

Conducting early years inspections

Guidance for inspectors of registered early years settings required to deliver the Early Years Foundation Stage.

For use from September 2009.

Age group: Birth to 31 August following the child's fifth birthday

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What do we mean by...?

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

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 from 1 September 2008 if they care for one or more children following their fifth birthdays until they reach their eighth birthdays for a period of more than two hours in any one day.

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).

Childcare providers on domestic premises

People providing care on domestic premises 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 of group childcare that were previously called day-care providers.

Childminder

A person who is registered to look after one or more children to whom they are not related on domestic premises for reward.

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 teams

Ofsted has one National compliance, investigation and enforcement (CIE) 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 Children, Schools and Families (DCSF)

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 DCSF is also responsible for the Early Years Foundation Stage, which underpins our inspections.

Early Years Foundation Stage (EYFS)

The statutory framework for the early education and care of children from birth to the 31 August following their fifth birthday. The EYFS 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 EYFS must be delivered by all schools and registered early years settings that make provision for children from birth to the 31 August following their fifth birthday, unless provision is exempt from registration.

The EYFS's 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 be registered by us on the Early Years Register:

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

Ofsted

We are 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 original full title was the Office for Standards in Education; in April 2007 this changed to the Office for Standards in Education, Children's Services and Skills, but we continue to be known as Ofsted. For more information about us visit our website (www.ofsted.gov.uk).

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

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.

Registered person

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

Self-evaluation form (SEF)

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 SEF can be completed online; there is also a downloadable version to print off and complete by hand.

The purpose of this guidance

This guidance has been amended to take into account the new and revised judgements introduced into early years inspections from September 2009. It is intended to assist inspectors when inspecting registered early years settings required to deliver the Early Years Foundation Stage. Early years settings can also use it to see how Ofsted will conduct inspections to help them carry out their self-evaluation. It should be used in conjunction with the guidance *Using the early years evaluation schedule* which explains how inspectors should structure their evaluation of the early years provision and the judgements they should make.³

Separate guidance on inspections of early years provision made by governing bodies of maintained schools⁴ and proprietors of independent schools⁵ is available on our website: www.ofsted.gov.uk.

The approach to inspection

The Early Years Foundation Stage as a basis of inspection of early years provision

The Early Years Foundation Stage came into force in September 2008. It is mandatory for all schools and early years providers in Ofsted registered settings – irrespective of size, type and funding – attended by young children from birth to the 31 August following their fifth birthday.

The basis of the inspection is an evaluation of the early years provision – in line with the principles, and general and specific requirements of the Early Years Foundation Stage – and how it helps children to achieve the five Every Child Matters outcomes.⁶ Annex A includes a table showing how the principles, requirements and outcomes link together.

The Early Years Foundation Stage framework is designed to be:

- fully inclusive of all children's needs, recognising the need to respond to differences in ethnicity, culture, religion or belief, home language, family background, special educational need, disability, gender or ability
- flexible enough for providers to deliver the Early Years Foundation Stage in ways that are compatible with the philosophies and beliefs of the setting. This means that, unless exempt⁷, all registered settings, irrespective of any

³ *Using the early years evaluation schedule*; www.ofsted.gov.uk/publications/080124.

⁴ Inspected under Section 5 (s5) of the Education Act 2005.

⁵ Inspected under Section 162a of the Education Act 2005.

⁶ Staying safe; being healthy; enjoying and achieving; making a positive contribution; and achieving economic well-being.

⁷ The exemption only applies to the learning and development requirements. There is no exemption from any of the welfare requirements.

particular educational approach, must meet the learning and development requirements of the Early Years Foundation Stage.

Principles of inspection and the conduct of inspectors

The principles of inspection and the code of conduct for inspectors are laid out in the *Framework for the regulation of those on the Early Years Register and Childcare Register*.⁸ All inspectors should be conversant with these and apply them rigorously.

In order to carry out rigorous inspections of early years provision inspectors must have a thorough knowledge and understanding of all aspects of the Early Years Foundation Stage framework.

If, during the course of an inspection, a safeguarding issue comes to light, inspectors should follow procedures set out in *Ofsted safeguarding policy and procedures*.⁹

Good and clear relationships at the start of the inspection

Inspectors must uphold the highest professional standards in their work, and ensure that everyone they encounter during inspections is treated fairly and with respect, and benefits from the inspection.

When the inspector arrives at the setting they should introduce themselves and show the provider their ID passbook – not their ID card as this does not detail our powers to carry out the inspection or our phone number.

The inspector must allow the provider time to read the passbook and contact us if (s)he wishes to do so, to confirm the identity of the inspector/s.

It is important that the provider understands how the inspection will be carried out. Take time to agree a timetable for activities, such as speaking to the registered provider if present, the manager, staff and parents. Be sensitive to issues within the setting. Discuss the daily routine so that important activities are not missed. Agree the time for feedback and who will be present. Although it would not be appropriate to have a large number of people present, the inspector should expect the registered person or nominated person, the day-to-day manager/s, a note taker and possibly a local authority development worker to be present as a minimum.

The code of conduct requires inspectors to:

- evaluate objectively, be impartial and inspect without fear or favour
- evaluate provision in line with frameworks, national standards or requirements
- base all evaluations on clear and robust evidence

⁸ *Framework for the regulation of those on the Early Years Register and Childcare Register*, www.ofsted.gov.uk/publications/080024.

⁹ *Ofsted safeguarding policy and procedures*, www.ofsted.gov.uk/publications/20070046.

- have no connection with the provider which could undermine their objectivity
- report honestly and clearly, ensuring that judgements are fair and reliable
- carry out their work with integrity, treating all those they meet with courtesy, respect and sensitivity
- endeavour to minimise stress on those involved in the inspection
- act in the best interests and ensure the well-being of service users
- maintain purposeful and productive dialogue with those being inspected, and communicate judgements clearly and frankly
- respect the confidentiality of information, particularly about individuals and their work
- respond appropriately to reasonable requests
- take prompt and appropriate action on any safeguarding or health and safety issues.

Key features of inspection

The key features of an inspection of early years provision are:

- the quality of a group setting's leadership and management and the organisation of the childminding, including the quality of its self-evaluation and how well the provider actively promotes equality and diversity, and inclusive practice which are central to the inspection
- a strong focus on how well the provision helps children to achieve the five outcomes¹⁰ set out in the Children Act 2004
- an onus on the provider to demonstrate the effectiveness of the early years provision, including how they maintain continuous improvement and their working partnerships
- little or no notice of inspection
- areas of learning are not individually inspected or reported on
- an objective and independent dialogue between the inspector and the provider or manager to find out the reasons for the effectiveness of the early years provision
- inspection strategies that respond to emerging issues.

The time available for inspection

Inspections will, in most cases, involve one inspector being in:

¹⁰ A child's basic entitlement to stay safe, be healthy, enjoy and achieve, make a positive contribution and achieve economic well-being.

- a group setting including childcare on domestic premises for the equivalent of no more than one day. On rare occasions more than one inspector may be needed to inspect large settings or those with complex provision. If the inspector thinks the size of the setting may warrant more than one inspector or extra time (s)he must discuss this with their team manager before any decision is made. If two inspectors are required they should liaise before the inspection to ensure they are familiar with the main inspection issues and the context of the setting
- a childminding setting or group settings that are smaller or operate for restricted hours for about half a day.

Little or no notice of inspection

Group providers will normally receive **no notice** of the inspection. For childminders or group providers that do not meet regularly such as summer play schemes, Ofsted will call no more than five days ahead of the inspection to check that a provider is operating on the day of the inspection. For example, to check that a childminder is at home and children are attending, or that a holiday play-scheme is operating that day. Inspectors should not give an actual day for inspection. They should suggest a 'window for inspection' ensuring that children will be present during these specific times.

Particular considerations

Children or settings exempt from the learning and development requirements¹¹

Parents and providers may seek exemption from some of the learning and development requirements. Parents, in partnership with the provider, can apply to the local authority to exempt individual children from the learning and development requirements.

There are two types of exemption available to providers.

- Existing providers who are temporarily unable to deliver the full learning and development requirements, for example because of damage to the setting from a fire or flooding, can apply to the Qualifications and Curriculum Authority for a time-limited exemption of up to 12 months.
- An exemption may be granted if a majority of parents or prospective parents agree with the applicant or provider that the established principles about learning and development for young children which govern their practice conflict with elements of the EYFS learning and development requirements. They must apply to the Qualifications and Curriculum

¹¹ See *Statutory framework for the Early Years Foundation Stage*: page 41;
www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

Authority for an exemption either before registration is granted or at any time once the provision is registered on the Early Years Register.

The Childcare Act 2006 does not allow exemptions to be granted from the welfare requirements of the Early Years Foundation Stage, as these deal with fundamental issues of child safety.

Inspectors should ask the person-in-charge at the beginning of an inspection whether any exemptions have been granted. If an exemption has been granted inspectors should ask for proof of the exemption and record the details in the toolkit (organisation or leadership and management), such as any reference number and what aspects of the learning and development requirements are exempt.¹²

Where individual children are exempt inspectors should carry out a full inspection. They should not record the names of any child/ren who are exempt, just the number of children. They should not draw evidence from a child or children in respect of the parts of the educational programmes and early learning goals from which they are exempt. For provider exemptions inspectors should inspect and report on those aspects of the provision which are not exempt. In the 'description of the setting/childminding' section of the inspection report, inspectors should make clear the nature and extent of exemption at the time of inspection.

If a provider cannot show proof of exemption, inspectors should carry out a full inspection after consulting with their inspection team manager, if necessary.

Separate guidance on inspecting those providers who hold an exemption, or who care for children whose parents have applied for an exemption is available.

¹² Toolkits are electronic or hard copy documents that inspectors use to record evidence and judgements.

Who can apply for exemption?	To whom?	On what grounds?	Period of exemption
Applicants for registration on the Early Years Register	Qualifications and Curriculum Authority	A majority of parents agree that an exemption is required because of a conflict between the established principles of practice and elements of the provision and the learning and development requirements.	Normally no more than one year from the date of application
Providers already registered on the Early Years Register	Qualifications and Curriculum Authority	Either: <ul style="list-style-type: none"> ■ a majority of parents agree that an exemption is required because of a conflict between the established principles of practice and elements of the learning and development requirements ■ the provider is temporarily unable to deliver the full learning and development requirements. 	A maximum of two years from the date of application A maximum of one year from the date of application
Parent in respect of an individual child	A parent's preferred registered childcare provider or prospective provider	The learning and development requirements, or some element of them, conflict with parent's religious or philosophical convictions.	A maximum of one year from the date of application

Childminders with no children on roll

The Childcare Act 2006 grants us the power to cancel the registration of a childminder who has not provided childminding for a period of more than three years during which he or she was registered.¹³

Some childminders will not fulfil this criterion, but will have no children on roll when their inspection becomes due. This may be because childminders may choose to dip in and out of childminding to suit their domestic arrangements or those of the parents whose children who are cared for. In any of these situations, if the inspector contacts a childminder who informs the inspector that they have no children on roll,

¹³ Childcare Act 2006, section 68.

the inspector must record the date and content of the conversation in the Regulatory Support Application (RSA)¹⁴ – list letters ‘telephone’ – they must then memo their inspection support team (IST) to send out the no children on roll letter EYL410, so that a record of the evidence to inform cancellation of registration is created. These inspections will be deferred, unless a judgement of inadequate was given at their previous inspection, or the provider is at the end of their three-year cycle.

This does not apply to childminders where there are children on roll, but they are not present on the day of inspection because, for example, they are ill or on holiday. These childminders will have a full inspection with quality grades and, whenever possible, inspections should be deferred until the children are present.

Settings only providing for children before or after school or during school holidays

A number of childminders and out of school clubs only provide care for children at the beginning and/or end of the school day or in the school holidays. If registered, these settings must deliver the Early Years Foundation Stage. They are expected to work closely with others, including schools also providing the Early Years Foundation Stage for those children, to ensure they receive the full Early Years Foundation Stage. The provision in each setting should take into account and complement the range of Early Years Foundation Stage experiences children receive elsewhere. When making judgements, inspectors must distinguish between permanent wrap around care where children attend regularly and more temporary arrangements such as holiday playschemes. Clearly where children attend on a very temporary basis the nature of the partnerships is much more limited.

Inspectors should grade such provision using the four-point scale, basing their judgements on the nature and extent of what is provided rather than the full Early Years Foundation Stage. When reaching their judgements, inspectors should take into account how well the setting works with other providers to ensure that activities are complementary and promote continuity and progression for children. In the report section ‘description of the setting/childminding’ inspectors should make clear the nature and extent of the provision.

This applies where an early years setting only provides for children in the Early Years Foundation Stage before or after school or in school holidays - not where some children attend for longer. For example, it does not apply to provision made by a childminder who cares for a baby all day and for three- and four-year-olds between 12.00 and 17.00 who have attended nursery school in the morning.

The interpretation of ‘before and after a normal school day’ includes school holidays for children in the Early Years Foundation Stage who attend 10 sessions in school. Such children are regarded as over five at all times for the purposes of the adult to child ratio. This does not mean that the setting can treat them as over five for the

¹⁴ RSA is the IT system used by the Children’s Directorate for its work.

purposes of delivering the Early Years Foundation Stage. Settings will still need to deliver the Early Years Foundation Stage for these children in line with the guidance for inspecting provision before or after school or during school holidays for children in the Early Years Foundation Stage.¹⁵ Where the setting is managed by the school directly the provision will not be registered on the Early Years Register, although is still expected to meet the requirements of the Early Years Foundation Stage. Any such provision will be inspected as part of the school inspection.

Settings which primarily educate children in their home language

Childminders and group settings which primarily educate children in their home language must demonstrate to inspectors that they, and any assistants or staff, have a sufficient grasp of English to ensure the well-being of the children in their care. For example, it must be clear that providers would – in English – be able to summon emergency help where necessary, keep certain records required by the Early Years Foundation Stage and share them with inspectors, and read and understand instructions such as safety instructions, information on administering medication or on food allergies.

As part of the learning and development requirements, providers should also be able to demonstrate to inspectors that they support children to develop communication, language and literacy skills in English. Where this is not the case, inspectors should judge the overall provision as inadequate.

It is not our intention to use interpreters at inspection, as the provider should be able to communicate in English well enough to demonstrate to the inspector the effectiveness of their service. If the provider has their own interpreter, such as a relative, it is important that it is the provider who responds to the inspector's questions in English to demonstrate their competency and understanding of English. For additional guidance please refer to the Primary National Strategy document: *Supporting children learning English as an additional language*.

Settings on the Early Years and the Childcare Registers

Some providers may be registered on the Early Years Register **and** the compulsory and/or voluntary part of the Childcare Register. In these circumstances, at the inspection of the Early Years Register the inspectors should ask the provider to confirm (s)he is meeting the Childcare Register requirements. They should not report on the quality of the Childcare Register provision in the inspection report – only on its impact on children in the Early Years Foundation Stage, if this is evident. For example, if the disruptive behaviour of older children attending childcare provision

¹⁵ *Evaluating early years provision in settings providing for children in the Early Years Foundation Stage before or after school or during school holidays* (080167), Ofsted, 2008; [www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Evaluating-early-years-provision-in-settings-providing-for-children-in-the-Early-Years-Foundation-Stage-before-or-after-school-or-during-school-holidays/\(language\)/eng-GB](http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Evaluating-early-years-provision-in-settings-providing-for-children-in-the-Early-Years-Foundation-Stage-before-or-after-school-or-during-school-holidays/(language)/eng-GB).

unsettled children in the Early Years Foundation Stage. Inspectors should raise actions if it becomes evident through the inspection that there is non-compliance with the requirements of the Childcare Register

For further guidance, please see *Guidance on inspecting providers registered on both the Childcare and Early Years Registers*.¹⁶

Settings registered as childcare on domestic premises

The Childcare Act 2006 introduces this new category from 1 September 2008 to make a distinction between childminding and larger-scale provision operating from domestic premises. The law defines childcare on domestic premises as any form of care for a child including education or any other supervised activity for more than two hours¹⁷ where more than three people work together at any one time on domestic premises.

The Childcare Act 2006 does not regard early years or later years childminding on domestic premises as childminding if at any time the number of persons providing care or assisting with the provision of care exceeds three. In these circumstances it is **childcare on domestic premises**. Childminders caught by this new arrangement must meet the requirements for childcare in the Early Years Foundation Stage and not childminding, although there are special arrangements to allow those transferring time to meet the qualification requirements. This extra time is not available to new applicants.

Providers can hold two separate registrations: as a childminder and as the registered provider of childcare on domestic premises. Before the introduction of the Childcare Act 2006 those working on domestic premises could be registered as childminders and work with other registered childminders and assistants in any combination and with no restrictions on numbers working together (subject to any local planning restrictions). This is no longer the case. A provider cannot act as a childminder and provide childcare in a domestic premises setting at the same time. If they are the registered provider for childcare on domestic premises and registered as a childminder they will have two separate registrations, pay two fees and have two inspections. However even though they cannot act as a childminder and provide childcare on domestic premises at the same time Ofsted will, wherever possible, try to carry these inspections out at the same time.

¹⁶ *Guidance on inspecting providers registered on both the Childcare and Early Years Registers* (080169), October, 2008; www.ofsted.gov.uk/publications/080169.

¹⁷ Settings registered on the voluntary part of the Childcare Register may operate for less than two hours and still register.

For more information please see the factsheet *Childcare on domestic premises* and inspection guidance *Evaluating early years provision in settings providing childcare on domestic premises*.¹⁸

Educational and philosophical approaches

Settings do not have to work to a prescribed method of teaching in order for inspectors to reach a judgement that the provision is acceptable in helping children make progress in the Early Years Foundation Stage. The choice of teaching methods is a matter for providers to decide.

Inspectors may, therefore, find they are required to inspect a setting that uses an approach that differs from those found in most settings. Some settings will be exempt from some aspects of the Early Years Foundation Stage, and inspectors should confirm this at the inspection by seeing the associated paperwork.

The inspectors' role is not to judge the setting's preferred methods, but to evaluate whether the setting gives sufficient attention to the welfare, learning and development requirements of the Early Years Foundation Stage, so that all children's individual needs are met.

Where carrying out such an inspection, inspectors should state the type of educational or philosophical approach which the setting uses in the report section, 'description of the setting'. As in all inspections, if emerging issues are identified it is good practice to raise these during the course of the inspection. This will help to ensure that the provider is aware of aspects that require improvement and give them an opportunity to provide any additional evidence to inform the judgements.

Where a setting subscribes to a particular approach – for example, Playwork¹⁹ Principles, Steiner, Montessori or High/Scope – the team manager should ensure that the inspector carrying out the inspection is familiar with this method and respects any cultural customs such as sending an inspector of the appropriate gender. Additional guidance is available for inspectors on the intranet.

The process of inspection

Planning the inspection

Before the inspection, inspectors should:

¹⁸ *Childcare on domestic premises* (www.ofsted.gov.uk/publications/080142); *Evaluating early years provision in settings providing childcare on domestic premises* (<http://www.ofsted.gov.uk/publications/080165>).

¹⁹ *Evaluating early years provision in settings providing for children in the Early Years Foundation Stage before or after school or during school holidays*; (080167), Ofsted, 2008 ([www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Evaluating-early-years-provision-in-settings-providing-for-children-in-the-Early-Years-Foundation-Stage-before-or-after-school-or-during-school-holidays/\(language\)/eng-GB](http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Evaluating-early-years-provision-in-settings-providing-for-children-in-the-Early-Years-Foundation-Stage-before-or-after-school-or-during-school-holidays/(language)/eng-GB))

- check whether the setting has submitted a **self-evaluation form (SEF)** accessed via the RSA 'list visits' screen (see below)
- create the appropriate toolkit, by selecting the correct visit type. Enter any pre-inspection information such as comments for the next inspection and judgements from a completed SEF
- check **which register/s the provider is on** and decide from the available information if this is correct.²⁰ If the inspector makes contact with the provider before the visit confirm with the provider that (s)he is correctly registered. If the registration is incorrect inspectors should make a note of the names of the registered provider, nominated person, and manager(s) where applicable and contact their regional office for guidance. If there is any uncertainty about the registration the inspection should be deferred until the matter is resolved
- check if the provider has had a new certificate, if not the conditions of registration will need to be updated to reflect the new registers and arrangements made to issue a new certificate after the inspection
- check the individuals connected with the registration on RSA so that these can be cross-referenced with the information found during the inspection, including whether the setting has correctly notified us of changes
- check the **previous report** if applicable and note any points to follow up
- check the **comment for next visit** box on the RSA
- check the **registration comments box, list letter** and **memos** on the RSA
- check whether any **complaints** have been made since the date of registration or the last inspection that have required the provider or Ofsted to take action in order to ensure that the provision meets national requirements: that is, the requirements of EYFS or, prior to 1 September 2008, the *National standards for under 8s daycare and childminding*. Although we no longer report on complaints in inspection reports, inspectors still need to know about the complaint history as part of planning for their inspections.
- check the **description of the setting/childminding** section and update it, ready to share and agree with the provider
- take a *The next steps* leaflet to show the provider in case provision is inadequate²¹

²⁰ If a provider is registered on the Early Years Register (s)he can be registered on the Childcare Register if they comply with the requirements without completing an application from. Providers on the Childcare Register must complete an application from and apply to be registered on the Early Years Register.

²¹ *The next steps*; www.ofsted.gov.uk/publications/080028.

- check they have a copy of *Are you ready for your inspection?* for reference, if necessary.²²

The self-evaluation form

Our SEF allows a setting to summarise the outcomes of its process of self-evaluation, in line with key judgements in the *Using the early years evaluation schedule*.²³

There is no legal requirement for settings to complete the SEF. However, it can provide an excellent basis for improvement, and enables providers and/or managers to have greater involvement in the inspection.

Ahead of carrying out an inspection, inspectors should access the SEF, found in the 'list visit' screen on RSA, and record in the 'leadership and management' section of the toolkit the date the SEF was submitted, by whom and any other relevant information, such as the judgements and any identified strengths and areas for improvement. The SEF should be used to:

- plan the inspection by identifying issues to pursue; and/or by planning observations of areas of comparative strengths and weaknesses identified in the SEF
- focus discussions with providers and/or those in charge by asking them to point to practice and evidence which substantiate their judgements in the SEF and provide evidence of the quality of the leadership and management.

Inspectors should evaluate the setting's view of itself as expressed in the SEF, and explore whether it is compatible with evidence available during the inspection. Issues for inspection may arise from apparent inconsistencies between the SEF's conclusions and the evidence; from significant weaknesses highlighted in the SEF, or from important matters that the SEF seems to have omitted.

Inspectors should confirm with the provider the date of their last submitted form to ensure they are both referring to the same document, and discuss their analysis of the SEF and any initial hypotheses with:

- childminders during the pre-inspection phone call – if convenient – and/or at the start of the inspection visit
- group providers at the start of the inspection visit.

These initial discussions should give providers the opportunity to substantiate their evaluation in the SEF, and point inspectors to where to find significant evidence to back it up. Inspectors should indicate to the provider what needs to be tested and ask him or her to provide the best way to find the necessary evidence.

²² *Are you ready for your inspection?*; www.ofsted.gov.uk/publications/080023.

²³ *Using the early years evaluation schedule*; www.ofsted.gov.uk/Ofsted-home/publications/080124.

When the evidence does not bear out what the SEF claims, the inspector should discuss this with the provider as soon as possible so that he or she has the opportunity to supply further evidence. The inspector should then test out this additional evidence during the inspection. If this further testing still does not support the setting's view, then inspectors have grounds, on the basis of the evidence collected, to come to their own conclusions.

The provider may not submit the SEF before the inspection, but hand it to the inspector at the start of the visit. In these circumstances the inspector should quickly skim the SEF for strengths and areas for improvement identified by the provider; then ask the provider to explain their evaluations and where evidence can be found to back them up.

The quality of the SEF should form part of a wider evaluation of the setting's self-evaluation processes. Please see pages 27–28 or guidance for evaluating the effectiveness of the setting's self-evaluation. The SEF has been updated to reflect changes to the evaluation schedule.

If there is no SEF then inspectors must still consider the systems the provider has in place for effective self-evaluation. If these are not evident this will have an impact on a number of inspection judgements including ambition and prioritisation; the effectiveness of self evaluation and the provider's capacity to improve.

Reporting on complaints

Inspectors do not report on complaints in the inspection report. However, inspectors must continue to follow up any actions or recommendations raised as a result of complaints or any other matter and report on progress. This will contribute to the judgement on the setting's ability to maintain continuous improvement.

Inspectors should not carry out an inspection where there is an open compliance, investigation and enforcement (CIE) case, unless they have agreement from their inspection team manager and the CIE team.

Gathering evidence

The evidence base

The evidence base consists of

- the inspection toolkit
- the inspection report
- the SEF submitted by the setting, where this has been completed.
Remember that the Ofsted SEF is not mandatory. Settings may use other forms of quality assurance/self evaluation documentation, which should be considered.

We retain the evidence base for the period of time as set out in our file retention schedule; this is currently three months from the date of publication of the inspection report.

The range and balance of evidence

Inspectors should agree their plans for gathering evidence with providers at the start of the inspection.

In general, most time will be spent in gathering first-hand evidence by doing the following.

- **Observing activities and routines**

Inspectors should give emphasis to gathering first-hand evidence for the judgements in the evaluation schedule. They may ask providers to suggest activities for observation that show the range of quality reflected in their SEF.

- **Discussions**

Inspectors should talk with children, any staff and others as appropriate. Much can be achieved through incidental conversations prompted by what is observed, although inspectors should take care not to interrupt the flow of activities.

- **Wherever possible, inspectors should seek the views of parents/carers**

To establish how they work in partnership with the childminder or setting to promote children's learning, development and welfare. Wherever possible inspectors will seek the views of parents, carers and others during the inspection, or prior to inspection in the case of some childminding inspections. As far as is manageable, inspectors should make arrangements to meet with any parents or carers of children attending who wish to speak with them.

- **Checking a sample of the required policies and procedures and how well they are implemented**

The policies, procedures and written records that providers are required to have by the Early Years Foundation Stage are set out in annex C.

As a minimum, inspectors should check and discuss the following.

- For childcare settings, the procedure for vetting staff and the record to demonstrate that the required Criminal Records Bureau checks have been carried out. Inspectors must check the Criminal Records Bureau disclosure number and date of issue of everyone working or living on the premises – this includes staff, students and assistants.
- For childminders, that all those living at the premises aged 16 and over and any assistants have a Criminal Records Bureau check carried out by Ofsted and recorded on the RSA.

- For all settings, the safeguarding children policy and procedure (to include the procedure to be followed in the event of an allegation being made against a member of staff). Childminders do not have to have this in writing.
- For group settings, that there is a designated practitioner to take lead responsibility for safeguarding children within the setting and that this practitioner has received training in this area.
- The policy for ensuring equality of opportunities including their admissions policy and adjustments for accessibility, and for supporting children with learning difficulties and disabilities. Childminders do not have to have this in writing.
- A small sample of documents to confirm the accuracy of the SEF.
- A sample of any written plans and assessments to give an indication of what children are offered and the progress they are making.
- The implementation of any particular policy or procedure identified through their pre-inspection analysis or emerging issues during the inspection.
- For all settings whether the qualification and ratio requirements of the Early Years Foundation Stage are met.

Tracking children's progress

In group settings, it will not be possible to investigate the welfare, learning and development of every child. So inspectors should consider drawing evidence from a representative sample of children who attend. These might include:

- a boy and girl who have recently begun to attend
- a boy and girl who are soon to transfer to school
- children with differing abilities
- a child who is looked after if applicable
- a child with learning difficulties and disabilities
- a child who speaks English as an additional language
- a boy and/or girl from other groups that may have significance in a particular local context; for example, the children of travellers, asylum seekers, or particular black and minority ethnic groups.

Tracking the setting's self-evaluation processes

Inspectors may find it helpful to test out the accuracy and rigor of the self-evaluation processes by tracking two or three significant strengths and weaknesses and their impact on the children who attend.

Recording evidence

Inspections should be focused and efficient, but inspectors must also ensure that their judgements are valid and securely based upon sufficient evidence. It is essential that anyone reading an inspector's evidence clearly understands how judgements were reached, particularly if there are significant weaknesses in the provision, and where requirements are not being met. Inspectors should clearly record any evidence of non-compliance in the inspection toolkit and include it in the report.

Under the Freedom of Information Act 2000, an inspector's evidence may be read by anyone making a request, so inspectors must be professional when recording evidence. They should avoid naming children or staff, and including innuendo or any comment which could be construed as subjective.

Inspectors may choose to record all their evidence electronically or in handwritten notes. As a minimum, inspectors should use their laptop to enter their judgements at the end of the inspection, and share the inspection summary screen with the provider during feedback.

In the main, evidence should be recorded at the setting and complete at the time judgements are fed back to the provider. Evidence notes can be tidied up after the inspection if this helps to clarify thoughts and write the report. But inspectors should not spend time after the inspection rewriting evidence or entering handwritten notes electronically unless they have been asked to do so for a particular reason.

If the inspector has recorded their evidence by hand, the handwritten document/s must be sent to the regional office within five working days from the date of the inspection.

Inspecting settings experiencing internal disputes

Inspectors may from time to time find themselves inspecting settings where there is an internal dispute, for example between a member of staff and the registered person. In these circumstances inspectors must at all times demonstrate that they are carrying out the inspection objectively and fairly. They should not get drawn into the dispute, or act in way that could be construed as favouring one of the parties involved in the dispute.

If it becomes apparent that a dispute is taking place, inspectors should do their best to ensure that they:

- understand the roles and responsibilities of those involved in the dispute; for example where one of those involved is a member of a committee or company that is the 'registered person'
- have a clear plan for discussions with the registered person, manager and/or other key members of staff and that they make sure that these discussions include all staff involved in the dispute

- explain the purpose and boundaries of these discussions
- avoid what could be perceived as private discussions with one party only; where possible, inspectors should gather evidence through group discussions
- agree arrangements for feedback to the registered person and other relevant people including, if appropriate, the parties involved in the dispute.

As with any inspections, inspectors should pursue evidence to test the setting's view of itself and those expressed by individual members of staff or of the body that comprise the registered person. Inspectors should make sure that their evidence, particularly any discussions with those involved in the dispute, is balanced and is recorded clearly and objectively.

If inspectors are in any doubt about how to proceed, they should seek advice from their managers.

Guidance on gathering evidence and making judgements in the early years evaluation schedule

General guidance

The focus of the inspection is an evaluation of the quality of the provision: the experiences children receive while attending the setting and how these experiences contribute towards the five Every Child Matters outcomes. Inspectors should gather and record evidence of actual outcomes wherever possible.

Using the early years evaluation schedule sets out the key and supplementary judgements that inspectors must make and the major aspects they should consider when doing so.²⁴ Inspectors should use their professional judgement to weigh up all available evidence and reach judgements which fairly and reliably reflect the quality of the early years provision. When doing so, they should bear in mind the following guidance.

- The early years provision is unlikely to be effective overall if any of the key judgements are judged to be inadequate - **leadership and management, outcomes, or provision.**
- Where one or both of the key judgements on the quality of provision **and outcomes for children** are inadequate, inspectors should carefully consider how this affects their judgements for leadership and management, and overall effectiveness. It is very unlikely that the overall effectiveness judgement – or the leadership and management of the early years provision – will be satisfactory or better if there is inadequate

²⁴ *Using the early years evaluation schedule* (080124), Ofsted, September 2008; www.ofsted.gov.uk/Ofsted-home/publications/080124.

provision for children's welfare and/or their learning and development, or if children have poor outcomes.

- If a **supplementary** judgement is inadequate, this is likely to have a significant impact on the key judgements, resulting in one or more of them being judged as inadequate.

Inspectors are not expected to check that each requirement of the Early Years Foundation Stage is being met. However if, in the course of collecting evidence of the quality of the provision, inspectors find that a particular requirement is not being met they should take this into account when reaching judgements. In general, if there is evidence that:

- one or more of the general legal welfare or learning and development requirements are not being met then one or more of the key judgements are likely to be inadequate. This is most likely to impact on the leadership and management judgement.
- one or more of the specific welfare requirements are not being met, inspectors should consider the impact on:
 - the children
 - the general legal requirement.

If, as a result, the inspector considers that the general legal requirement is being met and the impact on children is not great, then the relevant judgement can be judged to be 'satisfactory' or, on very rare occasions, 'good'. This is most likely to occur where a provider does not have the required written documentation, but practice is effective and the provider is not ignorant of the requirements. However, if the specific requirement is still not being met when the next inspection takes place, the relevant aspect of provision would be judged as inadequate.

The key and supplementary judgements

Inspectors should consider the following general points when gathering evidence and making the key and supplementary judgements required by the early years evaluation schedule. In addition inspectors can refer to the *Practice guidance for the Early Years Foundation Stage* and the principle into practice cards for examples of effective practice.²⁵

Key judgement: The effectiveness of leadership and management of the Early Years Foundation Stage

This is a critical judgement. An evaluation of the leadership and management is revealed by its **impact** on children's welfare and their progress towards the early learning goals. It must, therefore, make sense when set against all other judgements.

²⁵ www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

In coming to an overall view of the quality of leadership and management in group settings it is essential to take account of the effectiveness of all layers of management. Where possible, inspectors should discuss the issues from the SEF with the provider or nominated person to evaluate the registered person's contribution towards the quality of the provision.

Policies, procedures and records

Bear in mind that childcare providers are expected to have written copies of the required policies and procedures (see annex C). Childminders are not required to have written copies, but are expected to ensure that any assistants are aware of the required policies and procedures, and should be able to define them for parents and others when requested. The most important thing about policies and procedures is whether they are effective - do they do the job they are intended to do – as expressed by the relevant general requirement?

All providers, including childminders, are expected to keep certain written records in English as set out in annex C.

Note that there is no requirement for group providers to write to Ofsted, seeking approval to keep required documents off the premises. Approval is given by inspectors at inspection. When giving approval, inspectors should consider any difficulties with secure storage at the setting. If inspectors give approval, they should note this in the 'comment for next visit' box on RSA. Inspectors need to consider when giving such permission the arrangements for making records available at inspection. This includes records relating to the vetting of adults including a record of Criminal Records Bureau checks, their unique numbers and the date they were obtained. If providers cannot satisfy inspectors that these can be made available whenever we want to see them, inspectors should consider refusing permission to keep documents off the premises.

Other legislation

Providers must also comply with other legislation in addition to meeting the Early Years Foundation Stage requirements.²⁶ This includes compliance with the Safeguarding Vulnerable Groups Act 2006, and with legislation relating to employment, anti-discrimination, health and safety, and data collection – as well as a general duty of care. Inspectors are not expected to know details of, or to report on compliance with, other legislation, but should take account of any evident impact on the early years provision. Where there are indications of non-compliance with other legislation, inspectors should tell a CIE professional, who will decide what action should be taken.

²⁶ See *Statutory Framework for the Early Years Foundation Stage* page 41: paragraph 4.1; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

Staff deployment: ratios

Providers must meet the specific requirements for ratios of adults to children set out in appendix 2 of the *Statutory Framework for the Early Years Foundation Stage*. In group settings, inspectors should not be unduly prescriptive when interpreting ratios of staff working directly with the children at break-times. If, for example, ratios in group rooms are not maintained at lunchtime, inspectors should consider the ages and needs of the children in each room, and whether other staff are on hand and could be summoned if an emergency occurred or a child became distressed. The most important factors are that correct ratios are maintained overall by ensuring sufficient qualified staff are on the premises at all times – and that children are safe from harm and their needs are met.

The EYFS Statutory Framework requires that there is at least one person on outings who holds a current paediatric first aid certificate. It does not specify the type or length of time of outings. We interpret this requirement to include any time off the premises including school pick ups and as such the specific requirements relating to outings will apply. This includes the need for one person to hold a paediatric first aid certificate and for a risk assessment to be in place. For childminders where the pick up is made by an assistant then the assistant will have to hold a first aid qualification.

The effectiveness of the setting's self-evaluation, including the steps taken to promote improvement

This judgement makes a significant contribution towards that for leadership and management. The Ofsted SEF should be seen as merely a summary of the outcomes of a setting's self-evaluation process. Its quality is a good guide to the quality of the whole process, but it is not an infallible one. Inspectors should also ask about the self-evaluation process as a whole; how it led to the writing of the SEF; and the extent to which others were involved in writing it. They should determine whether the SEF represents the setting's full view of itself, and whether the wider process of monitoring, self-evaluation and review is having an impact on the setting's improvement.

Remember that settings do not have to complete a SEF, and that inspectors should be judging the quality of the setting's self-evaluation and its impact on improvement rather than the SEF. The SEF is only one tool in the self-evaluation process and providers may well have other established ways of reflecting on their practice and securing improvement within the setting. Where there is no SEF inspectors should determine the setting's process of self-evaluation and any documents relating to this, and whether it is leading to improvement. When making judgements, inspectors should not penalise a setting for not completing a SEF if there are other effective methods of self-evaluation in place. As part of the self-evaluation process, the provider may, for example, participate in a quality assurance scheme. Inspectors should check what external evaluation takes place, for example by local authority advisors or network coordinators, and how effectively advice is acted on. Where this happens, inspectors should ask to see any notes from advisors, for example, with

regard to areas that are being delivered successfully and those that require further development through training. If early discussions reveal that there are no means of self-evaluation the reasons for this, and the impact on leadership and management as a whole, should be probed during inspection.

The effectiveness of the improvements made by the childminder or leaders and managers should be judged in terms of what is better for children. This includes improvements identified at registration or during the last inspection. Inspectors may find it helpful to follow up two or three major improvements to see how effectively they are implemented in terms of the difference they have made to children. Exploring the appropriateness of professional development arrangements is likely to give inspectors a good indication of how well those in charge know their settings and take steps to improve it.

The effectiveness of the setting's engagement with parents and carers

Initial information can be gained from the SEF, which asks the provider for the views of parents or carers about the provision. These can be backed up during the inspection, by first-hand observations of children, parents and staff at the beginning and end of a session/day, and by speaking with a small, but representative, sample of parents/carers. In particular, inspectors should find out how information about children's welfare, achievements and progress is shared and acted on.

Inspectors are not always able to speak with parents when conducting an inspection of a childminder. During the initial telephone conversation to a childminder, inspectors should highlight the importance of seeking views from parents as part of the inspection process. Where it is not possible to speak to parents during an inspection, inspectors may:

- invite the childminder to ask parents if they would like the opportunity to discuss their views with the inspector prior to inspection
- explain to the childminder that they will need to obtain permission from parents to pass contact telephone numbers to the inspector and agree a suitable time for the inspector to contact them
- agree a suitable time to ring the childminder back in order to obtain the relevant information
- make contact at the agreed time with the parents to seek their views about the service the childminder provides
- alternatively, invite the childminder to ask parents to telephone the National Business Unit with their views within the next two days.

Inspectors should record information obtained through discussion, as part of their evidence towards this judgement. This is likely to be in the leadership and management section of the toolkit. Inspectors should not name parents or identify them by any other means. Contact with parents can only be made prior to inspection as inspectors must give their judgement at feedback directly following the inspection.

Inspectors should take account, where appropriate, of children's views and how these are sought and acted on when making this judgement.

Inspectors are not expected to work additional hours or out of their usual working hours in order to gain the views of parents. Inspectors should point out to the childminder that this is one way of seeking parental views. Parents are welcome to provide written evidence at inspection or make contact with the National Business Unit as alternatives to ensure they are able to be involved in the inspection process.

When making the judgement, inspectors should take account of any ways the provider has of seeking parental views and acting on them; how providers and parents share information to meet children's needs; and the opportunities parents have to contribute to their children's learning and development, to planning and assessments and to the setting's self-evaluation.

The effectiveness of partnerships

Inspectors are not expected to interview representatives from external agencies or services that support children who attend the setting. Instead they should find out from the provider or staff, and/or through a child's record, what support a child receives and track through how well that support is reflected in practice. For example, how effectively does the provider and any staff or assistants reinforce the support given to a child by a speech therapist from the community health service; or how effectively do they work with the children's services to meet the needs of a child who is looked after by the local authority?

Inspectors should check whether the setting works in partnership with other providers who deliver the Early Years Foundation Stage for a child or group of children by following the guidance in *Inspecting provision before or after school or during school holidays for children in the Early Years Foundation Stage*.²⁷

The Statutory Framework places a strong importance of partnership working in terms of the delivery of the Early Years Foundation Stage. Partnership working underpins successful delivery of the Early Years Foundation Stage in a number of different ways. Where children receive education and care in more than one setting, practitioners must ensure continuity and coherence by sharing relevant information with each other and parents. Patterns of children's attendance will be a key factor in how practitioners plan for each child. Close working between early years practitioners and parents is vital for the identification of children's learning needs and to ensure a quick response to any particular area of difficulty. Partnership working is crucial in terms of helping children to make a successful transition to the next stage of their care or learning.

²⁷ *Evaluating early years provision in settings providing for children in the Early Years Foundation Stage before or after school or during school holidays* (080167), Ofsted, 2008; www.ofsted.gov.uk/publications/080167.

Where settings have not yet established partnerships with other providers or professionals, inspectors will need to gather evidence through discussion. One example might be where children are not cared for by any other early years provider and there is no involvement from any external agencies or professionals.

Inspectors may come across situations where a provider may be actively trying to work in partnership with another early years provider or professional, although the other provider is not willing to share information. In these situations inspectors will need to base their judgements on any evidence the provider can show in relation to how they have tried to establish and build effective working relationships. For example, a leader of an out of school club may be trying to liaise with the reception teacher from the local school that children attend. The leader may have evidence that she has tried to arrange meetings with the teacher or has written to the head teacher to try and establish communication. Where there is evidence available that the provider has tried to establish relationships, inspectors should take this into account when making judgements about partnerships. Although it may be unfair to judge partnerships as inadequate, it is difficult to see how the judgement could be graded any better than satisfactory or good, depending on the evidence available.

Inspectors should remember that this judgement is based on the extent to which the setting liaises with external agencies or services, and not just with other providers delivering the Early Years Foundation Stage for a child. It is possible that a setting may have evidence of effective partnership working with other agencies, such as health professionals, that will contribute towards this judgement, even if they are experiencing problems establishing close relationships with other early years providers.

The effectiveness of safeguarding

The two judgements on safeguarding under the leadership and management section and under outcomes for children should be taken into account when considering the impact of safeguarding on the effectiveness of leadership and management and the overall effectiveness of the setting in meeting the needs of children.

The judgement on safeguarding made under the leadership and management section must draw also on the staying safe outcome judgement. It will contribute to and may limit the grade for overall effectiveness in the following ways:

- If a provider is not meeting their legal duties, this should prompt a judgement of inadequate for safeguarding
- Where a judgement of inadequate is awarded for either safeguarding or staying safe it is most unlikely that the overall effectiveness of the provider will be better than satisfactory. It is likely that the overall judgement will be inadequate
- Where a judgement of satisfactory is awarded for safeguarding it is most unlikely that the overall effectiveness of the provider will be better than good

A judgement on how well children are safeguarded should be based on evidence drawn from across all elements of the early years evaluation schedule.

A starting point for judging how well children are safeguarded is a discussion about the setting's safeguarding policy and procedures with the provider and, in the case of group care, the named practitioner who has lead responsibility for safeguarding children if this is different from the provider.

Inspectors must check that the provider has robust systems in place for recruiting and checking the suitability of any staff/assistant he or she employs. Inspectors should make sure that an enhanced Criminal Records Bureau disclosure and associated identity check has been obtained for each member of staff/assistant. Where, rarely, recently recruited staff are in post and the outcome of checks are not yet known, inspectors should confirm that a Criminal Records Bureau disclosure and identity check was applied for at the point of employment. They should make sure that they are satisfied with the arrangements for supervision.

The effectiveness with which the setting promotes equality and diversity

In all settings we make a single judgement on equality and diversity. Evidence contributing to the grade will be gathered when inspecting the five outcomes for children. The equality and diversity grade will contribute to and may limit the grade for *overall effectiveness* in the following ways:

- if a provider cannot demonstrate that they are working to narrow the achievement gap and to promote equality and diversity this should prompt a judgement of inadequate for equality and diversity
- where a judgement of inadequate is awarded for equality and diversity it is most unlikely that the overall effectiveness of the provider will be better than satisfactory. It is likely that the overall judgement will be inadequate
- where a judgement of satisfactory is awarded for equality and diversity it is most unlikely that the overall effectiveness of the provider will be better than good.

Equality and diversity in practice means:

- actively promoting positive relationships and respect for human rights
- understanding and respecting differences
- taking positive actions to tackle unlawful and unfair discrimination, inequality and unfairness
- adopting practices that make best use of the differing skills and talents of individuals
- focusing on improving outcomes that raise standards and improve lives.

Equality and diversity promote inclusion, participation and satisfaction of all. A primary aim is to achieve equal life chances and outcomes for all. Inspectors should draw

evidence from across all aspects of provision to evaluate practice, taking account of the culture, background and gender of the children who attend, including the needs of those with learning difficulties and/or disabilities and those learning English as an additional language.

Meeting individual children's needs and the promotion of inclusive practice lies at the heart of the Early Years Foundation Stage. This judgement draws on evidence from across all elements of the early years evaluation schedule.²⁸

Inspectors should discuss the setting's equality of opportunities policy with the childminder or leaders and managers of the setting. They should consider its effectiveness in terms of the cultures, backgrounds, gender and particular needs of the children who attend. They should ensure the provider understands that everyday practices and attitudes, the environment and policies all need regular reviewing to check they do not disadvantage particular children.

Indicators of effective practice are that:

- children are encouraged to recognise their own unique qualities and the characteristics they share with others
- children are encouraged to develop a positive sense of identity
- anti-discriminatory practice is actively promoted so that all children and families feel included, safe and valued.

The quality of individual education plans for children with learning difficulties or disabilities, backed up by observations of the children engaging with adults and activities, will give a guide to whether particular needs are met. Inspectors should check that children with physical disabilities are included and given appropriate support to develop their skills and become increasingly independent.

Inspectors should evaluate whether children who are learning to understand and communicate in English are given the time and support they need. For example do adults use children's home languages, where possible, and do they work well with parents and support workers to encourage children's developing use of English?

Inspectors should use the grade descriptors in the evaluation schedule under *How well does the provision promote equality and diversity* in order to help reach their judgements.

The effectiveness with which the setting deploys resources

This judgement must help bring about improvement by identifying strengths and areas for development regarding the efficient and effective use of resources. It contributes to the judgement for leadership and management.

²⁸ The schedule is included in *Using the early years evaluation schedule*; www.ofsted.gov.uk/publications/080124.

This judgement is about assessing how well providers use their given resources for the benefit of children. It does not require looking at funding streams and levels of funding but focuses on how providers ensure they get the best use from the resources. The judgement should take into account the provider's contribution to sustainability by not wasting resources and making sure children treat resources with respect.

'Resources' includes staff, support, equipment and accommodation. This means gathering evidence during inspection from observation, discussions with adults working in the setting and from relevant documents. Leaders and/or managers should be aware or have some knowledge and understanding of the management of resources. Resources used ineffectively in one part of a provision are likely to deprive other areas of resources which could be put to better effect.

The effectiveness of leadership and management in embedding ambition and driving improvement

This judgement captures the effectiveness of leadership and management at all levels and is also a determining factor in making the judgement about *capacity to improve*.

The judgement is based on:

- sound evidence of a track record of sustained improvement
- a clear vision and identification of priorities that will sustain improvement and raise aspirations for all children
- effective self-evaluation processes which have a positive impact on children
- well-considered planning to include effective and ambitious use of targets to raise achievement for all children
- the ability to achieve and demonstrate positive outcomes for children.

There are clear links between ambition and prioritisation and self-evaluation. It is about leaders' and managers' ability to have a clear vision, know where the strengths of the setting lay and where improvements are needed, be able to identify realistic but challenging steps for improvement and prioritise effectively within the remits of the available resources. These two judgements will contribute towards the judgement *capacity to improve*. Inspectors may find it helpful to refer to the grade descriptors for *capacity to improve* in the draft evaluation schedule in order to help reach the judgement. Newly-registered providers at their first inspection are unlikely to achieve a judgement of outstanding because they will not have a proven track record in sustained improvement.

Key judgement: the quality of the provision in the Early Years Foundation Stage

This key judgement includes an evaluation of how well children are helped to learn and develop and how effectively their welfare is promoted.

An evaluation of the provision for children's learning and development is determined by the knowledge, understanding, skills and attitudes they are helped to acquire, and their progress towards the early learning goals, during their time at the setting. Inspectors should draw evidence from across provision for all five Every Child Matters outcomes.

Children's progress towards the early learning goals

An evaluation of children's progress towards the early learning goals must be judged in relation to their starting points and identification of individual needs. Inspectors can gain an indication of these by examining the information that the setting gathers of what children know, can do and enjoy when they start to attend: that is, their starting point. Evidence of starting points can also be gained by talking with staff and parents about the level of children's social, communication and physical skills on entry; and by observing children new to the setting.

Inspectors can find out about children's progress towards the early learning goals at the setting by checking samples of their work and records, and any analysis the setting makes of the progress of individuals or groups of children over time. Inspectors will gain most information about what children know, understand and can do from direct observation and by talking with them.

Inspectors should focus on the big picture by looking across all areas of learning and development. Evidence can be gained of children's:

- **personal, emotional and social development**
by focusing on their behaviour, attitudes towards others and to their learning
- **communication, language and literacy development**
by talking with children to gauge how confidently they use language imaginatively and to organise their thinking; inspectors should observe whether children are developing the early skills of reading and writing through meaningful, practical experiences
- **problem solving, reasoning and numeracy**
by observing how they apply their knowledge of number and how they solve mathematical problems in everyday activities; and by listening to children's use of mathematical language
- **knowledge and understanding of the world**
by observing children's curiosity and interest in finding out about objects, materials and living things, where they live and each other's lives

- **physical development**
by observing whether children enjoy physical activity; develop skills of coordination, control, manipulation and movement; develop an understanding of changes that happen to their body as they take part; and what it means to be healthy
- **creative development**
by looking for evidence that children's creativity is valued; observe how children use their imaginations, express their own ideas and respond to what they see, hear, touch and feel.

The toolkit should include some evidence for each area of learning and development. It must be sufficient to support any weaknesses identified in any of those areas.

The quality of adults' interactions with children is clearly a major factor in the progress children make towards the early learning goals. Inspectors should observe whether adults' interactions are merely concerned with supervising children or whether they truly motivate children and engross them in activities. In particular, inspectors should evaluate whether adults' questions challenge children to think and find out more, by encouraging them to speculate and test ideas through trial and error.

The educational programmes

The level and type of planning is not prescribed in the Early Years Foundation Stage. Childminders and childcare providers may use their preferred method of planning and decide how they share their plans with assistants, staff and parents.

Inspectors should be satisfied that, over time, the setting covers each area in sufficient breadth and depth, and that communicating, literacy, numeracy and information and communication technology are promoted well. Although there is no requirement that plans must be recorded, inspectors should normally expect to see some written form of planning, even for childminding settings. The extent of planning including what is written will depend on: whether the setting is the sole provider of the Early Years Foundation Stage for children; whether any wrap around provision is attended regularly by children or on a temporary basis; the length of time children attend (for example if they are in the care of more than one adult throughout a day or week); the size of the setting; and the number of practitioners involved in provision of the Early Years Foundation Stage.

The Early Years Foundation Stage emphasises the importance of outdoor play. The *Practice guidance for the Early Years Foundation Stage* paragraph 1.16 states that:

'All early years providers must have access to an outdoor play area which can benefit the children. If a setting does not have direct access to an outdoor play area, then they must make arrangements for daily opportunities for outdoor play in an appropriate nearby location.'

If a setting does not have direct access to an outdoor play area then inspectors should evaluate how well the provider fulfils the expectation for daily outdoor play in a way that is reasonable and practical given the facilities and location of the setting. Key judgements on outcomes and provision will be affected if reasonable attempts aren't made to provide children with daily opportunities for outdoor play or to overcome difficulties which could prevent this.

Special Educational Needs Code of Practice

Inspectors should bear in mind that while all registered providers must meet the welfare requirements, only those who provide the free entitlement for three- and four-year-olds in receipt of Government funding must have regard to the Special Educational Needs Code of Practice.²⁹

Assessment

Providers are expected to ensure that practitioners are observing and responding to children appropriately to help them progress towards the early learning goals.³⁰ Most important, it is the use made of information from assessment that is critical to the progress children make towards the early learning goals. Its use should be evident in the quality of the educational programmes which should build learning progressively and clearly identify children's individual needs.

The assessment requirements relate to children in their final year of the Early Years Foundation Stage. Providers must complete the Early Years Foundation Stage profile and comply with other associated arrangements in the final term of the year in which the child reaches the age of five and no later than 30 June. Inspectors should check whether any children who attend are in their final year of the Early Years Foundation Stage and, if so, that arrangements are in hand for the completion of the profile. Where children attend more than one setting during their final year of the Early Years Foundation Stage, the profile must be completed by the provider where the child spends the majority of time between 08.00 and 18.00. This could mean a childminder is expected to complete the profile where he or she cares for a child from 09.00 until 18.00 each day, apart from two and half hours in the afternoon when the child goes to nursery school.

The Early Years Foundation Stage does not require providers to keep written records of children's progress, other than the completion of the profile at the end of the Early Years Foundation Stage. However, like planning, inspectors should normally expect to see some record of progress. If no records are available then there is a greater onus on the provider to convince the inspector of children's progress towards the early learning goals and how the provision and partnerships with parents and others have influenced this.

²⁹ See specific legal requirement in *Statutory framework for the Early Years Foundation Stage*: page 25; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

³⁰ *Statutory framework for the Early Years Foundation Stage*: paragraph 2.19 page 25; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

No exemptions from the welfare requirements

A provider cannot be exempt from meeting the welfare requirements. Therefore, even if aspects of the provision or an individual child is exempt from one or more the learning and development requirements, inspectors should consider the overall provision for children's learning and development in the context of the welfare requirements. These require providers to 'plan and organise their systems to ensure that every child receives an enjoyable and challenging learning and development experience that is tailored to meet their individual needs'.³¹ Specifically, providers are required to 'plan and provide experiences which are appropriate to each child's stage of development as they progress towards the early learning goals'. Where providers are exempt from some of the learning and development requirements, plans and provision are unlikely to include the exempt aspects of the early learning goals.

Key person

Inspectors should check that in childcare settings there is an effective key person system in place. To ensure that individual needs, including emotional needs, are being met, each child should be assigned a key person. The management of the key person system is critical to its success, particularly at ensuring that individual children are well supported at times when staff shifts change or during staff holidays/absence. This may be managed by providing a second key person so that when the main key person is away there is a familiar and trusted person who the child knows well.

Risk assessments

Inspectors should consider the suitability and safety of outdoor and indoor spaces, furniture, equipment and toys. This will be linked to the quality and effectiveness of risk assessments (see 'Leadership and management'). The Early Years Foundation Stage requires providers to conduct, regularly review, and maintain a record of a risk assessment which 'should cover anything with which a child may come into contact'. Providers must carry out a risk assessment for each specific type of outing with the children. For all regular outings such as school pick ups or visits to the local park, the inspector should expect to see an initial risk assessment and evidence that this is regularly reviewed. We would not expect providers to carry out a risk assessment every day for their school pick ups but would expect them to review risk assessments on about a termly basis, or more often when things change. All one-off outings should have a risk assessment completed before the outing takes place. The Early Years Foundation Stage does not prescribe a standard way of completing or recording a risk assessment, although the *Practice guidance for the Early Years Foundation Stage* includes some useful pointers on the sort of risks that might be covered.³² At the beginning of the inspection inspectors may find it helpful to discuss

³¹ See *Statutory framework for the Early Years Foundation Stage*: page 20; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

³² Paragraph 3.18; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

the most up-to-date risk assessment with the provider. Discussions may reveal lines of enquiry inspectors may want to follow up during the inspection, to help them evaluate the quality of the leadership and management.

Inspectors should refer to the outline guidance and grade descriptors in the evaluation schedule in order to help reach this judgement.

Key judgement: Outcomes for children in the Early Years Foundation Stage

Inspectors should evaluate the extent to which children enjoy their learning and achieve well; feel safe; learn to lead healthy lifestyles; make a positive contribution; and develop their skills for the future. Inspectors should draw evidence from across the provision for all five *Every Child Matters* outcomes of:

- staying safe
- being healthy
- enjoying and achieving
- making a positive contribution
- developing skills that will contribute to their future economic well-being.

Inspectors make this judgement after making the judgements on the five outcomes.

Making individual outcome judgements

Inspectors need to gather evidence of each of the five *Every Child Matters* outcomes in order to reach individual judgements for each. This will then help inspectors to make the overall outcome judgement. The views, behaviour and attitudes of the children; and the interaction between adults and children are essential in informing inspection judgements on outcomes. Where the children present are very young and/or have significant learning difficulties, inspectors should take care to make sure they make a balanced judgement about outcomes by considering other evidence providers can supply about improved outcomes for children in their care. In particular inspectors should seek evidence from the quality of planning and assessment in improving outcomes.

It should always be possible to gather evidence of all outcomes. Evidence is likely to be gathered mainly through discussion:

- where there are no children present at the time of the inspection
- where there are no children on roll
- where there is no history of caring for children and any children present are at a stage of development where, for example, they are unable to demonstrate an understanding of healthy habits or of how to stay safe and the provider has no or insufficient records to show how their care enables improved outcomes. One example of this might be when the only child present is a very young baby who is sleeping during an inspection.

Additional prompts for inspectors to look for when making individual outcome judgements for very young babies are included as Annex A in the evaluation schedule. This could perhaps also be useful to consider when children present at inspection are unable to communicate, for example those with learning difficulties or English as an additional language. Inspectors will find it useful to refer to the *Practice guidance for the Early Years Foundation Stage* and use the developmental matters for ideas of the types of activities and responses we should be seeing for this age range in order to assess learning.

Key judgement: how well does the setting meet the needs of children in the Early Years Foundation Stage?

This is the overall judgement and should be the last one that is made, taking into consideration all other judgements.

Inspectors should not arrive at this judgement by an arithmetical calculation of all other judgements, but by weighing them up and assessing their relative significance. The central question is 'what is it like for a child here?'

The strength of leadership and management at all levels, or organisation of the childminding, especially the quality of the self-evaluation and its track record in securing improvement, will be the major factor in determining the overall effectiveness of the early years provision. Therefore, if the leadership and management of a group setting is judged to be inadequate, the early years provision will not be effective overall.

A judgement of satisfactory or better for the capacity to improve does not mean that the early years provision is effective overall, although it should be heading in that direction. This might occur in group settings where there has been a change of manager and/or staff who are making good improvements but their impact is not yet fully realised. Where improvements have not been made or have had little impact, and/or self-evaluation is weak, then there is unlikely to be sufficient capacity to improve, and provision is ineffective overall.

The capacity of the provision to maintain continuous improvement

The capacity to improve is determined by the extent to which the childminder or leaders and managers are able to make the necessary improvements. Inspectors should consider whether there is consistent capacity across all levels of the setting's leadership and management. An indicator of the capacity to improve is the quality of self-evaluation and of improvements since previous inspections.

In group settings, new plans or recent changes of leadership in group settings do not prove that there is capacity to achieve improvement without some evidence of impact. Good intentions and an aspirational outlook do not in themselves provide sufficient proof of the capacity to achieve improvement.

The capacity to improve judgement should be linked to the *overall effectiveness* judgement but may not always be the same. The capacity to improve will limit the overall effectiveness judgements in the following ways:

- where a judgement of inadequate is awarded for capacity to maintain continuous improvement it is most unlikely that the overall effectiveness of the provider will be better than satisfactory. It is likely that the overall judgement will be inadequate
- where a judgement of satisfactory is awarded for capacity to improve it is most unlikely that the overall effectiveness of the provider will be better than good.

This judgement is based on:

- sound evidence of a track record of sustained improvement
- a clear vision and articulation of appropriate priorities that will sustain improvement and raise aspirations for children
- effective self-evaluation processes which lead to demonstrate impact and which include appropriate use of the children, parents and others.

Inspectors should use the grade descriptors in the evaluation schedule under *The capacity of the provision to maintain continuous improvement* in order to help reach their judgements. Inspectors may also find it useful to refer to the descriptors under *The effectiveness of leadership and management in communicating ambition, prioritising and driving improvement* in order to support their thinking.

What steps need to be taken to improve provision further?

The early years evaluation schedule requires inspectors to identify the steps needed to improve the early years provision further.

Inspectors should **make recommendations** to improve the quality of the provision. They should be traceable to the principles, practice guidance and statutory guidance of the EYFS.

Recommendations arise from aspects of provision judged to be inadequate: category 1 or better: they are **not** designed to ensure providers meet statutory requirements. Recommendations should be few in number and aimed at bringing about improvements which will have the greatest impact.

They must **always** be raised where the provision is satisfactory or better. At least one, but no more than two, recommendations must be raised where the early years provision has been judged as outstanding overall. Where there is a mix of outstanding and good judgements, they will arise from the good ones. They should be aimed at bringing about a very minor improvement to otherwise exemplary provision. In these circumstances, inspectors must still ensure that recommendations are securely based on the principles, practice guidance and statutory guidance of the

Early Years Foundation Stage. For example, childminders should not be asked to keep written records where there is no requirement to do so.

Recommendations **must not** be raised to remedy weaknesses which have a significant impact on children, for example to address shortcomings in practice which are clearly hindering children's progress towards the early learning goals. Recommendations should not be raised where the overall provision is judged as inadequate: category 2.

Inspectors should **raise actions** to ensure statutory requirements of the Early Years Foundation Stage are being met. They must be traceable to the overarching or specific requirement(s) which are not being met. Normally there will be at least one action where any judgement in the inspection judgement grid is inadequate. The exceptions to this are: where it is sensible to combine an action; or where other enforcement action is being considered such as cancellation of registration. Following inspection these actions will be sent to providers in a 'notice to improve'. In the inspection report, each action must clearly state the particular requirement(s) to which it applies.

Providers are expected to complete actions raised against provision judged as:

- **good or satisfactory overall** by the dates included in the notice to improve which they receive after the inspection. An action raised where provision is overall good or satisfactory will be for failure to meet some or all of a welfare requirement that has very little impact on the quality of the provision or outcomes for children. Inspectors should give a short timescale as it should be very easy to put right. If the setting needs time to put this right the inspector should question if 'good' or 'satisfactory' is the correct outcome
- **inadequate: category 1 overall** by the date(s) included in the inspection report and on the notice to improve which they receive after the inspection.

Actions and recommendations should not relate to legislative requirements outside Ofsted's remit, unless they are specifically referred to in the *Statutory Framework for the Early Years Foundation Stage*, for example, with regard to registration with the local authority Environmental Health Department.

Failure to meet conditions of registration or notify Ofsted of a significant event

Where a provider does not comply with a condition of registration and/or failed to notify us of a significant event they commit an offence, unless they have a reasonable excuse. Our enforcement tariff means that, as with all other failures to meet legal requirements, inspectors should take a proportionate approach taking into account the impact of the failure on children's well-being. We do not always have to take statutory action for failures to comply with conditions or to notify but we must always bring any such failure and its seriousness to the provider's attention.

Where inspectors find such a failure during an inspection, they need to consider a course of action that enables us to apply the escalating tariff fairly, so that a provider is given an opportunity to put things right before we proceed to tribunal or court. Inspectors should treat any failures to meet conditions or notify found at inspection in the same way as we would if we found conditions were not met as a result of an investigation. A proportionate approach is to assess the impact of the breach, any excuse the provider has, and the provider's attitude and willingness to comply. For a first breach and/or where the impact is minor and/or where there was no deliberate intention to avoid compliance, we do not need to move to our statutory enforcement action.

However, it is not appropriate for inspectors to issue a notice to improve. This is because it either tells the provider what the condition already says; or where there is a failure to notify tells the provider not to do it again. There is no remedial action a provider can take to bring about improvement.

Where inspectors find providers have failed to meet their conditions or failed to notify us of a significant event at inspection, they should assess the impact of the failure on the quality of the provision and the ability of the provider to meet the needs of all children.

Instead inspectors should include in the inspection report, an explicit statement about the failure to meet the condition of registration or failure to notify us of something they must let us know about. This will act in the same way as a warning letter to the provider, and it will also ensure that the offence is brought to the attention of the provider and parents.

Examples of possible wording include:

- The provider/childminder is caring for more children than their conditions of registration allow. This is an offence unless the provider gives a reasonable excuse. On this occasion the provider did so and Ofsted does not intend to take further action.
- Where inadequate – The provider/childminder is caring for more children than their conditions of registration allow. This is an offence and Ofsted intends to take further enforcement action.
- Where satisfactory or better – The provider/childminder is allowing children to use the outside area which their conditions of registration do not permit. This is an offence unless the provider gives a reasonable excuse. Ofsted does not intend to prosecute on this occasion.
- The provider has committed an offence by failing to notify us of a change to the person who is managing the early years provision. This is a specific legal requirement in the Statutory Framework for the Early Years Foundation Stage. Ofsted does not intend to prosecute on this occasion.

Inspectors may take or adapt appropriate wording from page 30 in the *Statutory Framework for the Early Years Foundation Stage*.

Where inspectors judge the failure is not significant enough to move to enforcement action and/or the provider has a reasonable excuse, and there is no other failure that makes the provider inadequate, they must judge the provider as no better than satisfactory for the appropriate area. For most breaches of conditions or failure to notify, this will be in leadership and management as it reflects a failure by the provider to understand and comply with requirements and/or conditions placed on the registration. This will limit the **overall judgement** in most cases to no better than satisfactory.

Where inspectors judge a provider is inadequate category 1 because of something other than the failure to meet conditions of registration and/or notify us of a significant event, they must still not include the failure in any notice to improve but continue to reference it explicitly in the inspection report.

Where inspectors judge a provider is inadequate category 2 because they are considering recommending enforcement action for other failures, they may also wish to recommend moving to a statutory step for breaches of conditions as well. At this point inspectors will need to seek advice from the compliance, investigation and enforcement (CIE) team. They must still reference the failure explicitly in the inspection report. Where inspectors consider the impact of the failure to meet conditions of registration and/or notify us of a significant event is such that it makes the provider inadequate overall then they must always judge the provider as inadequate category 2; seek advice from CIE about the next steps; and reference the failure explicitly in the inspection report.

Inspectors should also record the breach in conditions of registration and/or failure to notify us of a significant event in registration comments on the RSA, as well as in the inspection report. This will improve our audit trail if this is needed at a later stage.

Inadequate provision

If the inspector judges that, overall, the early years provision is ineffective (grade 4), they must decide the extent to which the provision is inadequate by placing the provision in one of two categories.

The grade descriptions for inadequate provision set out in *Using the early years evaluation schedule* mostly describe category 2 provision. Inspectors should decide the extent to which these descriptors match the early years provision they are evaluating.

The capacity to improve is a very significant factor in determining whether inadequate provision should be judged as category 2. Inspectors must make a category 2 judgement with the approval of their inspection team manager and with advice from the CIE team who will agree the appropriate enforcement action. Category 2 judgements are most likely to be the case where:

- the provider has had previous actions relating to the inspector's concerns and has taken little or no action; or has allowed the situation to recur

- the provider's attitude and/or understanding is poor – the provider lacks the necessary knowledge to put things right; or does not see the importance of what they are being asked to do; or is reluctant or refuses to carry out the action
- there is a risk of harm to children.

If inspectors judge that the quality of provision falls into this category, before giving feedback they should:

- make sure that they have enough evidence recorded to support their judgement
- think about what enforcement action is most appropriate
- contact their line manager and/or the CIE team to tell them about their findings and recommended course of action; and ask for advice/confirmation of the proposal judgement and course of action
- give feedback to the provider following the guidance in the *Compliance, investigation and enforcement handbook* making sure that the provider knows what will happen next and the content of any notice to improve that we send relating to the learning and development requirements³³
- explain to the provider that they will be notified of the enforcement action we intend to take by either an inspector or a member of the regional CIE team within five days of the inspection.
- leave the provider a copy of *The next steps* leaflet.³⁴

Where provision is judged to be category 2, there are a number of possible courses of action open to Ofsted. The CIE professional and inspection team manager will hold a strategy meeting to decide on the most appropriate course of action in line with escalating tariff set out the *Compliance, investigation and enforcement handbook*.

In settings judged to be inadequate category 2 we will most commonly issue a welfare requirements notice to address the most significant weaknesses in the welfare requirements, but we are unable to take this action against the learning and development requirements. It is possible that some of the weaknesses in learning and development will link to the welfare requirements in 'Organisation', but this may not always be the case.

Therefore, when the inspector judges failure to meet learning and development requirements as the reason for the judgement of inadequate category 2 (s)he should

³³ The compliance, inspection and enforcement handbook can be viewed at:

[www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Care-and-local-services/Childcare/Compliance-investigation-and-enforcement-handbook/\(language\)/eng-GB](http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Care-and-local-services/Childcare/Compliance-investigation-and-enforcement-handbook/(language)/eng-GB).

³⁴ *The next steps* (080028), Ofsted, September 2008; www.ofsted.gov.uk/publications/080028.

also raise a notice to improve to give the provider actions to take to improve the support for children’s learning and development provision.

Range/combination of inspection decisions

Judgement	Recommendations	Actions - notice to improve	Enforcement action Welfare requirements notice or other
Outstanding	Yes, always, but a maximum of two	Never	Never
Good	Yes, always, but few in number	Yes, very rarely and few in number. Only to address partial or very minor breaches of requirements where there is little impact on the children and practice is otherwise effective	Never
Satisfactory	Yes, always	Yes, possibly and few in number. Only to address partial or very minor breaches of requirements where there is little impact on the children and practice is otherwise sound	Never
Inadequate: category 1	Yes, possibly	Yes, always	Never
Inadequate: category 2	Never	Yes, possibly - to address learning and development weaknesses	Yes, always unless the weakness only relates to learning and development

Communicating inspection findings

Providing oral feedback to the setting

Inspectors should discuss emerging inspection findings with the registered provider, their nominee or the day-to-day manager throughout the inspection. This will give them time to reflect on what the evidence is indicating and allow them to provide more evidence if necessary. Final judgements should not come as a surprise.

Before leaving the setting, inspectors must feedback their final judgements and findings to either the childminder or the most appropriate person in group settings. This will normally be the registered provider, their nominee or the day-to-day manager.

Where the registered person is not present, inspectors should make it clear to the manager at the start of the inspection that the registered person or their nominee may also attend the feedback if it is possible for them to do so. But inspectors should not defer feedback to allow this to happen on another day.

Inspectors should make it clear during feedback that all inspection judgements are subject to a national quality assurance process. Some judgements may change as a result of moderation, although this is unlikely. Inspectors should show providers the 'Inspection summary' screen of their toolkit, where possible, in order for providers to see the grades given for each of the key and supplementary judgements.

Inspectors should consult either their inspection team manager or the early years duty desk in the Quality Assurance team before giving feedback if they are in doubt about their judgements. They may wish to consult with the CIE team before feedback if they judge the provision to be inadequate: category 1. Inspectors **must** consult CIE if they judge the provision to be inadequate: category 2.

Only in rare circumstances should inspectors delay giving full feedback, for example if they need to consult with the CIE team about enforcement action. Even in these circumstances inspectors must make clear to the provider the range of enforcement action Ofsted can take and the reasons for doing so.

Inspectors should allow sufficient time to gather their thoughts and be clear about what they are going to say. Their feedback notes must be consistent with their evidence and the content of the report. They should make sure they have enough evidence to support their judgements and examples to explain the strengths and weaknesses they have identified. This is particularly important where the setting appears to have significant weaknesses and is judged inadequate overall. Feedback in such cases must be sensitive, but firm.

Inspectors must give the grades of the four key judgements, referring to the other graded judgements as necessary. Inspectors should:

- give clear feedback on any grades that are different from the setting's SEF
- state clearly if any aspects of the setting have been judged inadequate and the reasons for this
- explain the areas for improvement and be prepared to discuss these with the setting so they understand what can or must be improved and the reasons why.

Before the feedback inspectors should make sure that the provider knows that the meeting is not a time to challenge judgements or present more evidence. They

should give the provider and/or person-in-charge an opportunity to confirm there is nothing else he or she wants the inspector to see or do before the meeting starts.

Inspectors might find the checklist in annex D helpful when giving feedback. The order is flexible.

The inspection report

Reports should be completed by the inspector immediately after the inspection. Although the format is prescribed, there are few rules about the content and wording of the report. The report should read fluidly and in a way which captures the uniqueness of the setting. The text, balance and tone of the report should reflect the quality of the provision for children in that particular setting and its leadership and management. The reasons for judgements should be clear to anyone reading the report. The inspector must ensure that all judgements are supported by evidence and that the way in which the inspection is conducted is beyond reproach. Inspection reports will be quality assured in line with Ofsted's internal procedures.

The inspector must inform their inspection support team (IST) by memo if a new certificate is required:

- for updating conditions to reflect the transfer to the new register/s.
- if the provider has not had a new certificate issued to reflect the transfer to the new register/s the inspector should create new conditions of registration to reflect the registers. This should include a condition for all providers on whether they are allowed to provide overnight care or not. The toolkit has conditions in a drop-down menu just as in the previous toolkit. These changes do not involve creating a notice of intention. Inspectors should discuss the change with the provider and explain that it does not involve the normal objection and appeal process. Inspectors should explain that the new certificate will replace the old certificate and deeming letter.
- because of changes to conditions of registration either because the provider has requested a variation to their conditions of registration or the inspector judges it necessary. These changes require a notice of intention to give the provider the opportunity to object and appeal.

The memo to IST must be clear on why the new certificate is required.

For further guidance, inspectors should refer to *Guidance on writing early years inspection reports*.³⁵

³⁵ *Guidance on writing early years inspection reports*, www.ofsted.gov.uk/publications/080166.

Concerns and complaints

Handling concerns and complaints during the inspection

If a setting raises a concern about the inspection while it is taking place, the inspector should consider it and assess its validity. If the concern is found to be justified, the inspector should do what is possible to redress the problem, seeking advice from their inspection team manager where necessary. It is often easier to resolve issues on the spot and helps to avoid formal complaints later.

If the setting is dissatisfied with the inspector's response, or in any case wishes to take the complaint further, the inspector should ensure that the setting is fully informed of the procedures for making complaints.

Behaviour towards inspectors

There is an expectation that providers and staff will be courteous and helpful to inspectors with whom they have contact. We will not accept the abuse, harassment or intimidation of, or interference with, inspectors during the course of their legitimate work.

If an instance of such behaviour occurs during an inspection, the inspector should seek to resolve the issue informally with the registered person or day-to-day manager. If the issue cannot be resolved in this way, the inspector should contact their manager and consider whether they need to withdraw from the inspection.

Annex A. Making links

Inspection focus	General legal requirements	EYFS: Principles and themes	Every Child Matters outcomes ³⁶
<p>How well does the setting meet the needs of children in the EYFS?</p> <p>The effectiveness with which the setting promotes equality and diversity</p> <p>The capacity of the provision to maintain continuous improvement</p>	<p>All</p> <p>Note specific legal requirements:</p> <p>W1.1: Equality of opportunities</p> <p>All providers must have and implement an effective policy, ensuring equality of opportunities and supporting children with learning difficulties and disabilities.</p> <p>W4: Organisation</p> <p>Providers must promote equality of opportunity and anti-discriminatory practice and ensure that every child is included and not disadvantaged because of ethnicity, culture or religion, home language, family background, learning difficulties, gender or ability.</p>	<p>All</p> <p>specifically:</p> <hr/> <p>A unique child</p> <p>Every child is a competent learner from birth who can be resilient, capable, confident and self-assured.</p> <p>1.1 Child development</p> <p>Babies and children develop in individual ways and at varying rates. Every area of development – physical, cognitive, linguistic, spiritual, social and emotional – is equally important.</p> <p>1.2 Inclusive practice</p> <p>The diversity of individuals and communities is valued and respected. No child or family is discriminated against.</p>	<p>All</p>

³⁶ Be healthy; stay safe; enjoy and achieve; make a positive contribution; achieve economic well-being.

Inspection focus	General legal requirements	Principles and themes	Every Child Matters outcomes
<p>The effectiveness of leadership and management of the EYFS</p> <p>The effectiveness of the setting's self-evaluation, including the steps taken to promote improvement</p> <p>The</p>	<p>All</p> <p>Note general welfare requirements:</p> <p>(i) Policies, procedures and records:</p> <p>W5: Documentation</p> <p>(ii) Safeguarding</p> <p>W1: Safeguarding and promoting children's welfare</p> <p>Safeguarding</p> <p>Information and complaints</p> <p>Premises and security</p> <p>Equality of opportunities</p> <p>W2: Suitable people</p>	<p>All</p> <p>Specifically:</p> <p>A unique child</p> <p>Every child is a competent learner from birth who can be resilient, capable, confident and self-assured.</p> <p>1.3 Keeping safe</p> <p>Young children are vulnerable. They develop resilience when their physical and psychological well-being is protected by adults.</p> <p>Positive relationships</p> <p>Children learn to be strong and independent from a base of loving and secure relationships with parents and/or a key person.</p> <p>2.2. Parents as partners</p> <p>Parents are children's first and most enduring educators. When parents and practitioners work together in early years settings, the results have a positive impact on children's development and learning.</p>	<p>All</p>

<p>effectiveness of the setting's engagement with parents and</p> <p>The effectiveness of partnerships</p> <p>The effectiveness of safeguarding</p>	<p>Suitable people Appropriate staff qualifications, training, skills and knowledge Staffing arrangements</p> <p>W3: Suitable premises, environment and equipment</p>	<p>Enabling environment The environment plays a key role in supporting and extending children's development and learning.</p> <p>3.4 The wider context Working in partnership with other settings, other professionals and with individuals and groups in the community supports children's development and progress towards the outcomes of Every Child Matters: being healthy, staying safe, enjoying and achieving, making a positive contributions and economic well-being.</p>	
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Inspection focus	General legal requirements	Principles and themes	Every Child Matters outcomes
<p>The quality of the provision in the EYFS</p> <p>Outcomes for children in the EYFS</p>	<p>Learning and development</p> <p>LD 1: The early learning goals</p> <p>The knowledge, skills and understanding which young children should have acquired by the end of the academic year in which they reach age five (young children).</p> <p>LD 2: The educational programmes</p> <p>The matters, skills and processes which are required to be taught to young children.</p> <p>LD 3: The assessment arrangements</p> <p>The arrangements for assessing young children to ascertain their achievements.</p> <p>Welfare</p> <p>W4: Organisation</p> <p>Providers must plan and organise their systems to</p>	<p>Enabling environment</p> <p>The environment plays a key role in supporting and extending children’s development and learning.</p> <p>3.1 Observation, assessment and planning</p> <p>Babies and young children are individuals first, each with a unique profile of abilities. Schedules and routines should flow with the child’s needs. All planning starts with observing children in order to understand and consider their current interests, development and learning.</p> <p>3.2 Support every child</p> <p>The environment supports every child’s learning through planned experiences and activities that are challenging, but achievable.</p> <p>3.3 The learning environment</p> <p>A rich and varied environment supports children’s learning and development. It gives them the confidence to explore and learn in secure and safe, yet challenging, indoor and outdoor spaces.</p> <hr/> <p>Learning and development</p> <p>Children develop and learn in different ways and at different rates; all areas of learning and development are equally important and inter-connected.</p> <p>4.1 Play and exploration</p> <p>Children’s play reflects their wider ranging and varied interests and preoccupations. In their play children learn at their highest level. Play with peers is important for children’s development.</p> <p>4.2 Active learning</p> <p>Children learn best through physical and mental challenges. Active learning involves other people, objects, ideas and events that engage and involve</p>	<p>Enjoy and Achieve and how children learn to:</p> <p>be healthy</p> <p>stay safe</p> <p>make a positive contribution</p> <p>develop skills for the future</p>

	<p>ensure that every child receives an enjoyable and challenging learning and development experience that is tailored to meet their individual needs.</p>	<p>children for sustained periods.</p> <p>4.3 Creativity and critical thinking</p> <p>When children have opportunities to play with ideas in different situations and a variety of resources, they discover connections and come to new and better understandings and ways of doing things. Adult support in this process enhances their ability to think critically and ask questions.</p> <p>4.4 Areas of learning and development</p> <p>The EYFS is made up of six areas of learning and development – all are connected to one another and are equally important. All areas of learning and development are underpinned by the principles of the EYFS.</p>	
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Inspection focus	General legal requirements	Principles and themes	Every Child Matters outcomes
<p>The quality of provision in the EYFS</p> <p>Outcomes for children in the EYFS</p>	<p>W1: Safeguarding and promoting children’s welfare</p> <p>W1.3: Children’s behaviour must be managed effectively and in a manner appropriate for their stage of development and particular individual needs.</p> <p>W1: Safeguarding and promoting children’s welfare</p> <p>W1.2: The provider must promote the good health of the children, take necessary steps to prevent the spread of infection, and take appropriate action when they are ill.</p>	<p>Positive relationships</p> <p>Children learn to be strong and independent from a base of loving and secure relationships with parents and/or a key person.</p> <p>2.1 Respecting each other</p> <p>Each interaction is based on caring professional relationships and respectful acknowledgement of the feelings of children and their families.</p> <p>2.3 Supporting learning</p> <p>Warm, trusting relationships with knowledgeable adults support children’s learning more effectively than any amount of resources.</p> <p>2.4 Key person</p> <p>A key person has special responsibility for working with a small number of children, giving them the reassurance to feel safe and cared for and building relationships with their parents.</p>	<p>Enjoy and achieve including how children learn to:</p> <ul style="list-style-type: none"> be healthy stay safe make a positive contribution develop skills for the future
	<p>W1: Safeguarding and promoting children’s welfare</p> <p>W1.1: The provider must take necessary steps to safeguard</p>	<p>A unique child</p> <p>Every child is a competent learner from birth who can be resilient, capable, confident and self-assured.</p> <p>1.4 Health and well-being</p> <p>Children’s health is an integral part of their emotional, mental, social, environmental and spiritual well-being and is supported by attention to these aspects.</p>	<p>Being healthy</p>

	<p>and promote the welfare of children in the setting</p> <p>W 3: Suitable premises, environment and equipment outdoor and indoor spaces, furniture, equipment and toys, must be safe and suitable for their purpose.</p>	<p>1.3 Keeping safe</p> <p>Young children are vulnerable. They develop resilience when their physical and psychological well-being is protected by adults.</p>	<p>Staying safe</p>
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Annex B. Points to cover in initial discussion with provider or person-in-charge

Changes since the last inspection

Have there been any major changes since the last inspection?

Are the details Ofsted holds on the RSA correct, including any change of the nominated person?

Is the provider registered on the correct register/s? (see glossary for definitions)

- Early Years Register
- Childminding
- Childcare on non domestic premises
- Childcare on domestic premises
- Childcare register
- Part A compulsory part
- Part B voluntary part

If inspectors believe the provider is not on the correct register/s they should explain this to the provider and take guidance from their ITM as to the action needed to resolve this.

The self-evaluation form³⁷

If a SEF is available on the system, confirm with the provider the date the SEF was submitted. If there is no SEF on the system, ask the provider if they will have a SEF available at the inspection.

Questions inspectors might ask include:

Can you tell me how you decided what should be in the SEF? Who was involved in completing it? Can you tell me why you have graded the provision as you have in the SEF? What activities/records/documents will show me the quality you have indicated in the SEF?

Improvement

Questions inspectors might ask include:

What improvements have been made recently/since the last inspection? What difference have these made to the children's welfare, learning and development?

³⁷ whether submitted or given at inspection.

What improvements are you planning? Why did you decide to make these improvements? What difference do you expect have these to make to the children's welfare, learning and development?

Funding

Questions inspectors might ask include:

Are you/the setting in receipt of government funding for the provision of free early education for three- and four-year olds?

Who is the special educational need coordinator (group settings)?

Do you have an exemption relating to the learning and development requirements? If yes, is it in relation to the provision or for an individual child?

What is the extent of the exemption?

The children

Questions inspectors might ask include:

Which children:

- are learning English as an additional language
- have special educational needs
- are new to the setting
- which child(ren) is/are exempt (if applicable)
- are about to transfer to school?

How do you find out what a child knows/can do when s/he first starts to attend?

What progress do children make while they are with you/at the setting? Can you show me evidence of this?

Group settings

Questions inspectors might ask include:

How are the children organised, for example altogether/in group rooms?

How are staff organised or deployed?

General

Questions inspectors might ask include:

Where are the following documents? (See annex C below.)

Are there any special factors to take into account during the inspection, for example settling in new children/new staff/building work?

How do you make your inspection report available and ensure all parents and carers receive a copy?³⁸ This also applies to monitoring letters.

³⁸ *Statutory framework for the Early Years Foundation Stage*, specific legal requirement; page 40; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

Annex C. Required policies, procedures and records

The Early Years Foundation Stage requires all providers must keep the following **written** records:

- a record of complaints received from parents, and their outcomes
- a record of all medicines administered to children
- a record of accidents and first aid treatment while in care of the provider
- a record to demonstrate to Ofsted that the required Criminal Records Bureau checks have been carried out, including the number and date of issue of the enhanced Criminal Records Bureau disclosure, in respect of all people who work directly with children or who are likely to have unsupervised access to them
- a record of the following information for each child in their care:³⁹
 - full name
 - date of birth
 - the name and address of every parent and carer who is known to the provider
 - which of these parents or carers the child normally lives with
 - emergency contact details of the parents and carers
- a record of the name, home address and telephone number of the provider and any other person living or employed on the premises
- a record of the name, home address and telephone number of anyone who will regularly be in unsupervised contact with the children attending the early years provision
- a daily record of the names of the children looked after on the premises, their hours of attendance and the name of each child's key person
- a record of risk assessment, clearly stating when it was carried out, by whom, date of review and any action taken following a review or incident. A risk assessment must be carried out for each specific outing with the children.

All providers are expected to implement the following policies and procedures; and all, **except childminders**⁴⁰, are expected to have written copies of those policies and procedures:

³⁹ Providers must also record and submit certain information to their local authority about individual children receiving the free entitlement to early years provision. See the *Statutory framework for the Early Years Foundation Stage*; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

⁴⁰ Unless the childminder is registered on the compulsory and/or voluntary part of the Childcare Register, then the policies and procedures should be in writing.

- a safeguarding children policy and procedure (to include the procedure to be followed in the event of an allegation being made against a member of staff)
- a policy for ensuring equality of opportunities and for supporting children with learning difficulties and disabilities
- a policy for administering medicines, including effective management systems to support individual children with medical needs
- a behaviour management policy
- a procedure for dealing with concerns and complaints from parents
- a procedure to be followed in the event of a parent failing to collect a child at the appointed time
- a procedure to be followed in the event of a child going missing
- a procedure for the emergency evacuation of the premises.

Annex D. Prompts for feedback session

Thank the provider for his/her cooperation.

Explain the purpose, structure and confidentiality of the feedback.

Invite note taking.

Agree details of the paragraph on '**description of the setting/childminding**', including any learning and development exemption that is in place or applied for.

Advise the provider that all inspection judgements stand at the time of inspection but that they are subject to a national quality assurance process. As a result, some judgements may change, although this is unlikely.

Give the **overall effectiveness** judgement, making reference to:

- the capacity to maintain continuous improvement.

Give the key judgement for leadership and management.

Summarise strengths and weaknesses, including those of:

- the setting's self-evaluation and the steps taken to promote improvement
- the arrangements for engaging with parents and carers
- the partnership with others
- the arrangements for safeguarding children
- the extent to which the provision promotes equality and diversity
- the use of resources
- the effectiveness of embedding ambition and driving improvement

Give key judgements for the quality of the provision for children in the Early Years Foundation Stage and outcomes for children in the Early Years Foundation Stage

Summarise how effectively children are helped to learn and develop and how effectively their welfare is promoted.

Summarise strengths and weaknesses of how the provision helps children:

- stay safe
- be healthy
- enjoy and achieve
- make a positive contribution
- develop skills for the future.

If the provision is **inadequate** overall:

- make clear whether it is category 1 or 2
- make clear the possible courses of action Ofsted can take if category 2
- give provider a copy of *The next steps* leaflet.

Give any relevant:

- recommendations
- actions
- conditions to be varied or imposed.

Where possible, show the provider the inspection summary screen with the grades for all of the key and supplementary judgements. Explain that the provider will receive a copy of the report within 10-15 days of the inspection. If there are any factual inaccuracies the provider must respond within 24 hours of receiving the letter. They can do this by telephoning us, emailing us or writing to us using the details at the top of this letter. Ofsted aims to publish the report on the internet within 20 working days from the date of the inspection. Ofsted will include any changes to factual accuracy that the provider tells Ofsted about providing these are received these in time, otherwise Ofsted will publish the report as it stands.

Share the 'prompt points' sheet with the provider to explain the timing of the next inspection.

If relevant:

- explain to the provider that if they have not had a new certificate to reflect the new register/s we will send them one with the report. This replaces the old certificate and deeming letter.
- explain that if the provider has requested a variation to their condition of registration, or we have decided to impose, vary or remove a condition, the provider will receive a notice of intention and a new certificate.

Any clarification needed?

Annex E. The grading scale

The table below shows the four-point grading scale which inspectors should use to make judgements, together with a summary of general indicators of provision in early years settings for each grade and the implication for the next inspection.

Grade	Indicators of overall provision
Grade 1 Outstanding	<p>This applies to exceptional provision which is way above the norm. The standard of care is exemplary. It is highly effective at making sure that children make significant progress towards the early learning goals – given their starting points.</p> <p>Overall, the practice is worth disseminating beyond the setting.</p> <p>Inspectors make one or possible two recommendation/s to bring about minor improvement.</p>
What happens next?	
<p>When the overall judgement is grade 1:</p> <p>The next inspection will not take place for at least three years, although Ofsted will investigate any complaint received which suggests the requirements of the EYFS, or any conditions of registration, are not being met.</p>	
Grade 2 Good	<p>This applies to strong provision in which children are well cared for. It is successful at making sure that children make good progress towards the early learning goals – given their starting points.</p> <p>Overall, the practice is worth reinforcing and developing.</p> <p>Inspectors will make recommendations for further improvement.</p> <p>Inspectors may raise actions to ensure that specific welfare requirements are met.</p>
What happens next?	
<p>When the overall judgement is grade 2:</p> <p>The next inspection will not take place for at least three years, although Ofsted will investigate any complaint received which suggests the requirements of the EYFS, or any conditions of registration, are not being met.</p>	
Grade 3 Satisfactory	<p>This applies to provision which is sound but could be better. The standard of care is acceptable. Children's progress towards the early learning goals is steady, but slow given their starting points.</p> <p>Overall, the practice has scope for improvement.</p> <p>Inspectors will make recommendations for further improvement.</p> <p>Inspectors may raise actions to ensure that specific welfare requirements are met.</p>
What happens next?	
<p>When the overall judgement is grade 3:</p> <p>The next inspection will not take place for at least three years unless Ofsted receive a complaint which suggests the requirements of the EYFS, or any conditions of registration, are not being met.</p>	

<p>Grade 4 Inadequate Category 1</p>	<p>This applies to provision which is weak. The standard of care is not good enough: one or more of the learning and development or general welfare requirements of the EYFS are not being met. Children make too little progress towards the early learning goals – given their starting points. There has been too little improvement since the last Ofsted inspection.</p> <p>Overall the quality of the provision gives cause for concern but is likely to improve without external help and support.</p>
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What happens next?

When the overall judgement is grade 4 category 1:

Ofsted will send a letter to the registered person, setting out the actions that must be taken, and by what date, to remedy significant weaknesses in the provision. This is called a notice to improve. The registered person should let us know when the necessary action has been taken. If the required action has not been taken by the date specified in the notice or what has been done has little impact, Ofsted may take further enforcement measures.

Ofsted may carry out an announced or unannounced visit to check that the required actions have been taken. If Ofsted finds that the required improvements have not been made, or what has been done has made little impact, they may take further enforcement measures, including suspending or cancelling registration.

The next full inspection will take place within six to 12 months.

<p>Grade 4 Inadequate Category 2</p>	<p>This applies to poor provision which needs urgent attention. The standard of care and/or early education is unacceptable. One or more of the learning and development or general welfare requirements of the Early Years Foundation Stage are not being met. Children are not safeguarded and/or make little or no progress towards the early learning goals. There has been too little improvement since the last Ofsted inspection.</p> <p>Overall the quality of the provision gives cause for concern and is unlikely to improve without enforcement action being taken by Ofsted, and help and support from external agencies.</p>
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What happens next?

When the overall judgement is grade 4 category 2:

Ofsted takes enforcement action where immediate improvement is needed to the provision for children's welfare. Ofsted may issue a welfare requirements notice to the registered person which sets out which welfare requirements are not being met and what must be done to improve the provision, and by when. Failure to comply with a welfare requirements notice is an offence and may lead to prosecution. However, in rare cases where children are at risk of harm, Ofsted may suspend or cancel registration

Where provision is poor, and learning and development requirements are not being met, then Ofsted will consider whether it is necessary to suspend or cancel registration. Otherwise, Ofsted will check that the necessary improvements have been made through regular monitoring visits.

After each inspection, Ofsted will visit the setting at least once in every three month period, or on or about dates specified in the notification of any enforcement action Ofsted proposes to take. The purpose of these visits is to check whether the required improvements have been made and their impact on children. Ofsted will publish a letter explaining the outcome of each visit on its website. These visits will continue until the quality of the early years provision has improved and is judged to be satisfactory or better; then Ofsted will carry out a full inspection and publish the inspection report on its website. If Ofsted finds that the required improvements have not been made, or what

has been done has made little impact, Ofsted may take further enforcement measures, including suspending or cancelling registration.