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1. Introduction

This framework provides an overview of the regulatory system for those providers who are only on the Childcare Register (see definition in Chapter 7) and applicants to it. It does not cover those providers who are applying to or are on the Early Years Register or who are on both the Early Years and Childcare Registers. There is a [separate framework](#) for those providers.

2. The regulation system

2.1 The legal basis for regulation

The [Childcare Act 2006 \(the Act\)](#) establishes Her Majesty's Chief Inspector of Education, Children's Services and Skills (HMCI) as the authority for the regulation of childminding and childcare on domestic and non-domestic premises (see definitions in Chapter 7) in England. It gives HMCI responsibility for the registration and inspection of providers who are registered on the Childcare Register and the responsibility for enforcement where it appears that legal requirements are not being met.

The Act and associated regulations set out the requirements with which providers must comply and against which their provision is regulated. This includes [The Childcare \(General Childcare Register\) Regulations 2008](#), as amended in the [Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014](#).

Setting up and operating childcare provision also entails compliance with other statutory requirements, for example those relating to planning and building control, health and safety, employment law, food and hygiene, disability and anti-discriminatory legislation. These are not within Ofsted's remit.

2.2 What is regulation?

There are three aspects to the regulation of providers on the Childcare Register. These are:

- registration of applicants
- inspecting providers to check that they continue to meet legal requirements for registration
- taking enforcement action where requirements for registration are not met or where provision that should be registered is operating without registration

2.3 The purposes of regulation

The purposes of regulation are to:

- make sure children are safe in whatever type of registered provision they attend and that they are cared for by adults who are suitable to do so
- make sure registered providers meet and continue to meet the requirements for registration; these are set out in [The Childcare \(General Childcare Register\) Regulations 2008](#) and the [Childcare \(Welfare and Registration Requirement\) \(Amendment\) Regulations 2014](#)
- provide information to the Secretary of State for Education and to Parliament about registered childcare provision

2.4 The Childcare Register

The Childcare Register has 2 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 for a period or total periods of more than 2 hours in any one day unless registration is not required. These providers are usually childminders who care for children when they are

not in school or those that provide wrap-around care at either end of the school day or in school holidays.

The voluntary part

Providers who are not eligible for compulsory registration may choose to register on this part if they can meet its requirements. They care for children for 2 or more hours in any one day or for a period of less than 2 hours where this includes care attached to a normal school day (care immediately before or after normal school hours). These providers mainly care for children aged 8 and over before and after the school day or in school holidays, or provide care in the child's home (nannies).

[Section 18 of the Childcare Act 2006](#) defines childcare as any form of care for a child including education or any other supervised activity. It excludes from this definition:

- education, or any other supervised activity, provided by a school for a registered pupil who is not a young child
- any form of health care for children
- care provided by relatives
- fostering arrangements
- care provided in any of the following:
 - a children's home
 - a care home
 - a hospital in which a child is a patient
 - a residential family centre
 - a young offender institution or secure training centre

We may use our enforcement powers against any person who provides childcare requiring registration without being registered. This includes those providers who must join the compulsory part of the Childcare Register. Providing unregistered childcare is an offence and may lead to prosecution. Ofsted is also able to serve a notice requiring unregistered childminders to stop providing this service. Ignoring such a notice may lead to prosecution.

Ofsted does not hold all these powers for those providers who do not need to register. Joining the voluntary part of the Childcare Register is a choice providers may make. They can provide their service without registration and may continue to provide it if they resign from the register or we cancel registration.

3. Registration

The process of registration on the Childcare Register involves a number of checks on those connected with the registration and a self-declaration from the applicant that they will meet the requirements for registration. Details of the registration process are available in the [Become a registered early years or childcare provider in England](#) guide.

3.1 Before applying

The local authority has a duty to provide information, advice and guidance to persons who intend to provide childcare in their area. All applicants are directed to local authorities for pre-registration advice before they

complete an application form.

Prospective applicants should read all the information carefully before deciding whether or not to make an application, including the 'Become a registered early years or childcare provider in England' guide and the requirements registered providers must meet.

All applicants, including childminders and home childcarers, must make sure they meet the requirements relating to training and first aid ahead of applying or make sure they are booked on courses before they apply. Ofsted cannot register applicants unless they meet the training requirements.

3.2 Making an application

A person who wishes to register as a childminder, home childcarer or childcare provider on the Childcare Register must apply to Ofsted, giving all the information requested. It is an offence to knowingly make a false or misleading statement in an application.

Applicants apply using an [online application form](#). We will provide assistance on 0300 123 1231 for those who have difficulty in accessing or completing the forms.

We will take forward an application when we receive the completed online application form, the fee and a Disclosure and Barring Service (DBS) certificate number for all those connected with the application.

The application fee cannot be refunded if the applicant subsequently withdraws their application or if we refuse to grant registration, or if the applicant makes an application and they are disqualified from providing childcare (see Chapter 3.5 and 3.6). Fee levels depend on the number of hours the provider is caring for children and on the type of provision they offer.

Details of fees can be found in [The Childcare \(Fees\) \(Amendments\) Regulations 2012](#).

For those applying to offer childcare on domestic and non-domestic premises we require a separate application for each of the premises where the care is provided.

For those applying to offer childminding and childcare on domestic or non-domestic premises, we require a separate application for each type of care.

Childminders and home childcarers do not have to make new or separate applications if they move house or wish to care for children from more than one set of domestic premises. However, they must tell us in writing of any changes to the addresses where they provide childminding, or of changes to the premises, in advance if possible, but in any case within 14 days of the change. Childminders may also apply to be a home childcarer on the same application form they complete to apply for registration as a childminder.

Where childminders work together or employ assistants to help them, and the number of people providing childcare or working with children at any one domestic premises exceeds 3, then the law says this is no longer childminding. An application must be made to provide childcare on domestic premises. The applicant may be an individual, a partnership or any other organisational arrangement that wishes to provide the childcare.

3.3 Applications for registration on more than one register

People applying to register on the Early Years Register may also apply to be on one or both parts of the

Childcare Register at the same time and pay only one application fee – that for the Early Years Register. They may choose to do so at application or at any time after registration on the Early Years Register is granted. These applicants must complete the application forms for the Early Years Register and follow the [Become a registered early years or childcare provider in England](#) guide.

People applying to register on the compulsory part of the Childcare Register may also choose to join the voluntary part of the register at the same time and pay a single application fee. They may choose to do so at application or any time after registration on the compulsory part of the register is granted.

A person who is registered only on the Childcare Register cannot choose to join the Early Years Register without making a separate application and paying a separate application fee. This is because we operate more stringent checks, including a registration visit, for those who are delivering the Early Years Foundation Stage.

3.4 Carrying out checks

We carry out a series of checks on all applicants to the Childcare Register and the other people the applicant has identified as being connected with the registration on the application form. These checks contribute towards our decision as to whether applicants are suitable for registration.

We ask for consent from each person involved in an application to carry out and use the information from a series of checks to establish their suitability to work or be in close proximity with children.

For applicants to provide childminding or childcare on domestic premises, we carry out checks on the applicant and all the relevant individuals involved in an application for registration. This includes every person living or working on the premises aged 16 and over where the childminding and/or childcare is to take place; and every person caring for children.

For applicants to provide childcare on non-domestic premises, we distinguish between those applicants whose prime purpose is to provide childcare and those who have a different purpose but also wish to provide childcare (for example a manufacturing company that wants to run a crèche for its employees). We also distinguish, in the number and range of checks we carry out, between those who must register with us on the compulsory part of the Childcare Register and those who choose to do so.

There is more information about those we check in the [Become a registered early years or childcare provider in England](#) guide.

We expect the individual or organisation applying for registration in all cases to check their managers and employees and anyone living or working on the premises where childcare is provided.

3.5 People disqualified from providing registered childcare or working in registered childcare provision

Some people are not allowed to provide registered childcare because they are [disqualified from working with children](#). The main causes of disqualification from working with children include:

- being on the list of persons barred from working with children held by the Disclosure and Barring Service
- certain convictions or charges of an offence against a child

- convictions or charges of certain offences against an adult, for example, murder, kidnapping, rape, indecent assault, assault occasioning actual bodily harm
- being made the subject of a disqualifying order
- being made the subject of an order relating to the care of children, such as a child being removed from their care
- having registration as a childcarer refused or cancelled
- living with someone who is disqualified

People who are disqualified may sometimes register as a childcare provider by applying to Ofsted to waive their disqualification. We will make a decision about whether or not to waive the disqualification. If we refuse to waive the applicant's disqualification then they have the right to the First Tier Tribunal (Health, Education and Social Care Chamber) ('the Tribunal'). We cannot waive disqualification for people who are included on the list of persons barred from working with children held by the Disclosure and Barring Service.

3.6 Requirements for registration on the Childcare Register

We register applicants on the Childcare Register if:

- they confirm in writing to us that they meet the requirements or will meet them when they start to look after children; full requirements are in [The Childcare \(General Childcare Register\) Regulations 2008](#) and [Childcare \(Welfare and Registration Requirements\) \(Amendment\) Regulations 2014](#)
- they provide evidence that at least one person caring for children holds a current first aid certificate
- checks carried out by Ofsted on everyone connected with the application that Ofsted must check demonstrate that the person is suitable to be in regular contact with young children

3.7 The registration decision

Provided that the application and any checks are complete and there is no information to suggest the applicant will not meet requirements, we grant registration and issue a certificate of registration. The certificate sets out the name of the registered person; the address, or in the case of childminders the address(es) at which childminding may take place; and any conditions that apply to their registration. Childminders and childcare providers must display their certificate when providing childcare; home childcarers should show the certificate on request.

3.8 Conditions of registration

Conditions of registration are restrictions on the provision of childcare that apply at all times. We do not normally set conditions but where we do providers must comply with them at all times they provide childcare. It is an offence not to comply with any condition of registration without reasonable excuse. We publish a provider's conditions of registration on their certificate and on our website.

3.9 Refusal of registration

Where we decide to refuse registration we send out a notice of our intention to refuse. The applicant has a right to object to our intention. Where we go on to refuse registration we send notice of our decision.

Applicants have a right to appeal against this decision to the Tribunal. We send details of how to do this with the notice.

3.10 Withdrawal of application

Applicants to the compulsory part of the Childcare Register may withdraw their application at any stage up to the issue of a notice of intention to refuse registration. Applicants may not withdraw their application at that point unless we have no longer decided to refuse their registration.

Applicants may withdraw their application for voluntary registration at any stage, and can continue to provide childcare which does not require compulsory registration.

4. Inspection

We have a power, but not a duty, to inspect those only registered on the Childcare Register. Our power relates to determining that requirements are met and not to reporting on the quality of what is provided, Childcare Act 2006, Section 77 (2) (b). We inspect 10% of providers registered on the Childcare Register each year, which is chosen in one of two ways:

- where we have received a concern that indicates that the provider is not meeting the requirements of the registration
- where the provider is selected for inspection in a structured sample

The structured sample gives a geographical and provider-type spread. We do not inspect a provider within the first 3 months of their registration or a provider that has had an inspection in the last 12 months, unless we receive a complaint about them.

Providers are given little or no notice of an inspection. Group providers normally receive no notice of inspection. Childminders, home childcarers and groups that do not operate regularly, such as summer playschemes, will usually receive a call no more than 5 days before the inspection to check which days they are operating and whether there are children on roll and present. For home childcarers, we also seek the permission of the owner of the premises where they work before inspecting.

4.1 The inspection process

As part of their preparation for inspection, inspectors check any previous inspection letters and information held about the provider, including details of any concerns received and progress with any actions raised at previous inspections.

During the inspection, the inspector will:

- check registration details and assess compliance with, and the provider's understanding of, the requirements of registration
- assess the safety of the registered premises and whether the provider has effectively assessed and minimised any risks
- talk to the provider, the children and any parents or staff members and observe the provision to make sure policies are being put into practice
- assess any staff's understanding of policies and procedures

- look at the recruitment policies, where applicable
- look at the arrangements for making sure unvetted people do not have unsupervised access to children

Inspections do not look at the quality of what is provided and do not award inspection grades, as the purpose of the inspection is to check that the provider is complying with the ongoing requirements of registration.

At the end of the inspection, inspectors give feedback on their findings to the childminder or home childcarer or, in group settings, to the most appropriate person – usually the registered provider, their nominated individual or the day-to-day manager. They explain what needs to be done to meet the requirements of registration if necessary.

4.2 After the inspection

Shortly after the inspection, we send a letter to the provider confirming that the provider was meeting the requirements for registration or that they were not doing so. Where a provider does not comply, we will normally set out in the letter what must be done in order to remain registered.

We publish all inspection letters within 10 working days of the inspection and they remain there for a period of 12 months after the date of the inspection. We do not publish inspection letters relating to childcare in women's refuges or on certain military bases.

We do not publish the names and addresses of home childcarers on our website. We only include the names and addresses of childminders where they have given express permission for us to do so.

5. Compliance and enforcement

Full details of how we deal with matters of compliance and the action we take are set out in the [Early years compliance handbook](#).

5.1 Information about providers

From time to time, we receive complaints or other information about childminders, home childcarers and childcare providers that suggests they may not be meeting the requirements of the Childcare Register.

A complaint can be defined as an expression of concern, a grievance or an allegation directed against any person who is or should be registered under the terms of the Childcare Act 2006.

In most cases, we will inspect to make sure that the provider continues to meet requirements and remains suitable for registration. We will do so within 5 days if the information suggests children may be at risk of harm.

If the concern is not sufficiently serious to prompt an inspection within 5 days, we will refer it back to the provider to deal with and will check what they have done at their next inspection.

We may investigate before inspection where the information is so serious it involves other agencies such as the police or child protection services.

5.2 Investigations

Where serious concerns arise, such as those involving other child protection agencies, we will need to investigate as a first course of action instead of inspecting. Inspectors use their statutory rights of entry set out in [section 77 of the Childcare Act 2006](#).

They will produce an identity document authorised by HMCI showing they have the authority to enter the premises. Intentionally obstructing a registered inspector or another person authorised by HMCI is an offence.

We do not have rights of entry to the premises where home childcarers work unless the home owner gives us permission. Where we need to interview home childcarers we will seek the permission of the home owner or do so elsewhere.

The rights of entry enable inspectors to:

- inspect the premises
- inspect and take copies of any records kept by the provider and any other relevant documentation (including computerised records)
- seize and remove any document, or other material or thing found there, which the inspector has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement
- require any persons to afford him or her facilities and assistance within that person's control as are necessary to enable the member of staff to exercise his or her powers
- take measurements and photographs
- inspect any child being looked after, and their welfare
- interview the provider
- interview in private any person looking after children or living there who consents to be interviewed

Investigations may take place alongside those conducted by other agencies. Where an investigation may lead to prosecution, because an offence is or has been committed, inspectors may gather evidence in accordance with the requirements of section 66 of the Police and Criminal Evidence Act (PACE) 1984.

When a provider or other person has failed to meet requirements for registration, has committed an offence, or has placed the welfare of children at risk, we take enforcement action that is appropriate to the findings of the investigation (see below for the steps we can take).

5.3 Enforcement

We have powers of enforcement when registered persons are failing to meet the requirements of the Childcare Register or conditions of registration, or where an unregistered person is providing childminding or other childcare that requires registration.

We aim to take a consistent and proportionate approach to enforcement. We will consider the particular circumstances of each case before deciding what action to take to bring about compliance or cancel registration

In particular we consider whether it is appropriate to take sanctions against those who are registered only on the voluntary part of the Childcare Register. Such providers may continue to operate without registration

where they continue to provide childcare for which compulsory registration is not required. We will take enforcement action where we wish to make it clear to parents and others that the person has failed to meet requirements for registration.

5.4 Non-statutory means of ensuring compliance

If a registered person is not fully complying in some minor way, we normally give the provider actions that set out what the provider must do and by when. These actions are normally included in the inspection letter but may be sent in a separate letter.

When the provider has completed the actions, they must inform us in writing within the required timescales. Following receipt of this information we may decide another inspection is necessary to check the provider complies with requirements.

5.5 Statutory powers of enforcement

We have a range of statutory powers of enforcement. These include:

- refusing to register an applicant
- imposing upon a registered person new conditions of registration or varying (or removing) existing ones
- serving an enforcement notice on an unregistered person acting as a childminder where that person requires registration on the compulsory part of the Childcare Register
- cancelling a registered person's registration

We can also:

- apply to a magistrate for an emergency order to cancel registration or impose new conditions of registration, or vary or remove existing ones where it would appear that a child is suffering, or would be likely to suffer, serious harm
- suspend a provider's registration where we believe children are at risk or are likely to be at risk of harm.
- prosecute a provider or person for committing an offence, or ask the provider or person to accept a simple caution

In certain circumstances where we take legal steps in relation to a registration we set these out in documents called notice of intention and notice of decision. Applicants and providers have [rights of objection](#) and [rights of appeal](#) to these steps, including to, the Tribunal.

6. Carrying out our regulatory work

Our regulatory and inspection work is carried out by people who work for Ofsted. All inspectors and other staff carry identification that they must show providers before entering their premises.

6.1 Conduct of inspectors

Inspectors are expected to carry out registration visits, inspections and investigations in a way that aims to secure the full cooperation and confidence of the provider. Inspectors will:

- be thoroughly prepared and understand the nature of the provision
- have thorough knowledge and understanding of the Act, regulations, requirements and guidance for inspectors
- maintain the highest professional standards in line with Ofsted's code of conduct

Inspectors must uphold the highest professional standards in their work, and ensure that everyone they encounter during inspections or regulatory visits is treated fairly and with respect and benefits from the inspection. Ofsted's code of conduct requires inspectors to:

- evaluate objectively, be impartial and inspect without fear or favour
- evaluate provision in line with frameworks, national standards or requirements
- base all evaluations on clear and robust evidence
- have no connection with the provider that could undermine their objectivity
- report honestly and clearly, ensuring that judgements are fair and reliable
- carry out their work with integrity, treating all those they meet with courtesy, respect and sensitivity
- endeavour to minimise the stress on those involved in the inspection
- act in the best interests and well-being of service users
- maintain purposeful and productive dialogue with those being inspected, and communicate judgements clearly and frankly
- respect the confidentiality of information, particularly about individuals and their work
- respond appropriately to reasonable requests
- take prompt and appropriate action on any safeguarding or health and safety issues

6.2 Expectations of providers

In order that inspection and regulation are productive and beneficial for providers, it is important that inspectors and providers establish and maintain a professional working environment based on mutual courtesy and respectful behaviour.

Inspectors are expected to uphold the code of conduct, but Ofsted also expects providers to:

- be courteous and respectful
- apply their own codes of conduct in their dealings with inspectors
- allow inspectors to conduct their visit in an open and honest way
- allow inspectors to evaluate the provision objectively against the standards/framework
- provide reasonable evidence that will enable the inspector to report honestly, fairly and reliably about their provision
- work with inspectors to minimise disruption, stress and bureaucracy
- maintain a purposeful dialogue with the inspector or the inspection team
- draw any concerns to the attention of inspectors promptly and in a suitable manner
- respect that inspectors will, on occasions, need to observe practice and talk to staff and users without the presence of a manager or registered person.

In any instance of implied or actual harassment, abuse or intimidation, inspection activity may be

suspended, with Ofsted asserting its right to take appropriate action in support of its staff.

6.3 The quality of regulatory work

Ofsted monitors the quality of its regulatory work through a range of formal processes, including accompanying inspectors on inspection visits to providers to make sure they conduct the inspection properly.

In the rare event that Ofsted has identified elements of the evidence base which are not sufficiently sound, an inspection and/or inspection report may be judged by Ofsted to be incomplete. In this situation the provider will be notified that the inspection is incomplete and that a further visit may be necessary, to make sure that enough evidence is gathered and secure the inspection judgements.

All registered providers will be invited to complete a post-registration or post-inspection survey.

6.4 Complaints about Ofsted

From time to time we also receive complaints about our own service. Any concerns the provider has about a registration visit, inspection or investigation should be raised and, where possible, resolved with the inspector during the visit.

If it has not been possible to resolve concerns, then providers may decide to [lodge a formal complaint](#).

7. Definitions

Here is an explanation of some of the terms used in this framework.

7.1 Childcare Act 2006

The law that sets out:

- duties on local authorities to improve outcomes for children and to ensure access to information about provision in their area
- the legal provisions for the regulation and inspection of provision for children from birth to age 17
- the Early Years Foundation Stage: this is the framework for the delivery of quality integrated care and education for children from birth to the 31 August following their fifth birthday

7.2 Childminder

A person who is registered to look after one or more children to whom they are not related on domestic premises for reward.

Childminders work with no more than 2 other childminders or assistants. They:

- care for children at a private dwelling that is not the home of one of the children
- care for children from more than 2 families wholly or mainly in the home of one of the children
- must register to care for children under the age of 8

- can choose to register to care for older children

Childminders care for at least one individual child for a total of more than 2 hours in any day. This is not necessarily a continuous period of time. For example, if they provide care for the same child aged under 8 for an hour before and an hour and a half after school then registration is due; however, if they provide care for one child aged under 8 for an hour before school and provide care for a different child aged under 8 for an hour and a half after school then registration is not required.

7.3 Childcare providers on domestic premises

People providing care on domestic premises with at least 3 other people.

The difference between childminding and childcare on domestic premises is the number of people involved. If 4 or more people look after children at any time, they are providing childcare on domestic premises, not childminding.

7.4 Childcare providers on non-domestic premises

Registered providers that care for children on premises that are not someone's home.

These premises can range from converted houses to purpose-built nurseries and are usually known as day nurseries, private nursery schools, pre-schools and before and after school clubs for children in the early years age group.

7.5 Childcare Register

A register of providers who are registered by Ofsted to care for children from birth to 17 years. The register has 2 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 8 and over, or providing care in the child's home, usually nannies

7.6 Domestic premises

Any premises which are wholly or mainly used as a private dwelling – that is, someone's home.

A home is where someone lives outside any work or study. This means they normally have meals there, sleep there and spend their leisure time there.

7.7 Early years age group

Children aged from birth until the 31 August following their fifth birthday who attend early years settings that deliver the Early Years Foundation Stage.

7.8 Early Years Foundation Stage

The [statutory framework for the early education and care of children](#) from birth to the 31 August following their fifth birthday.

The Early Years Foundation Stage includes requirements for the provision of young children's safeguarding and welfare, and their learning and development, which all providers must meet, as well as good practice guidance. The Early Years Foundation Stage must be delivered by all schools and early years settings that are registered on the Early Years Register.

7.9 Early Years Register

A register of providers who are registered by Ofsted to care for children in the early years age group. Unless exempt, the following must register on the Early Years Register:

- maintained and independent schools, including academies, directly responsible for provision for children from birth to the age of 3 or where no child attending the provision is a pupil of the school; schools that admit children who are 3 during the term in which they start school, known as 'rising threes', may treat those children as 3-year-olds for the purposes of registration
- childcarers, such as childminders, day nurseries, pre-schools, wrap-around provision and private nursery schools, which provide for children in the early years age group

More information about registration on the Early Years Register and exempt providers is in the [Become a registered early years or childcare provider in England](#) guide.

7.10 Home childcarer

A person aged 18 or over who cares for the children aged birth to 17 years of no more than 2 families at any one time wholly or mainly at the home of one of the children. This includes nannies.

7.11 Registered person

An individual or organisation that is registered to provide childcare.

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