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Llywodraeth Cymru  
Welsh Government

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Welsh Government

## Consultation Document

# Changes to the registration of childcare provision in Wales

Proposals to extend the regulation of childcare providers to include care for children aged eight and over

Date of issue: **16 March 2015**

Action required: Responses by **5 June 2015**

## Overview

This consultation document sets out proposals to extend the registration of childcare provision in Wales. The consultation seeks views on the upper age limit for the registration of childcare provision and the appropriate level of regulation for children of different ages.

## How to respond

### Questionnaire

Responses to the consultation questions set out in the questionnaire should be e-mailed or posted to the addresses below to arrive no later than **Friday 5 June 2015**.

E-mail: [childcareandplay@wales.gsi.gov.uk](mailto:childcareandplay@wales.gsi.gov.uk)

By Post:

Please use contact details below.

Our preferred option is to for respondents to email completed questionnaires. Please consider paper usage when completing the questionnaire.

### Events

Consultation events have also been arranged at which responses to the consultation can be made.

#### Tuesday 24 March 2015

Venue Cymru, The Promenade, Llandudno, Conwy LL30 1BB

#### Thursday 26 March 2015

Park Inn Hotel, Mary Ann Street, Cardiff CF10 2JH

Further detail and registration information can be found at:

<http://gov.wales/consultations/people-and-communities/extension-of-childcare-registration/?lang=en>

## Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

The consultation, documents, can be accessed at:

<http://gov.wales/consultations/people-and-communities/extension-of-childcare-registration/?lang=en>

## Contact details

For further information:  
Anne Pound  
Childcare and Play Team

Registration Consultation  
Children, Young People & Families Division  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ  
E-mail: [childcareandplay@wales.gsi.gov.uk](mailto:childcareandplay@wales.gsi.gov.uk)  
Telephone: 029 2082 5487

## Data protection

### How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document.

We may also publish responses in full.

Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government.

This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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## Foreword

As Minister for Communities and Tackling Poverty, I know how important childcare provision is for many families in Wales. Access to high quality, affordable childcare is crucial for families, enabling them to take up training and employment opportunities and supporting them in moving out of poverty. Good quality childcare also has a crucial role to play in contributing to children's development and giving them the best start in life.



It is essential our children are cared for in a safe, secure and appropriate environment. Childcare regulation, through the registration of childminders and day care settings, helps give families reassurance about the quality of care their children receive.

At present, childcare settings in Wales are only required to register to provide care for children up to the age of eight years. Although settings may take children over this age, their care is not subject to regulation. This is different to other parts of the UK, where different arrangements are in place to ensure childcare is approved or registered. This consultation builds upon the recommendations made in the *Independent review of childcare and early education registration, regulation and inspection*, published in August 2014, which recommended all childcare provision in Wales should be registered irrespective of age. It also draws on the experiences of other parts of the UK.

I want to hear your views on the proposals outlined. I know the childcare sector faces difficult times in terms of sustaining provision. Therefore, it is crucial we fully understand the implications of any changes on the sector and ensure an appropriate childcare registration framework is in place which is both proportionate and balanced.

I invite and welcome the views from all stakeholders on our proposals to extend the regulation of childcare provision in Wales.

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive, flowing style.

**Lesley Griffiths AM**

**Minister for Communities and Tackling Poverty**

## Background

Childcare provision plays a crucial role in the lives of Welsh families by enabling parents and carers to access training and employment opportunities, which in turn can assist families in moving out of poverty. As well as supporting families, high quality childcare provision can also have a positive influence on a child's development and future attainment. By ensuring childcare provision is subject to appropriate and proportionate regulation and registration requirements, critical assurances around the safety and quality of the care provided are given.

Registered childcare provision is governed by minimum standards to ensure the child is cared for in a safe and appropriate environment with suitably qualified staff. Inspections by the Care and Social Services Inspectorate Wales (CSSIW) provide rigorous checks to ensure these standards are being met. Inspection reports are published on a regular basis, helping us to understand the standards of provision in the sector and helping parents make an informed choice, when choosing childcare provision for their child.

## Where are we now?

Currently in Wales, childcare registration is generally required where childcare providers provide care for children up to the age of eight. This requirement is set out in Section 19 of the [Children and Families \(Wales\) Measure 2010](#) and includes both day care providers and child minders.

All registered childcare providers must abide by the regulations as set out in [The Child Minding and Day Care \(Wales\) Regulations 2010](#), and standards as set out in the [National Minimum Standards](#). This standard of care is assured through inspection and regulation by CSSIW.

In certain circumstances, however, childcare providers are not required to register when providing care for children, and hence are not subject to regulation. In most instances, this occurs when a provider operates for less than two hours per day or when they provide care only for children aged eight and over. A full list of exemptions from the requirement to register is detailed in [The Child Minding and Day Care Exceptions \(Wales\) Order 2010](#).

## Reasons for change

The current system of regulation in Wales means there is no consistent means of regulating the quality and suitability of childcare provision for children aged eight years and over. This is different to the situation elsewhere in the UK. In Scotland, registration is compulsory when care is provided for children aged up to sixteen, whilst in Northern Ireland the upper age limit is twelve. In England registration is compulsory up to eight years old, with a voluntary (but statutory) register existing for providers caring for children aged eight years and over. The English arrangement allows providers the

opportunity to register, and if they choose to do so they are subject to inspection arrangements.

The Welsh Government, in our Building a Brighter Future: Early Years and Childcare Plan, committed to conducting a review of early years regulation and inspection. The [Independent Review into Childcare and Early Education Registration, Regulation and Inspection](#) was published in 2014. The Review recommended all childcare provision in Wales, including childcare operating for under two hours or for children aged eight and over, should be registered and subject to inspection. This was recommended to ensure an equal quality of service is provided to all children attending childcare settings and to provide their families and carers with corresponding assurance regarding the safety and quality of the service provided. Regulation of all childcare would also, ensure all childcare providers operated on an equal footing with the same regulation and registration of the childcare services they provided.

The Welsh Government is committed to ensuring an appropriate registration framework is in place in Wales, which provides assurances regarding the appropriateness and safety of childcare provided. This will benefit the child, parents and carers and also childcare providers.

Wales has also committed to ensuring the [United Nations Convention on the Rights of the Child \(UNCRC\)](#) is upheld in regard to all policy work. The convention includes the need to ensure children are properly cared for, the need to ensure their opinions are listened to and the need to ensure they get support with any disability they have.

We wish to ensure the articles contained within the convention are upheld not just for younger children, but also for older children using childcare. For children aged over eight these rights are currently not backed up in statute. By requiring providers caring for children aged eight and over to register, it is hoped children rights can be upheld to an even higher standard.

Welsh Government believes the proposed changes will lead to an improvement in the quality of childcare provision across Wales. The changes will help ensure children of all ages are treated equitably and cared for in settings which are subject to regulation and inspection. The proposals will help parents to make more informed choices about childcare provision as well as providing them with increased assurance about their child's well being. It is also hoped these arrangements will encourage the development of new childcare provision responding to the needs of older children.

We also recognise the pressures facing the childcare sector at this present time. We are therefore committed to ensuring any changes made to childcare regulation take account of the views of all stakeholders.

This consultation sets out our proposed changes to the current registration and regulation framework and seeks views on their appropriateness and implications for the childcare sector.

## **Proposed changes to current system**

The Welsh Government is proposing to change the requirement on childcare providers to register their provision.

In developing the proposals on which to consult, we carefully considered the recommendations put forth in the [Independent Review into Childcare and Early Education Registration, Regulation and Inspection](#). In addition, discussions have taken place with key stakeholders from across the childcare sector to gauge views on the upper age limit for the registration of childcare. The general consensus from this engagement and from consideration of the findings of the review was for childcare regulation to be extended to provision caring for children up to the age of sixteen, or seventeen in the case of disabled children. The key aims of the proposed changes are to ensure:

- **Proportionality** –the care provided for children is regulated in a proportionate manner taking into account the needs and age of the child
- **Quality** –a quality care service is provided for children of all ages across all ranges of provision.
- **Safety** –all children are cared for in safe and secure environment

**It is proposed compulsory registration should be required for childcare provided for children up to age sixteen, or seventeen in the case of disabled children.**

An extension in the age of registration of childcare provision will require changes to the National Minimum Standards against which childcare providers are inspected. The Welsh Government is proposing any changes should be proportionate to the age of the child.

**It is proposed to make changes to the National Minimum Standards as set out at Annex A**

We do not propose creating entirely new standards, but instead propose revising existing standards to take account of the different requirements for older children. Our proposals have been informed by standards currently in place in Scotland and England for older children. The standards have also been developed in line with discussions with internal stakeholders, including CSSIW.

Our proposals involve broad consideration of the National Minimum Standards to take into account the different ages and requirements for older children. The main changes are set out at Annex A and concern the standards around staff ratios, implications for qualifications, training requirements and the environment.

## **Other considerations**

In considering changes to the registration requirements of childcare providers, some additional issues have come to light in relation to current registration requirements, and your views are sought in order to take them forward in alignment with the changes proposed around the age requirements. More information on each is outlined below.

### **Removal of the requirement for Welsh Ministers to countersign applications for Disclosure and Barring Service (DBS) Certificates**

A DBS certificate is required at the point of registration and must be renewed every three years following initial registration. Regulations require the following to submit to CSSIW a copy of an enhanced criminal record certificate (DBS certificate):

- the registered provider;
- the responsible individual; and,
- the person in charge.

When the registered person is a child minder, the following are also required to submit a DBS certificate:

- household members who have reached the age of 16 years; and,
- child minder assistants .

For all of the above, the application form to apply for a DBS certificate must be countersigned by the Welsh Ministers. Historically, the countersignature requirement ensured CSSIW had a copy of the enhanced criminal record check from the former Criminal Records Bureau. However since the creation of the DBS, CSSIW can only obtain a copy of this check from applicants themselves or with the applicant's permission through the DBS Update On line service, to confirm the applicant's certificate status.

### **We propose to change The Child Minding and Day Care (Wales) Regulations 2010 to remove the need for Welsh Ministers to countersign the application for a DBS certificate (enhanced criminal record certificate).**

This would mean providers apply directly to the Disclosure and Barring Service, through a third party or a body on the DBS approved list, rather than route their application via CSSIW. The changes will support CSSIW's move towards the provision of on-line services in 2016 which will streamline the registration process. CSSIW will be consulting on these new arrangements and what steps providers would need to take when applying directly to the Disclosure Barring Service.



## **Changes to the exceptions from the requirement to register**

We propose extending all of the exceptions listed in The Child Minding and Day Care Exceptions (Wales) Order 2010 to apply for children up to the age of sixteen (seventeen if disabled).

We do not currently propose removing the exception which is currently in force in regards for childcare operating for less than two hours. We have made this decision for reasons of proportionality and practicality. It is also in line with the situation elsewhere in the UK where provision for less than two hours is not regulated. However we have included a question about childcare provision operating for less than two hours in the consultation questionnaire so would welcome your views on this issue.

## **Assistants and Volunteers**

We also welcome your views on whether changes should be made to the way in which assistants or volunteers who work with child minders operate. We are considering whether changes should be made to ensure an assistant/ volunteer should be limited to performing their duty unsupervised for a maximum amount of time (for example, a limit of one hour) providing they are competent to do so. The child minding assistant must also have the parents' written permission, and hold a current first aid qualification suitable for the age group they are caring for. If a child minding assistant/ volunteer wanted to provide care for longer than a specified period, they would be required to submit an application to CSSIW to register as a child minder.

## **Registration of provision on multiple premises**

We have also included a question seeking views around whether changes should be made to allow childcare providers operating across more than one setting to register multiple premises in a single registration process. Such changes are currently being taken forward in England to help reduce the administrative burden on the childcare sector. This could help encourage the opening and expansion of more childcare settings.

## **Implications and implementation of proposed changes**

For childcare providers, these changes will mean if you provide, or are planning to provide, care for children over eight years of age you would be required to register to provide the service. If you are currently registered to provide care for children under the age of eight you would need to apply to CSSIW for a variation to your registration. We are interested in your views as to how this will affect you and what things do we need to consider in making this change. .

Your responses will help inform the implementation of any changes. Further guidance will be published setting out how the changes will be implemented.

To minimise the impact of any proposed changes on childcare providers and CSSIW, transitional arrangements will be considered. We are interested in your views on how best to implement changes and the transitional issues we need to factor in to implementing these changes.

The questionnaire at Doc 1 includes a number of questions asking for your views about all our proposed changes including their implications for you and how they should be implemented.

## **Conclusion**

Thank you for taking the time to consider this consultation. We look forward to receiving your thoughts on this highly important subject area and would encourage you to complete the attached questionnaire.

## Annex A – Proposed changes to NMS

### ➤ Standard 6: Working in partnership with parents

	Existing Standard	Proposed Change
<b>NMS 6.11</b>	Children are only released from the care of the provision to individuals named by the parents.	Children aged under eight years are only released from the care of the provision to individuals named by the parents. Children aged eight and over are only released from the care of the provision under arrangements which have been pre-agreed with parents.

### ➤ Standard 9: Behaviour

	Existing Standard	Proposed Change
<b>NMS 9.2</b>	A written behaviour management policy is drawn up and implemented which complies with the regulations and states the methods used to manage children's behaviour. This is discussed with parents and fully understood and followed by staff. The policy is kept under active review and CSSIW is notified of any revision within 28 days of it being made.	<i>A lead in time will be given for settings registering in order to allow them to adapt their behaviour policy to incorporate older children and to attend additional training if necessary.</i>

➤ **Standard 10: Healthcare**

	<b>Existing Standard</b>	<b>Proposed Change</b>
<b>NMS 10.14</b>	At all times, at least one person caring for the children must have a current first aid qualification in first aid for infants and young children. In calculating the ratio of adults to children, the ratio of trained persons to children should never fall below 1:10. Such persons caring for the children should be trained in first aid and hold a qualification in first aid for infants and young children. All first aid qualifications should be kept up to date and renewed every 3 years	<i>The qualification will need to be appropriate for the age of the child cared for.</i>  <i>A lead in time will be given for settings registering in order to allow them to gain the qualifications necessary.</i>
<b>NMS 10.15</b>	Child minders must have undertaken training in first aid for infants and young children. All first aid qualifications should be up to date and renewed every 3 years.	

➤ **Standard 13(CM): Suitable person**

	<b>Existing Standard</b>	<b>Proposed Change</b>
<b>NMS 13.1(CM)</b>	The child minder and any assistant employed by them are suitable to look after children under the age of eight, and have the appropriate skills, experience and qualifications to meet the needs of the children.	The child minder and any assistant employed by them are suitable to look after children <b>of the age they are registered to care for</b> , and have the appropriate skills, experience and qualifications to meet the needs of the children.  <i>A lead in time will be given for settings registering in order to allow them to gain the qualifications necessary.</i>
<b>NMS 13.2(CM)</b>	The child minder has successfully completed an appropriate pre-registration course recognised in the Care Council for Wales' current list of	<i>A lead in time will be given for settings registering in order to allow them to gain the qualifications necessary.</i>

	Accepted Qualifications for the Early Years and Childcare Workforce in Wales (or any list which supersedes it) and is at least 18 years of age.	
<b>NMS 13.6(CM)</b>	The child minder has completed an appropriate first aid course which includes training in first aid for infants and young children before commencing child minding. A current first aid certificate is maintained.	<p><i>The qualification will need to be appropriate for the age of the child cared for.</i></p> <p><i>A lead in time will be given for settings registering in order to allow them to gain the qualifications necessary.</i></p>

➤ **Standard 13(DC): Suitable person**

	<b>Existing Standard</b>	<b>Proposed Change</b>
<b>NMS 13.1(DC)</b>	They are able to demonstrate their suitability and that of any other person providing day care, looking after children under the age of eight or having, or likely to have, unsupervised contact with them.	They are able to demonstrate their suitability and that of any other person providing day care, looking after children <b>of the age they are registered to care for</b> or having, or likely to have, unsupervised contact with them.
<b>NMS 13.3(DC)</b>	Prior to their appointment, a person in charge (manager) has at least 2 years' experience of working in a day care setting.	Prior to their appointment, a person in charge (manager) has at least 2 years' experience of working in a <b>regulated child care setting</b> .
<b>NMS 13.6(DC)</b>	The person in charge has at least a level 3 qualification recognised on the Care Council for Wales' current list of Accepted Qualifications for the Early Years and Childcare Workforce in Wales or Skills Active's Integrated Qualification Framework for Playwork (or any lists which supersede them), which is appropriate to the post	<p><i>The qualification will need to be appropriate for the age of the child cared for.</i></p> <p><i>A lead in time will be given for settings registering in order to allow them to gain the qualifications necessary.</i></p>

<p><b>NMS 13.7(DC)</b></p>	<p>(a) At least 50% of the non-supervisory staff holds a qualification at least at level 2 from the Care Council for Wales' current list of Accepted Qualifications for the Early Years and Childcare Workforce in Wales or Skills Active's Integrated Qualification Framework for Playwork (or any lists which supersede them), which is appropriate to the post. At least half of these have a qualification at level 3</p> <p>(b) For full day care at least 80% of the non-supervisory staff holds a qualification at least at level 2 from the Care Council for Wales' current list of Accepted Qualifications for the Early Years and Childcare Workforce in Wales or Skills Active's Integrated Qualification Framework for Playwork (or any lists which supersede them), which is appropriate to the post. At least half of these have a qualification at level 3.</p>	<p><i>The qualification will need to be appropriate for the age of the child cared for.</i></p> <p><i>A lead in time will be given for settings registering in order to allow them to gain the qualifications necessary.</i></p>
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➤ **Standard 15: Staffing Ratios**

	<b>Existing Standard</b>	<b>Proposed Change</b>
<p><b>NMS 15.2</b></p>	<p>Any care provided for children aged 8 to 14 does not adversely affect the care provided for children under 8 years of age.</p>	<p>Any care provided for children <b>over the age of 8</b> does not adversely affect the care provided for children under 8 years of age <b>and vice versa</b>.</p>
<p><b>NMS 15.7</b></p>	<p>The maximum number of children for whom a child minder may care is as follows:</p>	<p>The maximum number of children for whom a child minder may care is as follows:</p>

	<ul style="list-style-type: none"> <li>• Six children under eight years of age.</li> <li>• Of those six children, no more than three may be under five years of age.</li> <li>• Of those three children, normally no more than two may be under 18 months of age, although exceptions can be made for siblings.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>[Six-ten] children under twelve years of age.</b></li> <li>• <b>Of those [six-ten], no more than six may be under eight years of age.</b></li> <li>• Of those six children, no more than three may be under five years of age.</li> <li>• Of those three children, normally no more than two may be under 18 months of age, although exceptions can be made for siblings.</li> </ul>
<b>NMS 15.8</b>	Where a child minder employs an assistant, the same adult child ratios apply for any additional children. However, the space available for children on the premises may also affect the number for which provision can be registered.	Where a child minder employs an assistant, the same adult child ratios apply <b>to the assistant as the child minder</b> for any additional children. However, the space available for children on the premises may also affect the number for which provision can be registered.
<b>NMS 15.9</b>	Children aged three to five years who attend full-time education provision may be classed as over five years for the purposes of the ratios relevant to child minders. In line with Standard 15.7, at no point must a child minder care for more than six children at any one time	Children aged three to five years who attend full-time education provision may be classed as over five years for the purposes of the ratios relevant to child minders. In line with Standard 15.7, at no point must a child minder care for more than <b>ten</b> children at any one time and this would include her own children who are on the premises when they are working as a child minder.
<b>NMS 15.12</b>	<p>In day care the minimum staffing ratios are:</p> <ul style="list-style-type: none"> <li>• One adult to three children under 2 years.</li> <li>• One adult to four children aged 2 years.</li> <li>• One adult to eight children aged 3 - 7 years.</li> </ul>	<p>In day care the minimum staffing ratios are:</p> <ul style="list-style-type: none"> <li>• One adult to three children under 2 years.</li> <li>• One adult to four children aged 2 years.</li> <li>• One adult to eight children aged 3 - 7 years.</li> <li>• <b>One adult to [eight-twelve] children aged 8-11 years.</b></li> <li>• <b>One adult to [twelve-sixteen] children aged 12-15 years.</b></li> </ul>

<b>NMS 15.14</b>	For Open Access Play provision the minimum staffing ratio is 1:13 children aged five to seven years. Children under five do not generally attend. Ratios may need to be higher for schemes which operate in public parks.	For Open Access Play provision the minimum staffing ratio is 1:13 children aged five to <b>sixteen</b> years. Children under five do not generally attend. Ratios may need to be higher for schemes which operate in public parks.
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➤ **Standard 19: Complaints**

<b>NMS 19.1</b>	A simple, clear and accessible written complaints procedure is in operation, which complies with the Regulations.	A simple, clear and accessible written complaints procedure is in operation <b>for parents and children over the age of eight</b> , which complies with the Regulations.
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➤ **Standard 22: Environment**

	<b>Existing Standard</b>	<b>Proposed Change</b>
<b>NMS 22.8</b>	In child minding provision, the indoor playing space provides at least the following minimum per child: <ul style="list-style-type: none"> <li>• under 2 years – 3.5 sq metres;</li> <li>• 2 to 7 years – 2.5 sq metres.</li> </ul>	In child minding provision, the indoor playing space provides at least the following minimum per child: <ul style="list-style-type: none"> <li>• under 2 years – 3.5 sq metres;</li> <li>• 2 to <b>15</b> years – 2.5 sq metres.</li> </ul>
<b>NMS 22.10</b>	The indoor playing space in day care (including open access play provision) provides at least the following minimum per child: <ul style="list-style-type: none"> <li>• under 2 years - 3.7 sq. metres;</li> <li>• 2 years - 2.8 sq. metres;</li> <li>• 3 to 7 years - 2.3 sq. metres</li> </ul>	The indoor playing space in day care (including open access play provision) provides at least the following minimum per child: <ul style="list-style-type: none"> <li>• under 2 years - 3.7 sq. metres;</li> <li>• 2 years - 2.8 sq. metres;</li> <li>• 3 to <b>15</b> years - 2.3 sq. metres</li> </ul>
<b>NMS 22.17</b>	There is a minimum of one toilet suitable for use by children and one wash hand basin with hot and cold water available for every 10 children over the age of two years. Paper towels or separate towels are provided for each child.	There is a minimum of one toilet suitable for use by <b>the children being cared for</b> and one wash hand basin with hot and cold water available for every 10 children over the age of two years. Paper towels or separate towels are provided for each child. <b>The toilets must afford</b>



		<b>children privacy and be appropriate for the age of the child. In day care for children over the age of eight separate toilets must be provided for different genders.</b>
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➤ **Standard 24: Safety**

	<b>Existing Standard</b>	<b>Proposed Change</b>
<b>NMS 24.8</b>	The premises, including any outside play areas, are secure and children are not able to leave unsupervised. This does not apply to open access play provision.	The premises, including any outside play areas, are secure and children are not able to leave unsupervised <b>unless by prior written agreement with the parents.</b> This does not apply to open access play provision.