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Guidance

Protocol between Ofsted and local authorities on sharing information about childcare providers

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Purpose

This protocol sets out the working relationships between the Office for Standards in Education, Children's Services and Skills (Ofsted) and local authorities (LA) for:

- establishing the legal basis for Ofsted's regulatory responsibilities
- ensuring how Ofsted carries out these responsibilities
- explaining the responsibilities of the partner organisations
- ensuring effective working arrangements can assist both organisations to meet these responsibilities

The role of Ofsted

Ofsted regulates and inspects childcare and education in the care of children and young people, and in education and skills for learners of all ages. We regulate and inspect schools, children's social care services, including services to protect children, services for Court Advisory Support Service (Cafcass), schools, colleges, initial teacher training, work-based learning and skills training, adult and community learning, and education and training in prisons and other youth justice settings. We also inspect and regulate services and inspect and report on the looked after children, safeguarding and child protection.

In relation to early years and childcare provision, we are responsible for regulating and inspecting:

- Ofsted registered childminders and other childcare providers included on the Early Years Register and registered as part of the Childcare Register that care for children under 8 years old
- Ofsted registered nurseries, home childcare and other childcare providers included in the voluntary part of the Childcare Register
- childminder agencies included on either the Early Years Register or the Childcare Register and registered as a provider that is an early years childminder agency or a children's childminder agency, or both

The legal framework under which Ofsted regulates

The legislation under which Ofsted regulates includes the following:

- the Childcare Act 2006
- the Education (Independent Schools) Standards Regulations 2014
- the Childcare (Early Years Register) Regulations 2008
- the Childcare (Early Years Provision Free of Charge) Regulations 2009

This is together with any subsequent regulations and standards under which Ofsted regulates childcare providers.

Requirements for childminders and childcare providers

Ofsted regulates Ofsted-registered childminders, childcare providers and childminder agencies against the requirements of 3 separate registers. These are:

- the Early Years Register (for those providing care for children aged from birth to the 31 August following their 5th birthday)
- the Childcare Register

The Childcare Register is divided into 2 parts:

- the compulsory part, for those providing care for children from 1 September following their 2nd birthday until their 5th birthday
- the voluntary part, for those providing care for which registration is not required that closes to be on

We have a single process for each Register much overlaps with the safeguarding and welfare and the learning and development requirements set out in:

- the Statutory Framework for the early years foundation stage
- The Childcare (Early Years Register) Regulations 2008

Providers on the Childcare Register must also meet the requirements set out in the Childcare (General Childcare) Regulations 2006.

These requirements are set by the government.

Powers and duties

Ofsted regulates childcare providers against all relevant legislation and requirements.

We are responsible for ensuring that Ofsted-registered childminders, childcare providers and childminder agencies meet the requirements of the legislation and organisations continue to comply with government standards.

In addition, we are responsible for ensuring that all people aged 16 years or over who live or work on premises where Ofsted-registered childminding or childcare are carried out are not disqualified with a childminder agency, these responsibilities sit with the agency.

We have a range of powers to carry out these regulatory responsibilities, we can:

- grant, refuse or cancel registration
- impose, vary or remove conditions of registration
- grant or refuse applications for variations to conditions of registration
- prosecute providers for specific offences under relevant legislation
- suspend registration (childcare providers only)

Inspection and reports

Ofsted has a duty to inspect childcare providers that are registered on the Early Years Register or included and set by the Secretary of State for Education. These inspections are carried out under the Education (Inspections of Registered Childcare) Regulations 2015 (SI 2015/1943).

Following inspections of providers on the Early Years Register, we will report on 4 key judgements:

- quality of education
- behaviour and attitudes
- personal development
- leadership and management

We also have the power to inspect providers that are on the Childcare Register. We will report on 3 key judgements: quality of education, behaviour and attitudes, and leadership. This sample will include providers that we have received complaints about relating to the requirements for registration.

Following inspections of providers on the Childcare Register, we will produce a letter to the provider and a report on our website, which will include 3 key judgements.

Providers may be on a sole both registers. If providers are on both registers, we will only report on inspections of the early years foundation stage requirements of the Childcare Register in the inspection report.

We inspect childminder agencies against the requirements set out in A guide for childminder agencies, published by the Department for Education.

Organisation of Ofsted's registration and inspection functions

Ofsted's registration and inspection functions are covered by the Chief Inspector Office's directorate. This directorate is responsible for the organisation and delivery high-quality inspection and regulation according to agreed frameworks.

Ofsted's constitutional of conduct for the public is the Applications, Regulatory and Complaints Code. It is responsible for:

- consulting local children's services and members of the public, colleagues and Ofsted
- giving information to providers and guidance on using our website, including information on how to make a complaint
- processing requests for the inquiry of Ofsted and managing high volume scanning
- generating accurate suitability checks, including social services checks, Disclosure and Barring Service (DBS) checks, on people who Ofsted has responsibility for
- the registration and regulation to an assessment of childcare and early years providers to ensure the safety and welfare of children and young people in settings that Ofsted is responsible for
- receiving complaints from members of the public and determining how to respond to complaints quickly within Ofsted's powers

Providers on the Early Years Register of contact for all customers. See contact details for the Ofsted.

The role of local authorities

Local authorities are responsible for, among other things, assisting children in need and promoting the welfare of children in their area.

Ofsted has working relationship with local authorities and other agencies to share information to protect children. We set out working relationships with local authorities and other agencies in respect of these functions through other protocols.

Specific legal context of Ofsted and local authorities in relation to sharing information about childcare

Section 13 of the Childcare Act 2006 places a duty on Ofsted to share information about registered childminders, childcare providers and childminder agencies with local authorities in accordance with the Childcare (Early Years Provision Free of Charge) (Information Sharing and Disclosure of Information) (England) Regulations 2009 (SI 2009/2958) and specify the information that Ofsted must share with these organisations. If a childminder agency is registered with Ofsted, Ofsted will share with their Ofsted – responsibility for sharing information with the local authority.

The Childcare Act 2006 places a duty on Ofsted to share information, advice and assistance to parents and prospective parents. Ofsted is required to share information. The Childcare Act 2006 (Provision of Information) (England) Regulations 2009 (SI 2009/2959) specify the information that local authorities must make available to parents and prospective parents. Local authorities should discharge this duty through their Family Information Services, which are provide the first point of contact for parents and prospective parents seeking information. However, some local authorities may choose a different design and structure. Ofsted and local authorities should work together to ensure that information and cross reference in this protocol to 'Family Information Service' should be read to include other arrangements.

Working arrangements

What Ofsted will do

We provide local authorities with updated information each day through the Family Information Directory(FID).

The information that we share with local authorities is set out in the Scope Ofsted Data Sharing:

- unique reference number and details of all providers registered on the Early Years and Childcare Registers
- steps that we have taken in relation to that registration

We secure any electronic data that we send through our information gateway.

We accept and securely collect childcare information sharing by local authorities. Each individual local authority has a certificate with its password and login details to access the secure data collection system.

We ask parents or prospective parents to contact their local Family Information Service if they require information about the availability of registered childcare services in their local area.

We provide local authorities and their Family Information Services with information materials about how we regulate and inspect early years and childcare services.

We will handle, and when possible, resolve parent queries from Family Information Services and local authorities. We will refer parents to local authorities if we receive queries about issues concerning childcare providers. Any queries that we cannot answer within working day will be acknowledged and answered as soon as possible.

We will inform local authorities of any information we receive from contact their local authority for information about childcare and early years provision and about starting or any other support that the local authority offers.

We also publish a range of information about registered childcare providers on our website. This includes some of the information that we share with local authorities. We publish information about our inspection and regulation of childcare providers and addresses of Ofsted-registered childminders and home childcare and have committed to make their details public. However, we do share this information with local authorities in advance of publication on our website.

The ABC leaflet is the first point of contact for local authorities seeking to take action against childcare providers. The ABC leaflet provides information on the Ofsted's role and contact us. When the party retains the technical powers to take action against childcare providers, we will inform the local authority of our intention to take action. For clarification or data quality issues, the ABC team will pass this to the most appropriate person within Ofsted, depending on the nature of the query.

What local authorities will do

Local authorities, and their Family Information Services, will direct Ofsted's ABC team any parents or others who have a concern about childcare or early years provision. If the person with the concern will not contact Ofsted directly, the local authority will inform the person that they can do so and give the ABC team the details of the issue. If we require any additional information, we will contact the local authority if possible.

Local authorities and Family Information Services will refer complaints about registration or compliance issues to Ofsted's general email address.

When dealing with requests from parents or carers who are looking to change their childcare provider, local authorities and Family Information Services should provide the requested and relevant information. Parents or carers are identified. Family Information Services should refer the details to Ofsted.

If a local authority or Family Information Service has other information about any childcare provider, it should share information with Ofsted. Local authorities should contacting the ABC team. See Ofsted's Scope for the protocol for information sharing and on local authority information sharing with Ofsted.

Local authorities and Family Information Services may issue to parents, as people wishing to start childcare services and other enquirers, any information material that we provide.

Local authorities and Family Information Services may include appropriate information about Ofsted in their own information or advertising material. They may also but users about Ofsted's website.

Family Information Services will tell parents and carers of the need to check a provider's registration certificate before using the childcare service.

Local authorities and Family Information Services remind providers of their responsibilities to inform Ofsted of changes.

Local authorities and Family Information Services will take action in respect of any provision operating without registration and any registered providers that are operating outside their registration requirements. Local authorities should contact the ABC team (see Contact us). When the party retains the technical powers to take action against childcare providers, we will inform the local authority of our intention to take action. For clarification or data quality issues, the ABC team will pass this to the most appropriate person within Ofsted, depending on the nature of the query.

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Electronic communication

When possible, Ofsted and local authorities will share information electronically. This will be in accordance with the Data Protection Act and other relevant legislation. Ofsted and local authorities must comply with their respective information security information management policies to manage all electronic communication effectively.

Contact us

General enquiries
0300 123 1231
enquiries@ofsted.gov.uk

Contact form
https://ofsted.co.uk/feed...

General enquiries
0300 123 1231

Our helpline is open from 8am to 5pm (Monday to Friday). If you have difficulties hearing or speaking on the phone, you can use the Text relay service (formerly Minicom).

Email address for local authorities to use: enquiries@ofsted.gov.uk

Annex – Supplementary guidance on information sharing with Ofsted

Introduction

Ofsted and local authorities already share a great deal of information and have protocols and guidance in place to support this work.

This Annex gives more information about how to share information that is not part of the protocol between Ofsted and local authorities. It includes information for local authorities' duties in relation to registered early years provision.

Information sharing to support local authority duties

Local authorities have particular duties in relation to registered early years provision. These include:

- a duty to secure sufficient childcare for working parents
- a duty to provide information, advice and training to childcare providers
- a duty to provide information, advice and assistance to parents or prospective parents
- a duty to secure early years provision free of charge in accordance with regulations

To help local authorities fulfil these duties, we give them:

- a daily download of agreed information about applicants and registered providers on the Early Years Register and the Childcare Register
- copies of inspection reports through the local authority portal but continuation of provision judged as inadequate ahead of report publication
- assessments to carry out a disqualification checks for applicants on our process for registration

Information not covered by existing protocols

Local authorities often have knowledge about applicants or registered early years settings among their particular duties. This may relate to:

- a decline in quality in the setting
- the registered person not accepting or responsibly providing for local authority funded children, for example, not offering a place to a child who is funded from the local authority or not acting on advice that the local authority has given about how to meet requirements
- the registered person's understanding of the Statutory Framework for the early years foundation stage

When local authorities have a concern about safeguarding and/or the welfare of children at a setting, but the concern falls below their locally agreed threshold for child protection intervention, they must share this information with Ofsted. This will usually be in the form of a notification of concern sent to our website (Information for childcare providers) (Ofsted's website is linked below).

You can access further information in the early years compliance handbook.

Local authorities should also share any information with us that raises concerns about the applicant's or registered person's ability to provide a good quality service in the early years sector. This may include information about the applicant's or registered person's learning and development or the safeguarding and welfare requirements in the 'Statutory framework for the early years foundation stage'. This is information that Ofsted, as the regulator, should know.

This information may:

- raise concerns over a period of time
- relate to a single incident
- cover a more obvious lack of knowledge and experience about the requirements for registration

Having this type of information provides an opportunity for us to assess the information and to decide if we need to take action to ensure that children are kept safe and thriving safety. If there is information to suggest that a provider is not meeting requirements, we will normally carry out a full inspection and publish an inspection report. However, sometimes we may need to take very serious compliance action against a provider.

Many local authorities operates a system that categorises settings in their area and keeps a record of information about them. Local authorities may use this information to provide settings categorised for extension support and to provide details of the support provided that the local authority has offered. This information helps us to identify deteriorating settings early and supports planning inspections and reports.

How to contact Ofsted

There are 3 ways in which local authorities can contact us:

- by sharing this information through our local authority meetings that take place with regional directors in early years Senior Capital Inspectors
- through the ABC team using our contact details
- if the information relates to specific concern about compliance with requirements for registration, by sending a notification in the leaflet (Information for parents about Ofsted's online notifications).

How Ofsted will use the information provided by a local authority

If the information relates to concerns about a provider, we will use it to decide on the most appropriate action. This may be:

- in most cases, carrying out a full inspection
- referring minor concerns to the provider to look into (at its next inspection, the provider will be asked what it did to deal with the concern)
- in some cases, carrying out a regulatory visit

List of information that Ofsted provides to local authorities – childcare providers

Ofsted provides the following information:

- childcare provider's name
- setting name
- unique reference number (URN)
- provider address
- telephone number (if available)
- provider fax number (if available)
- provider email address (if available)
- provider's website address (if provider's (prefixes in the child's van home). If different from the provider's address
- setting telephone number
- setting email address (if available)
- date of registration
- date of registration to cancel
- if registration is cancelled and date of cancellation
- if registration is suspended and date of suspension
- if registration is reopened and date of reregistration
- if a person is removed from the register of that person's request and date of removal
- any telephone number, fax number or email address of the childminder agency
- if a childminder agency is registered, the childminder agency registration and the date on which they were imposed
- information concerned with any enforcement action taken

List of information that Ofsted provides to local authorities – childminder agencies

Ofsted provides the following information:

- childminder agency name
- nominated individual name
- date of birth
- childminder agency address or, if the childminder agency operates from more than one site, the address of each site
- date of registration
- whether the childminder agency is registered under Chapter 2A (Early Years Provision Free of Charge) of the Childcare Act 2006 or Regulation 9 of the Part 2 of the N.S. or both
- date of suspension
- date of notice of intention to cancel
- if registration is cancelled and date of cancellation
- if registration is suspended and date of suspension
- if registration is reopened and date of reregistration
- if a person is removed from the register of that person's request and date of removal
- any telephone number, fax number or email address of the childminder agency
- if a childminder agency is registered, the childminder agency registration and the date on which they were imposed
- information concerned with any enforcement action taken

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