

Conducting early years inspections

Guidance for inspecting registered early years provision required to deliver the Early Years Foundation Stage

This guidance applies from 1 September 2014. It provides guidance for inspectors conducting inspections under sections 49 and 50 of the Childcare Act 2006 from the time the inspection is arranged to the publication of the report. It should be used in conjunction with the *Evaluation schedule for inspections of registered early years provision*.

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

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Introduction

1. This document provides guidance for inspectors conducting inspections under sections 49 and 50 of the Childcare Act 2006 and covers the period from the time the inspection is arranged to the publication of the report. It must be used in conjunction with the *Evaluation schedule for inspections of registered early years provision*.¹ It includes additional information about inspection in particular circumstances, for example where there are no children on roll.

2. Provision which has been registered on the Early Years Register is subject to inspection. This includes: **childminders** and **group provision:** nurseries; pre-schools; private nursery schools; before and after school care and holiday playschemes for children in the early years age group;² school provision where children under three attend³ and/or where no child attending is a pupil of the school and/or it is not part of the school's activities.

3. Inspectors must have a thorough knowledge and understanding of all aspects of the *Statutory framework for the Early Years Foundation Stage*.⁴ This includes the way in which young children learn and develop and the importance of secure emotional attachments to children's well-being.

4. If, during the course of an inspection, a safeguarding issue comes to light, inspectors must follow procedures set out in the document *Ofsted safeguarding policy and procedures*.⁵

5. Inspectors must follow the code of conduct set out in the *Framework for the regulation of provision on the Early Years Register*.⁶ They should tailor inspection activities for childminders and very small childcare provision to ensure that meetings with the provider are fitted around their work with children. Inspectors should ensure that they gather the evidence they need from discussions and joint observations, while being mindful not to overload the provider.

¹ *Evaluation schedule for inspections of registered early years provision* (120086), Ofsted, 2014; www.ofsted.gov.uk/resources/120086.

² Children in the early years age group are those aged from birth to 31 August following their fifth birthday.

³ Children who are two years old when they start school but are three by the end of their first term at school (known as rising threes), may count as age three when deciding whether a provider needs to register. For more information see our factsheet *Registration not required*, Ofsted, 2014; www.ofsted.gov.uk/resources/080134.

⁴ *Statutory framework for the Early Years Foundation Stage*, Department for Education, 2014; <https://www.gov.uk/government/publications/early-years-foundation-stage-framework--2>.

⁵ *Ofsted safeguarding policy and procedures* (20070046), Ofsted, 2010; www.ofsted.gov.uk/resources/ofsted-safeguarding-policy-and-procedures.

⁶ *Framework for the regulation of provision on the Early Years Register* (120288), Ofsted, 2014; www.ofsted.gov.uk/resources/120288

The time available for inspection

6. The size and complexity of provision will determine the amount of time spent on inspection and the number of inspectors that are deployed. When inspecting a **childminder** the inspector will normally be on the premises for about three hours. For **group provision** which operates restricted hours it is likely the inspector will be present for around four hours. Where provision is open for longer than this, the inspection usually takes at least six hours, and sometimes longer if the provision is very large.

Little or no notice of inspection

7. **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 roll⁷ and present. The inspector must not specify the date of the inspection but should indicate the time by which the inspection will start. This will allow the childminder to leave the house if the inspector has not arrived by that time. If there are no children on roll or present, the inspection will be rescheduled unless there are good reasons why it must go ahead; for example, because it is close to the end of the inspection cycle.

8. Ofsted will normally carry out inspections without notice where inspections are prioritised because of concerns. Having no children on roll or present on the day is unlikely to lead to these inspections being deferred.

The process of inspection

Before the inspection

9. When planning for inspection the inspector must do the following:

- Check which register/s the provider is on.⁸ Where the inspector makes contact with the provider before the visit s/he must confirm the registration details. If there is any uncertainty about the registration, the inspector should contact the Applications, Regulatory and Contact Team (ARC) and delay carrying out the inspection until the matter is resolved.
- Check the accuracy of the information about individuals connected with the registration in order to follow this up at inspection. If the inspector makes

⁷ See also *Guidance for inspecting childminders and childcare providers with no children on roll or no children present at the time of the inspections* (080173), Ofsted, 2014; www.ofsted.gov.uk/resources/080173.

⁸ If a provider is registered on the Early Years Register, they may also register on the Childcare Register – if they comply with the requirements – without completing a new application. Providers on the Childcare Register must complete an application form and apply to be registered on the Early Years Register.

contact with the provider before the inspection s/he may check the accuracy of these details during the telephone call.

- Review all the information provided on the Provider Information Portal (PIP) or through the pre-inspection pack, including any previous concerns and any suggested lines of enquiry provided about live or previous concerns. Inspectors must confirm in their evidence that they have done this. Reviewing this information is essential so that the inspector has a full history of the setting and can develop and pursue relevant lines of enquiry during the inspection. S/he must check if any serious incidents are under investigation. If the inspector has any concerns about safeguarding or the complexity of the inspection they should contact their line manager.
- Check whether any information has been received since the date of registration or the last inspection. This information is sent in the inspection pack and includes any concerns about the provision, comments about issues that may be followed up at the next visit and any outstanding actions or recommendations.
- Consider the previous report if there is one and any other published information, such as outcome summaries of previous concerns. Note any points to follow up, for example, where any previous actions or recommendations need to be checked to ensure the provider has been able to sustain any improvements made through meeting previous actions and/or recommendations.
- Where the previous judgement was inadequate, check for monitoring letters; note whether any actions or recommendations were raised as a result of monitoring visits; identify whether any outstanding actions or recommendations need to be checked. Following inadequate with action inspections, monitoring visits will move straight to re-inspection after 6 months.
- Update the information about the setting, and be ready to agree this with the provider. Inspectors **must not** simply copy and paste the information about the setting from previous reports as circumstances may have changed since the last inspection.
- Review the provider's self-evaluation summary where available.
- Check whether providers have a webpage. This may give useful details about the provision and may give access to self-evaluation information or improvement plans.

10. The inspector should draft a brief note in their toolkit about lines of inspection enquiry, any concerns that have been raised and the main inspection activities they expect to cover. Inspectors must make sure that their lines of enquiry include any relevant issues from their review of the pre-inspection information or any issues they have specifically been asked to follow up. They may wish to modify this note in the light of preliminary discussions with the provider.

During the inspection

Arrival

11. When the inspector arrives at the provision s/he must:
 - introduce themselves and show the provider their identification passbook – the inspector must allow the provider time to read the passbook and contact Ofsted or the inspection service provider to confirm the identity of the inspector if they wish to do so
 - ask the provider to display the notice of inspection so that parents are aware an inspection is taking place
 - make arrangements to talk to parents – this may be almost immediately if parents are present
 - make arrangements for a longer meeting at a convenient time with the provider
 - refer to any concerns that have led to the inspection being brought forward or prioritised, but should be mindful of the need to maintain confidentiality and to protect sensitive information, for example details about any person who raises a concern with Ofsted that triggers an inspection. The inspector must not confirm, and must take all reasonable steps during the inspection to protect, the identity of any person who has given Ofsted information, even if asked to do so by the provider
 - confirm the accuracy of, or any changes to, the information about the setting. Inspectors **must** check staff qualifications and record them in their toolkit
 - agree a timetable for inspection activities, including joint observations
 - ask for the provider's self-evaluation if the provider has not submitted a self-evaluation form to Ofsted, or where they have done so, confirm with the provider the date the form was completed
 - ask the provider about the different groups of children attending the setting to plan which children to track
 - make arrangements for feedback to the provider at the end of the inspection
 - tour the premises and should follow up any matters that arise during the tour of the provision. In **childminding provision** the inspector only needs to see the parts of the property that are used by minded children, unless any information has been received about other parts of the property that may have an impact on the care of children.
 - **in group provision only:**

- ask the manager to contact the provider or the nominated person to make them aware of the inspection and provide an opportunity to be present during the inspection and/or feedback
- in rare cases, confirm arrangements for any additional meetings, for example with the special educational needs coordinator (SENCO) or person responsible for child protection
- confirm arrangements for any joint observations in group provision.

Meeting with the provider

12. As part of the inspection, the inspector must meet with the provider, or the manager if the provider is not present. The inspector must consider the best time to hold the meeting with the provider. Normally it should be early in the inspection so that the matters discussed can be followed up during the inspection.

13. Where the provision operates from one room or in the provider's home it is expected that the meeting will take place when the children are engaged in activities and at appropriate moments during the general observations. The inspector should be mindful that the provider will still have to supervise children and continue to meet their needs during the inspection. Where the provider is not working directly with children and the meeting takes place in a room or office it is expected to take no longer than one hour and in most cases will be much shorter to ensure the main evidence is from direct observation.

14. Where the manager or nominated person has changed since the last inspection, the inspector must ensure that the provider meets the requirements of the Early Years Foundation Stage. The inspector should find out whether the roles and responsibilities of the provider and manager are clear. The inspector should also make sure the provider understands that legal accountability cannot be delegated to the manager.

15. The initial discussion should refer to issues being followed up during the inspection and times should be agreed for further discussion, in order to update the provider on the inspection findings. The inspector must evaluate:

- whether leaders' and managers' roles are clearly established and whether they understand and meet the requirements of the Early Years Foundation Stage
- how well leaders and managers monitor the delivery of the early years curriculum, planning and assessment, and the extent to which children's needs are identified and met through high quality teaching and timely interventions
- the effectiveness of staff supervision, performance management, training and ongoing professional development and its impact on children's well-being and learning and development

- the use of self-evaluation in informing priorities and setting challenging targets for improvement, including:
 - how the views of parents, children and partners contribute to self-evaluation
 - progress towards any actions that have been set and/or recommendations raised at the last inspection or following a monitoring visit
- the effectiveness of the provider's plans for improving the quality of teaching and children's achievements, particularly of the most vulnerable
- the extent to which standards are set and maintained by the provider and ensure practice is consistent
- the effectiveness of partnership work including that needed to secure support for children with identified needs, children transferring to other settings and to school
- arrangements for safeguarding children, including child protection procedures, risk assessment of the premises and outings, staff recruitment procedures and staff supervision.

Gathering and recording evidence⁹

16. The inspector must spend as much time as possible observing a wide range of activities and care routines, talking to practitioners and children about what they are doing and evaluating children's understanding and engagement in learning. In setting up the inspection the inspector should involve the provider in the inspection and explain how and where evidence will be gathered.

17. Evidence must be recorded during the inspection and before judgements are fed back to the provider. The inspector may choose to record evidence electronically or in handwritten notes. Recorded evidence should be clear, precise, evaluative and capture facts about the setting.

18. Individuals can be named in inspection evidence if it is necessary for the inspector to identify them. This may be, for example, to pursue and document particular lines of enquiry in evidence related to those individuals and to avoid them being confused with others. The inspector should also highlight and/or identify any information that has been provided 'in confidence' but in these circumstances should carefully consider whether it is necessary to identify the person who has given the information.

19. The electronic toolkit is the main record of evidence for the inspection and may be scrutinised for retrieval, for quality assurance monitoring, as a source of

⁹ Evidence is drawn from past history, observation, talking with children and adults - including parents - and scrutiny of documents.

evidence in the event of a complaint and where a Freedom of Information request is received.

20. The inspection evidence is retained for the period of time set out in our file retention schedule. This is normally six months from the date of publication of the inspection report. Inspection evidence must be kept for longer than six months where:

- there is an action relating to safeguarding (evidence should be kept until the action is closed)
- there is monitoring of the provision or an investigation linked to the inspection (evidence should be kept until the next inspection or until the relevant Ofsted region decides it can be destroyed)
- there is a request by a senior Ofsted manager to keep the evidence for a specified time and purpose (for example, where there is an appeal against enforcement action or an ongoing complaint)
- there is a threatened or existing litigation claim against Ofsted, such as a Judicial Review.

Judging progress

21. Any evaluation of children's progress towards the early learning goals must be judged in relation to their starting points, their individual needs, how long they have been at the provision and how often they attend. The inspector should examine the information that the provision gathers about what children know, can do and enjoy when they start to attend. Evidence of starting points can also be gained by talking with staff and parents about the level of children's social, communication and physical skills on entry, and, importantly, by observing children new to the provision.

22. The inspector must use the evidence to evaluate how well the provider and practitioners know about, and understand, the progress children are making towards the early learning goals. The inspector must judge whether adults have appropriately high expectations for children. In particular, the inspector must judge:¹⁰

- whether children are performing at typical levels of development and whether children who are disadvantaged or underperforming are catching up quickly

¹⁰ Inspectors may find it helpful to refer to *Early years outcomes*, DfE, 2013: a non-statutory guide for practitioners and inspectors to help inform understanding of child development through the early years <https://www.gov.uk/government/publications/early-years-outcomes>.

- how well the provider and practitioners know and understand the Early Years Foundation Stage learning and development requirements
- how and when parents are asked for information about their child's development
- how often practitioners share a good quality summary of their observations of children with the children's parents, and their plans for reviewing children's progress at age two
- whether practitioners can reliably identify children whose learning and development is not at a typical level for their age, and what actions they have taken to ensure those children make sufficient progress
- any changes made to activities, resources, routines and/or the environment as a result of observations, and subsequent evaluations of the impact of those changes
- the involvement of the SENCO and/or other partners where there are concerns about a child's development and learning.

Observations of activities and care routines

23. Inspectors must spend most of the inspection time gathering first-hand evidence by observing children and practitioners during learning activities, play and daily care routines.

24. Observations enable inspectors to evaluate the quality of teaching and care practices. They can judge the contribution practitioners make to children's learning and progress, and safety and well-being, especially the quality of adults' interactions with children of different ages.

25. The inspector should observe whether adult interactions are merely concerned with supervising and caring for children, or whether adults motivate children, encourage them to be independent and support them to manage their personal needs relative to their ages. In particular, the inspector should evaluate whether adults' questions challenge children to think and find out more by encouraging them to speculate and test ideas through trial and error. They should also assess whether adults model language well, develop children's ability to express their ideas and extend their use of new words. The inspector should identify what children can do by themselves and what they can do when supported by a practitioner.

26. Equally important are times when practitioners leave children alone to explore, make their own discoveries, solve problems and learn skills through self-initiated play. The inspector should evaluate the skill of practitioners by observing how and when adults intervene in children's play. The inspector should not routinely expect to see detailed written plans for the activities they observe, although they must look at plans when they are offered by practitioners. The inspector should focus on the overall quality of the approach and whether the planning, interventions and evaluation of activities ensure there is a consistent

approach to teaching and learning. This will enable them to identify the most important areas for improvement in relation to children's learning and progress.

27. The inspector should talk with children and adults as appropriate. Much can be achieved through incidental conversations prompted by what is observed, although the inspector should take care not to interrupt the flow of activities.

Case tracking

28. In **group provision** the inspector must track a representative sample of children. As a minimum, the inspector must track two children. This number will increase where a provision has a wide age range of children, where children are in different rooms and/or where there are distinct groups of children. The inspector should identify children who have attended the provision for a reasonable period of time as this should mean that the provider has established the children's starting points and evaluated the progress they are making.

29. The inspector should decide which children to track, taking account of the particular groups attending the setting. They may include in the sample:

- a baby
- a funded two-year-old child
- a boy and girl who are soon to transfer to school
- children the provision identified as having differing abilities
- a looked after child, if applicable
- a child with disabilities and/or special educational needs
- a child from a minority ethnic group
- a child who speaks English as an additional language
- a boy and/or girl from any groups who may be disadvantaged, for example the children of travellers or asylum seekers.

30. Evidence from case tracking must include:

- observation notes, assessment and planning for each child including the progress check for any children aged two
- discussions with each child's key person and information about progress over time
- any records kept by the provision that show how they have tracked the progress children make, including any concerns about the children's development in the prime and/or specific areas of learning
- an evaluation of the accuracy and rigour of the provision's assessments and the extent to which children's next steps in learning are well planned.

31. Inspectors should also observe the tracked children in order to evaluate:

- the range of activities children take part in, whether solitary, self-initiated or adult initiated
- the quality and timeliness of adults' interventions
- the level of challenge of the activities for the children's age/stage of development
- the development levels at which the children are working including whether they are exceeding, reaching, or are likely to reach typical levels of development for their age
- ways in which communication and language are developed and literacy taught
- whether children are developing skills in the prime areas that help them to be ready for school
- how well any learning they demonstrate is built upon by the adults working with them
- the children's care arrangements, including intimate care, the levels of privacy afforded to the child, supervision arrangements for the child and for the adult undertaking personal hygiene tasks.

32. As **childminders** only have a small number of children, inspectors will not be able to track a sample of children in the same way. Nevertheless, they can follow the same principles for collecting evidence and evaluating the childminder's practice and its impact on children's learning and development and well-being.

Types of observation

33. The inspector should not be constrained by a single model of observation. The inspector may engage in any of the following.

- Observations of a specific activity or age group of 20 to 30 minutes. These give the inspector the opportunity to see a number of practitioners and to gauge whether the seven areas of learning and development are shaping the educational programmes, as well as any difference in practice for children of different ages and/or abilities. In all observations the emphasis should be on how effectively children's learning is being supported by teaching. Where children are three and/or four years of age the inspector should consider observing children's developing literacy skills and their readiness for school.
- Tracking of a small group of children to assess their experiences at the setting. If possible, the inspector should identify a group that contains one or more children from the specific groups identified in the meeting with the provider in order to judge their experience, progress and learning and whether any gaps for these children are closing.
- Longer observations of over 30 minutes – for example, in the baby room. The inspector may wish to conduct longer observations in order to assess

care routines and activities and how well these are supporting children's secure attachments. The inspector may wish to carry out longer observations in order to capture the best practice, or to diagnose weaker areas of practice and provide detailed evidence to underpin recommendations for improvement.

- Short observations of a number of activities. This approach is helpful where all the children are situated in one room and move around activities depending on their interests.

Joint observations

34. Providers can benefit from carrying out joint observations with the inspector.

35. In **group provision**, the inspector should always invite the provider or a nominated senior member of staff, such as the manager or early years professional, to participate in one or more joint observations of activities, care routines and/or scrutiny of the progress children make. The provider is at liberty to choose whether or not to accept such opportunities. The inspector should be mindful of not 'overloading' the provider or senior staff member. If the provider declines the opportunity this should be recorded in the evidence base along with the reason given.

36. Joint observations help:

- the inspector to gain an insight into the effectiveness of the provision's professional development programme for practitioners
- the inspector to assess the accuracy and quality of the provider's monitoring and evaluation of staff's practice
- the inspector to check how well the manager recognises the effectiveness of staff's interactions with children and assesses how this supports and promotes the learning and development of all children
- the provider to contribute evidence towards judgements about the quality of teaching and learning.

37. When a joint observation is undertaken, the inspector and the provider should agree which activities/age groups/care routines to select. After the observation they should discuss their views about the quality of practice in supporting children's care, learning and development. The inspector should not convey a view about the activity and/or care routine initially but should ask the provider for their view about its strengths, what would have made it better and how good it was overall.

38. Where the quality of practice is weak, it is important that the inspector talks to the provider about what has been observed. The inspector should also ask about the action the provider is taking, if any, to bring about improvement. After joint observations, the inspector and the provider should agree how to manage feedback to the practitioner and when this should take place. The inspector may

ask the provider to give feedback to the practitioner(s) in order to evaluate the manager's assessment about the quality of practice observed.

39. If providers offer a written record of the observation, the inspector should look at this. Any differences in the analysis of practice should be explored. Following a joint observation, the inspector should record evidence in the usual way. Any comments about the quality of the provider's evaluation should be included in the inspector's evidence. Any notes taken by the provider should not be taken away or included within the evidence base.

40. Where **childminders** work alone it is not possible to carry out joint observations in the same way. However, it is possible for the inspector and childminder to jointly observe individual children and discuss their learning, progress and behaviour together as part of the activities that the children are engaged in. This is an effective method in assessing the childminder's understanding of the different levels of development and abilities of the children he/she is caring for. The inspector should engage in observation of a specific activity planned by the childminder, and discuss with the childminder the aims of the activity and the learning intentions. The inspector should follow this up with a further discussion about what the child has learnt and what the next steps in their learning should be. Where childminders have assistants, a joint observation of one assistant may be possible.

The views of parents

41. Wherever possible, the inspector must seek the views of parents during the inspection, including any parents who ask to speak to them. This will contribute to judgements about how well the provision works in partnership with parents in support of children's learning and development and the promotion of their well-being.

42. If the majority of children arrive at, or are collected from, the provision at a particular time the inspector should set aside time to speak to parents at that point. The inspector must ensure opportunities for speaking to parents are not missed.

43. If the timing of the inspection means it is not possible to gain the views of parents directly, the inspector must check how the provider obtains and uses the views of parents to improve their service. If there is no evidence in this respect, the inspector must consider whether the partnership with parents requires improvement or is inadequate.

Documentation

44. Childcare providers are expected to have written policies and procedures as set out in the *Statutory framework for the Early Years Foundation Stage*. **Childminders** are not required to have these in writing but must make sure that any assistants are aware of the required policies and procedures and can define

them for parents and others when requested. All providers, including childminders, are expected to keep certain written records in English.

45. If providers ask at inspection whether they can keep documents off the premises, the inspector may agree to this as long as the documents can be made easily available by the end of any visit or inspection.

46. The inspector should record such agreements in their toolkit and arrange for this to be included in the comments for the next visit.

Legislation other than Early Years Foundation Stage

47. In addition to meeting the Early Years Foundation Stage requirements¹¹ providers must also comply with other relevant legislation. This includes safeguarding legislation and legislation relating to employment, anti-discrimination, health and safety and data collection. Where the inspector identifies concerns that may also relate to other legislation s/he must notify the compliance, investigation and enforcement team, who will decide what action should be taken and whether there should be liaison with the appropriate agencies.

Policies and procedures

48. The inspector does not need to check all the policies, procedures and documentation but **must** check **all** Disclosure and Barring Service¹² records and record in their evidence base that they have done so.

49. The inspector should also check a small sample of other policies, procedures and documentation, including:

- a selection of recruitment records (where applicable)
- qualifications, including paediatric first aid (to ensure ratio and qualification requirements are met and whether these in turn are having an impact on the quality of provision)
- whether all staff have been trained to understand the setting's safeguarding policy and procedures and that the training enables staff to identify possible signs of abuse and neglect at the earliest possible opportunity and to respond in a timely and appropriate way
- the arrangements for the deployment of practitioners
- a sample of induction, training and professional development records

¹¹ See the *Statutory framework for the Early Years Foundation Stage*, <https://www.gov.uk/government/publications/early-years-foundation-stage-framework--2>.

¹² Inspectors should be aware that legislative changes have resulted in DBS checks not covering all previous offences and cautions. They should familiarise themselves with the information at <https://www.gov.uk/government/news/dbs-filter-certain-old-and-minor-cautions-and-convictions-reprimands-and-warnings-from-criminal-record-certificates>.

- a sample of planning and assessment documents
- the complaints record
- the provision's self-evaluation where not already submitted to Ofsted.

50. The inspector may need to check additional documentation where potential non-compliance is identified during an inspection or where inspections have been prioritised. In particular, if the lines of enquiry provided to the inspector as part of such an inspection ask the inspector to review specific documents, the inspector must ensure they check these documents and record that they have done so in their evidence.

Making judgements

51. The evaluation schedule sets out the judgements that the inspector must make and the aspects they should consider when doing so. The inspector must use professional judgement to weigh up the available evidence in each area and consider it against the descriptors to reach judgements that fairly and reliably reflect the quality of the early years provision.

52. The inspector must ensure that they take account of the history of the provision in making their judgements. Inspection is not just about what the inspector sees on the day; it is also about the inspector's knowledge about this setting, including any concerns that have arisen and whether they still impact on the setting's compliance with requirements, and the effectiveness of improvement plans over time.

53. The inspector is not expected to check that each of the statutory requirements of the Early Years Foundation Stage is being met. However, if in the course of collecting evidence the inspector finds that a particular requirement is not being met they should take this into account when reaching judgements.

Not meeting requirements

54. If there is evidence that one or more of the statutory requirements are not being met this should be reflected in the leadership and management judgement as well as in any other judgements where it has an impact on children's learning and development and/or safety and well-being.

55. It would normally result in a judgement of inadequate but the judgement will be made in relation to the impact of the failure to meet requirements. If the inspector considers that a legal requirement is not being met, but the impact on children's safety and well-being and/or learning and development is not significant, then the inspector may judge the leadership and management of the provision to 'require improvement'. This is most likely to be the case where a provider does not have the required written documentation, but practice is effective and the provider understands the requirements.

56. If there is evidence that any areas of learning are not sufficiently covered or the quality of teaching is not sufficiently enhancing and promoting children's learning, inspectors should refer closely to the grade descriptors in the Evaluation Schedule and consider whether practice is inadequate or requires improvement.

57. Where a setting does not meet legal requirements at the time of the inspection, the inspector must take into account any previous non-compliance. A series of minor breaches which taken individually do not have a significant impact on children and/or a history of previous non-compliance in the same, or different, areas is likely to indicate either the provider's lack of knowledge of the requirements or unwillingness to comply with them. In such cases the inspector is likely to judge leadership and management to be inadequate because the provider has too little understanding of the statutory requirements.

58. If, at the time of the inspection, there is a **minor administrative error**, such as the certificate of registration has fallen from a wall and is not currently being properly displayed, and the setting can put this right before the inspection is over, this should not impact on the judgements. However, if there are a number of administrative requirements that are not being met the inspector will need to consider whether, taken together, they suggest a wider weakness within the setting; if so then this is likely to impact on the judgement for leadership and management. If there are more serious breaches the inspector **must** take these into account when determining the judgements.

Keeping the provider informed about the progress of the inspection

59. The inspector should hold brief discussions with the provider to discuss emerging inspection findings. Any meetings with the provider should be recorded in the inspector's evidence.

60. Before the inspection is complete, the inspector should check again with the provider whether there is further evidence to take into account.

61. The inspector should seek to diagnose where improvements are needed and make recommendations about how the provision might improve. Where evidence suggests that the provision might be inadequate, there should be early discussion with the provider. Care should be taken to avoid giving an impression that final judgements have been reached before the end of the inspection.

62. At the end of the inspection, depending on the size or layout of the provision, the inspector should invite the provider to meet briefly in order to:

- discuss with the provider any inadequate or outstanding practice that has been seen
- ensure that the provider understands how the evidence substantiates the judgements
- allow the provider to raise any concerns, including those related to the conduct of the inspection or the conduct of the inspector

- alert the provider to serious concerns that may lead to the provision being judged inadequate.

Discussion with the provider about actions or recommendations for improvement

63. The inspector should ensure that the provider understands any actions or recommendations for improvement and that s/he has the opportunity to comment on the draft wording.

64. Actions and recommendations for improvement should be precise, specific and detailed, making it clear to the provider what they need to do to improve and tailored to the specific circumstances of the setting. Actions must be worded simply and clearly to help the provider understand what is required, so that they are completely clear on how to address them. Actions must include reference to the requirements in the Early Years Foundation Stage but should not simply replicate the EYFS wording with no other detail. Recommendations must focus on areas of performance that are hindering the provision's improvement. If appropriate, recommendations may also focus on ways in which provision might maintain and further develop areas of good and outstanding performance. Recommendations should not be linked to the requirements of the Early Years Foundation Stage. Inspectors may use the inspection criteria in the *Evaluation schedule for inspections of registered early years provision* as a guide but should not quote directly from the document.

At the end of the on-site inspection

65. Inspection activity, including observations, should continue throughout the inspection visit. The inspector must set aside some time towards the end of the inspection to consider the evidence available and make the final judgements. Final judgement grades should be recorded and key points for feedback should be identified. The inspector should also ensure that time is set aside for the final feedback.

66. The inspector should consult their inspection service helpdesk before giving feedback if they have concerns about any of the judgements and must always do so before giving a judgement of inadequate.

67. The inspector should allow sufficient time to prepare for the feedback. They should make sure their evidence is clear, irrefutable and supports the judgements, and should provide examples that explain the strengths and weaknesses of the provision. Feedback notes must be consistent with the evidence and the content of the report and should cover the strengths and areas for improvement about:

- how well the early years provision meets the needs of the range of children who attend
- the contribution of the early years provision to the well-being of children
- the effectiveness of leadership and management

- actions and/or recommendations for improvement
- any other main points.

Formal feedback

68. Before leaving the provision, the inspector must give feedback on final judgements and findings to either the childminder or the provider of group provision. Where the provider is not able to be present the inspector should feedback to the manager as the provider's representative. The inspector must not defer feedback to another day.

69. The inspector should ensure feedback is given using professional and objective language and should not include any remarks that may be personally damaging to the reputation of a member of staff.

70. During an inspection, an inspector may be asked to allow a recording to be made of the final feedback session. Inspectors should immediately decline such a request. The feedback session is a meeting offered by the inspector and if he or she cannot come to an agreement about the conduct of that session then they will make a decision on how best to manage the situation. If the provider continues to pursue his or her request to make a recording of the feedback session or the inspector becomes aware that a recording is being made then the inspector is entitled to close the meeting.

71. The three principles listed below provide a process that is fair, objective and that supports the regulatory and inspection regime and allows the inspection, including the final feedback session to continue.

The person responsible for the setting and/or their representative can:

- attend the final feedback as stated
- make their own notes or ask a person who has attended with them to make notes
- use our complaints process for any grievances they wish to raise

72. Before leaving the provision, the inspector must ensure that the provider is clear about the grades awarded for each judgement set out in the evaluation schedule. The inspector should:

- refer to specific evidence where any grades are different from the provision's self-evaluation
- state clearly if any areas are judged as inadequate and the reasons for this
- explain the areas for improvement and be prepared to discuss these with the provider so they understand what should or must be improved and the reasons why

- state that the grades may be subject to change because of quality assurance checks and should, therefore, be treated as confidential until the provider receives a copy of the inspection report
- where relevant, set out the next steps for provision judged as requires improvement or inadequate
- provide information about the complaints procedure.

After the inspection

The inspection report

73. The inspector must write the report immediately after the inspection. The text, balance and tone of the report should reflect the quality of the provision and the leadership and management. The length and detail of the report will be dependent on:

- the strengths and weaknesses identified
- the organisation and complexity of the provision
- whether children are grouped together or in different rooms
- whether there are differences in practice that have an impact on the quality of children's experiences.

74. The report must include:

- an evaluation of the quality and standards of the early years provision
- sufficient detail to capture the uniqueness of the provision and explain the progress children are making relative to their starting points
- clear judgements.

75. The inspector must ensure that all judgements are supported by robust evidence and that the way in which the inspection is conducted is beyond reproach. Inspection reports will be quality assured before being sent to the provider.

76. Detailed guidance on the content and structure of the report can be found in *Report template for early years inspections with guidance*.¹³

77. Additional guidance for reporting on priority and brought forward inspections following risk assessment can be found in *Inspection guidance for inspecting provision on the Early Years Register following the risk assessment process*.¹⁴

¹³ www.ofsted.gov.uk/resources/120354.

¹⁴ www.ofsted.gov.uk/resources/120380.

Notifying Ofsted of changes

78. As well as completing and submitting the inspection report and evidence, the inspector must notify Ofsted of the following:

- the number of places the registered provider offers and the ages of children attending (this must be done by updating the grid for numbers and ages of children)
- any previous actions that are complete and need closing
- any new actions or recommendations
- any changes to the people connected with the registration (the inspector must include any failure to notify Ofsted of changes)
- any errors in the registration details, including those that relate to the registered person and the registers on which the provider is placed.

Provision not meeting requirements

Requires Improvement with actions

79. Provision judged as requires improvement is likely to have actions because it does not meet in full one or more of the legal requirements of the Early Years Foundation Stage. The inspector must consider whether the reason the provision is not yet good but is not inadequate is because:

- it does not meet in full one or more of the learning and development requirements but this does not have a significant impact on children's overall progress in their learning and development (normally this will be a failure to provide in full the educational programmes that help all children make progress towards the early learning goals)

and/or

- it does not meet in full one or more of the safeguarding and welfare requirements but this does not have a significant impact on children's safety or well-being.

80. In each of these cases the inspector should raise one or more actions for the provider to meet requirements and a notice to be improve will be issued. Actions must state precisely what a provider must do to bring about the necessary improvement. Actions should refer to the requirement(s) breached but cannot merely repeat the requirement the provider is failing to meet.

81. The inspector must clearly record the nature of any failure and its impact on the care, learning and development of the children who attend. The inspector should assess carefully whether any failure to meet a requirement arises from a lack of knowledge or understanding by the provider (in which case a judgement of inadequate is appropriate).

82. Nurseries and pre-schools judged as requires improvement will normally be reinspected within 12 months. They will have two years to get to good. A nursery or pre-school that 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. This does not apply to childminders, childcare on domestic premises, before and after school care, holiday schemes or crèches.

Provision judged as inadequate

83. If the inspector judges the provision does not have an acceptable standard of care and learning, its overall effectiveness will be judged inadequate. The inspector must decide whether the provider has the capacity to put things right through non-statutory actions, or whether the failures are serious enough to warrant other enforcement action.

84. The inspector should raise actions where:

- the provider is not meeting one or more of the learning and development requirements and/or safeguarding and welfare requirements and this is having a significant impact on children's learning and development and/or well-being and safety
- leaders and managers demonstrate an understanding of the requirements and show they have the ability to make the necessary improvements without the need for statutory enforcement action **and** this is the first occasion on which the specific requirement(s) has not been met. A notice to improve will be issued.

85. The inspector should arrange for a **welfare requirements notice** where there has been a breach of one or more safeguarding and welfare requirements which has a significant impact on children and:

- leaders and managers do not demonstrate their understanding of how to meet the safeguarding and welfare requirements of the Early Years Foundation Stage; and/or
- there have been previous occasions of non-compliance in relation to the same requirement or different ones; and/or
- actions relating to existing breaches of safeguarding and welfare requirements have not been completed satisfactorily; and/or
- the breach is so serious that the inspector judges the higher tariff of a welfare requirements notice is appropriate.

86. On making the judgement of **inadequate**, the inspector **must** consult with the relevant Ofsted region where:

- there is evidence of any immediate risk to children or breach of any conditions placed on the registration

- previous concerns about the registered provision have not been dealt with in a satisfactory way by the provider, including the failure to take satisfactory action to meet actions and/or welfare requirements set at a previous visit
- application of the enforcement tariff¹⁵ shows that a welfare requirements notice is required
- there is a failure to notify Ofsted of a significant event and/or meet a condition of registration
- the inspector considers Ofsted may need to take other legal action such as a cancellation or prosecution
- the provider shows insufficient understanding of the responsibility to meet the safeguarding and welfare and/or learning and development requirements of the Early Years Foundation Stage
- the last inspection resulted in a judgement of inadequate overall effectiveness.

87. The purpose of the consultation with the Ofsted region is to allow a professional exchange about whether enforcement action should be taken and what type, and the kind of monitoring that will be required. The compliance, investigation and enforcement (CIE) handbook has more information about the enforcement options available, and the arrangements for following up enforcement activity. The discussion between the inspector and the region will determine what will be written in the inspection report about the enforcement action.

88. All provision judged inadequate will be monitored, and re-inspected within six months. During the monitoring process Ofsted may take further enforcement action if there is no improvement.

Failure to notify Ofsted and/or meet conditions of registration

89. It is an offence to fail to notify Ofsted of a significant event, or fail to comply with a condition of registration. Where the inspector finds such non-compliance s/he must refer to the CIE handbook and liaise with the region. The inspector must also refer to any failure in the leadership and management section of the inspection report.

Concerns and complaints about the inspection

90. To ensure that inspection is productive and beneficial, it is important that the inspector and the provider establish and maintain appropriate working

¹⁵ There is more information on the enforcement tariff and how to apply it in the decision-making chapter of the *Compliance, investigation and enforcement handbook*, Ofsted, 2014; www.ofsted.gov.uk/resources/ciehandbook.

relationships based on courtesy and professional behaviour. Inspectors are expected to uphold the code of conduct.¹⁶

Handling concerns and complaints during the inspection

91. If a provider raises a concern about the inspection while it is taking place, the inspector should consider it and assess its validity. If the concern is found to be justified, the inspector should do what is possible to redress the problem, seeking advice from the inspection service provider where necessary. Any concerns raised and actions taken to redress any problems should be recorded in the inspector's evidence.

92. If the provider is dissatisfied with the inspector's response, or wishes to take the complaint further, the inspector should ensure that the provider is informed of the procedures for making complaints.

Particular considerations

Post-registration inspections

93. Inspectors carry out inspections of newly registered childminding or childcare within seven months of registration unless there are no children on roll. These inspections do not differ from any other inspections of the Early Years Foundation Stage.

94. It is unlikely that providers will be able to demonstrate rigorous self-evaluation, a sustained capacity for improvement or the progress children make over time at a post-registration inspection, and this will have an impact on the grades awarded. Unless the provision has had to re-register because of a change in its legal status, it is most unlikely that the provision will achieve an inspection grade of outstanding.

Educational and philosophical approaches

95. Ofsted does not have a preferred style of teaching. Providers do not have to work to a prescribed method of teaching. The choice of teaching methods is a decision for providers. The inspector will judge the quality of the provision in relation to the impact it has on children's learning, development and well-being.

96. Some provision will be exempt from some aspects of the learning and development requirements of the Early Years Foundation Stage, and inspectors should find out if this is the case at the inspection after reviewing the associated paperwork.

97. Where provision subscribes to a particular approach – for example, Steiner,¹⁷ Montessori¹⁸ or High/Scope, or it adheres to a particular faith – inspectors must be

¹⁶ *Framework for the regulation of provision on the Early Years Register* (120288), Ofsted, 2014; www.ofsted.gov.uk/resources/120288.

familiar with this method and respect any cultural customs. Where relevant, inspectors should state the type of educational or philosophical approach which the provision uses in the report section, 'Information about the setting'.

Provision that primarily educates children in their home language

98. Childminders and group provision that primarily educates children in their home language must demonstrate to inspectors that childminders, providers and any assistants or staff have a sufficient grasp of English to ensure the well-being of the children in their care. For example, providers must demonstrate they can summon emergency help in English where necessary, keep certain records required by the Early Years Foundation Stage in English and share them with inspectors. They must also be able to read and understand instructions such as safety instructions, information about the administration of medication and information about food allergies.

99. As part of the learning and development requirements, providers must also ensure that children have sufficient opportunities to learn and reach a good standard in English language during the Early Years Foundation Stage. Practitioners must assess children's communication and language skills, and early literacy skills in English. Where children are not developing a good standard in spoken English or in their emergent writing and literacy skills in English, inspectors should consider the impact on children's progress and whether this leads to a judgement that the overall quality of the provision is inadequate.

Before/After school care and holiday provision

100. Although providers who offer this type of care do not have to meet the learning and development requirements, inspectors will still need to make a judgement about how well the setting meets the needs of the range of children who attend. While providers are not required to deliver the educational programmes and monitor children's progress, children still need to develop skills that will enable them to learn effectively and be ready for school.

101. While staff may not be required to have any specific qualifications, inspectors will need to observe the quality of interactions between practitioners and children and ascertain practitioners' understanding of how children learn.

¹⁷ *Guide to the Early Years Foundation Stage in Steiner Waldorf Early Childhood settings* is available from the Foundation Years website: www.foundationyears.org.uk/2011/10/guide-to-the-early-years-foundation-stage-in-steiner-waldorf-early-childhood-settings.

¹⁸ *Guide to the Early Years Foundation Stage in Montessori Settings* is available from the Foundation Years website: www.foundationyears.org.uk/2011/10/guide-to-the-early-years-foundation-stage-in-montessorri-settings/.

Additional guidance

102. There is further guidance available for inspectors on the Ofsted website, on the 'Resources for inspectors and other organisations' page.¹⁹

¹⁹ <http://www.ofsted.gov.uk/early-years-and-childcare/resources-for-inspectors-and-other-organisations>