

Conditions of registration for all regulated social care services and categories of registration for children's homes and voluntary adoption agencies

Ofsted's policy on conditions of registration for children's homes, residential family centres, adoption support agencies, voluntary adoption agencies and independent fostering agencies, and on categories of registration for voluntary adoption agencies and children's homes.

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361

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Contents

Background	4
Implementation	5
Wording of conditions of registration for children’s homes, residential family centres, adoption support agencies, voluntary adoption agencies and independent fostering agencies	5
Children’s homes	5
Short breaks children’s homes	6
Multi-sites	7
Mobile services	7
No children placed	7
Residential family centres	8
Adoption support agencies	8
Voluntary adoption agencies and independent fostering agencies	8
Conditions that will no longer apply	9
Additional conditions of registration	9
Categories of registration for children’s homes and voluntary adoption agencies	10
Categories of registration for children’s homes	10
Deciding which categories of registration should apply to a children’s home	11
Wording categories of registration for children’s homes	12
Children’s homes with no categories of registration	12
Wording categories of registration for voluntary adoption agencies	13
Imposing conditions of registration	13
Breaches of conditions of registration	14
Annex A. Additional guidance on categories of registration for children’s homes	15
Annex B. Accommodating children who live (are permanently placed) at a children’s home and providing short breaks together in one premises	18

Background

1. This guidance sets out Ofsted's approach to setting conditions of registration for children's social care services under the Care Standards Act 2000 (Registration) (England) Regulations 2010.¹ It replaces all previous Ofsted guidance on setting conditions of registration and categories of registration in social care.
2. The application of this policy is intended to meet our legal obligations under the Care Standards Act 2000 (Registration) (England) Regulations 2010, while being consistent and transparent in our practice.
3. Section 13(3) of the Care Standards Act 2000² provides that Ofsted may grant an application for registration unconditionally or subject to any conditions that it thinks fit.
4. We may set conditions of registration where we consider these appropriate. So that any conditions of registration we apply are proportionate, we only apply conditions to:
 - protect children and service users
 - address specific issues relating to a particular setting or service type.
5. We apply conditions of registration to:
 - children's homes
 - residential family centres
 - adoption support agencies
 - voluntary adoption agencies
 - independent fostering agencies.³
6. It is not our intention to prevent the development of diverse and innovative provision for children and young people by imposing unnecessarily restrictive conditions on a registration.

¹ Care Standards Act 2000 (Registration) (England) Regulations 2010; <http://www.legislation.gov.uk/uksi/2010/2130/contents/made>.

² Care Standards Act 2000; <http://www.legislation.gov.uk/ukpga/2000/14/contents>.

³ Although no conditions of registration are normally applied to independent fostering agencies, the guidance on imposing conditions and specific conditions remains valid.

7. For consistency, we have:
 - set wording for some frequently used conditions of registration
 - produced guidance on how to impose individualised conditions of registration.
8. Categories of registration are intended to provide an indication of the types of children and young people's needs that a children's home caters for, and details of the services that a voluntary adoption agency provides. We apply categories of registration as conditions of registration to children's homes and voluntary adoption agencies. See paragraphs 35–47.

Implementation

9. The guidance takes effect from 21 March 2012 for services applying for registration and for registered providers applying:
 - for a variation
 - to register a new manager of an already registered setting.
10. We will review existing certificates for all other registered providers and issue notices of proposal, notices of decision and certificates where required to comply with this guidance in due course. Meanwhile, all current registration certificates remain valid.

Wording of conditions of registration for children's homes, residential family centres, adoption support agencies, voluntary adoption agencies and independent fostering agencies

11. Please note that numbers on certificates should always be expressed in numerals and not as words: for example '6' and not 'six'.

Children's homes

12. We apply the following condition to all children's homes, including secure children's homes, to set out the total number of children that can be accommodated. The registered person:
 - may only provide care and accommodation for up to XX (number of) children.

Accommodating children and young adults in a children's home

13. Where the home provides care and accommodation for children and young adults aged 18 and over, we impose the following condition. The registered person:
- must reduce the number of children by the number of people aged 18 and over for which it also provides care and accommodation.

Please refer to *Guidance on inspecting and regulating children's homes with accommodation for adults (wholly or mainly a children's home)*,⁴ which provides information about the numbers of adult placements in comparison to children's placements that a children's home can have.

14. Where a children's home provides a mother and baby placement, the overall numbers of the children's home includes the baby.
15. Where the home is a single-bedded home, this condition will not be imposed.
16. We apply the following condition to children's homes that only accommodate boys or girls. The registered person:
- may provide care and accommodation for single sex occupancy only.

Short breaks children's homes

17. If a children's home applies for registration to accommodate both short breaks and permanent placements,⁵ we will pay particular attention to how the provider demonstrates their ability to meet all the needs of the children and young people placed for short breaks or placed permanently (see Annex B).
18. When registering new children's homes that only provide short breaks, we usually apply the following condition.⁶ The registered person:
- may only accommodate children or young adults under short break arrangements and not for permanent placements at the home.
19. For children's homes that are already registered to accommodate both short breaks and placements for children to live at the home, we impose an individual condition of registration to clarify the arrangements. The registered person:
- may provide care and accommodation for up to x children under short break arrangements and for a further x children to live at the home.

⁴ *Guidance on inspecting and regulating children's homes with accommodation for adults (wholly or mainly a children's home)* (100116), Ofsted, 2010; www.ofsted.gov.uk/resources/100116.

⁵ In this guidance, 'permanent placements' means that the children's home is a child or young person's main place of residence.

⁶ This condition is required for short breaks services registered from May 2011.

20. Where short breaks and permanent placements for children are provided in two different units within one children's home, we will apply individual conditions that fit the circumstances. The registered person:

- may only provide care and accommodation for up to x children under short break arrangements in >insert name of unit<
- may only provide care and accommodation for up to x children as permanent placements in >insert name of unit<.

Multi-sites

21. When registering services that are operating over more than one site in line with our multi-sites policy, the following wording may be used. The registered person:

- may only provide care and accommodation for up to x children at >insert name of site< and a further x children at >insert name of site<.

Mobile services

22. There are a very small number of children's homes that are registered to provide mobile services. Please refer to *Guidance for mobile services*.⁷ We apply some specific conditions to these children's homes. They are likely to include the following.

The registered person:

- must inform Ofsted whenever any child placed with the service stays at any location other than the setting address
- must keep Ofsted informed of the location of the barge/caravan (delete as applicable) at all times (where applicable)
- must ensure that the maximum stay for any one child does not exceed 120 days
- must carry out written risk assessments which are regularly reviewed for any accommodation the provider intends to use.

No children placed

23. Where a children's home has no children placed there and does not meet its registration requirements and the requirements of the Children's Homes Regulations (2010), we apply the following condition of registration.

⁷ *Guidance for mobile services* (100252), Ofsted 2011; www.ofsted.gov.uk/resources/100252.

The registered person:

- must inform Ofsted of their intention to admit children and young people three months before a child or young person's placement commences.

There is more guidance on this in *Conducting inspections of children's homes*.⁸

24. We do not normally apply a timescale to conditions of registration. If a timescale is considered necessary, the inspector must agree such a condition with their manager and a Compliance, Investigation and Enforcement (CIE) Senior Officer/Professional before issuing a notice of proposal.

Residential family centres

25. We apply the following condition to all residential family centres. The registered person:
- may only accommodate XX (number of) families at any one time.
26. We do not generally set conditions regarding numbers of children. If this is considered necessary, we will follow the guidance for additional conditions of registration.

Adoption support agencies

27. We apply the following conditions to define the services an adoption support agency provides. The registered person:
- may only provide birth records counselling
 - may only provide intermediary services
 - may provide both birth records counselling and intermediary services
 - may provide adoption support services to children/adults/children and adults (delete as applicable).

Voluntary adoption agencies and independent fostering agencies

28. We do not usually apply conditions of registration to voluntary adoption agencies or independent fostering agencies. However, we may impose conditions in specific circumstances. Please refer to paragraphs 31–34.

⁸ *Conducting inspections of children's homes* (100194), Ofsted, 2011; www.ofsted.gov.uk/resources/100194.

Conditions that will no longer apply

29. Some conditions of registration no longer apply. Where necessary, the following conditions should be removed from current certificates:

- the condition for providers to display the registration certificate (The Care Standards Act 2000 places this requirement on providers⁹)
- conditions relating to nursing care or any health activity regulated by the Care Quality Commission
- conditions relating to emergency placements (for example 'The registered person may provide care and accommodation for children outside the specified age range in an emergency situation when notified to and agreed in advance by Ofsted'; a condition is not required because a children's home's statement of purpose must explain, in the section on their criteria of admission, whether they accept emergency admissions)
- conditions relating to children's ages, unless there are specific reasons why an age limit should be applied
- any specific conditions relating to management arrangements or to managers themselves.

30. We must not apply conditions of registration that:

- duplicate any requirements placed on providers and/or managers by the Care Standards Act 2000, or regulations made under this Act
- conflict with or exempt a provider or manager from complying with any of the regulations made under the Care Standards Act 2000
- name an individual other than the registered person(s), as we have no powers to make or enforce conditions other than those that apply to them.¹⁰

Additional conditions of registration

31. Additional conditions of registration not covered in paragraphs 12–28 may be used in particular circumstances to protect children and to promote their safety and well-being. Where an inspector considers any additional condition necessary, they must agree this with their team manager before it is agreed or imposed.

32. Any additional condition of registration must be proportionate, fair and reasonable. It should not restrict service provision inappropriately.

⁹ Care Standards Act 2000, section 28(1).

¹⁰ 'The registered person' covers both the registered provider and registered manager.

33. The condition must be specific to the particular circumstances of the setting, for example, it may be appropriate to stipulate that certain parts of the premises are not to be used as part of a children's home.
34. Additional conditions must be worded to follow on from the phrase 'the registered person'.

Categories of registration for children's homes and voluntary adoption agencies

35. Categories of registration are intended to provide an indication of the types of children and young people's needs that a children's home caters for, and detail of the services that a voluntary adoption agency provides.
36. Categories of registration appear as conditions of registration on certificates.
37. We can impose a change or restrict the categories that a children's home can accommodate if we consider this necessary to protect the safety and welfare of children. Please see paragraphs 53–56. We can only enforce compliance with categories of registration where we stipulate 'may only accommodate'.

Categories of registration for children's homes

38. The categories of registration for a children's home are:
 - children with emotional and/or behavioural difficulties (EBD)
 - children with physical disabilities (PD)
 - children with learning disabilities (LD)
 - children with mental disorders, excluding learning disability (MD)
 - children with present drug dependence (D)
 - children with present alcohol dependence (A)
 - children with sensory impairment (SI).¹¹
39. It is possible for a children's home to have more than one category of registration on their certificate.
40. Annex A provides additional guidance on definitions for each category of registration.

¹¹ The Care Standards Act 2000 (Registration) (England) Regulations 2010.

Deciding which categories of registration should apply to a children's home

41. The children's home or voluntary adoption agency provider must decide what they want to include as categories of registration when they first make an application to register.¹² We will assess a provider's ability to meet the needs of the children, young people and adult service users that they intend to provide services for, during the registration process.
42. Once registered, the provider and registered manager should monitor whether the categories in place continue to adequately describe the operation of the service and the main needs of the children accommodated, or the children and adults who receive services. The provider's statement of purpose must reflect any categories of registration.
43. The children's home or voluntary adoption agency provider should apply for a change of a category if the main needs of the group of children or adults they provide services for are not covered by the categories of registration on their current certificate. We treat this as any other variation request.

However, catering for a wider range of categories of registration in itself does not mean the home is in breach of regulations. We need to consider whether the home is able to meet the range of children and young people's needs, and ensure that any requirements made are a result of inadequacies in this practice.

44. It is not necessarily a breach of a condition of registration if a child/young person has needs other than those listed as the main categories of registration a children's home provides for.

It is not an individual child/young person's needs that dictate the categories of registration of a children's home. Rather it is the overall operation of the home that influences what categories of registration are in place. One child's needs may not require a provider to change their categories of registration. However, where there are several children who have a similar need, this is considered as a primary function of the home, which should be reflected in their categories of registration.

45. In all cases, the home's statement of purpose must detail how the children's home meets all the children's needs, for example if one child with a learning disability also has a significant physical disability that the setting can meet, this need not result in a change of categories. Where several children have a physical disability and this has become a primary function of the home, the provider should request a change of categories.

¹² Care Standards Act 2000, section 12(2)(b).

Wording categories of registration for children's homes

46. The following wording must be used where we apply a category of registration. The registered person:
- may provide care and accommodation for children with emotional and/or behavioural difficulties (EBD)
 - may provide care and accommodation for children with physical disabilities (PD)
 - may provide care and accommodation for children with learning disabilities (LD)
 - may provide care and accommodation for children with mental disorders, excluding learning disability (MD)
 - may provide care and accommodation for children with present drug dependence (D)
 - may provide care and accommodation for children with present alcohol dependence (A)
 - may provide care and accommodation for children with sensory impairment (SI).
47. It is possible to have the following condition, which combines any number of the above. The registered person:
- may provide care and accommodation for children with sensory impairment, learning disabilities and physical disabilities.

Children's homes with no categories of registration

48. We do not generally apply any categories of registration to secure children's homes.
49. Other children's homes can be registered without applying any of the categories of registration. We only do this where the setting does not fit into any of the categories, for instance, where the setting is intended to provide services for child parent and baby placements.
50. The category X has been removed under the Care Standards Act 2000 (Registration) (England) Regulations 2010. This will be removed from all certificates when each one is reviewed.

Wording categories of registration for voluntary adoption agencies

51. One of the following conditions must be applied for each voluntary adoption agency. The registered person may only provide the following services:
- domestic adoption services (DA)
 - inter-country adoption services (ICA)
 - adoption support services for children/adults/children and adults (delete as applicable) (AS)
 - birth records counselling
 - intermediary services.
52. If an adoption provider wishes to provide any additional services, they must request a variation to their conditions of registration. They can stop undertaking a particular service without changing their conditions of registration, but we will continue to inspect the quality of this particular aspect of their service unless they request and we agree to remove this from their conditions.

Imposing conditions of registration

53. Ofsted's powers to impose conditions on a new registration are set out in section 13(3), and to vary, remove or impose conditions on an existing registration under section 13(5)(a) and (b) of the Care Standards Act 2000. We must use these wide powers appropriately and only to safeguard and promote the well-being of children and other service users.
54. When a setting is judged to be inadequate, consideration should be given, as part of the CIE case conference, to whether more restrictive conditions of registration should be set to protect children or adult service users. For example, where there are concerns about how the home meets children's needs, we might propose the removal of a category of registration.
55. When setting categories for enforcement purposes, these should be worded using the word 'only' as in the following examples. The registered person:
- may only accommodate children with physical disabilities
 - may only accommodate children with learning disabilities.
56. This restricts the provider to only accommodating children in this category and not in any other category.

Breaches of conditions of registration

57. Any breach of a condition of registration is an offence¹³ and therefore liable to enforcement action. Any breach will be treated seriously and action must follow the procedures in the CIE handbook.¹⁴

¹³ Care Standards Act 2000, section 24.

¹⁴ *Compliance, Investigation and Enforcement handbook* (080188), Ofsted, 2012;
<http://www.ofsted.gov.uk/resources/compliance-investigation-and-enforcement-handbook>.

Annex A. Additional guidance on categories of registration for children's homes

Children with emotional or behavioural difficulties (EBD)

An emotional or behavioural difficulty is considered to be where children have a difficulty with interpersonal relationships and behaviour but it is not formally associated with mental disorder.

Children with physical disabilities (PD) and children with learning disabilities (LD)

Disability is defined in the Equality Act 2010 as:

'a physical, (children with physical disabilities (PD)), or mental impairment, (children with learning disabilities (LD)), which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.'

'Substantial' means more than minor or trivial.

The effect of an impairment is long term if it has lasted at least 12 months, or if it is likely to last at least that long, or if it is likely to recur if in remission. The impairment must affect a person's ability to carry out normal day-to-day activities, which means it must affect one of the following:

- mobility
- manual dexterity
- physical coordination
- continence
- ability to lift, carry or otherwise move everyday objects
- speech, hearing or eyesight
- memory or ability to concentrate, learn or understand
- perception of the risk of physical danger.

In considering what an adverse effect is, the fact that a person can, with great difficulty and effort, carry out the activities, does not mean that their ability to carry them out has not been impaired. In addition, where the person is on medication or their impairment can be controlled or corrected by medical treatment or the use of an aid, consideration must be given to how the activities would have been affected without the medication or aid.

Children with mental disorders, excluding learning disability (MD)

The Mental Health Act 1983, as amended, provides the following definitions.

'Mental disorder' means any disorder or disability of the mind and 'mentally disordered' shall be construed accordingly.¹⁵

A person with a learning disability shall not be considered by reason of that disability to be:

- suffering from mental disorder for the purposes of the provisions mentioned in subsection (2B) below
- requiring treatment in hospital for mental disorder for the purposes of sections 17E and 50 to 53, unless that disability is associated with abnormally aggressive or seriously irresponsible conduct on his part.¹⁶

Where a child has a substantial level of mental health problems, we consider this falls within the category of emotional and behavioural difficulties unless a formal medical diagnosis has been given.

Children with present drug dependence (D)

'Drug misuse is when a person regularly takes one or more drugs to change their mood, emotion or state of consciousness. One of the biggest risks of drug misuse is that you can develop a drug addiction.'¹⁷

Unless a formal medical diagnosis of drug addiction has been given to a child, and the children's home's aims and objectives are to undertake detox programmes, the category of children with present drug dependence (D) should not be applied.

Children with present alcohol dependence (A)

There are many definitions of alcohol dependence. A helpful definition can be found in the Driver and Vehicle Licensing Agency (DVLA) guidance, which Ofsted will apply. The DVLA guidance¹⁸ defines alcohol misuse as:

'a state which, because of consumption of alcohol, causes disturbance of behaviour, related disease or other consequences, likely to cause the patient, his/her family or society harm now, or in the future, and which may or may not be associated with dependency.'

¹⁵ Mental Health Act 1983, section 1(2); <http://www.legislation.gov.uk/ukpga/1983/20/contents>.

¹⁶ Mental Health Act 1983, section 1(2A).

¹⁷ *Drug misuse*, NHS Choices; www.nhs.uk/conditions/drug-misuse/Pages/Introduction.aspx.

¹⁸ At a glance to the current Medical Standards of Fitness to Drive, Driver and Vehicle Licensing Agency, February 2010.

Alcohol dependency is defined in the DVLA guidance as:

'A cluster of behavioural, cognitive & physiological phenomena that develop after repeated alcohol use & which include a strong desire to take alcohol, difficulties in controlling its use, persistence in its use despite harmful consequences, with evidence of increased tolerance and sometimes a physical withdrawal state.'

A category of present alcohol dependence is only required where the purpose of the children's home is to specifically reduce children's misuse and dependence on alcohol.

Children with sensory impairment (SI)

The term sensory impairment is used as a generic term to cover a range of sensory impairments such as the following examples.

- Hearing impairment – this covers the spectrum of those who have some hearing to those who have no hearing at all.
- Visual impairment – this covers the spectrum of those who have some residual vision to those who have no vision at all.
- Deafblindness is a mixture of hearing impairment and visual impairment. Children may also have no ability to speak. Children can be born with such impairment or acquire this after birth.

Annex B. Accommodating children who live (are permanently placed) at a children's home and providing short breaks together in one premises

Background

1. The Care Standards Act and associated regulations do not stipulate that separate premises for short breaks and permanent placements are required. Providers can continue to apply to register a children's home where no such divisions of the establishment are made and we must not refuse to accept such an application solely on the basis that the accommodation is not separate.¹⁹
2. In April 2011, the government issued amended regulations and new national minimum standards for children's homes. These clarify that there are some operational differences between a children's home that provides a short breaks service for children and one providing care for children who live there.
3. It is Ofsted's view that placements for children who live in a children's home should promote group living, provide stability, continuity and a homely environment.
4. Short breaks services are mainly services that provide disabled children and their families with a break and change from the usual routine. They are not the child's home or main place of residence. Different children use the same service on a daily basis: for example it is not uncommon for a short breaks service offering six placements to have 30 children using those placements. Often the placement is made to meet parental need as well as children's needs.
5. Where homes offer both types of service, this may create tensions as they try to meet a large range of differing needs. The more types of children's needs that a children's home provides for, the more challenging it is to meet all the children's needs consistently. The staff, routines and services provided are tested by a constantly changing range of children's needs.
6. In addition, for some children who live in a children's home, it can be unsettling to live alongside children who are only spending a short break away from their parents and families. Frequent daily changes to living arrangements make it difficult to promote the notion of group living, which children report as a benefit of residential care.

¹⁹ In this guidance, 'permanent placements' means that the children's home is a child or young person's main place of residence.

7. Ofsted's priorities start by emphasising that all our work is designed to improve outcomes for children and young people. Stability and consistency are known to increase the likelihood that children thrive. Children's need for stability might be affected where a home provides a short breaks service because they are often living with different people on a daily basis.

Applications for new registrations of children's homes

8. In most cases, applicants apply and we register a children's home to provide either placements for children to live at the home or short breaks services.
9. Inspectors must be satisfied at the point of registration that the care and accommodation to be provided are in the best interests of all children where an applicant applies to accommodate children to live at a home and short breaks services in one premises that:
 - is divided into two separate units or has some separate facilities for children who live there
 - has no separate facilities for children who live at the home.
10. As part of registration, inspectors should check whether:
 - the statement of purpose, children's guide or guides, and policies and procedures take full account of the differing needs of children who receive short breaks and children who live at the home. Children must be able to feel secure where they live. Routines must ensure that children who are at the home for short periods benefit from well established procedures that meet their needs. Inspectors must have evidence to demonstrate that already vulnerable children and young people who need routines and clear boundaries will not be unsettled and further disadvantaged by combining permanent and short breaks.
 - the staffing arrangements and numbers of staff on duty take sufficient account of the differing needs of children who come to stay at the home for short breaks and those living permanently in the home
 - there are satisfactory arrangements in place to support all children to develop and sustain friendships and allow for them to invite friends back to stay where this is safe.

Children's homes that are currently registered for children to live there and to stay for short breaks

11. Where a children's home currently provides short breaks and accommodates children to live at the home without providing any separate facilities for children who live there, inspectors must pay particular attention to:
- how the home caters for short breaks and long stay placements
 - how the operation ensures that the diverse needs of these types of placement are well balanced and do not adversely affect the quality of care provided to any particular group.

The issues identified in paragraph 10 should also apply to children's homes that are already in operation.