

Conducting Childcare Register inspections

Guidance for inspectors inspecting those registered on the compulsory and voluntary parts of the Childcare Register

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Purpose of this guidance

The aim of this guidance is to assist inspectors to carry out inspections of providers who are **only** registered on either or both part/s of the Childcare Register. Inspectors should check at inspection that a provider complies with the requirements of either or both parts of the Childcare Register and any conditions we have placed on the registration.

If the provider is registered on both the Early Years Register and the Childcare Register inspectors should refer to *Guidance on inspecting providers registered on both the Childcare and Early Years Registers*.¹

Introduction

The Childcare Act 2006 introduced two registers for those providing childcare, the Early Years Register and the Childcare Register.² Her Majesty's Chief Inspector of Schools at the Office for Standards in Education, Children's Services and Skills (Ofsted) has the responsibility for maintaining these registers and regulating all those who are on them.

The **Childcare Register** is for people for whom registration is either:

- **compulsory**
because they care for children aged from 1 September following the child's fifth birthday up to the age of eight and at least one individual child attends for a total of more than two hours in any one day; or for a period less than two hours where this includes care attached to a normal school day for schools to deliver extended services
- **voluntary**
because they care for children for two or more hours in any one day, for whom compulsory registration is not required, or for a period less than two hours where this includes care attached to a normal school day. This includes:
 - home childcarers such as nannies (who care for the children of no more than two families at any one time, at the home of one of the children) caring for children from birth until their eighteenth birthday
 - providers who care for children aged eight or over, until their eighteenth birthday
 - activity-based provision like sports coaching.

A list of people who are **exempt from compulsory registration** is set out in the factsheet *Registration not required*.

¹ www.ofsted.gov.uk/resources/080169.

² Childcare Act 2006; <http://www.legislation.gov.uk/ukpga/2006/21/contents>.

Providers registered on the Childcare Register must show parents who use their services that they:

- meet certain requirements relating to people, premises and provision designed to safeguard children
- are monitored through inspections we carry out on a random basis or when parents tell us they have concerns about the care.

Parents who use registered childcarers may be eligible to claim the childcare element of working tax credits.

Types of registration

There are four types of childcare for which applicants can apply for registration:

- childminders
- home childcarers
- childcare on domestic premises
- childcare on non-domestic premises.

The Childcare Register requirements

The ongoing requirements for the Childcare Register are set out in the Childcare (General Childcare Register) Regulations 2008 [2008 No. 975], the Childcare (General Childcare Register) (Amendment) Regulations 2009 [2009 No. 1545] and The Childcare (General Childcare Register) (Amendment) Regulations 2012 [2012 No. 1699]. Inspectors should use the summaries of these published in two factsheets on our website.³

Registration

There is information about the registration of providers on the Childcare Register in *Guide to registration on the Childcare Register*.⁴

We do not usually carry out a registration visit when deciding on the applicant's suitability to be registered on the Childcare Register. A person confirms as part of the application that they are meeting the requirements for registration. We carry out an enhanced Criminal Records Bureau (CRB) check and a check with local authority children's services departments for all those connected with the registration. If the checks are clear and at least one person holds a relevant first aid certificate then we register them; if there are concerns arising from the checks, we carry out our cause for concern process, which may result in a visit to the applicant before making the registration decision.

³ *Requirements for the Childcare Register: childminders and home childcarers* (www.ofsted.gov.uk/resources/080161) and *Requirements for the Childcare Register: childcare providers on non-domestic or domestic premises* (www.ofsted.gov.uk/resources/080143).

⁴ www.ofsted.gov.uk/resources/120084.

The approach to inspection

Key features of the inspection

The purpose of the inspection is to check that the provider is complying with the requirements of registration and the on-going requirements. In practice we do not differentiate between these.

The inspection visit should normally take no more than two to three hours, including oral feedback. We expect inspections of individuals such as childminders and home childcarers to take less time than this.

There is no report for these inspections. Instead we send providers a letter to let them know whether or not the provision meets requirements.

Inspection of provision registered only on the Childcare Register (one or both parts) is a compliance inspection. It is not to make judgements about the quality of the provision but to make sure the registered provider is complying with the requirements of the register. The outcome of the inspection will be:

- met
- not met – actions
- not met – enforcement action.

If a provider is not complying with the requirements of the register we can take steps to ensure the provider complies by either issuing a notice to improve or taking enforcement measures depending on the severity of the infringement and the risks to children. Settings registered only on the voluntary part of the Childcare Register can continue to operate even if we cancel registration.

The inspection process

Scheduling the inspection

Our agreement with Government is to inspect one in 10 providers on the register each year. We select which providers to inspect on a proportionate and risk basis, rather than as a result of a prescribed inspection cycle.

There are two reasons to schedule an inspection of a provider on the Childcare Register:

- when we receive information that relates to the requirements of the register or conditions of registration
- when providers are selected as part of a structured sample to make up the agreed proportion of 10% per year.

When making decisions about which providers to inspect we:

- inspect all providers where we receive information that suggests non-compliance with the requirements of the Childcare Register
- allocate inspections of a sample of others on the register up to a total of 10% taking into account:
 - the time a provider has been registered (we do not inspect any provider until they have been registered for at least three months unless we receive information relating to possible non-compliance)
 - the national spread of registered providers
 - the type of provider
 - that only one inspection in any 12-month period should take place, unless we receive information
 - any previous non-compliance and the follow-up action required
 - whether there is a change of manager.

Senior managers may consider carrying out a further inspection where at the previous inspection:

- the inspector sets actions which relate to safeguarding; or
- the inspector sets actions which relate to the safety or security of the premises; or
- the provider does not respond appropriately to the actions.

When making the decision whether to recommend a re-inspection, the senior manager must consider the response, and evidence, received from the provider, including whether the provider responded within the timescale set.

Information may be received by the national business unit by telephone or in writing. Unless it is clear that the information does not relate to the requirements for registration – for example, concerns raised about contractual issues – the national business unit will pass the information to the compliance, investigation and enforcement (CIE) team, which will carry out a risk assessment of the information and where appropriate open a CIE case. The CIE senior administrator will inform the schedulers and the schedulers will allocate the service for an inspection.

Contacting the provider

For inspection of childcare on non-domestic premises and childcare on domestic premises inspectors must carry out an unannounced inspection.

For all other inspections (childminders, home childcarers and settings that do not meet regularly) providers will receive no more than five days' notice. Inspectors should telephone these providers shortly before the inspection to check that they are operating on the day they plan to visit.

During the telephone call, inspectors should confirm with the provider:

- that they have children on roll
- the purpose and format of the inspection
- in the case of home childcarers, the address where the inspection will take place
- in the case of home childcarers, an explanation of the consent needed to enter the premises (see below)
- that they have a copy of *Are you ready for your inspection?* available on the Ofsted website; this explains about the inspection
- that they have the required records and statements ready for you to see
- that they understand the possible outcomes of the inspection and the outcome will be given to them in feedback at end of the inspection
- that the outcome of the inspection will be in a letter sent to them after the inspection, and we will publish the letter on our website where it will remain for a period of 12 months.

If there are no children on roll at the time of the telephone call, the inspection should not go ahead unless it was scheduled as the result of information about non-compliance. In these cases the compliance, investigation and enforcement team will give advice about the next steps.

Consent for a home childcarer visit

We cannot carry out an inspection of a home childcarer, at the premises in which they provide care, if we do not have permission from the home owner.

When telephoning to arrange a home childcarer's inspection the inspector must explain that we will send a consent letter (CRL37) for the home childcarer to give to the parent of the child(ren), in whose house the home childcarer works. This person must sign the consent letter before the inspector can enter the premises to carry out the inspection. The Inspection Service Provider must send this consent letter to the home childcarer as soon as the telephone call is made. If the home childcarer is not able to give the inspector this consent when they arrive, the inspection cannot take place at those premises.

If the home childcarer indicates the parent will not give permission, the inspector should make sure they have the name, address and telephone number of the parent so we can ask them directly for consent, and inspect once this has been gained. If the parent does not give permission for the inspection to take place at their premises we must arrange to undertake the inspection at an alternative venue, such as the home childcarer's own home or a public building. In these cases the inspection will take place without children present.

Where a parent raises concerns about a home childcarer, it is not appropriate for the home childcarer to ask the parent for consent to inspect. In these situations the

compliance, investigation and enforcement team should normally gain parental consent when the parent first raises the concerns.

Before the inspection

The inspector must confirm:

- that a provider is registered on the compulsory and/or voluntary parts of the Childcare Register and not on the Early Years Register⁵
- details of any conditions placed on the registration
- any other relevant information relating to the inspection, and in particular any information received that raises concerns.

During the inspection

These inspections are short and sharp. Normally, the inspector should spend no more than an hour inspecting a childminder or home childcarer. The inspector may spend longer on inspections of childcare providers on domestic or non-domestic premises, but the time spent in the setting should not exceed three hours.⁶ This includes giving feedback to the provider at the end of the visit.

Arrival

On arrival at the setting the inspector should introduce him/herself to the childminder, home childcarer, or person-in-charge of childcare provision. The inspector must explain the purpose of the visit and show their official identification allowing the provider time to check the booklet and telephone to confirm the inspector's identity if necessary. Inspectors must ask a home childcarer to show them the parental permission to enter the home (see 'Consent for a home childcarer visit' above where this permission is not available).

Recording evidence

The inspector is not required to record evidence when requirements are met unless it relates to concerns raised about that requirement. This is to ensure that, where an inspection takes place as a result of information received, we have sufficient evidence to complete a CIE case.

If the provider is not complying with any requirement the inspector must record evidence relating to the non-compliance and the outcome of any discussions with the provider. Inspectors should make it clear which requirement/s is not met and why; and the attitude of the provider to putting matters right. The general principles about gathering and recording concise evidence apply. It is essential that anyone reading

⁵ If the provider is registered on the Early Years Register refer to the Early Years Register and Childcare Register guidance for inspectors.

⁶ Where four or more childminders, or childminders and assistants, work together on domestic premises, they should register in the 'other childcare' category.

the evidence clearly understands how the inspector reached a judgement of 'not met'. The evidence must be complete before the inspector leaves the setting.

Inspectors should reference any non-compliance to the numbering system for the requirements set out in the factsheets and relate any actions to the numbered requirements.

Gathering evidence

To assess compliance with the Childcare Register requirements and any conditions placed on the registration, as a minimum, the inspector must **check** the following.

Suitability of people working with the children

Check that:

- **enhanced CRB checks** have been obtained for those caring for the later years children or who live or work on the premises.⁷
- there are **effective recruitment procedures** to ensure that all those caring for the children meet the criteria.

Documentation and information

Check that:

- the provider has the **records and written statements** required for the later years provision in place. These are included in the Childcare Register factsheets.⁸

Note: unlike the Early Years Register, childminders on the Childcare Register must have the required statements **in writing**.

The procedures for safeguarding children – check that:

- those caring for children know how to recognise and respond to signs of abuse, and what to do when they have concerns about a child
- providers know of their duty to liaise with local authority statutory children's services agencies when there are concerns about possible harm or abuse and know how to do so.

Premises and equipment – check that:

⁷ Except for home childcarers when people living on the premises are not required to complete CRB checks.

⁸ Requirements for the Childcare Register: childminders and home childcarers

www.ofsted.gov.uk/resources/080161.

Requirements for the Childcare Register: childcare providers on domestic and non-domestic premises
www.ofsted.gov.uk/resources/080143.

- all parts of the **premises** used for the later years provision are safe, secure and suitable for their purpose
- **equipment** is suitable in terms of its condition and is appropriate for children in the later years age group
- **risk assessments** are carried out. Such assessments can be made on the premises and equipment as a whole.

Note: the Childcare Register requirements are more specific than the Early Years Foundation Stage in relation to the physical features of the premises and compliance with section 21 of the Disability Discrimination Act 1995.⁹ If you find evidence of non-compliance with this section of the Act you should discuss its impact on the outcome of the compliance check.

Behaviour management

Check that behaviour is managed in a suitable way by observing whether:

- children are well behaved and show consideration for others
- any inappropriate behaviour is dealt with sensitively and positively, without physical threats or punishment
- good behaviour is valued and encouraged, according to children's different stages of development.

Ratios are met

Check that for those on the compulsory part of the Childcare Register, the care of children over the age of eight does not have a negative impact on those under the age of eight. There are no ratios for the voluntary part of the Childcare Register.

Note: a childminder may care for a maximum of six children under the age of eight.

Childminders on the Childcare Register¹⁰ may leave later years children in the care of a suitable assistant for a maximum of two hours per day. The childminder must also gain written consent from parents for their child to be left with an assistant.

No child is refused later years provision

Inspectors should interpret this as meaning that all children who attend are included in activities. It is not necessary to scrutinise the provider's admission policy to ensure access is given to all children. If, however, the inspector finds evidence that a provider is not complying with anti-discrimination legislation, they must inform a

⁹ Disability Discrimination Act 1995; <http://www.legislation.gov.uk/ukpga/1995/50/contents>.

¹⁰ The Childcare (General Childcare Register) (Amendment) Regulations 2009 revises Schedule 3 paragraph 2(1)(a) of the Childcare (General Childcare Register) Regulations 2008. The Childcare (General Childcare Register) (Amendment) Regulations 2012 revises schedules 3 and 6 of the Childcare (General Childcare Register) Regulations 2008.

regulatory decision maker in the national business unit who will decide what action we should take.

All providers must ensure that the childcare is accessible and inclusive by:

- taking all reasonable steps to ensure that the needs of each child, relating to his or her childcare, are met
- not refusing to provide childcare or treating any child less favourably than another child by reason of the child's:
 - race
 - religion or belief
 - home language
 - family background
 - gender
 - any disability or learning difficulty the child may have
- taking all reasonable steps to enable children with disabilities to have access to the premises.^{11,12}

Inspectors must **discuss** with the provider, assistants, staff and parents the arrangements that are in place with other later years providers or parents for when the service is unavailable. Providers, except home childcarers, on the Childcare Register must have contingency arrangements in place when they are unable to operate. This could mean leaving the children with another later years childminder or provider – as long as they do not exceed ratios. Alternatively, it could mean making it clear to parents that they have to collect their children if the provision has to close unexpectedly; or that they are responsible for making other arrangements when the provision is closed, for example for staff training.

Other requirements to check are that:

- the provider or someone working with the later years children who is on the premises when children are present has a valid appropriate first aid certificate (from within the last three years)
- there is valid public liability insurance in place
- the required information is available to parents
- the certificate or registration is displayed (except for home childcarers) and that the details on the certificate match the registration details
- the qualification requirements are met. These differ depending on the part of the register a provider is on.

¹¹ Disabilities or learning difficulties within the meaning of section 312(2) of the Education Act 1996(a).

¹² In compliance with the duty in section 21 of the Disability Discrimination Act 1995(b).

Outcome of the inspection

Deciding on the outcome of the compliance check

The possible outcomes of a compliance check are:

- **met**
this means the provider complies with all the requirements
- **not met – actions**
this means that overall the provider does not comply with one or more of the requirements, but children are not at risk of harm. We will send a letter to the provider detailing the outcome of the inspection and any action required to ensure continuing compliance; we will also publish the letter on our website. Actions should be few in number – otherwise it calls into question the provider’s overall compliance with the requirements
- **not met – enforcement action**
this means that the provider overall does not comply with one or more requirements, but the non-compliance is either persistent or is so significant it calls into question the provider’s continued registration. The enforcement measures open to Ofsted are cancellation, prosecution or, in certain circumstances, suspension while we carry out an investigation or steps are taken to reduce or eliminate a risk of harm to children.

The table at Annex A sets out differences between minor and significant concerns and is intended to help inspectors consider the extent to which the provider is not compliant, and to decide what action to take.

Giving feedback

Inspectors must give feedback to the most appropriate person before leaving the setting. For childcare providers on non-domestic premises this will normally be the manager or person-in-charge, or their nominated deputy in the absence of the manager. Inspectors should make it clear to the manager that the registered person or their nominee may also attend the feedback if it is possible for them to do so. Inspectors **must not** defer feedback to allow it to happen on another day.

Inspectors must speak to their inspection service provider before giving feedback if they are in doubt about the judgement. They may wish to consult with the compliance, investigation and enforcement team before feedback where there are major concerns about the provision.

Feedback should include:

- confirmation whether or not the provision is meeting the requirements of the compulsory and/or voluntary part of the Childcare Register
- positive feedback about where the provider is compliant (where appropriate)

- an explanation of any requirements the provider is failing to meet (where appropriate)
- any action/s you intend to raise (if appropriate).

Requirements not met

Where a provider is not meeting the overall requirements, inspectors must explain the range of enforcement measures open to Ofsted. In more serious cases where children are, or may be, at risk of harm, Ofsted may suspend the Childcare Register registration to allow time to investigate the circumstances or for steps to be taken to reduce or eliminate a risk of harm. Ultimately Ofsted may decide to cancel registration if we have reason to believe that the provider has done one of the following:

- failed to comply with the requirements
- failed to comply with a condition we have imposed on their registration
- failed to pay the annual fee.

In rare cases, Ofsted may decide to issue a simple caution or prosecute any registered person that commits an offence under the relevant parts of the Childcare Act 2006. This includes failure to comply with a condition of registration.

Where the inspector believes the registered provider has committed an offence they should record evidence relating to the reasons for their belief an offence has occurred and contact the compliance, investigation and enforcement team to discuss the next step to take. In some cases, this may include withdrawing from the inspection and arranging for a regulatory inspector to attend the premises.

Where a provider is not complying with the requirements of registration, the inspector should inform the provider of any action we may take as a result of their inspection. The inspector should also give the provider a copy of *The next steps* leaflet¹³ or signpost providers to where the document is on the Ofsted website.

After the inspection

After the inspection, the inspector should submit their evidence through the agreed channels. The inspection service provider or compliance, investigation and enforcement team (where the inspection arises as a result of a complaint) arranges for the inspection outcome letter to be sent to the provider. We will publish the outcome letter on our website within 10 days of the inspection taking place and it will remain published for a period of 12 months.

If the provider is not complying with all the requirements the letter will include details of the action the provider must take and a date by when they must complete

¹³ www.ofsted.gov.uk/resources/120233.

the actions. The provider must respond to Ofsted by the stated date setting out the action they have taken to comply and to confirm that they have taken the necessary steps to ensure compliance with all the requirements.

The inspection service provider or compliance, investigation and enforcement team must follow up any outstanding actions, and send the reminder letter to the provider if they do not respond within the timescale. A senior manager in Ofsted will decide whether to carry out a further inspection within 12 months where any non-compliance was serious; and/or we have reason to believe it may persist.

Annex A. Distinguishing between minor and significant concerns for the Childcare Register

Outcome	Example of non-compliance	Action
<p>Not met</p> <p>Actions</p>	<p>Not displaying the certificate</p> <p>Members of staff smoking in the outdoor play area but no children are present</p> <p>Not providing information about the Childcare Register to parents</p> <p>Not holding public liability insurance but evidence that it is being arranged</p> <p>Unchecked member of staff left in charge for 20 minutes while other staff attend to child in the medical room who has fallen down when playing outdoors</p> <p>Risk assessment not updated annually and no major concerns about the premises and/or equipment</p> <p>Children behaving badly and staff unsure how to deal with this</p> <p>Written child protection policy in place but manager and staff show little knowledge or understanding of child protection policy and procedures</p>	<p>Discuss with inspection service provider helpdesk prior to feedback (if necessary)</p> <p>Raise action(s) at feedback and in the outcome letter</p> <p>Provider reaffirms commitment to comply at annual renewal</p>
<p>Not met</p> <p>Enforcement</p>	<p>Staff under the influence of drugs/alcohol while providing care</p> <p>Significant concerns about the state of the premises causing a severe risk to children</p> <p>Referral from children's services concerning allegations that the provider is using corporal punishment against children</p> <p>Unchecked member of staff left in charge of children each day for an hour while staff have their lunch</p>	<p>Discuss with compliance, investigation and enforcement (CIE) team before giving feedback</p> <p>Advise provider at feedback of enforcement options open to Ofsted</p> <p>CIE team hold case discussion and if necessary convene case review – to include allocated inspector – to consider cancellation</p> <p>CIE team draft and send notice(s) to the provider</p> <p>If necessary, CIE team disclose information to police and child protection agencies</p>