1.1 Ofsted’s enforcement policy: childminding, childcare and children’s social care

Compliance, investigation and enforcement handbook: enforcement policy under the Childcare Act 2006 and Care Standards Act 2000

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# Introduction

1. We regulate childminders, childcare providers and children’s social care providers under the Childcare Act 2006 (childminders and childcare providers),[[1]](#footnote-1) and the Care Standards Act 2000 (children’s social care providers)[[2]](#footnote-2) and the regulations made under these Acts.
2. The law gives us a range of powers that we can use in order to enforce compliance with the law, reduce any risk of harm to children and young people and improve the quality of the provision. We consider the particular circumstances of each case, the risks to children and young people and the impact of our action on their lives when deciding what action we need to take.
3. This document outlines our policy on enforcement. The compliance, investigation and enforcement (CIE) handbook, which is available on our website, sets out our policies and the approach our staff follow when investigating a concern about non-compliance with the law.

# Our policy

1. The protection of children and young people is paramount.
2. Our enforcement policy has five key components. We:
* act immediately on any information that suggests the welfare of children and young people is not safeguarded
* work in accordance with our safeguarding policy and agreed protocols
* take action to raise standards and improve lives, as set out in our strategic plan[[3]](#footnote-3)
* take proportionate action – this means that we use the lowest appropriate action to bring about compliance, which:
* is proportionate to the seriousness of the non-compliance
* is capable of mitigating any risk of harm to children and young people
* will secure improvement in the quality of the provision

will use our statutory powers when a relevant threshold is met.

1. We may bring forward an inspection when we receive information – from whatever source. We always conduct a risk assessment on receipt of information to determine how soon the inspection should take place. The risk assessment also helps us decide when the situation requires investigative work which is not normally part of an inspection, such as liaison with other agencies or formal interviews with the provider (or some other person) and which is necessary before we can carry out a full inspection. See the section on *Responding to information and notification of events*
2. We liaise with other agencies as necessary (and if appropriate carry out our own investigation) but we will always conduct our own investigation or inspection as determined by our risk assessment process. Our childcare protocols of working arrangements with other agencies govern how we work with these agencies and are published on our website. Here is the link:

[www.ofsted.gov.uk/resources/protocols-between-ofsted-and-other-organisations-relation-childcare](http://www.ofsted.gov.uk/resources/protocols-between-ofsted-and-other-organisations-relation-childcare).

1. Our social care protocols of working arrangements with other agencies govern how we work with these agencies and are published on our website. Here are the links:

[www.ofsted.gov.uk/resources/memorandum-of-understanding-between-care-quality-commission-and-office-for-standards-education-child](http://www.ofsted.gov.uk/resources/memorandum-of-understanding-between-care-quality-commission-and-office-for-standards-education-child)

[www.ofsted.gov.uk/resources/memorandum-of-understanding-between-ofsted-and-first-tier-tribunal-of-health-education-and-social-care](http://www.justice.gov.uk/tribunals/care-standards)

[www.ofsted.gov.uk/resources/memorandum-of-understanding-between-ofsted-and-general-social-care-council](http://www.ofsted.gov.uk/resources/memorandum-of-understanding-between-ofsted-and-general-social-care-council)

1. We publish early years inspection reports on our website and, where the inspection has been prompted by the receipt of specific information, we reference any evidence of non-compliance we find in the inspection report. At times we may carry out an investigation visit specifically to look into concerns raised. Usually, at the conclusion of an investigation we carry out a full inspection with a published inspection report, although very occasionally we may not carry out the inspection. In these circumstances, where we find non-compliance, we publish the outcome of our investigation in an outcome summary section on our website.
2. We publish reports of all statutory inspections of social care providers on our website and, where the inspection has been prompted by the receipt of specific information, we will reference any evidence of non-compliance we find in the inspection report. At times we carry out investigations specifically to look into concerns raised. We do not publish a report of these investigations but if we find evidence of non-compliance we take enforcement action that is proportionate to the risk involved.

# Our processes

1. In working to this policy, we ensure that we:
* keep accurate records and an audit trail of decision-making
* are consistent in our approach by following the guidance set out in the CIE handbook
* regularly review the progress of a case
* revise our approach as appropriate

ensure all staff are suitably trained and have access to high-quality support and advice when taking enforcement action.

1. The use of our some of our statutory powers is subject to review on appeal, by the First Tier Tribunal (Health, Education and Social Care Chamber). Our powers of prosecution are subject to the scrutiny of the courts.
1. Childcare Act 2006; [www.legislation.gov.uk/ukpga/2006/21/contents](http://www.legislation.gov.uk/ukpga/2006/21/contents). [↑](#footnote-ref-1)
2. Care Standards Act 2000; [www.legislation.gov.uk/ukpga/2000/14/contents](http://www.legislation.gov.uk/ukpga/2000/14/contents). [↑](#footnote-ref-2)
3. *Ofsted Strategic Plan 2011–15*; [www.ofsted.gov.uk/about-us/ofsteds-priorities-and-values/strategic-plan](http://www.ofsted.gov.uk/about-us/ofsteds-priorities-and-values/strategic-plan). [↑](#footnote-ref-3)