

Childminder agency handbook

Handbook for the registration and enforcement of childminder agencies under Part 3A of the Childcare Act 2006 (as amended by Schedule 4 to the Children and Families Act 2014)

This handbook provides guidance for childminder agencies on how to apply for registration and information about our registration process and how we assess suitability. It provides guidance for inspectors and sets out the legal background to our compliance and enforcement work and the extent of our powers.

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Ofsted
Piccadilly Gate
Store Street
Manchester
M1 2WD

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

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About this guidance

This handbook is divided into three parts:

Part 1 – provides information and guidance for childminder agencies in applying to register

Part 2 – provides information about our registration processes and how we assess suitability

Part 3 - provides guidance for inspectors and sets out the legal background to our compliance and enforcement work and our powers.

Part 1 – A guide to registration

Introduction

1. This section provides you with information about how to register as a childminder agency. It explains what processes your application will go through before Ofsted can decide whether you are suitable to register with Ofsted as a childminder agency.
2. Childminder agencies are required by law to register with and be inspected by Ofsted. You must not operate as a childminder agency without being registered. Childminder agencies must meet a range of legal requirements in order to register. We expect childminder agencies to show that they understand and can demonstrate a knowledge of the requirements for registration¹ and that they have a knowledge and understanding of the *Statutory framework for the Early Years Foundation Stage* and/or the *Childcare Register requirements*.
3. This guidance explains:
 - how to apply for registration
 - how we assess your application and decide if you are suitable
 - what you need to do once you are registered.
4. As a registered childminder agency you will be obliged by law to:
 - submit a statement of purpose and ensure this is kept updated to reflect how the agency meets the requirements for registration

¹ The Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014, DfE, 2014;
<http://www.legislation.gov.uk/ukxi/2014/1920/contents/made>

- ensure a childminder’s suitability, including, where appropriate, their capacity to deliver the statutory requirements of the Early Years Foundation Stage² and/or the Childcare Register requirements, as applicable
 - ensure the suitability of all those working in the agency, including, where appropriate, their capacity to support and monitor childminders registered with the agency
 - support the training and development of childminders
 - quality assure the standard of care being delivered by the childminders you register.
5. When applying to register a childminder agency you will need to demonstrate that you have robust and effective procedures in place for implementing requirements³ and assessing the value and effectiveness of all services that you provide.
6. There are two registers and arrangements differ according to whether you apply for registration as an early years childminder agency or a later years childminder agency or both.
- the **Early Years Register** is a register of providers who care for children in the early years age group (children aged from birth until 31 August after their fifth birthday)
 - the **Childcare Register** is for providers who want to look after children aged from 1 September after their fifth birthday up to the age of eight. The Childcare Register has two parts:
 - **the compulsory part**
Providers must register on this part if they care for one or more children following their fifth birthday until they reach their eighth birthday.
 - **the voluntary part**
Providers who are not eligible for compulsory registration may choose to register on this part. These are mainly people looking after children aged eight and over, or providing care in the child’s home (usually nannies).
7. A childminder agency can register on the Early Years Register and/or the Childcare Register. If you apply to register on the Early Years Register, we will test your knowledge of the Early Years Foundation Stage, as you are required to assess how well childminders registered with you deliver this. We will also

² Statutory framework for the Early Years Foundation Stage, DfE, 2014;

<https://www.gov.uk/government/publications/early-years-foundation-stage-framework--2>

³ The Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014, DfE, 2014;

<http://www.legislation.gov.uk/ukxi/2014/1920/contents/made>

test your knowledge of the Childcare Register requirements⁴, as some childminders registered with you will need to meet these requirements. If you are applying to register on the compulsory part of the Childcare Register, we will only test your understanding of the requirements related to this register. A childminder agency cannot register only on the voluntary part of the Childcare Register.

Before you apply

8. If after reading this document you have any enquiries about the registration process please call 0300 123 1231.
9. Applicants must have the right to work in the UK. If you are not sure whether you have the right to work in the UK, you should contact the UK Border Agency for advice at www.bia.homeoffice.gov.uk or by telephoning 0870 606 7766.
10. Before we can register you, you will need to demonstrate to us that you are able to meet the requirements for childminder agencies.⁵
11. You will need to have:
 - completed a Disclosure and Barring Service (DBS) application form via the Capita website at <http://ofsteddbapplication.co.uk>. Ofsted also strongly recommends that you register with the DBS update service at <https://www.gov.uk/dbs-update-service>: you need to do this **within 30 days of your DBS certificate being issued**. Where the sole purpose or main purpose of an organisation is to run the childminder agency, each person connected with your application must have completed their Disclosure and Barring Services check prior to applying. You cannot apply without a Disclosure and Barring Services certificate. Each person must arrange to have their identity documents checked as set out in the guidance on the Capita website. Where the sole or main purpose of the organisation is not operating the childminder agency, you must appoint a 'nominated individual' and this individual must complete the check (the 'nominated individual' is explained later in this section). An agency whose sole or main purpose is to operate the childminder agency will still need to appoint a nominated individual who we will liaise with directly as part of the application process.
 - understood that the registration process will involve a range of checks on you and each person connected with your application

⁴ *Early years and childcare registration handbook*, Ofsted, 2016; www.gov.uk/government/publications/become-a-registered-early-years-or-childcare-provider-in-england

⁵ The Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014, DfE, 2014; <http://www.legislation.gov.uk/uksi/2014/1920/contents/made>

- paid the required fee as part of the application process
 - developed a statement of purpose setting out how you intend to meet the requirements for registration and submitted this as part of your application.
12. You must not operate as a childminder agency without being registered. If you do so, and register childminders with the agency, you will commit an offence and Ofsted may prosecute you.
 13. It is your responsibility to supply to Ofsted all the information we need to consider and decide on your application.
 14. You must have a secure postal address where we can send you legal documents. You may give us permission to send you certain documents electronically. This cannot be a generic email shared with other members of the household, such as jonesfamily@london.com, because the information that we send could be personal. It must be an email address solely for the use of childminder agency business that is only accessed by persons connected with the agency.

What can prevent you from registering as a childminder agency?

15. Some matters can disqualify an individual from registering as a childminder agency. You can find a full list of the matters that could disqualify an individual from registering as a childminder agency in the The Childcare (Disqualification) Regulations 2009, as amended by The Childcare (Childminder Agencies) Miscellaneous Amendments Regulations 2014. This list is also included in the guidance notes on the application forms to register.
16. It is against the law to employ a disqualified person in a role that involves entering premises on which early years or later years provision is being provided.
17. It is against the law for a childminder agency to register someone to look after children if you know they are disqualified. You can find a full list of the matters that could disqualify an individual from registering as a childminder in the Childcare (Disqualification) Regulations 2009.⁶

Applying to waive disqualification

18. In some circumstances, disqualified people may apply to Ofsted to waive their disqualification. If we refuse to waive their disqualification, they have the right to appeal to the First-tier Tribunal ('the Tribunal') Health, Education and Social Care Chamber. However, we will not grant consent to apply for registration to

⁶ The Childcare (Disqualification) Regulations 2009, DfE, 2009; <http://www.legislation.gov.uk/ukxi/2009/1547/made>

anyone who is included on the Disclosure and Barring Service's list of individuals barred from working with children. For more information, please refer to Part 3 of this handbook which outlines our guidance on enforcement.

19. Annex A to this handbook provides detailed information about who may be registered and outlines their responsibilities. It includes details about who we will check as part of the organisation providing a childminder agency and who we will name on the certificate. The agency is responsible for assessing the suitability of staff employed to work for the agency and childminders registered with it. The Department for Education (DfE) is publishing advice for childminder agencies around their responsibilities regarding this.

The nominated individual

20. If you are an organisation applying to register as a childminder agency, you must nominate a person ('the nominated individual') to represent the organisation in its dealings with Ofsted. The nominated individual must be a director, other officer, partner, or member of the organisation's governing body. This person must be able to:
 - take responsibility for dealing with matters relating to the agency's application to register with Ofsted, and its subsequent registration
 - oversee (either alone or with others) the management of the agency. This person will be interviewed during the registration process and will receive all legal documents and correspondence.
21. The nominated individual must have a full and thorough understanding of their own role within the childminder agency, as well as a full understanding of the requirements for registration⁷; the requirements of the Statutory Framework for the Early Years Foundation Stage⁸; and/or the Childcare Register requirements.⁹
22. We will refuse registration unless the nominated individual demonstrates that they understand the requirements which the agency must meet, and has sufficient knowledge of the requirements that childminders registered with the agency will have to meet. So, it is important that the person you appoint as nominated individual to act on your behalf has this understanding.

⁷ The Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014, DfE, 2014;

<http://www.legislation.gov.uk/ukxi/2014/1920/contents/made>

⁸ Statutory framework for the Early Years Foundation Stage, DfE, 2014;

<https://www.gov.uk/government/publications/early-years-foundation-stage-framework--2>

⁹ Early years and childcare registration handbook, Ofsted, 2016;

www.gov.uk/government/publications/become-a-registered-early-years-or-childcare-provider-in-england

Applying for a criminal check with the Disclosure and Barring Service

23. All Ofsted's Disclosure and Barring Service checks are processed by Capita. Before you submit an application to Ofsted, the individual/s referred to in Annex A must first complete a Disclosure and Barring Services application through the Capita website and you must register for the DBS's online updating service. You will not be able to complete the application forms without a Disclosure and Barring Services certificate number.

24. The capita reference is:

'OfstedP' - for those applying for or linked to a new EY application for registration.

'OfstedA' - for those applying to be associated to a provision that is already registered. This includes if there is a change to those living or working on the premises.

25. The Capita website provides guidance on:

- how to apply for a check
- using the online subscription service
- getting ID checked by a 'responsible person' or at the post office.

Capita will answer all queries that relate to how Disclosure and Barring Service checks are processed or any problems with accessing the online application.

26. Applicants should go to: <http://www.capitarvs.co.uk/guidance-on-completing-an-online-disclosure-application-form-self-employed>.

Everyone who has a Disclosure and Barring Services check will receive a copy of their disclosure in the post.

27. There are a number of organisations that the registered person may wish to use that provide Disclosure and Barring Services checks to verify the suitability of those not required to undertake checks through Ofsted. This includes staff and all people who live at and/or work on childminding premises. Information on how to apply for checks can be found at <https://dbs-ub-directory.homeoffice.gov.uk/>.

Making an application for registration

28. You can download the relevant application form from our website. You must complete the application form and send it in to us by email, together with a PDF version of your statement of purpose. If you are unable to email the application form and statement of purpose to us, you can send them in hard copy. However, emailing them is the quickest way for us to process your application.

The application forms

29. Make sure that you and the other people associated with your application complete the relevant forms as fully as possible. We cannot process your application if you and/or others have not completed them properly.
30. It is against the law to knowingly give any information that is false or misleading in an application.¹⁰ You can be prosecuted and fined if you do this.

Forms to be completed for applications to register a childminder agency

31. In addition to the Disclosure and Barring checks mentioned above, applicants wishing to apply for registration as a childminder agency need to complete the forms listed below. All of the application forms include guidance notes on how to complete each of the sections.
32. There are three forms to complete:
 - **CMA1** – this is the main application form for registration as a childminder agency
 - **CMA2** – this is the declaration and consent form
 - **CMA3** – notification to Ofsted form (This form may not be completed as part of an application but is used to notify Ofsted about changes to individuals once the application process has begun)
33. We will also look at any other information that we hold about you. This includes information about any registration you might currently have with us or have had in the past, including whether that raised concerns about your suitability.

Statement of purpose

34. You must have a statement of purpose for your childminder agency. This document should outline the service that the childminder agency plans to provide, including how the registered provider intends to meet the aims and legal requirements of a childminder agency. All staff must understand this document and be able to apply its content on a daily basis to situations and circumstances that occur. The statement of purpose should be updated so that it accurately reflects whether the provider is currently meeting the aims and legal requirements of the childminder agency. The statement of purpose may be available on the internet but a PDF version must also be sent in with your application to register.

¹⁰ Please see 'Section 85, Chapter 5' – The Childcare (Childminder Agencies) (Miscellaneous Amendments) Regulations 2014, DfE, 2014;
<http://www.legislation.gov.uk/uksi/2014/1921/contents/made>

35. You must send the statement of purpose to Ofsted as part of your application. There is no set format or size of a statement of purpose; the requirements for registration set out what the statement of purpose must include.¹¹ This is also included below.
36. Once registered, you must ensure that you conduct your agency in a way that is consistent with your statement of purpose. If you change the way you conduct your agency, you must update your statement of purpose to reflect this and send it to Ofsted, in a PDF version, within 28 days of making the changes.
37. The statement of purpose must cover the following matters, even if you are not intending to offer extra services; for example, offering parents alternative provision or other additional services (in which case, your statement should make clear that you do not intend to offer any service that goes beyond the legal requirements of an agency):
 - the aims and objectives of the childminder agency
 - the organisational structure of the childminder agency
 - the childminder agency's arrangements for registering providers
 - the childminder agency's arrangements to train and monitor providers
 - the childminder agency's arrangements for ensuring that provision is of a sufficient standard
 - the childminder agency's arrangements for communicating the outcome of quality assurance visits to parents of children who are cared for by its registered providers
 - the childminder agency's procedures for safeguarding and promoting the welfare of children who are cared for by its registered providers
 - the childminder agency's arrangements for disseminating information to parents, and prospective parents, who are seeking information about childcare provision offered by registered providers of their childminding agency
 - the childminder agency's procedures for taking enforcement action in relation to a registered provider
 - a childminder agency's procedures for dealing with complaints
 - a description of any arrangements the childminder agency may have for offering parents alternative provision when one of its registered providers is unable to provide childcare as a result of sickness or for other reasons

¹¹ Please see paragraph 3, page 8 – The Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014, DfE, 2014; <http://www.legislation.gov.uk/ukxi/2014/1920/contents/made>.

- a description of any additional services or facilities offered by the childminder agency.

38. We use the statement of purpose in the registration process to assess your suitability to operate a childminder agency. We also consider whether your statement of purpose demonstrates a knowledge and understanding of the requirements for registration, as set out above.

Charges for applying

39. You must pay a fee to apply for registration and pay an annual fee each year on the anniversary of your registration. The amount is set by the Government in regulations.¹²

How we process your application

40. We aim to complete the registration process within 16 weeks; in some cases, we may be able to complete this more quickly. We will deal with your application when:

- you have completed all necessary forms and sent them to us
- we have received the declaration and consent forms from the nominated individual and everyone associated with the application, where applicable (Refer to Annex A in this handbook)
- you have confirmed to us that you have a Disclosure and Barring Service certificate for everyone named in your application, where applicable (Refer to Annex A)
- you have sent us your statement of purpose
- you have paid the application fee.

41. For all applicants, some stages in the process depend on information from other agencies which may cause delays that are outside our control.

42. When we receive your application, we will:

- acknowledge receipt
- return it to you or telephone you for more information if you have not provided enough details or confirmed you have completed the Disclosure and Barring Services checks for yourself and everyone else connected with your application as stated earlier
- ask you to download and complete any additional declaration and consent form(s), if these are needed

¹² The Childcare (Childminder Agencies) (Miscellaneous Amendments) Regulations 2014, DfE, 2014; <http://www.legislation.gov.uk/uksi/2014/1921/contents/made>

- confirm you have paid the application fee
 - begin to carry out checks
 - arrange for an inspector to visit you.
43. We will not accept the application and process it unless the application is complete; this includes paying the fee and submitting the statement of purpose. Once you have met these requirements and we have accepted your application, we will carry out other necessary checks to make sure you are suitable.

The registration visit

44. Once we have completed all suitability checks and you have paid the application fee, we will arrange for an inspector to visit you. The inspector will telephone you to confirm the date, time and location of the visit. Visits may take place at your offices or at ours; the inspector will agree this with you as part of the telephone discussion.
45. Whenever an inspector visits, please ask to see their proof of identity. In most cases, we will only need to visit you once but exceptionally, we may need to do a further visit.

Assessing your suitability

46. The inspector will interview you, as the registered person, or your nominated individual to check that you are suitable to operate a childminder agency and will discuss any issues that may have arisen from the checks. The inspector will ask about:
- your understanding of the requirements¹³ for childminder agencies; aspects of the Statutory framework for the Early Years Foundation Stage and/or the Childcare Register requirements.
 - your recruitment procedures and how you ensure that childminders are suitable, qualified and experienced to work with children and that staff are suitable for the roles that they undertake. Although we undertake checks on the nominated individual of a childminder agency, the registered person must have their own systems in place to ensure that the staff they employ and the childminders they register are suitably qualified and experienced in terms of the role that they undertake.
47. If you are not able to demonstrate to the inspector that you have fully understood and can deliver the requirements for childminder agencies; and that you fully understand, and can monitor how well childminders registered with

¹³ The Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014, DfE, 2014;
<http://www.legislation.gov.uk/ukxi/2014/1920/contents/made>

the agency deliver, the requirements of the Early Years Foundation Stage¹⁴ and/or the Childcare Register requirements¹⁵, we will not be able to register you and will refuse your application.

48. Inspectors will sample any staff and vetting records, if available, during the registration visit to ensure that these meet the requirements¹⁶ in regulations and to ensure that recruitment processes will protect children from unsuitable people working at the agency.

Outcome of the registration visit

49. At the end of the visit, the inspector will tell you whether you are ready to be registered to operate as a childminder agency.
50. If evidence confirms that you are not ready, you may choose to withdraw your application to register, but this is a decision for you. The inspector cannot advise you on this. The only decision the inspector can make is to either grant or refuse your application to register.

Withdrawing your application

51. During the registration process, you must tell us if you change your mind about wanting to register as a childminder agency so that we can stop the registration process. If you do not tell us, we will continue to process your application and may have to refuse your application if you have not demonstrated you are able to meet all of the necessary requirements.
52. Please note we cannot refund your fee if you withdraw your application or if we refuse it.

Registration

53. When the registration visit is complete, we will let you know if we have decided to:
 - register you as a childminder agency
 - refuse your application.
54. If we register you, we will send you a registration certificate. We will also tell you how to get information about what will happen next.

¹⁴ Statutory framework for the Early Years Foundation Stage, DfE, 2014;
<https://www.gov.uk/government/publications/early-years-foundation-stage-framework--2>

¹⁵ Early years and childcare registration handbook, Ofsted, 2016;
www.gov.uk/government/publications/become-a-registered-early-years-or-childcare-provider-in-england

¹⁶ The Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014, DfE, 2014;
<http://www.legislation.gov.uk/ukxi/2014/1920/contents/made>

Refusing registration

55. If we decide to refuse your application, we will send you a letter called a notice of intention, to let you know that this is what we are intending to do. This is a legal document that sets out why we intend to refuse your application.
56. You have a right to object to our intention to refuse registration as long as you contact us within 14 days of the date on the notice of intention. If you object, we will consider your objection and then write again to tell you whether we have decided to refuse registration. If you do not object, or if after considering your objection we still decide to refuse registration, we will send you a second letter called a notice of decision, which confirms our final decision and our reasons to refuse registration.
57. You have the right to appeal against our decision to refuse your application to register to First-tier Tribunal, the Health, Education and Social Care Chamber, within three months of the date that we send the notice of decision. We will send you a leaflet on how to object and appeal if we intend to refuse registration.
58. You cannot withdraw your application if we have already issued you with a notice of intention to refuse your registration, unless we agree that you can do this. This does not affect your right to make an objection or to appeal against our decision.

After registration

What you need to tell us once you are registered

59. You should tell us about any changes or significant events as set out in the prescribed requirements for registration. These include changes to the identity of the nominated individual, changes to the identity of those who make up the registering body and any changes to the statement of purpose.

Paying the annual fee

60. We charge an annual fee for your registration. We will cancel your registration if you do not pay the fee when it is due. The fee will be due on the anniversary of the date of your registration and it is up to you to ensure that you pay this fee. Our website gives further information about how to pay your fee.

Continuing registration

61. You must continue to demonstrate that you are suitable to be a childminder agency. We monitor this through:
 - regular inspections
 - other visits, for example, to follow up any concerns we receive about the service you provide

- repeating or carrying out additional checks, including asking you to carry out another Disclosure and Barring Service check where we receive information that brings your suitability into question
- changes notified to us within the agency's statement of purpose
- your self-evaluation form, if you choose to complete one

Inspection

62. The Secretary of State for Education specifies how often Ofsted must inspect childminder agencies. We will inspect you in line with these inspection intervals.

Publication of name, address and telephone number

63. We publish information related to your registration on our website. Information about what we publish is included in our guidance document *Framework for the regulation of childminder agencies*.¹⁷

Resigning registration

64. If you no longer wish to operate a childminder agency, you should telephone or write to us to let us know that you wish to resign your registration.
65. You should not assume that we have resigned your registration, for example if you do not pay the annual fee. If you do not pay your fee, we will cancel your registration unless you tell us you want to resign.
66. Resigning as a childminder agency does not affect any future application you wish to make to provide childcare or to run a childminder agency.
67. You need to consider how and when you will inform the childminders registered with you, and the parents who use the services, that you intend to resign your registration. Childminders registered with you will not be able to operate unless they register with another agency or choose to register with Ofsted.

Part 2 – registration and suitability: childminder agencies

Introduction

68. This guidance is to assist inspectors and administrators in undertaking the processes of registering childminder agencies. Registration allows an individual or organisation to operate as a childminder agency. It is Ofsted's responsibility to ensure that only those who are suitable and ready to operate as an agency are registered.

¹⁷ *Framework for the regulation of childminder agencies*, Ofsted, 2014; www.gov.uk/government/publications/framework-for-the-regulation-of-childminder-agencies

69. We must record an audit trail of the checks we carry out and the decisions we make so that we know decisions are taken at the right level. We have decision-makers for all stages of the registration process, which is set out in Part 3 of this handbook.
70. Inspectors must adhere to the Code of Conduct set out in *the Framework for the regulation of childminder agencies* when carrying out registration visits.
71. All those involved in registration must also comply with Ofsted's information assurance policy for handling information related to applicants and others associated with an application.

Applications and checks – guidance for both registers

72. This should be read in conjunction with Part 1 in this handbook – A guide to registration. The section called 'The application forms' sets out what forms need to be completed as part of the application process and how to do this. Applicants need to be familiar with the prescribed requirements for registration.¹⁸ These requirements differ slightly according to which register a childminder agency chooses to be registered on.
73. The process for applying is outlined in the section 'Making an application' in Part 1 of this handbook. Applicants must ensure they are also familiar with the requirements of the Early Years Foundation Stage and/or the Childcare Register requirements, depending on which register they are choosing to join. This is because a childminder agency will register childminders and will monitor the quality of what those childminders deliver.

Applications for registration on more than one register

74. An applicant can apply to be registered on both parts of the register at the same time. An applicant cannot apply to be registered only on the voluntary part of the Childcare Register. A person who wishes to register as a childminder agency must apply to us, giving all the information requested. Part 1 in this handbook provides details of who we check.

The checks we carry out

75. All applicants must use the declaration and consent form CMA2 to give consent for Ofsted to use information from the application and checks with organisations to make decision on their suitability. These forms are explained in the section 'The application forms' in Part 1 of this handbook.

¹⁸ The Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014, DfE, 2014;
<http://www.legislation.gov.uk/uksi/2014/1920/contents/made>

76. A Disclosure and Barring Service certificate is always required, and this is needed before an application is submitted to us.
77. Where an individual has a Disclosure and Barring Services certificate that is not dated within the last three years, or it is dated within the last three years but not completed by Ofsted, or if an individual has had a break in employment for more than three months, we will ask them to apply for a new check.
78. We carry out a 'known to Ofsted' check for every individual who is associated with the application. This enables us to identify whether someone was previously known to Ofsted in some capacity associated with the provision of a childminder agency or childcare. If it becomes clear that a person is disqualified, and applies to Ofsted in connection with an application to run a childminder agency, we cannot consider the application until a waiver has been applied for. If an applicant applies to run a childminder agency and is refused, or has a childminder agency registration cancelled, this does not disqualify them from applying to work with children.
79. We carry out a local authority check for every individual who is associated with the application. We do not routinely carry out any other checks as part of an application, although we reserve the right to undertake other checks, such as health checks or references, if we have concerns around the suitability of an individual.

Applicants who have lived abroad

80. If an applicant or any other person connected with the application has lived abroad in the past five years, they will be asked to declare the countries they have lived in on the application form or declaration and consent form. The Disclosure and Barring Service has reciprocal arrangements with some countries that allow it to check the criminal history of those who have lived there.
81. Where there is no such arrangement, we require extra evidence of people's suitability if they do not have a continuous history of living in this country. The types of evidence we require depend on the person's history and what they can supply to demonstrate their suitability. We usually require additional checks, such as a certificate of good conduct. The purpose of these checks is to ascertain whether there were any causes for concern raised about them in the other country or countries in which they lived. The certificate of good conduct also helps to verify any gaps in employment history, and acts as a substitute for the part of their recent history that will not be covered by their Disclosure and Barring Services check.
82. We have arrangements in place with organisations accredited by the Ministry of Defence to check the details of applicants who have lived or worked on a United Kingdom military base overseas. The British Forces Early Years Service (BFEYS) is the MoD-accredited body responsible for regulating and inspecting childminders and childcare providers within the geographical area of Western

Europe. The Soldiers, Sailors, Airmen and Families Association Forces Help (SSAFA FH) is the MOD-accredited body responsible for regulating and inspecting other overseas commands. Ofsted has a protocol with the MoD setting out the arrangements for conducting these checks.

83. We may carry out other checks if we judge it necessary in order to determine whether a person is suitable.

Checks on childminders

84. A childminder agency is responsible for carrying out checks on the manager and all staff they employ to work within the agency. They are also responsible for carrying out checks on all childminders they choose to register.
85. A childminder agency must carry out the checks required in regulations. The DfE has issued some advice¹⁹, which includes information about the checks they need to undertake on the childminders they choose to register. An agency may choose to take up additional checks to the ones set out in regulations if they wish.

Applicants who currently live abroad

86. There is nothing to prevent an applicant who lives abroad from applying to register as a childminder agency. However, in such cases, it is not possible to obtain a DBS check for this individual as they are not living in this country. An applicant living abroad, who wishes to register an agency, must identify a nominated individual who is resident in this country in order that we can undertake checks on that person. The applicant living abroad would still need to be able to provide evidence of their suitability, for example, through a certificate of good conduct, in place of a DBS check being carried out.

Right to work in the United Kingdom

87. The registration process does not routinely include asking applicants about their entitlement to work in the United Kingdom. We should not routinely ask applicants if they have permission to work in the United Kingdom or seek to give advice or guidance on this matter.
88. If, in the course of checking the applicant's identification documents we see evidence which suggests that the person may not be entitled to work in this country, we must not ignore it. We should ask the person to confirm that they now have the right to work here, for example, through a letter from the immigration authorities. If they cannot provide such evidence, we should consider refusal to register.

¹⁹ CMA advice, DfE, 2014; www.gov.uk/government/policies/improving-the-quality-and-range-of-education-and-childcare-from-birth-to-5-years/supporting-pages/childminder-agencies

Re-checking people who are registered with Ofsted

89. We do not routinely repeat DBS checks on people who are already registered with Ofsted. However, we have the right to re-check a registered person if we have concerns about whether they remain fit for registration. We will ask an applicant to supply us with detail of a new DBS certificate if we do not hold either a DBS check or Criminal Records Bureau (CRB) check ourselves.

DBS online update service

90. Individuals who apply for registration to Ofsted must subscribe to join the DBS online update service. This service allows an employer to go online, with the consent of the individual, and carry out a free, instant status check to find out if the information released on the DBS certificate is current and up-to-date.
91. The declaration and consent form includes a declaration from the applicant that gives Ofsted permission to carry out an online status check.

Deciding if an application is complete

92. An application to register a childminder agency is only complete if it includes:
- the application form
 - the declaration and consent forms for all individuals
 - Disclosure and Barring Service certificate and subscription number for the online updating service
 - the statement of purpose
 - the application fee.

We will not begin to process the application until we have all the required information.

The statement of purpose

93. Each childminder agency is required to have and maintain a statement of purpose that accurately depicts the service provided at any given time. It must be provided with the application for registration. It must be understood by all staff who apply its contents on a daily basis to situations and circumstances that occur. Refer to the section 'The statement of purpose' in Part 1 of this handbook for more information about what the statement of purpose must include.

Application process

94. The process for application is outlined in Part 1 of this handbook. Where concerns arise as part of the normal range of checks, we may request additional checks to confirm suitability. A robust audit trail is kept to confirm how suitability decisions are made.

Dealing with causes of concern

95. Where concerns are raised, these may be discussed over the telephone or they may be discussed by the inspector as part of the registration visit.
96. The decision as to which approach will be taken will depend on the nature of the concerns.

The registration process

97. The inspector should usually complete the registration visit as the final part of assessing the application after we have received all the necessary documentation from the applicant and completed all the relevant checks. This allows the inspector to assess all the information about an applicant before undertaking the interview to assess the suitability of the applicant.
98. The target date for registration is 16 weeks from when the application begins to be processed. A registration visit will take place once all the checks are back. An inspector will arrange a time with the applicant for the registration visit to take place. This may take place at any premises or office the applicant may have in relation to the agency or at any of the Ofsted offices.
99. The registration process is the same for a childminder agency that wishes to register on the Early Years Register (known as an early years childminder agency) and/or the Childcare Register (known as a later years childminder agency). The questions asked by the inspector, however, will differ according to which register the applicant wishes to be placed on. This is because the detail of the requirements that an agency's childminders have to meet varies between the Early Years Register and the Childcare Register.

Checking identity

100. The inspector must check the identity of any applicant/nominated individual who is present at the registration visit. We must satisfy ourselves that the applicant/nominated individual is who they say they are and that they are not hiding information that may prove they are unsuitable to run a childminder agency or to be in contact with children if that forms part of their role within the agency. We also need to ensure that we have a complete history of the person's name/s and address details so that we can undertake other checks effectively, such as checks with local authority children's services departments.

The registration visit

101. The interview/discussion that takes place between the applicant/nominated individual and the inspector is key to assessing the applicant's suitability. The inspector will pursue rigorous lines of enquiry to assess and evaluate the applicant's understanding of the requirements in regulations for childminder

agencies.²⁰ The inspector will also need to establish whether the applicant has a knowledge of the Early Years Foundation Stage and/or the Childcare Register requirements, depending on which register the applicant wishes to be placed on. Although a childminder agency does not provide direct care to children and, therefore, does not have to meet these requirements, the agency is responsible for monitoring the quality of its childminders who do provide care to children and must meet these requirements. It is, therefore, essential that the applicant has knowledge of these requirements and has secure systems in place to monitor how effectively childminders registered with the agency deliver these requirements to children.

102. The inspector uses the statement of purpose, which is submitted to us as part of the application process, and the information we have obtained from our checks, to help evaluate the applicant's suitability. The section 'Statement of purpose' in Part 1 of this handbook sets out what the statement should cover. The inspector will use this before the visit to identify lines of enquiry to pursue with the applicant at the visit.

Recording evidence

103. The inspector should use the agreed systems for recording evidence, including how they have pursued any causes for concern or other issues that need to be covered at the registration visit. Evidence should be secure and robust to fully support decisions and the level of the applicant's understanding. This is particularly relevant where causes of concern have been identified and specific lines of enquiry are pursued.
104. It is the responsibility of the applicant to demonstrate their suitability to the inspector. If an applicant does not demonstrate suitability through a robust understanding of the requirements in regulations the inspector will refuse the application to register.

Concerns raised during the visit

105. The inspector should pursue any concerns that arise during the visit with the applicant as part of the interview. The inspector may need to seek further guidance to make the suitability decision. If this is the case, the inspector will inform the applicant that they are not able to make a decision about registration until they seek some further information.

Conditions of registration

106. We have the power to impose conditions on a registration of a childminder agency. However, while we have the power to do this, we do not impose

²⁰ The Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014, DfE, 2014;
<http://www.legislation.gov.uk/uksi/2014/1920/contents/made>

conditions at registration. If an applicant is not able to meet the prescribed requirements for registration, we will not register them as suitable to operate a childminder agency.

Making the overall suitability decision

107. The inspector makes the decision whether to register an applicant once the checks have all been completed and once the registration visit and interview with the applicant/nominated individual has taken place. The decision is to either grant registration or to refuse it. The arrangements for decision-making are set out at the end of Part 2 in this handbook.

Granting registration

108. A letter granting registration is sent to the applicant together with a certificate of registration. A provider cannot begin to register childminders with the agency until they have received the certificate of registration.

Refusal of registration

109. An applicant will receive a notice of intention to refuse the application to register where they have failed to provide secure evidence of their suitability to meet the prescribed requirements of registration for a childminder agency. An applicant has the right to object to this decision within 14 days of the notice of intention. If no response or objection is received within 14 days, a notice of decision to refuse registration is sent to the applicant.

Applications made by existing registered providers

110. An applicant already known to us may choose to expand their business by setting up a childminder agency. In such cases, we still require an applicant to submit a CMA1 and all individuals associated with the application to submit a CMA2.

Changes of legal entity

111. Where an organisation changes its legal identity, for example when a sole proprietor of an agency sets up a registered company or when an existing company number changes, we require new applications and application fees for each registered childminder agency.

112. We follow the process for applications made by existing registered providers, as set out above, when an organisation changes its legal identity.

Circumstances where a new application is not required

113. We do not require a new application if an individual or organisation acquires a childminder agency already registered with Ofsted and chooses to run it as that company, so that the registered company name and registered company number remain the same.

114. In these circumstances, the individuals making up the registered person may change. The individual/organisation taking over the childminder agency must notify us of any changes to individuals making up the registered body. All new individuals must complete a declaration and consent form. The individuals we check are outlined in Part 1 of this handbook.
115. If a registered person or organisation changes the name of the childminder agency or the registered address (the address where we serve legal notices) this does not require a new application for registration. This is because the registered person remains the same.

Change of nominated person

116. We carry out checks on a nominated person where that person changes. We require a new nominated person to undergo a short telephone interview as part of the checks we carry out. This is to ensure an ongoing understanding of the prescribed requirements for registration and to ensure that adequate safeguarding arrangements remain in place within the agency.
117. The table below sets out the arrangements for decision-making and quality assurance procedures in relation to applications to register as a childminder agency.

Action	Decision-maker/lead ²¹	Quality assurance
Registration actions		
Grant registration	HMI	SHMI
Refuse registration	HMI	SHMI
Agree application to waive disqualification at point of registration	HMI	SHMI
Refuse application to waive disqualification at point of registration	HMI	SHMI
Impose condition of registration at registration	HMI	SHMI
Objection to refusal to register	Senior officer	SHMI
Appeal against refusal to register	Senior officer	SHMI

²¹ This is the person who holds responsibility for the decision. They may consult other colleagues for advice in reaching their decision, such as their senior manager or another person with relevant expertise, but the decision rests with this individual.

Appeal against refusal to waive disqualification	Senior officer	SHMI
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Part 3 - Ofsted's enforcement policy: childminder agencies

Introduction

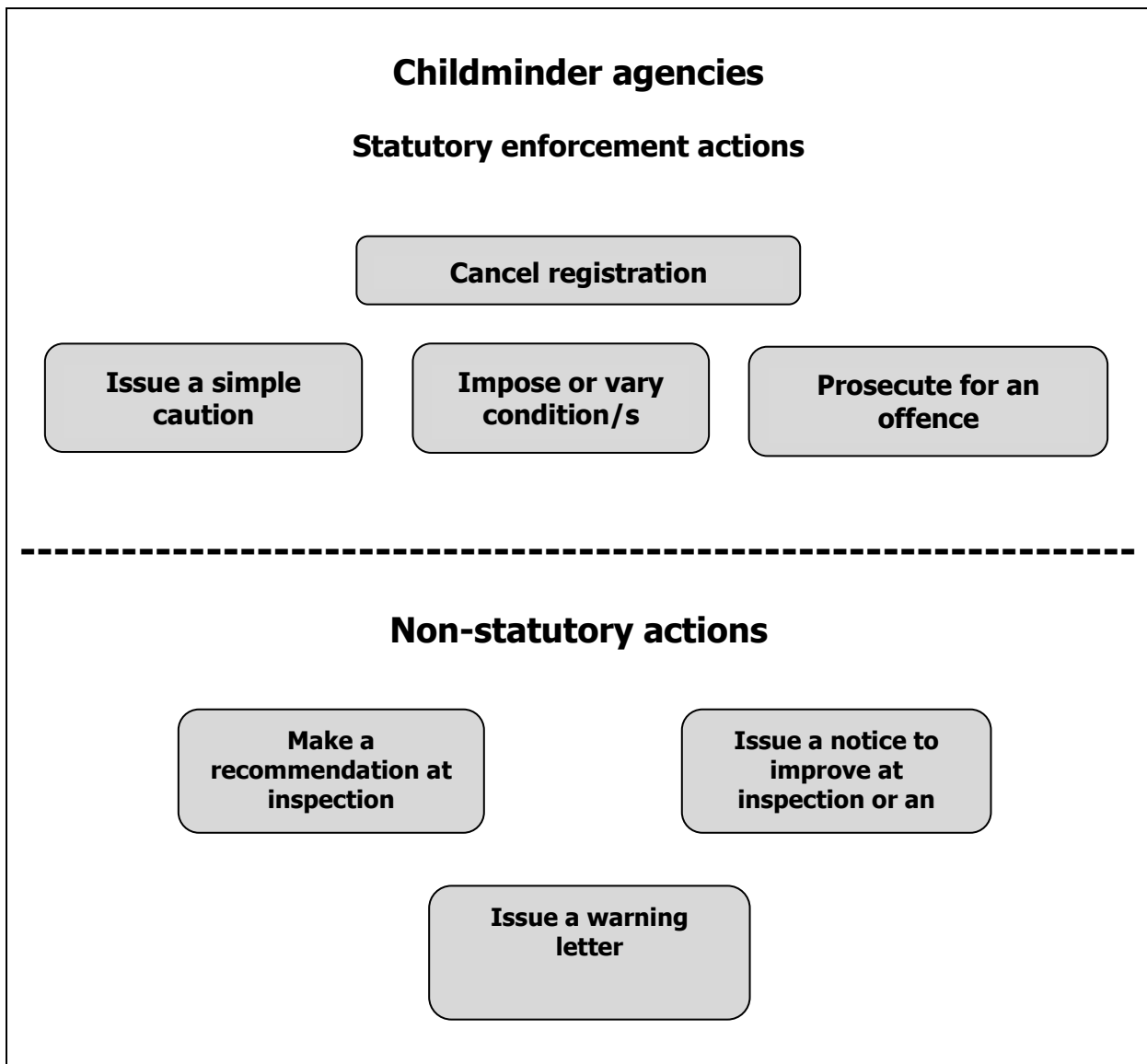
118. This part of the handbook provides guidance to inspectors about the legal basis for our investigation and enforcement work. It sets out our powers and duties relating to the inspection and regulation of childminder agencies and the powers we have. It is split into three sections:

- Section 1: Options available for ensuring compliance
- Section 2: Thresholds for enforcement action
- Section 3: Decision-making

Section 1. Options available for ensuring compliance

119. The law gives us a range of powers to use in regulating childminder agencies. Under these powers we take the most proportionate action to ensure compliance and we consider the particular circumstances of each case before deciding what action we will take.

120. The chart below sets out the statutory and non-statutory options available to us. The section on thresholds includes information that we refer to when making our decisions about enforcement action. However, it is essential that any decision about the action we take is firmly guided by our duty to ensure the safety and welfare of children and young people.



Deciding what enforcement action to take

121. The protection and safety of children and young people is paramount when we are deciding on a course of enforcement action. We assess the information and ensure that the action we take is proportionate to the risk involved. We are likely to take stronger action where we believe children and young people are at risk.
122. We consider the attitude and knowledge of the registered provider when deciding what enforcement action is appropriate. In particular, we assess whether the registered provider has understood the issues, has sufficient knowledge about their responsibilities, and shows a willingness to put things right.
123. We assess the impact of any breach of regulations or offence on childminders registered with the agency and in turn, on the children they care for, and

consider whether taking enforcement action will bring about the necessary compliance and improvement.

Non-statutory action – a brief overview

124. When we investigate and find non-compliance with the requirements of registration, we use non-statutory actions if appropriate. We do this by issuing a notice to improve that sets out what we want the agency to do and the date by which they have to comply. The notice to improve gives registered agencies the opportunity to put things right without recourse to a more formal action. We may visit an agency to ensure that the actions are complete and that any negative impact on children and young people has been minimised.
125. We expect the registered person to demonstrate how the action taken is improving their own knowledge and understanding as well as of those employed by the agency and those childminders registered with the agency, where appropriate, and how they are embedding the action that they have taken into practice. The registered person must demonstrate that the action they have taken impacts positively on childminder practice and ensures that they meet the requirements so that children and young people's safety and welfare is maintained. If there is no evidence of improvement, we consider whether to take statutory action.
126. Where the registered person fails to respond to a notice to improve, or fails to take action set out in the notice, we can use our statutory powers to ensure that they meet the requirements of registration.
127. We raise recommendations at inspection in order to improve practice. We do not raise recommendations for any breaches of a legal requirement.
128. We may choose to send a warning letter in place of taking statutory action, for example, if we know an offence has been committed but we do not feel it is appropriate to escalate it to prosecution.

Statutory action – a brief overview

129. There are some things that if committed are an offence²² and we have the power to prosecute in relation to childminder agencies. These include:
 - failing to comply with a condition of registration
 - falsely representing that the person is a childminder agency²³

²² Please see 'Section 85, Chapter 5' – The Childcare (Childminder Agencies) (Miscellaneous Amendments) Regulations 2014, DfE, 2014;

<http://www.legislation.gov.uk/uksi/2014/1921/contents/made>

²³ Please see 'Sections 51f and 61g' – The Childcare (Childminder Agencies) (Miscellaneous Amendments) Regulations 2014, DfE, 2014;

<http://www.legislation.gov.uk/uksi/2014/1921/contents/made>

- registering a childminder who is disqualified
- running or being involved in the management of a childminder agency, or working for an agency in a capacity that involves entering a childminder's home while disqualified
- employing a person in a childminder agency who is disqualified (if that role involves being directly concerned in the management of the agency or entering a childminder's home)
- intentionally obstructing a person carrying out their statutory duties
- knowingly making a false or misleading statement in applying to register as an agency.

130. We can take action to cancel an agency's registration if we believe they are no longer meeting legal requirements.²⁴

131. There are different tests that apply to all our powers; these are set out in section 2 of this document – Thresholds for enforcement action.

Section 2. Thresholds for enforcement action

132. Ofsted decides whether an agency is and continues to be suitable for registration. The following sections provide guidance on our thresholds for enforcement action. Section 3: Decision-making, provides guidance about how we decide what action to take.

Prosecutions

133. If we suspect that an offence has been committed, we invite a person to an interview under a Police and Criminal Evidence Act 1984 caution.

134. If a person refuses to attend an interview under the Police and Criminal Evidence Act 1984, it does not prevent us from taking action to prosecute that person or the agency if he or she has committed an offence.

135. Childminder agencies do not have the power to prosecute childminders registered with them. The childminder agency would need to present the supporting evidence to Ofsted if a childminder registered with them commits an offence.

General prosecution thresholds

136. We can prosecute a person or organisation that has committed an offence if we can apply each of the five general prosecution thresholds. These are:

²⁴ The Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014, DfE, 2014;
<http://www.legislation.gov.uk/ukxi/2014/1920/contents/made>

- the registered person has committed an offence
- the offence was committed within the last three years
- we begin proceedings within six months of the date on which evidence, sufficient in our opinion to warrant the proceedings, becomes known to us
- there is sufficient and reliable evidence to support a prosecution according to the standard of proof needed
- prosecution is in the public interest – we consider whether other enforcement action will achieve the required outcome when deciding whether prosecution is in the public interest.

137. We ensure that we can apply each of our five general prosecution thresholds, listed above, before deciding to prosecute for any offence. The Code for Crown Prosecutors gives more information when considering the evidential stage and the public interest stage.²⁵

138. We retain powers of entry into every childminder’s home. We do not have any inspection and enforcement powers in relation to childminders who are registered with an agency. The purpose of our powers of entry here is not to take action against the individual childminder, but to gather any evidence we might need to pursue an investigation against the agency and so that we can sample the quality of childminding as part of the agency’s inspection.

139. Childminder agencies do not have the power to waive a childminder’s disqualification. This means that if a childminder, who is disqualified, wishes to register with an agency, they will first need to come to Ofsted to ask us to waive their disqualification. If we refuse then they will have a right of appeal. If we grant their application to waive disqualification then they can proceed with their registration application with the agency.

Simple caution

140. A simple caution is a non-statutory method of dealing with the commission of certain criminal offences without involving the courts. We may issue a simple caution if the following apply:

- the person admits the offence
- there is a realistic prospect of a conviction
- the offender understands the significance of a simple caution and gives informed consent to being formally cautioned
- other enforcement action (for example an informal warning letter) is unlikely to be effective

²⁵ The Code for Crown Prosecutors, Crown Prosecution Service, 2013;
www.cps.gov.uk/victims_witnesses/code.html

- prosecution would not be in the public interest.

Cancellation

141. We must cancel the registration of a childminder agency if the person has become disqualified from registration.
142. We may cancel the registration of a childminder agency if one or more of the following apply:
- the registered person has ceased, or will cease, to satisfy the prescribed requirements for that registration type
 - the registered person has failed to comply with a condition of registration
 - the registered person has failed to comply with a requirement set out in regulations
 - the registered person has failed to pay the prescribed fee
 - other enforcement action (recommendations/actions/warning letters) has failed to achieve, or is unlikely to achieve, the outcome needed within a reasonable timescale
 - successful prosecution is unlikely to achieve the safety and well-being of children
 - there is minimal evidence to suggest that the provider is acting purposefully to resolve the matter within a reasonable timescale
 - we consider that cancellation is the only way to assure the safety and well-being of children.
143. If we cancel a childminder agency registration then at the point the cancellation is confirmed, any childminders who are still registered with the agency will transfer to Ofsted. Where we are taking steps to cancel the agency's registration, we will write to the childminders to explain that we have issued the agency with a notice of intention to cancel their registration and advise them of their rights to apply to register with Ofsted or another agency. When the point of cancellation becomes final, we will accept all childminders who are still registered with the agency at that point unless:
- they tell us they do not want to be registered with us
- OR
- they are disqualified from registration.
144. We may request that childminders undertake some checks so that we can establish whether or not they are disqualified. If any childminder is disqualified, they will need to apply to Ofsted for a waiver. If we agree to waive the disqualification the childminder will need to apply to register with us in the usual way. Those childminders will not automatically transfer across to us.

145. Ofsted will not automatically accept childminders if the agency chooses to resign their registration. Where the agency resigns its registration with Ofsted, its childminders will have to apply to register with Ofsted or another agency through the usual route.

Section 3. Decision-making

146. Following an investigation, we make a decision about what action to take, based on all the evidence available. We make the decision according to the decision-making table. We consider all available evidence and information about non-compliance, as well as the enforcement options available, before the decision-maker reaches a decision that is proportionate and appropriate.

147. We take action to implement a decision as soon as possible after we make it. We take decisions at the level set out in the table below. We use alternative decision-making fora as indicated in the table.

Proposed decision-making and QA arrangements for the regulation of childminder agencies – from September 2014

Enforcement actions	Decision maker	Quality Assurance
Agree waiver of disqualification (post-registration)	Senior officer	SHMI
Impose/vary/remove condition of registration once registered (other than at inspection)	Senior officer	SHMI
Issue a notice to improve (other than at inspection)	Regulatory inspector	Senior officer
Issue initial warning letter	Regulatory inspector	Senior officer
Issue simple caution after PACE interview	Senior officer	SHMI
Cancellation	Senior officer	SHMI
Prosecution for an offence committed by a childminder agency	Senior officer	SHMI
Prosecution for an offence committed by a childminder who is registered with a childminder agency	Senior officer	SHMI

Annex A

Who is registered and what are their responsibilities?

Where it is the sole or main purpose of an organisation to provide the childminding agency, Ofsted will carry out checks on all those who make up that application. However, where it is not the sole or main purpose of the organisation to provide the childminder agency, Ofsted will only carry out checks on the person applying to be the nominated individual as set out in the table below.

In such cases, the following table identifies:

- the registered person (including descriptions)
- who makes and signs the application
- who will be checked as part of the organisation applying to provide childcare
- who will be named on the certificate.

Registered person	Description	Application signed by	Ofsted carries out checks on	Name on the certificate
Individual	The sole owner of an agency.	Individual	Individual	Individual
Company	Companies are legally constituted and separate legal entities, have a company name, are registered with Companies House and have a company registration number.	A director of the company	The person applying to be the nominated individual	The company name and the name of the nominated individual
Statutory body	An organisation where the main purpose of that organisation is set out in legislation; for example a local authority or school governing body.	Person responsible for the childminder agency on behalf of the statutory body*	The person applying to be the nominated individual	Statutory body and, in the case of schools, the name of the school and the name of the nominated individual

Registered person	Description	Application signed by	Ofsted carries out checks on	Name on the certificate
Partnership	A partnership is where two or more individuals act together to provide the agency. The registered person is each of the individuals making up the partnership. Partnerships can be formally constituted under a legal agreement, or informal.	A partner or partners on behalf of all partners or the firm	The person applying to be the nominated individual	The name of the partnership or each partner's name, which includes the name of the nominated individual
Committee	Committees are not constituted in law and are informal associations/groups. Each individual in the committee is considered as the registered person and is equally responsible and accountable for the provision. The committee includes everyone who is part of the committee on the date that Ofsted takes any action in connection with the registration.	Chairperson on behalf of the committee	The person applying to be the nominated individual	Committee of [name of childminder agency] and registered charity number where applicable and the name of the nominated individual
Other organisations		A responsible person representing the organisation	The person applying to be the nominated individual	Determined on an individual basis but must include the name of the nominated individual

*Known as the nominated individual, this person must be the director or other officer of, or partner in, the applicant or a member of its governing body