

## Annex 2 Supervision in the Social Domain



### FACT SHEET

#### Supervision in the social domain

**Comprehensive information overview on supervision and horizontal accountability of the Youth Act, the Social Support Act 2015, the Participation Act and the Childcare and Quality Standards for Playgroups Act**

### 1. Introduction and background

This fact sheet provides a general overview of the supervision of the Youth Act, the Social Support Act 2015, the Participation Act and the Childcare and Quality Standards for Playgroups Act. These four acts and the corresponding subordinate legislation include the requirements for the supervision of the implementation of the acts. This fact sheet provides information on the background, the inter-administrative supervision and the design of the supervision and enforcement<sup>1</sup>.

The introduction of the Youth Act and the Social Support Act 2015 also included the publication of the Fact sheet Agreement Framework for the coordination between municipalities and State Inspectorates on the implementation of the national supervision in the youth domain<sup>2</sup> and the Guideline for supervision of the Social Support Act<sup>3</sup>. The first publication describes in detail the agreements with the parties involved regarding the supervision of the implementation of the Youth Act. The second publication provides background information regarding the supervision and guidelines for how municipalities can structure the supervision in the context of the Social Support Act 2015. The Guideline for Points of Reference for municipalities regarding Communication and coordination in the event of an calamity<sup>4</sup> was then published, which describes the working method for

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<sup>1</sup> The structure of the supervision in the social domain is currently subject to significant development. In addition to the four acts mentioned, there are a number of other laws that do not form part of this fact sheet.

<sup>2</sup> Factsheet Afsprakenkader afstemming gemeenten en rijksinspecties over de uitvoering van het landelijk toezicht in het jeugddomein; [http://vng.nl/files/vng/201405\\_afsprakenkader\\_rijksinspecties\\_gemeenten.pdf](http://vng.nl/files/vng/201405_afsprakenkader_rijksinspecties_gemeenten.pdf)

<sup>3</sup> Handreiking toezicht Wmo; [http://www.invoeringwmo.nl/sites/default/files/20141218%20Handreiking-toezicht-Wmo\\_314010-10\\_web.pdf](http://www.invoeringwmo.nl/sites/default/files/20141218%20Handreiking-toezicht-Wmo_314010-10_web.pdf)

<sup>4</sup> Handreiking Handvatten voor gemeenten Communicatie en afstemming bij een calamiteit; <https://vng.nl/onderwerpenindex/jeugd/jeugdhulp/publicaties/handreiking-communicatie-bij-calamiteiten>

municipalities in the event of calamities. These products can be found on the Quality and supervision theme page of the VNG.

There is also the social domain municipal monitor, which provides municipalities with insight into the use of assistance and support, early warning themes, client experience surveys and accessibility of facilities in the local domain ([www.waarstaatjegemeente.nl](http://www.waarstaatjegemeente.nl)).

This monitor is updated twice a year (on the basis of national figures) and is a good source in the collection of relevant information for supervision.

### ***Forms of supervision***

There are various forms of supervision possible. In the social domain, this includes supervision of compliance, quality supervision, system supervision and inter-administrative supervision. Market or financial supervision can also play a role in this as regards the purchase of services. We will not discuss these forms of supervision in this fact sheet because the focus of this fact sheet is on policy supervision (by the municipal council) and implementation supervision (quality and compliance supervision through inspections). In connection with the coordination of an object of supervision or the publication of a supervision report, the difference between programmed and non-programmed supervision is important to municipalities and supervisory agencies. After all, the outcomes of the supervision report can have consequences for the municipality's range of youth care on offer.

### ***Horizontal accountability***

The municipal council supervises the municipal executive on the implementation of the co-administrative duties (horizontal accountability) and is assisted in this process by, for example, the local audit office, a citizen panel or the local ombudsman. For the horizontal accountability, municipal executives must account to the municipal councils for the policy conducted and the results of the implementation.

### ***First-line supervision (supervision of implementation)***

The State Inspectorates (Inspectorate for Youth Care, Inspectorate for Health, Inspectorate of Security and Justice) are responsible for the implementation of the first-line supervision in the context of the Youth Act<sup>5</sup>. Municipalities are responsible for the first-line supervision for the Social Support Act 2015, the Participation Act and the Childcare and Quality Standards for Playgroups Act.

### ***Second-line supervision (inter-administrative supervision)***

The system of inter-administrative supervision applies for the second-line supervision. The supervisory authority, the Provincial Executive or the (line) minister can act if the municipalities fail to perform their statutory duties. The state inspectorates can submit information to the minister, on the basis of which the minister will carry out the inter-administrative supervision. The municipal implementing agency is only the object of supervision if the implementation is conducted by the municipalities. The basic principle is that the supervisory authority carries out sober and cautious supervision and goes down the intervention ladder before taking action. Action is only taken if the horizontal accountability fails. The more policy freedom there is, the more restrained the supervision will be.

### ***Forms of enforcement***

A supervisory authority can proceed to enforcement if it concludes that the implementation of the quality and safety provided is unsatisfactory. There are various forms of enforcement possible, ranging from light to severe. This may concern a punishment, a penalty or even the closure of an organisation. Since enforcement within the social domain can have major social consequences, coordination regarding possible enforcement is extremely important.

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<sup>5</sup> Information on the supervision of the institutions within the youth sector can be found on the website [www.inspectieloketjeugd.nl](http://www.inspectieloketjeugd.nl).

### Supervision of Social Domain

Comprehensive overview on supervision of the Youth Act, the Social Support Act 2015, the Participation Act and the Childcare and Quality Standards for Playgroups Act

#### Horizontal accountability

The municipal council supervises the municipal executive on the implementation of the co-administrative duties (horizontal accountability) and is assisted in this process by the local audit office, a citizen panel or the local ombudsman. For the horizontal accountability, the municipal executive must account to the municipal council for the policy conducted and the results of the implementation.

#### First-line supervision

The State Inspectorates (Inspectorate for Youth Care, Inspectorate for Health, Inspectorate of Security and Justice) are responsible for the implementation of the first-line supervision in the context of the Youth Act. Municipalities are responsible for the correct implementation of the statutory obligations under and supervision of the Social Support Act 2015, the Participation Act and the Childcare and Quality Standards for Playgroups Act.

<p><b>The State Inspectorates</b> supervise providers of youth care by means of programmed supervision, risk-based supervision and non-programmed supervision.</p>	<p><b>The designated municipal officials</b> are responsible for the supervision of the compliance with the law and structure the supervisory activities themselves. The Municipal Health Service is involved in this in a number of municipalities.</p>	<p><b>The Municipal Health Service</b> is appointed as supervisory authority. The supervisory duties include the assessment of a new entrant, the implementation of quality research and the maintaining of the quality of childcare and playgroups.</p>	<p><b>The designated municipal officials</b> are responsible for the implementation, supervision of compliance and enforcement of the law.</p>
<p><b>Youth Act</b></p>	<p><b>Social Support Act 2015</b></p>	<p><b>Childcare and Quality Standards for Playgroups Act</b></p>	<p><b>Participation Act</b></p>
<p>The Youth State Inspectorates draw up annual work plans in which they describe their planned supervisory activities. They regularly consult with the municipalities.</p>	<p>The Inspectorate for Health reports on the implementation of the municipal supervision in the context of the Social Support Act 2015 and the effect of that supervision on the social support.</p>	<p>The Education Inspectorate checks the municipalities' compliance with the statutory duties and gives a status (A, B or C) to indicate to what extent the statutory basic principles are met.</p>	<p>The Inspectorate Social Affairs and Employment investigates the functioning of the social security system and the Minister of Social Affairs and Employment can take action if the municipalities act contrary to the law.</p>

#### Second-line supervision /inter-administrative supervision

The supervisory authority, the Provincial Executive or the (line) minister can take action if the municipalities fail to perform their statutory duties.

## **2. Supervision of the Youth Act**

### ***Legal background***

Sections 4.1.8, 9.1 and 9.2 are the most relevant sections in the Youth Act for the design and implementation of supervision and enforcement (see Annex 1 for the legislative text in question)<sup>6</sup>.

### ***Horizontal accountability***

For the horizontal accountability, the municipal executive must account to the municipal council for the policy conducted and the results of the implementation. As regards its monitoring duty, the municipal council is supported by the local audit office and can request help from a citizen panel or the local ombudsman, for example.

### ***Supervision by State Inspectorates***

The supervision of youth care providers is carried out by the Inspectorate for Youth Care, the Inspectorate for Health and the Inspectorate of Security and Justice. Together, these inspectorates test whether the providers deliver the required quality and whether they meet the statutory requirements.

These three inspectorates also work together with the Education Inspectorate and the Inspectorate Social Affairs and Employment in the Joint Inspectorate for Youth / Inspectorate Social Domain, which carries out the supervision of the Youth Act in a general sense. Each year, the inspectorates draw up an annual work plan in which they describe their planned supervisory activities (programmed supervision). They will consult with the municipalities on the draft version of this annual work plan. Furthermore, the inspectorates are responsible for non-programmed supervision, which mainly concerns supervision as a result of calamities or violence. When the inspectorate wants to take enforcement action against a youth care provider, it coordinates this with the municipalities in question to the extent possible, so that they are aware of the possible consequences for the range of youth care on offer. If a municipality wants to grant a commission to a new provider (an institution that has not previously been active as such under the responsibility of a municipality) or institution, the municipality registers the provider with the inspectorate via the inspectorate portal ([www.inspectieloket.nl](http://www.inspectieloket.nl)). The inspectorate can then do a risk analysis and shares its findings with the municipality.

Detailed agreements have been made between Inspectorate for Youth Care, the Inspectorate for Health, the Inspectorate of Security and Justice, the Association of Netherlands Municipalities/municipalities and the State on the implementation of the supervision and the enforcement in the context of the Youth Act. These are laid down in the Fact sheet Agreement Framework for the coordination between municipalities and State Inspectorates on the implementation of the national supervision in the youth domain<sup>7</sup>.

## **3. Supervision of the Social Support Act 2015**

### ***Legal background***

Sections 3.1, 3.2, 3.3, 3.4, 3.5, 5.1.2, 5.2.4, 6.1 and 6.2 are the most relevant sections in the Social Support Act 2015 for the design and implementation of supervision and enforcement (see Annex 2 for the legislative text in question).

### ***Horizontal accountability***

For the horizontal accountability, the municipal executive must account to the municipal council for the policy conducted and the results of the implementation. As regards its monitoring duty, the municipal council is supported by the local audit office and can request help from a citizen panel or the local ombudsman, for example.

### ***Supervision by the municipal supervisor***

The Social Support Act 2015 determines that the Municipal Executive appoints persons who are responsible for the supervision of compliance with the law. The organisation of the supervision of the implementation in the context

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<sup>6</sup> In addition to the provisions on supervision in the Youth Act, the Social Support Act 2015, the Participation Act and the Childcare and Quality Standards for Playgroups Act, Sections 5.15, 5.20, 5.21, 5.25, 5.31d, 5.32, 5.32a and 5.46 of the General Administrative Law Act include the general administrative rules (see Annex 5 for the legislative text in question).

<sup>7</sup> Factsheet Afsprakenkader afstemming gemeenten en rijksinspecties over de uitvoering van het landelijk toezicht in het jeugddomein; [http://vng.nl/files/vng/201405\\_afsprakenkader\\_rijksinspecties\\_gemeenten.pdf](http://vng.nl/files/vng/201405_afsprakenkader_rijksinspecties_gemeenten.pdf)

of the Social Support Act 2015 is in principle left open. After the appointment, this person will be a supervisor within the meaning of the General Administrative Law Act (see the relevant sections of Annex 5). His authorities include acquiring information and inspecting corporate data and client files of the care providers in question. In a number of municipalities, the Municipal Health Service has been asked to carry out the supervision. If the municipal supervisor issues a supervisory report on the quality of the implementation, it is then up to the municipal executive to attach appropriate measures to this. This includes, for example, a letter or warning letter, a discussion with the provider, imposing an order subject to a penalty or imposing measures in the context of the contract administration.

In the past (up until the implementation of the new legislation), the Inspectorate for Health supervised the implementation of elements of the Social Support Act, including care that was previously financed from the General Exceptional Medical Expenses Act. As from 2015, the Inspectorate for Health reports on the implementation of the municipal supervision in the context of the Social Support Act 2015 and the effect of that supervision on the social support. Moreover, it can advise municipal supervisors on the supervision and the enforcement in the context of the Social Support Act 2015.

No detailed agreements have been made on the implementation of the supervision and the enforcement in the context of the Social Support Act 2015.

You can find more information on the structure of the supervision of the implementation within the context of the Social Support Act 2015 in the previously mentioned Guideline for supervision of the Social Support Act.<sup>8</sup>

#### **4. Supervision of the Participation Act**

##### ***Legal background***

Sections 76 and 76a are the most relevant sections in the Participation Act for the design and implementation of supervision and enforcement (see Annex 3 for the legislative text in question).

##### ***Horizontal accountability***

For the horizontal accountability, the municipal executive must account to the municipal council for the policy conducted and the results of the implementation. As regards its monitoring duty, the municipal council is supported by the local audit office and can request help from a citizen panel or the local ombudsman, for example.

##### ***Supervision by the municipal supervisor***

Municipalities are responsible for the supervision of the implementation of laws and regulations. The Inspectorate Social Affairs and Employment investigates the operation of the social security system and the Minister of Social Affairs and Employment can take action if the municipalities act contrary to the law.

The organisation of the supervision of the implementation in the context of the Participation Act is in principle left open. As a result of the decentralisation of the duties in the field of work and income, municipalities are integrally responsible for the implementation of the law, the supervision of compliance with the law and the enforcement thereof if the compliance has failed. In practice, designated municipal employees have the duty of both monitoring and supervising the lawfulness of the provision of benefits. In addition to the competences referred to in the Participation Act, they are supervisors within the meaning of the General Administrative Law Act (see the relevant sections of Annex 5). In practice, this supervision concerns, for example, home visits and in particular the increasingly stricter obligations of benefit recipients.

The Inspectorate Social Affairs and Employment investigates the operation of the social security system and identifies developments and risks in the policy areas of the Ministry of Social Affairs and Employment.

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<sup>8</sup> Handreiking toezicht Wmo; [http://www.invoeringwmo.nl/sites/default/files/20141218%20Handreiking-toezicht-Wmo\\_314010-10\\_web.pdf](http://www.invoeringwmo.nl/sites/default/files/20141218%20Handreiking-toezicht-Wmo_314010-10_web.pdf)

No detailed agreements have been made between municipalities and the State on the implementation of the supervision and the enforcement in the context of the Participation Act.

## **5. Supervision of the Childcare and Quality Standards for Playgroups Act**

### ***Legal background***

Sections 1.61, 1.68, 2.19 and 2.25 are the most relevant sections in the Childcare and Quality Standards for Playgroups Act for the design and implementation of supervision and enforcement (see Annex 4 for the legislative text in question).

### ***Horizontal accountability***

For the horizontal accountability, the municipal executive must account to the municipal council for the policy conducted and the results of the implementation. As regards its monitoring duty, the municipal council is supported by the local audit office and can request help from a citizen panel or the local ombudsman, for example.

### ***Design of supervision and enforcement***

The director of the Municipal Health Service is appointed as supervisor of the implementation of laws and regulations. The Minister of Social Affairs and Employment has appointed the Education Inspectorate as second-line supervisory agency.

The Municipal Health Service is appointed as supervisory authority by law. Its supervisory duties include the assessment of a new entrant (application and registration of institutions) and the implementation of quality research within childcare and playgroups.

The inspections are programmed (for example in the form of the annual inspection visit) or non-programmed (as a result of reports). When the supervisory authority issues a supervisory report on the quality of the implementation, enforcement measures can be attached to this. This may be an instruction, order subject to a penalty, operating ban, deregistration or an administrative fine. The municipal executive is responsible for enforcement. The municipalities publish an annual report on the implementation of the municipality's statutory duties.

The Education Inspectorate has been appointed second-line supervisory authority by the Minister of Social Affairs and Employment and checks whether the municipalities perform their statutory duties in respect of the quality supervision of the institutions. The Education Inspectorate assigns municipalities a status on the basis of its inter-administrative research. This status could be an A: duties are sufficiently complied with, B: duties are not or insufficiently complied with, but the municipalities are cooperating with improvement plans or C: duties are insufficiently complied with and the municipality does not cooperate with improvement plans. If a municipality fails to cooperate with the proposed improvement plans, the Education Inspectorate can begin an escalation process.

More information on the organisation of the supervision of the implementation within the context of the Childcare and Quality Standards for Playgroups Act can be found on [www.onderwijsinspectie.nl](http://www.onderwijsinspectie.nl) (for second-line supervision of the municipality) and on [www.ggdghor.nl](http://www.ggdghor.nl) and [www.vng.nl](http://www.vng.nl) (for first-line supervision). The Municipal Health Services inspection reports on the quality of individual childcare locations can be found via the National Register of Childcare and Playgrounds ([www.landelijkregisterkinderopvang.nl](http://www.landelijkregisterkinderopvang.nl)).

## ANNEXES

### Annex 1

#### **Legal framework of the Youth Act**

Overview of the most relevant sections from the Youth Act in respect of the organisation and implementation of supervision and enforcement:

##### *Section 4.1.8*

1. The youth care provider and the certified institution immediately report the following situations to the civil servants charged with the supervision pursuant to this law:
  - a. any emergency that has taken place in the provision of the youth care or in the implementation of a child protection order or youth rehabilitation, and
  - b. violence in the provision of youth care or the implementation of a child protection order or youth rehabilitation.
2. Along with and as a result of a report as referred to in the first subsection, the youth care provider, the youth social worker and the certified institution provide the civil servants charged with the supervision pursuant to the law with the data, including personal data, data regarding health and other special personal data, which are necessary for the investigation of a report.

##### *Section 9.1*

1. There is an Inspectorate for Youth Care that falls under the governance of the Minister of Health, Welfare and Sport and that is tasked with the general investigation of the quality of:
  - a. the youth care providers;
  - b. the certified institution, as referred to in [Section 3.4\(1\)](#);
  - c. the certified institutions;
  - d. the advisory and reporting centre for domestic violence and child abuse;
  - e. the Child Care and Protection Board, and
  - f. the institutions referred to in [Section 1\(b\) of the Young Offenders Institutions \(Framework\) Act](#), as well as where necessary to provide and promote resources to improve that quality.
2. In derogation from the first subsection, the investigation will be performed by the inspectorate as referred to in [Section 57 of the Security Regions Act](#), insofar as it concerns the implementation of criminal judgments.
3. Sections [5:12](#), [5:13](#), [5:15](#), [5:16](#), [5:17](#) and [5:20 of the General Administrative Law Act](#) apply accordingly for the civil servants of the inspectorates in the execution of the duty referred to in the first subsection.
4. In performing their duties, as referred to in the first and second subsection, the inspectorates follow the instructions of the Ministers.
5. The Inspectorate for Youth Care takes the needs of municipalities into account when performing its duty.
6. The inspectorates report on their findings to the party they investigated and can make proposals to improve quality. The Ministers are informed of the findings in writing.
7. The Inspectorate for Youth Care publishes an annual report of its work, which includes the proposals it deems necessary in the interest of youth care.

##### *Section 9.2*

1. The Ministers have charged the designated civil servants with the supervision of compliance with the provisions of or under this act.
2. Insofar as is necessary for the fulfilment of their duty and in derogation from [Section 5:15\(1\) of the General Administrative Law Act](#), the civil servants charged with the supervision are authorised, while taking with them the necessary equipment, to enter the residence of a youth care provider without the occupant's consent, insofar as that residence is used for the provision of youth care or the implementation of a child protection order or youth rehabilitation.
3. Insofar as is necessary for the fulfilment of their duty and in derogation from [Section 5:20\(2\) of the General Administrative Law Act](#), the civil servants charged with the supervision are authorised to inspect the files. Insofar as the professional involved is obliged to maintain confidentiality of the file pursuant to his profession, the same obligation applies to the civil servant involved.

4. The civil servants charged with the supervision are authorised to disregard the failure of a youth care provider or certified institution to comply with an obligation that ensues for it from the provisions of or pursuant to this act, unless there is a situation that could pose a serious threat to the safety of juveniles or parents, the provision of youth care or the implementation of a child protection order or youth rehabilitation, or that otherwise impedes the interest of other responsible assistance to the above.
5. The Ministers can establish rules on the division of duties between the inspectorates and the mutual cooperation between the inspectorates by ministerial regulation.
6. If an organisation of practitioners in the youth care profession, from the implementation of child protection orders or youth rehabilitation, the advisory and reporting centres for domestic violence and child abuse, the Child Care and Protection Board, institutions as referred to in Section 1 of the Young Offenders Institutions (Framework) Act or HALT agencies as referred to in Section 48f of the Judicial Subsidies Act has organised a disciplinary law system, the Ministers can declare the civil servants charged with the supervision pursuant to Section 9.2 to be authorised to submit disciplinary complaints in the context of that system.
7. Section 9.1(5) up to and including (7) apply accordingly.

## **Annex 2**

### ***Legal framework of the Social Support Act 2015***

Overview of the most relevant sections from the Social Support Act 2015 in respect of the organisation and implementation of supervision and enforcement:

#### *Section 3.1*

1. The provider ensures that the facility is of a good quality.
2. A facility is in any case:
  - a. provided in a safe, efficient, effective and client-focussed manner;
  - b. in line with the client's real need and with other forms of care or assistance the client receives;
  - c. provided in accordance with the responsibility vested in the professional, ensuing from the professional standard;
  - d. provided with respect for and with due observance of the client's rights.
3. Further requirements can be imposed on providers of facilities by an order in council, if the level of a form of social support requires this.
4. The draft of an order in council to be issued pursuant to the third subsection is submitted to both Houses of the States General. The proposal of the order in council to be issued can be made after four weeks have passed since the submission, unless the wish is expressed by or on behalf of one of the Houses or by at least one fifth of the constitutional number of members of either House that the subject of the order in council be regulated by law. In that case, a bill for that purpose will be submitted as soon as possible.

#### *Section 3.2*

1. If the provider provides a facility as referred to in Section 2.1.3(2)(d) and (e), the provider will make arrangements for:
  - a. the handling of complaints from clients regarding the provider's conduct vis-à-vis a client;
  - b. participation by clients in the provider's proposed decisions that are of interest to the users.
2. If required by the level of a form of social support, further requirements can be set for providers of facilities by or pursuant to an order in council.

#### *Section 3.3*

1. The provider, not being a provider that provides tools or home modifications, adopts a reporting code which indicates step-by-step how signs of domestic violence or child abuse will be handled and that makes a reasonable contribution to ensure that assistance can be offered as quickly and effectively as possible.
2. The provider promotes the knowledge and use of the reporting code.
3. The elements of a reporting code will be determined by or pursuant to an order in council.

#### Section 3.4

1. The provider immediately reports the following situations to the supervising civil servant, as referred to in Section 6.1:
  - a. Every calamity that has taken place in the provision of a facility;
  - b. violence in the provision of a facility.
2. Along with and as a result of a report as referred to in the first subsection, the provider and the practitioners employed by it provide the supervising civil servant with the data, including personal data, data regarding health and other special personal data as referred to in the Personal Data Protection Act, insofar as these are necessary for the investigation of a report.
3. Personal data as referred to in the second subsection, in respect of which the provider or the practitioner are obliged to maintain confidentiality pursuant to a provision of law or based on their position or profession, are only provided without the consent of the data subject if the data subject is no longer able to give that consent or if this can be deemed necessary to protect clients.

#### Section 3.5

1. Rules can be set by or pursuant to order in council for the situations in which the provider, not being a provider that provides tools or home modifications, must have a certificate of conduct as referred to in Section 28 of the Judicial Data and Criminal Records Act for practitioners and other persons that can come into contact with its clients in a professional capacity, which has not been issued earlier than three months before the data subject started working for the provider.
2. If the provider or a supervising civil servant reasonably suspect that a practitioner does not meet the requirements for the issue of a certificate as referred to in the previous subsection, the provider will require that practitioner to submit a certificate within ten weeks that is not older than three months.
3. If the provider does not have a certificate of conduct for the practitioner as referred to in the second subsection upon expiry of the term referred to in that subsection, the provider will take the necessary measures to protect its clients as soon as possible.
4. Rules can be set by or pursuant to order in council for the situations in which the provider, being a natural person working alone, must have a certificate of conduct as referred to in Section 28 of the Judicial Data and Criminal Records Act, issued no longer than three years ago.

#### Section 5.1.2

1. The provider that provides a customised facility and a third party that is paid by means of a personal healthcare budget are authorised to process the client's personal data, including personal data in respect of the client's health, as well as personal data of the client's informal carers in respect of the assistance this person offers or can offer the client, insofar as these data were received from the municipal executive, the client or the informal care provider and are necessary for:
  - a. the provision to the client of services, tools, home modifications and other measures which it committed to undertake with the municipal executive or the client;
  - b. the implementation of Section 2.1.4 or 2.1.5;
  - c. carrying out supervision as referred to in Section 6.1.
2. A provider that provides a general facility is authorised to process the client's personal data insofar as these were received from the client and are necessary for:
  - a. the provision of a general facility;
  - b. the implementation of Section 2.1.4 or 2.1.5;
  - c. carrying out supervision as referred to in Section 6.1.
3. The provider or the third party referred to is responsible for the processing referred to in the first and second subsections, respectively.

#### Section 5.2.4

1. The Central Administration Office and another agency as referred to in Section 2.1.4(7) are authorised to provide, on their own initiative or when requested, the municipal executive with personal data, including personal data regarding health, which have been acquired for the performance of Sections 2.1.4 or 2.1.5, insofar as these are necessary for the municipal executive's performance of Sections 2.1.4 or 2.1.5.

2. The Social Insurance Bank is authorised to provide, on its own initiative or when requested, the municipal executive with personal data, including personal data regarding health, which have been acquired for the performance of the duty referred to in Section 2.6.2, insofar as these are necessary for the municipal executive's performance of Sections 2.1.4, 2.1.5, 2.3.6, 2.3.9, 2.3.10 or 2.4.3.
3. The supervising civil servants are authorised to provide, on their own initiative or when requested, the municipal executive with personal data, including personal data regarding health, which have been acquired in order to carry out the supervision referred to in Section 6.1, insofar as these are necessary for the municipal executive's implementation of Sections 2.1.4, 2.1.5, 2.3.6, 2.3.9, 2.3.10 or 2.4.3.

#### *Section 6.1*

1. The municipal executive appoints persons who are charged with supervising compliance with the provisions under or pursuant to this act.
2. Insofar as is necessary for the performance of their duties and in derogation from Section 5:20(2) of the General Administrative Law Act, the supervising civil servants are authorised to inspect the files.
3. Insofar as the supervising civil servant, due to inspection of documents during the performance of his duty or due to the provision of data in the context of a report as referred to in Section 3.4, has acquired data, including special personal data as referred to in the Personal Data Protection Act, in respect of which the practitioner is obliged to maintain confidentiality pursuant to his profession, the same obligation applies to the supervising civil servant, without prejudice to the provisions of Section 5.2.4.

#### *Section 6.2*

1. The officials from the State Supervision for Public Health provide the supervising civil servants, as referred to in Section 6.1, with advice in respect of supervising and enforcing the rules set by or pursuant to this act, if so required.
2. The officials referred to in the first subsection report annually to the Minister on the implementation of the supervision of the compliance with the provisions under or pursuant to this act as performed by the supervising civil servants, as referred to in Section 6.1, and the effects of that supervision on the level of social support.

### **Annex 3**

#### ***Legal framework of the Participation Act***

Overview of the most relevant sections from the Participation Act in respect of the implementation of supervision and enforcement:

#### *Section 76*

##### *Instruction and facilities*

1. If the Minister identifies serious shortcomings in respect of the lawful implementation of this act, he can give an instruction to the municipal executive, after the municipal executive has been given eight weeks to express its opinion. In doing so, he will not get involved in the decision-making of individual cases.
2. The instruction will include a term within which the municipal executive must have brought the implementation in line with the instruction.
3. The Minister suspends the payment of the benefit, as referred to in Section 69(1), for at least three months, if in respect of the lawful implementation of this act the Minister has identified serious shortcomings as referred to in the first subsection of Section 52 of the Older and Partially Disabled Unemployed Workers Income Scheme Act and in Section 52 of the Older and Partially Disabled Former Self-Employed Persons Income Scheme Act, until:
  - a. based on the municipal executive's opinion, he has determined that the serious shortcomings have been eliminated;
  - b. he has determined that the municipal executive has complied with the obligations included in the instruction;
  - c. he has ruled that, after expiry of the term referred to in the second subsection, the municipal executive has not or has insufficiently followed up on the instruction.

4. If the Minister believes that, after expiry of the term referred to in the second subsection, the municipal executive has not or not sufficiently followed up on the instruction, as referred to in the first subsection, in Section 52 of the Older and Partially Disabled Unemployed Workers Income Scheme Act and in Section 52 of the Older and Partially Disabled Former Self-Employed Persons Income Scheme Act or in Section 87 of the Investing in Young People Act, he will set the benefit as referred to in Section 69(1) 1 per cent lower for the year following the year in which the term ends.
5. If the Minister believes that, twelve months after expiry of the term as referred to in the second subsection, the municipal executive still has not or not sufficiently followed up on the instruction as referred to in the third subsection, he will set the benefit as referred to in Section 69(1) no more than 3 per cent lower each time for the second year following the year in which the term ends and the following years.

#### *Section 76a*

##### Supervision by municipalities

The civil servants designated by decision of the municipal executive are charged with the supervision of the compliance of this act.

#### **Annex 4**

##### ***Legal framework of the Childcare and Quality Standards for Playgroups Act***

#### *Section 1.61*

1. The municipal executive supervises the compliance with the rules set by or pursuant to section 3 of this chapter, or the instructions and orders given pursuant to Section 1.65 and the closure orders given pursuant to Section 1.66(1) or the prohibitions issued pursuant to Section 1.66(2) and the basic quality conditions of preschool education laid down in the order in council determined in Section 1.50b. The municipal executive appoints the director of the Municipal Health Services as supervisor.
2. Insofar as a childcare facility of a childminder service or a childminding agency is established in a residence, the supervisors are allowed to enter that residence without the consent of the occupants in order to execute the duties as referred to in the first subsection.

#### *Section 1.68*

1. When requested, the municipal executive provides the Minister with data and information he requires for the provision of information and policy-making and the statistics in respect of chapter 1 of this Act.
2. Rules can be established by order of the Minister in respect of the information the municipal executive provides on the performance of its work pursuant to this chapter and the way in which the municipal executive provides and collects the data and information, and whether and in what way this information is made public.
3. The data and information as referred to in the first subsection are provided free of charge.

#### *Section 2.19*

1. The municipal executive supervises the compliance with the rules set by or pursuant to section 2 of this chapter, or the instructions and orders given pursuant to Section 2.23 and the closure orders given pursuant to Section 2.24(1) or the prohibitions issued pursuant to Section 2.24(2) and the basic quality conditions of preschool education laid down in the order in council determined in Section 2.8. The municipal executive appoints the director of the Municipal Health Services as supervisor.
2. Insofar as a playgroup is established in a residence, the supervisors are allowed to enter that residence without the consent of the occupants in order to execute the duties as referred to in the first subsection.

#### *Section 2.25*

1. When requested, the municipal executive provides the Minister with data and information he requires for the provision of information and policy-making and the statistics in respect of this chapter.
2. Rules can be established by order of the Minister in respect of the information the municipal executive provides on the performance of its work pursuant to this chapter and the way in which the municipal

executive provides and collects the data and information, and whether and in what way this information is made public.

3. The data and information as referred to in the first subsection are provided free of charge.

## **Annex 5**

### **General Administrative Law Act**

Overview of the most relevant sections from the (very substantial) General Administrative Law Act in respect of the implementation of supervision and enforcement:

#### *Section 5.15*

1. A supervisor, taking with him the requisite equipment, is entitled to enter any place, with the exception of a residence, without the consent of the occupant.
2. If necessary, he may gain entry with the assistance of the police.
3. He is entitled to take with him people designated by him for this purpose.

#### *Section 5.20*

1. Everyone is obliged to cooperate fully with a supervisor, who may reasonably demand this in the exercise of his powers, within such reasonable time limit as he may specify.
2. Any person who is bound by a duty of confidentiality by virtue of his office or profession or by statutory regulation may refuse to cooperate insofar as this arises from his duty of confidentiality.

#### *Section 5.21*

Administrative enforcement action means the remedial sanction, which entails:

- a. an order to full or partial remedy of the violation, and
- b. the authority of the administrative body to enforce the order by actual actions, if the order is not executed or not executed in time.

#### *Section 5.25*

1. An offender owes the costs incurred in connection with the taking of administrative enforcement action, unless it would not be reasonable for these costs or all of these costs to be borne by him.
2. The order states to what extent the costs of the administrative enforcement action are taken at the expense of the offender.
3. The costs of an administrative enforcement action include the costs of preparing the administrative enforcement action, insofar as these are incurred after expiry of the term within which the order should have been executed.
4. The costs for preparing the administrative enforcement action are also due insofar as no administrative enforcement action was applied because the order has yet to be executed.
5. The costs of the administrative enforcement action also include the costs resulting from the compensation for damage pursuant to [Section 5:27\(6\)](#).
6. The administrative body determines the amount of the costs due.

#### *Section 5.31d*

Order subject to a penalty means the remedial sanction, which entails:

- a. an order to full or partial remedy of the violation, and
- b. the obligation to pay an amount of money if the order is not executed or not executed in time.

#### *Section 5.32*

1. An administrative body which is entitled to take administrative enforcement action may instead impose on the offender an order subject to a penalty.
2. The imposition of an order subject to a penalty is not chosen if this would be contrary to the interest intended to be protected by the regulation that has been infringed.

*Section 5.32a*

1. The order subject to a penalty describes the remedial sanction to be taken.
2. In case of an order subject to a penalty that serves to remedy a violation or prevent further violation, a term is set during which the offender can execute the order without incurring a penalty.

*Section 5.46*

1. The law determines the maximum amount of administrative fine that can be imposed due to a certain violation.
2. Unless the amount of the administrative fine is laid down by statutory provision, the administrative body brings the administrative penalty in line with the seriousness of the violation and the extent to which the offender can be reproached for the violation. Where necessary, the administrative body takes into account the circumstances under which the violation was committed.
3. If the amount of the administrative penalty is laid down by statutory provision, the administrative body will nevertheless impose a lower administrative penalty if the offender makes it plausible that the administrative fine that has been determined is too high due to special circumstances.
4. Section 1(2) of the Dutch Criminal Code applies accordingly.