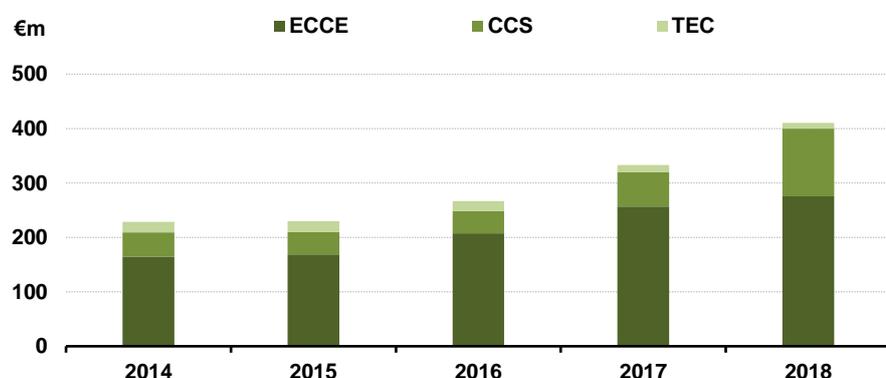


## 16 Delivery of early learning and childcare programmes

- 16.1** The Department of Children and Youth Affairs (the Department) manages a number of funding programmes aimed at, *inter alia*, providing financial support towards the cost of early learning and childcare, ensuring that access to affordable early learning and childcare services is not a barrier to labour market participation, promoting positive child outcomes, narrowing the gap in attainment between more and less advantaged children, driving quality across the early learning and childcare sector, and contributing to poverty reduction.
- 16.2** The Department's principal early learning and childcare<sup>1</sup> funding programmes<sup>2</sup> are
- **Early Childhood Care and Education (ECCE)** — a universal programme, introduced in 2010, which aims to provide children with their first formal experience of early learning prior to commencing primary school.
  - **Community Childcare Subvention (CCS), and Community Childcare Subvention universal (CCSU)** — the targeted CCS and universal CCSU support parents by reducing the effective cost of early learning and childcare services. The CCS and CCSU were introduced in 2010 and 2017 respectively.
  - **Training and Employment Childcare (TEC)** — supports parents on eligible training and education courses or in eligible employment through a subsidy to offset fees charged by early learning and childcare services. The programme includes three strands that were introduced at various stages from 2010 to 2014.
- 16.3** Expenditure paid out by the Department on these programmes increased from €228 million in 2014 to €410 million in 2018 (see Figure 16.1).
- 16.4** The National Childcare Scheme, formally referred to as the Affordable Childcare Scheme, is due to launch in October 2019. With the exception of the ECCE programme, all other early learning and childcare funding programmes will be replaced by the new scheme.<sup>3</sup>

**Figure 16.1 Early years programme expenditure, 2014 to 2018**



Source: Department of Children and Youth Affairs

Note: a For ECCE, figures exclude administration costs, programme support payments and expenditure under the Access and Inclusion Model (beneficiary and administrative costs). Expenditure figures for CCS and TEC include all strands of those programmes, but exclude administration costs, project development costs and quality expenditure costs.

1 In this report, the term early learning and childcare refers to ECCE, CCS and TEC.

2 A fuller description of the various schemes is provided in Figure 16.2 (over).

3 Some elements of CCS will cease for the 2019/2020 programme year. Other elements of CCS (e.g. CCSU, CCSRT) and TEC will continue until at least the end of the 2019/2020 programme year.

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**Figure 16.2 Principal early learning and childcare programmes managed by the Department**


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**Early Childhood Care and Education (ECCE)**

- ECCE is the largest of the early learning and childcare funding programmes. It aims to provide children with their first formal experience of early learning prior to commencing primary school. It is a universal programme, available free of charge to all children from the age of two years and eight months. The programme is delivered for three hours per day, five days per week, and runs over 38 weeks from September to June. Since September 2018, children are eligible for two years of the programme.
- Around three quarters of service providers contracted to provide the ECCE programme are private providers, with the remainder being community-based, not-for-profit providers. Providers on contract to deliver the ECCE programme must provide an appropriate pre-school educational programme which adheres to the national practice frameworks (Solta and Aistear). Adherence to the national practice frameworks is a contractual requirement of all early learning and childcare programmes.
- The Access and Inclusion Model (AIM) is a child-centred model of progressive supports designed to ensure children with a disability can access the ECCE programme. The main goal of AIM is to empower providers to deliver an inclusive pre-school experience, ensuring all eligible children can participate in the ECCE programme.

**Community Childcare Subvention (CCS)**

- The targeted CCS programme and its universal variant (CCSU) provide weekly subsidies to offset fees charged by early learning and childcare services.
- CCSU is open to children aged 6 months to the first eligible point of entry to the ECCE programme. Under CCSU, the maximum subsidy provided per child is €20 per week.
- CCS is open to children under 15 years of age and is available to families who hold a medical card or are in receipt of social welfare benefits. Under CCS, a maximum subsidy of €145 per week is provided. An extension of the main programme — Community Childcare Subvention Plus (CCSplus) — was created in February 2016 to include private childcare providers.<sup>a</sup>
- To avail of the CCSU or CCS schemes, children cannot be simultaneously enrolled on any of the Department's other early learning and childcare funding programmes and schemes.
- There are variants of the CCS scheme targeted at children in specific categories e.g. refugees (CCSR) and homeless children (CCSRT).<sup>b</sup>

**Training and Employment Childcare (TEC)**

- The TEC programme provides funding for early learning and childcare to support parents on eligible training courses and certain categories of parents returning to work. There are a number of strands to the TEC programme.
- Under the Childcare Education and Training Support (CETS) scheme, services are contracted to provide early learning and childcare places to qualifying Solas or education and training board trainees or students, for the duration of their course.
- The After-School Child Care (ASCC) scheme is designed to support low-income and unemployed people to take up a job, increase their days of employment or take up a place on a Department of Employment Affairs and Social Protection employment programme (excluding community employment). The Community Employment Childcare (CEC) scheme subsidises the cost of early learning and childcare for children whose parents are participating in a community employment scheme.<sup>c</sup>

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Source: Department of Children and Youth Affairs

Notes: a Prior to February 2016, CCS was only available through community childcare services.

b Refugees can claim a subvention to enable them to avail of childcare while they attend a language or orientation course. Homeless families can access free childcare for children aged five and under and for children aged between six and twelve, for the school holidays only.

c CEC(PS) refers to preschool care and CEC(AS) refers to after school care.

- 16.5** The Department manages an annual capital programme for early learning and childcare, which is administered by Pobal. The Department has stated that it uses an evidence-based process to inform annual funding priorities under the programme. In recent years, the focus has been on increasing the number of early learning and childcare places, essential maintenance and upgrading, and improving outdoor play areas.
- 16.6** Between 2014 and 2018, the Department provided capital funding of between €3.3 million and €11.2 million per annum to early learning and childcare providers.
- 16.7** The Department has delegated responsibility for the administration of programmes, including compliance, to Pobal. In 2018, the Department paid €7.9 million to Pobal for that service.
- 16.8** In 2014, Pobal introduced the Programmes Implementation Platform,<sup>1</sup> an online ICT system which facilitates management and administration of the programmes. Its functionality includes enabling service providers to update information in relation to children in their services, across the various funded programmes.
- 16.9** The Department has appointed Pobal as scheme administrator for the National Childcare Scheme, due to commence in October 2019, as provided for under the Childcare Support Act 2018.

### Examination objectives

- 16.10** This examination reviews
- the Department's oversight of Pobal's administration of early learning and childcare funding programmes from 2015 to 2018
  - the controls in place to ensure that payments are appropriate and that the quality of learning and care, childcare staff and facilities is of an acceptable standard
  - the Department's evaluation of the effectiveness of early learning and childcare funding programmes.

### The Department's oversight of Pobal

- 16.11** Pobal is a not-for-profit company limited by guarantee, without share capital. It was established in 1992 as Area Development Management Ltd, an intermediary company to work on behalf of the Irish government and the EU to support social and economic development within Ireland. In 2005, the company name changed to Pobal.
- 16.12** Pobal operates under the aegis of the Department of Rural and Community Development, and that Department has the key oversight role in regard to the organisation. Board members are appointed by the Minister for Rural and Community Development. Pobal's financial statements are subject to audit by the Comptroller and Auditor General.
- 16.13** Pobal's role has evolved over the years and it now provides management and support services in respect of 25 programmes. It administers programmes on behalf of the Department of Children and Youth Affairs, the Department of Rural and Community Development, the Department of Employment Affairs and Social Protection, the Department of Health/HSE and a number of EU bodies. In 2018, Pobal incurred total expenditure of €730 million, including payments to third parties totalling €700 million.

<sup>1</sup> The Programme Implementation Platform's functions include registrations, payments and communication between Pobal and service providers. The replacement of the platform with a new system is due to begin later this year. The new system will initially be used for the National Childcare Scheme with all other programmes and schemes either ceasing or transitioning across at a later stage.

**16.14** With direction and oversight from the Department, Pobal administers the Department's early learning and childcare funding programmes. The level of responsibility delegated to Pobal has increased over the years.

- The Department delegated responsibility for the compliance function in respect of its early learning and childcare funding programmes to Pobal in 2010.
- In 2014, with the introduction of the Programme Implementation Platform, the Department delegated responsibility for ECCE, CCS and TEC registrations to Pobal.
- In 2016, the Department delegated responsibility for the administrative functions for all early learning and childcare funding programmes to Pobal.
- In 2018, the Department delegated the management of higher capitation applications<sup>1</sup> under the ECCE programme to Pobal.

**16.15** The administrative and compliance functions are separated within Pobal and operate independently of each other. As a result of a recommendation from the Department's internal audit unit that the staffing of the compliance function should be independent, a new Compliance Audit and Risk section was established within Pobal in 2015 to take over the compliance function. Pobal has stated that relevant information is shared as necessary between its Compliance Audit and Risk section and its Early Years Operations section on relevant non-compliance issues affecting services.

**16.16** Pobal currently has a range of responsibilities including administering the contracting of approved service providers on behalf of the Department, administering child registrations, processing capitation payments and conducting onsite compliance checks.

**16.17** The Department of Children and Youth Affairs has stated that there has been a continued strengthening of oversight, governance and reporting frameworks between it and Pobal, in line with the increased delegation of responsibility to Pobal and the increasing level of State investment in the sector. The Department has stated that the current governance framework primarily comprises

- a service level agreement to establish the terms of the overall relationship between the two organisations
- programmes of work, which specify the annual outputs and milestones that Pobal is to deliver
- service offers and performance delivery agreements in respect of individual programmes
- operational meetings between the two organisations
- an agreed reporting framework, and a suite of key performance indicators, which are to be developed over the course of 2019
- quarterly performance reports.

<sup>1</sup> Higher capitation rates are available to providers under the ECCE programme, where a room leader has attained a prescribed level of relevant qualification.

### Service level agreement

- 16.18** The relationship between the Department and Pobal is governed by an overarching service level agreement (SLA) which is updated periodically. The SLA includes a number of appendices, three of which are agreed annually (programme of work, service costs offer, compliance service offer). The key elements of the current SLA and the annual agreements for 2018 are set out in Annex 16A.
- 16.19** The oversight arrangements in recent years can be summarised as follows
- Between 2011 and 2013, there was a basic SLA in place.
  - There was no signed SLA in place from 2013 to 2015. However, the Department informed the examination team that Pobal continued to deliver services during that period, according to the requirements and specifications of the Department.
  - There was a one-year SLA in place over the course of 2016.
  - The current SLA was originally developed to cover the period from 2017 to 2020 but it has recently been extended until 2022. The Department has stated that the extension of the SLA was in line with the decision to appoint Pobal as the scheme administrator for the National Childcare Scheme and the associated performance delivery agreement, which runs to the end of 2022.
- 16.20** Adequate oversight and accountability arrangements are essential in circumstances where a department delegates responsibility for programme delivery to an external entity. The 2016 *Code of Practice for the Governance of State Bodies* sets out the key elements of an effective performance delivery agreement.<sup>1</sup>
- 16.21** Figure 16.3 assesses the SLA between the Department and Pobal against the good practice requirements for performance delivery agreements set out in the Code.

**Figure 16.3 Assessment of service level agreement and supporting appendices**

Key elements	Assessment
High level goals and objectives	
Key programmes of activity for each individual expenditure programme	
Key outputs specified in quantitative, measurable terms	
Include annual and multi-annual targets for those outputs with clear milestones for delivery	
Cost of delivery of each programme — financial and human resources	
Process for the formal review of the performance agreement	

Source: Code of Practice for the Governance of State Bodies 2016. Analysis by the Office of the Comptroller and Auditor General.

Key:

-  In place
-  Partly in place
-  Not currently in place

<sup>1</sup> The elements set out in the Code prescribe arrangements between departments and State bodies under their aegis. The key principles serve as a useful benchmark of good practice in the development and operation of such arrangements.

**16.22** The current SLA between the Department and Pobal is lacking in a number of areas.

- The SLA does not specify quantified or quantifiable objectives or adequate measures that would facilitate assessment of the extent to which the high level objective has been achieved.<sup>1</sup>
- The programme of work specifies high level processes and tasks to be delivered by Pobal but, in most cases, quantified output targets are not set. The Department has stated that it is currently working with Pobal to develop a suite of key performance indicators to further support the ongoing monitoring of key Pobal outputs.
- The *Code of Practice* states there should be periodic critical reviews of performance delivery agreements. While the 2018 programme of work indicated that a review of the SLA would take place during the final quarter of the year, no review took place in 2018. The Department has stated that a comprehensive review is scheduled to occur in 2019/2020.

**16.23** In addition, certain documents associated with the SLA are not finalised on a timely basis. For example, the 2018 programme of work was signed on 14 June 2018 and the associated service costs were not signed off until October 2018. The 2019 programme of work was signed off in June 2019. The Department has stated that it plans to have a programme of work for 2020 signed off before the end of 2019.

### **Monitoring meetings**

**16.24** The SLA envisages meetings between different levels of staff as follows

- Quarterly oversight meetings between the Department and Pobal, chaired by the Department's Secretary General and attended by senior officials from both organisations. The focus of the meetings is on high level governance and performance issues. In 2018, the prescribed four meetings were held.
- Strategic management meetings are to be held between the Department and Pobal every six weeks. Minutes for strategic management meetings from June 2018 to February 2019 were provided to the examination team. From review of the minutes during this period, the meetings did not take place at the frequency envisaged in the SLA — for example, a gap of 16 weeks occurred between two of the meetings. In response, the Department has stated that while the SLA provides for meetings to take place every six weeks, it subsequently agreed with Pobal to meet on a quarterly basis. It stated that meetings are now occurring in line with that timeline.

**16.25** In addition to the governance meetings outlined above, the Department has stated that it conducts further meetings and conference calls with Pobal. Issues discussed at those other meetings include finance, strategic compliance, compliance outcomes, capital expenditure, project management, operational delivery and matters relating to the Access and Inclusion Model programme.

**16.26** In March 2019, the Department stated that Pobal performance will be a standard agenda item for both the quarterly and strategic management meetings, which will facilitate a continuous review of critical outputs and requirements over the year.

<sup>1</sup> The SLA refers to the Department's role in leading the effort to improve outcomes for children and young people in Ireland and it identifies the Department's related responsibilities. It states that "Pobal aims to support the Department to meet its high level objective of harmonising policy issues that affect children in areas such as early childhood care and education, children and young peoples' participation, youth work and cross-cutting initiatives for children through the management and delivery of a wide range of services and supports."

### Reporting

- 16.27** Figure 16.4 sets out the extent of compliance in 2018 with the principal reporting requirements specified in the SLA.
- 16.28** The Department has stated that during the period under review, it worked with Pobal to develop a suite of performance reports. It stated that Pobal now submits progress reports on a quarterly basis that meet the level of detail specified in the SLA.

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**Figure 16.4 Compliance with specified reporting requirements, 2018**

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Requirement	Compliance in 2018
A detailed annual report profiling the early years sector (jointly published by the Department and Pobal).	The early years sector profile report for the 2017/2018 <sup>a</sup> programme year was published by the Department and Pobal in November 2018.
A bi-annual progress report, representing a high level update and analysis of programmatic outputs, trends and operational issues arising.	In 2018, the progress report for the first half of the year was submitted to the Department in September 2018. The September 2018 progress report did not include the level of detail specified in the SLA. The progress report for July to December 2018 was produced in March 2019, this report included information for the full calendar year January to December 2018.
Compliance reports detailing outcomes, trends and weaknesses identified, provided on a monthly and quarterly basis.	The required quarterly compliance reports for 2018 were provided to the Department. However two of the reports were received over two months after the end of the quarter in question.

Source: Department of Children and Youth Affairs

Note: a The programme year runs from 1 September to 31 August.

## Regulation and compliance

- 16.29** A multi-agency compliance and inspection regime seeks to address various categories of risk associated with the operation of the early learning and childcare programmes (see Figure 16.5).

**Figure 16.5 Compliance and inspection regime for early learning and childcare programmes**

Key risks	Mitigating activity
<p><b>Financial and operational</b> — A service provider may claim in respect of children who do not attend or for hours that are not provided; or may otherwise fail to comply with the rules of the programmes.</p>	<p>Pobal's Compliance Audit and Risk section carries out unannounced compliance visits to check adherence by service providers to programme rules.</p>
<p><b>Child health, safety, welfare and development</b> — A service provider may fail to provide a service that adequately secures the health, safety, welfare or development of the children participating in the early learning and childcare programme.</p>	<p>Tusla's Early Years Inspectorate has the role of registering and inspecting early learning and childcare services against regulations that relate to the health, safety, welfare and development of children. It carries out inspections ('fit-for-purpose' inspections) before agreeing to register a service, and unannounced inspections of registered services. It can impose conditions for registration or deregister services as a result of inspection findings. It also prosecutes services, for example, those that operate without registration.</p>
<p><b>Education quality</b> — A service provider may fail to provide an early learning and childcare service that adequately supports the education of children attending the service.</p>	<p>The Department of Education and Skills' Inspectorate has responsibility for evaluating the educational aspect of service provision in the ECCE programme. This is complemented by the Tusla Inspectorate's role in inspecting against certain regulations relating to child development.</p>

Source: Analysis by the Office of the Comptroller and Auditor General

### ***Pobal compliance activity***

**16.30** Since 2010, Pobal has had responsibility for the compliance function in relation to the early learning and childcare programmes it administers. The majority of Pobal's compliance programme consist of compliance visits to and audits of early learning and childcare providers.<sup>1</sup> Annex 16B sets out the main elements of compliance visits and audits.

- **Compliance visits** are unannounced site visits which focus on the key contractual conditions of the programmes. Pobal staff will generally examine all early learning and childcare programmes offered by the service provider.<sup>2</sup> While the visits do not specifically concentrate on financial records, a sample of fee income records is reviewed. Child attendance is compared with registration levels on the Programme Implementation Platform, which is the primary driver of Exchequer-funded payments to service providers. Visits typically last from between 1.5 hours and one day, with a small number extending beyond that.
- An **audit** includes a greater level of detail and additional checks in accordance with the level of identified risk e.g. risk of misappropriation, or serious deficiencies in financial management or corporate governance. Pobal typically conducts audits as a result of inadequacies discovered during compliance visits or as a result of information received from third party disclosures or complaints. However, Pobal has stated that because the contracts between the Department and service providers do not require the ring-fencing of funding or the reporting of expenditure, its ability to conduct typical audit tasks (e.g. vouching of expenditure) is restricted.

**16.31** In addition to compliance visits and audits, Pobal conducts verification checks on capital grants, and grants to national voluntary childcare organisations and city/county childcare committees. These grants are underpinned by grant agreements between Pobal (as distinct from the Department) and the relevant grantees. Verification checks aim to obtain assurance that grant monies are spent for the purposes intended and that public accountability requirements are adhered to.

### ***Pobal compliance visit targets***

**16.32** Pobal and the Department agree an overall budget and annual service offer for Pobal's compliance activity for early learning and childcare programmes. The agreement includes an annual target in relation to the number of contracts to be reviewed by way of compliance visits for early learning and childcare programmes. Since 2015/2016, the target has been to review 2,750 contracts annually. The actual number of visits annually varies in light of emerging risks and priorities, for example repeat visits. No targets are set in relation to the number of audits to be conducted as these are information driven.

**16.33** Individual service providers tend to have more than one contract with the Department as they are often receiving payments under more than one funding programme. When Pobal conducts compliance visits, it usually examines all contracts. The numbers of compliance visits and audits conducted over the last three years are set out in Figure 16.6. Given the small number of audits, the total compliance cost has been applied to compliance visits to establish the trend in costs. Pobal has stated that the increased average cost per visit is related to the increasing complexity of ECCE visits in particular, and the increasing number of revisits required.

<sup>1</sup> Pobal has stated that compliance visits are undertaken in accordance with its remit, as agreed with the Department of Children and Youth Affairs.

<sup>2</sup> Some visits may focus on particular programmes only.

**Figure 16.6 Pobal compliance activity, 2016 to 2018**

<b>Compliance activity<sup>a</sup></b>	<b>2015/2016</b>	<b>2016/2017</b>	<b>2017/2018</b>
Compliance visits <sup>b</sup>	2,164	1,745	1,711
Audits	6	8	7
Contracts reviewed <sup>c</sup>	3,009	2,862	3,733
<b>Compliance activity costs</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Total cost (€ million)	1.2	1.4	2.3
Cost per visit (€)	570	827	1,316
Cost per contract (€)	410	504	603

Source: Pobal Compliance Audit and Risk section

Notes: a Compliance activity is reported by programme year (September to August) whereas costs are reported by calendar year.

b The number of compliance visits excludes any revisits that occurred in the period.

c Excludes grants reviewed through verification visits governed by contracts issued directly by Pobal e.g. capital programmes.

**16.34** Over the last three years, Pobal has initiated 21 audits. These are currently at various stages of progress

- Thirteen cases are the subject of legal advice from the Chief State Solicitors Office and are being followed up and/or closed off accordingly.
- The remaining cases are either concluded from an audit perspective or are being followed up by Pobal or the Department.

### ***Risk-based compliance activity***

**16.35** Figure 16.7 (over) shows the proportion of contracts of early learning and childcare services that were reviewed in compliance visits over the last three years.

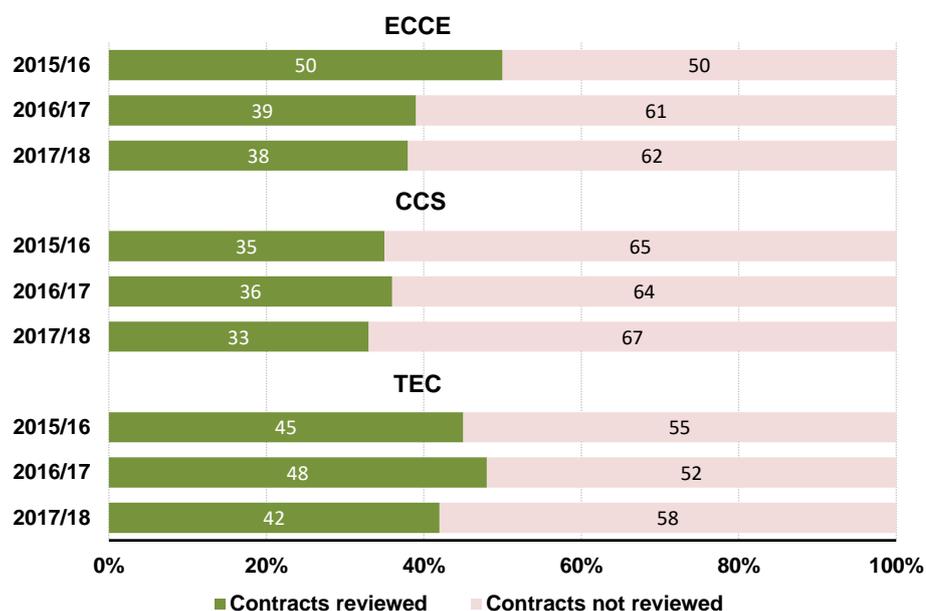
**16.36** While risk is considered in the context of selecting early learning and childcare services for compliance activity, Pobal does not have a structured system for risk rating either the programmes or service providers. Pobal has stated that it has consistently highlighted to the Department the programmes with the most significant risk and that compliance visits are routinely scheduled to the services with historic compliance issues.

### ***Categorisation of compliance outcomes***

**16.37** Compliance visit outcomes are reported by Pobal as part of the monthly and quarterly reports to the Department. The Department noted that it regularly reviews the compliance reports provided by Pobal and the findings of the reports are considered in determining future changes to the rules, communications and compliance approach.

**16.38** At the request of the Department, Pobal has amended the categories used to capture the results of compliance visits in each of the last four programme cycles. The Department has stated that this was in response to deficiencies identified in the categorisations and to give a better understanding of those areas of highest risk to Exchequer funding. The changes to the definition of categories used for compliance outcomes reduces the transparency of the system as it is difficult to compare results over time.

Figure 16.7 Proportion of total contracts reviewed, 2015/2016 to 2017/2018



Source: Pobal Compliance Audit and Risk section

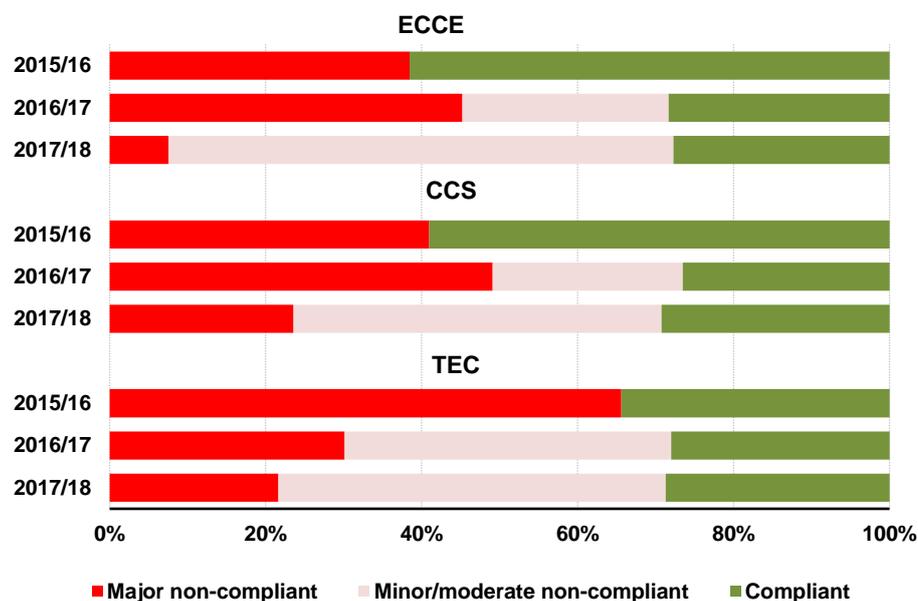
**16.39** For the purpose of this examination, the outcomes for the last three programme years have been categorised under three headings (see Figure 16.8 (over))

- **compliant**
- **minor non-compliant** — includes outcomes that have been categorised as minor non-compliant, compliant with special advisory and moderate non-compliant
- **major non-compliant** — previously, an assessment of major non-compliance resulted from any identified risk to Exchequer finances. From 2017/2018 onwards, this category only applies where there is a significant risk to Exchequer finances.<sup>1</sup>

**16.40** During the 2017/2018 cycle, a number of service providers were deemed majorly non-compliant for (one or more of) the following reasons

- admittance not gained during compliance visit or no records available for review
- absent or inadequate attendance records on site
- service provider not delivering sufficient hours/days/weeks
- Programme Implementation Platform system requires updating
- in the case of the ECCE programme, a number of service providers in receipt of higher capitation funding (for staff with higher qualification levels) were deemed majorly non-compliant where it was found that either staff employed did not have the minimum qualification requirements or the relevant children were not being taught by staff members with those qualifications.

<sup>1</sup> The Department has stated that this change was partially to allow the compliance framework to address significant risks meaningfully. An example of a significant risk to Exchequer finances is where attendance records are either inadequate or missing, resulting in an inability to vouch the vast majority of Programme Implementation Platform registrations chosen for review.

**Figure 16.8 Compliance activity outcomes, 2015/2016 to 2017/2018<sup>a, b</sup>**

Source: Pobal Compliance Audit and Risk section

Notes: a All strands of CCS are grouped together.

b For the 2015/2016 cycle there were only two categories used. The compliance outcome was categorised as either green (fully compliant or minor non-compliant) or red (major non-compliant).

#### *Follow-up action*

- 16.41** Pobal stated that up to 2017/2018, the lack of effective sanctions for non-compliant service providers mitigated against effective enforcement. It stated that it was not uncommon for service providers to remain non-compliant on the second and subsequent compliance visits. In that regard, the Department has stated that a new compliance framework, introduced in 2017/2018, should assist in addressing persistent non-compliance. The new framework focuses on attendance record requirements.
- 16.42** The new compliance framework provides for progressive sanctions for repeat offenders, up to and including the exclusion of service providers from Department-funded programmes as follows
- It provides for support from the relevant city/county childcare committee following a first identified instance of major non-compliance.
  - Following a second finding of major non-compliance in the subsequent cycle, a service provider may lose eligibility for programme support payments. Programme support payments were introduced in 2017/2018 to compensate service providers for the time required to perform administrative activities outside of contact time with children. In 2018, €18 million was paid to 4,500 service providers i.e. an average payment of €4,000.
  - In the case of a third offence in subsequent cycles, the Department will consider excluding the service provider from Department-funded programmes.
- 16.43** It is too early at this stage to assess the effectiveness of the new compliance framework. The Department has stated that the new National Childcare Scheme has been designed with a more effective compliance regime from the beginning.

### Over-claims

- 16.44** In cases where it is discovered — normally during a compliance visit — that a service provider has over-claimed (e.g. a child's actual attendance does not match the associated registration on the Programme Implementation Platform), the situation can often be regularised before the end of the programme year, through reducing future payments to the service provider. However, the Department has stated that this may not be possible in cases where
- the over-claim value exceeds the value of remaining payments due in the current programme year
  - reducing payments would create sustainability and/or cashflow issues for a community service.
- 16.45** In those cases, over-claims can be netted off against payments in a future programme year or a repayment plan can be agreed to spread payments across a longer period.
- 16.46** Since 2015/2016, over-claims by service providers on the ECCE, CCSplus and TEC programmes, arising from incorrect Programme Implementation Platform registrations, have been identified through compliance visits and routinely recovered by Pobal. In the 2017/2018 cycle, CCSU and CCSRT checks also commenced and a pilot programme to identify and recover CCS over-claims was established.
- 16.47** In 2018, the Department undertook a review of approximately 100 cases of potential CCS over-claims that had been identified in relation to the 2015/2016 and 2016/2017 cycles. The Department has stated that, on the basis of the review, it concluded that the CCS rules for the relevant periods were ambiguous. The Department's view is that the rules were not sufficiently clear or robust to ground a finding of an over-claim in cases of under attendance and it is not currently pursuing recovery of amounts paid in cases where the understanding between the parties was unclear.
- 16.48** Pobal maintains a debtors listing of balances being pursued. Debtor balances can arise for a number of reasons including in cases of a de-committal,<sup>1</sup> a compliance visit or audit, a liquidation, an over-payment or a contract closure. At the end of 2017, the amount included in Pobal's accounts that related to programmes funded by the Department of Children and Youth Affairs was €4.1 million. Of this, €1.2 million was deemed irrecoverable. The Department has stated that the vast majority of the debtor balances relate to legacy capital schemes, predating the establishment of the Department, rather than amounts relating to the current funding programmes.
- 16.49** Figure 16.9 gives a breakdown of the amounts outstanding and the amounts deemed irrecoverable. Of the €1.2 million deemed irrecoverable, €104,321 related to early learning and childcare funding programmes and early years capital programmes.

<sup>1</sup> A de-committal of grant funding is a formal, permanent reduction in some or all of the grant monies committed and can only take place following a previous commitment of funding. Grant de-committals relate to grant funded programmes e.g. Early Years Capital.

**Figure 16.9 Debtor balances relating to capital and early learning and childcare programmes, 2017**

Programme	Outstanding at year end	Deemed irrecoverable
	€000	€000
Legacy schemes <sup>a</sup>	3,041	1,083
CCS	650	94
Early years capital, 2012 – 2017	350	1
TEC	76	9
ECCE	20	—
<b>Total</b>	<b>4,137</b>	<b>1,187</b>

Source: Pobal

Note: a The legacy schemes include EOCP Capital, National Childcare Investment, EOCP Staffing, Area Based Childhood, Learner Fund, City and County Childcare Committees.

- 16.50** Child attendance is the main driver of the level of payment to early learning and childcare service providers. A key financial risk is that service providers claim in excess of what is warranted by the attendance of registered children.
- 16.51** The over-claims identified by Pobal during compliance visits in 2017/2018 indicates that the highest risk attaches to CCS/CCSplus schemes. These resulted in over-claims of over 5% for the service providers visited. The rates of over-claim identified for other schemes was significantly lower: 1.5% for TEC; under 1% for CCSRT and CCSU; and 0.2% for ECCE (which accounts for over two-thirds of total expenditure on early learning and childcare programmes). It is unclear how representative this is of service providers as a whole.
- 16.52** The Department notes that given the volume of compliance visits undertaken and the large percentage of services visited, the rates of over-claim identified on compliance visits can offer direction as to the areas of highest risk. Pobal is continuing work on its methodology for estimating over-claim rates. It has stated this is limited due to the manual process involved. A technological solution will be considered for the National Childcare Scheme platform.
- 16.53** As a result of the estimates of over-claims by scheme, compliance activity by Pobal for 2018/2019 was divided into two phases, with the initial phase focusing exclusively on large CCS contracts and the second phase focusing on large contracts and services previously deemed majorly non-compliant, across all schemes.<sup>1</sup>
- 16.54** In December 2018, the Department's Management Board discussed issues relating to compliance on early learning and childcare programmes. The Department is developing a governance framework for the National Childcare Scheme (due to launch in October 2019). The Department noted that the development of enhanced governance requirements for the new scheme will include the development of a risk profile for service providers which will, in turn, assist in targeting compliance resources.

<sup>1</sup> The decision to focus on large contracts resulted in fewer contracts being reviewed, but more funding being covered by the reviews.

### ***Tusla inspections***

**16.55** Up to 2018, all providers of early learning and childcare services to children aged six and under were required by law<sup>1</sup> to register with Tusla. The School-Age Childcare Regulations 2018 (implemented in February 2019) extended the requirement to register with Tusla to all providers of early learning and childcare services to children under the age of 15.<sup>2</sup> Early learning and childcare programme funding from the Department of Children and Youth Affairs is only available to service providers that are registered with Tusla.

**16.56** Tusla's Early Years Inspectorate is responsible for assessing service providers' compliance with regulations relating to the health, safety, welfare and development of children attending early years services, and for promoting compliance with those regulations.<sup>3</sup> In 2018, the Inspectorate developed a quality and regulatory framework to support registered service providers in complying with their regulatory obligations and to provide clarity and consistency in the standards applied during inspections. The framework covers regulations under the headings of governance, health welfare and development of the child, safety and premises and facilities.

**16.57** The Inspectorate carries out 'fit-for-purpose' inspections before agreeing to register new service providers as well as unannounced inspections of registered services, and can impose conditions for registration, or deregister service providers, as a result of inspection findings. The Inspectorate's process to follow-up on findings operates as follows

- A draft inspection report is issued to the service provider — if there are non-compliant findings, the provider is invited to indicate corrective and preventative actions aimed at addressing the issue and ensuring it does not recur.
- If satisfied with the response, the Inspectorate records this on the inspection report.
- If not satisfied, the Inspectorate may propose to attach a condition<sup>4</sup> to the registration of the service — the service provider is then given a further opportunity to submit information and evidence on the issue.
- If no satisfactory response is received from the service provider, the condition is attached to the registration.
- If the Inspectorate subsequently finds that a service provider has not adhered to a condition on its registration, enforcement actions may be taken.
- Enforcement actions include removal from Tusla's register of early years services.

**16.58** In certain cases, either arising from an inspection or as a result of unsolicited information received, the Inspectorate may issue an immediate action notice, instructing a service provider to take specific action to address a serious concern immediately. However, Tusla does not have the authority to instruct a registered service provider to immediately cease operations.

**16.59** In 2018, Tusla's Early Years Inspectorate carried out 2,513 inspections. Reports in relation to each inspection are published on the Tusla website. Two service providers were deregistered in 2018 for failing to meet requirements. The Department has stated that a further three service providers have been deregistered to date in 2019.

1 Part VIIA of the Child Care Act 1991, as amended by the Child and Family Agency Act 2013 and the Childcare Support Act 2018.

2 In accordance with SI No 575 of 2018, temporary and drop-in school-age childcare services are not required to register.

3 In addition to the Child Care Act 1991, as amended by the Child and Family Agency Act 2013, the Inspectorate operates under secondary legislation (the Early Years Services Regulations 2016 and the School-Age Childcare Regulations 2018).

4 Tusla has stated that a condition is applied to a registration to assist the service provider to address the non-compliance noted. Conditions are usually specific and time limited and are followed up at the appropriate time by the Early Years Inspectorate.

**16.60** The most recent comprehensive data on inspection activity and outcomes published by Tusla relates to 2017.<sup>1</sup> A total of 2,033 inspections were carried out in 2017. 1,563 of the inspections were of existing services<sup>2</sup> — Tusla's report analysed the outcomes of those inspections.

- Nearly two-thirds of service providers inspected were found to be either fully compliant (32%) or non-compliant in either one or two areas (32%).
- 13% were found to be non-compliant in five or more areas.
- The highest level of non-compliance noted was in respect of Regulation 23 'Safeguarding health, safety and welfare of child' — just 45% of service providers were found to be fully compliant in that area.
- In order to assess the extent of remedial action taken by service providers, the Inspectorate followed-up on a random sample of 500 non-compliant findings — it found that just 7% of the findings had not subsequently been addressed.

**16.61** Tusla's policy is to pursue prosecutions, where appropriate, when a person or agency has

- operated an unregistered early years service
- failed to comply with the terms of registration for an early years service
- failed to cooperate with or impeded an inspection officer in the course of his/her duties
- failed to allow an authorised officer access to an early years service
- continued to operate an early years service having given notice of voluntary closure or having been removed from Tusla's register of services
- impeded the Inspectorate through deliberate deception or by providing false information.

**16.62** On foot of its policy on prosecutions, Tusla has initiated legal proceedings in two cases since 30 June 2016.

**16.63** In accordance with Part VIIA of the Child Care Act 1991 (as amended by the Child and Family Agency Act 2013), a judge of the district court may issue a warrant authorising inspection of a premises if there are reasonable grounds to believe that a prescribed early years service is being delivered by an unregistered service provider. Where a person is convicted of an offence under Part VIIA, the court may issue an order prohibiting that person from carrying on an early years service for a specified period.

**16.64** In relation to Tusla's inspection regime, the Department of Children and Youth Affairs has stated that it introduced regulations in 2016 that gave powers to Tusla, including to establish a register, to deregister services in certain circumstances and to attach conditions to registration. It stated that a significant increase in its funding to Tusla's Inspectorate since 2016 has enabled more inspections to take place and the introduction of a national management structure in the Inspectorate. The number of annual inspections carried out increased by 90% between 2014 and 2018.

<sup>1</sup> *Tusla — Child and Family Agency's Early Years Inspectorate Annual Report 2017.*

<sup>2</sup> The remaining 470 were 'fit-for-purpose' inspections relating to new applications or cases where service providers had given notice of a change in circumstances.

### ***Department of Education and Skills inspections***

- 16.65** The Inspectorate is a division of the Department of Education and Skills (DES) and is responsible for the evaluation of primary and post primary schools and centres for education.<sup>1</sup> In 2016, an inspection model was developed by the inspectorate known as early years education focused inspections to evaluate the quality of educational provision in early years settings participating in the ECCE programme. Funding for the early years education focused inspections programme is provided by the Department of Children and Youth Affairs. There is a memorandum of understanding between the two departments.
- 16.66** Inspections examine the quality of services in relation to
- the context and processes to support children’s learning and development
  - children’s learning experiences and achievements
  - management and leadership for learning.
- 16.67** The results of inspections are published on the DES website. By the end of 2018, 1,889 inspections had been carried out — 491 in 2016, 707 in 2017 and 691 in 2018.
- 16.68** DES has published a report, *Insights and Future Developments: A review of Early Years Education-focused Inspection, April 2016 – June 2017*, which summarised the results of inspections conducted over the period. The overall conclusion was that the review provided assurance that good efforts are being made to provide high quality learning experiences on the ECCE programme. However, the report also noted a number of areas for improvement.
- 16.69** Figure 16.10 sets out a summary of the report findings, in terms of the strengths and challenges identified.

<sup>1</sup> The Department of Children and Youth Affairs has stated that education-focused inspections were introduced at the request of the Minister for Children and Youth Affairs. Under the *First 5* strategy, there is a commitment to pilot and commence education-focused inspections of early learning and care provision for all 0–6 year olds in 2020.

**Figure 16.10 Results of early years education focused inspections, April 2016 to June 2017**

Area	Strengths	Challenges
<b>Context to support children's learning and development</b>	<p>Provision of safe, warm and welcoming environments that offer a rich range of inviting learning experience for children.</p> <p>Positive relationships between staff in services and the children and their families.</p>	<p>Provision of rich learning opportunities in the outdoor environments of services.</p> <p>Support for the development of children's sense of identity and belonging could be improved through a range of strategies to ensure that all children and families are fully represented.</p>
<b>Processes to support children's learning and development</b>	<p>Strong coherence between curriculum development and observation and understanding of children's interests and needs.</p> <p>Strategies to regularly engage with parents and families to ensure the relevance of planning for children's learning.</p> <p>Providing rich language experiences that respect the child's mother tongue and emerging second language.</p> <p>Provision of playful, exploratory learning experiences that promote children's uses of mathematical and scientific skills.</p>	<p>Challenges identified across all domains of education practice such as</p> <ul style="list-style-type: none"> <li>▪ the degree to which curricula and programmes of learning are informed by Aistear (the Early Childhood Curriculum Framework);</li> <li>▪ the way assessment of learning strategies and processes are used;</li> <li>▪ how assessment for learning is employed to inform the next steps in children's learning; and</li> <li>▪ the pedagogical strategies used by early years practitioners to support and extend children's learning.</li> </ul>
<b>Children's learning experiences and achievements</b>	<p>Evidence children are enjoying early learning experiences, having formed friendships, and are being provided with the opportunity to explore and 'make meaning' of the world around them.</p>	<p>Challenges arising in relation to the quality of children's achievements and experiences are frequently related to limitations in the range of learning experiences offered and the teaching and learning strategies used by practitioners.</p>
<b>Management and leadership for learning</b>	<p>Strong organisational provision for the support and supervision of staff and engagement in ongoing professional activities such as self-evaluation and review.</p> <p>High levels of ongoing organisational review, professional reflection, outreach to the wider community and to other professionals, and promoting concrete, productive partnership with parents.</p>	<p>Processes to support review of practice were underdeveloped in a majority of services and did not involve all staff.</p> <p>Partnership with parents was often at a low level with little evidence of involvement beyond celebratory events.</p> <p>Relationships with primary schools had either not been established or were not working effectively to support children's transitions.</p> <p>In services that were categorised as fair in this area, some staff struggled with working conditions that prevented them from engaging in professional activities such as planning and evaluation.</p>

Source: Department of Education and Skills. *Insights and Future Developments: A review of Early Years Education-focused Inspection, April 2016 – June 2017.*

### ***Data sharing between compliance and inspection bodies***

- 16.70** As outlined above, three separate entities — Pobal, Tusla and the DES Early Years Inspectorate — have responsibility for inspecting different aspects of the early learning and childcare programmes.
- 16.71** In addition to its oversight and monitoring relationship with Pobal, the Department of Children and Youth Affairs (DCYA) has an oversight and funding role in relation to Tusla and the DES Early Years Inspectorate, comprising the following elements
- DCYA states that it now aims to conduct formal liaison meetings with Tusla every six to eight weeks. In practice, three formal liaison meetings took place during 2018.
  - Tusla provides DCYA with information on relevant legal cases it is pursuing and cases where it has removed service providers from its register.
  - Information sharing between DCYA and Tusla has generally been on an ad hoc basis. DCYA has stated that it is currently finalising a formal communications protocol with Tusla to govern information sharing, including in relation to services at different stages of the deregistration process. DCYA is also currently exploring with Tusla and Childcare Committees Ireland an appropriate mechanism for information sharing and referrals to support regulatory compliance.
  - Data sharing between the DES Inspectorate and DCYA takes place in accordance with a memorandum of understanding signed by both departments.<sup>1</sup> Data is shared on issues arising and the progress of inspections carried out under the DES' early years education focused inspection model. All such inspections result in the publication of a report on the DES website. Under the terms of the memorandum with DCYA and Tusla, the DES may share information arising from the inspection programme with either organisations where relevant e.g. a breach of statutory regulation or child protection concern.
  - DCYA has stated that it chairs an operations and systems alignment group, established in 2015, which includes representation from Tusla, the DES Inspectorate, Pobal and Better Start. It has stated that the group meets regularly to ensure the efficient and effective delivery of inspection, audit and mentoring functions and that issues of coordination and data sharing are addressed at meetings.
- 16.72** While there is evidence of interaction and data sharing between the three bodies, it would be desirable for them to communicate on a more regular and structured basis and, where possible, to share relevant information on service providers. In particular, it is important that information on enforcement actions (e.g. deregistration) is shared on a timely basis.
- 16.73** Data sharing on a more formal basis between DCYA, Tusla and the DES Inspectorate would maximise the efficiency and effectiveness of the overall compliance regime. In particular, it would facilitate the identification of service providers who are persistently non-compliant across the three inspection regimes — such providers should be subject to a more stringent and tailored inspection approach.

<sup>1</sup> There is also a memorandum of understanding in place between Better Start and Tusla. Better Start is a quality development initiative of the Department of Children and Youth Affairs, collaborating with the Department of Education and Skills.

## Evaluation of effectiveness

- 16.74** Based on the numbers of children availing of each programme in 2017/2018, the estimated average cost per child was around €2,300 for the ECCE programme, and around €1,600 for the other programmes.<sup>1</sup>
- 16.75** The Department's overall objectives in relation to early learning and childcare funding programmes are elaborated in the *First 5 strategy*<sup>2</sup> (launched in November 2018) as being to
- make high-quality early learning and childcare for babies and young children more affordable
  - maintain and extend the supply of high-quality publicly subsidised early learning and childcare to best serve the developmental needs of babies and young children, ensuring that it also reflects the needs and preferences of parents and families
  - ensure that early learning and childcare provision promotes participation, strengthens social inclusion and embraces diversity through the integration of additional supports and services for children and families with additional needs.
- 16.76** The ECCE programme aims to promote optimal development for all children, to narrow the gap in attainment between more and less advantaged children and to make early learning in a formal setting available at no cost to all children before they commence primary school. The TEC programme is to support parents on eligible education and training board training courses as well as certain categories of parents that are returning to work, by providing subsidised early learning and childcare places. The CCS programme provides supports to parents on low incomes to enable them to avail of reduced early learning and childcare costs.
- 16.77** The Department has stated that the aims of the new National Childcare Scheme will include to provide support towards the cost of early learning and childcare, to ensure that access to affordable early learning and childcare is not a barrier to labour market participation, to promote positive child outcomes and to drive quality across the sector.
- 16.78** While certain objectives for individual early learning and childcare programmes have been set out in various strategies and policies over time, there does not appear to be a clear and comprehensive performance measurement framework, including key performance indicators and targets, which would facilitate assessment of whether intended outcomes are being achieved. The Department has stated that there are a range of targets pertaining to early learning and childcare programmes, including targets in respect of core scheme objectives such as availability, accessibility and quality.

<sup>1</sup> Excludes capital expenditure. The programme expenditure figures applied to produce the estimates are those for the calendar year 2018. The child numbers provided by the Department relate to the 2017/2018 programme cycle. Children who had more than one approved registration in the same programme have only been counted once. Children who had approved registrations in more than one programme during the same academic year are included more than once.

<sup>2</sup> *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families* (2019 – 2028), Government of Ireland, 2018.

### **Availability and access**

- 16.79** The ECCE programme was extended in 2016 (age bands widened) and 2018 (all children entitled to two full years of the programme). The objective of introducing a second free pre-school year is to help prepare young children further for starting school and to raise the school starting age to five years. In 2016, 61% of children starting school were under five years old and in 2018 this had reduced to 54%.
- 16.80** The Department has articulated an uptake target (i.e. 95% of eligible cohort) for the ECCE programme or other early learning and childcare programme, as well as a separate target (i.e. 33%) for children under three years old. The Department has stated that these targets are consistent with benchmarks for children's participation in early learning and childcare set by the EU and those established in other EU member states.
- 16.81** Data produced by the Department indicates that the uptake rate for the ECCE programme has been around 90% in each of the last three programme years. The Department has stated that combined data suggests that 95% of children in the ECCE eligible cohort are enrolled in either ECCE or another early learning and childcare programme funded by the Department.
- 16.82** Early Childhood Ireland, which represents many early learning and childcare programme providers, has stated that there is a shortage of ECCE places available in certain areas, particularly in parts of Dublin. The *Early Year's Sector Profile Report 2017/2018* highlights a significant unmet demand for full-time and part-time early learning and childcare and a geographical mismatch between supply and demand for other types of early learning and childcare.
- 16.83** The Department has stated it has taken and is taking steps to ensure an adequate supply of early learning and childcare places. It stated that it has undertaken significant capital investment in the provision of additional places and, since 2016, it has prioritised the funding allocations to ensure that any emerging capacity challenges can be addressed. It further stated that early learning and childcare has been identified as a national policy objective in *Project Ireland 2040*, which envisages greater capital investment over the next decade, with €250 million over ten years earmarked to develop the early learning and childcare infrastructure.
- 16.84** While information on the overall rate of uptake is important, details of the participation rates among particular groups also provides useful information on accessibility.
- 16.85** The Access and Inclusion Model, introduced in 2016, is a child-centred model of progressive supports designed to ensure children with a disability can access the ECCE programme. In 2017/2018, nearly 3,200 children benefited from the Access and Inclusion Model programme.
- 16.86** The Department acknowledges that there are lower than average participation rates for the ECCE programme among those from disadvantaged areas and minority ethnic backgrounds.

**16.87** The Department has stated that it has committed to taking a number of actions with the aim of improving access to early learning and childcare funding programmes, as part of its implementation of the *First 5* strategy, including to

- undertake an evaluation of the Access and Inclusion Model programme and consider the need for any enhancements/extension
- undertake a detailed assessment of the ECCE programme to identify cohorts of children with lower than average enrolment and participation rates and take the necessary action to address the issue
- develop mechanisms to provide additional supports to early learning and childcare settings where there are high proportions of children at risk of poverty.

**16.88** In addition, the Department has noted that the sponsorship agreements which will be put in place under the National Childcare Scheme are aimed at ensuring access to childcare for vulnerable children and families who have a specific need for childcare; on child development, child protection or family support grounds.

### **Quality**

**16.89** Prior to the introduction of the ECCE programme, there was no minimum required qualification for staff working in the sector. Since 2016, all staff are required to have at least a level 5 qualification (leaving certificate) and room leaders are required to hold a minimum of a level 6 qualification (advanced/higher certificate) on the national qualifications framework.<sup>1</sup> Higher capitation rates are available to services where the room leader has a minimum level 7 qualification (ordinary bachelor degree).

**16.90** There have been significant changes in the ECCE staff qualification profile since the programme was first introduced.

- In 2010, just 11% of ECCE services under contract met the criteria for a higher capitation amount (i.e. room leader with a minimum level 7 qualification).
- In 2018, available data indicates that half of the service providers under contract to deliver the ECCE programme met the higher capitation requirement.

**16.91** Implementation of the *First 5* strategy will see a move towards a graduate-led early learning and childcare workforce, with a target of at least 50% of staff (i.e. all room leaders, assistant managers and managers) working directly with children in centre-based settings to hold an appropriate degree-level qualification by 2028. The implementation plan sets an initial target of 30% to be achieved by 2021.<sup>2</sup>

**16.92** The Department has stated that there is a range of mentoring, training and other supports in place for the quality of early learning and childcare programmes. The supports include on-site mentoring and training to early learning and childcare providers from the Better Start Quality Development service, assistance with the roll-out of *Síolta* and *Aistear* and support for the implementation of the Access and Inclusion Model.

<sup>1</sup> The *National Framework of Qualifications* is developed, promoted and maintained by Quality and Qualifications Ireland.

<sup>2</sup> *First 5 Implementation Plan (2019 – 2021)*, published May 2019.

- 16.93** Separate to the checks on education quality carried out by the DES Early Years Inspectorate, the Department of Children and Youth Affairs has committed to implementing a tool to assess the quality of early learning and childcare but this has not yet been developed and implemented.
- Periodic quality audits of early learning and childcare provision have been recommended in two reports.<sup>1</sup>
  - Based on the report recommendations, funding was allocated for a quality audit of early learning and childcare. It was envisaged that this exercise would be repeated at agreed intervals (e.g. triennially). A tender to develop and administer the quality audit tool was published in 2017. The Department did not award a contract for this work as none of the tenders submitted met the specified requirements.
- 16.94** One of the actions included in the implementation plan for the *First 5* strategy is to develop measurement tools to assess the quality of early childhood services commencing with a tool to measure and monitor the quality of practice in early learning and childcare settings. A national baseline study, using the tool, is to be carried out by the end of 2021.

### ***Monitoring and evaluation***

- 16.95** The Department has stated that part of Pobal's function is to monitor and analyse the information collected through registrations and compile a weekly report that is submitted to the Department. The report provides updates on key figures relating to registrations, number of children, contracts, services and payments as well as fees lists, service calendars and higher capitation applications submitted under all the Department's early learning and childcare funding programmes.
- 16.96** An annual early years sector profile report is compiled by Pobal after the close of each programme year. This report represents an overview of the sector. It outlines the findings and analysis of the data captured from two sources; the early years service profile survey and the Programme Implementation Platforms ICT system. The data and findings from the annual report are used to track progress within the sector and identify emerging needs.
- 16.97** The Department has stated that there are plans to strengthen the system for monitoring and evaluation. This will include the development of a national monitoring and evaluation framework for early learning and childcare, including identification of a set of agreed indicators on the quantity, quality and targeting of provision, and regular publication of a national monitoring report. The Department has produced a monitoring and evaluation framework for the National Childcare Scheme (due to launch in October 2019) which will be used for ongoing and periodic systematic monitoring and evaluation.

<sup>1</sup> *Report of the Inter-Departmental Group on Future Investment (2015)* and the *Report of the Expert Group on the Early Years Strategy: Right from the Start (2013)*.

## Conclusions and recommendations

- 16.98** Expenditure on early learning and childcare funding programmes has increased significantly in recent years. In 2018, a total of €410 million was provided to early learning and childcare providers.<sup>1</sup> Over two-thirds of the expenditure relates to ECCE, a universal programme for early learning. The estimated average recurrent cost in the 2017/2018 programme year was around €2,300 per child on the ECCE programme, and around €1,600 per child for the other programmes.

### Oversight

- 16.99** The Department has a service level agreement with Pobal, which administers early learning and childcare programmes on its behalf. The 2016 *Code of Practice for the Governance of State Bodies* sets out key arrangements that should be in place when a department delegates responsibility for programme delivery to another entity. The current agreement, which includes a number of appendices, does not satisfy a number of key good practice requirements e.g. it does not specify detailed objectives, planned outputs or key performance indicators for any of the early years programmes.
- 16.100** The Department has stated that it currently has a range of oversight structures and governance tools in place with Pobal, of which the overarching service level agreement is only one. It stated the agreement is supplemented by an annual programme of work, as well as reporting frameworks and regular operational and performance monitoring interfaces with Pobal. The Department also noted that a substantial performance delivery agreement was put in place this year, for the forthcoming National Childcare Scheme, which will operate in tandem with the Scheme's monitoring and evaluation framework. This framework sets out outcome, output and process indicators aligned with the Scheme's stated policy objectives. The Department has committed to agreeing Pobal's 2020 programme of work and associated administrative funding prior to the end of 2019.

### Recommendation 16.1

The Department of Children and Youth Affairs should ensure that the service level agreement with Pobal is revised to include specific objectives, planned outputs and key performance indicators for all early years funded programmes.

#### DCYA Accounting Officer's response

The Department accepts the finding and acknowledges that there is a requirement for continued strengthening of its oversight of Pobal which it has contracted to provide a range of administrative and operational services in respect of the early learning and childcare programmes.

The Department and its early learning and childcare programmes have undergone rapid expansion over recent years, which has been accompanied by incremental improvements in governance and oversight.

The Department will ensure existing plans to put in place a suite of performance delivery agreements occur over the course of 2019 and 2020, and that these agreements meet the requirements set out in the *Code of Practice*. It will also review the current service level agreement over this time period.

<sup>1</sup> This figure excludes expenditure under the Access and Inclusion Model as well as the administration and programme support costs for all of the early learning and childcare funding programmes.

### **Regulation and compliance**

- 16.101** The level of compliance activity conducted is not derived from a systematic analysis of the risks attaching to individual schemes but is based on previous compliance outcomes and an estimate of over-claims for all programmes.
- 16.102** Pobal does not have a formal risk rating model. Such a model could risk rate the early learning and childcare funding programmes and individual providers taking account of both inherent risk and evidence in relation to the design and operation of controls over payments. Pobal could use this model to evaluate the adequacy of resources applied to compliance activity and to decide on the frequency and intensity of checks on service providers. It could also be used to assign available compliance resources on the basis of risk.
- 16.103** While Pobal undertakes a large number of compliance visits during each programme cycle, the level of audit activity undertaken (under ten audits per annum for the last three years) is very low, given annual payments of some €410 million to service providers. While the Department acknowledges that audit is available as a separate tool, it has stated that compliance visits remain the key priority in protecting public investment in early learning and childcare programmes and mitigating the risk of over-claims. The Department has stated its intention to agree additional arrangements with Pobal, aimed at checking, improving and supporting good governance in the sector.

### **Recommendation 16.2**

In conjunction with the Department, Pobal should implement a formal risk rating model and use it to calculate the required level of compliance activity (including audits, compliance visit and verification checks) and to ensure compliance resources are deployed on the basis of risk.

#### **Pobal Chief Executive Officer's response**

Pobal agrees with this recommendation and will work towards developing this type of model in conjunction with the Department. Discussions around risk rating are underway in the context of the National Childcare Scheme and initial formal risk rating analysis will commence during the 2019/2020 cycle, once compliance visits commence under the Scheme. However, this will be an ongoing process based on information available on services availing of the National Childcare and ECCE schemes. It may not be appropriate to apply a rating based on issues which arose on legacy schemes, which may have had different rules/requirements.

#### **DCYA Accounting Officer's response**

The Department accepts this recommendation and will work with Pobal to introduce a formal risk rating model. This has been anticipated and prepared for within the new control environment and the financial governance and accountability requirements, which are nearing completion, of the National Childcare Scheme. There is an existing commitment to developing a formal risk rating mechanism for the National Childcare Scheme.

The 2019/2020 service offers will again have full regard to risk, taking account of the nature of the schemes. In effect, they represent subsidies for specified places for individual children; compliance with attendance rules will therefore remain a priority. The Department also intends to agree with Pobal the appropriate audit function for the early learning and childcare programmes.

- 16.104** It is difficult to assess the effect of the compliance regime on the underlying level of compliance with early learning and childcare scheme rules, given that the number, title and definition of categories used for compliance outcomes have changed frequently from year to year.
- 16.105** Up to 2017/2018, the absence of effective sanctions resulted in service providers that had been assessed, following unannounced compliance visits, as majorly non-compliant with the terms of the grants provided continuing to receive funding. A new framework has been implemented by the Department of Children and Youth Affairs, from 2017/2018, but it is too early to assess its effectiveness.

### **Recommendation 16.3**

The Department of Children and Youth Affairs should schedule a review to assess the effectiveness of the new compliance framework.

#### **DCYA Accounting Officer's response**

The Department accepts this recommendation.

The present compliance framework has operated since 2017/2018 with particular focus on major non-compliance related to attendance record rules. The Department will make further improvements to the compliance framework as part of the incremental strengthening of the compliance offering for the current early learning and childcare programmes. The review and update of the compliance framework will consider how the framework has operated since 2017/2018, areas for improvement, and any changes required. These changes include, in particular, the introduction of the National Childcare Scheme on a statutory footing. This work will commence in line with the development of the compliance service offer for 2019/2020 and the National Childcare Scheme.

Under the Childcare Support Act 2018, the new Scheme builds in strong governance checks and balances from the outset.

For example, the Scheme will entail a new weekly attendance reporting return by childcare service providers, and the legislation provides that the scheme administrator may suspend payment of subsidies where the weekly return is not submitted by providers. Similarly, it provides a legal basis to suspend or withdraw subsidies where attendance records are found to be inadequate. At every stage of development of the new Scheme, officials have taken account of the learning from the weaknesses in the legacy schemes.

- 16.106** Currently, Pobal's estimates of over-claims derive from compliance activity selected on a risk basis. Therefore, the results may not provide a representative estimate of the overall level of over-claims arising on individual early learning and childcare programmes.

**Recommendation 16.4**

Pobal should develop a reliable methodology to enable it to estimate and monitor the underlying level of over-claims arising on individual early learning and childcare programmes. This might include compliance visits and/or audits selected on a random basis.

**Pobal Chief Executive Officer's response**

Pobal accepts this recommendation.

In terms of non-capital funding for early learning and childcare programmes, Pobal is committed to formulating a methodology to estimate the level of over-claims, identified through compliance checks, in consultation with the Department of Children and Youth Affairs.

With regard to future audit checks, such a methodology will need to be appropriately planned and resourced. In terms of sequencing, the success of any future audit regime must be preceded by robust contractual agreements, financial reporting mechanisms, as well as the provision of key information and other supports to childcare providers in a way that clearly outlines expectations. These steps must duly acknowledge the mix of funding to community/private childcare providers and they must also recognise the nature of non-capital funding being designated subsidies rather than grants. The distinction is important as they are not grants designated for disbursement on ring-fenced costs that are capable of being vouched against pre-defined eligibility criteria. In practical terms, this is expected to result in audit checks that focus on verifying and improving governance standards.

Subject to the Department's agreement, Pobal expects that an audit related service offer will be in place by early 2020, following a proposed initial pilot phase in late 2019.

- 16.107** Three separate entities (Pobal, Tusla and the Department of Education and Skills) have responsibility for compliance and inspection of different aspects of early learning and childcare provision. While there is evidence of regular interaction between the entities, adopting more formal protocols for communication and data sharing has the potential to improve the overall effectiveness of the compliance regime.

**Recommendation 16.5**

The Department of Children and Youth Affairs should agree formal protocols for data sharing with other inspection bodies.

**DCYA Accounting Officer's response**

This recommendation is accepted.

Coordination and data-sharing is already taking place and has been strengthened over time. However, it is agreed that formal arrangements should be made and these will be signed in the near future.

Coordination and data-sharing arrangements have been in place for some years through the Operations and Systems Alignment Group, through regular liaison meetings between this Department and each of the inspection bodies, and through effective sharing of relevant data on a bilateral basis. A memorandum of understanding is in place between this Department and the Department of Education and Skills, and a formal communications protocol between this Department and the Tusla Inspectorate is close to finalisation.

In relation to data-sharing between inspection bodies, it is important to note the very different roles and focus of the three bodies and their data protection responsibilities. Whilst it is appropriate to share some information, caution must be exercised regarding what is shared and how the information is used. The independence and particular role of each body must be considered, and caution must be exercised in drawing any conclusions from a finding of another body.

### Recommendation 16.6

As the provider of significant State funding to the early learning and childcare sector, the Department of Children and Youth Affairs should, subject to compliance with GDPR<sup>1</sup> requirements and with due regard to the independent roles and statutory responsibilities of different entities, provide for the collation of the results of all inspection types to identify service providers who are persistently non-compliant across the three inspection regimes. Such information sharing could support more informed risk-profiling by the different bodies.

#### DCYA Accounting Officer's response

This recommendation is accepted.

There are some practical difficulties in relation to achieving this, but we will review how best to implement the recommendation.

The three relevant entities have different roles. Since they each conduct their activity at different frequencies, very recent information may be available from one body, whereas information from another may understandably be over two years old. There can be no presumption that weaknesses found across the inspection types will be correlated, but it would be valuable to cross-check the results. Each organisation has data protection responsibilities and a duty to afford services due process where failings are identified.

Weaknesses in management in a service provider may be reflected in findings across all three inspection/audit bodies, and there would be benefit in further strengthening appropriate data-sharing between the inspection/audit bodies, subject to due process and GDPR requirements.

### Evaluation of effectiveness

**16.108** The ECCE programme, introduced in 2010, accounts for over two-thirds of total expenditure on early learning and childcare programmes. The scheme was significantly expanded in 2016. While the overall participation rate is relatively high, the Department has noted lower uptake rates for ECCE among those from disadvantaged areas or minority backgrounds.

**16.109** As part of implementation of the *First 5* strategy, the Department has committed to undertaking a detailed assessment of the ECCE programme to identify cohorts of children with lower than average enrolment and participation rates and to taking the necessary action to address the issue. The Department has also committed to developing mechanisms to provide additional supports to early learning and childcare services where there are high proportions of children who are at risk of poverty to mitigate the impacts of early disadvantage. This will be informed by the *Delivering Equality of Opportunity in Schools* programme in primary and post-primary schools.

<sup>1</sup> The General Data Protection Regulation (GDPR) came into force across the European Union in May 2018. It establishes a new European-wide framework for data protection.

- 16.110** While certain objectives for individual early learning and childcare programmes have been set out in various strategies and policies over time, there does not appear to be a clear and comprehensive performance measurement framework, including key performance indicators and targets, which would facilitate assessment of whether intended outcomes are being achieved.

#### **Recommendation 16.7**

In order to facilitate evaluation of early learning and childcare programmes, the Department of Children and Youth Affairs should develop high level goals supported by measurable objectives in the form of specific targets and key performance indicators.

#### **DCYA Accounting Officer's response**

This recommendation is accepted.

One of the major objectives of the *First 5 Strategy* is 'a strong national infrastructure for research and data that is used to inform policy and practice, alongside an ongoing programme of monitoring and evaluation'. The Department currently takes steps to monitor and evaluate individual early learning and childcare programmes, and report on performance indicators and targets, both national and international.

The new National Childcare Scheme has already put in place a substantial performance delivery agreement which operates in tandem with the Scheme's monitoring and evaluation framework. Building on this, and delivering on a *First 5* action, the Department has committed to developing a robust national monitoring and evaluation framework for early learning and childcare, including identification of a set of agreed indicators on the quantity, quality and targeting of provision, and regular publication of a national monitoring report. This will build on the *EU Quality Framework on Early Childhood Education and Care*.

- 16.111** The Department has committed to provide continued funding and support for two full years of the ECCE programme and intends to undertake a review of the programme and, subject to findings, to identify any necessary changes during the 2019 – 2021 period.
- 16.112** Under the *First 5* strategy, the Department has committed to developing a self-evaluation framework for early learning and childcare so that providers can assess their own performance along the quality spectrum, from compliance to excellence, and to developing and using appropriate methods to take account of the views of children and parents in the inspection of early learning and childcare.
- 16.113** *First 5* also re-commits the Department to developing a tool to measure and monitor the quality of practice in early learning and childcare settings. The Department has stated that such a research tool would complement other quality assessment mechanisms already in place and would provide a mechanism to assess the effectiveness of policies aimed at raising quality at a system-wide level. A national baseline study, using the tool, is to be carried out by the end of 2021.

## Annex 16A

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### Figure 16A.1 Summary of elements in the current SLA and annual agreements

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#### Service level agreement

- General arrangements relating to the delivery by Pobal of services to the Department.
- Purpose and objectives of the SLA.
- Agreement by the Department to certain criteria in respect of the programmes and schemes administered by Pobal.
- Agreement by Pobal to adhere to all legislative provisions, circulars, guidelines and public financial procedures issued by the Department and other departments as well as agreement to certain criteria in respect of the programmes and schemes administered.
- Oversight arrangements between the Department and Pobal.
- Corporate governance including roles and responsibilities, governance obligations, reporting, monitoring and accounting, protected disclosures, complaints process and provision of information to Department officials and members of the Oireachtas.
- Funding and fees.
- General terms and conditions.

#### Programme of work

- The programme of work details high level tasks, duties, processes and time lines that Pobal provides to the Department in a given year. In relation to early years funding programmes it includes general operations, individual tasks for all schemes, programme support payments, integrated case management.
- It also provides duties for other programmes e.g. early years capital, as well as including information on early years projects such as the Affordable Childcare Scheme and information on early years governance and finance including the reporting framework.

#### Service cost offer

Service cost offer agrees a service fee for the delivery of each programme. It includes

- overview of costs requested
- expenditure rationales
- Pobal staffing.

#### Compliance service offer

Compliance service offer agrees the coverage, methodology etc. of the compliance function. The service offer for the 2017/2018 cycle includes details on tasks, processes and timelines in the following areas

- coverage
- compliance process
- a number of appendices including rationale for changes, assumptions and compliance categorisations.

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Source: SLA between Department and Pobal. Analysis by Office of the Comptroller and Auditor General.

## Annex 16B

**Figure 16B.1 Typical tasks for compliance visits and audits<sup>a</sup>**

Compliance visit	Audit
<p><b>General checks</b></p> <ul style="list-style-type: none"> <li>▪ service in operation</li> <li>▪ access granted</li> </ul> <p><b>Records</b></p> <ul style="list-style-type: none"> <li>▪ attendance records</li> <li>▪ fee records</li> </ul> <p><b>Fee records</b></p> <ul style="list-style-type: none"> <li>▪ check amounts billed to parents reduced to reflect fees received by the service provider from Pobal (e.g. ECCE)</li> <li>▪ registered fees accurate</li> <li>▪ optional extras</li> </ul> <p><b>Document retention</b></p> <ul style="list-style-type: none"> <li>▪ signed Programme Implementation Platform declaration forms</li> <li>▪ signed parent fees letters</li> <li>▪ monthly full-time equivalent on site and up to date (CCS)</li> <li>▪ parent sign-in sheets available and maintained (TEC)</li> </ul> <p><b>Staff qualifications</b></p> <ul style="list-style-type: none"> <li>▪ number of children</li> <li>▪ capitation levels</li> </ul> <p><b>Other checks</b></p> <ul style="list-style-type: none"> <li>▪ Programme Implementation Platform reflects actual attendance (ECCE)</li> <li>▪ subsidised hours correct (ECCE)</li> <li>▪ higher capitation sessions maximised (ECCE)</li> <li>▪ minimum enrolment (8) satisfied (ECCE)</li> <li>▪ meals provided as required (CCSR/T)</li> </ul>	<p><b>Corporate governance</b></p> <ul style="list-style-type: none"> <li>▪ organisational structures</li> <li>▪ company secretarial compliance</li> <li>▪ Board oversight and composition</li> <li>▪ internal policies and procedures</li> <li>▪ audited accounts and banking arrangements</li> </ul> <p><b>Records</b></p> <ul style="list-style-type: none"> <li>▪ primary accounting records</li> <li>▪ returns submitted to Pobal</li> <li>▪ income records and cash management procedures</li> <li>▪ attendance and fee records</li> </ul> <p><b>Staff-related records</b></p> <ul style="list-style-type: none"> <li>▪ payroll and employment contracts</li> <li>▪ statutory deductions</li> <li>▪ travel and subsistence claims</li> </ul> <p><b>Other checks</b></p> <ul style="list-style-type: none"> <li>▪ general payments sample<sup>b, c</sup></li> <li>▪ insurance documentation</li> </ul>

Source: Pobal Compliance Audit and Risk Unit

- Notes:
- a A number of desk-based checks are carried out prior to site visits e.g. previous findings are reviewed prior to compliance visits and Company Registration Office records and audited financial statements are reviewed prior to audits.
  - b Under the terms of their contracts with the Department, ECCE-funded services are not required to ring-fence or report on those payments and it is not therefore possible to identify specific ECCE-funded payments. CCS providers are required to submit periodic returns in respect of CCS funding showing overall expenditure and high level audit trail checks are performed.
  - c In 2019, the Department confirmed that ECCE funding represents a subsidy rather than a grant which must be spent on predefined eligible costs.

