

The framework for the regulation of childminder agencies

This framework sets out the statutory basis for the regulation of provision under the Childcare Act 2006 (as amended by the Children and Families Act 2014). It explains how we regulate childminder agencies registered on the Early Years Register and the Childcare Register. It summarises the main features of registration and enforcement action we may take.

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Introduction

1. This document provides an overview of the system for regulating childminder agencies.
2. This framework applies to all childminder agencies registered on the Early Years Register and/or registered on the Childcare Register, and those who wish to become registered.

Part 1. Regulation

The legal basis for regulation

3. Ofsted inspects childminder agencies under the Childcare Act 2006 (the Act), as amended by the Children and Families Act 2014. The Act establishes Her Majesty's Chief Inspector of Education, Children's Services and Skills (HMCI) as the authority for regulating childminder agencies in England.^{1,2} It gives HMCI responsibility for the registration and inspection of childminder agencies registered on the Early Years Register and the Childcare Register and the responsibility for enforcement where it appears that legal requirements are not being met.
4. The Act and associated Regulations set out the requirements with which childminder agencies must comply and against which their agency is regulated.^{3, 4, 5}
5. Childminder agencies must also ensure compliance with other statutory requirements, for example employment law. These are not within Ofsted's remit.

What is regulation?

6. There are four aspects to Ofsted's regulation of childminder agencies. These are:
 - registration of agencies
 - inspection of registered agencies
 - checking that childminder agencies meet legal requirements for registration⁶
 - taking enforcement action where the requirements of registration are not met.

¹ *Childcare Act 2006*; www.legislation.gov.uk/ukpga/2006/21/contents.

² *Children and Families Act 2014*; <http://www.legislation.gov.uk/ukpga/2014/6/part/4/enacted>

³ *Childcare Act 2006*; <http://www.legislation.gov.uk/uksi/2014/1920/made>

⁴ *Childcare Act 2006*; <http://www.legislation.gov.uk/uksi/2014/1922/made>

⁵ *Childcare Act 2006*; <http://www.legislation.gov.uk/uksi/2014/1921/made>

⁶ Legal requirements for registration refer to the prescribed requirements to registration

The purposes of regulation

7. The purpose of regulation is to:
 - make sure childminder agencies meet and continue to meet the requirements for registration⁷
 - give childminders and parents an expert and independent assessment of how well a registered childminder agency is performing so that childminders may make informed choices about childminder agencies
 - provide information to the Secretary of State for Education and to Parliament about registered childminder agencies
 - promote the improvement of registered childminder agencies and the early years sector as a whole.

The Early Years Register and the Childcare Register

8. Childminder agencies are required to register and be inspected by Ofsted. A childminder agency must not operate without being registered. Childminder agencies must meet a range of legal requirements. Childminder agencies should register on the Early Years Register and/or on the Childcare Register. Which register a childminder agency registers on depends on whether the agency applies for registration as an early years childminder agency or a later years childminder agency; applicants may need or want to be on both.
9. There are two registers:
 - the **Early Years Register** is a register of people and organisations who care for children in the early years age group (children aged from birth until 31 August after their fifth birthday) and all persons registered as later years childminder agencies
 - the **Childcare Register** has two parts:
 - a compulsory part, for people who want to look after children aged from 1 September after their fifth birthday up to the age of eight and all persons registered as later years childminder agencies
 - a voluntary part, for people who want to look after children aged eight and over or who are not required to register on a compulsory basis.
10. A childminder agency that registers childminders who provide childcare for at least one child in the early years age group, for a period of more than two hours in any one day, must register on the Early Years Register.⁸

⁷ *The Childcare (Childminder Agencies) (Registration, Inspection and Supply and disclosure of Information) Regulations 2014*; <http://www.legislation.gov.uk/uksi/2014/1920/schedules/made>

⁸ The early years age group applies to children aged from birth to 31 August following their fifth birthday

11. A childminder agency that registers childminders who care for children from 1 September following their fifth birthday up to the age of eight must register on the Childcare Register. Agencies that register childminders who care for children of mixed ages, including the early years age group and, at times, the later years age group, may register on the Childcare Register at the same time as being on the Early Years Register.^{9,10} A childminder agency is not permitted to register only on the voluntary part of the Childcare Register. This is because any childminders who only want to join the voluntary part of the Childcare Register cannot do this with an agency; they must register with Ofsted.
12. Childminder agencies are described as 'one-stop-shop organisations, which will help childminders with training, business support, advice and finding suitable parents. Membership will be entirely voluntary and childminders will be able to maintain their registration and individual Ofsted inspection if they prefer not to join an agency.'
13. We may use our enforcement powers against any person who falsely represents that they are a childminder agency. It is only an offence if the agency actually intends to register childminders; this may lead to prosecution.

⁹ The early years age group is the provision of childcare for children aged from birth until 31 August following their fifth birthday who attend early years settings that deliver the Early Years Foundation Stage.

¹⁰ The later years age group is the provision of childcare for children from 1 September following their fifth birthday to the day they reach the age of 18.

Part 2. Registration

14. The process of registration for childminder agencies involves detailed checks, interviews and a registration visit, so that we can decide whether applicants are suitable for registration. If applicants demonstrate that they are suitable, we will register the agency; otherwise, we must refuse registration. We use the concept of a 'registered person' as part of our registration process and this is defined as any individual or organisation providing childcare. Detailed guidance about registration is available in our *Childminder agency handbook* and on our website.^{11,12}

Before applying

15. A prospective applicant must have a completed Disclosure and Barring Service (DBS) application form via the Capita website.¹³ Applications to register with Ofsted cannot be made without a Disclosure and Barring Services certificate.
16. Prospective applicants should read all the information on how to apply, set out in the *Childminder agency handbook* carefully before deciding whether or not to make an application.

Making an application

17. A person who wishes to register as a childminder agency on the Early Years Register and/or the Childcare Register must apply to Ofsted, giving all the information requested. It is an offence to knowingly make a false or misleading statement in an application.
18. Applicants must download the relevant application from our website.¹⁴ The application form must be completed and sent to Ofsted by email: childminder.agencies@ofsted.gov.uk. We will provide assistance on 0300 123 1231 for those who have difficulty in accessing or completing the forms.
19. Applicants must have a statement of purpose for their childminder agency. Applicants should send a PDF version of their statement of purpose to Ofsted as part of the application. This document must outline the service that the childminder agency plans to provide, including how the registered childminder agency intends to meet the aims and legal requirements of a childminder agency. There is no set format for a statement of purpose. Detailed guidance

¹¹ Applicants should read the *Childminder agency handbook*, (140147), Ofsted, 2014; www.ofsted.gov.uk/resources/140147

¹² Information about early years and childcare is available at: www.ofsted.gov.uk/early-years-and-childcare.

¹³ Capita website; www.ofsteddbapplication.co.uk/Step-One.aspx

¹⁴ Childminder agency application forms; <http://www.ofsted.gov.uk/news/childminder-agency-handbook-published-today>

about what the statement of purpose must cover is available in our *Childminder agency handbook*.

20. In addition to the Disclosure and Barring Service (DBS) application form, applicants must complete the following forms, available on our website:
 - CMA1 – the main application form for registration as a childminder agency
 - CMA2 – declaration and consent form
 - CMA3 – notification to Ofsted form
21. The *notification to Ofsted form (CMA3)* is not required when making the initial application to Ofsted. This form should be used to inform Ofsted of any changes that affect registration once the application process has started or an applicant has been registered.
22. We will take forward an application when we receive all the forms as stated above, including:
 - the statement of purpose;
 - the relevant forms completed by those people associated with your application
 - the fee
 - confirmation of a Disclosure and Barring Service (DBS) check for a childminder agency applicant
23. The application fee cannot be refunded:
 - if an applicant subsequently withdraws their application
 - where we refuse to grant registration
 - where an applicant makes an application and they are disqualified from providing a childminder agency service.

Applications for registration on more than one register

24. Childminder agencies applying to register on the Early Years Register may also apply to be on the Childcare Register, at no additional cost. They may choose to do so when they first apply or at any time after being registered on the Early Years Register. However, a childminder agency cannot only register on the voluntary part of the Childcare Register.

Carrying out checks

25. For applicants that wish to operate a childminder agency, we carry out checks on the nominated individual and anyone else associated with the application.

26. When we receive an application to provide a childminder agency, we carry out a series of checks on the applicant and the other people the applicant has identified as being connected with the registration. The applicant is responsible for supplying evidence of the Disclosure and Barring Service checks. The results of all these checks contribute towards our decision as to whether applicants are suitable for registration.
27. For an applicant which is an organisation where the sole or main purpose of their organisation is to run the childminder agency, each person connected with the application must have completed their Disclosure and Barring Services check before applying. Applications cannot be made without a Disclosure and Barring Services certificate. Where the sole or main purpose of the organisation is not operating the childminder agency, a 'nominated individual' must be appointed and this individual must complete the check; the 'nominated individual' is explained in the *Childminder agency handbook*. An agency, whose sole or main purpose is to operate the childminder agency, will still need to appoint a nominated individual who we will liaise with directly as part of the application process.
28. It is the responsibility of the childminder agency to carry out checks on all staff they employ and the childminders they choose to register. This must include a check with the Disclosure and Barring Service and any other checks necessary to establish suitability, in line with the requirements for registration.¹⁵
29. For all applications, we ask for consent to carry out the checks from each person involved in an application and we then use the information we gather from these checks to establish their suitability to run an agency or be in close proximity to children.

People disqualified from providing registered childminder agency service

30. Some people are not allowed to set up a childminder agency because they are disqualified from working with children.¹⁶ The main causes of disqualification from working with children include:
 - being on the list of persons barred from working with children held by the Independent Safeguarding Authority
 - certain convictions or charges of an offence against a child
 - convictions or charges of certain offences against an adult (for example, murder, kidnapping, rape, indecent assault, assault causing actual bodily harm)

¹⁵ Requirements for registration can be found in *The Childcare (Childminder Agencies) (Registration, Inspection and Supply and disclosure of Information) Regulations 2014*; <http://www.legislation.gov.uk/ukxi/2014/1920/schedules/made>

¹⁶ A full list of all the circumstances that disqualify people from working with children is available in *The Childcare (Disqualification) Regulations 2009 [2009 No 1547]*; www.legislation.gov.uk/ukxi/2009/1547/contents/made.

- being made the subject of an order relating to the care of children, such as a child being removed from their care
 - having registration as a childcarer refused or cancelled
 - living with someone who is disqualified or in a household where a disqualified person is employed.
31. The Chief Inspector has a discretionary power to waive disqualification with one exception - the Chief Inspector cannot waive the disqualification of a person who is on the barred list of unsuitable people. In such cases, the individual must appeal against inclusion on that barred list to the Disclosure and Barring Service. The Chief Inspector's decisions to waive a disqualification can be appealed to the Tribunal.

The registration visit

32. We carry out registration visits as part of the application process. The purpose of the registration visit is to assess the applicant's suitability to be registered as a childminder agency. The information we use to make the decision is set out below.
33. Applicants should refer to the *Childminder agency handbook* for information about the registration visit. The Department for Education (DfE) has produced some advice for prospective applicants who wish to set up a childminder agency.¹⁷ Inspectors will contact applicants to confirm the date of a registration visit. Applicants should make sure that they have all the required documents, as set out in this framework, for the inspector to see during the visit.
34. During the visit, the inspector will:
- check the applicant or nominated individual's identity by looking at personal documents
 - interview the applicant or nominated individual and refer to the statement of purpose to assess the applicant's suitability to register and operate a childminder agency
 - check arrangements for ensuring that staff are suitable, properly trained and supported
 - assess their understanding of the requirements for childminder agencies; aspects of the *Statutory Framework for the Early Years Foundation Stage* and *Requirements for the Early Years Register* if applying for registration as an early years childminder agency, and/or the *Requirements for the Childcare Register* if applying for registration as a later years childminder agency

¹⁷ Department for Education advice; <https://www.gov.uk/government/policies/improving-the-quality-and-range-of-education-and-childcare-from-birth-to-5-years/supporting-pages/childminder-agencies>

- assess recruitment procedures to check how a childminder agency ensures that the staff they employ and the childminders they register are suitable, qualified and experienced in terms of the role they undertake
- check arrangements for training and monitoring the quality of childminders.

The registration decision

35. At the end of the registration visit, the inspector will confirm whether or not the applicant is suitable to be registered. This is reviewed alongside evidence from the checks that we carry out on all individuals identified as part of the registration.
36. Where a person demonstrates that they are suitable, we send a letter to the applicant granting registration and issue a certificate of registration. The certificate sets out the name, address and telephone number of the childminder agency for which the person is registered, along with agency's unique reference number, issued by Ofsted. The certificate will also indicate which part of the childcare register the registration is under. Childminder agencies must display their certificate at all times.

Refusal of registration

37. Where we decide to refuse registration, we send out a legal notice of our intention to refuse. The applicant has a right to object to our intention.¹⁸ Where we go on to refuse registration, we send notice of our decision. Applicants have a right to appeal against this decision to the Tribunal. We send details of how to do this with the notice.

Withdrawal of application

38. Applicants may withdraw their application at any stage up to the time when we issue of a notice of intention to refuse registration. Applicants may not withdraw their application at that point unless we have decided not to refuse their registration. Any fee paid by the applicant is not refundable.

¹⁸ *How to object*, (120238), Ofsted, 2012;
www.ofsted.gov.uk/resources/how-object-guidance-for-registered-childminders-and-childcare-providers

Part 3. Compliance and enforcement

39. From time to time, we may receive concerns or other information about childminder agencies that suggests they may not be meeting the requirements for registration on the Early Years and/or Childcare Register. We consider this information and decide what action to take in relation to the agency. In some cases this will involve visiting the agency to assess whether it is meeting requirements. We may do this through a full inspection or through a separate investigation visit.
40. If the concern is very minor we will refer it back to the agency to deal with and will check what they have done at their next inspection.
41. When we carry out an investigation visit or inspection our inspectors use their statutory powers of entry set out in the Act.¹⁹ They will produce an identity document authorised by Her Majesty's Chief Inspector showing that they have the authority to enter the premises. The inspector's powers of entry give them the right to:
- inspect the premises
 - inspect and take copies of any records kept by the agency and any other relevant documentation (including computerised records)
 - seize and remove any document, or other material or evidence found there, which the inspector has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement
 - require any persons to afford him/her facilities and assistance within that person's control as are necessary to enable the member of staff to exercise his powers
 - take measurements and photographs
 - interview people in connection with the matter.
42. We have powers of enforcement when registered childminder agencies are failing to meet the requirements of registration or any conditions of registration, or where an unregistered agency is providing a childminder agency service. We aim to take a consistent and proportionate approach to enforcement. We will consider the particular circumstances of each case before deciding what action to take to bring about compliance or to cancel registration.
43. Further information about the steps we can take is set out in the Childminder agency handbook.

¹⁹ The Childcare Act 2006, sections 78A and 78B;
www.legislation.gov.uk/ukpga/2006/21/part/3/chapter/5/crossheading/rights-of-entry.

Part 4. Carrying out our regulatory and inspection work

44. Our regulatory and inspection work is carried out by Her Majesty’s Inspectors and regulatory inspectors employed by Ofsted, carrying out investigations or registration visits where there may be identified concerns. All inspectors carry identification that they must show childminder agencies before entering their premises.

The conduct of inspectors

45. Inspectors are expected to carry out registration visits, inspections and investigations in a way that aims to secure the full cooperation and confidence of the childminder agency. Inspectors will:
- be thoroughly prepared and understand the nature of the agency
 - have thorough knowledge and understanding of the Act, regulations, requirements and guidance for inspectors
 - maintain the highest professional standards in line with Ofsted’s code of conduct.
46. Inspectors must uphold the highest professional standards in their work, and ensure that everyone they encounter during inspections or regulatory visits is treated fairly and with respect and benefits from the inspection. Ofsted’s code of conduct requires inspectors to:
- evaluate objectively, be impartial and inspect without fear or favour
 - evaluate agencies in line with the framework and requirements
 - base all evaluations on clear and robust evidence
 - have no connection with the agency, which could undermine their objectivity
 - report honestly and clearly, ensuring that judgements are fair and reliable
 - carry out their work with integrity, treating all those they meet with courtesy, respect and sensitivity
 - endeavour to minimise the stress on those involved in the inspection
 - act in the best interests and well-being of service users
 - maintain purposeful and productive dialogue with those being inspected, and communicate judgements clearly and frankly
 - respect the confidentiality of information, particularly about individuals and their work
 - respond appropriately to reasonable requests
 - take prompt and appropriate action on any safeguarding or health and safety issues.

Expectations of childminder agencies

47. In order that inspection and regulation are productive and beneficial for childminder agencies, it is important that inspectors and childminder agencies establish and maintain a professional working relationship based on mutual courtesy and respectful behaviour. Inspectors are expected to uphold the code of conduct but Ofsted also expects childminder agencies to:
- be courteous and respectful
 - apply their own codes of conduct in their dealings with inspectors
 - allow inspectors to conduct their visit in an open and honest way
 - allow inspectors to evaluate the agency objectively against the standards/framework
 - provide reasonable evidence that will enable the inspector to report honestly, fairly and reliably about their agency
 - work with inspectors to minimise disruption, stress and bureaucracy
 - maintain a purposeful dialogue with the inspector or the inspection team
 - draw any concerns to the attention of inspectors promptly and in a suitable manner
 - respect that inspectors will, on occasions, need to observe practice and talk to staff and users without the presence of a manager or registered person.

Complaints about Ofsted

48. From time to time we also receive complaints about our own service. Any concerns that the childminder agency has about a registration visit, inspection or investigation should be raised and, where possible, resolved with the inspector during the visit.
49. If it has not been possible to resolve concerns, the childminder agency may decide to lodge a formal complaint. The complaints procedures are available on Ofsted's website.²⁰

²⁰ *Complaints procedure: raising concerns and making complaints about Ofsted (070080)*, Ofsted, 2010; www.ofsted.gov.uk/resources/070080.