

Seeing the wood for the trees

How the regulation of early learning and childcare changed to improve children's experience of outdoor play in Scotland

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Abstract

More than a quarter of a million children attend registered early learning and childcare (ELC) services in Scotland, including nurseries, children and family centres, childminders and out of school care. ELC services are regulated by the Care Inspectorate, the statutory body responsible for assessing and supporting improvement in the standards of social care for adults and children in Scotland. In this paper, the Care Inspectorate's Strategic Lead for Health and Social Care Standards explores how the regulation and inspection of outdoor play in ELC settings has evolved and how this has affected children. The role of external scrutiny in helping registered services improve and develop children's experience of outdoor play is examined. The recent flourishing of outdoor play, including the growth of specialist outdoor-based services, is set within a historical context and the implications for the current expansion of funded ELC are considered.

Playing by the rules

In 2002 responsibility for regulating ELC transferred from local authorities to new national inspectorates across the UK. The Scottish Parliament introduced National Care Standards for the first time and established the Care Commission. In 2011 the statutory duty to regulate social care for adults and children transferred to the Care Inspectorate, which also assumed responsibility for strategic inspection of social work and child protection previously carried out by the Social Work Inspection Agency and Her Majesty's Inspectorate of Education.

The Care Inspectorate inherited a rules-based approach to regulation from the Care Commission, which largely consisted of inspecting against prescriptive provider inputs, such as policies, procedures and health and safety. The deficit model of regulation involved a quasi-policing of all registered services to comply with minimum measures, many of which were technical in nature. This reflected a traditional licensing role, with national inspectorates established to oversee a 'level playing field' upon which a free market of public, private and voluntary sector providers could operate under the same framework. For ELC outdoor play was consequently framed in terms of black-and-white inputs focussing on safety, with the relevant National Care Standards stating:

"Children and young people have the opportunity to sleep or rest and have regular access to fresh air and energetic physical play.

"Children and young people have access to accommodation which is secure and suitable to meet the needs of all users.

"Arrangements are in place to make sure of the safety and security of children and young people, inside and

outside. Children and young people enjoy the service in an environment that takes account of the space standards... and makes effective use of space, including outdoor play areas."

Inspectors would ensure that outdoor play areas were physically safe and adequately equipped and staffed, with outdoor activities being regularly risk assessed. While these tangible inputs had some value in their own right, ultimately they were proxy indicators with no proven correlation to the quality of children's experience of outdoor play. An outdoor play area can meet the highest specification, but this does not mean that the service makes the most of this capacity and children enjoy a rich outdoor play experience. Indeed, sometimes the highest quality experiences can be provided by services with relatively poorly resourced outdoor play areas. It is the attitude and engagement of practitioners in outdoor play that is the determining factor. The extensive Growing Up in Scotland longitudinal study (GUS) had evidenced that adult perception of the outdoors makes a difference, with 6 year olds whose mothers perceive that they live far away from green space watching more television and having worse mental and general health².

On occasion a service was providing high quality outdoor play, but the paperwork such as risk assessments and accident recording failed to comply with the standards. In these situations, inspectors had no option but to make formal recommendations regarding the paperwork and these relatively minor breaches could dominate the findings of the inspection.

The fear factor

A consequence of rules-based regulation can be fear of the regulator. While some anxiety about being inspected is a positive external driver for improvement, fear is a powerful emotion that can be exacerbated if any element of public blame is involved. ELC arouses strong feelings for parents and the public, particularly when things go wrong, and starting to publish inspection reports online with a quality grading scale led to heightened tension. This dynamic was played out within an increasingly risk averse climate across the public discourse at that time, fuelled by fear of litigation and press exposure.

The above factors created a culture of fear which had its own momentum, with ELC providers and practitioners policing themselves by erring on the side of caution. Inspectors were finding that services were wrongly assuming that the regulator would not tolerate children taking part in risky activities such as climbing trees, cooking on real fires or playing with soil or near water. In the same way that fear of touching children swept across the ELC sector to the detriment of children, so myths about outdoor play were rapidly gaining ground.

Given the focus of the old National Care Standards on the safety of the environment and the Care Commission's rules-based approach to regulation, it is perhaps unsurprising that children's experience of outdoor play in registered ELC settings was becoming unnecessarily restrictive at that time. However, a deeper dynamic was at play than ELC services just playing safe and not risking being caught out by the regulator. Services were also reflecting the wider societal trend to 'wrap children in cotton wool'. In 2007 two influential books highlighted the danger this presented to children: Sue Palmer's *Toxic Childhood: How The Modern World Is Damaging Our Children And What We Can Do About It*^{3,4}. Gill cited evidence that playing outside presents a far lower risk of harm to children than often assumed, with injuries from playgrounds being less likely than from many traditional school sports. These popular books have been backed up by a considerable body of academic research, which Elizabeth Henderson summarises in *Autoethnography in Early Childhood Education and Care*⁵.

Helen Tovey from the University of Roehampton, who coined the phrase "safe as necessary not safe as possible", has also been influential in changing attitudes to risk and outdoor play spaces⁶.

The risk averse culture limited the experience of all children experiencing regulated care and particularly children and young people under state care. For children and young people 'looked after' by local authorities, the outdoor environment was a heavily rule bound space, as described in the 2007 study *Playing It Safe? A study of the regulation of outdoor play for children and young people in residential care*⁷.

Nature deficit disorder

At the same time, there was growing recognition of the unintended consequences of overprotecting children. The impact on individual children was starkly illustrated by William Bird's 2007 research published by Natural England and the Royal Society for the Protection of Birds (RSPB), which showed that children have progressively lost the right to roam freely from their home within four generations⁸. Louv identified the dangers of losing our connection with nature, with many children being able to talk knowledgeably about the rainforest but having become ignorant of their own natural environment. For example, two UK zoologists found that more than three-quarters of a group of eight year olds were able to name Pokemon characters, but only half could correctly identify local animals and plants such as a beetle, deer or oak tree⁹.

Seeing the wood for the trees

Against this backdrop, the Care Inspectorate took a radically different approach in order to improve children's experience of outdoor play in ELC services. Rather than just measuring inputs regarding outdoor play, inspectors started spending more time observing children playing outdoors and assessing the extent to which they were benefitting. Inspection practice was changed to allow inspectors to engage more with practitioners and to

positively encourage them to develop outdoor play opportunities that captured children's curiosity and imagination in all weathers.

The role that the regulator had played in creating a risk-averse culture was countered by moving to a risk benefit position and actively dispelling the myths surrounding outdoor play. While a written risk assessment may be necessary for a particularly dangerous activity, risk assessments for everyday activities had become an industry in itself. Staff were spending so much time completing paperwork that it either took them away from working directly with children or they decided that it was not worth planning the activity in the first place. The Care Inspectorate therefore made the following statement on risk in play, which was publically endorsed by the Minister for Children and Young People:

"The Care Inspectorate supports care service providers taking a positive approach to risk in order to achieve the best outcomes for children. This means moving away from a traditional deficit model that takes a risk-averse approach, which can unnecessarily restrict children's experiences attending registered services, to a more holistic risk-benefit model. For example, we encourage services to use risk assessment to support children to enjoy potentially hazardous activities such as woodwork using real tools, exploring nature and playing in the mud and rain. We do not expect written risk assessments to be carried out for daily play activities."

Direct engagement with the ELC sector outwith the formal inspection role, through a national roadshow in partnership with Play Scotland, helped the Care Inspectorate to achieve cultural change and shift from enforcer to enabler. Not only was the fear of children taking risks outdoors to be overcome, but also fear of a 'big brother' regulator. The Scottish Government's commitment to play, with a national Play Strategy¹⁰ and its explicit support for a play-based learning curriculum for the early years, played an important role in creating a climate where this shift was embraced.

Inspections started focussing not just on outdoor play areas within ELC premises, but on how services enabled children to explore nature, with inspectors joining outings to the local woods or beach. Simply being outside in fresh air is beneficial, but inspectors found that when children were helped to actively explore nature themselves the dividends for improving outcomes are exponential. Many children become more confident, curious, co-operative, calm and content. And for some children it can be transformative. For children experiencing emotional and behavioural problems or struggling in a traditional formal setting, immersion in a natural setting can be therapeutic and release their potential.

My World Outdoors

In 2016 *My World Outdoors* was published, an improvement resource sharing practice examples of how children benefit from outdoor play in different ELC service types across Scotland. Instead of issuing guidelines, the Care Inspectorate collaborated with partners to produce detailed vignettes that captured the impact on children's outcomes and provided practical tips for ELC practitioners.

My World Outdoors was structured using the wellbeing indicators of the Scottish Government's Getting It Right For Every Child framework and examples illustrated how outdoor play was helping children be safe, healthy, achieving, nurtured, active, respected, responsible and included¹¹. These wellbeing indicators had given ELC a head-start compared to the rest of the social care sector in understanding and embracing the conceptual shift from inputs to outcomes.

My World Outdoors is one of a suite of resources the Care Inspectorate has been producing to help all registered social care services know what high quality looks like and improve the quality of experience available for people. In contrast to the Care Commission, which only covered traditional regulation, the Care Inspectorate was vested with an additional statutory duty to support improvement. This reflected a wider central government move for inspectorates and other scrutiny bodies to broaden their remit and suggest solutions as well as merely diagnosing problems. For example, the Care Inspectorate's formal title is Social Care and Social Work Improvement Service and the scrutiny body for healthcare was named Healthcare Improvement Scotland. Improvement science was promoted as a discipline in its own right and was adopted across many public sector organisations. Within the Care Inspectorate, a newly established Improvement Support Team ran a successful Care About Physical Activity (CAPA) programme for older people. CAPA matched efforts described in this paper to develop skills and confidence in care professionals to enable older people to move more and so improve physical activity at the other end of the age spectrum.

The improvement agenda has been closely aligned with the move from inputs to outcomes across health, social work and social care in Scotland. For example, in 2015 the Scottish Government introduced National Health and Wellbeing Outcomes¹². More recently, the former Chief Medical Officer's Review of Targets and Indicators for Health and Social Care in Scotland recommended adopting a more outcome-focussed model¹³.

It is often easier to adopt a risk-averse position and to focus on the negatives for children in today's society. And with mounting evidence of harm from an increasingly sedentary lifestyle, there is plenty to be negative about. While dropping down the international league table for pupil attainment levels, Scotland tops international tables for childhood obesity and children's screen time. The 2016 Scottish Health Survey found that 14% of children were obese or overweight and at risk of obesity, compared to EU average of 5%¹⁴. The World Health Organisation surveyed over 200,000 children from 42 countries for its 2017 report¹⁵ and found that Scottish children spent the most time looking at computer, television and smartphone screens. GUS reported in 2017 that only 11% of 10-11 year olds were averaging the minimum of 1 hour per day physical exercise recommended by the UK's Chief Medical Officers¹⁶.

Evidence linking decreasing physical activity with increasing health and education problems has of course been well established, with a recent study from the University of Granada confirming that physical activity can boost academic performance¹⁷. Previous research

finds that exercise and laughter both reduce stressful cortisol levels and helps young children develop a cortex which is conducive to future learning¹⁸. Exercising in a natural outdoor environment has been found to be better for psychological wellbeing than indoors¹⁹. Adopting a didactic approach, however, was unlikely to have had the desired impact with the intended ELC audience. People need practical help, as well as education, in order to make lifestyle changes and therefore My World Outdoors deliberately accentuated the positive and celebrated good practice. Just as the 'daily mile' is having a positive impact in primary schools, the Care Inspectorate wanted to share what was working in ELC settings.

Forest nurseries

In addition to sharing the widespread progress in children's outdoor experiences made by the whole early learning and childcare sector, My World Outdoors also allowed the Care Inspectorate to tell the inspiring story of how specialist outdoor-based services have developed in Scotland. When the first forest nursery applied to be registered in 2008, this presented a dilemma for the Care Commission. Being fully immersed in a woodland setting without a nursery building did not meet many of the traditional environmental standards and there were concerns regarding infection control. Overcoming these concerns helped the regulator see the bigger picture and appreciate that the benefits far outweigh the risks. A more flexible application of inputs allowed children to experience what the Japanese call 'Shin-rin Yoku' or 'forest bathing'. Since The Secret Garden Outdoor Nursery in Fife was registered as the UK's first outdoor-based nursery, the Care Inspectorate has been actively supporting the growth of this unique type of ELC. My World Outdoors contained specific guidance for registering and developing daycare services and activities for children in a natural environment. Scotland now has 19 of these services and last year the first outdoor-based out of school care service opened. Defined as ELC that describes itself as a specialist outdoor service and where children spend the majority of time outdoors, they are proving to be very popular with children and their parents.

Let them eat dirt?

Infection control risk from soil and proximity to farm animals is serious and arrangements for children to wash their hands need to be adequate. Two serious outbreaks of E.Coli in nurseries in Scotland confirmed this risk. At the same time the response to such outbreaks needs to be proportionate. Soil and farm animals present a real risk, but these can be managed with adequate handwashing and should not result in over-protective responses such as preventing vegetables with soil residue entering a nursery. Indeed, some recent scientific research has questioned whether the right balance has been struck. For example, Let Them Eat Dirt: Saving our Children from an Oversanitized World²⁰ highlights the dangers to children from overprotection with regard to infection control.

Looking backwards to go forwards

The forest kindergarten movement is spreading from its traditional Nordic stronghold and is now taking root across Southern Europe countries. Scotland might not have the number of forest kindergartens that has become the norm in Scandinavia and Germany, but Scotland is at the forefront of a flourishing forest nursery movement across the UK, with many springing up in England in recent years and Wales registering its first in 2017²¹. This might reflect the fact that Scotland is blessed with an outstanding natural environment, but it also reflects Scotland's rich heritage of outdoor play.

When Robert Owen established what many call the world's first nursery school in New Lanark in 1816, this was firmly based on the principles of outdoor learning being espoused by pedagogues such as Friedrich Froebel in Germany and Johann Pestalozzi in Switzerland:

"The children were not to be annoyed with books... the schoolroom for the infants' instruction was furnished with paintings, chiefly of animals, with maps, and often supplied with natural objects from the gardens, fields and woods – the examination and explanation of which always excited their curiosity ... their chief occupation will be to play and amuse themselves in severe weather: at other times they will be permitted to occupy the inclosed area before the building; for, to give children a vigorous constitution they ought to be kept as much as possible in the open air²²."

During the 19th Century, the need to counter the effects of industrialisation was also progressed by other influential Scots, including Patrick Geddes' urban gardens and John Muir's national parks. In turn, Froebel and Geddes inspired the Scots born pioneers of Britain's nursery school movement at the turn of the 20th Century, Margaret and Rachel McMillan. The Froebel-trained McMillan sisters established Open-Air Nurseries, single-storey shelters where children were taught in classrooms which were partially or fully exposed to the outdoors:

"All the best apparatus is in the garden. The two-year-old works hard. He and she have so much to learn. It is hard to stop him²³."

Child Gardens

In Scotland 'kinder gartens' took the form of 'child gardens', which were designed so that children could independently access the garden area at all times. Children spent most of the day outdoors and routinely ate and slept in the open air. Each child had their own vegetable plot and natural materials were used, such as timber from the town parks. From 1903 a network of Child Gardens was established in Edinburgh's old town, based in single-storey buildings with each nursery playroom opening onto its own large veranda and spacious garden:

"The best classroom and richest store cupboard is roofed only by the sky. Do you want to compare colours, to note tints and shades? Well, here is wealth a plenty. The herb garden will offer more scents than anyone can put in a

box, and very little thought will make every pathway a riot of opportunities²⁴."

The current resurgence of outdoor play is not, however, rekindling a tradition that had been lost in the mists of time. The heritage of those early pioneers is a rich pedagogical seam that can be followed through successive waves of investment in universal state funded nursery provision. The programme of nursery school expansion in Scotland's cities continued during the 1920s and 1930s, with outdoor play at its heart. At the time nurseries such as Phoenix Park Kindergarten in Glasgow and Lochrin Nursery School in Edinburgh were recognised as centres of pedagogical excellence and received visitors from all over the world.

The commitment to the value of outdoor play continued through post-war rebuilding programme, with many of the Corbusier inspired tower blocks of the 1950s having a nursery integrated in the plans. As part of the utopian vision, the concrete monoliths had units and floors for shops, laundries and other community facilities, including nurseries. For example, when the huge Westfield Court housing complex opened in Edinburgh in 1953, residents could take the lift to the top floor, the whole of which had been designed as a nursery. And the roof was dedicated as an outdoor play area, with the design allowing children to continue to freely access this new garden in the sky.

The belief that nursery education, including outdoor learning, had the power to transform society ran through the development of nurseries in Scotland. For example, the expansion of state nurseries in the 1970s was described thus:

"The Nursery Schools are the bow from which its children as living arrows will go forth²⁵"

Supervisor of Nursery Schools in Edinburgh

"We stand on the threshold of the programme of massive expansion as outlined in the Government White Paper of February 1973. We need the same high quality of staff who pioneered nursery school education in Edinburgh, in increasing numbers. We need the same feeling of commitment and vocation²⁶."

Investment in the benefits of the great outdoors was not confined to nurseries of course, with burgeoning youth organisations embracing the philosophy. Kurt Hahn, the founder of Gordonstoun School on the Moray coast, for example, was the leading light behind Outward Bound International. Mass participation uniformed organisations such as the Scouts and Guides still retain their outdoor ethos, as does the Woodcraft Folk.

The influence of other educationalists from across Europe, who were equally rooted in the belief that outdoor play should counter the effects of industrialisation, also contributed to the development of early learning and childcare. For example, the international networks of specialist independent kindergartens following the philosophies of Rudolph Steiner from Austria and Maria Montessori from Italy developed services in Scotland during the 20th Century.

Many of the original Child Gardens continue to this day, still run by Froebel-trained headteachers. These stand-alone nursery schools ooze quality: they consistently achieve high grades on inspection and were recently highlighted as examples of best practice by Professor Siraj's Independent Review of the Scottish Early Learning and Childcare (ELC) Workforce and Out of School Care (OSC) Workforce²⁷.

Scotland's Health and Social Care Standards

The shift in approach to regulating outdoor play as described in this paper has been set in stone by the Scottish Government's review of the National Care Standards. Scotland's new Health and Social Care Standards (the Standards) were published in 2017 and they turn the traditional model on its head by seeing care from the perspective of an individual experiencing it rather than the organisation providing it. So for outdoor play, the Standards set out what an individual child should expect to experience and the impact this should have on their outcomes:

"I can choose to have an active life and participate in a range of recreational, social, creative, physical and learning activities every day, both indoors and outdoors."

"As a child, I play outdoors every day and regularly explore a natural environment."

"I can use an appropriate mix of private and communal areas, including accessible outdoor space, because the premises have been designed or adapted for high quality care and support."

"I can independently access the parts of the premises I use and the environment has been designed to promote this."

"If appropriate, I can choose to make my own meals, snacks and drinks, with support if I need it, and can choose to grow, cook and eat my own food where possible."

The more balanced approach to risk is also reflected in the new Standards, with one of the standards stating:

"I make informed choices and decisions about the risks I take in my daily life and am encouraged to take positive risks which enhance the quality of my life."

The Standards set out expectations for children's entitlement to play outdoors. The focus on children directing their own play and exploring natural environments reflects the power of play, as described by Helene Guldberg in *Reclaiming Childhood*²⁸, which sees play not just as generally good for child development but key to children becoming fully competent and motivated people.

So what next?

At a time of public spending austerity, the Scottish Government's unprecedented investment in state funded ELC expansion, with the guarantee that by 2020 every 3 and 4 year old and eligible 2 year old will receive 1140 hours of free ELC each year, is demonstrating significant

commitment to the sector. For so long a poor relation with regard to public spending, ELC is now taking centre stage. This reflects a belief that an expanded ELC is not just important for the economy but also to build resilience across civic society and address the legacy of a country blighted by the impact of Adverse Childhood Experience (ACEs). With Scotland becoming the first ACE-aware nation, there is a growing realisation that ELC and outdoor play are fundamental to overcoming the impact of ACEs.

And it is heartening that outdoor play is such an integral part of the expansion plans. Last year the Scottish Government published an ELC design guide to support the expansion, *Space to Grow*²⁹, which included examples of innovative buildings and spaces that promote outdoor play. *Space to Grow* features services designed for free-flow, where children can independently choose to go indoors and outdoors at any time, including children aged under 2 years. Having trialled different models of outdoor play provision, the Scottish Government has funded 'Thrive Outdoors' a project run by Inspiring Scotland to support greater use of outdoor learning. This involves working with eight local authorities to deliver outdoor learning opportunities as part of the ELC expansion and producing a 'how to' guide for practitioners, with practical advice on how to access outdoor spaces. Inspiring Scotland is building on the infrastructure of organisations which have coalesced to support the development of outdoor play in Scotland. These include specialist groups that have formed to meet this need, such as Grounds for Learning, Nature Nurture and Creative Star Learning. Significantly though, they also include players from outwith ELC like the Forestry Commission, which is playing an important role providing forest kindergarten training and qualifications, and Historic Environment Scotland, which is opening access to exciting locations for outdoor play.

Policy intention is not always matched by reality. In 2016, a study of 38 countries on children's physical activity placed Scotland in the second top group of countries for policy but in the bottom group for children actually exercising³⁰. However the commitment to outdoor play is not just a top-down initiative, as the development of outdoor play is happening on the ground and the momentum for change and improvement is coming from an increasingly integrated ELC sector. Traditionally strong public sector nurseries have been complemented and given a shot in the arm by the private and voluntary sectors. My World Outdoors evidenced some of the most innovative practice regarding outdoor play coming from the private sector, including childminding as well as private nurseries, and all forest nurseries to date are independently run. Forest nurseries, many of which are social enterprises, have their own distinct culture and they are bringing a different staff demographic and influences from the wider environmental movement and outdoor education.

Forest nurseries are not every family's cup of tea of course and some indoor activities, such as a well-stocked book corner, cannot be replicated outdoors. However blended models of ELC, where children attend a building-based service but spend part of the week at a forest nursery or a satellite provision nearby, may offer the best of both worlds. There is an inherent tension between providing a high quality experience for children and increasing to full-

time ELC for a much larger cohort of children, especially in light of the 2020 timescale and 2 year olds becoming eligible for funded places. In these circumstances and given the variety of existing patterns of ELC provision across different local authorities, it presents a formidable challenge to meet the needs and achieve positive outcomes for both children and their working parents. Outdoor play might well provide part of the solution.

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