also be made available to the wider public.

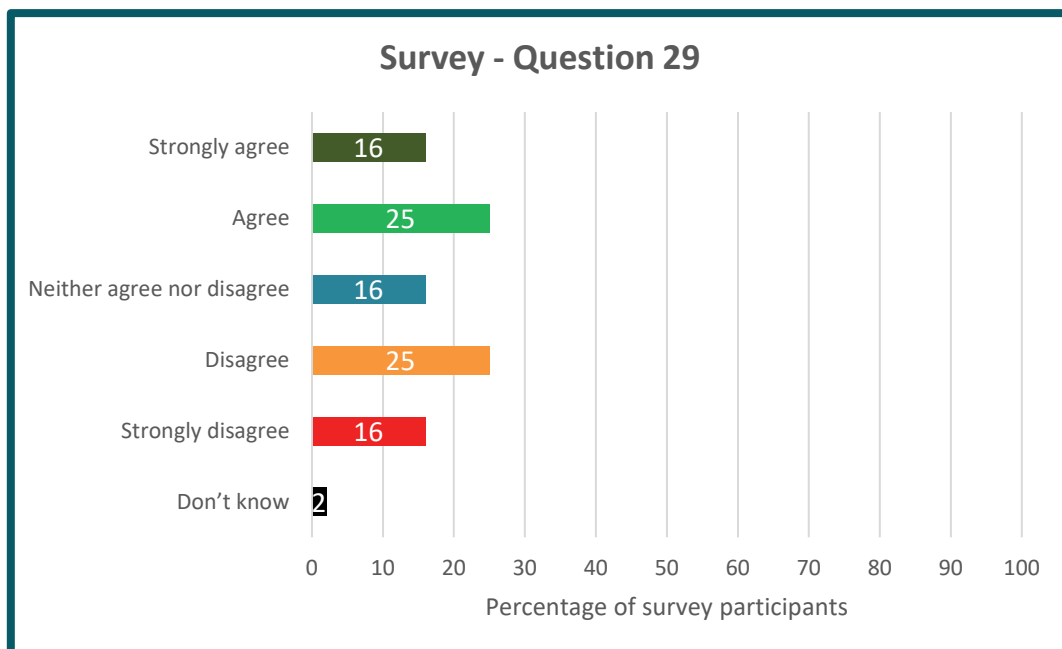
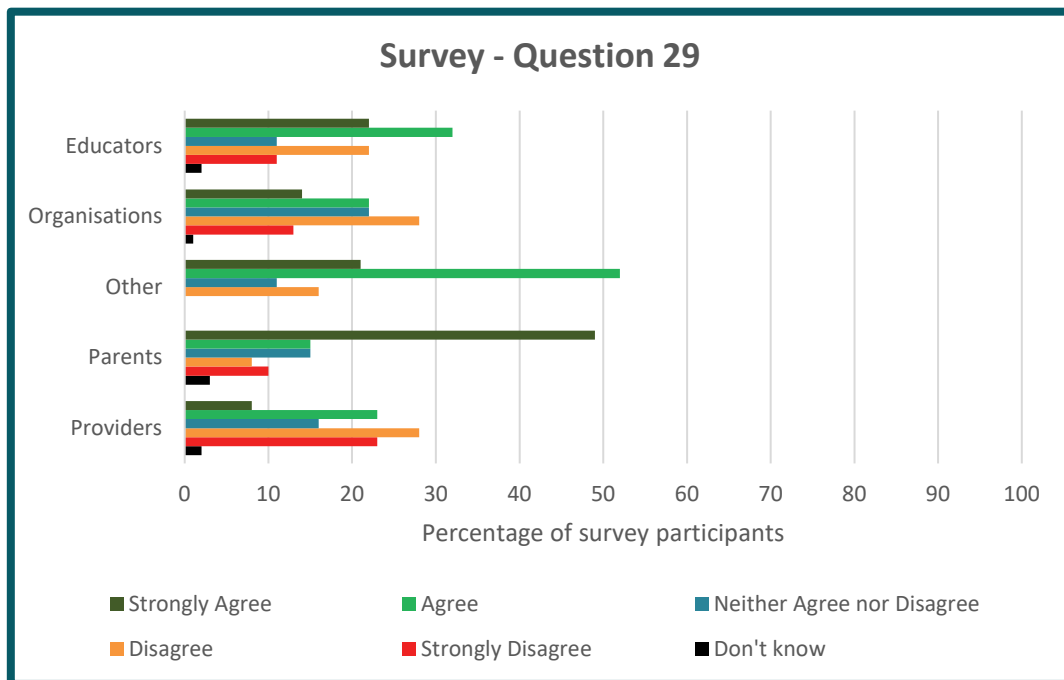


Figure 24B: Additional information in relation to service quality and enforcement action being taken against services should also be made available to the wider public – breakdown by stakeholder group.



There was more support for this amongst parents, educators, and others. Providers and organisations were split between those that agreed and those that disagreed. 51% of providers disagreed, with almost 20% unsure if they agreed or disagreed,

Several participants suggested that information should be shared with parents first before it is shared with the general public. Some of the following views were expressed:

The quality of all services provided for young children is society's business.

The service should be responsible for sharing information to parents, it should not be published only if everyone needs to know.

When a provider does not make a reasonable attempt to comply, then all rulings should be put on public record.

The most popular way to communicate information to the public in relation to service quality and enforcement actions was through the Tusla website.

5. Findings from Phase 2

The findings from Phase 1 informed the questions for the focus groups in Phase 2. Participants reiterated many of the themes that emerged during Phase 1. In addition, they provided additional insight and detail in a number of areas.

5.1. Regulator power

The participants at the focus groups raised very similar issues in relation to regulator power as were expressed at Phase 1.

Participants described a lack of trust between the sector and Tusla EYI, reiterated the issues with a lack of consistency from inspectors, and highlighted the need for clarity or a grading system for breaches which is clear to everyone and implemented by all inspectors. A list of infractions that would lead to closure was considered essential from the outset. It was acknowledged that identifying such a list was beyond the remit of this review but again there was a recommendation that this be developed with the sector.

It was noted that the Tusla EYI Quality and Regulatory Framework was developed to try to address some of the issues with consistency and individual interpretation of the Regulations, but some participants felt that difficulties persist.

We need a traffic light system for breaches...we have asked for this before.

Enhancing Tusla's powers means we are relying on one individual to interpret what the Regulations are...that can be hit or miss... we are empowering that individual to close a service and remove a person's right to earn a living.

Again, there was strong agreement that Tusla EYI should have the power to close a service if there is a significant risk to children.

If new powers keep one child safe then it would be worth it ...but it is not just about giving powers, it is about how they are enacted.

Tusla should have more power to take immediate actions. There should be a strong, firm hand of the law for people that breach the law.

Participants were asked what might trigger the use of new powers. A number of specific breaches were identified with the key factor being the level of risk to the child:

- *Something that really endangers children.*

- *Something outside what Children First can cover.*
- *Intimidation, bullying, or harassment of a child.*
- *Garda vetting breaches.*
- *Serious safety hazards, for example, fire risk.*
- *Very inadequate staffing ratios.*

Participants recommended that immediate closure should only be for a significant breach that has not been immediately remedied. They agreed that the rationale for closure must be very clear. Parents said they would not be happy if a service was closed if there was an obvious solution.

One educator outlined three things that they would need before feeling confident about giving Tusla EYI new powers:

Firstly, I would need clarity on what would cause a closure. Secondly, I would need trust that we will be treated fairly, and thirdly, we need to think about the approach moving forward. In the UK it is more open...if there is an issue, you can go and discuss this with the inspector... getting it wrong is one thing but the most important thing is the approach you take to put it right. I don't see this approach in Ireland.

Where a service is closed at short notice, parents requested financial supports and the contact details of other local providers. They noted that many parents are in a position where they do not have anyone else to step in and help them if a service is closed.

There also needs to be consideration for the protection of staff where a service is closed. Educators, providers, and representative organisations commented on their loss of earnings, potential damage to their professional reputation, and the impact on their health and wellbeing. If allegations are made against staff, there must be natural justice and fair procedures. There should be support mechanisms in place when a service closes, and all staff should be given information on how to access these supports.

5.1.1. Collaborative practice

As with Phase 1, participants emphasised the need for Tusla EYI to work in partnership with providers and staff in the sector. A number of participants felt that their roles were not understood or respected by Tusla EYI.

There is a lack of understanding of the art of early childhood education. We are not considered experts or professionals.

Some providers and educators reported that Tusla EYI 's inspections feel like a tick box exercise whereas other inspections can be a learning process and development opportunity.

Providers at one group asked if the Tusla EYI provider forum was still up and running. A participant at a later group confirmed that it was not. There were a number of requests for this to be re-established.

The importance of engagement with workers in the sector was also noted. One representative organisation explained:

Educators on the frontline are key, we feel it would be great if there was a forum where staff could have direct consultation with Tusla and give feedback ... a similar forum for representatives of the staff as for the providers...Staff spend all the time with the child ...and see the practice that is happening in the service...they have that information... a forum for dialogue with representatives of the staff and Tusla would be very effective.

While Tusla EYI's feedback and concerns service is available to all members of the public (including parents and educators) and educators may make protected disclosures to Tusla EYI regarding the service they work in, some participants did not seem to be aware of this. It was noted in one focus group that staff need a similar system to parents in relation to unsolicited complaints (feedback and concerns). It was recommended that staff should be able to approach Tusla EYI directly. It would appear that the processes in place for educators to raise issues are not well known.

5.1.2. Removal of a provider from the register

Participants were unanimous in the opinion that a provider should only be removed from the register for a very serious and legitimate reason. Suggested reasons included proof of serious maltreatment and risk to children, abuse or neglect of a child, a person having a criminal record. The majority of participants agreed that there needs to be a list of infractions that would lead to a person being permanently removed from the register and a list that would lead to a temporary removal.

There were mixed views as to whether a provider that has been removed from the register should be allowed to open another service ever again or after a specified period of time. The reason for removal was key here. Some felt there should be no way back for these providers, but others stressed the importance of monitoring and

review. Supports might include referral to a quality development programme such as Better Start. Mentoring programmes could be established, with training and shadowing options. Participants suggested that the provider's response should be observed and considered in future decisions.

We want these people gone from our sector. What is to say they won't do the same thing again. They should all have been closed down for good. They give the rest of us a bad name when we are trying to follow the Regulations to a tee.

Upskilling of people in the sector is important. We need to support people to learn about quality and improve quality...if they do not want to do this it is a warning sign.

It was highlighted by one representative organisation that the providers' right to earn a living must be maintained if there are any changes to Tusla EYI's powers. However, it was noted by another organisation *'that when it comes to decisions relating to the regulator's power to close services where necessary, or to prohibit unfit persons from operating services, the "right to earn a living" is not an absolute right and that, in the case of services that care for and educate babies and young children, the rights of the children must be paramount'.*

This organisation recommended that any policy decisions which affect young children must consider the growing scientific evidence showing the impact of experiences in a child's early life on their developing brain and capacity to grow up to be healthy, productive members of society. This supports the need for society to re-examine the way it thinks about the circumstances and experiences to which young children are exposed.

Some participants felt there should be a register of people rather than places, and the issue of the professionalisation of the sector was raised again.

You don't close a hospital because the doctor has broken the law.

There may be one bad apple, but does that mean the whole service has to close.

5.1.3. Unregistered services

Overall, there was little tolerance for unregistered services. There was agreement that services should not open unless they are registered. Most participants did not feel that service should be given additional supports to complete the registration process. One parent explained:

If a person is running a good business, they should be able to work within the Regulations, we should not start to spoon feed providers...if they can't get themselves registered, will they really be able to run a quality service?

However, some parents also expressed concern about a service having to close and the repercussions of this.

There was a little more allowance made for services where the registration had lapsed. Some participants suggested that if there is a good reason or exceptional circumstance behind the lapsed registration, for example, an administration error or illness, then maybe they should get some support to get through the process as quickly as possible.

If it is minor then maybe they should get support, but if they are not making an effort, then they should be closed.

A lapse in registration is one thing but a new service not registering is a different issue ...new services opening up have an obligation to register.

Looking at each service on a case by case basis was suggested but the practicalities of doing this in a fair and equitable manner was recognised.

The changes in recent years to the re-registration process were welcomed and noted to have had a positive impact. The process was considered to be more straightforward and supportive of providers. Again, the need to remove duplication of work through the use of the portals was emphasised.

If everything to do with regulation could be centred on either the Tusla portal or the Hive⁴ portal it would make a big difference...we have so many portals to keep an eye on that it is very easy to miss things.

5.1.4. Additional enforcement options

Participants were asked if Tusla EYI should use other enforcement options to act against minor breaches in a service.

⁴ The Hive is a Pobal platform for managing funding.

Some providers and educators felt that sometimes inspectors could be pedantic or unrealistic when it comes to minor non-compliances.

There is a sense that they are always looking for something, they cannot leave without finding something.

Will we be fearful of being closed down because the room is a degree too hot or too cold?

Several parents supported the use of fines, for example, if the required policies are not in place or are not being implemented.

Most participants felt that providers should be given a short timeframe to put non-compliances right before actions such as fines are imposed.

A number of participants proposed a system where you had two or three chances to comply and if not, you were given a fine. It was suggested that fines could be related to the turnover or profit of the service.

5.1.5. Making the Regulations proportionate

At Phase 1, many participants talked about the challenges for smaller services and said there was a need to make the Regulations proportionate. During the focus groups, participants were asked how this could be done. There were a number of suggestions including an assistive body for smaller providers.

Most of the discussions around proportionality focused on reducing the administrative burden rather than the Regulations themselves. For example, using portals to store vetting information, references, policies, etc. Tusla EYI and other inspectorate bodies could access this information as part of the inspection process.

5.1.6. Fit person

Participants were asked what should be considered in the determination of a 'fit person'. Responses included:

- Relevant qualifications and experience – either in ELC or in management
- Qualified to degree level
- Knowledge and understanding of the sector
- Good communicator
- Good at collaborating with others
- Good at managing people

- Open to learning and engaging in training, and promoting this for staff
- Garda vetting
- Reference checks
- Knowledge of health and safety
- Clear on the Regulations
- Able to put policies together and implement them

Persons could be excluded from being a 'fit person' if they have a criminal conviction, have been involved in serious non-compliances in the past, pose a risk to children. Parents felt persons should be excluded if they had managed a service that was previously closed by Tusla EYI.

Some participants were confused by the term 'fit person' and requested clarification. It was agreed that Tusla EYI must provide a clear list of the reasons for exclusion or removal from being a 'fit person'. A clear set of parameters and controls in relation to this are required.

5.2. Implementation of the Regulations

Participants were asked if there are aspects of ELC that are not covered in the Regulations but should be.

Most did not want any additions to the Regulations.

There is enough in there as it is...please do not add any more.

They are too technical already...we don't need more of the same.

Only a small number of items were raised but these came up consistently across the focus groups.

5.2.1. The quality of relationships, interactions, learning, and care

Participants would like more focus in the Regulations on the children themselves and the care and education they are receiving.

There needs to be more on children and adult interactions. This devalues all the good stuff that is going on. Is it really just about the fridge temperature. More holistic. What is going on in the room rather than just the temperature of the room.

Paperwork seems to be the priority and not the children.

Some participants highlighted the importance of the United Nations Convention on the Rights of Children and suggested that there is not enough focus in the Regulations, or training provided in the sector on this. Other highlighted the importance and benefits of Aistear and Siolta.

The importance of a child-centred approach was outlined:

Each child needs to be treated as an individual. In other countries, if you can show that you are meeting the needs of an individual child, you would not be failing if you are non-compliant with something in the Regulations. Here it is too rigid...no flexibility...if you are not meeting individual needs then you are not meeting the rights of individual children.

This subject was raised a number of times in relation to safe sleep. Educators and providers explained that many children now co-sleep with parents and siblings. Sleeping on their own in a cot is very alien to them and can be distressing.

5.2.2. Supporting children with individual needs

A number of participants outlined their concerns in relation to the inclusion of children with additional learning and support needs. In particular, they were worried that these children were being deliberately excluded from some services with providers using guidance on toilet training to do this.

We take as many of these children as we can and try to offer them the best experience while the service down the road refuses to take them or makes excuses. This is not fair on our service, the children, or families. They should not be allowed to just opt out. This is not the inclusion model that we all want.

Presently, parents can struggle to find appropriate places for children with additional needs. One representative organisation explained that there can be little protection or support for these children and their families if they are refused an ELC place. Grounds for refusal have included the child being unable to walk or not being toilet trained.

The child and parent's first experience of early education is being turned away at the door...there should be rules and systems in place to prevent this from happening.

There was support for the Regulations to better address the area of access, equality, and inclusion.

5.2.3. Standardised policies

Some parents requested that where possible, there should be standardised policies across facilities. Some participants suggested that the Regulations should also be clear on what policies parents should expect to receive and the action that could be taken if these are not being implemented.

Some parents also highlighted the need for services to have clear communication policies. They felt the Regulations should look more at the communication process with parents and how information is shared.

5.3. Outdoor provision

Participants at Phase 2 expressed similar views on outdoor provision to those in Phase 1. Some felt a set of specific regulations were needed for wholly outdoor spaces, whereas others thought the current Regulations could be adapted to suit this type of service.

Some providers said that services need to be clearer on the type of outdoor provision they offer, for example, wholly or partly outdoors. They highlighted that providers do not know what is expected of them as a wholly outdoor service and would welcome clearer guidance on this. The current Tusla EYI guidance document⁵ was not considered sufficient to enable a provider to invest in an outdoor service. A more prescriptive guide would be welcome. This should include information on managing adverse weather conditions.

A small number of providers also requested clarity on the recommended time that children should spend outside if they are in a mainly indoor service.

Many educators, tutors, and providers acknowledged the many benefits to children of spending time outdoors, experiencing colour, texture, sound, temperature, etc. It was recommended by several that the same emphasis needs to be placed on active learning in the outdoors, and lessons must have the same degree of focus and planning as indoor lessons. It was also recommended by some that the experiences on offer must provide space for children to explore and discover, and that the materials and environment must be of high quality.

⁵ Guidance for providers of early years services operating outdoors

Whilst it was accepted that standards of health and safety must be maintained, it was suggested that any regulations for outdoor services must address the need for 'risky or adventurous play'. Children should be allowed to explore and learn the right responses in outdoor areas, for example, wooded areas. They should learn the appropriate way to deal with any hazards they encounter in the natural environment. One provider reported previous difficulties with Tusla EYI in relation to the presence of nettles or briars in their outdoor environments. Several providers highlighted the need to manage these risks in a way that promotes health and safety whilst also respecting the environment.

Participants were aware of the challenges and complexities that changing the Regulations in relation to indoor services with outdoor space may present for providers. Some felt there should be a different approach between new builds and pre-existing services. Many supported the view that new builds must be required to have a minimum outdoor space, so all children have the opportunity to be outdoors. This needs to be balanced against potential building costs, planning and development issues.

Do we close or not develop services because they do not have enough outside space... that is difficult when there is such a crisis with places.

I think we need to be careful about putting in minimum outdoor space requirements because we already are struggling to get childcare spaces.

Where a service has limited or no outside space, participants supported a creative approach to ensure children do not miss out. This included structuring the use of outdoor space, so all children have some access, bringing the outside in, introducing new sensory experiences, increasing opportunities for children to move and exercise indoors, organising planned activities outside, and using public spaces.

Some parents were reluctant to have children go out from services to public spaces. They suggested that if this is to happen, they would like to see higher than normal staff ratios. They would like this to be included in the Regulations.

5.4. The voice of children and parents

During Phase 1, a significant number of participants commented on the rights of children, and how their voice and the voice of their parents might be heard in the inspection process. At the focus groups, participants discussed how we can ensure that the rights and needs of children are central to the Regulations and inspection process.

There was strong agreement that children's voices should be '*reflected in every aspect of the inspection process*'. The voice of parents, as their children's strongest advocates, should also be solicited.

Keep children at the centre of every decision and ensure that children's rights are at the forefront of all decision-making.

Parents and children are not consulted with and should be a priority not just for the service provider but for Tusla as we are paying extortionate rates for childcare costs. We should be aware at all times of the standard and quality of care provided.

Some educators emphasised that inspectors should be trained to gather the views of children in a way that is developmentally appropriate.

I don't think there is any reason why we should not think outside the box here and have the inspectors work on ways to support children to express themselves. I would like to see it clearly stated so they have to do it.

Some participants reported different levels of engagement between inspectors and children using the service.

Our inspector always takes time to talk to the children and to observe them during the day.

One inspector spent an hour measuring and checking ventilation in the bathrooms and hardly saw the children. We need a bit more common sense. This place belongs to the children...you can see and hear their voices reflected in everything...that is more important to note than dust on the skirting boards.

Some parents reported that they had no opportunity to engage with Tusla EYI during inspections at their service. Inspections are largely unannounced which is appropriate for the purpose of regulatory oversight. There is no prior notice that an inspection is taking place, so parents said they are usually working and are not necessarily available to speak with an inspector. It is important to note that Tusla EYI has a feedback and concerns facility for parents, staff and the general public. It also advertises inspections by putting a poster up on-site during the inspection with a link for parents to submit any feedback. Some participants suggested that Tusla EYI may need to promote the feedback process for parents.

There is a disconnect between Tusla and parents...this is something that Tusla needs to look at...how they communicate and interact with parents.

One parent explained the importance of getting the views of parents during an inspection to confirm the facts:

The inspection report for our service said that parents had been given copies of all policies. This was not true. I asked for policies but was never given them.

A number of providers explained that they had sent surveys to parents, but the response rate was poor. Providers were reluctant to take on the additional burden of gathering feedback from parents during an inspection and some felt it was more appropriate for Tusla EYI to communicate directly with parents.

We put a sign on the door to say there's an inspector visiting and that's a step in the right direction. In the UK, a sign is out on the door and two parents are sought out by the inspector for an interview and a survey is sent home and all of that is considered.

It was noted that involving parents would help them to understand the inspection process. The majority of providers said they would like to see the parent voice included but some providers and managers were cautious about involving parents as they were concerned that some may have 'their own agenda' or be 'unfairly critical'.

5.5. Communication with parents

Parents reported different experiences with their provider in terms of communication and the sharing of information. Some feel that they are 'not in the loop' and reported receiving little or no communication at all from their provider, whereas others had good communication and information sharing with their provider. Communication could be face to face, through apps, emails, texts, etc.

When communication is difficult, one parent explained that you rely on your child to get basic information and find out what is happening in a service. This has been exacerbated by the Covid-19 pandemic and parents being excluded from the premises. A few parents worried about making a complaint in case this led to a loss of service. They were also concerned about the reaction of the provider and the impact on their child. A lack of ELC places means that parents are not in a position to move the child if the relationship with the provider breaks down. For the most part, parents want to work with services in a proactive way to resolve any issues that arise.

Some parents were aware that they could make a complaint directly to Tusla EYI, but it was suggested that this information should be more widely available, and the process should be as simple as possible.

Most parents were not sure what information they had the right to expect from their provider. They would like to see clarity in the Regulations around communication with parents and the information they can expect to receive.

Frequently, it seems that parents are not given information about inspections, are not aware they are taking place, or given information about the outcomes. The majority of parents feel they should be made aware that an inspection is happening and informed of the outcomes. They would like more of a partnership approach.

Participants in the focus groups agreed with those in Phase 1 that the provider should have the opportunity to communicate information to parents first following an inspection.

Open communication between the provider and parents is an essential component of a good quality service.

Many parents and representative groups felt they should be required to confirm that they have done this. If key information is not shared by the provider or if a provider refuses a request for information, then Tusla EYI should have a responsibility to step in. Where parents had experienced poor communication with their provider, they advocated for Tusla EYI to be responsible for sharing information.

In cases where there are enforcement actions and serious issues, a partnership approach between the provider and Tusla EYI was recommended.

I think parents would expect Tusla to communicate about enforcements because that is serious.

For the most serious matters, Tusla can get involved but anything less than that then it should be the provider...I would be concerned about Tusla getting involved too early. If a provider refuses to provide reports, then that should be taken seriously by Tusla.

Many participants reiterated the point that only some parents are able or want to access the inspection reports on the Tusla website. There was broad agreement with the ideas put forward in Phase 1 to support information sharing with parents. There were some concerns about the potential delays and costs to providing information in Plain English and different languages. Parents were reported to use local knowledge,

previous experience, word of mouth, google reviews, or social media to help them choose a provider. It was noted that some have very little choice of provider.

Some participants said that the style of writing in the inspection report can deter providers from sharing information. Several providers and organisations felt that minor non-compliances can be made to look more serious, and this can cause unnecessary alarm to parents and give a bad impression of the service.

One provider highlighted that services need breathing space, time to digest the inspection report, and develop an action plan, before the report is sent to parents. It was recommended that the action plan should be sent with the report so parents can see that the required actions are being taken. Another participant suggested:

A summary of the findings could be put up to say the report is in progress, so you're not left wondering is it enforcement action or just a few minor compliances.

A number of participants highlighted that parents may not be clear on the distinction between Tusla and Tusla EYI, and this can add to difficulties accessing the right information.

5.6. Sharing information with the public

Participants were asked what type of information should be made readily available to the public. It was noted that inspection reports are already in the public domain. There was debate as to how well it is communicated to the public that this information is available and how accessible the information is. Participants questioned what type of additional information might be provided outside of this.

In the provider group, there were mixed views about sharing any information with the public.

We need to know that the inspections are fair and valid. The trust isn't there yet and it is multifaceted. Often reports can be written by people who weren't even there on the day and can gain legs. As a principle, yes, they should have the power to share information, however the trust between the providers and the powers isn't there yet.

Generally, there was support for sharing information about enforcement actions in a timely manner. The potential for long delays between the inspection/action and the report being published was recognised. Delays in legal processes can also mean that the public learn about issues a long time after they have occurred. One parent noted

that this can make it seem that people have been ‘kept in the dark’ but this might not be the case.

Enforcement is quite serious, so the public have a right to know. I don't think anything should be kept quiet as it would reflect badly on Tusla and the sector.

As soon as a temporary or permanent closure order is issued that could be in the public domain.

How much information is given, to who and when should be reflective of the level of risk to children, that should be the test.

Most participants agreed that additional information on minor non-compliances does not need to be shared with the public. It was suggested at both Phases 1 and 2 that following an inspection, a brief summary of the findings could be made available on the Tusla website until the full report is ready. This might offer reassurance to parents that there were no major non-compliances or enforcement actions. It was also proposed that this might be linked to a ‘traffic light’ system of non-compliances and indicate for example, that all non-compliances found were amber.

Some providers and educators highlighted the impact of media coverage, bad press or rumours on their business, reputation, and wellbeing.

6. Additional points raised during the public consultation

The consultation also captured a range of additional views and suggestions in relation to changes to the Regulations and the inspection process. These are outside the scope of this review. This information has been shared with the DCEDIY.

Appendix I – Background paper

Review of Regulations for Early Learning and Care Public Consultation Background Paper

Introduction

The regulation of early learning and care (ELC) services is provided for in the [Child Care Act 1991 as amended by Part 12 of the Child and Family Agency Act 2013 \(the Act\)](#) and the [Child Care Act 1991 \(Early Years Services\) Regulations 2016 \(the Regulations\)](#). The Act provides substantial powers to the Tusla Early Years Inspectorate (Tusla EYI), the independent statutory regulator for the sector, in relation to registration, inspection and enforcement. The Regulations set out **the minimum standards** ELC services must meet in order to register with the Tusla EYI and to operate an ELC service.

In 2019, the then Minister for Children and Youth Affairs announced that a review of the enforcement powers of the Tusla EYI would be undertaken by the Department and that the Chair of Tusla had been consulted to get the views of the Board on the matter. In particular, the Minister wished to extend Tusla's powers to enable it to close down or suspend services immediately, where it had significant safety or welfare concerns in relation to a service. The review was to also consider how parents can be informed at the earliest possible opportunity of serious concerns about a service being investigated by Tusla EYI.

While work on the review commenced in 2019, it was, by necessity, paused during the Covid-19 pandemic. The Minister for Children, Equality, Disability, Integration and Youth recommenced this important work in 2021. As the regulation of ELC services impacts a wide range of stakeholders including providers, early years educators, parents and children, the Minister also wishes to obtain the views of those stakeholders and the wider public on the review.

Scope of the Review

While the review will primarily focus on Tusla EYI's powers of enforcement, the DCEDIY will also take the opportunity to conduct a wider but limited examination of lessons learned from the implementation of the Regulations since 2016. This will include examination of whether the implementation of the Regulations is meaningful and pragmatic, whether requirements can be streamlined or administration reduced without impacting quality, whether there are

any significant gaps in the Regulations and whether there is sufficient provision for information sharing with parents in relation to the enforcement of the Regulations.

This review does not include an examination of regulatory requirements for school-age childcare or childminders as these issues will be examined in separate processes. Nor does it include a review of the structure of the Inspectorate. Finally, due to the recent publication of “Nurturing Skills: The Workforce Plan for Early Learning and Care (ELC) and School-Age Childcare (SAC), 2022-2028”, there are no plans to include any assessment of qualification requirements for early years educators in this review.

The Public Consultation

The consultation involves a call for submissions and an online survey. In addition, topics will be identified from the submissions and survey responses for further discussion in a series of focus groups. If required, the DCEDIY may decide to host further consultation events.

All information in relation to the consultation is available here

<https://www.gov.ie/en/consultation/bef61-public-consultation-on-a-review-of-regulations-for-early-learning-and-care/>

Content to be covered in Consultation

The primary focus of this public consultation is on enhancement of the enforcement powers of the Regulator. However, it also offers an opportunity for interested parties to comment on learning from the experience of implementation of the Regulations since 2016. Participants in the consultation are asked to consider their contribution under three key themes:

- 1. Does the Regulator have sufficient powers to address poor quality?**
- 2. Are there issues arising in implementation of the Regulations that require changes to legislation or to the Regulations?**
- 3. Are there changes to legislation or the Regulations that would give parents better access to information on the quality of services?**

A summary of each of the areas for consideration under these three themes is set out below:

Section 1 - Does the Regulator have sufficient powers to address poor quality?

The Tusla Early Years Inspectorate (Tusla EYI) is the independent statutory regulator for the sector with responsibility for registering services, inspecting against the Regulations and bringing enforcement action where necessary. The 2013 amendment of the Act and the 2016 Regulations together provided substantial new powers to Tusla EYI, including the powers to maintain a register, refuse to register a service, apply certain conditions to a registered service, remove a service from the register if they are not operating in line with the Regulations, prosecute a person who is operating an unregistered service, and prosecute a person who does not comply with a condition of registration.

Since the implementation of the Regulations there have been a very small number of incidences where the effectiveness of these powers has been tested. While Tusla EYI can

remove a service from the register for a serious and persistent breach of the Regulations, this can be a lengthy legal process. Tusla does not have the power to immediately and temporarily close a service, even where there are concerns about significant breaches of the Regulations.

Where a service is operating without registration, Tusla may seek a Court Order to enter the service, may instruct the service to cease operating and may bring a prosecution against the service; however, it does not have the power to immediately shut the unregistered service.

The DCEDIY is now considering the introduction of powers to enable Tusla to close an unregistered service or to immediately and temporarily close a registered service where it has significant welfare or safety concerns. These are the most significant changes being considered and would impact only a very small number of services.

The DCEDIY is also considering including some additional enforcement powers in legislation which may enable Tusla EYI to take swift action where it has a significant concern about a service or a particular aspect of a service but where closure of the service is not necessary or appropriate. This might include statutory improvement notices, statutory immediate action notices and penalties for non-compliance. Depending on the severity of the non-compliance, these actions could be taken immediately or as part of an escalated enforcement path.

The DCEDIY is seeking views in relation to whether the additional powers referenced above (and / or others) should be provided in legislation.

Section 2 - Are there issues arising in implementation of the Regulations that require changes to legislation or to the Regulations?

While this is not a full review of all aspects of the Regulations, it provides an opportunity to address issues that may have arisen during implementation of the current Regulations since they came into force in 2016.

The purpose of the Regulations is to secure the health, safety and welfare and promote the development of children attending early learning and care services, and they set **the minimum standards** required for services to register with Tusla and to operate an ELC service.

Lack of clarity or unnecessary administrative burden can have a negative impact on the quality of services so it is important to consider whether the current regulatory requirements are clear, whether language needs to be clarified or further detail included under any aspect of the Regulations, and whether the administration required to comply with the regulations is unnecessary in any respect or whether it can be streamlined or reduced without negatively impacting on service quality. This may include requirements in relation to registration, management and staffing, information and records, care of children, safety, premises, notifications and complaints, and inspection.

This review does not extend to the minimum qualification requirement for early years educators, which has already been reviewed in the context of Nurturing Skills: the Workforce Plan for Early Learning and Care and School-Age Childcare (Government of Ireland, 2021).

Section 2a - Are there issues arising in implementation of the Regulations that require changes to legislation or to the Regulations? – Outdoor Services

Over the past two years services have been asked to focus more on outdoor play and there has also been an increase in services operating fully outdoors. However, there is currently no definition of an “outdoor service” in the Regulations and there are no minimum space requirements for an outdoor service or for outdoor spaces in services that operate indoors.

DCEDIY would like to address this gap in the Regulations and include specific minimum requirements for outdoor services and outdoor spaces attached to services. Introduction of specific regulatory requirements in relation to outdoor space would provide clarity to services.

and would set the minimum standards against which the Regulator can inspect services. It is acknowledged that some services have limited or no outdoor space in their service and so any proposed change to the Regulations would need to take this into account.

Section 3 - Are there changes to legislation or the Regulations that would give parents better access to information on the quality of services?

Services and parents share information on an ongoing basis on a range of issues but there is currently no legal requirement for services to share inspection outcomes or to notify parents if they are subject to regulatory enforcement action. Tusla EYI does not have access to parents’ contact details and is not able to share information directly with parents but it does publish inspection reports and the date of last inspection of a service (where the report is not yet finalised).

The DCEDIY is seeking views on changes to legislation or the Regulations that would give parents better access to information on the quality of services, what information should be shared with parents in relation to concerns the Tusla EYI may have about poor quality services or in relation to enforcement action being taken against a service and when that should be shared. The DCEDIY would also welcome views on where responsibility for sharing of information should sit e.g., with Tusla EYI, the service provider or somewhere else.

Appendix 2 - Call for written submissions and survey responses

The Minister for Children, Equality, Disability, Integration and Youth, Roderic O’Gorman, has launched a public consultation on a review of the Regulations governing Early Learning and Care. The review will primarily focus on enforcement powers of the Tusla Early Years Inspectorate, the independent statutory regulator for the sector. However, the Department will also take the opportunity to conduct a wider but limited examination of lessons learned from the implementation of the Regulations since 2016.

You can make your views known by completing the online survey by 06 May 2022 or responding to the call for submissions by 27 May 2022.

Purpose

The regulation of early learning and care (ELC) services is provided for in the Child Care Act 1991 (as amended by the Child and Family Agency Act 2013) and the Child Care Act 1991 (Early Years Services) Regulations 2016. The Act provides substantial powers to the Tusla Early Years Inspectorate (Tusla EYI) in relation to registration, inspection and enforcement. The Regulations set out the minimum standards ELC services must meet in order to register with the Tusla EYI and to operate an ELC service.

In 2019, the then Minister for Children and Youth Affairs announced that a review of the enforcement powers of the Tusla EYI would be undertaken by the Department and that the Chair of Tusla had been consulted to get the views of the Board on the matter. In particular, the Minister wished to extend Tusla’s powers to enable it to close down or suspend services immediately, where it had significant safety or welfare concerns in relation to a service. The review was to also consider how parents can be informed at the earliest possible opportunity of serious concerns about a service being investigated by Tusla EYI.

While work on the review commenced in 2019, it was, by necessity, paused during the Covid-19 pandemic. The Minister for Children, Equality, Disability, Integration and Youth recommenced this important work in 2021. As the regulation of ELC services impacts a wide range of stakeholders including providers, early years educators, parents and children, the Minister also wishes to obtain the views of those stakeholders and the wider public on the review.

How to participate

A background document on this review of the ELC Regulations can be found here in English and here in Irish.

Please complete our survey here. An Irish language version of the survey is available through this link by clicking 'Gaeilge'. Participants will be asked questions under the three themes of the consultation.

You may also make a more detailed submission. Read the call for submissions and complete the submission template here. An Irish language version of the submission template is available through this link by clicking Gaeilge.

Closing date for completion of the survey is close of business, Friday, 06 May 2022.

Closing date for receipt of submissions is close of business, Friday, 27 May 2022.

If you would like to register your interest in participating in further phases of this public consultation, e.g., in focus groups, please email us at ELCQuality@equality.gov.ie

What we will do with your response

Responses will be collated and analysed by DCEDIY. Following initial analysis focus groups will be organised as part of this consultation. Once the consultation has concluded the Minister will publish a consultation report. Extracts from submissions or survey answers may be quoted in the report. Your views will contribute to the further development of legislation governing Early Learning and Care.

Please note that submissions will not be responded to.

Freedom of Information

All submissions and survey answers are subject to release under the Freedom of Information (FOI) Act 2014 and are also subject to Data Protection legislation.

Personal, confidential or commercially sensitive information should not be included in your submission, and it will be presumed that all information contained in your submission is releasable under FOI legislation.

Closing date for completion of the survey is close of business, Friday, 06 May 2022.

Appendix 3 - Survey questions

Review of Regulations for Early Learning and Care Public Consultation - Survey

This survey relates to the focused review of the legislation governing the regulation of Early Learning and Care (ELC) services (Part VIIA of the Child Care Act 1991 as amended by [the Child and Family Agency Act 2013 \('the Act'\)](#)) and the [Child Care Act 1991 \(Early Years Services\) Regulations 2016](#) ('the Regulations') and will facilitate analysis by the Department of Children, Equality, Disability, Integration and Youth (DCEDIY).

A short paper with background information on the review is available [here](#). Respondents are encouraged to read this short paper before proceeding to answer the questions set out below.

About you

Are you representing an organisation?

- Yes
- No

if yes, please give the name the organisation. _____

if no, please indicate which capacity you are completing the survey:

- Early Learning and Care Provider – owner
- Early Years Educator
- Childminder
- Parent/Carer
- Student
- Tutor/Lecturer/Academic
- Member of the public
- Elected representative
- Other, please give more detail _____.

Would you be willing to participate in consultation events (e.g., focus groups)?

- Yes
- No

Section 1 - Does the Regulator have sufficient powers to address poor quality?

The Tusla Early Years Inspectorate (Tusla EYI) has substantial powers in relation to the registration and inspection of early years services, but it does not have the power to immediately close a service where it has significant concerns. Further strengthening of these powers is currently being considered to increase the ability to immediately address significant quality concerns.

The DCEDIY is also considering including some additional enforcement powers in legislation which may enable Tusla EYI to take swift action where it has a significant concern about a service or a particular aspect of a service but where closure of the service is not necessary or appropriate. This might include statutory improvement notices, statutory immediate action notices and penalties for non-compliance. Depending on the severity of the non-compliance, these actions could be taken immediately or as part of an escalated enforcement path.

A number of statements are set out below in relation to the enforcement powers of the Tusla Early Years Inspectorate. Under each please indicate whether you ***Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, or Don't Know***.

1. The current Regulations provide Tusla EYI with sufficient powers to address poor quality in ELC services.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

2. The Tusla EYI's powers of enforcement of Regulations should be strengthened.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

3. The Regulator's powers should be strengthened to provide for immediate temporary closure of a service where significant safety or welfare concerns are identified.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

4. Where Tusla EYI temporarily closes a service due to significant safety or welfare concerns, alternative arrangements for parents and children should be put in place.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

5. The Regulator's powers should be strengthened to provide for immediate closure of a service which is operating without being registered.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

6. The Regulator's powers should be strengthened to provide for statutory Improvement Notices, including escalation to court issued Improvement Orders.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

7. The Regulator’s powers should be strengthened to provide for statutory Immediate Action Notices, including escalation to court issued Immediate Action Orders.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don’t Know

8. Where more minor breaches of the Regulations occur, lesser penalties should apply (e.g. fines).

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don’t Know

9. The box below is provided for any additional comment which you wish to make on this section but which, you feel, has not been captured by the above questions?

Section 2 - Are there issues arising in implementation of the Regulations that require changes to legislation or to the Regulations?

While this is not a full review of all aspects of the Regulations, it provides an opportunity to address issues that may have arisen during implementation of the current Regulations since they came into force in 2016.

The purpose of the Regulations is to secure the health, safety and welfare and promote the development of children attending early learning and care services, and they set the minimum standards required for services to register with Tusla and to operate an ELC service. The DCEDIY is taking the opportunity of this review to consider if any adjustments are necessary to improve the connection between the Regulations and quality practice. This may include amending text where there exists a lack of clarity in relation to Regulations, removing administrative burden or streamlining processes.

This review does not extend to the minimum qualification requirement for early years educators, which has already been reviewed in the context of Nurturing Skills: the Workforce Plan for Early Learning and Care and School-Age Childcare (Government of Ireland, 2021).

10. The Regulations are clear and do not require any further clarification.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don’t Know

11. Are there element/s of the regulations you would change to make them clearer.

12. The regulations are appropriate and do not create any unnecessary administrative burden.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

13. Are there element/s of the regulations you would change to remove unnecessary administrative

burden or to streamline administration.

Registration

Tusla's current powers include the power to maintain a register of early years services. All services must be registered with Tusla in order to operate.

14. The registration process for services as set out in the Regulations is appropriate in terms of length and detail given the importance of ensuring services meet minimum quality standards.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

15. Are there elements of the registration process you think should be revised or removed and why?

16. The current registration cycle is 3 years, at the end of which services must apply to Tusla to remain on the register for a further 3 year period. Please indicate which of the following proposed options you believe should apply to the registration period in future:

- The 3 year period of registration should stay in place
- The registration period should be extended
- There should be no fixed period attached to registration, and instead registration documents should be checked at inspection.

17. A person applying to Tusla to become a registered provider and in some cases a person in charge of an ELC service must submit, with their application, a copy of the Garda Vetting disclosures and two references from previous employers in relation to themselves. The DCEDIY is considering introducing a “fit person” person regulation which would enable Tusla EYI to look at other criteria when assessing whether someone is suitable to be a registered provider/person in charge e.g. the provider’s record of compliance with the Regulations.

- The Regulations should be expanded to enable Tusla EYI to assess, at registration and re-registration, whether a proposed registered provider/person in charge is a “fit person” to operate a service

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don’t Know

- The Regulations should be expanded to enable Tusla EYI to assess, at any point in the registration period, whether a proposed registered provider/person in charge remains a “fit person” to operate a service

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don’t Know

Safe sleep

Regulation 20 (b) requires that services provide adequate and suitable facilities for a child to rest. There is no further specific detail on this requirement set out in Regulation; however, guidance on how services can comply with this requirement is set out in the Tusla EYI Quality and Regulatory Framework. DCEDIY are examining whether further detail should be provided in regulation in relation to the requirements for rest.

18. Specific and detailed provisions in relation to safe sleep and facilities for rest should be included in the Regulations.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don’t Know

19. Minimum space requirements for facilities for rest and sleep should be set out in the Regulations.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don’t Know

Section 2a - Are the Regulations supporting quality in practice? – Outdoor Services

The number of services operating wholly outdoors or spending more time in their outdoor space has increased in recent years, particularly since the onset of Covid-19. While the Regulations require that children have access to outdoor spaces either on the premises or accessible on a daily basis, they do not set down minimum standards for such space. Nor is there a definition in the Regulations of what constitutes an “outdoor service”. DCEDIY would like to bridge this gap in the Regulations to provide

further clarity to providers and parents and to provide a set of minimum standards for outdoor space against which the Tusla EYI may assess the quality of outdoor provision.

20. The Regulations should include minimum outdoor space requirements.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

21. The Regulations should include minimum standards for the facilities to be provided in services operating wholly outdoors.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

22. The Regulations should include minimum standards for the facilities to be provided in outdoor spaces attached to services operating mostly indoors.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

23. Any amended minimum outdoor space requirements should make allowances for existing services with limited or no outdoor space

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

Section 3 - Are there changes to legislation or the Regulations that would give parents better access to information on the quality of services? Services and parents share information on an ongoing basis on a range of issues but there is currently no legal requirement for services to share inspection outcomes directly with parents or to notify parents if they are subject to regulatory enforcement action. Tusla EYI does not have access to parents' contact details and is not able to share information directly with parents but inspection reports and the date of last inspection of a service are made publicly available on the Tusla EYI website.

24. Parents have sufficient access to information about services held by the Regulator.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

25. If you answered Disagree or Strongly Disagree to Question 23, what actions do you think should be taken to improve access to information for parents?

26. Parents should be informed directly of significant concerns that the Tusla EYI has in relation to a service.

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

27. If you answered Strongly Agree or Agree to Question 26, when do you think that information should be shared? (Please tick multiple answers if appropriate)

- If an improvement notice is served
- If an immediate action notice is served
- Following inspection but before the Inspection report is published.
- Other, please specify _____.

28. Who do you think should be responsible for sharing information on significant concerns with parents?

- The service
- Tusla EYI
- Both Tusla EYI and the service
- Other, please specify _____.

29. At present, Tusla EYI Inspection reports are publicly available on the Tusla website. Tusla also publishes the date of last inspection of a service where an inspection has taken place, but the inspection report is not yet finalised. If a service has been notified that it is being removed from the register, that information is also published on the Tusla website.

Additional information in relation to service quality and enforcement action being taken against services should also be made available to the wider public (i.e. not just to parents).

Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know

30. If you answered Strongly Agree or Agree to Question 29, how should the public be provided with this information?

- Information provided on the Tusla website
- Introduce a legal requirement for services to publish such information on its website
- Introduce a legal requirement for services to share such information directly with prospective parents
- Other, please specify _____.

Section 4 – Further views on adjustment of other areas in the Regulations.

The box below is provided for any additional comment which you wish to make within the scope of the review but which, you feel, has not been captured by the above questions.

Thank you for taking the time to complete this survey.

Please refer back to xxxconsultation@gov.ie for other ways you can participate in this public consultation.

Appendix 4 – Topic Guide

	The Rights of Children
1	How can we ensure that the rights and needs of children are central to the Regulations and inspection process?
2	Should TUSLA inspectors speak to the children and parents using a service? Should these views be reflected in the inspection report?
	Regulator Power
3	What types of risks and breaches do you think should trigger new powers for TUSLA? For example, what might trigger a temporary closure, statutory improvement notice or statutory immediate action notice?
4	If TUSLA were able to immediately and temporarily close a service where there is a significant risk to the safety of children, what guidance and safeguards might be required to ensure consistency in the application of these significant powers?
5	What might support the monitoring and review of these services?
6	Should service providers removed from the register be prohibited from opening another service for a specified period instead of permanent prohibition?
7	Should TUSLA use other enforcement options to act against minor breaches in a service, If so, when and against what type of breach?
8	What supports, if any, should TUSLA give to unregistered services to support them to complete the registration process? Should unregistered services be closed whilst they complete the registration process?
9	Should TUSLA take a different approach with unregistered services depending on different circumstances e.g., those that are operating without registration, those that opened before registration was completed, and those whose registration lapsed but they remained in operation?
10	Do you think there are aspects of ELC that are not covered in the Regulations but should be, such as ratios for outings?
11	How can we make the Regulations proportionate?

	Implementation
12	Would it be helpful to have a shorter, Plain English version of the Regulations for some stakeholder groups?
13	What clarifications are required in the Regulations in relation to sleep and rest, floor space, ratios, record-keeping, Garda vetting, role of the registered provider?
14	Should there be a single person in charge per service, and what is their role?
15	Have recent changes in the registration and re-registration processes had a positive impact? Is there anything that could improve this further?
16	What should be considered in the determination of a 'fit person'?
17	What should exclude a registered provider/person in charge from being deemed a 'fit person'?
	Outdoor Provision
18	What additional regulations are required for outdoors services and what should the minimum standards be?
19	Is there anything in the current Regulations that cannot be applied to a wholly outdoor service?
20	What provision might be needed in the Regulations to accommodate services that currently have limited or no outdoor space?
	Information for Parents
21	When should parents be informed about enforcement actions and who should inform them?
22	If a provider refuses to inform parents, should TUSLA take up this responsibility?
23	Does the information available to parents need to be more user friendly? How can this be achieved?
24	Do parents access inspection reports on the TUSLA website?
25	Should inspection reports be sent by email to parents?
26	What type of information should be shared with the public, and when?

Appendix 5 – Sample Focus Group invitation email

Early Years Educators - Invitation to take part in a Public Consultation

In 2019, the then Minister for Children and Youth Affairs announced that a review of the enforcement powers of the Tusla Early Years Inspectorate (EYI) would be undertaken by the Department of Children, Equality, Disability, Integration and Youth.

In particular, the Minister wished to extend Tusla's powers to enable it to suspend services immediately, where it had significant safety or welfare concerns in relation to a service. The review would also consider how parents can be informed at the earliest possible opportunity of serious concerns about a service being investigated by Tusla EYI.

As part of the review, the Department is carrying out a public consultation. Phase 1 of this consultation has been completed. Phase 2 is underway and involves a series of focus groups with different stakeholders, including Early Years Educators.

Further information on this consultation can be found here:

<https://www.gov.ie/en/consultation/bef61-public-consultation-on-a-review-of-regulations-for-early-learning-and-care/>

The focus groups will be held online and will be facilitated by Ace Communication.

Each focus group will last for approximately 90 minutes.

As a participant of Phase 1 of this public consultation, we would like to invite you to attend a focus group. Please only apply if your primary role is as an educator in an early learning and care setting. There will be additional focus groups at a later date for other stakeholders.

Please respond by email to acefocusgroups@gmail.com if you would like to participate. Places are limited and will be allocated on a first come first served basis.

We will reply to confirm your place and provide the meeting link.

Focus Group 3 – Thursday 6th October at 7.30 pm.

If you would like to take part in the consultation but this date does not suit you, please let us know and we may be able to offer you a place at a later date.

If you require accessibility supports to take part, please contact us to discuss.

If you have any questions, please contact Teresa Gadd, lead researcher, on 085 141 0933.



**An Roinn Leanaí, Comhionannais,
Míchumais, Lánpháirtíochta agus Óige**
Department of Children, Equality,
Disability, Integration and Youth

Department of Children, Equality, Disability, Integration and Youth

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