

Registration and suitability handbook

Guidance for inspectors and regulatory decision-makers on the registration and continued registration of those on the Early Years and Childcare Registers

For use from September 2010.

Age group: Birth to 18

Published: December 2010

Reference no: 100165

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Royal Exchange Buildings
St Ann's Square
Manchester
M2 7LA

T: 0300 123 1231
Textphone: 0161 618 8524
E: enquiries@ofsted.gov.uk
W: www.ofsted.gov.uk

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What do we mean by...?

Here is an explanation of some of the terms used in this booklet:

Applicant

A person who applies for registration as a childminder or childcare provider.

Childcare Act 2006

The law that sets out:

- duties on local authorities to improve outcomes for children and to ensure access to information about provision in their area
- legal frameworks for the regulation and inspection of provision for children from birth to age 17
- the Early Years Foundation Stage: this is the framework for the delivery of quality integrated care and education for children from birth to the 31 August following their fifth birthday.

Childcare providers on domestic premises

People providing care on domestic premises working with at least three other people.

The difference between childminding and childcare on domestic premises is the number of people involved. If four or more people look after children at any time, they are providing childcare on domestic premises, not childminding.

Childcare providers on non-domestic premises

Registered providers that were previously called day-care providers.

Childcare Register

The register of providers who are registered by Ofsted to care for children from birth to 17 years. The register has two parts:

- **the voluntary part**
Providers who are not eligible for compulsory registration may choose to register here. These are mainly people looking after children aged eight and over, or providing care in the child's home.
- **the compulsory part**
Providers must register if they care for one or more children from 1 September following their fifth birthdays until they reach their eighth birthdays.

More information about registration on the Childcare Register is available on our website (www.ofsted.gov.uk) or by contacting your local family information service (www.familyinformationservices.org.uk/contactcis/england/index.htm).

Childminder

A person who is registered to look after one or more children to whom they are not related on domestic premises for reward. Reward does not include reciprocal care arrangements between friends where there is no exchange of money or payment for things like electricity or food.

Childminders work with no more than two other childminders or assistants.

They:

- care for children on domestic premises that are not the home of one of the children, or
- care for children from more than two families wholly or mainly in the home of one of the children

and:

- must register to care for children under the age of eight
- can choose to register to care for older children.

Childminders care for at least one individual child for a total of more than two hours in any day. This is not necessarily a continuous period of time. For example, if you provide care for the same child aged under eight for an hour before and an hour and a half after school then registration is due; however, if you provide care for one child aged under eight for an hour before school and provide care for a different child aged under eight for an hour and a half after school then registration is not required.

Compliance, Investigation and Enforcement Team

Ofsted has one national Compliance, Investigation and Enforcement Team based in Nottingham. Its main role is to:

- provide advice and guidance to field staff on how and when to investigate non-compliance, or to take action to enforce compliance with statutory requirements and associated regulations
- manage cases in which we take statutory enforcement action (from issuing welfare requirement notices to bringing prosecutions) against childcare providers and children's social care establishments and agencies
- respond to concerns we receive about childcare providers and children's social care establishments and agencies, including where necessary working with child protection agencies in order to reduce the risk of harm to children and safeguard their welfare
- provide advice and guidance to colleagues on our safeguarding policy.

Department for Education (DfE)

The government department responsible for the Childcare Act 2006 and the regulations that underpin it, including the law that sets out our responsibilities regarding childcare and early education. The DfE is also responsible for the Early Years Foundation Stage, which underpins our inspections.

Domestic premises

Any premises which are wholly or mainly used as a private dwelling – that is, someone’s home.

Early years age group

Children from birth until the 31 August following their fifth birthday who attend early years settings that deliver the Early Years Foundation Stage.

Early Years Foundation Stage

The statutory framework for the early education and care of children from birth to the 31 August following their fifth birthday. The Early Years Foundation Stage includes requirements for the provision of young children’s welfare, learning and development that all providers must meet, as well as good practice guidance. From September 2008 the Early Years Foundation Stage must be delivered by all schools and early years settings that make provision for children from birth to the 31 August following their fifth birthday.

The Early Years Foundation Stage website is www.standards.dcsf.gov.uk/eyfs.

Early years providers

Those who are registered on the Early Years Register to provide for children from birth to the 31 August following their fifth birthday; and maintained and independent schools that provide for children of that age.¹

Early years provision

The provision of learning, development and care for children from birth to the 31 August following their fifth birthday.

Early Years Register

Unless exempt, the following must register on the Early Years Register:

- maintained and independent schools directly responsible for provision for children from birth to the age of three²

¹ Schools providing for children of that age are not covered by the guidance in this framework.

- childcarers, such as childminders, day nurseries, pre-schools and private nursery schools, which provide for children from birth to the 31 August following their fifth birthday.

For more information about registration on the Early Years Register please look on our website (www.ofsted.gov.uk) or contact your local family information service (www.familyinformationservices.org.uk/contactcis/england/index.htm).

Early years settings

Childminding, day nurseries, pre-schools, children's centres, maintained schools and those in the independent, private or voluntary sector which provide for children from birth to the 31 August following their fifth birthday.

Enforcement

The action taken when requirements are not met.

Home childcarers

A person aged 18 or over who cares for children aged birth to 17 years of no more than two families at any one time wholly or mainly at the home of one of the children. This includes nannies.

Inspection

A system to check that registered providers continue to meet requirements. In the case of those on the Early Years Register, inspection also evaluates and reports on the quality and standards of the early years provision.

Investigation

The action following a concern or complaint to establish whether a registered provider continues to meet the requirements for registration; or whether an unregistered person is providing childcare for which registration is required.

Later years provision

The provision of childcare for children from the 1 September following their fifth birthday to the day on which the child attains the age of 18.

Ofsted

An independent, non-ministerial government department, which is responsible for the inspection of a range of education and children's services, and for the inspection and regulation of registered early years and childcare provision. Our full title is the

² Schools that admit children who are three during the term in which they start school, known as 'rising threes', may treat those children as three-year-olds for the purposes of registration.

Office for Standards in Education, Children's Services and Skills. For more information visit our website (www.ofsted.gov.uk).

Provider

A person who provides childminding or group childcare.

Qualified

The person meets prescribed requirements regarding the suitability of persons and premises and adheres to the requirements of the Early Years Foundation Stage and/or the Childcare Register and other regulations, and any condition(s) of registration.

Registered person

An individual or organisation that is registered to provide childcare and/or early years provision.

Registration

The process of checking that an applicant is suitable to care for children.

Regulation

This covers registration, inspection and investigation.

Self-evaluation form

Helps early years providers to evaluate their provision and gives them a structure to record the outcomes. The completed form is discussed with the inspector, usually during the inspection. The self-evaluation form can be completed online; there is also a downloadable version to print off and complete by hand.

About this guidance

The guidance in this handbook is effective from September 2010, and is intended to assist inspectors with the process of registering childminders and childcare providers on the Childcare Register and the Early Years Register. It does not cover the registration of social care providers.

The handbook comprises:

Part 1: Applications and checks – guidance for both registers

Part 2: The Childcare Register

Part 3: The Early Years Register – process

Part 4: The Early Years Register – guidance on meeting the requirements of the Early Years Foundation Stage

Part 5: Applications made by existing registered persons

Part 6: Changes to registration.

You must read this handbook in conjunction with the following guides that provide comprehensive information about who can apply for registration, and how they can do so:

- *Guide to registration on the Early Years Register: childcare provider on domestic or non-domestic premises*³
- *Guide to registration on the Early Years Register: childminder*⁴
- *Guide to registration on the Childcare Register.*⁵

You will also find the following useful:

- *Framework for the regulation of those on the Early Years and Childcare Register*⁶
- *The compliance, investigation and enforcement handbook*⁷

³ *Guide to registration on the Early Years Register: childcare provider on domestic or non-domestic premises* (080017), Ofsted, 2010; www.ofsted.gov.uk/publications/080017.

⁴ *Guide to registration on the Early Years Register: childminder* (080013), Ofsted, 2010; www.ofsted.gov.uk/publications/080013.

⁵ *Guide to registration on the Childcare Register* (080032), Ofsted, 2010; www.ofsted.gov.uk/publications/080032.

⁶ *Framework for the regulation of those on the Early Years and Childcare Register* (080024), Ofsted, 2010; www.ofsted.gov.uk/publications/080024.

⁷ *The compliance, investigation and enforcement handbook*, Ofsted, 2010; www.ofsted.gov.uk/ciehandbook.

- *Evaluating early years provision in settings providing childcare on domestic premises*⁸
- Criminal Records Bureau checks for those providers who register with Ofsted⁹
- Criminal Records Bureau website: www.crb.gov.uk.

In addition, Ofsted publishes a range of *Childcare factsheets* covering particular policies and procedures relating to registration and inspection. These are as follows:

- *Registration not required*¹⁰
- *Registering childcare providers*¹¹
- *Childminders using assistants*¹²
- *Childminding between friends*¹³
- *Childcare on domestic premises*¹⁴
- *Requirements for risk assessments*¹⁵
- *Giving medication to children in registered childcare*¹⁶
- *Regulating play-based provision*¹⁷
- *Prompt points for monitoring enforcement action*¹⁸
- *The requirements of the Early Years Register*¹⁹
- *Common core skills and knowledge*²⁰
- *Registering school-based provision*²¹

⁸ *Evaluating early years provision in settings providing childcare on domestic premises* (080165), Ofsted, 2010; www.ofsted.gov.uk/publications/080165.

⁹ *Criminal Records Bureau (CRB) checks for those providers who register with Ofsted* (090103), Ofsted, 2010; www.ofsted.gov.uk/publications/090103.

¹⁰ *Registration not required* (080134), Ofsted, 2010; www.ofsted.gov.uk/publications/080134.

¹¹ *Registering childcare providers* (080043), Ofsted, 2010; www.ofsted.gov.uk/publications/080043.

¹² *Childminders using assistants* (080289), Ofsted, 2010; www.ofsted.gov.uk/publications/080289.

¹³ *Childminding between friends* (100108), Ofsted, 2010; www.ofsted.gov.uk/publications/100108.

¹⁴ *Childcare on domestic premises* (080142), Ofsted, 2008; www.ofsted.gov.uk/publications/080142.

¹⁵ *Requirements for risk assessments* (100155), Ofsted, 2010; www.ofsted.gov.uk/publications/100155.

¹⁶ *Giving medication to children in registered childcare* (080290), Ofsted, 2010; www.ofsted.gov.uk/publications/080290.

¹⁷ *Regulating play-based provision* (090271), Ofsted, 2010; www.ofsted.gov.uk/publications/090271.

¹⁸ *Prompt points for monitoring enforcement action* (080178), Ofsted, 2010; www.ofsted.gov.uk/publications/080178.

¹⁹ *The requirements of the Early Years Register* (080162), Ofsted, 2010; www.ofsted.gov.uk/publications/080162.

²⁰ *Common core skills and knowledge* (080288), Ofsted, 2010; www.ofsted.gov.uk/publications/080288.

²¹ *Registering school-based provision* (080191), Ofsted, 2010; www.ofsted.gov.uk/publications/080191.

- *Exemption from the learning and development requirements*²²
- *Concerns and complaints about childcare providers*²³
- *Requirements of the Childcare Register: childminders and home childcarers*²⁴
- *Triggers for inspections of those on the Early Years Register or Childcare Register*²⁵
- *The numbers and ages of children that childminders may care for*²⁶
- *Resigning and cancelling registration from the Early Years and Childcare Register*²⁷
- *Committee-run registered childcare provision*²⁸
- *Requirements for written documents: childminders delivering the Early Years Foundation Stage*²⁹
- *Requirements for the Childcare Register: childcare providers on domestic or non-domestic premises*³⁰
- *Guidance for inspecting childcare providers with no children on roll or no children present at the time of the inspection*³¹
- *Register guidance: childcare providers on domestic and non-domestic premises*³²
- *The next steps when a provider is judged inadequate or is not complying with requirements*³³

²² *Exemptions from the learning and development requirements* (080144), Ofsted, 2010; www.ofsted.gov.uk/publications/080144.

²³ *Concerns and complaints about childcare providers* (080120), Ofsted, 2008; www.ofsted.gov.uk/publications/080120.

²⁴ *Requirements of the Childcare Register: childminders and home childcarers* (080161), Ofsted, 2010; www.ofsted.gov.uk/publications/080161.

²⁵ *Triggers for inspections of those on the Early Years Register or Childcare Register* (080179), Ofsted, 2010; www.ofsted.gov.uk/publications/080179.

²⁶ *The numbers and ages of children that childminders may care for* (080293), Ofsted, 2010; www.ofsted.gov.uk/publications/080293.

²⁷ *Resigning and cancelling registration from the Early Years and Childcare Register* (100118), Ofsted, 2010; www.ofsted.gov.uk/publications/100118.

²⁸ *Committee-run registered childcare provision* (090003), Ofsted, 2010; www.ofsted.gov.uk/publications/090003.

²⁹ *Requirements for written documents: childminders delivering the Early Years Foundation Stage* (080294), Ofsted, 2010; www.ofsted.gov.uk/publications/080294.

³⁰ *Requirements for the Childcare Register: childcare providers on domestic or non-domestic premises* (080143), Ofsted, 2010; www.ofsted.gov.uk/publications/080143.

³¹ *Guidance for inspecting childcare providers with no children on roll or no children present at the time of the inspection* (080173), Ofsted, 2010; www.ofsted.gov.uk/publications/080173.

³² *Register guidance: childcare providers on domestic and non-domestic premises* (080193), Ofsted, 2010; www.ofsted.gov.uk/publications/080193.

³³ *The next steps when a provider is judged inadequate or is not complying with requirements* (080028), Ofsted, 2010; www.ofsted.gov.uk/publications/080028.

- *Delivery of the Early Years Foundation Stage in out of school provision*³⁴
- *Evaluating early years provision in settings providing the Early Years Foundation Stage before or after school or during school holidays*³⁵

Introduction

1. Registration allows an individual or an organisation to provide care for children. It is our responsibility to ensure that only those who are suitable to provide childcare are registered. If we have concerns about an applicant's suitability, we should not grant registration unless those concerns have been followed up and resolved to our satisfaction. This means that the registration process must be rigorous so that we only register those who have demonstrated their suitability to our satisfaction.
2. We ensure the process is rigorous through recording an audit trail of the checks we carry out and the decisions we make. We have decision-makers for all stages of the process set out in Annex A.
3. Inspectors must adhere to the Code of Conduct set out in the *Framework for the regulation of those on the Early Years and Childcare Registers* when carrying out any registration visit.³⁶
4. All those involved in registration must also comply with Ofsted's information assurance policy in handling information related to applicants and others associated with an application.

What types of childcare may register?

5. Anyone who wants to provide childminding or childcare on domestic or non-domestic premises caring for children under the age of eight must register with us unless they are exempt from doing so. Other providers of childcare, for example care for older children and care that is exempt from compulsory registration, may choose to register with us on a voluntary basis.
6. The types of childcare are:
 - **childminding:** individuals looking after children on domestic premises, which is not usually the home of any of the children being cared for

³⁴ *Delivery of the Early Years Foundation Stage in out of school provision* (080285), Ofsted, 2010; www.ofsted.gov.uk/publications/080285.

³⁵ *Evaluating early years provision in settings providing the Early Years Foundation Stage before or after school or during school holidays* (080167), Ofsted, 2010; www.ofsted.gov.uk/publications/080167.

³⁶ *Framework for the regulation of those on the Early Years and Childcare Registers* (080024), Ofsted, 2010; www.ofsted.gov.uk/publications/080024.

- **childcare on domestic premises:**³⁷ where more than three adults are looking after children on domestic premises (this includes childminders and their assistants)
- **childcare on non-domestic premises:** where childcare is provided on premises that are not used as domestic premises
- **home childcarers:** individuals looking after children of no more than two families in one or both of the children's homes.

Which register?

7. Childminders and childcare providers may be registered on one or both of the following registers:
 - the **Childcare Register** for those who provide childcare for children from birth to 17 years. This register has two parts:
 - **the compulsory part** on which providers must register if they care for one or more children from the 1 September following their fifth birthday until they reach their eighth birthday
 - **the voluntary part** on which providers who are not eligible for compulsory registration may choose to register. These are mainly people looking after children aged eight and over, or providing care in the child's home.
 - the **Early Years Register** on which the following people must register, unless exempt:
 - maintained and independent schools directly responsible for provision for children from birth to the age of three³⁸
 - childcarers, such as childminders, day nurseries, pre-schools and private nursery schools, who provide for children from birth to the 31 August following their fifth birthdays.

People not required to register

8. Some providers do not have to register with us. A list of these is set out in our factsheet *Registration not required*.³⁹

Maintained and independent schools

9. A school that provides education or care for children aged three and over, where at least one child using that part of the provision is a pupil of the school, is not required to register. Children who are three during the term they start at

³⁷ Any premises which are wholly or mainly used as a private dwelling – that is, someone's home.

³⁸ Schools that admit children who are three during the term in which they start school, known as 'rising threes', may treat those children as three-year-olds for the purposes of registration.

³⁹ *Registration not required* (080134), Ofsted, 2010; www.ofsted.gov.uk/publications/080134.

school (known as rising threes) may count as three for the purpose of deciding whether registration is required.

10. Our factsheet *Registering school-based provision* includes some scenarios to help you decide whether registration is required.⁴⁰

People disqualified from providing registered childcare

11. Some people are not allowed to provide registered childcare because they are disqualified from working with children.⁴¹ Some people may be able to apply to Ofsted to waive their disqualification. Further details on the reasons for disqualification, and who can apply to us to waive disqualification, are set out in our factsheet *How to apply to Ofsted for consent to waive disqualification*.⁴²

Part 1: Applications and checks – guidance for both registers

12. This part should be read in conjunction with:

- *Registration not required*
- *Guide to registration on the Childcare Register*
- *Guide to registration on the Early Years Register: childminders*
- *Guide to registration on the Early Years Register: childcare providers on domestic and non-domestic premises.*

Information for applicants and application packs

13. We refer all prospective applicants for the **Early Years Register** to their local authority for information and advice about pre-registration briefing sessions, training and any other aspect of advice and support that the local authority makes available. There are three ways in which applicants to the Early Years Register can make their application:
 - The local authority, usually through its Family Information Service, has application packs and the *Early Years Foundation Stage* for those applying for registration on the Early Years Register.⁴³

⁴⁰ *Registering school-based provision* (080291), Ofsted, 2010; www.ofsted.gov.uk/publications/080291.

⁴¹ A full list of all the circumstances that disqualify people from working with children is available in The Childcare (Disqualification) Regulations 2007 (www.legislation.gov.uk/uksi/2007/723/contents/made) and The Childcare (Disqualification) (Amendment) Regulations 2008 (www.legislation.gov.uk/uksi/2008/1740/contents/made).

⁴² *How to apply to Ofsted for consent to waive disqualification* (080054), Ofsted, 2010; www.ofsted.gov.uk/publications/080054.

⁴³ www.standards.dcsf.gov.uk/eyfs/site/index.htm

- Applicants can download application forms from our website, fill them in and send them to Ofsted.
 - Applicants can apply to register online, using a secure online facility via our website.
14. We expect potential applicants to read all the information carefully before deciding whether or not to make an application. In particular, we expect them to be familiar with the Early Years Foundation Stage and the welfare, learning and development requirements within it that they must meet.
 15. Childminder applicants wishing to provide care for children in the early years age group are expected to attend a pre-registration briefing session arranged by the local authority. At these sessions, the application forms and the registration process are explained and questions are answered. The sessions also cover application to both the Early Years and Childcare Registers for those wishing to provide care for children in early years and later years age groups. Childminder applicants are given an application pack if they decide to make an application, unless they apply to register through one of the other routes outlined above. Local authorities will provide information and advice about becoming a childminder, and about the training opportunities available.
 16. Not all local authorities provide pre-registration briefing sessions for potential early years childcare providers. Where these are not provided, application packs are still available to potential applicants from their local authority. The local authority also provides information and advice on becoming a childcare provider and the training opportunities available. The functions and duties of local authorities are set out in the Childcare Act 2006, Chapter 21.⁴⁴
 17. Those who only wish to register on the **Childcare Register** may also apply through one of the three routes outlined above. They may also go to their local authority for advice, training and support.
 18. Applicants should be familiar with and be able to meet the requirements for registration on the Childcare Register. These are available in the factsheets on requirements for registration on the Childcare Register.⁴⁵ There is more information for applicants in the *Guide to registration on the Childcare Register*.

Applications

19. Applicants may be individuals (childminders or sole providers) or organisations. Where applicants are organisations we distinguish between those whose main purpose is to provide childcare and those whose main purpose is something

⁴⁴ The Childcare Act 2006 is available at www.legislation.gov.uk/ukpga/2006/21/contents.

⁴⁵ *Requirements for the Childcare Register: childcare providers on domestic or non-domestic premises* (www.ofsted.gov.uk/publications/080143) and *Requirements for the Childcare Register: childminders and home childcarers* (www.ofsted.gov.uk/publications/080161).

else but that may wish to provide childcare, for example a manufacturing company that wishes to provide a nursery for the children of its workers.

20. It is easy to establish the registered person for childminding and for childcare provision where a single individual makes an application. For organisations it can be much more complex to establish that an application is made correctly and we register the correct legal entity. There is more information about this in Annex B and the guides to registration.
21. **Childminders:** If an individual cares for children on domestic premises on their own or with **fewer than three** other adults, they will need to apply for registration as a childminder. Any individuals caring for children with them must be assistants or co-childminders. In the case of co-childminders, each would need a separate registration. Childminders only need to apply once even if they intend to work from more than one set of domestic premises. Domestic premises are someone's home. Childminders cannot work from a house if no-one lives there.
22. **Childcare on domestic premises:** Where four or more people care for children on domestic premises, they will need to apply to register as childcare on domestic premises. They may apply as an individual or an organisation. Where they apply as an organisation they must have a nominated person to represent them to Ofsted. They must meet the requirements for this type of care at all times they operate. This includes having a manager and at least two adults present at all times. If someone is registered to provide childcare on domestic premises, perhaps because on some days of the week there are four or more people working together, they will normally keep this registration for all the times they provide childcare, even when there may be fewer than four people working together. For more information on childcare on domestic premises, please see our factsheet *Childcare on domestic premises*.⁴⁶ As with childminding, domestic premises are someone's home. Applicants cannot apply to provide childcare on domestic premises if no-one lives there. They must apply to provide childcare on non-domestic premises if they wish to work from a house that is unoccupied.
23. For further guidance on registration of childcare on domestic premises, please refer to *Evaluating early years provision in settings providing childcare on domestic premises*.⁴⁷
24. **Providers can hold two registrations** – as a childminder and as a childcarer on domestic premises (that is, on the same premises). These people must pay two fees and have separate inspections and inspection reports. We will try to complete the two inspections at the same time. They cannot act as a

⁴⁶ See note 14.

⁴⁷ See note 8.

childminder and childcarer on domestic premises on the same premises at the same time.

25. **Childcare on non-domestic premises:** If childcare is provided on non-domestic premises, either an individual or an organisation may apply. They must apply in respect of each premises where the childcare is to be provided. It should be registered as such. Please refer to the section 'Who must apply for registration?' in the *Guide to registration on the Early Years Register: childcare provider on domestic or non-domestic premises*, pages 10–12 for further information on the registered person.⁴⁸
26. **Home childcarers** can only apply to the voluntary part of the Childcare Register. They work in the households of the children they care for and must make an application themselves. The parents of the children the home childcarer cares for cannot make the application on their behalf. Home childcarers need only apply once even if they work in a number of different households.
27. Childminders may apply to be home childcarers on the same application and for the same fee.
28. A person who wishes to register as a childminder or childcare provider on the Early Years Register and/or the Childcare Register must apply to us, giving all the information requested. It is an offence to knowingly make a false or misleading statement in an application.
29. An application is not complete until:
 - we receive the relevant application form
 - the applicant and all others associated with the application have submitted a completed Criminal Records Bureau disclosure application form
 - the applicant pays the application fee.⁴⁹

The application fee cannot be refunded if the applicant subsequently withdraws their application, we refuse to grant registration, or if the applicant makes an application and they are disqualified from providing childcare.
30. In the case of childcare providers offering care on more than one domestic or non-domestic set of premises we require a separate application for each of the premises where the care is provided.
31. Where the applicant is an organisation, the organisation must nominate a person (the 'nominated person') to represent it in its dealings with Ofsted. This person's role within the organisation will depend on the type of organisation

⁴⁸ See note 3.

⁴⁹ See sections 35; 36; 54; 55; 62; and 63 of the Childcare Act 2006.

they represent. For example, a committee must nominate a committee member to be the nominated person, a company whose prime purpose is childcare will nominate a director and a partnership will nominate a partner. Very large childcare organisations may nominate an employee where the employee has delegated and clearly identifiable responsibilities for the provision of childcare within the organisation.

32. Where the prime purpose of an organisation is not the provision of childcare, the most senior person with delegated, clearly identifiable and direct responsibility for planning and monitoring the childcare is the nominated person and this person may be an employee.

Applications for registration on more than one register

33. People applying to register on the Early Years Register may choose to be placed on both parts of the Childcare Register at the same time and pay only one application fee – that for the Early Years Register. They may choose to do so at application or at any time after registration on the Early Years Register is granted. They must join the compulsory part of the Childcare Register if they wish to look after children from the 1 September following their fifth birthday up to the age of eight.
34. People applying to register on the compulsory part of the Childcare Register may also choose to join the voluntary part of the register at the same time and pay a single application fee. They may choose to do so at application or any time after registration on the compulsory part of the register is granted.
35. A person who is registered only on the Childcare Register cannot choose to join the Early Years Register without making a separate application and paying a separate application fee. This is because we operate a more stringent registration system including additional checks and a registration visit for those looking after the youngest children.
36. Providers who are only on the voluntary part of the Childcare Register, and who wish to join the compulsory part of the Childcare Register, do not need to make a fresh application to join the compulsory part of the Childcare Register. They will, however, need to confirm that they will meet the extra requirements of the compulsory part of the Childcare Register.

Who we check

37. We carry out a number of checks on the applicant and other people associated with the registration according to the role they hold and the register they are applying for.
38. For childminder applications we check the applicant and all relevant individuals involved in the application for registration, that is, every person living or working on the premises aged 16 and over where the childminding is to take place; and every person caring for children. For home childcarers we only check

the home childcarer – we do not check others who live on the premises where he or she looks after the child, such as the child’s parents.

39. In the case of applications to provide childcare on domestic premises, we check all people making up the registered person for organisations whose prime purpose is childcare, and the manager to establish their suitability to work or be in regular contact with children. We also carry out these suitability checks on all persons aged 16 and over who live or work on the domestic premises where childcare is provided, and on any assistants or employees who work with children on domestic premises.
40. In the case of childcare providers on non-domestic premises, registered on the Early Years Register or the compulsory part of the Childcare Register, we check all people making up the registered person where childcare is the organisation’s prime purpose. We also check the manager.
41. For all registers, in the case of childcare providers on non-domestic premises where childcare is not the organisation’s prime purpose, and for childcare providers on non-domestic premises who are only registered on the voluntary part of the Childcare Register, we check the sole owner/nominated person. We also check the manager.
42. The provider is responsible for checking other staff on non-domestic premises.
43. The table below summarises who we check in respect of each of the registers. These checks contribute towards our decision as to whether applicants are suitable for registration. When we decide that an individual applicant or organisation is suitable we will register them. Otherwise, we will refuse registration.
44. In the table the term ‘provider’ means an individual applicant and the term ‘registered individual’ means a person who is part of the registered person. These terms are used on the Regulatory Support Application.

Provision type	Register	Who’s checked?	Register	Who’s checked?
Childminder	EYR/CCR	Provider	VCR	Provider
Childminder	EYR/CCR	Every person aged 16 and over living on premises	VCR	Every person aged 16 and over living on premises
Childminder	EYR/CCR	Every person aged 16 and over working on the premises	VCR	Every person aged 16 and over working on the premises
Childminder	EYR/CCR	Assistant/co-childminder	VCR	Assistant/co-childminder
Childcare on domestic premises	EYR/CCR	Provider	VCR *	Provider

Childcare on domestic premises	EYR/CCR	Every person aged 16 and over living on premises	VCR*	Every person aged 16 and over living on premises
Childcare on domestic premises	EYR/CCR	Every person aged 16 and over working on the premises	VCR *	Every person aged 16 and over working on the premises
Childcare on domestic premises	EYR/CCR	Assistant	VCR*	Assistant
Childcare on domestic premises	EYR/CCR	Manager	VCR*	Manager
Childcare on domestic premises	EYR/CCR	Nominated person	VCR*	Nominated person
Childcare on domestic premises	EYR/CCR	Registered individual	VCR*	Registered individual
Childcare on non-domestic premises	EYR/CCR	Provider	VCR*	Provider
Childcare on non-domestic premises	EYR/CCR	Manager	VCR*	Manager
Childcare on non-domestic premises	EYR/CCR	Nominated person	VCR*	Nominated person
Childcare on non-domestic premises	EYR/CCR	Registered individual		
Home childcarers			VCR	Provider

45. In most cases the cost of the check with the Criminal Records Bureau is subsidised by the Government. The applicant or individual being checked must pay the fee for the Criminal Records Bureau check where marked '*’.
46. Please see Part 3 of this handbook for additional information on checks made in connection with applications for the **Early Year Register**.

The checks we carry out

47. All applicants for registration on either register, and other people we check as set out in the table above, must give consent for Ofsted to use information from the application and checks with other organisations to decide on their suitability. They must have their identity verified through arrangements made by Ofsted’s identity checking partner, HR Assurance Services. HR Assurance Services will also check that the applicant, and anyone else who needs one, has properly completed their form applying for a Criminal Records Bureau check, known as a disclosure application form.
48. For everyone who applies to register on either register we carry out a series of checks on individuals connected with the registration, or require employers to do so. We carry out a check with the Criminal Records Bureau against police

records for each person we are required to check who has given consent on the application form, or a separate declaration and consent form (EY2). The purpose of these checks is to determine whether the individual we are checking:

- has a criminal conviction or caution that will disqualify them from registering as a childcare provider
- is barred from working with children, because they are on the list held by the Independent Safeguarding Authority
- has any other convictions, cautions, reprimands or warnings that would give rise to a cause for concern about them working with children.

49. We always carry out a Criminal Records Bureau check unless the person concerned can demonstrate proof of an enhanced Criminal Records Bureau disclosure that is less than three years old and that was carried out through Ofsted. We do not accept an existing enhanced disclosure that was obtained by another organisation, even if it is less than three years old.⁵⁰ For example, if an applicant has a Criminal Records Bureau check dated within the last three years, but the check was requested by a local authority rather than Ofsted, we will not accept this as a valid Criminal Records Bureau check and will carry out another check on the applicant.
50. We must carry out a 'known to Ofsted' check in respect of every individual who is associated with the application. This will enable us to identify whether someone was previously known to Ofsted in some capacity associated with the provision of childcare. To carry out this check, the National Business Unit will check the individual's details against the Regulatory Support Application to see if there are any previous records held by Ofsted. The National Business Unit should ensure that the search parameters they put into the 'search individual' facility in the Regulatory Support Application are broad enough to identify individuals known to Ofsted. For example, the person's name and date of birth may be the same but they may be living at a different address to the one we have listed from their previous association.
51. Where the National Business Unit identifies the person as 'known to Ofsted', they should review their previous association/s with childcare and identify whether there were any previous causes for concern. This may include looking at any comments, notes or compliance, investigation and enforcement cases recorded on the Regulatory Support Application against the individual concerned. Where the person undertaking this check in the National Business Unit believes there may have been a previous cause for concern, they must bring this to the attention of the Regulatory Decision Maker, who may, in turn, seek further advice from the Compliance, Investigation and Enforcement Team.

⁵⁰ *Criminal Records Bureau checks for those providers who register with Ofsted*.(090103), Ofsted, 2010; www.ofsted.gov.uk/publications/090103.

52. In carrying out the range of checks – including the ‘known to Ofsted’ check – it may become clear that the person is disqualified from providing childcare, for example because their previous registration with Ofsted was cancelled, or a previous application to register was refused. In such cases, we do not need to formally refuse their application to register. Instead, we must advise them that they are disqualified from registration and we cannot consider their application to register until they make an application for a waiver of their disqualification and the waiver is granted. This does not constitute a ‘decision’ on the application, and therefore, there is no need to send a notice of intention or a notice of decision to refuse the application. If the applicant subsequently makes an application for a waiver and this is granted, we can begin to consider again their application to register. If the applicant does not apply for a waiver, then their application cannot proceed. In these circumstances, we will need to make arrangements to refund their application fee, as we have made it clear that we are not considering their application.
53. Where an applicant has lived outside the United Kingdom in the past five years, we usually require additional checks such as a certificate of good conduct. The purpose of these checks is to ascertain, where someone has lived abroad, whether there were any causes for concern raised about them in the other country or countries in which they lived. The certificate of good conduct also helps us to verify any gaps in employment history, and acts as a substitute for the part of their recent history which will not be covered by their Criminal Records Bureau check. Paragraphs 81 to 85, on applicants who have lived abroad in the past five years, give more information.
54. We carry out a check with the local authority children’s services department to see if the applicant or others connected with the registration are known to them in connection with care orders or other information that might bring into doubt their suitability to work or be in regular contact with children. These checks also enable us to determine whether a person is disqualified from registration, as certain care orders can disqualify a person and such orders do not show up on a Criminal Records Bureau check.
55. For applicants to the **Early Years Register** we also carry out a health check on certain people applying to register with us, or associated with an application. This is to identify whether there are any causes for concern about their health, which might affect their suitability to look after, or be in contact with, children. We check the following people:
- all applicants for registration as a childminder
 - all childcare applicants who intend to work directly with children as part of the staff ratio
 - the manager of childcare provision.
56. We may also carry out a health check on a childminder assistant if we have concerns about his or her health.

57. To carry out this check, we ask people to complete a health declaration booklet to record full details of any health issues, and ask their GP to complete a separate section of the health declaration booklet. We may ask those applying to the Childcare Register to complete a health declaration booklet where we receive information that suggests concerns about their mental or physical suitability to care for children.
58. For applicants to the **Early Years Register** who have lived or worked on a UK military base overseas, we have arrangements in place to check their details with organisations accredited by the Ministry of Defence (MoD) to deliver the regulation and inspection of childminders and childcare providers. The British Forces Early Years Service (BFEYS) is the MoD accredited body responsible for regulating and inspecting childminders and childcare providers within the geographical area of Western Europe. The Soldiers, Sailors, Airmen and Families Association Forces Help (SSAFA FH) is the MoD accredited body responsible for regulating and inspecting other overseas commands. Ofsted has a protocol with the MoD setting out the arrangements for conducting these checks. This includes a flow-chart describing how the application process works, and a form that the National Business Unit can use to make the necessary enquiries about the applicant with the BFEYS and the SSAFA FH. Our protocols with the MoD and other organisations can be found at: www.ofsted.gov.uk/publications/20100023.
59. We may carry out other checks if we judge it necessary in order to determine whether a person is suitable, as set out in paragraph 69.
60. For childcare provision other than childminders and childcare on non-domestic premises, the registered person is responsible for carrying out checks on their staff other than the manager.

Application process

61. The National Business Unit:
 - scans all paper-based application forms and original checks to Meridio, and retains this scanned record until the registration decision is made, in line with Ofsted's file retention schedule
 - reviews the application to make sure it is made correctly and is for the right register(s)
 - makes sure that we have declaration and consent forms for everyone connected with the registration
 - requests and records the outcome of checks
 - makes sure the inspector has any relevant information arising from the checks or application form
 - reviews the information on the application form and all the checks, and the inspector's recommendation from the registration visit, before making

the registration decision, using the decision-making table at Annex A. If registration is refused it refers the case to the Compliance, Investigation and Enforcement Team.

Making individual suitability decisions

62. A decision about the suitability of each relevant individual is made taking into account information from the range of checks completed on that person (Criminal Records Bureau checks, health information, children's services department checks and references).
63. Where there is no information about an individual on a check (that is, it is clear), the National Business Unit makes the suitability decision for that check. Where all checks are clear, the National Business Unit administrator makes the individual suitability decision.
64. Where there is information on a check:
 - the regulatory decision-maker must decide whether the check is suitable/not suitable, or needs further information, taking advice from the Compliance, Investigation and Enforcement Team and Ofsted's medical advisers where appropriate.
 - In the case of a cause for concern on the Criminal Records Bureau check, the regulatory decision-maker must refer to the scanned copy of the application form to check whether the individual declared the offence or caution. Wherever there is non-declaration of an offence the regulatory decision-maker will need to discuss this with the Compliance, Investigation and Enforcement Team as an applicant can be prosecuted for making a false declaration on their application. In addition, it is likely that we will refuse registration in such cases.
65. We must always discuss any negative comments arising from checks and references with the applicant. This can be done by the regulatory decision-maker, by the inspector at the registration visit (based on information given by the National Business Unit prior to the visit being conducted) or by the Compliance, Investigation and Enforcement Team. In discussing the information on the check with the applicant, we must take account of the Data Protection Act but our starting point must be to fully investigate any concerns raised. Negative references should lead to us treating all other information with caution and therefore they should be analysed very carefully and any issues acted on. When making the recommendation to register and the decision to register, the inspector/regulatory decision-maker should double check all checks and references to make sure that all information is present and there is nothing we have missed. **We must not discuss checks about a third party with the applicant until they have been discussed with the individual who is the subject of the check – see paragraphs 105 and 106.**

66. Where concerns arise from the normal range of checks the regulatory decision-maker can request additional checks, in addition to those set out in paragraphs 47 to 60.
67. As a result of receiving any additional information from the inspector who carried out the registration visit, the regulatory decision-maker may want to review the information on the declaration and consent form and decide if any other people connected with the registration should complete a health declaration booklet.
68. Where an individual has a Criminal Records Bureau check that is not dated within the last three years, or was not completed by Ofsted, we must ask them to apply for a new check.
69. In all cases where extra checks are required, the regulatory decision-maker may wish to discuss these with the Compliance, Investigation and Enforcement Team, giving clear reasons why extra checks are required. The regulatory decision-maker will arrange for the additional checks to be requested by sending the relevant standard letters, for example EYL23 to request information from a health visitor or EYL122 to request information from a school. The regulatory decision-maker will need to supply any additional information necessary to obtain the check, for example the name and address of the health visitor or school.
70. The regulatory decision-maker should record a suitability decision on each check escalated for a decision by clicking into the link in each check box in the Regulatory Support Application. When the regulatory decision-maker makes the decision, their name, the date the decision is made and the reference number of the registration against which the decision was made is recorded in the Regulatory Support Application. If there is a cause for concern the regulatory decision-maker should summarise the reason for the decision in the Regulatory Support Application (see paragraphs 93 to 108 for more details on how to record suitability decisions). This information will be shown against this individual check for any future application where this individual is named.

Timescale: 95% of cause for concern referrals should have a suitability decision made within 20 working days, of which 80% should have been made within five working days.

71. The National Business Unit will update the Regulatory Support Application when checks are received and will inform the regulatory decision-maker. The regulatory decision-maker must review all the individual checkboxes, including those which appear 'white'. Checks appear white when they are required but have not been requested. If the check is not required the status should be updated as such.

72. When the regulatory decision-maker has made the overall suitability decision for an individual in the *Individual checks* screen, they will ask for the suitability letter to be sent.
73. In the case of the applicant, the overall suitability decision takes into account the information obtained from the registration visit. Where the decision is unsuitable or suitable having resolved any concerns, for example missing checks or checks with concerns, the regulatory decision-maker makes the registration decision, which is then signed off by the Compliance, Investigation and Enforcement senior officer. The senior officer will arrange for a full review of the registration process before signing off the decision. The review should also include a recommendation as to whether the first inspection should be earlier than seven months.

Updating the Regulatory Support Application

74. It is important that we keep an accurate record of the checks we carry out, including the date we request checks, the date we receive information from the individual or organisation we requested the information from and the outcome of the check. The National Business Unit is responsible for processing and recording information from checks on the Regulatory Support Application; and in making decisions on suitability other than where there is a cause for concern. The National Business Unit holds detailed desk instructions for how to record information on checks on the Regulatory Support Application.

Note: The Childcare (Early Years Register) Regulations 2008⁵¹ Schedule 2, 8, 11 and 12 (a) and (b) place a duty on the registered person of childcare on non-domestic premises to have systems in place to undertake background checks and make suitability decisions for childcare staff and those living or working on childcare premises other than the manager.

People unable to complete the declaration and consent form (CR2 or EY2)

75. In some circumstances, an individual who we need to check may not be able to complete the declaration and consent form (CR2 or EY2) that gives their consent for Ofsted to carry out the necessary checks. The circumstances in which this may happen include where a member of a household has a severe mental or physical disability, which means they are unable physically to sign the form.
76. In such cases, we can accept a signature on the form from a person who has the 'power of attorney' to act on behalf of the person who is the subject of the

⁵¹ The Childcare (Early Years Register) Regulations 2008 are available at: www.opsi.gov.uk/si/si2008/uksi_20080974_en_3.

checks. Where this happens, we need to see documentary evidence that the person who has signed the form has the power of attorney to act on behalf of the person who is the subject of the check. The regulatory decision-maker in the National Business Unit will decide whether this can be permitted and will note the details on the Regulatory Support Application.

77. In some cases, it may not be possible for the person who is the subject of the checks to give someone else the power of attorney. These include circumstances in which the individual is not mentally able to give another person the power of attorney, because they are not judged to be mentally competent enough to understand the nature of the power they are delegating. In these circumstances, Part VII of the Mental Health Act 1983, amended in 1991, sets out that the Court of Protection can appoint a person to deal with the management of affairs and property of a person who is judged to be incapable of managing their own affairs by reason of mental disorder. In these cases the office of the Supreme Court will issue an Order permitting an appointed person to act on behalf of the individual. There would have to be an appointed person to sign forms on behalf of the person who is the subject of the checks.
78. There will be cases where no power of attorney, or Supreme Court Order, is in place. In these cases, the regulatory decision-maker must consider on a 'case by case' basis whether or not to accept the person's signature on behalf of the person who is the subject of the checks, taking into account all the individual circumstances of the case. However, although we may decide to accept another person's signature on the declaration and consent form, we are not able to make such a decision on behalf of the agencies with whom we check. The Criminal Records Bureau has indicated that it will accept a disclosure application form signed by someone else as long as there is a covering letter to explain that the person cannot complete and sign the form themselves.
79. Where organisations are unwilling to accept another person's signature on an application form, the regulatory decision-maker must decide whether, in the circumstances, we are content not to carry out the check on that person. When making this decision, we need to take into account factors such as: whether the person who is the subject of the checks has, or is likely to have, unsupervised contact with children; the likely risk to children being looked after from that person, taking into account the nature and severity of their disability; and the arrangements that the applicant, childminder or childcare provider has put in place to ensure children are never left in unsupervised contact with the unchecked person.
80. Where we decide not to carry out a check in these circumstances, we must record the details of who took the decision, and the reasons for that decision. We must also ensure that we carry the information forward to the next inspection, so that it can include an evaluation of whether the arrangements for supervising the unchecked person are adequate.

Applicants who have lived abroad

81. If the applicant or any other person connected with the application, has lived abroad in the past five years they are asked to tell us the countries they have lived in on the application form or declaration and consent form. The Criminal Records Bureau has reciprocal arrangements with some countries that allow it to check on the criminal history of those who have lived there.
82. Where there is no such arrangement, we require extra evidence of people's suitability if they do not have a continuous history of living in this country. The types of evidence we require depend on the person's history and what they can supply to demonstrate their suitability. We should be mindful of the level of evidence required by people who are resident here to demonstrate suitability and strive to gain a similar amount of evidence from those who have lived abroad. The regulatory decision-maker should advise on the type of evidence required, and make all registration decisions regarding applicants from abroad. This is because of the extra surety we need where someone does not have a full history in this country.

Certificates of good conduct

83. A certificate of good conduct is the most common form of evidence we require where people have lived abroad. This should be obtained from the embassy, in the United Kingdom, of the country in which they have lived, accompanied where necessary by a certified translation into English. For example, if the person has lived in India then the certificate of good conduct will be obtained from the Indian embassy in the UK. We need a certificate of good conduct from the embassy of every country in which the person has resided.
84. It is not appropriate to require such a certificate where:
 - a person is a refugee
 - a person is a UK resident who has been working or travelling abroad, for example on a gap year
 - a person has travelled extensively and has not remained in any country for sufficient time to establish a history.
85. Where we cannot obtain a certificate, we must consider what other information is available. These might include:
 - a reference from someone of standing in the country in which they lived, such as a doctor or lawyer
 - employer references, particularly those relating to childcare
 - evidence to support any work permit.

Making the decision

86. Where we are not able to obtain a certificate of good conduct, the regulatory decision-maker must consider all of the information available prior to making a decision. If there is sufficient information available, the regulatory decision-maker may decide to grant registration, although we need to ensure that we have received all other relevant information, such as Criminal Records Bureau checks. In making the decision we should consider how long a person has been in this country; a few years may be a sufficient record, but a few months is unlikely to give sufficient background information to make a suitability decision.
87. If the regulatory decision-maker does not think we have sufficient information relating to the applicant s/he should ask the applicant for any other information to support their application. If none is forthcoming s/he should ask them if they wish to withdraw and if not s/he should consider refusing registration, as the applicant is unable to demonstrate their suitability. Refusal will mean any applicant is disqualified from applying in future, although we would be likely to waive disqualification if it is on these grounds alone. We should make it clear to applicants who are withdrawing that we may be able to grant registration once they have established a history of living in this country. Normally we would require applicants to reside here for at least 12 months before reconsidering any application and longer in some circumstances (for example where there are no employer references).
88. If we receive a certificate of good conduct after granting registration we must treat this in the same way as we do any other information we receive in relation to a person's continued suitability. There is more information about making individual suitability decisions in paragraphs 130 to 133 (Childcare Register) and 253 to 263 (Early Years Register).

Right to work in the United Kingdom

89. The registration process does not include asking applicants about their entitlement to work in the United Kingdom. We should **not** routinely ask applicants whether they have permission to work in the United Kingdom or seek to give advice or guidance on this matter.
90. However, if in the course of checking the applicant's identification documents we see evidence that suggests the person may not be entitled to work in this country, we must not ignore it. We should ask the person to confirm that they now have the right to work here, for example through a letter from the immigration authorities. If they cannot provide any such evidence, we should consider refusal to register.
91. The regulatory decision-maker will need to consider the information we hold on a case-by-case basis, for example taking into account whether the applicant is in the process of applying for permission to work in the United Kingdom. Where the regulatory decision-maker is considering refusing registration and the only

reason for refusal is that the person does not have the right to work in the United Kingdom, the regulatory decision-maker should refer the case to the Compliance, Investigation and Enforcement Team who will decide whether to seek further legal advice. This is to ensure that our decisions are based on the prescribed requirements for registration and kept clearly within Ofsted's legal powers.

92. If we have any concerns regarding an applicant's identification documents in relation to their right to work in the United Kingdom, we should advise the applicant to contact the UK Border Agency for further advice. The UK Border Agency's contact details are:

The UK Border Agency
Lunar House
40 Wellesley Road
Croydon
Surrey
CR9 2BY

Telephone: 0870 606 7766
Email: UKBAPublicenquiries@ukba.gsi.gov.uk
Website: www.bia.homeoffice.gov.uk

Concerns relating to offences on Criminal Record Bureau checks and/or information from local authority children's services

93. When coming to a decision about the suitability of an individual where there are offences or other information that gives cause for concern, we must consider the:
- seriousness of the offence or other information
 - accuracy of the person's self-disclosure on the application form
 - nature of the appointment including levels of supervision
 - age of the individual at the time of the offence or other information
 - length of time that has elapsed since the offence or other information
 - relevance of the offence or information to working or being in regular contact with children.
94. Where we have concerns we can seek further help from:
- the Criminal Records Bureau website: www.crb.gov.uk

- *Child protection: preventing unsuitable people from working with children and young persons in the education service (Department for Education).*⁵²

Causes for concern: keeping a robust audit trail of decisions about someone's suitability

95. We must keep an audit trail of the processes we have been through in order to reach a decision on someone's suitability to work or be in regular contact with children. This enables us to demonstrate that we have followed the correct processes and taken appropriate steps to determine an applicant's individual suitability. The principles and approach outlined in this section apply to all applications, although we undertake fewer checks on applicants to the Childcare Register than on those who apply to the Early Years Register.
96. This means keeping a proper record of our decision-making, including evidence of who made the decision, what circumstances we took into account, and how we evaluated and assessed the evidence. This applies to evidence gathered during the registration process, or at any other time where we have to make a decision on suitability where we have a cause for concern. For example, a Criminal Records Bureau check or other intelligence may reveal an offence or other information that does not automatically disqualify a person from providing childcare or working with children but causes concern about a person's suitability.
97. We must record whether the concern relates to the applicant, or to someone else related to the application (for example, a household member).
98. Where we get information relating to concerns about an 'associate' of an applicant (such as a member of a childminder's household) or about someone who makes up an organisation providing childcare (such as a director or committee member) we must discuss the matter with the individual concerned before we say anything to the applicant. This is so that the individual concerned has a chance to tell us (and take up the matter with the Criminal Records Bureau or other agency) if the information is wrong, or can alert the applicant or registered provider if they do not already know about the issue. This process satisfies data protection requirements, which prevent us from disclosing information to the applicant about a third party. We can make contact with the individual in a telephone call, by letter, or at the registration visit, if we can talk to them separately from the applicant. Where we make such contact, we should record details in the Regulatory Support Application, so that there is a proper audit trail of the issues we have pursued during the registration process.
99. Where the individual concerned does not make contact with us, we must tell the applicant that we hold information that suggests an individual connected with the application is not suitable to work or be in regular contact with

⁵² www.teachernet.gov.uk/docbank/index.cfm?id=2172

children. We can tell the applicant the name of the person but we must not tell them about the information we hold. The applicant must decide whether to proceed with the application or withdraw. If they proceed we need to make it clear that we will not grant registration if the person about whom we have concerns continues to be part of the registration, unless that person gets in touch with us and we decide they are suitable.

100. All staff involved in each stage of the registration process must record evidence and an audit trail to arrive at a decision on someone's suitability. The audit trail on the Regulatory Support Application can only be recorded by Ofsted employees. Where an outsourced inspector receives information during the registration visit they must make sure they record evidence about the nature and source of the information and that this information is brought to the attention of the regulatory decision-maker.
101. A secure audit trail includes listing all events that are relevant to the process of determining an applicant's suitability, as they happen or directly afterwards, for example that:
 - the National Business Unit or the inspection service provider has referred an application to the Compliance, Investigation and Enforcement Team, and when
 - a visit or telephone call was made, by whom, and when
 - the cause for concern was discussed with the applicant or individual concerned, who conducted the interview and when
 - a phone conference took place, between whom and when
 - a case review took place to discuss an application, when it took place and who was present.
102. Inspectors carrying out registration visits in particular must ensure they keep a full record of evidence in relation to both the welfare and the learning and development requirements of the Early Years Foundation Stage when recommending refusal of registration, as we will need a full account of our reasons for refusing registration against these requirements in the case of an appeal hearing.
103. The National Business Unit will record telephone calls and letters relating to checks. Inspectors will need to record in their evidence any discussions with their helpdesk or with Ofsted about suitability issues or concerns.
104. We must retain the information from checks until any appeal period is over. This information will supplement other evidence such as a record that we have received an application, that we have received checks, and that we have made a decision to grant or refuse registration.
105. Please note that we must **not** normally copy anything from Criminal Records Bureau checks other than the number and date of the disclosure. We must not

record details of the particular conviction or caution or medical/social services information obtained from third party checks. Where individuals have not declared information on an application form, Criminal Records Bureau form or other check, but we find out about these during the registration visit for the Early Years Register, we may record the precise details of such information, but we must not identify the source of the information.

106. We can record information which is disclosed by the applicant or individual him/herself, including information relating to convictions. We must record this in such a way that it is clear that the individual shared this information with us.
107. We need to retain enough information necessary to provide an accurate and relevant record of the basis of the decision to grant or refuse registration; and to set out the reasons for refusal of registration in the event of an appeal.
108. The record of the decision should set out the thinking process that was carried out in balancing the risk of harm to children raised by the issue and the other factors that minimise this risk. We therefore need to record the factors we took into account in order to reach a decision and what that decision was, including:
 - details of any conviction or other information disclosed by the individual, recording the name of the individual if the regulatory decision-maker or Early Years HMI decides it is necessary
 - detail of any offence or information from a third party source, such as a Criminal Records Bureau check, copied exactly as stated on the source, but **without** stating where the information has come from where there is no self-disclosure
 - the seriousness of the offence or information
 - the accuracy of the person's self-disclosure on the application
 - the age of the individual at the time of the offence or information
 - the level of contact of the individual with children
 - the relevance of the offence or subject of the information
 - any mitigating factors taken into account which led us to grant registration, such as the age of the individual now, length of time that has elapsed since the offence, or that there were no other convictions.

Retention of records

109. The records we make will be supplemented by scanned versions of original documents, such as Criminal Records Bureau disclosure forms, that the National Business Unit retain on the Meridio system in accordance with Ofsted's file retention policy.
110. Information we hold about the registration process and decision will be deleted from the system six months after a decision has been made or six months after any appeal period has passed. If the information is to be held any longer,

because there were causes for concern during the registration process, the Principal Officer in the Compliance, Investigation and Enforcement Team is responsible for flagging this using the retention flag on the Regulatory Support Application.

111. Scanned documents kept on the Meridio system are automatically retained for one year to cover any appeal period and then destroyed. The only exception to this is Criminal Records Bureau checks where the Criminal Records Bureau requires us to destroy them six months after receipt. If, exceptionally, we need to refer to a Criminal Records Bureau check in any appeal after this date has passed, the Criminal Records Bureau will provide us, free of charge, with a copy of the check as it was issued.
112. For exceptional cases where there is an investigation by the Compliance, Investigation and Enforcement Team which may exceed the one year retention period of the scanned Meridio documents, the Compliance, Investigation and Enforcement Team should request the relevant documents from the National Business Unit and create their own local 'file' which they can manually delete when appropriate.
113. It is the responsibility of the National Business Unit, the Compliance, Investigation and Enforcement Team and the inspection service providers to destroy any scanned documents sent to them to help us make suitability decisions once the decision is made.

Choosing to keep information

114. There may be particular circumstances where we want to keep hard copies, scanned or electronic versions of documents that we have taken into account in reaching the decision to register. It is important to bear in mind that our purpose in obtaining such information was to reach that decision, and that we can only keep documentation following the decision in line with Ofsted's file retention schedule.
115. Where we decide to keep information, we must process that information in line with the Data Protection Act. It is not sufficient to keep it just because it raised a concern. If we have decided that the person is suitable for registration then arguably we have no further use for that information since we have made our decision. We are not permitted under the Data Protection Act to keep information indefinitely, just because it proved useful to us at a point in the past. If we wish to keep information, we must demonstrate and record that we have made a 'positive' decision to retain the information, and we must note the purpose of that decision in the 'retention reason' field on the Regulatory Support Application.
116. Where we retain information in these circumstances, we must regularly review whether or not we still need to retain it. Responsibility for this lies with the Principal Officer in the Compliance, Investigation and Enforcement Team.

117. The senior officer who signed off the decision to register following resolved concerns must use the update screen on the Regulatory Support Application to record:
- the retention reason (from a drop-down menu)
 - any relevant comments, including the date when this retention must be reviewed in the retention comments text box.
118. Where the next inspection is the trigger for review of information retained, the senior officer must also record in the Regulatory Support Application under *Comments for next inspection* that the retention of this information needs to be reviewed at the time of the inspection so that, at that point, the Principal Officer in the Compliance, Investigation and Enforcement Team can decide whether or not we still need to retain it. This is so that the inspector carrying out the inspection can consider if it is still relevant and make a recommendation to Ofsted about its continued retention.

Putting an application 'on hold' (stop the clock)

119. We aim to register applicants for childminding within 12 weeks and childcare providers within 25 weeks. Sometimes delays to this process are caused by applicants. We may put an application 'on hold' where there is a delay that is caused by the applicant. This is known as the 'stop the clock' facility on the Regulatory Support Application. We can only use this facility during the registration process; and can only put an application 'on hold' once.
120. Putting an application 'on hold' allows us to stop the clock for a period of time (four weeks, eight weeks, 12 weeks or a maximum of 16 weeks in exceptional circumstances) to allow us to discount such periods from Ofsted's registration target timescales. The regulatory decision-maker should make the decision at each review point up to 12 weeks. If, exceptionally, an application is put on hold for 16 weeks, a principal officer in the National Business Unit must agree the decision. After this period an applicant must either continue with their application (which may mean that we must refuse registration) or withdraw their application.
121. There is a set of definitive reasons why an application can be put 'on hold'. The reasons are:
- short-term illness, injury or hospitalisation for surgery
 - moving premises (childminding)
 - death in the family
 - significant building work or planning difficulties
 - pregnancy

- personal circumstances: where an applicant informs us that they are unavailable for a visit, for example because they are on holiday or for personal difficulties such as divorce
 - staffing: because the applicant for childcare on domestic or non-domestic premises has not yet appointed a manager
 - disqualification waiver applied for.
122. The inspection service provider may request that an application is put on hold when they are unable to arrange a visit for one of the 'on hold' reasons. The regulatory decision-maker will decide if an application is put on hold and the reason for this. The National Business Unit will send a letter (EYL 158) to the applicant to explain that there is likely to be a delay to the progress of their application and confirm the reason, and will inform the inspection service provider of the decision.
123. Once an application has been put 'on hold' an 'on hold clock' icon will appear on all Regulatory Support Application screens associated with the registration process.
124. The 'on hold' flag can be removed at any time. The regulatory decision-maker must arrange for the flag to be removed as soon as the applicant is ready to proceed. The flag **must** be removed **before** a registration decision is made and recorded on Regulatory Support Application. The inspection service provider must be informed once the flag is removed so that they can proceed with any visit.

Part 2: The Childcare Register

125. Please read this section in conjunction with the:
- *Guide to registration on the Childcare Register*
 - *Requirements for registration on the Childcare Register: childminders and home childcarers*
 - *Requirements for registration on the Childcare Register: childcare providers on domestic and non-domestic premises.*

Introduction

126. The Childcare Register is for people for whom registration is either:
- **compulsory:** because they care for children from 1 September following their fifth birthdays up to the age of eight and at least one individual child attends for a total of more than two hours in any one day
 - **voluntary:** because they care for children for whom compulsory registration is not required, for two or more hours in any one day or for a

period of less than two hours where this includes care provided immediately before or after a normal school day. This includes:

- home childcarers such as nannies (who care for the children of no more than two families at the home of one of the children) caring for children from birth until their 18th birthday
- providers who care for children from the age of eight until their 18th birthday
- activity-based provision like sports coaching.

The registration process

127. Applications for either or both parts of the Childcare Register are processed by the National Business Unit. Inspection service providers are not involved in the registration process.
128. Applicants apply online or through a paper-based application. The local authority does not hold application packs for those who only wish to apply to the Childcare Register.
129. Once a completed application form is received, the National Business Unit:
- checks that the application is made correctly, including that the correct individual or organisation has applied to be the registered person, and follows up any queries relating to the application
 - checks that the applicant confirms he or she meets or will meet all the requirements of the Childcare Register. These requirements are set out in the childcare factsheets: *Childcare Register requirements for childminders and home childcarers*; and *Childcare Register requirements for childcare providers on domestic and non-domestic premises*.⁵³ Once registered, providers must meet these requirements at all times when providing childcare
 - sends a letter confirming the application, including application forms for Criminal Records Bureau checks, information on how to get identity checked and requesting a first aid certificate
 - obtains an Ofsted enhanced Criminal Records Bureau check for the applicant and all those connected with the application, unless there is an existing disclosure carried out by Ofsted that is less than three years old
 - checks that the applicant has a current first aid certificate (childminders and home childcarers); or someone working with children has a current first aid certificate (childcare on domestic or non-domestic premises)

⁵³ *Childcare Register requirements for childcare providers on domestic and non-domestic premises*: (www.ofsted.gov.uk/publications/080143) and *Childcare Register requirements for childminders and home childcarers*: (www.ofsted.gov.uk/publications/080161).

- obtains a check of local authority children's services department records for the applicant and all those connected with the application
- obtains any further checks that are necessary such as where applicants have lived abroad.

Making the overall suitability decision

130. When **all** the required checks have been completed and indicate no concerns, the regulatory decision-maker must:

- review the application information to make sure that:
 - the application was made correctly
 - the applicant has confirmed they meet or will meet all requirements
 - the applicant has a current first aid certificate (childminders and home childcarers), or someone working with children has a current first aid certificate (childcare on domestic or non-domestic premises)
- where it is childcare on domestic or non-domestic premises, ensure that there is a manager in place who has been checked and found suitable
- review the checks to make sure no information has been overlooked
- ensure payment has been made and cleared
- approve the registration and arrange for the issue of a certificate of registration.

131. Where a cause for concern has been identified or the applicant has lived abroad in the last five years, the regulatory decision-maker makes the overall suitability decision for each individual and the overall registration decision based on the information available from the Criminal Records Bureau check, certificate of good conduct, and any further checks and investigations, including contact with the applicant or others connected with the registration if necessary.

132. Where information relates to more significant concerns, the regulatory decision-maker decides, in conjunction with the Compliance, Investigation and Enforcement Team, the next steps to take.

133. As a result of a cause for concern, the regulatory decision-maker may decide to do the following.

- Carry out further checks before making a decision on suitability. Where this is necessary, the regulatory decision-maker will arrange this through the relevant team in the National Business Unit.
- Interview the applicant or others connected with the registration. In some circumstances this may be done through a telephone call, but where concerns are more serious the regulatory decision-maker may decide a visit is needed. The Compliance, Investigation and Enforcement Team will arrange for a regulatory inspector or an Early Years HMI to carry out the

visit. The inspector should discuss the details with the regulatory decision-maker beforehand. The visit should primarily focus on the cause of the concern.

- Visit the premises where the childcare is to be provided.
- Limit the registration by imposing conditions as a result of the concerns.
- Refuse registration.

Applications to join the Childcare Register and the Early Years Register

134. A person may indicate on the Early Years Register application form that he or she:

- also wishes to join either or both parts of the Childcare Register
- confirms that he or she meet the requirements of that register.

135. When inspectors carry out the registration visit in respect of the Early Years Register they do not need to check that the applicant meets all the requirements of the Childcare Register. However, if anything comes to light which might affect registration on the Childcare Register, they must make a note of it in their evidence.

136. As a minimum, inspectors should check that the qualifications of the adults match those needed for older children, including first aid. In particular, childminders need to show evidence that they have had training in the *Common core of skills and knowledge for the children's workforce*⁵⁴ at the point of registration if they are applying to the voluntary part of the Childcare Register. Unlike for the Early Years Register and the compulsory part of the Childcare Register, they do not have six months after registration in which to obtain this training.

137. The process for issuing a certificate for those on both registers is covered in Part 3.

Granting registration

138. Once the overall decision to register a person on the Childcare Register has been made, the National Business Unit sends the applicant:

- a letter granting registration
- a certificate of registration
- the requirements for registration that providers must meet at all times

⁵⁴ *Common core of skills and knowledge for the children's workforce*, Children's Workforce Development Council, 2010; www.cwdcouncil.org.uk/common-core.

- a copy of *Are you ready for your inspection?*⁵⁵
139. We send out a suitability letter for everyone associated with the registration who we have checked. We do not send out a suitability letter in relation to the registered person, as their suitability is confirmed through the issue of their registration certificate.
140. Where individuals associated with the application are not suitable, we need to ask the applicant how they intend to deal with their suitability. For example, if the provider intended to appoint a manager who we decide is unsuitable, they will need to give us evidence that they are to appoint a different person as manager. If they tell us they intend to employ the original manager, regardless of our finding them unsuitable, then this will call the applicant's own suitability into account and we will need to refuse their application to register.

Conditions of registration

141. There are no standard conditions of registration where an applicant is **only** applying to join the Childcare Register. The regulatory decision-maker may decide in some circumstances to impose conditions, using the standard wording for conditions wherever possible.⁵⁶ There is more information on conditions of registration in Part 3.

Notice of intention to refuse registration

142. When the Compliance, Investigation and Enforcement Team senior officer or Early Years HMI signs off the **registration decision to refuse**, s/he should create a **notice of intention to refuse**. The Compliance, Investigation and Enforcement Team sends the notice of intention by recorded delivery to the applicant with a copy of the leaflet *How to object*⁵⁷ that explains how the applicant may object to the notice of intention.

Notice of decision to refuse registration

143. If no response or objection is received within **14 days**, the Compliance, Investigation and Enforcement Team will create and send a **notice of decision to refuse registration**. The Compliance, Investigation and Enforcement Team sends the notice by recorded delivery to the applicant with a copy of the leaflet *How to appeal*⁵⁸ that explains the appeals process.

⁵⁵ *Are you ready for your inspection?* (090130), Ofsted, 2010; www.ofsted.gov.uk/publications/090130.

⁵⁶ Standard wording for conditions is available at: www.ofsted.gov.uk/publications/100140.

⁵⁷ *How to object* (090212), Ofsted, 2010; www.ofsted.gov.uk/publications/090212.

⁵⁸ *How to appeal* (090211), Ofsted, 2010; www.ofsted.gov.uk/publications/090211.

Part 3: The Early Years Register – process

Please read this section in conjunction with the:

- *Guide to registration on the Early Years Register: childcare provider on domestic or non-domestic premises*
- *Guide to registration on the Early Years Register: childminder*
- Business process BP001.⁵⁹

Introduction

144. Childminders and childcare providers must register on the Early Years Register if they care for children from birth to the 31 August following their fifth birthdays, unless they are not required to do so or are exempt from registration.⁶⁰ This age group is referred to as the 'early years age group'.

145. We judge applicants as suitable for registration on the Early Years Register if they can demonstrate that:

- every person looking after children on the premises where childcare is provided is suitable to look after young children
- every person living or working on the premises where childcare is provided is suitable to be in regular contact with young children
- they meet or will meet all the welfare, and learning and development requirements of the Early Years Foundation Stage and any conditions of registration imposed by us
- they pay an application fee.

What is the Early Years Foundation Stage?

146. The Early Years Foundation Stage is the statutory framework for the education and welfare of children from birth to the 31 August following their fifth birthday. It must be delivered by all schools⁶¹ and registered early years settings making provision for children of that age, regardless of the type, size or funding of the school or setting.

147. A person is suitable for registration on the Early Years Register if their provision meets or will meet the welfare and learning and development requirements which comprise the Early Years Foundation Stage.⁶² Providers must also have regard to the supporting statutory guidance when seeking to fulfil the requirements. This means they must take it into account and must be able to

⁵⁹ Available at: www.ofsted.gov.uk/publications/100165.

⁶⁰ See *Registration not required*: www.ofsted.gov.uk/publications/080134.

⁶¹ Irrespective of whether early years provision made directly by them is exempt from registration.

⁶² See sections 39–40 of the Act; www.opsi.gov.uk/si/si2008/uksi_20081743_en_1.

demonstrate, if they are not following the supporting statutory guidance, how they meet the legal requirements set out in the *Statutory Framework for the Early Years Foundation Stage* document.⁶³

148. The general and specific welfare requirements are intended to support providers in creating settings that are welcoming, safe and stimulating, where children can achieve well and enjoy what they do, grow in confidence and fulfil their potential. The welfare requirements cover:

- safeguarding and promoting children’s welfare
- suitable people
- suitable premises, environment and equipment
- organisation
- documentation.

149. The learning and development requirements comprise:

- the early learning goals: the knowledge, skills and understanding which children in the early years age group should have acquired by the end of the academic year in which they reach the age of five
- the educational programmes: the matters, skills and processes which are required to be taught to those children in six areas of learning and development
- the assessment arrangements: the arrangements for assessing those children to ascertain their achievements.

150. Details of the requirements are set out in the *Statutory Framework for the Early Years Foundation Stage* and supporting regulations.⁶⁴

151. The *Practice Guidance for the Early Years Foundation Stage* is for providers and sets out useful advice and detailed information on implementing the requirements.⁶⁵

⁶³ *Statutory framework for the Early Years Foundation Stage*, DCSF, 2008
<http://nationalstrategies.standards.dcsf.gov.uk/node/151379>.

⁶⁴ The Childcare (Early Years Register) Regulations 2008 [2008 No.974] (www.opsi.gov.uk/si/si2008/uksi_20080974_en_1) and the Childcare (Early Years and General Childcare Register) (Common Provisions) Regulations 2008 (www.opsi.gov.uk/si/si2008/uksi_20080976_en_1).

⁶⁵ *Practice guidance for the Early Years Foundation Stage*, DCSF, 2008;
www.standards.dcsf.gov.uk/eyfs/resources/downloads/practice-guidance.pdf.

The registration process

Overview

152. The process for registration is set out in the registration business process flow chart BP001 (the chart is available at the same webpage as this document www.ofsted.gov.uk/publications/100165). It involves a detailed application, checks, interviews and visits to premises so that we can assess whether applicants are suitable for registration. When we decide that an individual applicant or organisation is suitable we will register them. Otherwise, we will refuse registration.
153. Applications for the Early Years Register are processed by the National Business Unit. Inspection service providers carry out the registration visit where there is no identified major cause for concern. They are responsible for raising any actions in relation to that visit, making sure actions are complete and making a recommendation for registration based on the visit. The visit normally happens when all checks are complete but may take place earlier where the regulatory decision-maker and/or the Compliance, Investigation and Enforcement Team decide it should. Where there are major causes for concern arising from checks or other information Her Majesty's Inspectors with an early years background carry out the registration visit and any accompanying interviews. The inspection service providers are not involved in the registration process.
154. There are clear lines of accountability and decision-making for all decisions in relation to registration, including the granting or refusing of registration. These are set out in the decision-making table at Annex A.

Receiving the application form

155. Applicants apply online, through downloading forms from Ofsted's website or obtaining an application pack from their local authority.
156. Once a completed application form is received, the National Business Unit:
- checks that the application is made correctly, including that the correct individual or organisation has applied to be the registered person, and follows up any queries relating to the application
 - sends a letter confirming the application, including application forms for Criminal Records Bureau checks, information on how to get identity checked and setting out the next steps in the process
 - obtains an Ofsted enhanced Criminal Records Bureau check for the applicant and all those connected with the application, unless there is an existing disclosure carried out by Ofsted that is less than three years old
 - carries out the relevant checks in accordance with the tables in the *Guide to registration on the Early Years Register: childcare provider on domestic*

or non-domestic premises, or the Guide to registration on the Early Years Register: childminder⁶⁶

- obtains a check of local authority children's services department records for the applicant and all those connected with the application
- obtains any further checks that are necessary such as where applicants have lived abroad
- once all checks are received makes a decision whether to refer the case to the Compliance, Investigation and Enforcement Team because there are concerns arising from the checks or allocates to the relevant inspection service provider to carry out the visit
- where there are minor concerns for following up, makes sure the inspection service provider has all the relevant information, including lines of questioning to pursue at the visit.

At registration, or when there is a new proposed manager for a setting, the National Business Unit must always check the declaration and consent form relating to a proposed manager to see if the person has a full and relevant level 3 qualification. Where they do not, the National Business Unit should contact the proposed manager and applicant/registered provider to inform them that the manager does not meet the qualification requirements of the Early Years Foundation Stage. This means that we cannot agree to the person holding that role. It does not mean that the person is necessarily unsuitable to work with children in a different capacity, subject to the relevant checks.

The registration visit

157. The registration visit is a key part of the process which we carry out in order to make a recommendation about the suitability of the applicant, including their ability to make sure premises are safe and suitable for children and that the applicant can meet the requirements of the Early Years Foundation Stage. The following guidance is intended to help inspectors carrying out such visits and supports the business process flowchart.

Recording evidence

158. Inspectors should use the agreed systems to collect and organise evidence, make judgements, raise actions, give feedback to the provider, propose conditions and confirm the setting information. It must be clear to anyone reading the evidence collected how and why the inspector has made their recommendation.

159. During the visit the inspector must assess whether the provision complies with the welfare and learning and development requirements of the Early Years

⁶⁶ See notes 3 and 4.

Foundation Stage and record the evidence for this. The evidence should include a judgement of 'met' or 'not met' for the following areas of the Early Years Foundation Stage:

- Learning and development
- Safeguarding and promoting welfare
- Suitable people
- Suitable premises, environment and equipment
- Organisation
- Documentation.

160. Part 4 gives details of the matters inspectors should consider in deciding whether the applicant meets or is likely to meet these requirements.

161. The inspector should also record:

- conditions on the registration such as the number and ages of children to be cared for
- actions that need to be taken within a given timescale and before registration can be granted.

162. Inspectors raising an action or condition must show in their evidence what the weakness or concern is, such as why we need to restrict the registration, or why we are allowing something to happen like overnight care. Inspectors should evaluate its significance by giving examples of discussions with the applicant, showing their understanding of what needs to be done and including brief notes of any actions he or she agrees to take. Again, it should be clear to anyone reading the evidence why the inspector has set the action or condition, and what the applicant is required to do. For example, in setting a condition relating to overnight care, the inspector's evidence must show clearly the reasons for that condition, such as whether it relates to the premises, or to people on the premises.

Inspectors should make sure that:

- evidence is clear
- evidence supports the overall recommendation
- evidence supports any actions and conditions
- judgements are fair and accurate.

163. It is particularly important to have sufficient secure evidence if the overall recommendation is that the applicant cannot demonstrate how he or she will meet requirements, and so we may refuse registration.

Arranging the visit

164. The process for the registration visit starts when the inspector receives information that a visit is due. All the required information to complete a visit is sent automatically from Ofsted. This may include additional information arising from the checks where inspectors need to know this and/or we require additional information. Inspectors will not normally carry out a registration visit until Ofsted has received information from all the checks associated with the application.
165. The inspector must contact the applicant to confirm the date of a registration visit. The content of the telephone call is set out in Annex C. The inspector should make sure the applicant has the Early Years Foundation Stage and the relevant guide to registration and questionnaire to help them prepare for the visit.

Preparing for the registration visit

166. When the inspector telephones the applicant to arrange the registration visit, they must explain that the applicant has to demonstrate how they will meet the welfare and learning and development requirements of the Early Years Foundation Stage during the visit (see 'Annex C. Early Years Register telephone checklist and document request'). The inspector should emphasize that the applicant needs to be fully familiar with all the requirements of the Early Years Foundation Stage and be able to demonstrate how they will put these into practice. The inspector should refer the applicant to the *Statutory Framework for the Early Years Foundation Stage* and the *Practice Guidance for the Early Years Foundation Stage*.⁶⁷
167. The inspector should also make sure the applicant has a copy of Ofsted's guidance booklet *Preparing for your registration visit*⁶⁸ available online and included as part of the application pack. This will help the applicant to prepare for the registration visit. By working through the questions, the applicant can think about how he or she intends to deliver a high quality childcare service, in line with the Early Years Foundation Stage, and how he or she will demonstrate this to the inspector during the registration visit.

During the visit

168. During the visit the inspector will:
- check again that the application is made correctly

⁶⁷ The Early Years Foundation Stage is available from the provider's local authority or www.standards.dcsf.gov.uk/eyfs.

⁶⁸ *Early Years Register: preparing for your registration visit* (080021), Ofsted, 2010; www.ofsted.gov.uk/publications/080021.

- check the applicant's identity and qualifications where appropriate
 - check that the applicant's risk assessment is sufficient to assure that the premises and equipment are safe and suitable for children
 - interview the applicant and assess his or her suitability to provide childcare and to deliver the Early Years Foundation Stage
 - interview the proposed manager where applicable
 - assess how many children the applicant may be registered to care for.
169. During the visit the inspector should use the questions in *Preparing for your registration visit* to draw out the applicant's knowledge and understanding of the Early Years Foundation Stage requirements and how he or she will meet them. The inspector can supplement these with other questions, as necessary, and should ensure that they probe fully any issues where it appears that the applicant may not be able to meet the requirements of the Early Years Foundation Stage. The inspector should ask open-ended questions that encourage the applicant to explain what he or she intends to do, for example, 'tell me how you will ...' and 'what if ...' Inspectors should use funnelling techniques that probe the previous response, and not ask closed questions that lead the applicant to the correct response, for example 'I assume you are going to fit a fire guard?'

Getting the registered person right

170. Although the National Business Unit will check the application to make sure that it is completed properly and is consistent with guidance, during the registration visit the inspector **must** check that this is correct, and that the applicant or his/her nominee understands the legal responsibilities of the role.
171. Inspectors must ensure that we register the correct person or organisation so that we can take any necessary future action, using the information in Part 1 and Annex B and the guides to registration.
172. Where the inspector believes an application is not made correctly, they should contact the early years helpdesk. The regulatory decision-maker in the National Business Unit will decide how this should be taken forward, including whether the inspector should withdraw. The regulatory decision-maker may ask the applicant to put in writing an explanation of the mistake and a request to rectify it, or request that the applicant puts in writing why he or she believes the application is correct.
173. If there is some doubt about who is to be the registered person for the setting, inspectors may find it helpful to ask the following questions:
- Which people will make up the organisation that is to provide the childcare?

- Who will have the main/lead responsibility in relation to the childcare?
- Who will recruit and pay the staff who will work in the childcare provision?
- Who will make the decisions about how the childcare is run, for example in terms of its opening hours, the age group it covers, and how much parents pay?
- Who will determine the educational programme that the childcare will offer, and who will make the decisions about how the childcare will meet the welfare and learning and development requirements of the Early Years Foundation Stage?
- To whom will the manager of the childcare setting report?
- Who will account for the income and expenditure that is associated with the childcare provision?

174. If the answers to these questions suggest that the wrong organisation is applying to register to provide the childcare, the inspector should tell the person that they believe the application for registration of the childcare provision may be incorrect. The inspector should say that someone from Ofsted will telephone them to discuss their application so that it is legally correct. The inspector should include in their report of the registration visit the information they have gathered about the registered person issue, so that the National Business Unit can pursue this separately with the applicant. The inspector should take advice from the National Business Unit on whether the registration visit should continue in advance of the correct person applying to register.
175. On receipt of this information from the inspector, the National Business Unit should contact the applicant for a discussion about who will be the registered person for the provision. The National Business Unit can use the questions outlined above to clarify who will be the registered person for the childcare. If the National Business Unit is in any doubt, they should contact the early years and childcare team in the development directorate for advice.
176. Inspectors must check the accuracy of the information sent to them as part of the registration visit to make sure that Ofsted has the correct individuals associated with the application. Inspectors should check the details of any individuals aged 16 or over related to applications from potential childminders or childcare providers on domestic premises. In the case of childcare on non-domestic or domestic premises, inspectors should check the details of the manager and any individuals who make up the registered person. If at the visit inspectors find any individuals who are not known to Ofsted, or any individuals known to Ofsted who have yet to complete a declaration and consent form (EY2), they should remind the applicant that Ofsted cannot make a registration decision until we are sure these individuals are suitable.
177. The inspector must also check and confirm that the applicant has applied to be registered on the correct registers. Where they believe the applicant has applied to the wrong register or wishes to extend their application to a different

register they must again seek advice from the early years helpdesk. The regulatory decision-maker in the National Business Unit will decide whether a new application and fee is needed or ask the applicant to put in writing an explanation of the mistake and a request to rectify it, or requesting that the applicant puts in writing why he or she believes the application is correct. If necessary, the National Business Unit will update the relevant flags on the Regulatory Support Application to indicate which of the registers the applicant will be registered on.

178. The inspector must confirm that they have checked the applicant, those associated with the registration and the registers as part of their evidence.
179. It is an offence to make a false or misleading statement in an application. If it appears, from either the registration visit or from other evidence considered as part of the suitability decision, that someone has done so, the National Business Unit should seek advice from the Compliance, Investigation and Enforcement Team on how to deal with this.

Change of ownership

180. If the application is a change of ownership from an existing registered provision, and the regulatory decision-maker decides that either we need additional information (for example because there is a cause for concern), or that we do not, in this case, need to follow the full registration process, the National Business Unit will alert the inspection service provider when they send through the registration visit for allocation. If the application is a change to one of the organisations covered by Ofsted's National Provider Scheme, the inspector may want to review the most recent head office audit of that provider, so they can consider whether the provider meets the requirements relating to policies and procedures.

Checking identity

181. Ofsted will already have checked the identity of the applicant and other individuals associated with the application as part of obtaining Criminal Records Bureau checks through Ofsted's identity checking partner, HR Assurance Services. However, inspectors must also always check the identity of the applicant at the registration visit so that we can satisfy ourselves that the applicant and those connected with a registration are who they say they are and that they are not seeking to hide information that may prove they are unsuitable to be in contact with children.
182. The range of documents we accept to support identity and name change are similar to those required by the Criminal Records Bureau and other government departments to prove identity. We do not insist on any particular piece of evidence but, overall, inspectors need to see a range of information to satisfy us. The identity documents must show proof of the current name and any other names used by the applicant. One should preferably be photographic ID such

as a current passport or a new-style photo driving licence. If the applicant does not have photographic ID, the inspector will need to see his or her full birth certificate.

183. If the applicant has changed his or her name by marriage, deed poll, adoption, statutory declaration or any other means, inspectors need to see evidence of this change, for example a marriage certificate or decrees.
184. In addition, inspectors will need to see two pieces of evidence confirming the current address, for example:
 - a utility bill (gas, telephone, electricity)
 - a credit card, bank or mortgage statement
 - any recent communication from the local authority or a government agency such as the Department for Work and Pensions (DWP).
185. Inspectors should record in their evidence details of the identity documents seen at the registration visit. If a person refuses to provide evidence of their identity the inspector should record this in their evidence and recommend refusing registration. The National Business Unit will consider refusing registration, in discussion with the Compliance, Investigation and Enforcement Team as necessary.

First aid certificates and other documentation

186. The potential childminder or at least one person in group settings **must** have a first aid certificate at the point of registration. Inspectors must see proof of a first aid qualification and must record the details of the certificate in their evidence. Where a childminder indicates that they intend to leave an assistant in sole charge of children, and the inspector is of the view that this is acceptable and should be added as a condition of registration, then the inspector will also need to see proof that the assistant has a valid first aid certificate. The inspector should record this in their evidence, so that the regulatory decision-maker can take this into account when deciding whether to agree a condition of registration that allows the childminding assistant to have sole charge of children in some circumstances.
187. If the applicant has no evidence of an appropriate first aid qualification at the pre-registration visit, the inspector must raise an **action**, to be completed before registration is granted. The wording of the action is: 'The applicant must complete local authority approved paediatric first aid training and notify Ofsted of: the name or type of qualification; the organisation awarding the qualification; the date it was obtained; and the duration of the course in hours'.
188. The inspector must remind the applicant that we will check the certificate at the first inspection visit and that it is an offence to make a false or misleading statement in relation to their application.

189. When the applicant confirms that they have carried out the action, the inspection service provider checks the information, signs off the action as completed and informs the National Business Unit to make a note in 'Comments for next visit' to check the original certificate at the first inspection.
190. If the applicant has not completed the first aid qualification the inspector must recommend refusal to Ofsted. Ofsted will take steps to **refuse** the registration.
191. If the applicant intends to use a motor vehicle for transporting the children in their care, the inspector needs to see a valid insurance and a MOT certificate (where applicable) for each vehicle, and the driving licences of each person driving the vehicle(s). Inspectors should record the documents seen in their evidence.
192. Inspectors should also see and make a note in their evidence of any certificates of childcare qualifications held by the applicant if he or she intends to work directly with children. If these are not sufficient, for example if the person intends to manage the childcare and does not have a level 3 qualification, the inspector must recommend refusing registration.
193. Where childminding applicants have applied to be on the voluntary part of the Childcare Register, inspectors must also check that they have the common core or a level 2 qualification before they can be registered on the voluntary part of the Childcare Register. They do not have six months after registration to gain this. Childcare providers on non-domestic premises must meet the qualification requirements for childcare providers and not childminders and must hold these at the point of registration.

Criminal Records Bureau disclosure application form

194. The National Business Unit will have carried out Criminal Records Bureau checks on all those associated with the application before the registration visit takes place.
195. If, during the visit, the applicant or other individual asks the inspector to sign their Criminal Records Bureau disclosure application form, for example because the applicant has a newly appointed manager or a new person has joined a committee, the inspector must tell them that they cannot do so. The applicant or individual must arrange for this to be signed in line with the procedures that we sent them when we acknowledged their application to register.

Suitable person interview

196. As part of the application process for registration on the Early Years Register, and as part of continued suitability for registration once registration is granted, we interview the applicant or their nominee and normally the proposed manager of childcare provision on domestic and non-domestic premises. This is known as a 'suitable person interview'.

197. For applicants and their nominees this interview is part of the registration visit and leads to the overall recommendation on registration. For the proposed manager it is carried out as a separate event with the evidence recorded and submitted separately. Where a manager is found to be not suitable, the overall registration recommendation must be to refuse registration. The National Business Unit will then take forward with the applicant whether the applicant wishes to appoint a different manager.
198. Inspectors do not interview the proposed manager where the regulatory decision-maker in the National Business Unit decides this is not necessary. This is when:
- the person has already had a suitable person interview and is suitable; or
 - the person has held a manager's role at another setting since 2001 and there have been no previous concerns about their suitability; and
 - all checks are completed and/or there have been no concerns about the person's suitability; and
 - the individual meets all the requirements of the Early Years Foundation Stage for managers including the qualification requirements.
199. For most childcare on domestic or non-domestic premises inspectors must conduct separate interviews with the applicant and the proposed manager and in these bring out the nature of the professional relationship and the responsibilities of each role. Where possible, inspectors should carry out both of these during the registration visit rather than return for a second visit.
200. It is helpful to carry out the interview with the applicant or nominated person before the interview with the proposed manager so that roles and responsibilities are clearly established. It is appropriate for an applicant or nominated person with no direct experience of providing childcare to delegate to the proposed manager, some or all of the responsibility for meeting the requirements of the Early Years Foundation Stage. However, the applicant or nominated person is still accountable for meeting the requirements for registration. They must demonstrate that they understand that the accountability cannot be delegated to the proposed manager. The interview must draw out how these responsibilities are delegated, and inspectors must judge whether the arrangements are suitable and sufficient. Where responsibilities are delegated, interviews with proposed managers should establish their awareness of their accountability in ensuring the requirements and other regulations are met. The interviews should show both parties have a consistent understanding of their proposed roles and responsibilities.
201. The National Business Unit, in discussion with the Compliance, Investigation and Enforcement Team as appropriate, will advise inspectors of any particular issues they should pursue during the interview, through the agreed system for the exchange of information. These might include issues arising from checks

undertaken, or other matters that the applicant or manager has declared in their application documents.

202. Inspectors must not ignore any additional information about suitability that comes to light before or during the interview. If information comes to light during the interview and the inspector is unsure about how to proceed, they should tell the interviewee that they need to seek advice before concluding the interview. Inspectors should seek advice from the early years helpdesk in the first instance. It will in turn seek advice from the National Business Unit and/or the Compliance, Investigation and Enforcement Team if necessary.
203. Inspectors should record in their evidence whether they recommend registration based on the interview(s).
204. There is more information on suitable person interviews in Part 6.

Concerns about the health of an applicant or manager particularly relating to drug or alcohol misuse

205. Any of the checks carried out in connection with a registration may disclose evidence of health concerns including drug or alcohol misuse. Where we have information from checks or other sources that give rise to concerns about drug or alcohol misuse, we **must** investigate further. Please refer to:
- Annex D. Concerns about the health of an applicant or manager particularly relating to drug or alcohol misuse
 - Annex E. Guidance on the recommended limits of alcohol drinking
 - Annex F. Scenarios relating to suitability issues which relate possible suitability issues involving drugs and alcohol.

Other concerns raised during the registration visit

206. During the registration visit the inspector may encounter a number of issues which might raise concerns, other than those related to drug or alcohol misuse. These might include:
- obvious health problems which were not mentioned in the pre-registration material provided to the inspector
 - regular visitors to the premises, who do not need to be checked as part of the registration process, but who may be on the premises when children are being looked after
 - evidence of hobbies or pursuits undertaken by the applicant which might have the potential to be harmful to young children, for example firearms on the premises.
207. Where the inspector identifies any issues that might cause concern, they must ensure that they:

- discuss these with the applicant in full during the registration visit
- record full details of these discussions in their evidence.

208. Inspectors should seek further advice as appropriate when they identify concerns during the registration visit, from the early years helpdesk, regulatory decision-maker or Compliance, Investigation and Enforcement Team. When making the registration decision, the regulatory decision-maker will need to take account of any concerns raised by the inspector and where appropriate, arrange for further checks to be undertaken, and/or discuss the issues of concern with the Compliance, Investigation and Enforcement Team.

Actions and conditions

Actions before registration

209. During a registration visit applicants must demonstrate how they will meet the requirements when they start to look after children. Where an applicant cannot demonstrate how he or she will meet the requirements of the Early Years Foundation Stage, inspectors may:

- raise an action or actions
- invite them to withdraw
- recommend further checks or information
- recommend refusing registration where either concerns are significant or actions are not carried out within the timescale.

210. As part of our proportionate approach to regulation we must give applicants an opportunity to meet the requirements unless we have serious concerns about their suitability. Therefore, inspectors should normally raise actions for an applicant to complete **before** registration to ensure an applicant meets a requirement/s.

211. Inspectors should not raise actions for:

- small improvements where an applicant demonstrates that they meet, or are likely to meet, the general requirements, for example ensuring that the first aid box is fully stocked. Inspectors should, however, point out these minor shortcomings to the applicant
- things that an applicant cannot, or may not, achieve before registration, such as a full range of equipment for all ages
- cases where an applicant's understanding of the requirements is limited and not likely to improve in a short period of time. In this situation the inspector should recommend refusal unless the applicant withdraws.

212. Inspectors should set a timescale of two weeks from the date of the visit for all actions. If, for a good reason, an applicant cannot meet an action within two

weeks, the inspector may extend this period to four weeks with the agreement of their inspection service provider. We cannot register an applicant if they have been set actions and these are not completed satisfactorily before registration.

213. Inspectors should explain to applicants that they will receive an action letter with a reply slip. Applicants must complete actions and reply within this time, in order to establish their suitability. If actions are not completed when Ofsted is ready to make a decision on their registration, it will be refused. Inspectors should also inform applicants that they must make sure they give enough detail to satisfy Ofsted that they have met the requirement in their reply.
214. Where an applicant indicates he or she is not ready, or is unlikely to complete actions in the time required, inspectors must explain the options available. These are to:
- complete the actions in the time stated, so that Ofsted can grant registration (subject to other checks being clear) – in all cases applicants must complete actions before registration is granted
 - not carry out the actions in the time stated without good reason – in these cases, we are likely to refuse registration, as the applicant is not able to demonstrate suitability; the applicant will also be disqualified from providing childcare in future, unless we agree to waive their disqualification
 - withdraw the application, and apply again when ready to do so – inspectors must remind applicants that if they withdraw, any application fee is not refunded.

Note: Only applicants can decide to withdraw, inspectors and Ofsted cannot decide to withdraw an application. Inspectors must not put pressure on individuals to withdraw but should simply explain the options.

215. The inspection service provider will send out the letter setting out the actions for completion and the timescale for doing these. If the applicant does not respond to actions within the allocated timeframe, the inspection service provider will issue a reminder. If the applicant still fails to respond the inspection service provider will follow this up with the applicant, normally by telephoning him or her. Where actions are not completed satisfactorily; or the applicant gives a good reason for not completing them; or no response is received, the inspection service provider will recommend refusing registration and send the information to the Compliance, Investigation and Enforcement Team to consider refusing registration.

Quality assuring actions

216. The inspection service provider must ensure all actions are clear and correctly worded so that the applicant can understand what they need to do to meet the

requirement, and that actions do not contain any spelling or grammatical errors. The standard wording for actions⁶⁹ may also be used at registration.

Conditions of registration

217. A condition is a restriction to a provider's registration, or gives permission to do certain things like provide overnight care. A breach of conditions of registration, without reasonable excuse, is an offence. Conditions of registration apply at all times. We use standard wording for conditions wherever possible.⁷⁰ All registrations on the Early Years Register must have conditions relating to:
- the number and ages of children a provider may care for
 - whether or not a provider may offer overnight care.
218. Registrations may also have conditions that are particular to that provider. These may include:
- restrictions to the registration, for example to exclude sections of the home or the premises in the interests of children's safety, or to specify the area that is to be used for childcare in a shared premises
 - permission to operate in a particular way, for example to allow an assistant to be left alone with children for short periods of time.
219. We do not usually impose conditions for providers who are only on the Childcare Register but we must consider if these are necessary where providers are on both registers. It is usually appropriate to impose conditions relating to both registers where this is the case so that care for older children does not impact on care for children in the early years age group.
220. The inspector must recommend the conditions that should be applied to the registration and agree these with the applicant wherever possible. They must include all conditions along with their registration recommendation to the National Business Unit, together with clear reasons why they are imposing the conditions, for example if restricting the numbers of children that can be looked after because the premises is too small to accommodate a larger number. The regulatory decision-maker will agree the conditions as part of the review of the application before making the registration decision.
221. Inspectors should not recommend conditions to reinforce what is already in the Early Years Foundation Stage (for example, that the provider must ensure that the individual needs of all children are met). The exception to this is the numbers and ages of children. We always include conditions about the number

⁶⁹ Standard wording for actions is available at www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Standard-wording-for-actions-for-providers-on-the-Early-Years-Register.

⁷⁰ Standard wording for conditions is available at www.ofsted.gov.uk/publications/100140.

and ages of children to inform parents and to allow providers the right to object and appeal against our decision.

222. When recommending or agreeing the number of children and ages of children with the applicant (childminding), the inspector/regulatory decision-maker should **not** include in this number the proposed childminder's own children, or any other children for whom they are responsible. When agreeing the number and ages of children the number should be the maximum to which the applicant is entitled, taking account of space, the childminder's own children and other children for whom they are responsible. There are special rules that apply to conditions of registration for childminders when children are in full-time education, and where childminders wish to use assistants. Inspectors and regulatory decision-makers should consult the factsheet *Numbers and ages of children childminders may care for*⁷¹ and use the standard wording for any conditions used.
223. Granting the maximum number of children gives the childminder a choice of how many to care for and reduces the need for variation requests. If we do not grant the maximum number we must show clearly that any limited numbers are at the childminder's request and not because we wanted to limit numbers for some other reason such as to see if the childminder can cope. There may be situations, such as space or information arising from health checks, where we may wish to limit numbers. The National Business Unit will make clear in *Information to be carried forward from this inspection* any reason for doing this.
224. For all childminders and providers of childcare on domestic and non-domestic premises there must also be a condition stating whether or not a registered person can provide overnight care.
225. Sometimes applicants, usually childminder applicants, may ask inspectors to exclude part of their premises from childcare through a condition of registration. Often this might be access to upstairs bedrooms. Inspectors should do this only where they have concerns about that part of the premises or are not given access to that part. Where parts of the premises are permanently inaccessible to children, for example because of a locked door, there is no need for the inspector to look at that part of the premises or impose a condition on the registration. Inspectors should explain to applicants that they can manage access without the need for a condition and the limitations conditions of registration bring, including that registered providers commit an offence if at any time they breach the condition without reasonable excuse.

⁷¹ *Numbers and ages of children that childminders may care for* (080293), Ofsted, 2010; www.ofsted.gov.uk/publications/080293.

Wording conditions

226. Inspectors and regulatory decision-makers must write conditions to follow on from the stem '*The childminder*' or '*The registered person*'. They should write them clearly and unambiguously so that the provider is left in no doubt about what they must do, using phrases such as 'must' or 'must not'. Those writing or reviewing conditions must make sure that as far as possible they follow the standard text. However, it is also important that conditions accurately reflect the situation we want to restrict or allow to happen so standard text must be amended where appropriate to reflect the exact circumstances for the registration. The standard text provides further insight into how to word conditions. The National Business Unit is responsible for making sure conditions are checked for spelling and grammar, and that the details on the certificate of registration are correct.

Registration visit recommendation

227. When inspectors have conducted the registration visit and collected all their evidence, they will make one of the following registration visit recommendations:

- suitable
- suitable with actions
- not suitable.

228. Inspectors should include this recommendation in their evidence before submitting it. The regulatory decision-maker in the National Business Unit will consider the inspector's visit recommendation, alongside evidence from checks conducted, and make the overall decision on whether or not to grant registration. If registration is to be refused, because the registration visit recommendation is 'not suitable' and/or the checks carried out result in an unresolved cause for concern, the regulatory decision-maker and/or inspection service provider will refer the case to the Compliance, Investigation and Enforcement Team for the issuing of the relevant notices.

Notice of intention to refuse registration

229. When the Compliance, Investigation and Enforcement Team senior officer or Her Majesty's Inspector with early years expertise signs off the registration decision to refuse, s/he should create a notice of intention to refuse. The Compliance, Investigation and Enforcement Team sends the notice of intention by recorded delivery to the applicant with a copy of the leaflet *How to object*⁷² that explains how the applicant may object to the notice of intention.

⁷² See note 57.

Notice of decision to refuse registration

230. If no response or objection is received within 14 days, the Compliance, Investigation and Enforcement Team will create and send a notice of decision to refuse registration. The Compliance, Investigation and Enforcement Team sends the notice by recorded delivery to the applicant with a copy of the leaflet *How to appeal*⁷³ that explains the appeals process.

Writing the paragraph of factual information about the setting

231. Before giving feedback, unless the recommendation is 'not suitable', inspectors should draft the paragraph of factual information about the setting. Pages six to eight of the *Guidance on writing early years inspection reports*⁷⁴ gives guidance on what this paragraph should contain.

Giving feedback at the end of the registration visit – recommendation 'suitable' or 'suitable with actions'

232. The inspector must give feedback at the end of the registration visit and include the provisional recommendation. If, rarely, the inspector needs to withdraw to seek advice before giving feedback, they should explain briefly that they are seeking advice and will return to give feedback at a later stage.

233. During feedback inspectors should:

- thank the applicant
- invite note taking
- agree the detail of the paragraph in the registration evidence on 'Information about the setting' wherever possible
- confirm the actions needed before they can be registered and whether a follow-up visit may be required
- be clear if any further consultation is needed before actions are raised or conditions imposed
- give the registration visit recommendation, but make it clear that this is not a final decision on registration overall as this will need to take account of other information gathered during the registration process, such as information from checks carried out
- confirm the proposed conditions of registration which, if agreed by the regulatory decision-maker, will appear on their certificate including numbers of children and overnight care, and explain that these will be

⁷³ See note 58.

⁷⁴ *Guidance on writing early years inspection reports* (080166), Ofsted, 2010; www.ofsted.gov.uk/publications/080166.

verified by Ofsted and the final conditions included in their registration certificate

- make sure applicants are clear about what happens next including, where applicable:
 - the letter they will receive explaining the actions that need to be taken before registration can be agreed (where applicable)
 - how they inform the inspection service provider of actions taken (where applicable)
 - the letter to inform the outcome of the suitable person interview with the manager, where applicable
 - the process for the final decision on registration to be made by Ofsted, taking all matters into account.

234. Always ensure that the provider understands these messages, and finish the feedback on a positive note.

Feedback on the suitable person interview with the manager

235. When an inspector has completed a suitable person interview with the manager, they will make one of the following interview recommendations:

- suitable
- not suitable.

236. The inspector should communicate the findings from the suitable person interview to the applicant and manager but make it clear that the final decision on suitability rests with Ofsted, who will send a letter to the applicant, copied to the manager, to confirm the final suitability decision for the manager.

237. If the suitable person interview recommendation is 'not suitable', the inspector may want to seek further advice but must always give the proposed manager some feedback from the interview.

Note: We do not send a suitable person interview outcome letter to the applicant. The suitability or unsuitability of the applicant is confirmed through the issue of the certificate or notice of intention to refuse registration.

Visit decision – 'not suitable'

238. If on the basis of a suitable person interview with the applicant and assessment of the premises, the inspector's visit recommendation is 'not suitable', they should record this in their evidence, including full details of the reasons why they have reached this recommendation.

239. The inspector will need to give feedback on their recommendation of 'not suitable' to the applicant for registration. The inspector should:

- tell the applicant that, on the basis of their registration visit, they will be recommending that the applicant is not suitable
 - explain the reasons for their recommendation
 - explain that this is not the final decision on their application, and that the final decision will be made after taking into account both the visit recommendation and other information gathered during the registration process, for example information from the checks carried out
 - explain that if their application to register is refused, they will be advised in writing of their rights to object to, and appeal against, Ofsted's decision to refuse registration
 - tell the applicant that they may withdraw their application if they wish to do so
 - explain that if we refuse their application to register, they will be disqualified from registration in the future unless Ofsted agrees to waive their disqualification.
240. The Compliance, Investigation and Enforcement Team, in conjunction with the regulatory decision-maker, will make the final decision based on the evidence from the registration visit and all other checks and information. Where the regulatory decision-maker believes that registration should be refused, he/she must record the decision on the Regulatory Support Application. The regulatory decision-maker will need to send all potential refusals of registration to the Compliance, Investigation and Enforcement Team.
241. The Compliance, Investigation and Enforcement Team will review the registration process and sign off the decision to refuse, in line with the decision-making matrix. The review may include checking the evidence from the registration visit and any suitability checks. It may be carried out by either the principal officer or the senior officer in the Compliance, Investigation and Enforcement Team, in line with the decision-making matrix. The Compliance, Investigation and Enforcement Team must sign off the refusal on the Regulatory Support Application and ensure that the reasons for refusal are recorded.

After the registration visit

Review response from the action letter

242. On receipt of the response from the action letter, the inspection service provider must ensure that the applicant has completed all actions **before** making the recommendation to the regulatory decision-maker. Where the inspection service provider confirms that actions are complete, the National Business Unit will update the Regulatory Support Application.
243. If the inspection service provider is not satisfied with an action response they should record the reasons why they do not believe the actions taken are

sufficient in the evidence. They will submit their recommendation to the Compliance, Investigation and Enforcement Team.

Submit registration evidence

244. Inspectors must submit the registration evidence and recommendation as final in line with the key performance indicators for registration.

Submit suitable person interview evidence

245. Inspectors must submit the evidence from a suitable person interview on the proposed manager in line with the key performance indicators.

246. Whenever inspectors carry out a suitable person interview for a proposed manager and the person does not hold a relevant qualification at level 3 or above (as defined by the Children's Workforce Development Council (CWDC)) they must make this clear in their evidence, and mark the overall suitable person interview recommendation as 'not suitable'.

247. Action plans are not acceptable for new registrations. A qualified manager must be in place. In these cases, the regulatory decision-maker must reach the decision that the manager is 'not suitable' and record the reasons on the Regulatory Support Application, so that these populate into the outcome letter EYL439 sent out by the National Business Unit to the applicant/registered person and interviewee. Further information on qualifications can be found in the guidance for inspectors on *Qualifications for those on the Early Years and Childcare Registers*.⁷⁵

248. The suitable person interview focuses on the individual's knowledge and understanding of the requirements in relation to the **role and responsibility that person holds**. Therefore if the role for the person interviewed does not require him/her to have any qualifications, then the overall suitable person interview recommendation can still be 'suitable'. The National Business Unit will need to update the Regulatory Support Application to show that childcare qualifications are not required due to the role the person is taking. An example of this could be for a nominated person in which case evidence would state that the person is qualified for the role and a manager is employed who has suitable experience and qualifications as specified in the requirements.

Note: If the interview decision is 'not suitable' it will not necessarily prevent the person interviewed from becoming suitable. However, the applicant must be able to demonstrate how he/she will ensure that the person employed as a manager has suitable skills and knowledge required for their role.

⁷⁵ *Qualifications for those on the Early Years and Childcare Registers* (100160), Ofsted, 2010; www.ofsted.gov.uk/publications/100160.

249. The concerns do not necessarily mean that the person is unsuitable to work with or be in contact with children. The regulatory decision-maker must make a separate decision about this based on the results of a number of checks.
250. The National Business Unit may also want to record comments/information in the text box *Information to be carried forward*. Information recorded in this text box will be provided to the inspector in advance of the next inspection.
251. The regulatory decision-maker will update the Regulatory Support Application and send a suitable person interview outcome to the individual interviewed and a copy to the applicant/registered person.
252. Before sending this letter, the National Business Unit must ensure that all the requested checks on that person have been received and have been marked as 'suitable' in the Regulatory Support Application.

Complete registration

253. The National Business Unit regulatory decision-maker **must** update the Regulatory Support Application following the receipt of the registration visit recommendation, the conditions of registration and confirmation that all actions are complete. They must review the application, all checks and the evidence leading to the recommendation by the inspector; as well as the way the registration details are captured on the Regulatory Support Application. This will ensure that there is a:
 - check of the data we keep on the registered provider to make sure this is accurate and recorded in the right place
 - final scrutiny of all the factors that led to the decision
 - secure audit trail that shows this has been done.
254. It will also allow the National Business Unit to update the information about the registered person/manager in the light of any further details that the inspector has included in their evidence. This will ensure that the provider records on the Regulatory Support Application are up to date and that the correct details appear on the certificate of registration.
255. If the regulatory decision-maker is unable to make a registration decision without further information, they should identify what further information or checks are necessary before recording the decision and take steps to obtain this further information. This could include:
 - referring any health concerns identified by the inspector during the registration visit to Ofsted's medical advisers
 - asking for additional checks
 - putting the application 'on hold'

- referral to the Compliance, Investigation and Enforcement Team for interviews under the cause for concern process.

Note: The trigger for achievement of the 70% target for registration decisions is the date the notice of intention to refuse registration or the certificate is created.

256. The regulatory decision-maker will carry out the review when all the following are complete:

- all actions are complete and closed
- all necessary suitability decisions are made
- all requested premises checks are complete
- the application fee is paid.

257. The regulatory decision-maker can easily access the screens listed below from the *Manage registration decision* screen, to help in making the overall registration decision:

- individual checks
- actions
- list visits
- detail registration

258. The regulatory decision-maker must review the visit decision, suitability decision, actions (where applicable), memos and registration comments recorded in the Regulatory Support Application and make the registration decision within **five** working days of receiving the information and evidence. Where there are no concerns about the suitability of individuals the regulatory decision-maker makes the overall registration decision to register in the *Manage registration decision* screen.

259. Where there are no concerns recorded, but there is a delay with a specific request – for example a check from the Soldiers, Sailors, Airmen and Families Association or a reference – the regulatory decision-maker can, exceptionally, still make an overall registration decision to register. The regulatory decision-maker should record this in registration comments.

260. Where there have been concerns and these are now resolved, the regulatory decision-maker makes the decision to register but this must be signed off by a senior officer in the Compliance, Investigation and Enforcement Team. The senior officer signs off the decision to register and records this in the Regulatory Support Application.

261. When the regulatory decision-maker records the overall registration decision as 'register' the Regulatory Support Application will initiate the following actions:

- a task for the National Business Unit to send a letter granting registration and the certificate of registration (also including *The requirements of the Early Years Register*, the *Guide to completing the online self-evaluation form*, *Are you ready for your inspection?* booklet, and the poster for parents)^{76, 77, 78, 79}
- set the inspection deadline and prompt dates. The deadline is seven months after the decision date; the prompt date is 12 weeks before the deadline date. The regulatory decision-maker can change the prompt date if they require the inspection to be carried out at an earlier date.

262. Where the regulatory decision-maker makes the decision to refuse registration, they must refer the case to the Compliance, Investigation and Enforcement Team. The senior officer must sign off and record the reason for the refusal in the Regulatory Support Application in the *Reason for refusal* text box. The National Business Unit will send out the notice of intention to refuse registration.

263. The National Business Unit sends the notice of intention to refuse by **recorded delivery** to the applicant with a copy of the *How to object* leaflet.⁸⁰ If the applicant objects to the notice of intention to refuse, refer to the objections process set out in the Compliance, Investigation and Enforcement Handbook.⁸¹ If no response or objection is received within **14 days** the National Business Unit sends out a 'Notice of decision to refuse' letter by **recorded delivery** to the applicant, including the *How to appeal* leaflet.⁸²

Note: Overall registration decision

Straightforward registration with no concerns about the suitability of individuals – the regulatory decision-maker makes the overall registration decision in the *Manage registration decision* screen, having reviewed all the information.

Registration following resolved concerns – the regulatory decision-maker makes the overall registration decision in the *Manage registration decision* screen, and the senior officer in the Compliance, Investigation and Enforcement Team signs off the decision in the *Manage registration decision* screen.

Refusal of registration – the regulatory decision-maker makes the refusal decision in the *Manage registration decision* screen. The senior officer in the Compliance,

⁷⁶ See note 19.

⁷⁷ www.ofsted.gov.uk/publications/080104

⁷⁸ See note 55.

⁷⁹ *Poster for parents: childcare*, Ofsted, 2008; [www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Poster-for-parents-childcare/\(language\)/eng-GB](http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Poster-for-parents-childcare/(language)/eng-GB).

⁸⁰ See note 57.

⁸¹ *The compliance, investigation and enforcement handbook*, Ofsted, 2010;

www.ofsted.gov.uk/ciehandbook

⁸² See note 58.

Investigation and Enforcement Team signs off the decision in the 'Manage registration decision' screen, following a full review of the registration evidence and checks.

Part 4: The Early Years Register – meeting the requirements of the Early Years Foundation Stage

Introduction

264. During the registration visit an applicant must be able to demonstrate that he or she meets or will meet all the welfare and learning and development requirements of the Early Years Foundation Stage and any conditions of registration imposed by us. Regulatory decision-makers should establish this through:
- the evidence collected by the inspector during the registration visit, including evidence from discussions with the applicant and observations of the applicant with his or her own children (if applicable)
 - any information the applicant provides, either as part of their application or during the registration visit, such as qualifications, proposed policies and procedures, sample records, plans and so on.
265. The registration visit and interview are a critical part of the registration process and the main means by which we establish whether an applicant is likely to meet all of the requirements of the Early Years Foundation Stage. In particular, the quality of the questioning is crucial in establishing that children will have good outcomes with the registered provider and will make good progress in their learning.

Welfare requirements: checking premises and equipment

266. Childcare can take place in many different types of premises, including high-rise flats, playbuses and mobile homes. The legislation defines 'premises' for childcare as being 'any area or vehicle', so childcare can even take place in outdoor settings such as woodlands, providing there is a defined area that is for the sole use of the children. During the registration visit, inspectors must satisfy themselves that the applicant has identified any risks associated with the premises and equipment, and knows what they need to do to reduce or eliminate these risks.
267. 'Sole use of premises' means that the premises are used solely for children in the early years age group or for older children where it is also registered on the Childcare Register. This allows for flexibility of provision where a registered provider wants to share provision with a school nursery or reception class, for example, or a children's centre wants to offer a crèche or stay and play sessions that might share space with registered early years provision. There is more information on shared provision in the *Practice guidance for the Early*

Years Foundation Stage page 20 and in the factsheet: *Registering school-based provision*.^{83, 84}

268. Inspectors should check that the applicant has fully considered that all parts of the premises used for childcare are safe, secure and suitable for their purpose, and will need to reassure themselves that the applicant's assessment of the risks, and their proposals for managing the risks, are acceptable. Inspectors should first ask the applicant about what risks they have identified and how they propose to minimise them before undertaking any check of the premises. In this way inspectors can be assured that the applicant understands the requirement to assess risks and is able to do so without prompting.
269. Where inspectors have to draw the applicant's attention to a number of risks or hazards, even if these are easily remedied, inspectors must ask themselves if applicants can indeed meet the requirements relating to premises.
270. Inspectors do not have to ask applicants about parts of the premises that they are not intending to use for childcare and which cannot be accessed by children being cared for. However, if the applicant says that the upstairs bedrooms are out of bounds but children could access them by going to the bathroom on their own, then inspectors will need to question the applicant further about how they are going to minimise or eliminate the risks to children from accessing these parts of the premises. Inspectors should avoid setting conditions in these circumstances unless they identify particular risks to children. Inspectors must have a reason to insist on looking at other parts of the premises not used or accessed by children, for example a concern about the risk to children or the suitability of the person.
271. The *Statutory Framework for the Early Years Foundation Stage* and the *Practice guidance for the Early Years Foundation Stage* will help inspectors to reach a judgement about whether the applicant is meeting the requirements in the Early Years Foundation Stage relating to the suitability of premises and equipment.^{85, 86} For example, inspectors should consider the impact on children relating to:
- available space for each child (bearing in mind that this will be one of the factors to consider when agreeing the number of children to be cared for)
 - how space will be organised to meet the children's needs, for example for quiet and more active activities
 - heating, ventilation, light and the general state of repair and cleanliness

⁸³ See note 65.

⁸⁴ See note 21.

⁸⁵ See note 63.

⁸⁶ *Practice guidance for the Early Years Foundation Stage*, DCSF, 2008; www.standards.dcsf.gov.uk/eyfs/resources/downloads/statutory-framework.pdf.

- access to outdoor play (not necessarily on the premises)
- whether there are suitable and sufficient toilet and nappy changing facilities
- whether the rooms used for childcare will be for the applicant's sole use during the hours of operation, and where the setting will have to share the kitchen or toilets with other users of the premises, inspectors will need to consider the proposed arrangements for ensuring the safety of the children
- that unless a vehicle is used as domestic premises, it must be registered as childcare
- that if the vehicle is a playbus and care is only offered from the playbus and not in conjunction with any separate premises, we only need to register the vehicle once, and not at each location it may operate from. Providers will need to demonstrate how they ensure children are appropriately supervised and kept safe while using facilities in public areas, such as toilets in community or shopping centres. Inspectors should discuss with the applicant how they intend to carry out a risk assessment at each location to ensure children's safety, and judge the competency of the applicant in assessing risks. If the playbus also uses additional premises at a location such as a community centre then a separate registration is required.

272. Inspectors should explore with the applicant their approach to ensuring the safety of any equipment that the applicant intends to use with the children including:

- toys and play materials
- safety equipment
- equipment to assist children, for example, cots, high chairs and buggies
- equipment to help with transport, for example car seats.

273. Equipment should be of suitable design and condition, and help to provide a stimulating environment for children. It is not necessary for the applicant to have a full range of equipment at the time of the visit. However, they must be able to demonstrate how they will obtain sufficient equipment to meet the needs of the children they may care for. Where not all equipment is in place, inspectors may wish to record this in their registration visit evidence, so that the regulatory decision-maker can consider whether this needs to be included in the *Information for the next inspection* box of the Regulatory Support Application.

274. In certain circumstances, it may be necessary for a childcare applicant to obtain planning permission, usually where there is a change of use of premises. A childminding applicant may also need planning permission depending on the number of children they intend to care for. Applicants may also require

confirmation from their local authority building control department that any building work has been carried out to a satisfactory standard. Inspectors should make it clear to the applicant at the registration visit that the applicant is responsible for making sure that their premises complies with planning and building control regulations.

275. The inspector should make it clear to the applicant that where appropriate the applicant must comply with the requirements of their local authority environmental health department and local fire authority. Fire authorities will not routinely check all premises where a childcare application has been made. For settings on non-domestic premises, they will usually check new buildings or buildings where there has been a change of use of premises.
276. Ofsted has a protocol with the fire service, which sets out the requirements in relation to fire safety and, in particular, that childcare on domestic premises is treated in line with childcare on non-domestic premises, as the additional numbers of people on domestic premises are likely to pose a higher risk than traditional childminding. The protocol with fire authorities does not require Ofsted to wait until there is a fire safety inspection before granting registration. Inspectors should consider how the applicant has reviewed and assessed the fire safety arrangements, for example:
- equipment such as fire extinguishers, fire blankets and smoke detectors
 - procedures for emergency evacuation of the premises
 - whether fire exits are clearly marked and fire doors are unobstructed.
277. The Early Years Foundation Stage requires providers to have appropriate fire detection and control equipment (for example a fire alarm, smoke detectors, fire extinguishers and fire blankets) which are in working order. It does not specify exactly which appliances must be in place. Applicants will need to decide which equipment best meets their situation and demonstrate to the inspector how they will keep children, themselves and any staff/adults safe in the event of a fire. Applicants are expected to follow any advice provided by fire safety officers as they are the experts.
278. Environmental health officers will not visit prior to registration as there would normally be no operating food business to inspect. It is the responsibility of the provider to ensure they have up-to-date information on environmental health requirements and legislation, and that they meet these requirements.
279. It may be necessary to make more than one visit during the registration process, where the premises and/or equipment are unsafe or are not yet suitable for children. Having considered all the information and evidence, the regulatory decision-maker will decide if a further visit is necessary and if so, will allocate this to the inspection service provider in the usual way.
280. If inspectors have serious concerns that the applicant will be unable to meet requirements relating to premises or equipment, they must either raise actions

to ensure compliance with the requirements or recommend that registration is refused.

Welfare requirements: documentation

281. Inspectors should check that the applicant has, or will have, in place the policies, procedures and records that the Early Years Foundation Stage requires. These are contained within the Statutory Framework but are also set out in the factsheet *The requirements of the Early Years Register*.⁸⁷

Welfare requirements: suitability of staff

282. Registered childcare providers on non-domestic premises (not childminders or childcare providers on domestic premises) are responsible for determining that the staff they employ, and others who live or work on the premises where childcare takes place, are suitable. Inspectors should assess whether the systems the applicant has, or will have, in place are good enough to ensure that the employee is suitable to work or be in regular contact with children.

283. Inspectors should check the applicant's decision-making process for suitability, including whether he or she has, or will have, robust procedures for:

- recruitment by following published guidance such as *Safeguarding children and safer recruitment in education*⁸⁸ – such as proper application and selection procedures
- obtaining an enhanced Criminal Records Bureau disclosure and the associated identity check, including compliance with the Criminal Records Bureau's guidance⁸⁹
- obtaining details of employment history, references and any other necessary checks, such as an employee's physical and mental health
- ensuring continuing suitability.

284. There is more guidance in the *Guide to registration on the Early Years Register: childcare providers on domestic and non-domestic premises*.

Meeting the learning and development requirements

285. All applicants to Early Years Register must be able to demonstrate that they meet, or will meet, all the learning and development requirements of the Early Years Foundation Stage. These are wide-ranging and difficult to evidence

⁸⁷ See note 19.

⁸⁸ *Safeguarding children and safer recruitment in education*, DCSF, 2006; <http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=spectrum&ProductId=DFES-04217-2006&>.

⁸⁹ Available from the Criminal Records Bureau website: www.crb.gov.uk.

without children present. Nevertheless by asking questions 37 to 43 in *Preparing for your registration visit*, inspectors should be able to tease out:

- the applicant's knowledge and understanding of the six areas of learning
- how the applicant will plan and deliver the educational programmes across these areas
- how the applicant will help children make progress towards the early learning goals
- how the applicant will assess children's progress.

286. An applicant will be unsuitable for registration if he or she:

- has little or no knowledge of the areas of learning or how they apply to his or her childcare service
- is unwilling to increase his or her knowledge if weak
- refuses to accept that they must deliver the learning and development requirements
- has a lack of understanding of how children learn through play
- does not understand that planning and assessment are necessary to meet children's needs and help them progress; and/or
- has very limited understanding of inclusive practice and partnership working and no inclination to improve.

287. Where inspectors find that applicants and/or managers do not meet the learning and development requirements, they must consider whether the applicant can make the necessary improvements within a very short period of time. It will usually need a period of training before applicants can demonstrate a secure understanding of the learning and development requirements; how children learn and the methods they will employ to make sure children make the best progress.

288. Where inspectors decide applicants can make progress in a very short time, they may still raise actions relating to the learning and development requirements. These actions must focus on things that can be achieved before registration. This might include improving an applicant's knowledge of a particular area of learning, for example by attending a short course or by visiting established high quality childcare provision in the locality. When setting these actions, inspectors need to follow the guidance in paragraphs 209 to 216 above on setting actions before registration.

289. If applicants need a period of time to understand and embed the learning and development requirements into their practice, then they are unlikely to be ready to deliver the Early Years Foundation Stage. Applicants should be able to demonstrate a good level of knowledge and understanding of the requirements of the Early Years Foundation Stage and the developmental steps within the

practice guidance. Where they cannot do this, inspectors should consider refusing registration.

290. This is also the case for childminder applicants who may be undergoing training after registration. All applicants should still demonstrate that they can meet the requirements for registration at the point where we register them.

Applicants who are applying for, or who are, exempt from the learning and development requirements

291. The law⁹⁰ enables the Secretary of State for Education to grant exemptions to providers, in certain circumstances, from all or some of the learning and development requirements which are set out in the Early Years Foundation Stage. It also enables early years providers to exempt individual children from all or part of the learning and development requirements in certain circumstances. No exemptions from any of the welfare requirements of the Early Years Foundation Stage are allowed as these deal with fundamental issues of child safety.
292. For detailed information about exemption please refer to the factsheet *Exemption from the learning and development requirements*.⁹¹
293. The only exemption available **prior to registration** is where the majority of parents using the childcare seeking registration agree that an exemption is required because the established principles about learning and development for young children which govern the childcare practice conflict with elements of the Early Years Foundation Stage learning and development requirements.
294. Where such an exemption has been applied for or granted, the applicant must still provide evidence of how they intend to meet all other requirements; that is those requirements for which exemption has not been granted. For more information about the process to follow where an exemption has been granted, applied for or refused, please refer to the guidance for inspectors *Exemptions from the learning and development requirements*.

Applicants who propose to educate children in their home language

295. Applicants must be able to demonstrate that they or any assistants or employees have a sufficient grasp of English to ensure the well-being of the children in their care. Inspectors should check that they will be able to summon emergency help where necessary; that they keep the required records in English⁹² as well as in their home language; and that they can read and

⁹⁰ The Early Years Foundation Stage (Exemptions from Learning and Development Requirements) Regulations 2008: www.legislation.gov.uk/ukxi/2008/1743/contents/made.

⁹¹ See note 22.

⁹² See note 19.

understand instructions in English, such as safety instructions, information on administering medication or on food allergies.

296. The applicant must be able to demonstrate that he or she will be able to support children to develop their **Communication, language and literacy skills** in English. We may refuse registration if they are unable to do so.

Insufficient knowledge and understanding of the Early Years Foundation Stage

297. If an applicant is unable to demonstrate sufficient knowledge and understanding of the Early Years Foundation Stage, inspectors need to judge the significance of any omissions, record this in their evidence from the registration visit and recommend refusing registration unless the applicant has indicated they will withdraw. Feedback should make it clear to the applicant what they need to do to improve.
298. When considering the evidence, the regulatory decision-maker will consider one or more of the following options:
- advise the applicant that they can withdraw and reapply at a later date when they are better prepared to deliver the Early Years Foundation Stage (we should make sure we remind the applicant that the application fee is not refundable)
 - refuse registration on the grounds that the applicant is not able to demonstrate how he or she will meet the requirements of the Early Years Foundation Stage.

Part 5: Applications made by existing registered providers

Introduction

299. The law requires those who submit an application to provide childcare to supply certain information. This is set out in The Childcare (Early Years Register) Regulations 2008 and the Childcare (General Childcare Register) Regulations 2008.⁹³ This information is intended to help us ensure that those providing care for children are suitable to do so.
300. However, people already known to us as registered providers often choose to expand their business, for example by applying to register a new setting or by buying an existing business. Registered providers also change the premises they use for childcare. We should make the process of registration as simple as

⁹³ The Childcare (Early Years Register) Regulations 2008: www.opsi.gov.uk/si/si2008/uksi_20080974_en_1; and the Childcare (General Childcare Register) Regulations 2008: www.opsi.gov.uk/si/si2008/uksi_20080975_en_1.

possible for these people as we already hold much of the existing information required in an application. We should not require the applicant to supply information already in our possession. However, our processes for registering these applicants should make sure we take account of all the information we hold on them, particularly where there are open actions or complaints; or a poor inspection history.

301. If an organisation has multiple provisions, it is essential that they are assigned to the same organisational identity on the Regulatory Support Application. This will ensure that we make appropriate links in all our regulation and inspection work between different settings owned by the same provider. For example, complaints about staff ratios at a number of different settings owned by the same provider might suggest that the provider is unable or unwilling to ensure that sufficient, qualified staff are in place at their settings. If we can make such links, it will help us to identify where we require the provider to take action to ensure that all his or her settings meet the requirements of the Early Years Foundation Stage.
302. It is not always straightforward to make decisions about when registration is required where registered providers change their legal entity or buy existing businesses. Annex B, 'Registered persons for childcare provisions on domestic and non-domestic premises', sets out the main categories of registered person for childcare.

Circumstances where a new application is required

An existing registered person (organisation or sole trader) wishes to set up a new setting not previously registered for childcare

303. We require an application and fee for each new setting not previously registered for childcare. The applicant needs to complete an application form in full for each new childcare setting on domestic and non-domestic premises.

A registered childminder who chooses to work with three or more other adults at the same time on domestic premises

304. We require a new application and fee to register as childcare on domestic premises.

A childminder who wishes to provide childminding at new domestic premises or with up to two other childminders or assistants at the same time

305. This does not require a new application.

An existing registered person (organisation or sole trader) acquires one or a number of already registered settings

306. We require a new application and fee for each registered setting an existing registered provider buys or acquires. However, where this involves an organisation or sole trader buying a number of existing settings then we do not require a full application form for each one. Instead, the organisation can complete one application form in full for all the settings covered by the acquisition and supplement this with a list of all the settings covered by the acquisition. They must include information about any differences that apply to any particular setting. Where a chain is acquiring a number of existing settings, the National Business Unit and inspectors should liaise with Ofsted's national provider scheme manager, for example to ensure that the acquisition or merger is reflected in arrangements for carrying out head office audits of providers on the national provider scheme. We will take legal advice where necessary to ensure that company mergers and acquisitions are correctly processed.

307. In all cases we must make it clear that:

- the buyer cannot provide childcare until registration is complete
- the seller remains responsible for childcare until he or she resigns the registration in writing. Where continuity of care for children is an issue, the existing registered person must not resign their registration until the new registration takes effect (the date on the certificate). If they wish to resign before the new applicant is registered, then the provision must stop operating until the new applicant is granted registration; we cannot allow a setting in these circumstances to continue to operate without registration, even if it may disrupt the parent's arrangements for childcare.

308. We do not need, in all cases, to carry out a full assessment of the premises or to recheck individuals connected with the registration if:

- there are no changes to the premises and there were no concerns about the premises at the last inspection
- the registered person is already suitable in respect of other provision
- there are no open compliance cases in respect of the provision being sold and/or any provision held by the purchaser
- the purchaser has a good track record within Ofsted; any compliance issues are minor and swiftly dealt with
- there is no change of manager at the premises where childcare is provided.

309. In these cases, the regulatory decision-maker will need to assess the application and decide if further assessment of premises or additional checks on individuals needs to be undertaken. We must still decide on whether or not to grant the registration. This means that we still need to make an assessment as

to the suitability of the person applying and their ability to meet the relevant requirements. In reaching a decision on registration in these circumstances, the regulatory decision-maker must take into account the full range of information that Ofsted holds about the existing legal entity. This will include amongst other things:

- the inspection judgement(s) given at the last inspection, particularly where a setting or settings have been judged as inadequate
- the complaints history associated with new legal entity, including where there has been either a high number of complaints, or a number of complaints about the same matters
- the provider's approach to responding to any regulatory issues in the past, for example whether they have shown a willingness to meet actions set in order to bring about improvement.

310. The regulatory decision-maker should take these matters into account and decide whether we should undertake a new registration visit or new suitable person interviews on key people. Where there is evidence of recent poor performance, whether in relation to complaints, inspection reports or other communications with Ofsted, the regulatory decision-maker should arrange for the relevant visit to take place, through allocation to the appropriate inspection service provider or where concerns are significant the Compliance, Investigation and Enforcement Team for allocation to an Early Years HMI. In these cases, the regulatory decision-maker should record their reasons for requesting the additional visit/interview on the Regulatory Support Application and should make sure that they provide relevant information to the inspector when allocating the application for a visit

311. Acquiring existing provision means that there is a new published history of that provision on Ofsted's website. From early 2011 we hope to retain the existing published history for a period of three years, although there will be no explicit link to the new legal entity.

Changes of legal entity

312. Where an organisation changes its legal entity, for example where committee-run provision becomes a registered company, or when an existing company number changes, we require new applications and application fees for each registered setting. This also applies where individual owners become limited companies other than childminders where we continue to register the individual as a childminder.

313. We should follow the process for acquiring new provision when an organisation changes its legal entity. As above, where this involves an organisation or sole trader buying a number of existing settings then we do not necessarily require a full application form for each one.

314. Where changes involve an already registered company, as a rule of thumb, a new application is only required when the company number changes.
315. As with acquisitions and mergers, although we may not need to undertake a full application process where a company entity changes, we must still decide on whether or not to grant the registration. This means that we still need to make an assessment as to the suitability of the person applying and their ability to meet the relevant requirements. In reaching a decision on registration in these circumstances, the regulatory decision-maker will want to take into account the full range of information that Ofsted holds about the existing legal entity as set out in paragraphs 306 to 311.
316. Our guidance to applicants on registration makes it clear that all those making up the registered person, or acting as the nominated person, should complete a declaration and consent form, unless they have already completed one for us within the past three years and not had an employment break of more than three months since their last involvement with registered childcare. We should not normally ask for a new EY2 form when there is a change of legal entity in these circumstances, unless there are other causes for concern.⁹⁴ However, where the person has not completed an EY2 form within the last three years, and/or they have had a break of more than three months since their last involvement in childcare, we should ask them to complete an EY2 form and carry out the range of checks outlined in paragraphs 57–60, following the usual guidance and process for obtaining checks.
317. As above, changing a legal entity means that there is a new published history of that provision on Ofsted's website. From early 2011 we hope to retain the existing published history for a period of three years, although there will be no explicit link to the new legal entity.

Childcare on domestic and non-domestic premises moving to new childcare premises

318. Where a registered childcare provider on domestic or non-domestic premises changes the premises on which childcare is provided, the registered person must apply and pay an application fee for registration at the new premises and, at an appropriate point, resign their registration in respect of the old premises. This is because the registration of childcare provision is in respect of particular premises. The National Business Unit will notify the inspection service provider when allocating the visit that the new application relates only to a change of premises.

⁹⁴ Declaration and consent form for all individuals connected with a registered provision (form EY2), Ofsted, 2010; [www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Childcare-registration-form-Declaration-and-consent-form-for-all-individuals-connected-with-a-registered-provision-form-EY2/\(language\)/eng-GB](http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Childcare-registration-form-Declaration-and-consent-form-for-all-individuals-connected-with-a-registered-provision-form-EY2/(language)/eng-GB).

319. The new registration cannot take effect until registration is granted. This is the case even where such changes of premises are temporary and short term, due to problems at the main premises, unless the problems are very short-term and the provider can claim the 14 day exemption from registration at the new premises.⁹⁵
320. Where there are issues of continuity of care for children attending the setting, the applications should be prioritised. However, continuity of care is not on its own a sufficient reason to allow care to operate without registration. It is an offence to provide childcare without registration and Ofsted cannot condone such action.
321. The regulatory decision-maker will need to assess the application. In all cases there should be a premises visit but the regulatory decision-maker should also assess if additional checks on individuals needs to be undertaken. We must still decide on whether or not to grant the registration. This means that we still need to make an assessment as to the suitability of the person applying and their ability to meet the relevant requirements. In reaching a decision on registration in these circumstances, the regulatory decision-maker must take into account the full range of information that Ofsted holds about the existing legal entity. This will include the matters set out in paragraphs 306 to 311.
322. As above, moving premises means that there is a new published history of that provision on Ofsted's website. From early 2011 we hope to retain the existing published history for a period of three years, although there will be no explicit link to the new legal entity.
323. The provider may, if the move is a temporary one, also choose to retain registration at the previous premises. This will help any move back to those premises.

Childminders moving house

324. This is not a new registration and is dealt with in Part 6: Changes to registration.

Guidance on the application process

325. The National Business Unit should identify from the application form that this is an existing registered provider and should assess whether the person(s) involved in the application(s) are already known to Ofsted. They should check whether the suitability decisions are already in place for these people, and the registration history for the provider.
326. Where we have already completed checks on the applicant in respect of a previous application or registration within the past three years, the applicant

⁹⁵ See note 10.

does not need to complete the declaration and consent form. We should not carry out checks again unless we have concerns about the applicant. For further guidance on deciding whether or not a new Criminal Records Bureau check is required please see the factsheet: *Criminal Records Bureau (CRB) checks for those providers who register with Ofsted.*⁹⁶

327. When allocating the registration(s), the National Business Unit should notify the inspection service provider that this is an existing registered provider, identifying, wherever possible, the target opening dates. The National Business Unit and inspectors should follow the guidance in paragraphs 306 to 311 on applications from an existing registered provider. We should use the target date as a date to work towards when completing the registration. Where there are no significant changes we should be able to complete registration in well under 25 weeks.
328. The National Business Unit should also check if there are other significant changes identified in the application, for example changes in ages of children or hours of operation. The National Business Unit should notify the inspection service provider of any significant changes that might affect registration.
329. Where there are no concerns, the registration visit should concentrate on the provider's approach to ensuring that the new premises are safe, including the steps that the provider has taken to identify and minimise or eliminate any risks. There is no need to carry out a full inspection of all the outcomes unless the new application changes the way in which the applicant meets these.
330. The inspector must record in their evidence any points arising from an inspection of the new premises and discussion with the registered person and person in charge. The inspector must make sure the applicant is aware of any outstanding actions and recommendations, and of the proposed conditions of registration.
331. It may not be necessary to carry out a full registration visit and suitable person interview. Where there are no significant changes to people working on the premises or manager or other aspects of the provision, inspectors should, as a minimum, interview the applicant and manager about the intentions for the nursery, the policies and procedures the applicant wishes to put in place, and how these are different from what is already in place, before granting registration. Inspectors should also discuss with the applicant any issues identified by the National Business Unit, for example any points carried forward from the last inspection.
332. The National Business Unit will normally produce the registration certificate with the same conditions of registration as the currently registered provider, unless there are good reasons for changing the conditions, for example the premises is

⁹⁶ See note 9.

much smaller than the previous premises and cannot, therefore, safely accommodate the same number of children. Where the inspector believes that there are good reasons for a change to the provider's current conditions of registration, they should record these in their evidence alongside any recommendations for the nature of the proposed change to conditions.

Circumstances where a new application is not required

Acquiring a company and running it under the existing company name

333. Sometimes an organisation acquires a company and chooses to continue to run it as that company, so the registered company name and registered company number remain the same and it continues to trade under the existing company name. In these circumstances we do not require a new application (or applications) as the existing company remains liable as the registered person.
334. In these circumstances the individuals making up the registered person may change. We must ask the organisation buying the company to notify Ofsted of any changes to the individuals making up the registered body. All new individuals must complete a declaration and consent form. New individuals we check are:
- those making up the organisation providing childcare such as committee members, partners and directors
 - nominated person representing the provider
 - the manager in charge of the day-to-day running of the provision.

Changes of name and registered addresses

335. Sole traders or organisations may decide to change their name, or change the registered address (the address where we serve legal notices, not the childcare premises address). As the registered person remains the same neither of these actions results in a new application for registration.
336. Changes to the nominated person or manager for an organisation result in a suitable interview covered in Part 6.

Registration not required

337. Some childcare providers do not need to register their services. These are covered in the factsheet *Registration not required*.⁹⁷ Providers may choose to register on the voluntary part of the Childcare Register if they are able to meet

⁹⁷ *Registration not required* is available at www.ofsted.gov.uk/publications/080134.

its requirements. There is more information on this in the *Guide to registration on the Childcare Register*.⁹⁸

338. The law that sets out our responsibilities is the Childcare Act 2006 and linked regulations. The specific order setting out exemptions from compulsory registration is the Childcare (Exemptions from Registration) Order 2008 (2008 No. 979).

Part 6: Changes to registration

Introduction

339. After a provider has registered with us, they or we may decide to make changes to their registration. This part sets out how we deal with changes to registration. Annex G sets out the most commonly requested changes.

340. A provider may request changes through:

- telephone calls to Ofsted
- written requests to Ofsted
- emails and electronic transactions
- requests to inspectors at inspection.

341. We require some requests to be made in writing. This is so we can be clear about the details of what the provider is asking, how they propose to manage the change and so that we have a written record if they choose to object to or appeal against our decision in relation to the request.

342. We may need to carry out checks, interviews or inspections after receiving information, and issue a new certificate of registration. In all cases we must update the Regulatory Support Application with all requests for change and our reasons for agreeing or refusing them, to create a secure audit trail.

343. We also may decide to make changes to someone's registration. This may occur where we receive information that a provider is not complying with the requirements for registration; or because we decide to impose, vary or remove conditions of registration as a result of an inspection or other visit.

344. Where the registered person informs the inspector of changes, the inspector must inform the National Business Unit of the data change. If the change relates to the registered provider (for example a change of company name) and the inspector is unsure whether the legal entity will remain the same, the inspector should contact the helpdesk and ask for advice including whether to continue with the visit.

⁹⁸ *Guide to registration on the Childcare Register*. www.ofsted.gov.uk/publications/080032.

345. If the changes require new/additional checks to be carried out, for example where a child living on the premises reaches the age of 16, the inspector must inform the National Business Unit as soon as the visit is complete and not wait until the submission of the inspection outcome. If the changes relate to other matters, for example a change in mobile contact number or email address, the inspector should inform the National Business Unit at the time they submit the registration or inspection outcome through the data transfer process.
346. The inspector should inform the National Business Unit of the request by the agreed system of data exchange and record in their evidence their recommendation for agreement and any recommendation for a variation to the conditions of registration. There is no fee charged for this process, unless it involves a new application to be made.

Change of register

347. Inspectors may discover at inspection that a person is on the wrong register or a person may request that they join a different register.

Registering on the Early Years Register

348. If a person is on the Childcare Register (either or both parts), and wishes to register as an early years provider, the inspector must tell the provider that they need to make a new application. The provider may obtain an application pack from their Family Information Service, download one from Ofsted's website: www.ofsted.gov.uk, or complete the application online. We cannot add a provision to the Early Years Register without the provider completing an application form and the Early Years Register registration process, which includes paying the application fee.
349. If this happens during an inspection, the inspector should normally complete the inspection or other visit they are making, contacting the helpline if they need further advice. The inspector should seek advice from the Compliance, Investigation and Enforcement Team if during the visit they find that the provider is already caring for children from the early years age group and is not registered on the Early Years Register.

Registering on the voluntary part of the Childcare Register

350. If a person is registered on the compulsory part of the Childcare Register and they wish to be registered on the voluntary part, we can add this the inspector should inform the National Business Unit of the recommendation through their evidence. It is unlikely that this will result in any changes to conditions of registration, but if it does the inspector must follow the process for changes to conditions of registration. The National Business Unit should send the provider the requirements for registration on the voluntary part of the Childcare Register at the same time as issuing a new certificate of registration.

Registering on the compulsory part of the Childcare Register

351. If a person is registered only on the voluntary part of the Childcare Register and wishes to be registered on the compulsory part, the inspector should inform the National Business Unit of the recommendation through their evidence. The National Business Unit should send the provider the requirements for registration on the Childcare Register. The provider must confirm to Ofsted in writing that they will meet all of the requirements for registration on the compulsory part of the Childcare Register but do not have to pay an additional fee. When they have confirmed they meet requirements the National Business Unit will send out a new certificate of registration.

Childminders changing address

352. Childminders are registered to care for children on domestic premises. Although their registration certificate includes the address on which they intend to provide childminding, if they move house they do not need to make a new application to Ofsted. They must notify Ofsted of their new address as soon as possible and in all cases within 14 days of it taking place.

353. We **must** carry out a visit to assess the suitability of the childminder's new premises where any of the following circumstances apply:

- we have not carried out an inspection since the childminder's registration or within the current inspection cycle
- there have been complaints since the last inspection that give cause for concern about the childminder's suitability
- there were actions or recommendations given at the last inspection or at any other time in respect of premises
- we decide, or the childminder requests, that conditions of registration change
- the childminder notifies us of the move later than 14 days after it took place.

354. Where an inspection has not been carried out in a prescribed cycle then a change of premises should trigger an inspection as soon as possible.

355. Where we do **not** carry out a visit we must still issue a certificate of registration before the childminder can care for children at the new address. Once we have agreed the decision to issue a new certificate without a visit the National Business Unit should:

- record the decision in the Regulatory Support Application
- make a note for the inspector to carry out a full assessment of the premises at the next inspection in the field *Comment for next visit*
- update the Regulatory Support Application the childminder's new address

- send letter EYL1117 with the new registration certificate, telling the childminder to carry out a risk assessment of their new premises and to identify and deal with any risks before commencing childminding.
356. We do not need to issue a notice of intention unless we are also changing conditions of registration.
357. The childminder's risk assessment itself does not need to be in writing, nor does it need to be sent to the National Business Unit, as the childminder must continue to meet the requirements of the Early Years Foundation Stage at all times. However, the childminder must keep a written record of when the risk assessment was carried out, by whom, the date of review and any action taken following a review or incident. Inspectors must carry out a full assessment of the premises at the next inspection.
358. We should aim to process requests relating to changes of premises within four weeks, where no significant actions are needed at the new premises.
359. If the regulatory decision-maker decides that a visit is necessary the inspector should carry this out in line with the guidance above on checking suitability of premises at a registration visit. In particular, the inspector should make clear to the childminder at the end of the visit:
- any actions they need to complete before they recommence childminding at the new address
 - any actions that need to be completed before children may use particular areas of the premises.
360. In normal circumstances, the National Business Unit will issue the new registration certificate with the same conditions as the previous certificate. However, there may be circumstances where conditions need to change, for example if there needs to be a restriction on use of part of the premises at the new address, or where a restriction at the old address no longer applies. In these cases, inspectors should record their recommendations for new conditions, conditions to be removed, or a variation in existing conditions, in their evidence. The regulatory decision-maker will consider the inspector's recommendation and will arrange to vary/remove/add conditions as appropriate, in discussion with the Compliance, Investigation and Enforcement Team where necessary.
361. Where there are no changes to conditions of registration, it is not necessary to issue a notice of intention. The new certificate should show the change of address and any other addresses where childminding may take in place. Where there are changes to conditions of registration, we will need to issue a notice of intention in the normal way.

Home childcarers changing address

362. Home childcarers must inform us if they change their own address and must inform us in advance of any address where they will be working. The National Business Unit should update the Regulatory Support Application with the new setting address. The setting address is not shown on the certificate.
363. Some home childcarers may work at several settings, for example if they work for an agency. Regulations say they must still keep us informed of every setting at which they work, so we need to record what they have told us. When the setting address changes frequently the National Business Unit should record the addresses in registration comments section of the Regulatory Support Application and show the address where they are currently working most often as the primary setting address.

Requests to vary or remove conditions of registration

364. Registered providers on the Early Years and Childcare Registers may apply to Ofsted to vary their conditions of registration. They may make such a request directly to the inspector during a visit, or by telephone or in writing to the National Business Unit. Business process BP006 sets out the steps to be taken (the chart is available at the same webpage as this document www.ofsted.gov.uk/publications/100165).

Variation requests made during a visit

365. Where a provider requests a variation to their conditions of registration during an inspection or other visit or the removal of a condition, the inspector should consider the variation to conditions in the same way as they would for establishing conditions of registration during the registration visit. The inspector will need to form a view, taking into account the guidance in this handbook and the inspection guidance, as to whether or not we should grant their request to vary conditions. The inspector will need to record in their evidence the reasons for the request to remove or vary conditions and their recommendation as to whether or not the request should be granted. The regulatory decision-maker will decide, on receipt of the inspector's evidence, whether or not to grant the removal or variation request, or whether further information is required from the registered person before a decision can be made. Where further information is required, the regulatory decision-maker will arrange for the National Business Unit to write to the provider requesting the further information necessary.

Variation requests made other than during a visit

366. Where a provider requests removal of or a variation to their conditions other than as part of a visit by an inspector, the National Business Unit will ask them for full information about their request to vary their conditions. Once the registered person provides the further information required, the regulatory

decision-maker will consider their request and decide whether or not to grant the variation.

Considering and deciding on variation requests

367. The regulatory decision-maker will need to decide, on the basis of all the evidence and information to hand, whether or not the variation request can be granted. A provider has a right to object if we refuse their request to vary their conditions and for this reason, it is essential that the regulatory decision-maker keeps a full record on Regulatory Support Application of the reasons for their decision.
368. Where we propose to vary or remove conditions of registration, either at the provider's request or as part of our own decision, we must issue a notice of our intention to vary or remove the condition. Under the normal rules for notices of intention, the change cannot take effect until 14 days has passed after the issue of the notice of intention. However, we can waive this 14 day period if the provider notifies us that they do not wish to object to the change in conditions. In the case where a provider has asked for a condition to be varied or removed and we agree to the change, the National Business Unit will ask them to confirm in writing that they do not wish to object. When this is confirmed, we can issue the notice of decision to vary or remove the condition, and the new registration certificate, at the same time.
369. In some cases, the regulatory decision-maker will be able to make a decision on whether to grant the variation on the basis of paper information alone. However in some cases, we must carry out a visit before making a decision on the variation request. Where a visit is required the National Business Unit will allocate this to the relevant inspection service provider.
370. We must always carry out a visit if the request to vary conditions means that we will be applying one of the exceptions in the Early Years Foundation Stage in relation to the numbers and ages of children. These cover childminders who wish to care for:
- more than two babies under the age of one
 - more than three children in the early years age group.
371. Further information on these exceptions and how we apply them is contained in our factsheet, *The numbers and ages of children that childminders may care for*.⁹⁹
372. If we intend to refuse a request to vary registration we must do so through a proper legal process, which includes issuing a notice of intention to refuse. The provider may object to our notice of intention. If we decide to go ahead with

⁹⁹ See note 26.

the refusal, we must issue a notice of decision and the provider then has rights of appeal.

373. Where the regulatory decision-maker is intending to refuse a request to vary conditions, they must discuss the case with the Compliance, Investigation and Enforcement Team in term of the wording of the notice. Where the provider subsequently objects to the refusal, the Compliance, Investigation and Enforcement Team will handle the case.

Variation requests that raise causes for concern

374. The regulatory decision-maker may need to take advice from the Compliance, Investigation and Enforcement Team if there is any information from the request to vary that raises a cause for concern, for example if, in a request to increase numbers, it becomes apparent that the registered person has already been caring for more children than their current condition allows.

Variation requests from newly-registered providers when no post-registration inspection has been carried out

375. We cannot normally grant a request to vary conditions of registration where we have not yet carried out a post-registration inspection. This is because at that point, we have not seen the provider caring for any children. It is therefore difficult for us to judge whether or not they will be able to meet any new conditions.
376. In these cases, the National Business Unit should explain to the provider that we cannot make a decision on their variation request until we have carried out a post-registration inspection. The National Business Unit should liaise with the scheduling team to ensure that the post-registration inspection is carried out as soon as possible. They will need to ensure that the information that goes forward to the inspection service provider makes it clear that the inspector will need to consider the variation request as part of the post-registration inspection. The inspector will need to record their evidence and recommendation as to whether or not the request should be granted in line with the advice above.
377. Where a person makes a request to vary registration, we are under a legal duty to consider and decide upon that request and to inform the provider of our decision. If it is not possible for a post-registration inspection to be arranged within 14 days, we must formally refuse the request for a variation, using the notice of intention process.

Change of nominated person or manager

378. We carry out a suitable interview process where there is a change of manager or nominated person. This is incorporated in business process BP001 (the chart is available at the same webpage as this document www.ofsted.gov.uk/publications/100165).

379. Deciding on the suitability of nominated people/managers is a two part process. The checks on a person establish their suitability to work or be in regular contact with children. The interview establishes their suitability for the role. A person may still be suitable to work or be in contact with children even if they are not suitable for the role of nominated person or manager.
380. Registered providers must inform Ofsted when the nominated person or manager changes. We must carry out a suitable person interview as soon as possible following the appointment, unless we have conducted one on that individual previously. This interview is as important as that carried out at registration and the inspector must ensure that they gather and record sufficient evaluative and convincing evidence to substantiate their recommendation. Like the suitable person interview at registration, if the inspector is in any doubt about the suitability of the nominated person or manager s/he should tell the person that information or evidence has come to light which requires further consideration and that they intend to withdraw to seek advice before making their recommendation on suitability.
381. If we decide that a proposed new manager is not suitable for the role in question, we must inform the registered provider and ask them what steps they intend to take to appoint another manager. If the provider tells us that they will appoint a different manager, then we should follow the procedure for determining the suitability of the new manager, as outlined above. If the provider tells us that they intend to appoint the original manager who we had decided was unsuitable, then this may call into question their own suitability as a registered person, because they have appointed a person who is unsuitable. In such cases, the regulatory decision-maker will need to consult with the Compliance, Investigation and Enforcement Team in relation to the cause for concern about the provider's own suitability.
382. If we decide that a proposed new nominated person is unsuitable, we must inform the registered person of this, through contacting one of the individuals who makes up the registered person. This should be a senior person in charge of the organisation, for example a director if the organisation is a company or the chair of the committee if the organisation is a committee. We should inform the individual concerned that we have judged the new nominated person as unsuitable, and make it clear that they need to put steps in hand to nominate another person to act on their behalf. As for proposed new managers above, the regulatory decision-maker should consult with the Compliance, Investigation and Enforcement Team in relation to unresolved causes for concern, about the way in which the organisation has dealt with the nominated person's unsuitability.
383. A setting may have more than one manager in overall charge; for example to manage different types of childcare or for morning and afternoon sessions. In these cases we should interview **all** people who hold this role. We should **not** interview deputy managers who cover days off, short periods of the day or periods of sick leave. In these instances, the registered person should ensure

the deputy is able to take charge. We will check such arrangements at inspection as part of the assessment of procedures for ensuring staff suitability and to inform the judgement on the quality of organisation but should not set in place other arrangements such as suitable person interviews or carry out checks on such persons.

384. Inspectors should carry out interviews with managers in person and record their evidence in the agreed format. The regulatory decision-maker considers this evidence alongside all other checks and makes the suitability decision, as set out in Part 3 for suitable person interviews which are carried out as part of the registration visit. The regulatory decision-maker must ensure that the relevant audit trail of the decision is recorded, as above.
385. Where the provider is an organisation such as a committee, company or partnership, and the nominated person changes, then the new individual must be interviewed as part of the suitability process and the inspector should record and submit their evidence in the agreed format.
386. When the manager changes, then the new manager must be interviewed as part of the suitability process and the inspector should record and submit their evidence in the agreed format.

Recording on the Regulatory Support Application

387. The regulatory decision-maker must record the reason for the decision on the Regulatory Support Application, in line with the National Business Unit's desk instructions.

The interview process

388. When the inspector interviews a new nominated person for an active setting or a proposed manager they must record and submit their evidence in the agreed format. They should record whether:
- the nominated person is suitable for the role and understands their responsibilities in relation to Early Years Foundation Stage
 - the proposed manager has the skills to fulfil the role and has the required qualifications and experience.

The process for a new nominated person or manager not previously known in this role on another registration

389. The National Business Unit receives a staff change form (EY3) or a declaration and consent form (EY2) to notify us of a new manager or a new nominated person. The National Business Unit starts the checks process and updates the Regulatory Support Application to record the checks on the new nominated person or manager.

390. The National Business Unit allocates the suitable person interview to the inspection service provider. The inspection service provider arranges the visit. When the suitable person interview is carried out, the inspector submits their evidence and the regulatory decision-maker makes the suitability decision and records this on Regulatory Support Application.
391. If the suitable person interview recommendation for a manager or nominated person is 'unsuitable' and there are no other suitability concerns, the overall suitability decision should be left blank on the Regulatory Support Application. The National Business Unit will send a letter with the reason for the decision using the text submitted by the inspector with the evidence. The National Business Unit should check the letter for spelling and grammar.
392. The National Business Unit sends the unsuitable outcome letters EYL150 to the interviewee and EYL151 to the provider, and selects the appropriate sentence regarding checks carried out so far. The National Business Unit stores the letters to Meridio. The National Business Unit inform Ofsted's medical advisers not to continue with the health check if one has been requested and the decision on the health check has not yet been made.
393. If the suitable person interview recommendation is unsuitable the inspector will need to explore with the provider what alternative arrangements are in place and record this in their evidence. The National Business Unit will need to consider whether the interviewee should be added as a registered individual because they form part of the registered person (for example they may still serve on the committee). Managers and nominated persons who are found unsuitable for the role of nominated person or manager at the suitable person interview may still be suitable to be part of the registered person if their checks are suitable.
394. The regulatory decision-maker will consider if there is any information causing concern received on any checks which have already been initiated. The regulatory decision-maker will decide whether any action is necessary, depending on the information received, and refer to the Compliance, Investigation and Enforcement Team for guidance if necessary.
395. If the suitable person interview recommendation is suitable, the National Business Unit will continue with the checking process. If all checks are complete and suitable the regulatory decision-maker will make the overall suitability decision and send letters EYL152 to the provider and EYL1067 to the individual. The regulatory decision-maker will make the suitability decision on Regulatory Support Application if they decide the person's checks make them unsuitable.

The process for a new nominated person or manager previously known as a nominated person or manager at another registered setting

396. The National Business Unit receives a declaration and consent form (EY2) or changes to staff form (EY3) notifying Ofsted of the new association. The

National Business Unit starts any new checks which are needed. We do not routinely request new checks if Ofsted has carried out checks in the last three years, unless there has been a gap in the person's employment or there are other reasons to repeat the checks.

397. The regulatory decision-maker assesses the individual's details on the *Detail individual* screen and views the previous suitable person interview evidence. The regulatory decision-maker updates the checks screen to advise whether or not a suitable person interview is required and allocates the interview through the agreed process. If a suitable person interview is not required the regulatory decision-maker records the reason for the decision in registration comments.
398. The regulatory decision-maker will take into account the date of the previous suitable person interview and whether it took into account the Early Years Foundation Stage requirements, the type of provision and age group of the children. In making the decision, the regulatory decision-maker will need to take into account the guidance in paragraphs 196–204 on the circumstances in which we decide not to repeat a suitable person interview.
399. If a suitable person interview is carried out, the process in paragraphs 196–204 should be followed.
400. If the suitable person interview recommendation is suitable, or the regulatory decision-maker has updated the suitable person interview screen to confirm a suitable person interview is not required, the National Business Unit will continue with any checking process. If checks are not required or all checks are complete and suitable the National Business Unit makes the overall suitability decision and send letter EYL152 to the provider and EYL1067 to the individual.
401. Any suitability concerns are escalated to the regulatory decision-maker. The regulatory decision-maker will make the suitability decision on the Regulatory Support Application if they decide the person's checks make them unsuitable. The regulatory decision-maker must also review the decision where a person is unsuitable as a result of the interview and decide whether any action is necessary, depending on the information received.

Suitable person interview recommendation: unsuitable

402. Where a person is not suitable as a result of the interview the inspector may assess that subject to suitable checks they may still work or have regular contact with children.
403. The inspector must record in their evidence what association the individual will have with the setting. For a manager this should include, where known, whether they will continue to work in the setting. For the nominated person this should include, where known, whether they will form part of the registered person.

404. For the latter, where they may continue as part of the organisation, the National Business Unit should add the individual as a 'registered individual' association and complete the checking process and suitability decision for that role. When we have made a suitability decision about the individual's new association type, based on completed checks, the National Business Unit must send a letter to the individual and the provider.
405. The inspector must make it clear to the provider that registration is dependent on the organisation having a suitable nominated person. We must have a nominated person for the provision to continue, so any new person nominated by the organisation must complete a declaration and consent form (EY2) if they have not already done so and undergo a suitable person interview.
406. Where the suitable person interview recommendation is unsuitable, the inspector must record in their evidence the reason for the unsuitability so that the National Business Unit can add this to the letters EYL150 and EYL151. The National Business Unit must add the reason following on from the phrase in the letter:

'We consider that <interviewee's name> is unsuitable for the position because during interview they did not demonstrate that they have:'

Examples of reasons include:

For a proposed nominated person

- sufficient understanding of the Early Years Foundation Stage and the responsibilities of the registered person.

For a proposed manager

- sufficient experience to have day-to-day management responsibility for a provision registered on the Early Years Register. If you continue to employ her/him as the manager this may affect your suitability to provide childcare.
- the necessary qualifications to have day-to-day management responsibility for a provision registered on the Early Years Register. If you continue to employ her/him as the manager this may affect your suitability to provide childcare.

If the nominated person's suitable person interview recommendation is unsuitable the National Business Unit must send the letter to another member of the organisation, for example to another committee member.

Note: The individual suitability decision and the decision resulting from the suitable person interview are separate from one another as we need to distinguish between an individual's suitability to work or be in contact with children and their suitability to be a manager or nominated person.

The individual suitability decision is based on the outcome of the checks we undertake; this confirms whether or not the individual is suitable to work or be in contact with children. The suitable person interview recommendation is based on the individual's knowledge and understanding of the requirements of the Early Years Foundation Stage in relation to the role and responsibility that person holds as an applicant, a proposed nominated person or a proposed manager.

Annex A. Decision-making matrix: registration

Type	Judgement	Recommendation	Decision ¹⁰⁰
Registration visit interview	Suitable	Inspector	Regulatory decision-maker (B1)
	Suitable with actions	Inspector	Regulatory decision-maker (B1)
	Not suitable	Inspector	Refers to the Compliance, Investigation and Enforcement Team
SPI manager	Suitable	Inspector	Regulatory decision-maker (B1)
	Not suitable	Inspector	Regulatory decision-maker (B1)
Response to actions set	Adequate action taken	Inspector	Regulatory decision-maker (B1)
	Inadequate action taken	Inspector	Regulatory decision-maker (B1)
	No response in timeframe	Inspection service provider	Regulatory decision-maker (B1), in conjunction with the Compliance, Investigation and Enforcement Team where this is likely to lead to refusal of registration
Suitability decision			
Medical check	Suitable (check clear)	National Business Unit B3	Regulatory decision-maker (B1)
	Suitable	National Business Unit B3	Regulatory decision-maker (B1)
	Not suitable – registered provider	Regulatory decision-maker (B1)	Refer to the Compliance, Investigation and Enforcement Team
	Not suitable – manager of childcare	Regulatory decision-maker (B1)	Refer to the Compliance, Investigation and Enforcement Team
CRB check	Suitable (check clear)	National Business Unit B3	Regulatory decision-maker (B1)
	Suitable (information identified)	Regulatory decision-maker (B1)	Refer to the Compliance, Investigation and Enforcement Team.

¹⁰⁰ Where there is a reference to the Compliance, Investigation and Enforcement Team, the decision must be made in line with the decision-making chart in the Compliance, Investigation and Enforcement Handbook.

Type	Judgement	Recommendation	Decision ¹⁰⁰
	Not suitable (information identified)	Regulatory decision-maker (B1)	Refer to the Compliance, Investigation and Enforcement Team
LA check	Suitable (check clear)	National Business Unit B3	Regulatory decision-maker
	Suitable (information identified)	Regulatory decision-maker	Refer to the Compliance, Investigation and Enforcement Team.
	Not suitable (information identified)	Regulatory decision-maker	Refer to the Compliance, Investigation and Enforcement Team.
Known to Ofsted check	Suitable (check clear)	National Business Unit B3	Regulatory decision-maker (B1)
	Suitable (information identified)	Regulatory decision-maker (B1)	Refer to the Compliance, Investigation and Enforcement Team
	Not suitable (information identified)	Regulatory decision-maker (B1)	Refer to the Compliance, Investigation and Enforcement Team
Premises checks	Suitable (check clear)	Inspector	Regulatory decision-maker (B1)
	Suitable (premises issue)	Inspector	Regulatory decision-maker (B1)
	Not suitable (premises issue)	Inspector	Regulatory decision-maker (B1) – consider referral to the Compliance, Investigation and Enforcement Team
Individual suitability – other association	Suitable (no information received on any checks)	National Business Unit B3	Regulatory officer (B2)
	Suitable with resolved concerns e.g. about alcohol/ drugs misuse	Inspector	Regulatory decision-maker refers to the Compliance, Investigation and Enforcement Team
	Not suitable	Inspector	Regulatory decision-maker refers to the Compliance, Investigation and Enforcement Team
Premises suitability	Suitable	Inspector	Regulatory decision-maker (B1)
	Not suitable	Inspector	Regulatory decision-maker refers to the Compliance, Investigation and Enforcement Team
Registration decision	Register	No 'recommendation' in this instance	Regulatory decision-maker

Type	Judgement	Recommendation	Decision ¹⁰⁰
	Register (following resolved concerns)	Regulatory decision-maker	Regulatory decision-maker refers to the Compliance, Investigation and Enforcement Team
	Refuse	Compliance, Investigation and Enforcement professional	EY HMI

Annex B. Registered persons for childcare provisions on domestic and non-domestic premises

There are three categories of registered person for childcare on domestic and non-domestic premises:

- individual – the sole owner of a provision
- organisations whose prime purpose is to provide childcare
- organisations whose prime purpose is not to provide childcare.

Individuals

Where the registered person is an individual, that person must sign the application. He/she is solely responsible and accountable for the provision.

Organisations whose prime purpose is to provide childcare

The application must be signed by a responsible person or persons representing the organisation, for example:

- a director or directors on behalf of a company
- a partner or partners on behalf of all partners in a formal or informal partnership
- a trustee, director or chairperson on behalf of a charitable body
- the chairperson or a committee member on behalf of a committee.

Organisations whose prime purpose is not to provide childcare

The application must be signed by the most senior person in the organisation who has delegated, clearly identifiable and direct responsibility for managing, planning and monitoring the childcare, on behalf of the organisation.

The main types of organisation

Companies: companies are legally constituted, have a company name, are registered with Companies House, and have a company registration number.

Statutory bodies: a statutory body is an organisation where the main purpose of that organisation is provided for under legislation, for example a local authority or school governing body.

Formal partnerships: a formal partnership holds a separate legal identity from the individuals that make up that partnership. Formal partnerships are legally constituted and have a partnership name.

Informal partnerships: an informal partnership is where two or more individuals act together without a legally constituted agreement. This form of partnership does

not have a separate legal identity of its own. The registered person is each of the individuals making up the informal partnership.

If an informal partnership has a name, such as 'Busy Bees', we may register it under this name. This means that if partners change we do not have to make changes to the registration certificate. If there is no group name, we must list each of the individuals making up the partnership on the registration certificate.

Where the prime purpose of the partnership is the provision of childcare we will hold information on all the partners separately as applicants are required by legislation to inform Ofsted of the names of the individuals that make up a partnership.

Charities: charitable bodies may be charitable trusts, unincorporated associations or limited companies. Registered charities hold a registered charity number.

Committees that are not registered charities: committees are not constituted in law, and are informal associations/groups. Each individual making up that committee is considered as the registered person and is equally responsible and accountable for the provision. The committee means whoever is serving on the committee at the date Ofsted takes any action in connection with the registration.

There are some other types of organisation that are legal entities, such as **industrial and provident societies** and **community interest companies**. In many cases, these will also be registered charities, in which case we will treat them as such. We will record them on our systems as a 'charity' and refer to the members of the organisation 'trustees'. Where such organisations are not a registered charity, we will record them as a committee and call the individuals that make up the registered body committee members.

Trading names: if the organisation has a trading name then we will record this on their registration certificate. We will refer to the organisation as 'XX, trading as YY'. If the organisation doesn't have a trading name, we will list on the registration certificate all the individuals who make up the registered person.

Note on Sure Start children's centres

In the case of children's centres there are a range of governance models and accountability may be shared across different agencies or providers. Children's centres which operate on more than one site will require a separate registration for each of the premises on which childcare is provided. There may be a different registered person for each registration.

Annex C. Early Years Register telephone checklist and document request

Questions/points to include in your phone call to the applicant to arrange the registration visit:

- Introduce yourself and make sure you are speaking to the applicant or their nominee.
- Explain the reason for your phone call and check that it is a convenient time to talk.
- Agree the venue, date and time for the registration visit and give an indication of the length of the visit
- Give information about the purpose and process of your visit.
- Inform the applicant (where applicable) that you would like the manager to be available for part of the visit so that you can carry out a suitable person interview.
- Give information about any colleagues who will join you on the day.
- Check if there are any factors you need to consider such as building work, holidays and so on.
- Ask, if applicable, whether children will be present during the interview
- You must explain that during the visit the applicant must demonstrate to you how he or she meets or will meet the welfare and learning and development requirements of the Early Years Foundation Stage. Emphasis that the applicant needs to be familiar with, and be able to demonstrate how they will put into practice, the Early Years Foundation Stage – particularly the *Statutory Framework for the Early Years Foundation Stage* and the *Practice Guidance for the Early Years Foundation Stage*.
- Check that the applicant has received the guidance booklet *Preparing for your registration visit*¹⁰¹ included as part of the application pack. Explain that the applicant can prepare for your visit by working through the questions in the booklet.
- Advise the applicant to assess/identify any risks associated with the premises as required under Suitable premises, environment and equipment on page 33 of the *Statutory Framework for the Early Years Foundation Stage*.¹⁰²
- Ask if there are any special factors for you to take into consideration, for example a disability with hearing, sight and so on.

¹⁰¹ See note 68.

¹⁰² See note 63.

- Ask if there any significant changes since the applicant submitted the application form to Ofsted.
- Clarify any directions you need to the address where the visit will take place.
- Ask if the applicant has any questions.
- If you need to ring again, check a convenient time.
- During your phone call, ask the applicant to make a note of any documents you will need to see. You may wish to refer the applicant to the factsheet *The requirements of the Early Years Register*.¹⁰³ These include:
 - birth certificate
 - proof of any name changes such as a marriage certificate (if applicable)
 - proof needed for verification of identity
 - documents related to using a vehicle (if applicable) driving licence, MOT certificate and insurance
 - any written policies, or procedures required by the Early Years Foundation Stage and associated regulations.

¹⁰³ See note 19.

Annex D. Concerns about the health of an applicant or manager particularly relating to drug or alcohol misuse

Any of the checks carried out in connection with a registration may disclose evidence of health concerns including drug or alcohol misuse. Where inspectors have information from checks or other sources that give rise to concerns, they **must** investigate further.

Routine questioning about the applicant's weekly drinking pattern should be an integral part of the registration visit, even when there is no obvious concern about alcohol misuse.

Where inspectors have concerns arising from drug, alcohol or other medical concerns they must:

- withdraw to seek further advice from the early years helpdesk if necessary
- refer them to the regulatory decision-maker in the National Business Unit who will obtain further advice and checks including with Ofsted's medical advice provider ('medical adviser')
- discuss the issues with the applicant face to face, returning to question further where necessary
- record in their evidence full information so that qualified professionals can decide on any additional tests or interviews; and whether the information is consistent with the patient and GP declarations in the health declaration booklet. When coming to a decision on medical suitability the medical officer will carry out a full review of all information and make the decision based on:
 - the accuracy of the self-declaration
 - information from checks from other sources including from the Inspector
 - appropriate additional tests or medical interviews from a range of sources.

How Ofsted's medical advisers deal with actual or suspected substance misuse

Substance misuse problems (including alcohol) are dealt with by the Community Drug Team. That team is led by a consultant psychiatrist, who will be supported by community psychiatric nurses, counsellors, drug workers and psychologists. There may therefore already be a range of professionals involved in the applicant's medical health. The medical adviser will draw on all those sources of information when determining medical suitability.

Alcohol and drugs misuse are commonly associated with serious medical conditions, such as liver failure, neurological problems, bleeding including from the stomach, hepatitis and other infections, and mental dysfunction. The medical adviser will therefore conduct physiological tests where necessary to establish whether any such conditions exist.

In cases involving drugs or alcohol abuse, the medical adviser takes a multi-faceted approach, which provides for information on medical suitability to be gathered from a number of sources, which will include the following:

- the applicant
- inspector observations and results from questions asked during visits
- GP report
- health visitor report
- social services report
- criminal records
- Community Drug Action Team
- Community Mental Health Team
- applicant's own psychiatrist/therapist
- independent psychiatric report
- independent psychological assessment.

Occasionally it may be helpful to hold a case conference between the medical adviser, the regulatory decision-maker, the Compliance, Investigation and Enforcement Team and the inspector, including the outsourced inspector, if necessary. Any such requests should be requested through the National Business Unit who manages the contract with Ofsted's medical advice provider.

Asking questions during the visit

Given the importance of the information that will be gained during the registration visit, it is essential that inspectors follow any advice from the National Business Unit or the Compliance, Investigation and Enforcement Team on the lines of questioning that need to be adopted before the visit to discuss the suspected or declared substance misuse. Inspectors should devise a plan for the visit that ensures they can collect enough information to deal with the matters raised by the medical adviser, the regulatory decision-maker or the Compliance, Investigation and Enforcement Team.

Inspectors must ensure that the questions they ask will draw out enough information to allow proper consideration of suitability. Inspectors must also look for any physical signs of drugs or alcohol misuse during the visit and pass on full details of their interview with the applicant to the National Business Unit who will ensure that relevant issues are passed to the medical adviser so that he or she can make a proper assessment of medical suitability.

During the interview with the applicant, inspectors should ask questions that will establish:

- how long ago any drugs or alcohol misuse occurred, and how long it lasted for
- the circumstances surrounding the drugs or alcohol misuse, for example, whether it was linked to a particular, traumatic event, or whether there is an underlying history of misuse
- whether the applicant sought any professional help for their misuse, and if so, from whom they sought such help
- the applicant's attitude to the misuse now. For example, is there any feeling of remorse, regret, or sense of personal responsibility for what happened?
- the applicant's awareness and understanding of the impact of such misuse on children that they may care for, including whether they can clearly identify the risks to children of being in contact with a person who misuses drugs or alcohol
- the likelihood of the applicant resorting to the same behaviour (misuse) again. For example, what is the applicant's attitude now to drugs or alcohol misuse.

Inspectors must record the responses to the questions as fully as possible in your registration evidence.

Undeclared substance misuse

In some cases, the medical adviser will discover, from checks that he or she undertakes, that the applicant has made a false or misleading declaration about his or her substance misuse. In such cases, the medical adviser **must** tell the regulatory decision-maker who should consider refusing registration and refer the case to the Compliance, Investigation and Enforcement Team. Where there have been concerns raised, the medical adviser must also make available all material from their consideration of the applicant's medical suitability, as this will help the regulatory decision-maker and the Compliance, Investigation and Enforcement Team make the registration decision, where there remain questions following the medical adviser's recommendation.

The regulatory decision-maker should take account of the medical recommendation when coming to an overall registration decision but make sure that they assess all relevant evidence when making that decision.

As well as information from checks, inspectors need to be alert to the possibility of evidence of alcohol and drug misuse coming to light during the registration or inspection visit from both assessment of the premises and interviews with individuals. As a matter of routine, inspectors should ask individuals about their drinking habits to ascertain patterns of drinking in the same way as they would ask

about smoking if they smell cigarette smoke in the house. Inspectors should also ask them about any current or former drugs use.

Concerns may arise, for instance, as a result of first-hand observations or from comments made by members of staff, parents and others. Inspectors should be aware of signs of potential substance misuse such as:

- the general cooperation for the appointment of the visit, and during the visit
- the appearance of the applicant or member of staff- such as personal hygiene, smell of alcohol
- behaviour, for example delusion or paranoia
- conversation – incoherent speech, abnormal speed
- general state of the household (childminder) such as empty beer cans, wine bottles, dented coke cans with burn marks, needles and syringes, packets of 'Rizla' papers
- evidence of addiction (signs of intoxication or dependency).

It is well known that people who misuse drugs or alcohol often adopt a range of strategies to try to conceal their problem. Inspectors should be aware of the need to observe and note any behaviours or physical evidence that might indicate misuse.

During a registration visit, as well as being alert to the more obvious indicators above, inspectors should ask the applicant about alcohol or drugs where:

- there are quantities of alcohol on view, for example cases of wine or bottles of spirits, when there is no planned or recent celebratory event
- there are quantities of empty bottles or cans, for example outside the back door
- there is evidence of needles or syringes even if these are kept safely
- there is evidence that drugs – of whatever class – have been, or are being, used (for example, a sweet, sickly smell often associated with cannabis smoking or a strong smell of solvents such as glue or lighter fuel)
- there is evidence of some denial or 'covering up' of a drugs or alcohol problem (for example, an overpowering smell of mints, mouthwash or perfume).

Where inspectors find:

- an applicant admits to drinking more than the recommended weekly limit
- an applicant admits to binge drinking
- an applicant admits to taking drugs, or having done so in the past

- information from checks or the interview about convictions for drug or alcohol misuse
- other evidence that drinking or drugs have been an issue
- they should tell the applicant that they will be referring the information back to Ofsted's medical adviser.

If, during the interview, and inspector thinks the applicant is under the influence of drugs or alcohol, the inspector should terminate the visit and explain the reason to the applicant.

Making decisions

Where information comes to light that an applicant has withheld or supplied misleading details without reasonable excuse; or the inspector believes, after taking relevant advice, that the concerns are significant, the inspector should record full information in their evidence. In these cases, the regulatory decision-maker should recommend refusing registration and should refer the case to the Compliance, Investigation and Enforcement Team so that a senior officer can arrange for a full review of the registration process before signing off the decision.

Even where an applicant is cooperative, inspectors should still record full information in their evidence, so this can be taken into account in deciding whether to refuse registration. The Compliance, Investigation and Enforcement Team senior officer will then arrange for a full review of the registration process before signing off the decision. It should also include a check on the timing of the first inspection to consider whether this should be earlier than seven months.

During an inspection or investigation visit, where inspectors find evidence or have concerns about suitability because of drug or alcohol misuse in relation to the registered person or manager, the first priority must be to assess the risk to children. If the inspector believes that children may be at risk of harm he or she must contact the Compliance, Investigation and Enforcement Team to discuss further action.

Where children are at risk of serious harm the Compliance, Investigation and Enforcement Team will consider suspension and/or emergency cancellation of registration.

Where inspectors assess that the children are safe, the registered person or manager must be told about the concerns before the inspector withdraws to seek advice. Inspectors must defer any inspection judgement until matters are satisfactorily resolved.

Where inspectors have evidence or concerns about drug or alcohol misuse by a member of staff arising from the inspection but assess that the children are safe they should:

- check the provider's compliance with the regulation for assessing suitability, including any evidence the provider held in relation to the concerns or any additional checks undertaken
- question the provider about his or her knowledge of the evidence or concerns
- ask how the provider intends to deal with this additional information
- question the provider about how they will ensure the safety of the children.

If the inspector continues to have concerns following the provider responses, he or she should tell the provider they are going to withdraw to seek further advice.

We would expect the provider to take appropriate action to investigate the concerns, where necessary suspending staff until investigations are complete or providing additional supervision. In addition, the provider must tell us what he or she has done as a result of the investigation before we make an assessment about the continued suitability of the provider.

Annex E. Guidance on the recommended limits of alcohol drinking

The Department of Health¹⁰⁴ advises that:

- **men** should drink no more than 21 units of alcohol per week (and no more than four units in any one day).
- **women** should drink no more than 14 units of alcohol per week (and no more than three units in any one day).

A unit of alcohol

One unit of alcohol is 10ml (1cl) by volume, or 8gm by weight, of pure alcohol. For example:

- One unit of alcohol is about equal to:
 - half a pint of ordinary strength beer, lager, or cider (3–4% alcohol by volume)
 - a small pub measure (25 ml) of spirits (40% alcohol by volume)
 - a standard pub measure (50 ml) of fortified wine such as sherry or port (20% alcohol by volume).
- There are one and a half units of alcohol in:
 - a small glass (125 ml) of ordinary strength wine (12% alcohol by volume)
 - a standard pub measure (35 ml) of spirits (40% alcohol by volume)
 - just under half a pint of strong beer (6%)
 - an 'alcopop' (for example Smirnoff Ice, Bacardi Breezer, WKD, Reef).

In weekly terms:

- three pints of ordinary strength beer, lager, or cider, three times per week = at least 18 units per week (over the recommended limit for a woman; within the weekly recommended limit for a man, however, each drinking session is at least six units, which is more than the safe limit advised for any one day).
- wine at 12% – two small glasses= three units (within the recommended daily limit, however, a woman who drinks two 750ml bottles of 12% wine over a week is above the upper safe limit).

¹⁰⁴ *Sensible drinking: Report of an inter-departmental working group*, Department of Health, 1995; *The Health of the Nation*, White Paper, 1992; www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4084701.

Binge drinking

The British Medical Association (BMA) March 2005 report on binge drinking states:

'...there is no consensus on the definition of binge drinking... in common usage, binge drinking is now usually used to refer to heavy drinking over an evening or similar time span, even within this general definition, there is no consensus as to what level of intake constitutes binge drinking.'

The report continues:

'The Office for National Statistics (ONS) definition of 'heavy' drinking has been used as a proxy for binge drinking in lieu of more nuanced data...this defines heavy drinking as eight or more units for men and six or more units for women on at least one day in the week.'¹⁰⁵

Alcohol Concern suggest that this could serve as an approximation of binge drinking, as it is in line with sensible drinking guidelines using daily benchmarks.¹⁰⁶ This definition of binge drinking equates to a minimum of approximately two thirds of a bottle of wine for women or four pints of beer for men... ideally, a definition of binge drinking would take account of variables such as motivation, alcohol tolerance, time interval and social context.'

Inspectors should take account of this guidance in their analysis of the applicant's comments on their routine drinking habits as part of the decision on suitability. For example, the BMA refer to the Institute of Alcohol Study which notes:

'...eight units consumed over the course of a whole day and as an accompaniment to meals will not have the same effects as eight units consumed over a couple of hours on an empty stomach.'¹⁰⁷

Dealing with suspected drug/substance abuse

Recognising signs of drug abuse can be very difficult to those who are unfamiliar with the subject. People who misuse drugs can do so in a number of different ways – for example, smoking drugs, or injecting them. Given the range of drugs available, abusers will use different equipment when using drugs, according to the substance they are using and the way in which they choose to take that substance.

Controlled drugs are subject to legal restrictions aimed at preventing drug abuse. Whilst there are guidelines issued by the Home Office about when it will be

¹⁰⁵ *General Household Survey 2003*, Office for National Statistics, 2004;
www.statistics.gov.uk/statbase/product.asp?vlnk=5756.

¹⁰⁶ *Alcohol Concern Factsheet 20: Binge drinking*, Alcohol Concern.
www.alcoholconcern.org.uk/assets/files/Wales%20factsheets/Binge%20drinking%20-%20Wales.pdf.

¹⁰⁷ *Binge drinking: nature, prevalence and causes*, Institute of Alcohol Studies, 2004;
www.ias.org.uk/resources/factsheets/factsheets.html.

appropriate to bring a prosecution, the main offences for which a prosecution can be brought relating to the misuse of drugs are contained in the Misuse of Drugs Act 1971 (the Act). Where an applicant commits or is committing an offence under the Act this will raise issues about their suitability to be qualified as a registered provider. The Act classifies drugs according to the degree of harm likely to be involved in their use i.e. Class A, B or C.

- Class A – Ecstasy, LSD, heroin, cocaine, crack, magic mushrooms, amphetamines (if prepared for injection).
- Class B – Amphetamines, Methylphenidate (Ritalin), Pholcodine
- Class C – Cannabis, tranquilisers, some painkillers, Gamma hydroxybutyrate (GHB), Ketamine.

The main offences are listed below.

- Possession
- Possession with intent to supply
- Supplying a controlled drug
- Being concerned in a supply
- Being concerned in an offer to supply
- Production of a controlled drug
- Being concerned in the production
- Cultivation of the cannabis plant
- Permitting premises to be used for producing
- Permitting premises to be used for supplying
- Permitting premises to be used for smoking cannabis etc
- Smoking or using prepared opium
- Frequenting a place to be used for opium smoking
- Permitting premises to be used for preparing opium for smoking
- Possessing pipes or other utensils in connection with the preparation or smoking of opium.

The government website www.talktofrank.com provides a useful A-Z of drugs, which gives information about different drugs, how they are used and the 'symptoms' that users might display. If inspectors believe that an applicant is using drugs, then they should record in their evidence what they have seen or heard.

If inspectors believe they have evidence to suggest a person is committing an offence, then they must refer their concerns to the Compliance, Investigation and Enforcement Team, who have local liaison arrangements in place with police forces.

The use of some substances, though not illegal, may affect a person's suitability to look after, or be in contact with young children. These include glue sniffing or misuse of other legal substances such as solvents or lighter fuel, and addiction to prescription drugs, or even drugs that can be bought 'over the counter', such as pain killers. If, from their observation of, and/or discussions with, the applicant, inspectors have any concerns that the applicant may be misusing a substance in this way, they should record this in their evidence and seek advice from the Compliance, Investigation and Enforcement Team. The regulatory decision-maker may wish to discuss the evidence with Ofsted's medical adviser before reaching a decision on suitability.

Annex F. Scenarios relating to suitability issues

NB: the aim of these scenarios is to give inspectors and regulatory decision-makers an indication of the sorts of issues they would need to consider when assessing the suitability of a person in these circumstances. They do not represent a definitive list of questions we should ask, and we should always discuss cases such as these with Ofsted's medical adviser and/or the Compliance, Investigation and Enforcement Team.

Scenario one

A childminder applicant tells the inspector she drinks half a bottle of wine every evening, during dinner with her husband. They eat at 7pm every night. She intends not to look after children beyond 6pm.

Issues to consider:

- Technically, this applicant is above the upper 'safe' limit defined by the Department of Health – she is drinking around 4.5 units of alcohol each night, which amounts to 31.5 units of alcohol each week.
- Has the childminder properly declared this information in her medical declaration booklet?
- Does the evidence from the inspector's observations support the childminder's declared drinking, or is there evidence that she may be drinking more?
- Is the childminder's drinking pattern likely to affect her suitability to look after children? For example, are there any occasions when she would drink before 7pm, or drink excessively in a single session?
- What reassurances can the childminder give that she understands the importance of not being under the influence of alcohol whilst looking after children?
- How would she deal with any 'unexpected' events, for example, where a parent is late picking up their child and she has to care for that child over her normal 'dinner' period?

Scenario two

A new manager of a day nursery works from 8.30am to 6pm, Monday to Friday. When questioned about her drinking habits, she says she only drinks at weekends. She goes out with friends on Friday and Saturday nights, and drinks about six large glasses of wine on each of these two evenings.

Issues to consider:

- The manager is above the upper 'safe' limit defined by the Department of Health, both in terms of her weekly number of units and the number of units it is safe to consume in one day.
- Does this information match her declaration on her medical suitability questionnaire?
- Does she demonstrate an awareness of the risks of drinking alcohol when looking after children?
- For example, what if one of her friends was celebrating a birthday on a weekday, and she had to work the following day? Would she maintain the same pattern of drinking on that occasion?

Scenario three

A childminder applicant is 45 years old. Her Criminal Records Bureau check shows that, 10 years ago, she received a conviction for possession of crack cocaine. She says she was looking after it for her boyfriend at the time. She says that although at the time she occasionally used crack, the incident distressed her so much she has never touched it since.

Issues to consider:

- Does this information from the childminder's Criminal Record's Bureau check match the information she has declared on her application form?
- Does she move within the same circle of friends that she was previously involved with?
- If so, do they still take drugs, and does she ever feel pressured to do so?
- Is there any evidence, from the inspector's observations, that suggest she is still using drugs?
- Can she demonstrate an awareness of the dangers of drug-taking around children?

Scenario four

A new manager of a nursery is asked about her drinking habits. She says she mostly drinks at weekends, but occasionally, she meets a friend for a pub lunch on a Wednesday. She has a couple of glasses of wine before returning to work.

Issues to consider:

- In her new role, will she continue with her Wednesday lunchtime glass of wine?

- If she intends to continue, can she demonstrate that she has properly thought through the implications and has discussed this drinking pattern with her employer?
- Is her employer content to make arrangements for her not to be in contact with children during these afternoons (for example, to deal with paper work or other duties not involving access to the children)?
- If she has made such an agreement with her employer, what arrangements has she made for handling any emergencies in the nursery during such times?

Scenario five

During a visit to a childminder applicant's house, the inspector goes outside to look at her garden. Behind the wheelie bin, the inspector sees around 15 empty wine bottles. The childminder has stated on her medical declaration form that she does not drink alcohol.

Issues to consider:

- How does the childminder account for the empty bottles when she has declared she does not drink alcohol?
- Is her explanation satisfactory/plausible?
- Are there any other signs that might suggest the childminder drinks alcohol?
- If she accounts for the bottles by saying that they belong to someone else on the premises, what steps has she taken to ensure that the other person will not drink when children are present?

Scenario six

During a visit to a childminder applicant's house, the inspector notices a strong smell of glue when passing the childminder's teenage son's bedroom. When the inspector asks the childminder about this, she says the strong smell is accounted for by his 'model-making' hobby.

Issues to consider:

- Is there any evidence to support the childminder's explanation for the strong smell of glue?
- Are there any other indicators that the smell could be due to glue-sniffing or other solvent abuse?
- Will her son be present when children are being looked after?
- What steps will she take to ensure that children are not at risk of harm by the activity of her teenage son – even if you are satisfied with her explanation of the activity taking place?

Annex G. Changes to registration details

The table below identifies where changes can be made to registration details without undertaking additional checks, and where such a change needs additional action. It includes information on where a visit may have to stop until we have completed that action.

Change to registration details	Action required – existing registered provider	Action required – applicant for registration
Changes to contact details – such as email and home/ mobile telephone number	Inspector informs Ofsted of required change – National Business Unit updates provider details.	Inspector informs Ofsted of required change – National Business Unit to update provider details.
Change of name – for example, following marriage/ deed poll	Inspector informs Ofsted of required change – National Business Unit to update provider details.	If change of name occurred before the application is submitted and information is not notified to Ofsted, the inspector must inform Ofsted of the additional information. The National Business Unit will refer to the Compliance, Investigation and Enforcement Team the failure to disclose, if necessary. The National Business Unit will ensure checks have taken place relating to the change of name. If the change occurred after application, such as following marriage, the inspector must inform the National Business Unit of change of details. The National Business Unit will update provider details in all cases.
Difference in spelling of names, or omission of names, on information presented to the inspector by the applicant/ registered person compared to information provided to the inspection service provider from Ofsted	Inspector informs Ofsted of required change – new forms may need to be completed and sent to Ofsted. Discussion relating to the omission of details to Ofsted will need to take place – advice from National Business Unit may be required. National Business Unit will update provider details.	Inspector informs Ofsted of required change – the National Business Unit updates the Regulatory Support Application – new forms may need to be completed and sent to Ofsted. Discussion relating to the omission of details to Ofsted will need to take place – advice from the National Business Unit may be required for visit to continue.

Change to registration details	Action required – existing registered provider	Action required – applicant for registration
Change of address following house move	Inspector informs Ofsted of required change – National Business Unit to update provider details.	Inspector informs Ofsted of required change – National Business Unit to update provider details.
Date of birth of existing children, already recorded on Regulatory Support Application – if a child has reached the age of 16 we must send a EY2/CR2 and obtain a CRB check	Inspector informs Ofsted of required change – National Business Unit to update provider details and send EY2/CR2 if appropriate.	Inspector informs Ofsted of required change – National Business Unit to update provider details and send EY2/CR2 if appropriate – however, we may delay making a registration decision while we receive completed checks of a person aged 16 and over if other information raises concerns about the person. In other cases, we may grant registration and will act on any information we receive that suggests the person is not suitable, on receipt of checks.
New member of household aged 16 years or over	Inspector to inform the National Business Unit of change of household member – National Business Unit to note on the Regulatory Support Application and send EY2/CR2 form as required.	Inspector to inform National Business Unit of change in household member – National Business Unit to record on system and send EY2/CR2. However, we may delay making a registration decision while we await completed checks, if other information raises concerns about a person. In other cases, we may grant registration and will act on any information we receive that suggests the person is not suitable, on receipt of checks.
New member of household aged under 16 years	Inspector informs Ofsted of required change – National Business Unit to update provider details.	Inspector informs Ofsted of required change – National Business Unit to update provider details.
Change to conditions of registration	Inspector informs Ofsted of requested change – recommendation to National Business Unit through the data transfer process.	N/A Recommendation for conditions made following registration visit.
Re-wording of conditions to ensure consistency with Ofsted policy	Inspector update conditions information and send through data transfer process.	N/A
Alterations to premises – such as extension	Inspector update setting details, prior to submission of inspection evidence through the data transfer process.	Inspector update setting details, prior to submission of registration evidence through the data transfer process.

Change to registration details	Action required – existing registered provider	Action required – applicant for registration
Resignation from either register including both parts of the Childcare Register	The inspector should contact the National Business Unit prior to submission of their evidence, to inform them of the resignation and where appropriate, the register in which the resignation relates to – National Business Unit will send resignation confirmation letter.	N/A
Withdrawal of application from either register and both parts of the Childcare Register	N/A	The inspector should contact the National Business Unit prior to submission of the registration evidence to inform them of the withdrawal of the application and, where appropriate, the register in which the withdrawal relates to – National Business Unit will send withdrawal confirmation letter.
Incorrect registered person/applicant (identified from visit or other information obtained)	The inspector should include in their evidence submitted through the data transfer process that the registered person is incorrect. The regulatory decision-maker will need to contact the provider to make enquiries as to who should be the registered person, using the guidance set out at paragraphs 173–175 and in Part 5 above.	The inspector should include in their evidence submitted through the data transfer process that the registered person is incorrect. The regulatory decision-maker will need to contact the provider to make enquiries as to who should be the registered person, using the guidance set out at paragraphs 173–175 and in Part 5 above.