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Report on the Public Consultation on Draft Childminding Regulations

Response to the Consultation Findings

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Prepared by the Department of
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Introduction

On 8 February 2024, Minister O’Gorman announced the launch of a 12-week public consultation on draft childminding regulations. This represented a major milestone in the development of childminding in Ireland and the implementation of the National Action Plan for Childminding 2021 – 2028 (NAPC). The draft regulations were published along with a draft guidance document and an easy read summary.

The reform of childminding in Ireland has been the subject of a number of previous consultations. The Working Group on Reforms and Supports for the Childminding Sector, which developed the initial blueprint for the current reforms, held consultations with parents and childminders in 2017. There was then a public consultation on the Draft Action Plan for Childminding in 2019.

Research Matters, an independent team of researchers who combine academic, policy and research expertise were commissioned to analyse the findings of the consultation on the draft regulations. Their analysis is presented in this report.

While the focus of the consultation was the draft regulations themselves, respondents were also asked to comment on support needs for childminders. In addition, respondents also took the opportunity to comment on other aspects of childminding and of the wider early learning and childcare sector.

Department response to the consultation findings

While the consultation showed continuing support for the principle of regulation of childminding, and support for many specific aspects of the proposed regulations, a range of suggestions were made for amendments to the draft regulations. In addition, the consultation indicated a widespread view that care is needed in revising the regulations to ensure that the regulations adequately reflect the home and family setting in which childminding takes place and the unique features of childminding.

In response to the consultation findings, a number of significant changes have been made to the draft regulations, following through on specific proposals made in the consultation. The revisions focus strongly on reflecting the home and family setting in which childminding takes place, while ensuring the appropriate safeguards for children and offering assurance to parents of the safety and quality of the childminding setting.

Key changes made to the regulations in response to the public consultation include:

- Discounting a childminder's own children when assessing maximum numbers where they are not under the care of the childminder even if they are present in the home (e.g. if they are under the care of a partner or other family member);
- Reducing the upper age limit of a childminder's own children who are counted when assessing maximum numbers, from end of primary school, to children under 10 years old;
- Removal of the requirement for a childminder to keep records of the attendance of their own children (even if their own children are counted within maximum numbers);
- Lowering the upper age limit in considering the maximum number of very young children, from maximum two children under 2 years old, to maximum two children under 15 months old;

- Simplifying the process for changing emergency cover persons, and clarifying that emergency cover persons can include members of the childminder's household and can also include parents of children attending the childminding service;
- Changes in the language to reflect the home setting in which the service takes place (e.g. changing "premises" to "home", and "registered provider" to "childminder");
- Clarifying that "learning and development" will be understood in the context of the home and family context in which childminders operate;
- Clarifying that a childminder's operating hours can be flexible; and
- Simplification of regulations where possible.

The following table sets out in detail the changes that have been made to the regulations as a result of the consultation process, regulation-by-regulation. Where proposed changes could not be actioned, the table also explains the reason why not.

Reg no.	Title	Proposals made during the consultation process.	Changes made in the revised Regulations	Issues not amended / rationale for not making changes proposed in the consultation
(All)	(Across all regs)	Consultation: <ul style="list-style-type: none"> Change language from terms that seem more suited to centre-based services (like “premises”, “service”) to childminder-specific language (e.g. “home”, “childminder”). Make the regulations more specific and provide more detail. 	Language changed where appropriate: <ul style="list-style-type: none"> “registered provider” to “childminder” “service” to “childminding service” “premises” to “home” 	The Regulations remain broad. This allows for more flexibility in application, which is needed as childminding is so different from centre-based provision and how different each childminding setting will be (e.g. house/flat, garden/no garden). Giving more detail would make the regulations more prescriptive and would reduce flexibility in responding to unique features of individual childminders.
1	Title and commencement	N/A		
2	Interpretation	Consultation: <ul style="list-style-type: none"> Language changes as above. Ensure it is evident that childminding is a “home from home” facility and not a “service”. 	<ul style="list-style-type: none"> Language changes as above. Definitions that appear in the Child Care (Amendment) Act 2024 have been removed from the regulations. 	While some language changes are possible, the term “service” cannot be removed entirely (though the term “childminding service” is used, rather than “service” alone), as the Child Care Act 1991 provides for the regulation of <i>services</i> , not of a profession.
3	Prescribed early years service	Consultation: <ul style="list-style-type: none"> Remove reference to a childminding service being an “early years service”. 		The wording cannot be changed as this is the Regulation that brings the Childminding Regulations under the Child Care Act 1991. In the Act (as amended in 2024), the term “early years service” now has 3 categories: pre-school service, school-age service, and childminding service.

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4	Fees	Consultation: <ul style="list-style-type: none"> • Requests for clarity on the fees, and for level of fees not to be high. • Consider not charging a fee. 	<ul style="list-style-type: none"> • Fee is €40 per year, which is unchanged from the current fee. • The stated purpose of fees has been expanded to refer to regulation more broadly. 	
5	Registration of Childminding Service	Consultation: <ul style="list-style-type: none"> • Referee requirement too onerous / unrealistic. Specifically, delete the words "... that demonstrate that he or she is a suitable person to provide a childminding service". • Consider registration of a childminder instead of childminding service. • Reduce application time (3 months needed for Tusla). • While some agreed with the need to vet all family members (with different cut-offs suggested – from age 12, 14, 16 and 18), some called for removal of the requirement for Garda Vetting of other family members. 	<ul style="list-style-type: none"> • The requirement that references should "demonstrate that [the childminder] is a suitable person to provide a childminding service" has been removed as it would be difficult for most referees to assess this. • Tusla will make available a reference template, to simplify the process, while also allowing references on headed paper. 	<ul style="list-style-type: none"> • As noted above, it is the service provided that is regulated, not the profession. • While in practice Tusla may review applications more quickly, 3 months' notice is required, given the processes involved (including scheduling an on-site assessment). (In England, Ofsted similarly requires 12 weeks' notice for childminders applying for registration.) • Garda vetting of family members is important in reducing risk for child safeguarding, given access to children for all those in the house during the hours of operation. The Garda National Vetting Bureau does not vet children under 16.
6	Register	Consultation: <ul style="list-style-type: none"> • Greater flexibility particularly regarding ages of children and hours of opening so that notification is not required. • Consider limiting information available publicly. 	<ul style="list-style-type: none"> • "Age profile" has been changed to "age range" for clarity on the wide flexibility provided. • There is an option on the application form for 	<ul style="list-style-type: none"> • Publication of addresses to be retained given: (a) accountability to parents, e.g. ability of parents (and future parents) to check the identity of a childminder and their published inspection report; and (b) Child Care

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			childminders to indicate that they also offer flexible hours.	Act 1991 requires the register to contain addresses and to be “available for inspection by members of the public”. Tusla is examining scope for less detail on the register in exceptional cases.
7	Certificate of Registration	Consultation: <ul style="list-style-type: none"> Remove Reg 7. Consider whether a Certificate is needed. 		<ul style="list-style-type: none"> Certificate is needed to ensure accountability to parents. Certificate is also required to access funding schemes.
8	Application to vary terms of registration	Consultation: <ul style="list-style-type: none"> Reduce number of days’ notice for changes to the register. Change requirement to “notify” Tusla of changes rather than “get approval”. 	<ul style="list-style-type: none"> Removal of an emergency cover person is now retrospective, with notification to Tusla sufficient, and no need for prior approval. The timeframe for advance application for approval of <i>new</i> emergency back-up persons reduced from 60 to 30 days. 	<ul style="list-style-type: none"> Approval is needed for new emergency back-up persons, given the need for Tusla to check Garda vetting disclosures. Other changes of circumstances (e.g. moving house) will still require 60 days’ advance applications, and approval needed, given the possible need for Tusla to carry out an inspection, e.g. of the childminder’s new house.
9	Training	Consultation: <ul style="list-style-type: none"> Type and amount of training needs to be clarified. Those who already hold a relevant qualification should not have to do the training. The language in the Regulations should be consistent with Children First and the term ‘child safeguarding’ should be used consistently in place of child protection. 	<ul style="list-style-type: none"> Changed “child protection training” to “child safeguarding training”. 	<ul style="list-style-type: none"> Flexibility on training requirements is needed: <ol style="list-style-type: none"> first aid, to allow for the diversity of first aid training undertaken by childminders up to now. on the quality development programme, to allow for development of a flexible programme. In line with commitments in the National Action Plan for

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				Childminding, recognition of prior learning will be built into the assessment of the Quality Development Programme. No change needed to the Regulations to specify this.
10	Assessment of Suitability	<p>Consultation:</p> <ul style="list-style-type: none"> Give more detail on criteria for determining “suitability”. Interview process should be used seldom. Reduction in access of approving body to other documents and records. 	<ul style="list-style-type: none"> Schedule 4 has now been added. Schedule 4 shows the declaration of suitability, which will be completed at registration. “May conduct an interview” changed to “may engage with, and if necessary interview”. 	<ul style="list-style-type: none"> In order to assess an applicant’s suitability to be a childminder, Tusla must be able to refer to records it already holds in relation to the applicant’s previous history, for example as a childminder or in a centre-based service.
11	Health, Safety, Welfare and Development of Child	<p>Consultation:</p> <ul style="list-style-type: none"> Recognise informal learning and that curriculum-directed activity will not be required. Do not require a curriculum. Consider removing reference to “learning and development”. Detail what is required from health, safety and welfare and the criteria. 	<ul style="list-style-type: none"> The order of the wording has been changed to place “well-being” before “learning and development”, and specify that learning and development should be understood as appropriate to “the home and family context in which the childminding service operates”. 	<ul style="list-style-type: none"> Retain reference to “learning and development” given the harm that could be done to young children who spend long periods in a setting where there is no or little positive stimulation. No change to level of detail in the Regulations themselves. Having broad regulations allows for more flexibility in application.
12	Maximum numbers of children	<p>Consultation:</p> <ul style="list-style-type: none"> Some respondents proposed that there should be no regulatory limit, and instead to allow the childminder to determine numbers. Some respondents proposed to discount children of the childminder, while there were varied views on the 	<ul style="list-style-type: none"> Regulation amended to only count the childminder’s own children if they are under the care of the childminder at that time. They are not counted if e.g. another parent or relative is in the house minding them 	<ul style="list-style-type: none"> Setting maximum numbers is essential to ensure the safe care of children. Rules on planning permission are a matter for the Dept. of Housing, Local Government and Heritage. The limit of 6 children (including own

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		<p>ages of a childminder’s children who should be counted.</p> <ul style="list-style-type: none"> • Provide for no need for planning permission if more than 6 children (including own). • Reconsider maximum number of children under age 2. • Reconsider maximum of 6 children. 	<p>while the childminding service is operating.</p> <ul style="list-style-type: none"> • Regulation changed from minding “no more than 2 children under the age of 2 years” to “no more than 2 children under the age of 15 months” (except where they are siblings). This ensures that the Regulations are no more restrictive than the current Regulations for childminders (i.e. the Early Years Services Regulations). • Changed the maximum age at which a childminder’s own children should be counted, from children who “have not yet completed primary education” to “children under the age of 10 years”. 	<p>children) is a long-standing exemption in planning rules.</p> <ul style="list-style-type: none"> • On the total maximum number of children, there were mixed views in the consultation. The balanced approach recommended by the Inspection and Regulation Advisory Group of max 6 children regardless of age, aligns with the 6 limit in the planning regulations, and reflects a reasonable limit on children in a family home, given the differences between a family home and a centre-based setting. Importantly, a provider can care for more than 6 children provided they register under the pre-school regulations or SAC regulations (or both) rather than the childminding regulations.
13	The home setting	<p>Consultation:</p> <ul style="list-style-type: none"> • Take account of the home setting. • More detail needed, especially regarding sleep arrangements, sanitary facilities, safety. 	<ul style="list-style-type: none"> • Regulation wording has been changed from “shall provide a safe and suitable sleep space” to “shall ensure that children ... rest and sleep in a place that is safe and suitable”, to avoid implication that a dedicated sleep space is required. The space could be a normal room in the house that is used for 	<ul style="list-style-type: none"> • No change to level of detail in the Regulations themselves. Having broad regulations allows for more flexibility in application. Tusla have developed specific sleep guidelines for childminders.

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			other purposes when children are not sleeping in it.	
14	Supervision	<p>Consultation:</p> <ul style="list-style-type: none"> • Provide further detail on what 'sole responsibility' means and whether others who are a regular part of the family can be involved. • Treat regular visitors and relations differently to people who are 'unfamiliar'. • There was considerable, though minority, support for stronger child safeguarding measures including a logbook for all visitors and a ban on all visitors during the hours of the childminding service. 		<ul style="list-style-type: none"> • While the regulations allow children to interact with other family members it is important for child safeguarding and for accountability not to dilute clarity of responsibility. • There is no Garda vetting requirement for either regular visitors or unfamiliar visitors. For this reason, the draft regulations require supervision by sight of the childminder in both cases, when the children are in the company of the visitor. (When they are not in the company of a visitor, supervision by sight is not required at all times.) • Given the potential impact on the childminder's family life, and only minority support, a logbook for visitors will not be required, nor will a ban be placed on all visitors.
15	Emergency cover	<p>Consultation:</p> <ul style="list-style-type: none"> • The regulation is onerous. • Allow more than one emergency person. • Recognise the parents of the children as providing emergency cover. 	<ul style="list-style-type: none"> • The wording of the regulation has been changed to make clear that the back-up person(s) are only for emergency situations. • Changed "a person" to "one or more persons" to make clear that there can be multiple back-up persons, to reduce the perception that a single person 	


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			<p>is required to be available at all times the childminder is working.</p> <ul style="list-style-type: none"> Guidance will make clear that the persons nominated as emergency back-up persons can include (a) other adults living in the childminder's home / family members, and (b) parents, provided they live within close distance and could attend in an emergency. 	
16	The Childminding Service Handbook	<p>Consultation:</p> <ul style="list-style-type: none"> Schedule 3 needs to be identified and included. Specify a small number of policies and procedures that are necessary. In the online survey, there were varied views as to whether additional policies should be included in the Handbook. 15% of respondents indicated they should, 59% indicated they should not, and 26% were unsure. Respondents proposed a number of specific additional policies for inclusion. 	<ul style="list-style-type: none"> Schedule 3 no longer sets out the policies and procedures requirements. This will allow for adjustment over time in response to feedback from childminders and Tusla. The required policies and procedures will be listed in the Guidance and provided in a handbook which will be given to all childminders wishing to register. 	
17	Food and drink	<p>Consultation:</p> <ul style="list-style-type: none"> Don't undermine current approach of eating with the family. Provide greater clarity about the level of food hygiene training and about the respective responsibilities of parent/childminder. 		<ul style="list-style-type: none"> The Draft Regulations are fully consistent with children eating with the childminder's family, so no change is needed to address the concern raised. No change to level of detail in the Regulations themselves. Having

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				broad regulations allows for more flexibility in application.
18	Insurance	Consultation: <ul style="list-style-type: none"> • Provide greater clarity. • A number of recommendations related to the insurance market rather than the regulations, e.g. addressing the market monopoly in dedicated insurance. 		<ul style="list-style-type: none"> • No change to level of detail in the Regulations themselves. Having broad regulations allows for more flexibility in application. Tusla may provide more operational guidance
19	Record of the child	Consultation: <ul style="list-style-type: none"> • Records should be allowed to be kept digitally and only essential ones printed. • Reword paragraph 4 (on retention of records being “without prejudice to any requirement to retain the record in writing referred to ... under any other enactment or rule of law”.) 	<ul style="list-style-type: none"> • Guidance clarifies that a “record in writing” can be digital. 	<ul style="list-style-type: none"> • The wording of paragraph 4 is standard legal language for regulations and important for legal clarity.
20	Record in relation to the childminding service	Consultation: <ul style="list-style-type: none"> • Avoid excessive records requirements. • Children of family should not have to sign in and out. • Ages and opening hours should be variable. • Clarify GDPR requirements. 	<ul style="list-style-type: none"> • The requirement to record the attendance of the childminder’s own children has been removed. • “age profile” changed to “age range” of the children cared for. • Specify flexibility in opening hours by inserting “typical” before “opening hours” and adjusting the application form (in Schedule 1) to note that flexible opening hours can be specified. 	<ul style="list-style-type: none"> • The draft Regulations have been reviewed by the Data Protection Commission.
21	Information for Parents	Consultation:	<ul style="list-style-type: none"> • The regulation now states “A childminder shall ensure that a 	<ul style="list-style-type: none"> • Retain requirement for contracts, as they are fundamental to the

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		<ul style="list-style-type: none"> Some called for clarification that contracts be mandatory, while others said they should not be mandatory. Some said the handbook should not be mandatory. Consider renaming to 'Partnerships with parents'. 	<p>contract signed by a parent and a childminder is in place for all children attending the childminding service."</p> <ul style="list-style-type: none"> Regulation renamed from "Information for parents" to "Partnership with parents". 	<p>definition of a childminding "service".</p> <ul style="list-style-type: none"> Retain requirement that all parents should be given a copy of the handbook, as it contains the essential policies and procedures for a childminding service (e.g. policies on: child safeguarding, administration of medication, authorisation to collect children, accidents and incidents, safe sleep, safe internet use, complaints, healthy eating, promoting positive behaviour).
22	Notification of incidents	<p>Consultation:</p> <ul style="list-style-type: none"> Clear definition of incident and of what warrants notification. Remove requirement to notify most issues to Tusla. Notification should not apply to routine events. No need to report common infectious diseases. 		<ul style="list-style-type: none"> The six categories of incident set out in Reg 22 are already specific. The incidents specified in Reg 22 are serious (e.g. death or serious injury of a child, a child going missing, allegation of harm against a child) and therefore require notification to Tusla. The diseases that require notification are only those for which there is in any case a legal requirement to notify the health authorities because of the potential to cause a serious threat to public health (e.g. measles, e.coli, meningococcal disease).

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23	Complaints	Consultation: <ul style="list-style-type: none"> • Allow for most complaints to be resolved between parent and childminder. • Specify what would warrant a formal procedure. • Clarify difference between regulatory complaints and business complaints. 		<ul style="list-style-type: none"> • Further clarification on complaints to be given in guidance and pre-registration training. Reg 23 is concerned with any complaints. In addition, concerns about non-compliance with Regulations should be reported to Tusla if they cannot be resolved directly with the childminder.
24	Furnishing of information to Agency	Consultation: <ul style="list-style-type: none"> • Detail all information that may be required. • Information required should not be onerous. 		<ul style="list-style-type: none"> • Flexibility is required for Tusla to seek additional information from registered childminders to check for compliance with the Regulations.
25	Inspection	Consultation: <ul style="list-style-type: none"> • Regulation should be about mentoring and development rather than inspection and punishment. • Remove unannounced inspections. • Reports should be published only where serious failings are identified. • Avoid phrase “home-based nature”. 	<ul style="list-style-type: none"> • Change “home-based nature and family setting” to “home and family setting”. 	<ul style="list-style-type: none"> • Inspections – including unannounced inspections – are essential to ensure compliance with Regulations, which are primarily concerned with child safeguarding and child safety. • Publication of inspection reports is necessary for accountability to parents. A report on the pre-registration assessment will be published after registration, with Tusla outlining that the relevant regulations have been met. A report is not published if an applicant does not meet registration requirements. When the report methodology is finalised for routine inspections it will include positive reporting on compliance with regulations.

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26	Enforcement and execution	N/A		



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