

Minister

I outlined to you some time ago that we have had a number of serious concerns in relation to the governance and operation of our various Early Years Schemes.

The background to this is that the childcare schemes were introduced individually over a short number of years on a piecemeal basis, mostly in response to an identified urgent need. They were put in place on an administrative basis, often in extremely short timescales, and with insufficient staff to ensure that today's standards of governance and compliance could be met.

This problem has become all the more apparent, as highlighted by the fraud in the [REDACTED] Services (since closed and re-configured) and by Pobal's own compliance reports. As a Department we have been acutely conscious that immediate and urgent action was required.

Over the last eighteen months we have been taking a series of steps to address these governance and compliance concerns. We have substantially increased the number of staff in the Early Years area to address these problems and to put the schemes on an appropriate footing. For example, the number of Principal Officers in the area has increased from one to three in the last year, so that we now have separate units dealing with (i) operations (ii) new schemes and (iii) governance and compliance.

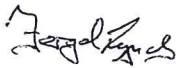
This work has continued and there is a good deal more to be done, and this work will be given priority in the Department. In particular we will

- ensure our internal resources are strong enough to regularise existing schemes and build the new schemes in accordance with clear rules, contracts etc.
- communicate clearly enunciated rules and obligations to the sector
- help community and private services to meet modern governance requirements (some of them struggle to do so, especially where they are small units).

Among our next steps are to

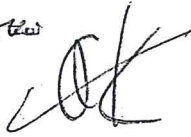
- establish the Affordable Childcare Scheme in accordance with your priorities
- implement the Mazars' review of the CCS (arising from the [REDACTED] situation)
- conduct an independent review of childcare costs in line with the Programme for Government and
- carry out and implement a major operational review of our early years systems, to help us develop the best operating model for the future.

Laura Slevin's note below sets out the issues in more detail, and I would be happy to discuss it with you further.

  
Fergal Lynch  
14 March 2017.

Note - discussed further with Minister and confirmed main areas of progress & next steps.

32 4/4/2017



Yes I would

like to discuss further -

considering a pragmatic, phased approach  
with this R

SUBMISSION NO. MINISTERIAL DIRECTING -	
<b>Governance issues childcare schemes</b>	14/02/2017
From: Laura Slevin, Principal Officer, Early Years Governance	Date: 15 <sup>th</sup> February 2017
To: Bernie McNally, Assistant Secretary Fergal Lynch, Secretary General Minister for Children & Youth Affairs KZ, 4.4.17	27.2.17 CC: Stephen Brophy, Assistant Principal, Early Years Governance Paul Fay, Principal Officer, EY Ops Anne-Marie Brooks, Principal Officer, Early Years Projects
<b>Purpose: For Information</b>	

## Summary

The current 5 childcare schemes benefited more than 100,000 children in 2016 and cost approximately €340m. They were introduced in a piecemeal fashion in response to different needs at different times and when governance and compliance requirements were less clear. The current schemes are operated on an administrative basis, i.e. they are not underpinned by specific legislation. Therefore, the mechanisms now available to the Department to ensure proper control of public funds are limited to contracts with services containing the rules of the schemes.

Services' adherence to the contract rules is assessed by a compliance programme. The design of the current schemes, particularly CCS, compounded by weak record keeping and financial procedures within services, facilitates over-claims and makes it impossible to provide adequate assurance that funding is used for the purposes for which it is provided.

The Department has made strong progress in 2016 in improving the focus of Pobal's compliance checks, and on strengthening the rules imposed on services delivering the Department's funding programmes throughout 2016.

Notwithstanding progress made, the most significant governance issues identified by internal audit reports (including the 2016 Mazars' audit of CCS services) and Pobal's Compliance Reports (including the [REDACTED]), are systemic in nature and can only be addressed through legislative provision, strong rules, sanctions and contractual requirements. Governance arrangements should be inherent to schemes and put in place during the design phase. Furthermore, it must be recognised that many early years services, because of their small size, or the voluntary nature of their Boards, find it very challenging to meet public sector assurance prerequisites and it is difficult for DCYA / Pobal to enforce all rules due to poor administrative and control arrangements.

DCYA needs to:-

1. Ensure that suitable resources are in place internally over a sufficient timeline to adequately scope and design new schemes, revise existing ones (including creating strong and clear rules, contracts, sanctions etc.)
2. Develop new schemes and reform existing schemes in accordance with public sector spending codes, relevant circulars and codes of practice and standards.
3. Communicate these rules and obligations with the sector in a professional, collaborative and respectful manner
4. Review and oversee a highly effective compliance and sanction regime
5. Support community and private early years services to meet governance requirements
6. Review the funding of services to ensure that base funding is adequate to enable services invest in the necessary administrative and governance infrastructure
7. Continue to manage the high level of risk that exists as active measures are taken in the short and medium term to address the many serious issues.

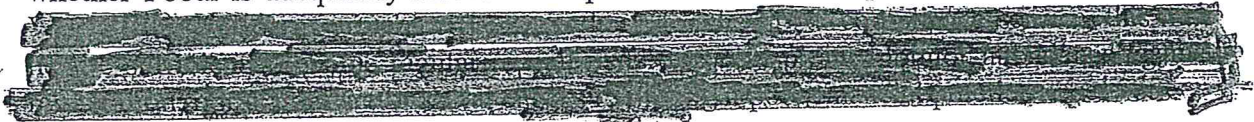
## Background

The Early Years childcare programmes, Early Years Care and Education (ECCE), Community Childcare Subvention (CCS) and Training and Employment Childcare (TEC), are subject to a compliance regime currently implemented by Pobal on behalf of the Department. Compliance officers visit circa 2,750 services per year, to check compliance against programme rules. Various audit reports have found concerning levels of inadequacy with financial and compliance rules, particularly with the CCS.

Pobal has highlighted to the Department that compliance visits cannot effectively address issues where programme rules are ambiguous or inadequate and there is no provision for sanctions. It is not clear why the existing rules are ambiguous (these rules are broadly in place since the various schemes were introduced several years ago). It would appear, for example, that CCS services were provided with some flexibility for the transition from the old “staff grant” method of funding, to the current “money follows the child” system.

Fraud may be facilitated where the design of a scheme does not provide for a process to appraise the financial, administrative and structural fitness of recipients of state funding, where rules are inadequate or unclear; where sanctions and reporting mechanisms are not in place to facilitate verification and compliance procedures; and the consequential compliance programme is not resourced appropriately.

Returning to Pobal’s role in compliance, another question DCYA needs to consider is whether Pobal is adequately resourced to provide a robust compliance and audit function.



## The Mazars Report on CCS

In November 2015, the Department became aware of serious issues in [REDACTED] with alleged fraudulent use of public funds estimated at €500k over two years. A Garda investigation is ongoing in this regard.

On foot of this, the Internal Audit Unit, at the request of the Secretary General, initiated an audit of CCS services, completed by Mazars – a final version of this report was submitted to Internal Audit Unit in December 2016, and Early Years governance (EY3) has recently submitted its management responses. This report investigated a sample of 30 services. While this audit does not find widespread fraud; it details a general lack of proper practice in relation to the handling of funds, and weaknesses in financial control and management within services. This audit delivers a series of recommendations that amount to a requirement that the Department further consider how governance requirements (specifically in the area of financial management) are to be implemented by project organisations, including the application of relevant governance codes and subsequently monitored by the Department.

Childcare services, like all businesses/charities, have obligations regarding accounting and board procedures, under the Companies Act and the Charities Act. In addition, both the Department and organisations funded under its aegis, have obligations under public financial procedures rules, DPER circulars and other guidelines. These create a significant administrative burden and Childcare services currently struggle to meet these obligations. In some cases, Pobal, as an agent of the Department, has been unable to satisfactorily complete audits due to lack of adequate records within Early Years services. Services themselves often

report that they do not have sufficient financial resources to dedicate to the administrative burden of meeting governance requirements.

### **Current Status:- 2015 /2016 compliance findings**

In the 2015-16 year, Pobal found that 1314 out of 3,000 services visited were 'major non-compliant' with the terms of the childcare schemes. Most of the weaknesses identified are not, in themselves, direct evidence of fraud or misappropriation of funding; however issues including inaccurate recording of child data – found in the case of 15% of services - create an environment where the accuracy of subvention payments cannot be assessed.

### **DCYA role in oversight of Pobal Compliance**

From early 2016, with the appointment of a second PO to Early Years, EY Operations (EY1) began an intensive engagement with Pobal's Compliance and Risk Directorate, responsible for the compliance programme, to identify issues and to improve scheme rules, where possible, to facilitate compliance checks. Amendments were made to programme rules and contracts for the 2016-17 cycle, including particular attention to the rules surrounding child attendance and record keeping. Pobal was also retasked to focus compliance on areas of financial risk. Financial procedures and records are not currently subject to compliance checks as rules and contracts do not specify requirements or sanctions in this regard.

### **Services identified by Pobal as having potentially serious compliance issues**

Pobal has brought to DCYA's attention a number of CCS services where significant variances were identified between the number of children registered on the IT system and numbers of children in attendance. At present there is no effective means to verify the scale of this problem. Some 17 (out of 22) services have not demonstrated significant improvement from 2015-16 as of January 2017. DCYA is awaiting a 'book of evidence' from Pobal in relation to these services, and will make recommendations in relation to next steps after consideration of these. A further note will issue to the Sec Gen and Minister when this information is received and analysed.

It is important to note that the financial consequence of service failure extend beyond the initial loss. In line with the Department's remit to enable the accessibility of childcare, and to protect state capital investment in childcare, it is necessary at times for the Department to provide once-off funding within the terms of expenditure rules to enable service provision to resume.

### **Next steps**

#### **1 The ACS**

The expansion of targeted childcare funding to private providers, including a large number of sole traders under the ACS will create additional governance challenges. Issuing new contracts and providing increased funding to existing or to new services without appropriate governance systems and structures to enable assurance of good practice regarding state funding could leave the Department unable to verify the proper use of money provided. It is therefore critical that the ACS be designed with a strong control environment and compliance function from the beginning. The ACS design team are working to consider the issues raised in all audit reports to date to inform the design of the scheme.,

## **2. Implementing the recommendations of the Mazars' Review of CCS**

In addition to strengthening the programme rules within contracts to ensure strong controls are in place to protect public funds,, childcare funding programmes contracts for the next programme cycle will require services to have in place appropriate financial procedures. To assist services, the Department will be providing additional support in developing these internal financial controls.

There is likely to be significant pressure on the Department to tie the introduction of any additional requirement with the provision of additional funds. In addition, increased oversight of services' finances will require greater administrative resources than presently provided. Early Years Unit will work intensively to scope and address these issues during 2017.

## **3. Independent Review of the Cost of Childcare**

The Programme for Government commits to conducting and publishing an independent review of the cost of providing quality childcare. This commitment aligns closely with work on the design and development of a new Single Affordable Childcare Scheme and is currently being progressed in that context. The outcome of this review will inform the Department's understanding of the cost base of services across community and private sectors and will therefore provide an evidence base to inform a sustainability policy.

## **4. Early Years' System Operational Reform**

The major Operational Review planned by EY Governance (EY3) to commence in 2017 will provide the Department with the opportunity to consider the best operating model in terms of what and how EY services are delivered, and funding administered, together with probity and effectiveness of governance and accountability structures at the appropriate levels within the EY system. The Review will assist the DCYA become absolutely fit for purpose to respond efficiently and effectively to the likely continued increase in investment in EY and plan for a 10 year timescale. The review will consider DCYA's internal operations, the role of Pobal, the 30 CCCs, and the funded National Voluntary Childcare Organisations.

Submitted for Information

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**Laura Slevin**  
**Principal Officer, Early Years Governance**