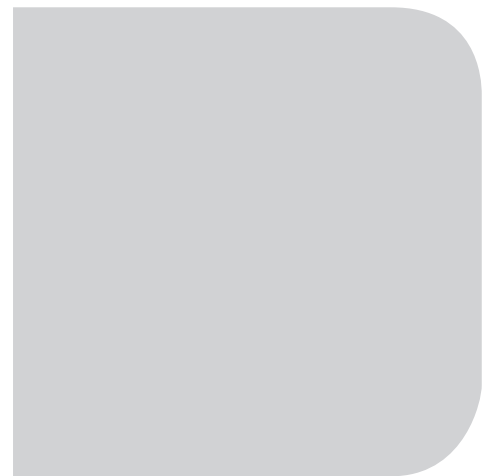
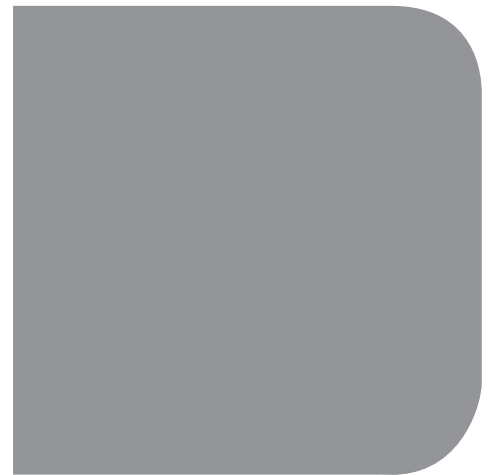


Day care and childminding: Guidance to the National Standards

Revisions to certain criteria

October 2005



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Introduction

The *National standards for under 8s day care and childminding* are a set of outcomes that providers must achieve.¹ Each standard describes a particular quality outcome, and is accompanied by a set of supporting criteria giving information about how that outcome is to be achieved. Ofsted produced further guidance to help day-care providers meet these national standards.²

From October 2005 the Department for Education and Skills (DfES) introduce revisions to some of the criteria in the national standards. This document updates our guidance to help you understand the most significant changes. It must be read alongside the main guidance documents. These continue to be the main source of help and advice about interpreting the national standards.

They are:

Full day care: Guidance to the National Standards

Sessional day care: Guidance to the National Standards

Out of school care: Guidance to the National Standards

Crèches: Guidance to the National Standards

Childminding: Guidance to the National Standards

Day care: Guidance to the National Standards September 2003

Childminding: Guidance to the National Standards February 2004

How to use this guidance

You must use this document alongside the revisions to the national standards, published by the DfES, commencing in October 2005. It covers childminding and all types of day care unless otherwise stated. It identifies national standard headings where criteria or regulations have changed, or where regulations are added. It uses the same section headings as the main guidance documents. You must use this revised guidance instead of the advice in the main documents for each of these section headings. For easy reference we have set out the page numbers where we have made changes for each type of day care and childminding throughout the document.

¹ *National standards for under 8s day care and childminding* is available from your local authority or the DfES website www.dfes.gov.uk

² *Guidance to the National Standards* is available from your local authority or the Ofsted website www.ofsted.gov.uk

Standard 1: Suitable Person

Adults providing day care, looking after children or having unsupervised access to them are suitable to do so.

Suitable staff

(1.1 – 1.2) (pages 7 & 8) All types of day care only

Until October 2005, Ofsted was responsible for deciding on the suitability of all day-care staff to work with children. Ofsted was also responsible for deciding that those who live or work on premises where day care is provided, for example cooks or caretakers, were suitable to be in regular contact with children. This duplicated the proper responsibilities of the day-care provider in making sure that their employees are suitable for their particular job roles, and that the children in their care are protected from those who are unsuitable to be in contact with them. As part of Ofsted's process we routinely carried out checks on those people working for day-care providers or living on the premises. From 3 October 2005, Ofsted no longer carries out these checks.

A new law comes into place on 3 October 2005 that removes Ofsted's responsibility to make the decision about suitability. The registered day-care provider will remain responsible for ensuring that those in their employment, or living and working on the premises, are suitable to look after or be in contact with children, and this responsibility is being clarified in the law so that Ofsted can check that the provider is operating properly.³ These changes apply to members of staff working in day care only, or who live or work on the premises where day care is provided. They do **not** apply to:

- the applicant for registration
- any changes to the registered person where this is an organisation, for example, a committee
- the manager or person in charge of providing actual day to day care.

Why are we making these changes?

Although Ofsted had the responsibility for making a decision about a person's suitability to work or be in contact with children, we did not make the decision about employment. That was clearly the responsibility of the registered provider. The change allows registered providers to make the decision about

³ Part XA of the Children Act 1989, as amended by the Children Act 2004, section 79B(4)(a) requires the registered person to make adequate arrangements to ensure that – (i) Every person (other than himself and the responsible individual) looking after children on the premises is suitable to look after children under the age of eight; and (ii) every person (other than himself and the responsible individual) living or working on the premises is suitable to be in regular contact with children under the age of eight.

employment based on a full range of information available to them and not dependent on a separate decision by Ofsted.

When making a decision about the suitability of individuals Ofsted was not allowed to share detailed information arising from checks, for example from the Criminal Records Bureau (CRB). This caused potential conflict as occasionally Ofsted held information that indicated an individual was not suitable but could not tell the employer why. In addition employers often had entered into an employment contract with an individual before receiving Ofsted's decision.

What this means for you

As the registered provider, you are responsible for having in place suitable vetting processes to safeguard children in your care. You must have in place rigorous vetting and recruitment procedures that make sure that those who work for you or who work or live on the premises where you provide day care are suitable for both employment and to work or be in regular contact with young children. You need to undertake any necessary checks that provide you with sufficient information on which to base your employment decision. One of those checks must be a check against police records and the relevant lists held by the DfES, through the CRB.

When making your decision, you should carefully consider any information that is revealed about a person as a result of any check. When considering such matters you may wish to think about:

- what information the individual disclosed
- the circumstances surrounding the event
- the person's level of involvement in the event
- the age of the person at the time of the event
- previous and subsequent good character
- any other mitigating circumstances.

Where you are not able to carry out such checks, for example because you do not have authority to check those who live on the premises, you must make sure that they cannot have unsupervised access to children.

Applying for Criminal Records Bureau disclosures

All people who work directly with children must have an Enhanced CRB Disclosure. To obtain this, you will need to

- use an organisation contracted by the DfES to process subsidised checks on your behalf
- use another organisation, registered by the CRB, who will process a check with the CRB on your behalf. Such organisations may charge a fee for this service

- register with the CRB as a body authorised to carry out checks. This option is normally only available to large organisations which carry out a large number of checks.

Ofsted will send details of how to obtain CRB checks for day-care staff from an organisation contracted by the DfES when acknowledging receipt of an application to provide childcare.

Persons who are disqualified

Some people are not allowed to work with children because they are disqualified to do so. It is an offence if you employ someone who you know to be disqualified from working with children.

Some of the things that disqualify people from working with children are:

- 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 on the Protection of Children Act (POCA) list of persons considered unsuitable to work with children
- being on the DfES List 99 of people that are considered not fit and proper persons to work with children
- being made the subject of a disqualifying order⁴
- being made the subject of an order where a child has been removed from his/her care or been prevented from living with him/her.

If you think that someone you are considering employing has a conviction that may disqualify them from working with children, then the person concerned or yourself can talk confidentially about this with Ofsted by calling our helpline on **08456 40 40 40**. You can find out more about the details of what disqualify people from working with children in the regulations relating to disqualification. A full list of all the circumstances that disqualify people from working with children is available in The Child Minding and Day Care (Disqualification) (England) Regulations 2005.

People who are disqualified may sometimes register as a childcare provider or work with children by applying for a waiver from Her Majesty's Chief Inspector (HMCI). If you want to apply for such a waiver please contact Ofsted on **08456 40 40 40**. If you want to employ someone who is disqualified, or discover that someone you employ is disqualified then you must tell Ofsted. The person must apply to Ofsted to have disqualification waived. Ofsted will make a decision about whether to waive the

⁴ Criminal Justice and Court Services Act 2000, Section 33 gives the power of a senior court (Crown court and above) to make an individual the subject of a disqualification order if, in their opinion, they believe that the convicted individual will continue to be a risk to children.

disqualification but will not make the employment decision. If Ofsted decides to waive the disqualification as an employer you must still carry out the required vetting to make the decision that person is suitable to work or be in contact with children.

Ofsted cannot waive a disqualification for people who are included on the POCA list.

What Ofsted looks for

Although Ofsted itself no longer assesses the suitability of day care staff, we will assess how well you make decisions about the suitability of your staff during our regular inspections of day-care providers. As part of the inspection, the childcare inspector will look for evidence that you have secure procedures for vetting and recruiting staff and that any person who has not been vetted is never left alone with the children.

All those who apply for registration from 3 October 2005 must undertake full checks on all proposed staff and make a judgement on suitability prior to registration being granted. Ofsted will continue to make the decision about whether the applicant and manager are suitable to work with children. Ofsted will not make the employment decision about the manager.

Ofsted will continue to be responsible for assessing the suitability of all staff where we receive the application to register before 3 October 2005 but have not yet made the registration decision.

During the registration process, or at inspection, the childcare inspector may ask you to provide evidence of:

- having carried out an enhanced CRB disclosure, including the number and date of issue following the CRB code of practice on handling Disclosures
- references
- full employment history
- qualifications
- interviews
- medical suitability
- any other checks you have undertaken.

The inspector may also ask individual members of staff for sight of their Enhanced Disclosure.

When asking for evidence of the above, inspectors will not determine the suitability of members of staff working for you. However, if we are not satisfied that you are acting in accordance with the national standards and other legal requirements in relation to the recruitment and vetting of staff, we

will assess your continued qualification to provide day care. If necessary we will take action to safeguard the welfare of children.

Standard 2: Organisation

The registered person meets required adult: child ratios, ensures that training and qualifications requirements are met and organises space and resources to meet the children's needs effectively.

Childminding only (2.2)

This new bullet point clarifies Ofsted's existing guidance.

Full day care, sessional care, out of school and crèches

Registration system

(2.13) (page 12)	Full day care
(2.11) (page 13)	Crèches
(2.13) (page 13)	Out of school care
(2.12) (page 13)	Sessional care

This criterion now includes an asterisk at the end of the first sentence to indicate a mandatory requirement in regulations.

Standard 3: Care, Learning and Play

The registered person meets children's individual needs and promotes their welfare. They plan and provide activities and play opportunities to develop children's emotional, physical, social and intellectual capabilities.

Early Learning Goals

(3.9) (page 17)	Full day care
(3.9) (page 17)	Sessional care
(3.7) (page 13)	Childminding

This criterion has been reworded to reflect that it applies only to providers who are in receipt of nursery education funding.

Birth to three matters

(3.10)	Full day care and Sessional care
(3.8)	Childminding

A new criterion has been added to reflect the importance of the DfES publication *Birth to three matters – a framework to support children in their earliest years* for anyone caring for children who are 3 years and under. It is

intended to promote effective practice in the care and education of young children up to three years of age. The framework is likely to contribute to positive outcomes for children in those settings where it is used.

What the inspector looks for

- whether or not the framework is used in the setting and how it is used, for example to plan and assess
- how the setting plans to promote the outcomes for children under three if the setting does not use the framework
- how the use of the framework influences the outcomes for children.

Standard 7: Health

The registered person promotes the good health of children and takes positive steps to prevent the spread of infection and appropriate measures when they are ill.

Medicine

(7.7) (page 37)

(7.6) (page 33)

(7.6) (page 33)

(7.7) (page 35)

(7.8) (page 26)

Full day care

Crèches

Out of school care

Sessional care

Childminding

The wording remains the same. The asterisk has been moved from the end of the sentence to after the word 'children'. This is to make clear that the mandatory requirement in regulations is to keep records of all medicines administered to children but not to include the signing of the record book by parents. However, this remains good practice.

Sick Children

(7.12) (page 37)

(7.11) (pages 34 & 35)

(7.11) (page 35)

(7.12) (page 37)

(7.12) (page 27)

Full day care

Crèches

Out of school care

Sessional care

Childminding

The wording of the regulations has changed.

Children Act Regulations – you must notify Ofsted of any communicable diseases as defined by the Health Protection Agency. Ofsted should be notified of any food poisoning affecting two or more children looked after on the premises or any child having a serious disease on the premises.

Standard 11: Behaviour

Adults caring for children in the provision are able to manage a wide range of children's behaviour in a way which promotes their welfare and development.

Physical punishments

(11.4) (page 48)	Full day care
(11.4) (pages 43 & 44)	Crèches
(11.4) (page 45)	Out of school care
(11.4) (page 47 & 48)	Sessional care
(11.5) (page 36 & 37)	Childminding

The wording at 11.4 (11.5) remains the same but the asterisk has been moved from the end of the sentence to after the word 'used' in the middle of the sentence. This is to make clear that the mandatory requirement in regulations is not to use physical punishment. It is good practice not to threaten use of such punishments.

Standard 12: Working in Partnership with Parents and Carers

The registered person and staff work in partnership with parents to meet the needs of the children, both individually and as a group. Information is shared.

Information for parents

(12.1) (page 50)	Full day care
(12.1) (page 45)	Crèches
(12.1) (page 47)	Out of school care
(12.1) (page 49)	Sessional day care
(12.1) (page 38)	Childminding

For day-care providers, the wording of the fourth bullet point remains the same, but the asterisk has been moved from the end of the sentence to after the procedure. This is because the mandatory requirement is to have a complaints procedure and not the address and telephone number of the regulator. However this is good practice. It is not a mandatory requirement for childminders to have a written procedure but it is good practice.

Complaints

(12.3) (page 51)	Full day care
(12.3) (page 46)	Crèches
(12.3) (page 48)	Out of school care
(12.3) (page 50)	Sessional day care

(12.3) (pages 38 & 39) Childminding

The following regulations now apply:

Children Act Regulations – you must investigate all complaints made in writing or in electronic form from parents where these relate to one or more of the national standards. You must provide the parent who made the complaint with an account of the findings and of any action taken as a result within 28 days. You must make a written record of complaints, any action taken, and the outcome of any investigation, and provide a summary on request to any parent of a child for whom you act as a childminder or provide day care and Ofsted. Records must be retained for a period of 10 years from the date on which the record was made.

At times parents may have concerns about the service you provide. Most of these can be resolved by talking to the parent and taking appropriate and prompt action. However, there may be occasions when parents make a formal complaint about your service in writing or by email. If the complaint relates to one or more of the national standards, it is now a mandatory requirement for you to investigate the complaint, take any necessary action and tell the parent the outcome of your findings. You must also keep a record of such complaints.

You need to consider:

- what your arrangements are for sharing your complaints procedure with parents
- how you will provide a copy of the procedure to any parent who requests one
- to which national standard(s) the complaint relates
- how you will investigate the complaint
- how you will inform parents of the findings of your investigation and any action you have taken, or propose to take as a result of the complaint
- how you will record the complaint and any action taken
- how you will make a summary available to any parent for whom you act as a childminder, and Ofsted.

Complaints records should include information on:

- the national standard(s) to which the complaint relates
- the nature of the complaint
- how you dealt with the complaint
- any actions you have taken or propose to take as a result of your findings

- whether the parent has been provided with an account of the findings, and any action taken, within 28 days of the date on which the complaint was made.

There is a copy of a suggested format for a complaints record, and guidance on its completion included as an Annex to this guidance. This is also available on the Ofsted website www.ofsted.gov.uk. You may photocopy this form as required. You may also design your own complaint record, but it must contain all the details listed above.

From time to time Ofsted receives complaints about providers. We will normally refer all such complaints to the provider to investigate in the first instance. In exceptional circumstances, for example where there are child protection allegations about a provider, we will refer the complaint to the appropriate agency and take any necessary action ourselves about the continued registration of the provider.

Notifying inspection to parents (12.9)

The following regulations now apply:

Children Act Regulations – where reasonably practicable, you must notify parents that you are to be inspected where you have had notification of a forthcoming inspection. You must, where reasonably practicable, provide a copy of the report to parents of children attending within five working days of receiving the report. This regulation applies to those parents who have given you their name and address; and whose children have attended the provision for the 12 weeks before the inspection; and for at least two periods of two hours in every such week. You may charge a fee for providing a copy of the report not exceeding the cost of supply.

Where Ofsted has given you notice of an inspection, you must let parents know the date in advance. This helps parents contribute their views to the inspector if they wish to do so. Ofsted may check to see how you have done this where we give notice.

Unless you offer short-term provision, for example, crèches, holiday playschemes and open access schemes, you must make a copy of the report available to the parents of all children in your care. Ofsted may check to see whether you have done this. If you have not done so, and cannot demonstrate why you were unable to do so, then Ofsted may take action.

This requirement does not apply to holiday playschemes and open access provision

Standard 13: Child Protection

The registered person complies with local child protection procedures approved by the Area Child Protection Committee and ensures that all adults working and looking after children in the provision are able to put the procedures into practice.

Written statement

13.2 All types of day care

13.3 Childminding

Paragraph 13.2 (day care) is reworded to make it clear the mandatory requirements in regulations. Area Child Protection Committees will be replaced by Local Safeguarding Children Boards by 1 April 2006.

Annex C: Nursery schools – Full day care

There are now new regulations applying to school teaching qualifications.

Annex: Provider complaints record and how to complete the complaints record

Provider complaints record

Date of complaint			
A: Source of complaint			
Parent (in writing, including email) ⁵ Parent (in person) Parent (phone call)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Staff member Anonymous Ofsted (include complaint number if known) Other (please state)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
B: Nature of complaint (please tick all standards that the complaint relates to)			
Standard 1: Suitable Person Standard 2: Organisation Standard 3: Care, Learning & Play Standard 4: Physical Environment Standard 5: Equipment Standard 6: Safety Standard 7: Health	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Standard 8: Food and Drink Standard 9: Equal Opportunities Standard 10: Special Needs Standard 11: Behaviour Standard 12: Working in Partnership with Parents and Carers Standard 13: Child Protection Standard 14: Documentation	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Please give details of the complaint:			

⁵ Regulations require providers to investigate all complaints notified to them, in writing, by a parent of a child attending the setting.

C: How it was dealt with

Internal investigation Investigation by Ofsted Investigation by other agencies (please state)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
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Please give details of any internal investigation or attach any outcome letter from Ofsted:

D: Actions and outcomes

Internal actions Actions agreed with Ofsted Changes to conditions of registration Other action taken by Ofsted No action Actions imposed or agreed with other agencies	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
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Please give details:

Has a copy of this record been shared with parents? Yes or No

Name of recorder:	Outcome notified to parent: Yes (within 28 days)⁶ Date:
Position: Name: Signature:	Date Completed:

⁶ Regulations require providers to give an account of the findings of the investigation into the complaint and any action taken to the parent who made the complaint, within 28 days of the date of the complaint.

How to complete the complaints record

You are not required to use this complaints record. If you wish to use a different form it must include all of the information held in this record. Ofsted will check your complaints record at all inspections from October 2005.

When completing the record you should bear in mind it must be shared with any parent who asks to see it as well as with Ofsted. It is important to maintain appropriate confidentiality when filling in the record. This means that you should not name the person making the complaint or any persons (adults and children) that relate to the complaint.

A. Source of complaint

You need to record here who made the complaint. Where people complain to Ofsted, we will normally refer all such complainants to you in the first instance. Where Ofsted carries out an investigation into your continued suitability to provide childcare following a complaint, we will tell you of the outcome of our investigation. Where we do this, you should enter Ofsted as the source and the Ofsted complaint number, if known.

B. Nature of complaint

The record is intended only for complaints relating to the national standards. You must record here one or more national standards to which the complaint refers. If you are unsure you should refer to your national standards and the accompanying guidance. You must record all details associated with the complaint, taking care not to name individuals. For example, use 'child A', 'staff member B'.

C. How it was dealt with

You must provide information on how you investigated the complaint. You will need to record:

- the process that you took to ensure that the complaint was fully investigated, such as interviews, reviews of records
- who was involved in the investigation without identifying any individuals named in the complaint including staff or any child
- any referrals you made to an external agency, for example local authority environmental health departments or social services.

D. Actions and outcomes

You must provide details about the outcome of your investigation. You will need to record:

- any action(s) identified by you

- any actions set or taken by Ofsted
- any action taken by another external agency, where you have their permission to do so
- the outcome of your investigation, identifying any areas where you feel you could make improvement to your provision
- if you dismissed any members of staff following the investigation and if so, under what circumstances. If you have dismissed a member of staff for misconduct, because they placed a child at risk of significant harm, you may need to refer the individual for inclusion onto the Protection of Children Act (POCA) list. You can find out how to do this by ringing Ofsted on **08456 40 40 40**

You must share an account of the findings of your investigation and the action, if any, that you took or you intend to take as a result of your investigations with parents at the setting. You must do this within 28 days from the date the complaint was made. You can do this by sharing this record. If they ask you to do so, or if you think it is appropriate, you should send a separate letter to the parent who made the complaint giving more detail.

