

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

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

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## Background

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

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<sup>1</sup> Whilst no conditions of registration are normally applied to independent fostering agencies, the guidance on imposing conditions and specific conditions remains valid.

8. Categories of registration are intended to provide an indication of the types of children's and young people's needs that a children's home caters for, and details of the services that a voluntary adoption agency provides. We apply categories of registration as conditions of registration to children's homes and voluntary adoption agencies. See paragraphs 26–31.

## Implementation

9. The guidance takes effect from 18 May 2011 for services applying for registration and for registered providers applying:
  - for a variation
  - to register a new manager of an already registered setting.
10. We will review existing certificates for all other registered providers and issue new certificates where required to comply with this guidance in due course. Meanwhile all current registration certificates remain valid.

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

### Children's homes

11. We apply the following condition to all children's homes, including secure children's homes, to set out the total number of children that can be accommodated. The registered person:
  - may only provide care and accommodation for up to XX (number of) children.
12. Where the home provides care and accommodation for children and young adults aged 18 and over we apply the following condition. The registered person:
  - must reduce the number of children by the number of people aged 18 and over for which it also provides care and accommodation. (Please refer to our *Guidance on inspecting and regulating children's homes with accommodation for adults* which provides information about the numbers of adult placements in comparison to children's placements a children's home can have.<sup>2</sup>)

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<sup>2</sup> *Guidance on inspecting and regulating children's homes with accommodation for adults* (100116), Ofsted, 2010; [www.ofsted.gov.uk/publications/100116](http://www.ofsted.gov.uk/publications/100116).

13. We apply the following condition to children's homes that only accommodate boys or girls. The registered person:
  - may provide care and accommodation for single sex occupancy only.
14. When registering new short breaks services we apply the following condition to short breaks services. The registered person:
  - must ensure that a placement of any child or young adult accommodated is made under short break arrangements and not as a permanent placement.
15. There are a very small number of services that are registered as mobile children's homes. Please refer to *Guidance for mobile services* for further information.<sup>3</sup> We apply some specific conditions to mobile children's homes. These are likely to include the following. The registered person:
  - must inform Ofsted whenever any child placed with the service stays at any location other than the setting address
  - must keep Ofsted informed of the location of the barge/caravan (delete as applicable) at all times (Where the children's home uses a moveable structure such as a caravan for a base, we set a requirement that the provider keeps Ofsted informed of its location at all times.)
  - must ensure that the maximum stay for any one child does not exceed 120 days
  - must carry out written risk assessments which are regularly reviewed for any accommodation the provider intends to use.
16. Where a children's home has no children placed there and does not meet its registration requirements and requirements of the Children's Homes Regulations (2001), we apply the following condition of registration. The registered person:
  - must inform Ofsted of their intention to admit children and young people **three months** before a child or young person's placement commences.

Further guidance on this is available in *Conducting inspections of children's homes*.<sup>4</sup>

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<sup>3</sup> *Guidance for mobile services* (100252), Ofsted, 2011; [www.ofsted.gov.uk/publications/100252](http://www.ofsted.gov.uk/publications/100252).

<sup>4</sup> *Conducting inspections of children's homes* (100194), Ofsted, 2011; [www.ofsted.gov.uk/publications/100194](http://www.ofsted.gov.uk/publications/100194).

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

### **Residential family centres**

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

### **Adoption support agencies**

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

### **Voluntary adoption agencies and independent fostering agencies**

21. We do not usually apply conditions of registration to voluntary adoption agencies or independent fostering agencies. However, we may impose conditions in specific circumstances. Please refer to paragraphs 21–25 below.

### **Conditions that will no longer apply**

22. Some conditions of registration will no longer be applied from 18 May 2011. The following conditions, where necessary, will be removed from current certificates.
- The Care Standards Act 2000 places a requirement on providers to display the registration certificate. Therefore in future we will not make this a condition of registration.<sup>5</sup>

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<sup>5</sup> The Care Standards Act 2000 Section 28(1)

- Conditions relating to nursing care or any health activity regulated by Care Quality Commission. For example, the provision of nursing care.
- Conditions relating to emergency placements. For example, may provide care and accommodation for children outside the specified age range in an emergency situation when notified to and agreed in advance by Ofsted. A children's home's statement of purpose must explain within the section regarding their criteria of admission whether they accept emergency admissions.
- Age: we do not usually set conditions around age. Unless there are specific reasons why an age limit should be applied we will no longer do so.
- Any specific conditions which relate to management arrangements or managers themselves.

### **Additional conditions of registration**

23. Additional conditions of registration which are not covered in paragraphs 11 – 20 may be used in particular circumstances in order to protect children, and promote their safety and well-being. Where an inspector considers any additional condition necessary this must be agreed with their team manager before being agreed or imposed.
24. Any additional condition of registration must be proportionate, fair and reasonable. It should not restrict service provision inappropriately.
25. The condition must be specific to the particular circumstances of the setting. For example, a condition may be appropriate to stipulate that certain parts of the premises are not to be used as part of a children's home.
26. Additional conditions must be worded to follow on from the phrase 'the registered person'.
27. We must **not** apply additional conditions of registration that:
  - duplicate any requirements placed on providers and/or managers by the Care Standards Act 2000, or regulations made under this Act
  - conflict with or exempt a provider or manager from complying with any of the regulations made under the Care Standards Act 2000
  - name an individual other than the registered person(s), as we have no powers to make or enforce conditions other than those which apply to them.<sup>6</sup>

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<sup>6</sup> The registered person is a term which covers both the registered provider and registered manager.

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

28. Categories of registration are intended to provide an indication of the types of children's and young people's needs a children's home caters for, and detail of the services that a voluntary adoption agency provides.
29. Categories of registration appear as conditions of registration on certificates.
30. Where we use the term 'may' in a condition of registration for a children's home (see paragraph 42 below), the provider may also provide care and accommodation for children who have additional categories of need to those identified on the provider's certificate.

## Categories of registration for children's homes

31. The categories of registration for a children's home are:
  - children with emotional and/or behavioural difficulties (EBD)
  - children with physical disabilities (PD)
  - children with learning disabilities (LD)
  - children with mental disorders, excluding learning disability (MD)
  - children with present drug dependence (D)
  - children with present alcohol dependence (A)
  - children with sensory impairment (SI).<sup>7</sup>
32. It is possible for a children's home to have more than one category of registration on their certificate.
33. Annex A provides additional guidance on definitions for each category of registration.
34. We can also impose a change or restrict the categories that a children's home can accommodate if we consider this necessary in order to protect the safety and welfare of children. Please see paragraphs 47 – 50 about imposing conditions which restrict categories of registration of a home. We can only enforce compliance with categories of registration where we stipulate 'may only accommodate'.

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<sup>7</sup> The Care Standards Act 2000 (Registration) (England) Regulations 2010.

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

35. The children's home or voluntary adoption agency provider must decide what they want to include as categories of registration when they first make an application to register.<sup>8</sup> We will assess their ability to do so during the registration process.
36. Once registered, the provider and registered manager should monitor whether the categories in place continue to adequately describe the operation of the service and the main needs of children accommodated, or children and adults who receive services. The provider's statement of purpose must reflect any categories of registration.
37. The children's home or voluntary adoption agency provider should apply for a change of a category if the main needs of the group of children or adults they provide services for are not covered by the categories of registration on their current certificate. We treat this as any other [variation request](#). However, non-compliance in itself does not mean the home is in breach of regulations. We need to consider whether the home is able to cater for the range of children's needs, and ensure that any requirements made are a result of inadequacies in this practice.
38. It is not an individual child's needs which dictate the categories of registration of a children's home. Rather it is the overall operation of the home which influences what categories of registration are in place. One child's needs may not require a provider to change their categories of registration. However, where there are several children who have a similar need, this is considered as a primary function of the home, which should be reflected in their categories of registration.
39. In all cases, the home's statement of purpose must detail how the children's home meets all the children's needs. For example, if one child with a learning disability also has a significant physical disability which the setting can meet, this need not result in a change of categories. Where several children have a physical disability and this has become a primary function of the home, the provider should request a change of categories.

## Children's homes with no categories of registration

40. We do not generally apply any categories of registration to secure children's homes.

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<sup>8</sup> The Care Standards Act 2000 Section 12(2)(b)

41. Other children's homes can be registered without applying any of the categories of registration in Annex A. This is not our general practice and we only do this where the setting does not fit into any of the categories. For instance, where the setting is intended to provide services for child parent and baby placements.
42. Under the Care Standards Act 2000 (Registration) (England) Regulations 2010 the category X has been removed. This will need to be removed from all certificates when each one is reviewed.

### **Wording categories of registration for children's homes**

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

## Wording categories of registration for voluntary adoption agencies

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

## Imposing conditions of registration

47. Ofsted's powers to impose conditions on a new registration are set out in section 13(3), and to vary, remove or impose conditions on an existing registration under section 13(5)(a) and (b) of the Care Standards Act 2000. Ofsted has wide powers to impose such conditions as we see fit. We must, however, use these powers appropriately and only to safeguard and promote the well-being of children and other service users.
48. When a setting is judged to be inadequate, consideration should be given, as part of the Compliance, Investigation and Enforcement (CIE) case conference, to whether more restrictive conditions of registration should be set in order to protect children or adult service users. For example, where there are concerns about how the home meets children's needs we might remove a category of registration.
49. When setting categories for enforcement purposes these should be worded using the word 'only' as in the following examples. The registered person:
- may only accommodate children with physical disabilities
  - may only accommodate children with learning disabilities.

50. This restricts the provider to **only** accommodating children in this category and not in any other category.

### **Breaches of conditions of registration**

51. Any breach of a condition of registration is an offence<sup>9</sup> and therefore liable to enforcement action. Any breach must be treated seriously and action must follow the procedures in the [CIE Handbook](#). It is not necessarily a breach of a condition of registration if a child has needs other than those listed as the main categories of registration a children's home provides for. For further guidance, please refer to paragraphs 34 – 38.

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<sup>9</sup> Section 24 of the Care Standards Act 2000.

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

### **Children with emotional or behavioural difficulties (EBD)**

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

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

Disability is defined in the Equality Act 2010 as:

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

'Substantial' means more than minor or trivial.

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

- Mobility.
- Manual dexterity.
- Physical co-ordination.
- Continence.
- Ability to lift, carry or otherwise move everyday objects.
- Speech, hearing or eyesight.
- Memory or ability to concentrate, learn or understand.
- Perception of the risk of physical danger.

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

## **Children with mental disorders, excluding learning disability (MD)**

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

Section 1(2) 'mental disorder' means any disorder or disability of the mind and 'mentally disordered' shall be construed accordingly.

(2A) But a person with a learning disability shall not be considered by reason of that disability to be:

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

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

## **Children with present drug dependence (D)**

'Drug misuse is when a person regularly takes one or more drugs to change their mood, emotion or state of consciousness. One of the biggest risks of drug misuse is that you can develop a drug addiction.'<sup>10</sup>

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

## **Children with present alcohol dependence (A)**

There are many definitions of alcohol dependence. A helpful definition can be found in the Driver and Vehicle Licensing Agency (DVLA) guidance, which Ofsted will apply. The DVLA guidance<sup>11</sup> defines alcohol misuse as:

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

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<sup>10</sup> *Drug misuse*, NHS Choices;

[www.nhs.uk/conditions/drug-misuse/Pages/Introduction.aspx](http://www.nhs.uk/conditions/drug-misuse/Pages/Introduction.aspx).

<sup>11</sup> At a glance to the current Medical Standards of Fitness to Drive, Driver and Vehicle Licensing Agency, February 2010.

Alcohol dependency is defined in the DVLA guidance as:

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

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

### **Children with sensory impairment (SI)**

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

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