



Our ref: 18/253/MOS
Your ref: JCCYA-i-282

13th June 2018

Ms. Aileen Fallon
Clerk to the Joint Committee on Children and Youth Affairs
Houses of the Oireachtas
Leinster House
Dublin 2
children@oireachtas.ie

Dear Ms. Fallon,

I refer to your letter of 1 June 2018 on behalf of Alan Farrell TD, Chairman of the Joint Committee on Children and Youth Affairs regarding childhood obesity and *"the strict rules that are in place in some schools with regard to physical activity during break times"*.

It is important to note that the Minister for Finance is responsible for the development of the legal framework governing financial regulation. Neither he, nor Minister of State D'Arcy, nor the Central Bank of Ireland, has the power to direct insurance companies on the pricing or provision of insurance products. Indeed, the EU framework for insurance expressly prohibits Member States from adopting rules which require insurance companies to obtain prior approval of the pricing or terms and conditions of insurance products. The provision of insurance cover and the price at which it is offered is a commercial matter for insurance companies and is based on an assessment of the risks they are willing to accept and adequate provisioning to meet those risks. These are considered by insurance companies on a case-by-case basis. In making this assessment, insurance companies use a combination of rating factors in making their individual decisions on whether to offer insurance cover and what terms to apply to a policy. Insurers do not all use the same combination of rating factors and insurance companies also price in accordance with their own past claims experience.

The area of insurance for schools was not one which was specifically examined by the Cost of Insurance Working Group in the course of completing its two primary reports, the *Report on the Cost of Motor Insurance* and the *Report on the Cost of Employer and Public Liability Insurance*. However, many of the issues pertinent to the education sector in this regard are similar to those facing businesses and voluntary organisations generally, and were considered by the Working Group, particularly during its second phase.

Both of the primary Reports are available on the Department's website, within "The Cost of Insurance Working Group" sub-section of the main "Insurance" section. Also contained therein are the five quarterly updates published to date, which outline the progress of implementation of the two Reports. The most recent of these was released on 11 May 2018 and shows that, in respect of the actions from the *Report on the Cost of Employer and Public Liability Insurance* due for completion in Q1 2018, all eight deadlines have been met.

Notwithstanding the above, Department of Finance officials contacted Insurance Ireland in relation to the particular matter raised. On foot of this contact, Insurance Ireland spoke to a number of providers for this type of insurance and responded as follows:

"...there are no restrictions in relation to activities in the schoolyard, which may include running, football or any other active sports or games. Insurance providers in this space would take the view that it is a matter for the school staff to determine what is appropriate for the children in their care taking account that they have a responsibility 'in loco parentis'. Insurers would issue some form of guidelines regarding supervision and highlight the need for appropriate levels of supervision at yard time, based on age/capability of the children and the activity in the yard.

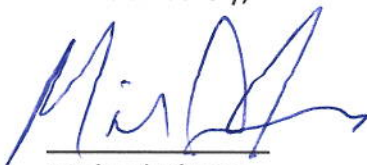
The role of insurers in this space is to facilitate the schools in providing a child-centred environment to deliver the curriculum they wish to provide. Imposing restrictive terms and conditions would limit the schools' ability to deliver services which differ from school to school.

On another note, the Courts have outlined their position in recent years [by dismissing certain relevant personal injury claims], which is welcomed; however, legal costs associated are rarely recoverable so even a successful defence can result in considerable cost for the insurance provider."

It is also recommended that the Joint Committee seek submissions from relevant stakeholders, such as those referred to in your letter. Insurance Ireland has indicated that if the Joint Committee wishes to receive a formal submission on the topic, it should write to: Kevin Thompson CEO, Insurance Ireland, Insurance Centre, 5 Harbourmaster Place, IFSC, Dublin 1.

I hope the above information is of assistance.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Michael D'Arcy', with a horizontal line underneath it.

Michael D'Arcy
Minister of State