

Framework for the regulation of provision on the Early Years Register

This guidance explains how we regulate and inspect providers registered on Early Years Register and Childcare Register. It summarises the main features of registration, inspection and the enforcement action we may take.

Age group: 0-8

Published: November 2013

Reference no: 120288



The Office for Standards in Education, Children's Services and Skills (Ofsted) regulates and inspects to achieve excellence in the care of children and young people, and in education and skills for learners of all ages. It regulates and inspects childcare and children's social care, and inspects the Children and Family Court Advisory Support Service (Cafcass), schools, colleges, initial teacher training, work-based learning and skills training, adult and community learning, and education and training in prisons and other secure establishments. It assesses council children's services, and inspects services for looked after children, safeguarding and child protection.

If you would like a copy of this document in a different format, such as large print or Braille, please telephone 0300 123 1231, or email enquiries@ofsted.gov.uk.

You may reuse this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/, write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This publication is available at www.ofsted.gov.uk/resources/120288.

Interested in our work? You can subscribe to our website for news, information and updates at www.ofsted.gov.uk/user.

Piccadilly Gate
Store Street
Manchester
M1 2WD

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

No. 120288

© Crown copyright 2013



Contents

Introduction	4
Part 1. The regulation system	4
The legal basis for regulation	4
What is regulation?	4
The purposes of regulation	5
The Early Years Register	5
Part 2. Registration	6
Before applying	6
Making an application	7
Carrying out checks	8
Requirements for registration on the Early Years Register	9
The registration visit	10
The registration decision	11
Part 3. Inspection	11
The basis for inspection	12
Timing of inspections	12
Notice periods	12
Ofsted early years self-evaluation form	13
The inspection process	13
Part 4. Compliance and enforcement	15
Information about providers	15
Investigations	15
Enforcement	16
Part 5. Carrying out our regulatory work	17
The conduct of inspectors	18
Expectations of providers	18
The quality of regulatory work	19
Complaints about Ofsted	19
Annex A. Definitions	21
Annex B. Regulations	24
Annex C. Further information	26
Registration	26
Inspection	26
Investigation and enforcement	27

Introduction

1. This guidance provides an overview of the regulatory system for early years providers.
2. It covers providers on the Early Years Register and those who wish to apply to the register. It also covers those providers on both the Early Years Register and the Childcare Register.¹ It does not cover those only applying to or registered on the Childcare Register.²
3. There is more detailed guidance on all aspects of our regulation work listed in the further information section.

Part 1. The regulation system

The legal basis for regulation

4. The Childcare Act 2006 (the Act)³ establishes Her Majesty's Chief Inspector of Education, Children's Services and Skills (HMCI) as the authority for the regulation of childminding⁴ and childcare on domestic and non-domestic premises⁵ in England. It gives HMCI responsibility for the registration and inspection of providers registered on the Early Years Register and the Childcare Register and the responsibility for enforcement where it appears that legal requirements are not being met.
5. The Act and associated regulations set out the requirements with which providers must comply and against which their provision is regulated. This includes the *Statutory Framework for the Early Years Foundation Stage*.⁶
6. Setting up and operating early years provision also entails compliance with other statutory requirements, for example those relating to planning and building control, health and safety, employment law, food and hygiene, disability and anti-discriminatory legislation. These are not within Ofsted's remit.

What is regulation?

7. There are four aspects to Ofsted's regulation of early years providers. These are:

¹ There is a definition of the Childcare Register in Annex A. Ofsted uses the term Childcare Register for the general childcare register specified in the Childcare Act, section 32(3).

² There is a separate framework document for those providers only on the Childcare Register.

³ Childcare Act 2006; www.legislation.gov.uk/ukpga/2006/21/contents.

⁴ Please see Annex A for a definition of childminding.

⁵ Please see Annex A for definitions of childcare on domestic and non-domestic premises.

⁶ *Statutory Framework for the Early Years Foundation Stage*, Department for Education, 2012; <http://www.foundationyears.org.uk/early-years-foundation-stage-2012/>.

- registration of applicants
- inspection of registered providers
- checking that providers, including those who are not registered with us but may need to be, meet legal requirements for registration
- taking enforcement action where requirements of registration are not met.

The purposes of regulation

8. The purposes of regulation are to:

- make sure that children are safe in whatever type of registered provision they attend and that they are cared for by adults who are suitable to do so
- make sure registered providers meet and continue to meet the requirements for registration⁷
- give parents an expert and independent assessment of how well a registered provider is performing so that they may make informed choices about early years provision or childcare for their children
- provide information to the Secretary of State for Education and to Parliament about registered early years and childcare provision
- promote the improvement of registered provision and the early years sector as a whole.

The Early Years Register

9. The Early Years Register is for people who provide childcare for at least one child in the early years age group⁸ for a period or total periods of more than two hours in any one day, unless registration is not required.⁹ These providers are normally childminders or childcare on domestic or non-domestic premises (nurseries, nursery schools, pre-schools or kindergartens).

10. The Act defines childcare as any form of care for a child including education or any other supervised activity.¹⁰ Childcare does not include:

- education (or any other supervised activity) provided by a school during school hours for a registered pupil who is not a young child
- any form of health care for children
- care provided by relatives

⁷ These are set out in the Childcare Act 2006 and associated regulations and the *Statutory Framework for the Early Years Foundation Stage*. The list of regulations is in Annex B.

⁸ The early years age group applies to children aged from birth to 31 August following their fifth birthday.

⁹ The factsheet *Registration not required* sets out the exemptions from compulsory registration: www.ofsted.gov.uk/resources/080134.

¹⁰ Childcare Act 2006, section 18; www.legislation.gov.uk/ukpga/2006/21/section/18.

- fostering arrangements
 - care provided in any of the following:
 - a children’s home
 - a care home
 - a hospital in which a child is a patient
 - a residential family centre
 - a young offender institution or secure training centre.
11. Providers may join the Childcare Register at the same time as being on the Early Years Register if, alongside their early years provision, they wish to care for children older than the early years age group or also provide a different service that does not require compulsory registration.
12. We may use our enforcement powers against any person who provides childcare requiring registration without being registered. Providing unregistered childcare is an offence and may lead to prosecution. Ofsted is also able to serve a notice requiring unregistered childminders to stop providing this service. Ignoring such a notice may lead to prosecution.

Part 2. Registration

13. The process of registration on the Early Years Register involves detailed checks, interviews and visits to premises so that we can decide whether applicants are suitable for registration. If applicants demonstrate that they are suitable, we will register them; otherwise, we must refuse registration. We use the concept of a ‘registered person’ as part of our registration process. This is defined in the glossary and is any individual or organisation providing childcare. Detailed guidance about registration is available in our guides to registration on the Early Years Register¹¹ and on our website.¹²

Before applying

14. The local authority has a duty to provide information, training, advice and guidance to providers who receive an inspection judgement of ‘inadequate’. They also have a power to provide the same support to all other providers. All applicants are directed to local authorities for pre-registration advice and in the case of childminders a pre-registration briefing before they complete an application form.

¹¹ Applicants should read the *Guide to registration on the Early Years Register: childminder*, Ofsted, 2012; www.ofsted.gov.uk/resources/120082 or the *Guide to registration on the Early Years Register: childcare provider on domestic or non-domestic premises*, Ofsted, 2012; www.ofsted.gov.uk/resources/120083.

¹² Information about early years and childcare is available at: <http://www.ofsted.gov.uk/early-years-and-childcare>.

15. Prospective applicants should read all the information carefully before deciding whether or not to make an application, including the relevant guide to registration and the *Statutory Framework for the Early Years Foundation Stage*. Childminder applicants should also arrange to complete local authority approved training and first aid training ahead of applying or make sure they are booked on courses before they apply. Ofsted cannot register childminder applicants unless they have completed this training.

Making an application

16. A person who wishes to register as a childminder or childcare provider on the Early Years Register must apply to Ofsted, giving all the information requested. It is an offence to knowingly make a false or misleading statement in an application.
17. Applicants may apply online¹³ or download an application form from our website. We will provide assistance on 0300 123 1231 for those who have difficulty in accessing or completing the forms.
18. We will take forward an application when we receive the application form, the fee and confirmation of a Disclosure and Barring Service (DBS) check for childcare on non-domestic premises applicants and a completed DBS application form for all childminding applicants and those connected with the registration. The application fee cannot be refunded if the applicant subsequently withdraws their application, we refuse to grant registration, or if the applicant makes an application and they are disqualified from providing childcare (see paragraphs 29–30). Fee levels depend on the number of hours the provider is caring for children and the type of provision they offer. For those applying to provide childcare on domestic and non-domestic premises we require a separate application for each of the premises where the care is provided.
19. For those applying to offer childminding and childcare on domestic or non-domestic premises we require a separate application for each type of care being offered.
20. Childminders do not have to make new or separate applications if they move house or wish to care for children from more than one set of domestic premises. However, they must tell us in writing of any changes to the addresses where they provide childminding, or of changes to the premises, in advance if possible but in any case within 14 days of the change.
21. Where childminders work together or employ assistants, and the number of people providing childcare or working with children at any one domestic premises exceeds three, then the law says this is no longer childminding. An

13 *Guide to registration on the Early Years Register: childminder*, Ofsted, 2012; www.ofsted.gov.uk/resources/120082 or *Guide to registration on the Early Years Register: childcare providers on domestic or non-domestic premises*, Ofsted, 2012; www.ofsted.gov.uk/resources/120083.

application must be made to provide childcare on domestic premises. The applicant may be an individual, a partnership or any other organisational arrangement that wishes to provide the childcare.

Applications for registration on more than one register

22. People applying to register on the Early Years Register may also apply to be on one or both parts of the Childcare Register at no additional cost. They may choose to do so when they first apply or at any time after registration on the Early Years Register is granted. Childminders may also apply to be a home childcarer¹⁴ on the same application form they complete to apply for registration as a childminder.

Carrying out checks

23. For applicants to provide childcare on non-domestic premises, other than the criminal records check with the Disclosure and Barring Service, we carry out a series of checks on all applicants to the Early Years Register and the other people the applicant has identified as being connected with the registration on the application form. These checks contribute towards our decision as to whether applicants are suitable for registration.
24. We ask for consent from each person involved in an application to carry out and use the information from a series of checks to establish their suitability to work or be in close proximity with children.
25. For applicants to provide childminding or childcare on domestic premises, we carry out checks on every person living or working on the premises aged 16 and over where the childminding and/or childcare is to take place; and every person caring for children. This includes the criminal records check with the Disclosure and Barring Service.
26. For applicants to provide childcare on non-domestic premises, we distinguish between those applicants whose prime purpose is to provide childcare and those who have a different purpose but also wish to provide childcare (for example a manufacturing company that wants to run a nursery for its employees). We check all those making up an organisation applying to provide childcare (the registered person) where the prime purpose is providing childcare. For organisations whose prime purpose is not childcare we check only the individual the organisation nominates to represent them, the nominated person¹⁵.
27. We expect the individual or organisation applying for registration on non-domestic premises in all cases to check their managers and employees and

¹⁴ Please see Annex A for the definition of a home childcarer.

¹⁵ *Guide to registration on the Early Years Register: childcare provider on domestic or non-domestic premises*, paragraphs 39 – 43, Ofsted, 2012; www.ofsted.gov.uk/resources/120083.

anyone living or working on the premises where childcare is provided. This must include a check with the Disclosure and Barring Service and any other checks necessary to establish suitability.

People disqualified from providing registered childcare or working in registered childcare provision

28. Some people are not allowed to provide registered childcare because they are disqualified from working with children.¹⁶ The main causes of disqualification from working with children include:
- being on the list of persons barred from working with children held by the Independent Safeguarding Authority
 - certain convictions or charges of an offence against a child
 - convictions or charges of certain offences against an adult (for example, murder, kidnapping, rape, indecent assault, assault occasioning actual bodily harm)
 - being made the subject of a disqualifying order
 - being made the subject of an order relating to the care of children, such as a child being removed from their care
 - having registration as a childcarer refused or cancelled
 - living with someone who is disqualified.
29. People who are disqualified may sometimes register as a childcare provider by applying to Ofsted to waive their disqualification. We will make a decision about whether or not to waive the disqualification. The applicant for the waiver has rights of appeal to the First-Tier Tribunal (Health, Education and Social Care Chamber) ('the Tribunal') if we refuse to waive disqualification. We cannot normally waive disqualification for people who are included on the list of persons barred from working with children held by the Independent Safeguarding Authority.

Requirements for registration on the Early Years Register

30. We register applicants on the Early Years Register if:
- every person providing childcare and/or looking after children on the premises where childcare is provided is suitable to look after young children
 - every person living or working on the premises where childcare is provided is suitable to be in regular contact with young children

¹⁶ A full list of all the circumstances that disqualify people from working with children is available in The Childcare (Disqualification) Regulations 2009 [2009 No 1547]; www.legislation.gov.uk/ukxi/2009/1547/contents/made.

- they meet or will meet when starting to care for children all the safeguarding and welfare and learning and development requirements of the Early Years Foundation Stage and associated regulations – these requirements are set out in *Statutory Framework for the Early Years Foundation Stage*
- childminder applicants have completed a local authority approved training course and paediatric first aid training
- the application fee has been paid.

Exemption from the learning and development requirements¹⁷

31. Providers may apply to the Department for Education for exemption from elements of the learning and development requirements in certain circumstances. Where exemptions are granted, we will disregard those elements when deciding whether to grant registration.
32. There is no exemption from the safeguarding and welfare requirements as these deal with fundamental issues of child safety.

The registration visit

33. Applicants should refer to the guidance on preparing for your registration visit.¹⁸ Inspectors will contact applicants to confirm the date of a registration visit. Applicants should make sure they have all the required documents set out in these guides to registration for the inspector to see during the visit.
34. During the visit the inspector will:
 - check the applicant's identity by looking at personal documents
 - check the safety and suitability of the premises and equipment
 - interview the applicant and assess his or her suitability to deliver the Early Years Foundation Stage and in particular the applicant's knowledge of the characteristics of effective teaching and learning
 - assess their understanding of what they must do to promote the learning and development of all children in their care
 - assess whether applicants meet the safeguarding and welfare requirements of the Early Years Foundation Stage and in particular whether:
 - the applicant's risk assessment is sufficient to ensure that the premises and equipment are safe and suitable for children
 - the applicant understands how many children they may care for.

¹⁷ More information is available on the Department for Education's website; www.education.gov.uk/schools/teachingandlearning/curriculum/a0068102/early-years-foundation-stage-eyfs.

¹⁸ *Childcare registration form - Early Years Register: preparing for your registration visit*, Ofsted, 2012; www.ofsted.gov.uk/resources/120151.

The registration decision

35. After the registration visit, the inspector submits their evidence and makes a recommendation about registration. This is reviewed alongside evidence from the checks we carry out on all individuals identified as part of the registration.
36. Where a person demonstrates that they are suitable, we grant registration and issue a certificate of registration. The certificate sets out the name of the registered person; the address, or in the case of childminding the address(es), at which childminding can take place; the type(s) of childcare a registered person can provide; and any conditions that apply to their registration. Providers must display their certificate at all times while they are providing childcare.

Refusal of registration

37. Where we decide to refuse registration we send out a legal notice of our intention to refuse. The applicant has a right to object to our intention.¹⁹ Where we go on to refuse registration we send notice of our decision. Applicants have a right to appeal against this decision to the Tribunal. We send details of how to do this with the notice.

Withdrawal of application

38. Applicants may withdraw their application at any stage up to the issue of a notice of intention to refuse registration. Applicants may not withdraw their application at that point unless we have decided no longer to refuse their registration. Any fee paid by the applicant is not refundable.

Part 3. Inspection

39. Once registered on the Early Years Register, we carry out regular inspections to evaluate the overall quality and standards of the early years provision in line with the principles and requirements of the Early Years Foundation Stage.
40. There is detailed guidance available in the *Evaluation schedule for inspections of registered early years provision*²⁰ and *Conducting early years inspections*²¹ available on our website. We also produce a short guide for providers: *Are you ready for your inspection?*²²

¹⁹ This is dealt with further in Part 4.

²⁰ *Evaluation schedule for inspections of registered early years provision*, Ofsted, 2012; www.ofsted.gov.uk/resources/120086.

²¹ *Conducting early years inspections*, Ofsted, 2012; www.ofsted.gov.uk/resources/120087.

²² *Are you ready for your inspection? A guide to inspections of provision on Ofsted's Childcare and Early Years Registers*, Ofsted, 2012; www.ofsted.gov.uk/resources/120085.

The basis for inspection

41. The early years evaluation schedule is the basis for inspection, and sets out what inspectors evaluate and report on when inspecting registered early years provision. The schedule reflects the legislative requirements²³ that Ofsted must follow. Inspectors will judge the quality and standards of the early years provision taking into account three key judgements. These are:
- how well the early years provision meets the needs of the range of children for whom it is provided
 - the contribution of the early years provision to the well-being of children
 - the effectiveness of the leadership and management.

Timing of inspections

42. We normally inspect newly registered providers within a short period of their registration, if they have children on roll. For all others registered on 1 September 2012, we will inspect at least once by 31 July 2016.
43. We prioritise inspections of provision and/or inspect more frequently where:
- the last inspection concluded that the overall quality and standards of the early years provision were judged to be inadequate
 - we have received information about the provision that indicates the provider is not meeting the requirements for registration
 - the provision has been judged as no better than requires improvement an assessment of notified changes to the provision indicates that quality has declined or requirements are not met
 - there have been a number of pieces of information which, when taken together, suggest the provider may not be meeting the legal requirements of the Early Years Foundation Stage.

Notice periods

44. Group providers normally receive no notice of the inspection. Childminders or group providers that do not operate regularly, such as summer play schemes, will usually receive a call no more than five days before the inspection to check which days they are operating and whether there are children on roll²⁴ and present. If there are no children on roll or present the inspection will be rescheduled unless Ofsted has decided it will go ahead. This may be, for example, because it is close to the end of the inspection cycle.

²³ The Childcare Act 2006, section 50 (1); www.legislation.gov.uk/ukpga/2006/21/section/50.

²⁴ *The process and guidance for inspecting childminders and childcare settings with no children on roll or no children present at the time of the inspection*, Ofsted, 2012; www.ofsted.gov.uk/resources/080173.

45. We may inspect childminders with no notice where we have received information that suggests children may be at risk.

Ofsted early years self-evaluation form

46. Providers are able to complete and regularly update an optional Ofsted early years self-evaluation form. Whether or not providers complete this form, inspectors will expect providers to reflect upon their practice and have plans to improve their early years provision. Information about how to access the form is given on registration.
47. For further guidance on completing the self-evaluation form, please refer to the *Early years self-evaluation form and guidance*.²⁵

The inspection process

Before the inspection

48. As part of their preparation for inspection, inspectors check any previous inspection reports and information held about the provider, including a risk assessment of any concerns received and progress with any actions or recommendations raised at the last inspection or visit. They will also review the self-evaluation form if this has been completed and submitted by the provider.
49. We seek the views of parents and carers about the quality of provision ahead of an inspection by asking providers to display a poster telling parents how to contact Ofsted. Inspectors check to see if we have received any information through this route.

During the inspection

50. During the inspection, the inspector will speak to any parents available, for example when they are dropping off or collecting children from the provision.
51. In group settings, the inspection will include a meeting with the provider and/or manager to ensure they understand their responsibilities in meeting the requirements of the Early Years Foundation Stage and in monitoring the quality of their provision. For childminding settings, this information will be gathered throughout the course of the inspection.
52. The majority of the inspection is spent in direct observation of what children are doing, how well adults care for the children, and the impact of what they do on children's learning and development.

²⁵ *Early years online self-evaluation form (SEF) and guidance for providers delivering the Early Years Foundation Stage*, Ofsted, 2012; www.ofsted.gov.uk/resources/080104.

53. Inspectors will use a four-point grading scale for each of the three key judgements they make and the overall effectiveness of the provision. The grades are:
- Grade 1: outstanding
 - Grade 2: good
 - Grade 3: requires improvement
 - Grade 4: inadequate.
54. At the end of the inspection, inspectors give feedback on their findings and judgements to the childminder or, in group settings, to the most appropriate person – usually the registered provider, their nominee or the day-to-day manager. They also explain what needs to be done to improve aspects of the provision.

After the inspection

55. Shortly after the inspection, we send the provider the report to check its factual accuracy. We publish the report on our website within 10 working days of the inspection;²⁶ if the provision is judged inadequate we will publish the report within 25 days. We send a copy to the relevant local authority. We do not include the names and addresses of childminders on published inspection reports and only include the names and addresses of childminders on the website where they have given express permission for us to do so.

Early years provision judged as inadequate

56. We inform the relevant local authority of provision judged as inadequate. We monitor inadequate provision as a minimum at three-monthly intervals until the quality of provision improves or we decide to take steps to cancel registration. During the monitoring process Ofsted may take further enforcement action if there is no improvement. We publish monitoring letters after each monitoring visit. We re-inspect inadequate provision within six months of the date of the inspection.

Early years provision judged as requires improvement

57. We monitor nurseries and pre-schools judged as requires improvement within six months of the date of the inspection and re-inspect within 12 months of the date of the inspection. We publish monitoring letters after each monitoring visit. A nursery or pre-school which has been judged as 'requires improvement' at two consecutive inspections and is still not 'good' at its third inspection is likely to be judged inadequate.

²⁶ We do not publish inspection reports relating to childcare within women's refuges or on certain military bases.

Providers on both registers

58. Where providers are on both the Early Years Register and the Childcare Register, we will check compliance with the requirements of the Childcare Register when we carry out an inspection of the early years provision.²⁷
59. We will include the judgement on whether a provider met the requirements of the Childcare Register in the inspection report on the quality of the early years provision.
60. The exception is where we receive information that only relates to the requirements of the Childcare Register where we will carry out a separate inspection to ensure compliance with the requirements of the Childcare Register.

Part 4. Compliance and enforcement

61. Full details of how we deal with matters of compliance and the action we take are set out in the *Compliance, investigation and enforcement handbook*.²⁸

Information about providers

62. From time to time, we receive concerns or other information about childminders and childcare providers that suggests they may not be meeting the requirements of the Early Years Foundation Stage. In most cases we will inspect to ensure that the provider continues to meet requirements and remains suitable for registration. We will do so within five days if the information suggests children may be at risk of harm and within 30 days if not. We will investigate before inspection where the information is so serious it involves other agencies such as the police or child protection services.
63. If the concern is very minor we will refer it back to the provider to deal with and will check what they have done at their next inspection.

Investigations

64. Where our concerns are such that we need to investigate as a first course of action instead of inspecting, inspectors use their statutory right of entry set out in the Act.²⁹ They will produce an identity document authorised by HMCI showing that they have the authority to enter the premises. Intentionally obstructing a registered inspector or another person authorised by HMCI is an offence.

²⁷ *Guidance on inspecting providers registered on both the Childcare and Early Years Registers* (080169), Ofsted, 2012; www.ofsted.gov.uk/resources/080169.

²⁸ *Compliance, investigation and enforcement handbook*, Ofsted, 2012; www.ofsted.gov.uk/resources/ciehandbook

²⁹ The Childcare Act 2006, sections 77–79; www.legislation.gov.uk/ukpga/2006/21/part/3/chapter/5/crossheading/rights-of-entry.

65. The rights of entry enable inspectors to:
- inspect the premises
 - inspect and take copies of any records kept by the provider and any other relevant documentation (including computerised records)
 - seize and remove any document, or other material or thing found there, which the inspector has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement
 - require any persons to afford him/her facilities and assistance within that person's control as are necessary to enable the member of staff to exercise his powers
 - take measurements and photographs
 - inspect any child being looked after, and their welfare
 - interview the provider
 - interview in private any person looking after children or living there who consents to be interviewed.
66. Investigations may take place alongside those conducted by other agencies. Where an investigation may lead to prosecution, because an offence is or has been committed, inspectors gather evidence in accordance with the requirements of section 66 of the Police and Criminal Evidence Act (PACE) 1984.
67. When a provider or other person has failed to meet requirements for registration, has committed an offence, or has placed the welfare of children at risk, we will take enforcement action that is appropriate to the findings of the investigation (see below for the steps we can take).

Enforcement

68. We have powers of enforcement when registered persons are failing to meet the requirements of the Early Years Foundation Stage, regulations or conditions of registration, or where an unregistered person is providing childminding or other childcare. We aim to take a consistent and proportionate approach to enforcement. We will consider the particular circumstances of each case before deciding what action to take to bring about compliance or to cancel registration.

Non-statutory means of ensuring compliance

69. If a registered person is not fully complying in some minor way, we normally give the provider actions that set out what the provider must do and by when. These actions are normally included in inspection reports but may be sent in a separate letter. When the provider has completed the actions, they must inform us in writing within the required timescale. Following receipt of this confirmation, we may carry out a visit to check that the provider complies with requirements. Where the provider does not reply or we find they are still not

compliant at any future visit, we will normally use one of our other enforcement powers unless the provider has a reasonable excuse.

Statutory powers of enforcement

70. We have a range of statutory powers of enforcement. We monitor compliance with any enforcement action we take. The enforcement powers we can use include:
- refusing to register an applicant
 - imposing upon a registered person new conditions of registration or varying (or removing) existing ones
 - serving an enforcement notice on an unregistered person acting as a childminder
 - serving a welfare requirements notice to those on the Early Years Register
 - cancelling a registered person’s registration.
71. We can also:
- apply to a magistrate for an emergency order to cancel registration or impose new conditions of registration, or vary or remove existing ones where it appears that a child is suffering, or would be likely to suffer, serious harm
 - suspend a provider’s registration where we believe children are at risk or are likely to be at risk of harm
 - prosecute a provider or person for committing an offence, or ask the provider or person to accept a simple caution.
72. In certain circumstances where we take legal steps in relation to a registration we set these out in documents called notices of intention and decision. Applicants and providers have rights of objection and appeal to these steps, including to an independent body, the Tribunal. We have more guidance about objections and appeals available on our website.³⁰

Part 5. Carrying out our regulatory work

73. Our regulatory work is carried out by people who work for Ofsted or on its behalf, normally inspectors. We use inspection service providers to carry out most registration visits and inspections and Her Majesty’s Inspectors and regulatory inspectors employed by Ofsted to carry out investigations or registration visits where there may be identified concerns. All inspectors and

³⁰ *How to object: guidance for registered childminders and childcare providers* (120238), Ofsted, 2012; www.ofsted.gov.uk/resources/120238.
How to appeal: guidance for those registered as or applying to be a childminder or a childcare provider (120237), Ofsted, 2012; www.ofsted.gov.uk/resources/120237.

other staff carry identification that they must show providers before entering their premises.

The conduct of inspectors

74. Inspectors are expected to carry out registration visits, inspections and investigations in a way that aims to secure the full cooperation and confidence of the provider. Inspectors will:
- be thoroughly prepared and understand the nature of the provision
 - have thorough knowledge and understanding of the Act, regulations, requirements and guidance for inspectors
 - maintain the highest professional standards in line with Ofsted's code of conduct.
75. Inspectors must uphold the highest professional standards in their work, and ensure that everyone they encounter during inspections or regulatory visits is treated fairly and with respect and benefits from the inspection. Ofsted's 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
 - have no connection with the provider that 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 the stress on those involved in the inspection
 - act in the best interests and 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.

Expectations of providers

76. In order that inspection and regulation are productive and beneficial for providers, it is important that inspectors and providers establish and maintain a professional working environment based on mutual courtesy and respectful

behaviour. Inspectors are expected to uphold the code of conduct but Ofsted also expects providers to:

- be courteous and respectful
- apply their own codes of conduct in their dealings with inspectors
- allow inspectors to conduct their visit in an open and honest way
- allow inspectors to evaluate the provision objectively against the standards/framework
- provide reasonable evidence that will enable the inspector to report honestly, fairly and reliably about their provision
- work with inspectors to minimise disruption, stress and bureaucracy
- maintain a purposeful dialogue with the inspector or the inspection team
- draw any concerns to the attention of inspectors promptly and in a suitable manner
- respect that inspectors will, on occasions, need to observe practice and talk to staff and users without the presence of a manager or registered person.

77. In any instance of implied or actual harassment, abuse or intimidation, inspection activity may be suspended, with Ofsted asserting its right to take appropriate action in support of its staff.

The quality of regulatory work

78. Ofsted monitors the quality of its regulatory work through a range of formal processes. Some providers will be visited by Her Majesty's Inspectors, quality assurance managers or any other appropriate person or by a representative of the inspection service provider to check the quality of the inspection.

79. In the rare event that an inspection and/or inspection report are judged by Ofsted to be seriously flawed, the provider will be notified that the inspection is incomplete and that a further visit may be necessary, to make sure that enough evidence is gathered to make the inspection judgements secure.

80. All registered providers will be invited to complete a post-registration or post-inspection survey.

Complaints about Ofsted

81. From time to time we also receive complaints about our own service. Any concerns that the provider has about a registration visit, inspection or investigation should be raised and, where possible, resolved with the inspector during the visit.

82. If it has not been possible to resolve concerns, then providers may decide to lodge a formal complaint. The complaints procedures are available on Ofsted's website.³¹

³¹ *Complaints procedure: raising concerns and making complaints about Ofsted* (070080), Ofsted, 2010; www.ofsted.gov.uk/resources/070080.

Annex A. Definitions

Here is an explanation of some of the terms used in this framework.

Childcare Act 2006

The law that sets out:

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

Childminder

A person who is registered to look after one or more children to whom they are not related on domestic premises for reward.^{32, 33}

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

- care for children at a private dwelling that is 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 they 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 they 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.

Childcare providers on domestic premises³⁴

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

³² There is more information about reward in our factsheet *Childminding between friends*, available at www.ofsted.gov.uk/resources/100108.

³³ Please refer to the later definition of domestic premises.

³⁴ Please refer to the later definition of domestic premises.

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

Childcare providers on non-domestic premises

Registered providers that care for children on premises that are not someone's home.

These premises can range from converted houses to purpose-built nurseries and are usually known as day nurseries, private nursery schools, pre-schools and before and after school clubs for children in the early years age group.

Childcare Register

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

- **the compulsory part**

Providers must register on this part if they care for one or more children following their fifth birthday until they reach their eighth birthday

- **the voluntary part**

Providers who are not eligible for compulsory registration may choose to register on this part. These are mainly people looking after children aged eight and over, or providing care in the child's home (usually nannies).

More information about registration on the Childcare Register is available on our website or by contacting your local family information service.^{35, 36}

Department for Education (DfE)

The government department responsible for the Childcare Act 2006 and the regulations that underpin it.

This includes our responsibilities for regulating and inspecting childcare and early education. The DfE is also responsible for the Early Years Foundation Stage, which underpins our inspections of registered early years provision.

Domestic premises

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

A home is where someone lives outside any work or study. This means they normally have meals there, sleep there and spend their leisure time there.

³⁵ *Guide to registration on the Childcare Register*, Ofsted, 2012;
www.ofsted.gov.uk/resources/120084.

³⁶ National Association of Family Information Services; www.daycaretrust.org.uk/nafis.

Early years age group

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

Early Years Foundation Stage

The statutory framework for the early education and care of children from birth to the 31 August following their fifth birthday.

The Early Years Foundation Stage includes requirements for the provision of young children's safeguarding and welfare, and their learning and development, which all providers must meet, as well as good practice guidance. The Early Years Foundation Stage must be delivered by all schools and early years settings that are registered on the Early Years Register.

Further information on the Early Years Foundation Stage can be accessed through the DfE and Foundation Years websites.^{37,38}

Early Years Register

A register of providers who are registered by Ofsted to care for children in the early years age group. Unless exempt, the following must register on the Early Years Register:³⁹

- maintained and independent schools, including academies, directly responsible for provision for children from birth to the age of three or where no child attending the provision is a pupil of the school⁴⁰
- childcarers, such as childminders, day nurseries, pre-schools, wrap around provision and private nursery schools, which provide for children in the early years age group.

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.

Home childcarers

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

³⁷ The DfE website is available at: www.education.gov.uk/childrenandyoungpeople/earlylearningandchildcare/delivery/education/a0068102/early-years-foundation-stage-eyfs.

³⁸ The Foundation Years website is available at: www.foundationyears.org.uk/early-years-foundation-stage-2012/.

³⁹ *Registration not required* (080134), Ofsted, 2012; www.ofsted.gov.uk/resources/factsheet-childcare-registration-not-required.

⁴⁰ 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.

Annex B. Regulations

The Early Years Foundation Stage (Welfare Requirements) Regulations 2007 [SI2007/1771]

www.legislation.gov.uk/uksi/2007/1771/contents/made

Early Years Foundation Stage (Welfare Requirements) Regulations 2012 [SI2012/938]

www.legislation.gov.uk/uksi/2012/938/made

The Early Years Foundation Stage (Learning and Development Requirements) Order 2007 [SI2007/1772]

www.legislation.gov.uk/uksi/2007/1772/contents/made

Early Years Foundation Stage (Learning and Development Requirements) (Amendment) Order 2012 [SI2012/937]

www.legislation.gov.uk/uksi/2012/937/contents/made

The Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008 [SI2008/976]

www.legislation.gov.uk/uksi/2008/976/contents/made

The Childcare (Early Years Register) Regulations 2008 [SI2008/974]

www.legislation.gov.uk/uksi/2008/974/contents/made

Childcare (Early Years Register) (Amendment) Regulations 2012 [SI2012/939]

www.legislation.gov.uk/uksi/2012/939/contents/made

The Childcare (General Childcare Register) Regulations 2008 [SI2008/975]

www.legislation.gov.uk/uksi/2008/975/contents/made

Childcare (General Childcare Register) (Amendment) Regulations 2012 [SI2012/1699]

www.legislation.gov.uk/uksi/2012/1699/contents/made

The Childcare (Inspections) Regulations 2008 [SI2008/1729]

www.legislation.gov.uk/uksi/2008/1729/contents/made

Childcare (Inspections) (Amendment and Revocation) Regulations 2012 [SI2012/1698]

www.legislation.gov.uk/uksi/2012/1698/made

The Childcare (Exemptions from Registration) Order 2008 [SI2008/979]

www.legislation.gov.uk/uksi/2008/979/contents/made

Childcare (Exemptions from Registration) (Amendment) Order 2010 [SI2010/744]

www.legislation.gov.uk/uksi/2010/744/contents/made

Childcare (Exemptions from Registration) (Amendment) Order 2011 [SI2011/584]

www.legislation.gov.uk/uksi/2011/584/made

The Early Years Foundation Stage (Exemptions from Learning and Development Requirements) Regulations 2008 [SI2008/1743]

www.legislation.gov.uk/uksi/2008/1743/contents/made

The Childcare (Supply and Disclosure of Information) (England) Regulations 2007 [SI2007/722]

www.legislation.gov.uk/uksi/2007/722/contents/made

The Childcare (Supply and Disclosure of Information) (England) (Amendment) Regulations 2008 [SI2008/961]

www.legislation.gov.uk/uksi/2008/961/contents/made

The Childcare (Fees) Regulations 2008 [SI2008/1804]

www.legislation.gov.uk/uksi/2008/1804/contents/made

The Childcare (Fees) (Amendment) Regulations 2009 [2009 No. 1507]

www.legislation.gov.uk/uksi/2009/1507/contents/made

Childcare (Fees) (Amendment) Regulations 2010 [SI2010/307]

www.legislation.gov.uk/uksi/2010/307/contents/made

Childcare (Fees) (Amendment) Regulations 2011 [SI 2011/1628]

www.legislation.gov.uk/uksi/2011/1628/regulation/2/made

The Childcare (Inspections) (Amendment) Regulations 2009 [2009 No. 1508]

www.legislation.gov.uk/uksi/2009/1508/contents/made

The Childcare (General Childcare Register) (Amendment) Regulations 2009 [2009 No. 1545]

www.legislation.gov.uk/uksi/2009/1545/contents/made

The Childcare (Disqualification) Regulations 2009 [2009 No. 1547]

www.legislation.gov.uk/uksi/2009/1547/contents/made

Early Years Foundation Stage (Welfare Requirements) (Amendment) Regulations 2008 [SI 2008/1953]

www.legislation.gov.uk/uksi/2008/1953/contents/made

The Early Years Foundation Stage (Welfare Requirements) (Amendment) Regulations 2009 [2009 No. 1549]

www.legislation.gov.uk/uksi/2009/1549/contents/made

Annex C. Further information

The guidance documents below have more details about how we register, inspect, investigate and take enforcement action against those on the Early Years Register.

Registration

Guide to registration on the Early Years Register: childcare provider on domestic or non-domestic premises

www.ofsted.gov.uk/resources/120083

Guide to registration on the Early Years Register: childminder

www.ofsted.gov.uk/resources/120082

Guide to registration on Childcare Register

www.ofsted.gov.uk/resources/120084

Inspection

Evaluation schedule for inspections of registered early years provision

www.ofsted.gov.uk/resources/120086

Conducting early years inspections: guidance for inspecting registered early years provision required to deliver the Early Years Foundation Stage

www.ofsted.gov.uk/resources/120087

Early years self-evaluation form and guidance

www.ofsted.gov.uk/resources/080104

Investigation and enforcement

Compliance, investigation and enforcement handbook

www.ofsted.gov.uk/resources/ciehandbook

Complaints procedure: raising concerns and making complaints about Ofsted

www.ofsted.gov.uk/resources/070080

Suspension: information for providers, parents and carers on suspension of childcare

www.ofsted.gov.uk/resources/120235

How to object: guidance for registered childminders and childcare providers

www.ofsted.gov.uk/resources/120238

How to appeal: guidance for those registered as or applying to be a childminder or a childcare provider

www.ofsted.gov.uk/resources/120237

Inspection guidance for inspecting provision on the Early Years Register following the risk assessment process

www.ofsted.gov.uk/resources/120380

Conducting priority and brought forward inspections following risk assessment

www.ofsted.gov.uk/resources/130179