

Inspecting registered providers with no children on roll or no children present at the time of the inspection

The aim of this guidance is to assist inspectors when carrying out an inspection of providers registered on the Early Years Register when there are no children on roll or no children present at the time of the inspection visit.

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Introduction

1. Childcare providers and childminders may have no children on roll either because they choose to have a break from caring for children, they are not operating at the time the inspection is due (for example, because they only operate in some school holidays) or they are unable to recruit children.
2. Some childcare providers and childminders may not have children present on the day of the inspection, even though they have children on roll. These will normally be childminders who care for one or very few children and, for example, a child may be unwell on the day of the inspection.
3. In both these circumstances the normal approach for those providers on the Early Years Register is to defer the inspection until children are present. This guidance gives details of the occasions in which inspection may go ahead and how to conduct the inspection. It supplements the *Evaluation schedule for inspections of registered early years provision*¹ and *Conducting early years inspections*², which are the main inspection guidance documents for registered early years provision.

No children on roll

4. If providers are not caring for children at the time of the inspection, and have no immediate intention of doing so, our approach should be to defer the inspections and encourage such providers to resign. We have an audit process in place to track and monitor these providers set out in Annex A to this document. We use this process for both childcare providers and childminders on the Early Years Register but we do not use it for those providers who are only on the Childcare Register. This is because the Childcare Register is a full cost recovery scheme where we only check a sample of providers. There are no benefits to us in creating and maintaining such an audit trail for those providers.
5. It is particularly important that this process is followed for childminders. The Childcare Act 2006 grants Ofsted the power to cancel the registration of a childminder who has not provided a childminding service for a continuous period of more than three years during which they were registered.³ There is more information about how we use this power in the *Factsheet: childcare - Cancelling the registration of childminders on the Early Years Register with no*

¹ *Evaluation schedule for inspections of registered early years provision*, Ofsted, 2012; www.ofsted.gov.uk/resources/120086.

² *Conducting early years inspections*, Ofsted, 2012; www.ofsted.gov.uk/resources/120087.

³ The Childcare Act 2006, section 68(3–5); www.opsi.gov.uk/ACTS/acts2006/ukpga_20060021_en_5#pt3-ch5-pb1-l1g68.

*children on roll.*⁴ Deferring inspections and using the 'no children on roll' process gives us an audit trail to support cancellation of registration. The power to cancel relates only to childminders and does not apply to childcare providers on domestic or non-domestic premises.

6. If the provider is on both the Early Years Register and the Childcare Register and only children who are older than the EYFS are on roll at the time of the inspection, the inspector should ask the provider if they intend to care for young children. If the provider does not intend to care for young children in the near future, the inspector should ask if they wish to resign from the Early Years Register. If they wish to resign the inspector must follow the resignation process and the inspection should not go ahead.⁵ If the provider does not want to resign from this register then the inspection should be deferred and they must go into the 'no children on roll' process.
7. We must not schedule an inspection if a provider has not paid the fee for continued registration, charged annually, and we have issued a notice of intention to cancel the registration.
8. There are occasions where inspections must go ahead. Inspections must not be deferred where:
 - it is towards the end of a provider's prescribed period for inspection and an inspection needs to be carried out for Ofsted to fulfil its regulatory role⁶
 - it is a re-inspection of those judged as inadequate at their last inspection and it has reached the trigger point for the inspection
 - a prioritised or brought forward inspection is needed following Ofsted's risk assessment process⁷ and the risk assessor decides the inspection should go ahead even if there are no children on roll
 - it is scheduled at the completion of an investigation into failure to comply with the requirements of the Early Years Foundation Stage⁸ and the Compliance, Investigation and Enforcement (CIE) team decides the inspection should go ahead even if there are no children on roll
 - a childminder whose registration is being cancelled objects to or appeals against cancellation on the grounds that they have had children on roll
 - the provider is only registered on the Childcare Register and an inspection is scheduled as a result of a concern that the provider is not meeting the

⁴ *Factsheet: childcare - Cancelling the registration of childminders on the Early Years Register with no children on roll*, Ofsted, 2012; www.ofsted.gov.uk/resources/120012.

⁵ Inspectors should use the resignation form where providers indicate they wish to resign or check with the NBU if providers indicate they have already resigned.

⁶ The inspection remit letter from the Secretary of State requires all providers registered at 1 September 2012 on the Early Years Register to be inspected by 31 July 2016.

⁷ CIE Handbook, Chapter 2.1a, Ofsted, 2012; www.ofsted.gov.uk/resources/120279.

⁸ CIE Handbook, Chapter 2.1a, Ofsted, 2012; www.ofsted.gov.uk/resources/120279.

requirements of the Childcare Register and the CIE team decides the inspection is needed.

'No children on roll' inspection

Before the inspection

9. The inspection service provider will receive information from Ofsted about the last recorded date the setting cared for children and/or will administer the 'no children on roll' process (see Annex A).
10. Inspectors should telephone the childminder or childcare provider of settings that only operate for short periods of time, such as part of the school holidays, to check whether there are children on roll.
11. If the provider is not caring for children the inspector should defer the inspection. During the phone call or at the start of the inspection:
 - ask if the provider has definite plans to admit children within the next three months and if not whether they are considering resigning their registration
 - if the provider indicates they wish to resign or says they have already resigned follow the agreed process for resignations
 - if the provider is not considering resigning, ask whether they intend to look after children in the near future and the date that they last cared for children
 - make sure the inspection service provider knows the inspection is not taking place so that the correct 'no children on roll' letters are sent.
12. If the inspection is going ahead as a 'no children on roll' inspection the inspector should, in addition to the guidance in paragraph 9 of *Conducting early years inspections*:
 - explain why Ofsted needs to carry out an inspection
 - explain that it will not be a full inspection using the four-point grading scale, but to check that they continue to be suitable to remain registered
 - make sure any childminder remains in the 'no children on roll' process even where an inspection has taken place so that there is a secure audit trail so that Ofsted can cancel the registration of childminders when they have not cared for children for a continuous period of three years
 - check the correct inspection takes place – either a 'no children on roll' inspection or a full inspection.

13. The inspector should take a copy of the *Next steps* factsheet to give to the provider if the setting is judged inadequate overall.⁹ If the provider decides to resign before or during the inspection, the inspector should follow the process agreed with inspection service providers.¹⁰

During the inspection

14. The majority of inspections will be of childminders; a small number will be childcare providers. The main purpose of the inspection is to fulfil our legal requirements to inspect registered providers within a particular period and report in writing on the matters set out in law (the four inspection judgements). However the inspector cannot make a graded judgment about the quality of provision where there are no children on roll and instead must rely on whether the provider continues to demonstrate suitability to remain registered on the Early Years Register (and the Childcare Register if applicable).
15. For 'no children on roll' inspections, the inspector must assess whether the provider is able to demonstrate sufficient understanding of the Early Years Foundation Stage and how they will meet the care, learning and development needs of each child they may care for. Providers must also confirm that they meet the requirements of the Childcare Register, if applicable.
16. If during the course of the inspection the provider decides to resign from the Early Years Register and only remain registered on the Childcare Register, the inspector must collect sufficient evidence of compliance with the Childcare Register requirements by referring to the relevant factsheet *Requirements for the Childcare Register: childminders and home childcarers* or *Requirements for the Childcare Register: childcare on domestic and non-domestic premises*.¹¹ After the inspection, inspectors should notify the National Business Unit through the data exchange so that they can take the appropriate steps to change the registration and issue a new certificate.
17. The main focus for 'no children on roll' inspections will be the suitability of the provider and/or staff/assistants, the premises, and the intended care and education. The inspector will discuss the quality of care and learning and assess any documentation and resources available. However, inspectors cannot evaluate the impact as they will not be able to observe the quality of interactions with children.
18. The inspector should check that

⁹ *The next steps*, Ofsted, 2012; www.ofsted.gov.uk/resources/120233.

¹⁰ Inspectors should use the resignation form where providers indicate they wish to resign or check with the NBU if providers indicate they have already resigned.

¹¹ *Requirements for the Childcare Register: childminders and home childcarers*, Ofsted, 2012; www.ofsted.gov.uk/resources/080161 and *Requirements for the Childcare Register: childcare providers on non-domestic or domestic premises*, Ofsted, 2012; www.ofsted.gov.uk/resources/080143.

- the provider is knowledgeable about the documentation requirements and that the required policies and procedures are in place. As with full inspections, inspectors must check a sample of documents including that the relevant enhanced checks with the Criminal Records Bureau have been made
- all parts of the premises intended to be used for childminding/childcare are safe, secure and suitable for their purpose
- any toys, play materials and equipment are of suitable design and condition and help to provide a stimulating environment for children. It is not necessary for a full range of equipment to be present at the time of the visit. However, the provider must be able to demonstrate how they will obtain sufficient equipment and toys to meet the needs of the children they may care for. Providers must be able to explain to inspectors how they will use any equipment and/or materials to support children's learning and development and ensure that children make progress from their starting points
- childminders continue to have a current first aid certificate and childcare providers must be able to demonstrate how they will ensure that a person holding a current first aid certificate will be on the premises at all times when children are present
- the provision has a designated lead for safeguarding that has attended a child protection course (the childminder holds this lead responsibility)
- the provider is knowledgeable about how young children learn and how they might develop further, given their starting points. The inspector should do this through rigorous questioning, making use of the *Statutory Framework for the Early Years Foundation Stage*¹² and *Development Matters in the Early Years Foundation Stage*¹³, to test out the provider's understanding, and considering any planning or assessment documents available. The inspector must record and evaluate what is seen and discussed, rather than what the inspector thinks might happen when children are present.

19. The provider must demonstrate how they will:

- meet the learning and development requirements and safeguarding and welfare requirements
- develop and deliver the educational programmes

¹² Statutory framework for the Early Years Foundation Stage, Department for Education, 2012; www.education.gov.uk/childrenandyoungpeople/earlylearningandchildcare/delivery/education/a0068102/early-years-foundation-stage-eyfs.

¹³ Development matters in the Early Years Foundation Stage, Department for Education, 2012; <http://www.education.gov.uk/schools/teachingandlearning/curriculum/a0068102/early-years-foundation-stage-eyfs>.

- identify children's starting points and ensure that children make progress in their learning through effective planning, observation and assessment
 - safeguard children
 - work in partnership with parents and carers and others
 - offer an inclusive service
 - evaluate their service and strive for continuous improvement.
20. The provider should tell the inspector how they have addressed any actions and/or recommendations from the last inspection and how this will improve the provision for children's care and learning.

Recording evidence

21. Inspectors should record brief notes to show that the provider has an adequate understanding of requirements for both safeguarding and welfare and learning and development. Where the provision is judged to be not meeting any requirement, the evidence will need to be more detailed. The evidence should clearly explain where the provider is not meeting requirements and which requirements are not met.

Making judgements, setting recommendations and actions

22. There are three possible outcomes when inspecting a provider who has no children on roll:
- met
 - not met – actions
 - not met – enforcement action.
23. The inspector must only make a judgement for the 'Overall quality and standards of the early years provision' using the outcomes above and not for each of the key judgements.
24. Where the judgement is 'met' an inspector should not use recommendations as it is not possible to speculate on how practice might be improved without having observed it.
25. Where the provider does not meet one or more of the learning and development requirements and safeguarding and welfare requirements the inspector must consider a judgement of not met and either issue a notice to improve or consider enforcement action. In these cases, it is important that inspectors follow the guidance for inadequate judgements in *Conducting early years inspections* as a 'not met' judgement is equivalent to inadequate for the purposes of any follow-up action. This includes contacting the CIE team where an inspector considers that enforcement action is necessary.

26. Where learning and development requirements are not met the inspector must raise at least one action to improve the quality of the educational programme and when referencing the weakness in the report should refer to what they discussed and saw, rather than the direct impact on children as the inspector did not observe this.

Writing the report

27. The report template for 'no children on roll' inspections consists of:
- the front page summary
 - inspection activities
 - any actions or enforcement action
 - the information about the setting
 - the judgement for the Childcare Register (where relevant).

Front page summary

28. Inspectors must include the judgement for overall effectiveness only. Although there will be no separate supporting judgements, the summary must include at least one bullet point on each of the aspects:
- how well the early years provision meets the needs of the range of children who attend
 - the contribution of the early years provision to children's wellbeing
 - the leadership and management of the early years provision.¹⁴
29. This is because the law requires Ofsted to report in writing on these points. The front page summary must also clearly describe the weaknesses resulting in any not met judgement from which actions are raised. Some examples of weaknesses include:
- The childminder has little knowledge of the learning and development requirements. She has not considered how to plan for individual children's needs and does not understand why she should complete observational assessments or work in partnership with others.
 - The parts of the premises to be used for the care of children are not welcoming. Resources are limited and of poor quality. The playscheme manager does not show enough understanding of the importance of ensuring that the environment and resources will provide challenge for children and engage their interest.

¹⁴ 'Leadership and management' includes childminders as leaders of their own provision. Where appropriate, any reference to staff also relates to childminding assistants.

- The childminder has insufficient knowledge of child protection procedures approved by the Local Safeguarding Children Board. She does not fully understand her responsibility to protect the welfare of the child.
30. In each of these cases the inspector must consider raising one or more actions for the provider to meet requirements. As with any other inspection, actions must state precisely what a provider must do to bring about the necessary improvement and should not repeat the requirement the provider is failing to meet.
31. Where the provider's knowledge of learning and development requirements is so poor the inspector considers that actions are not sufficient, the inspector must have clear evidence to support this as cancellation is the only enforcement option open to us.

Inspection activities

32. This section should include the main activities undertaken by the inspector during the inspection, for example:
- The inspector discussed with the provider how they intend to deliver the educational programmes for children.
 - The inspector looked at policies and documents the provider will use when caring for children.
 - The inspector discussed with the provider their self-evaluation form and improvement plan.

Information about the setting

33. This section needs to include information that there were no children on roll at the time of the inspection.

Actions or enforcement action

34. This section should include any actions the provider must take to ensure compliance with the Early Years Register. If enforcement action is required this must be discussed with the CIE team and enforcement team and included in the report. If a case review is required the CIE team will complete this section of the report.

The Childcare Register (if applicable)

35. The provider should be asked to confirm that they are complying with the requirements of the compulsory and voluntary parts of the Childcare Register (both or whichever is applicable). Inspectors should complete the appropriate boxes and raise actions if the provider is non-compliant.

No children present on the day of the inspection

36. On occasions, an inspector may arrive to do an inspection when children are on roll, but none are present on the day. Inspectors must defer the inspection until children are present except where:
- the inspection is close to the end of the prescribed cycle and there is no opportunity to schedule a further inspection
 - the inspection has been prioritised or brought forward as a result of our risk assessment process and the risk assessor decides the inspection cannot be deferred.
37. If an inspection does go ahead the inspector must carry out a full Early Years Foundation Stage inspection and apply the four-point grading scale.
38. Inspectors cannot award an overall grade of outstanding where no children are present, even when some aspects of provision or leadership and management may be outstanding. Judgements about how well the provision meets the needs of the children who attend and the impact of practice on children's care, learning and development cannot be better than satisfactory if inspectors are not able to observe at first hand children's participation in play, their interactions with practitioners, what they are learning and their behaviour, including how safe they feel at the setting. Such judgements can only be partial when based on records and other documentary evidence alone. Providers are most likely to be judged as inadequate where there is no direct observation of children's learning and development and the quality of practice.
39. In out-of-school settings where there are young children on roll, but they are not present on the day of the inspection, the inspector should be able to gather some evidence from observations of practitioners interactions with children who are five years of age or over.
40. The information about the setting should state that no children or no young children were present at the time of the inspection.

Provision only on the Childcare Register

41. Childminders and childcare providers only on the Childcare Register may be selected for inspection because they are part of the 10% random sample for inspection. Where there are no children on roll, the childminder or childcare provider should not become part of the 'no children on roll' process and the inspection should not go ahead.
42. This is because although we have powers to cancel the registration of childminders who are only on this register and have not cared for children for more than three years, we do not choose to do this. As a full cost recovery scheme there are no savings to Ofsted by cancelling the registration of childminders only on this register.

43. Where there are no children on roll or no children present and the inspection is scheduled as a result of a complaint relating to the requirements for registration, the CIE team will decide whether the inspection should go ahead or whether it should be rescheduled at a later date. The CIE team will decide on the interval for rescheduling if this is the case.
44. Inspections of those on the Childcare Register are checks of compliance with the requirements for registration and may proceed using the standard guidance.¹⁵

Annex A: 'No children on roll' process – Early Years Register

It is important that we record a full and complete audit trail of contact with the provider including the letters sent and inspections undertaken or deferred where there were no children on roll. In particular, we must do this for childminders so we can take action to cancel registration when they have not cared for children for a period of three years. For other childcare providers it enables us to monitor their provision and inspect only where there are children on roll if at all possible.

Where a childminder or childcare provider informs Ofsted or the inspector that they have no children on roll, the inspection service provider must send EYL410 at the first notification and EYL411 at six-month intervals. This acts as a reminder to the provider to notify us if they have subsequently had children on roll and provides them with a reminder to resign their registration if they are not intending to care for children in the near future.

Once the last six months of an inspection cycle is reached we must schedule and carry out a 'no children on roll' inspection of all childminders and providers who remain registered with us and still have no children on roll.

For childminders only, the inspection service provider must send EYL412 at the end of a three-year period in which the childminder has not provided care. The inspection service provider must submit a copy of this letter including the date it was sent to Ofsted through the data transfer process so that Ofsted can commence proceedings to cancel registration.

If, at the end of the three-year period, Ofsted decides to cancel the registration of a childminder and the childminder provides evidence that they have cared for children in the last three years, an inspection must be carried out whether children are on roll or not.

¹⁵ *Conducting Childcare Register Inspections*, Ofsted, 2012; www.ofsted.gov.uk/resources/080174.