

# Building better children's services

Objections and appeals by registered childminders and childcare providers

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We are responsible for the regulation of childminders and childcare providers in England. Those wishing to provide childminding or childcare that requires registration for children aged under eight **must** register with us, unless exempt from doing so.<sup>1</sup> This includes:

- childcare provision on domestic or non-domestic premises
- childminding on domestic premises.

We register suitable applicants on:

- the **Early Years Register** if they offer childminding or childcare for children in the early years age group (children aged from birth to the 31 August following their fifth birthday)
- the **Childcare Register** (the compulsory part) if they offer childminding or childcare for children aged from the 1 September following their fifth birthday until their eighth birthday.

We also accept applications from providers who offer childminding or childcare that do not require registration, but who **choose** to register with us on the voluntary part of the Childcare Register. This includes: providers offering childminding or childcare for children aged eight to 17; home childcarers, such as nannies, caring for children in the home of one of the children; and other providers who are not required to register, such as those providing sports activities.<sup>2</sup>

We can register childminders and childcare providers on either or both registers depending on the type of service(s) they

offer and age range of the children for whom they provide care.

## Suitability to provide care

As part of our duty to make sure that both you and the premises are suitable for registration we may:

- refuse your application for registration
- change the conditions that apply to your registration – we may add new conditions, vary existing ones or remove them. Conditions restrict or provide permission for the registration to operate in a particular way, such as limiting the number of children for whom a provider may care for or allowing overnight care
- refuse an application from you to vary or remove conditions
- cancel your registration
- apply to a magistrate for an emergency order to vary conditions of registration or cancel registration
- suspend your registration
- refuse an application from you to waive your disqualification from registration.

## Appealing against suspension of registration

If you wish to appeal against a suspension, please see our leaflet *Information for providers and parents and carers on suspending the provision of childcare*: [www.ofsted.gov.uk/publications/080056](http://www.ofsted.gov.uk/publications/080056).

## Appealing against our refusal to waive disqualification

If you wish to appeal against our refusal to waive your disqualification, please see our leaflet *Applying to waive a disqualification in connection with childminding and childcare* (link).

## Notices of intention

Before we:

- refuse your application for registration
- change the conditions that apply to your registration
- refuse an application from you to vary or remove conditions
- cancel your registration

We tell you about this in a letter called a **notice of intention**.<sup>3</sup> The notice sets out what we intend to do and why. If you do not believe we are right, you can object to what we intend to do (see 'What is an objection?' below).

A notice of intention is a legal document which we serve by registered post or deliver by hand. We send or deliver it to the person or organisation registered to provide care, at the address given to us as the registered address.

If you do not understand the notice, you should telephone our helpline on 08456 404040. You may also ask your local authority, a national childcare organisation or a legal adviser for help. Local authorities give information and advice to childminders or childcare providers, usually through their Family Information Service.

## What is an objection?

An objection is your opportunity to tell us why we should reconsider taking the step set out in a notice of intention. It allows you the opportunity to provide any new or additional information which we may not be aware of, or tell us what steps you have

taken since receiving the notice. We will take into account the additional information you provide before we make our final decision.

You do not have to object to our notice of intention, but if you decide to do so you must write to or email us at the address given on the notice. You must do this within **14 days** after receiving the notice. At this stage, you only need to tell us that you want to object.

## Making an objection

You may object by:

- writing to us setting out your reasons for your objection; or
- attend a meeting, known as an objection panel, in person and explaining your reasons; or
- arranging for someone to attend the objection panel on your behalf.

## Objection panel

We convene a panel of three Ofsted managers to consider all objections. Two of these managers will not have had any previous involvement in the case. We may ask someone to take notes if you or a representative attends for you, but in total no more than four Ofsted staff will be present on the day.

The people on the panel will not cross-examine anyone making the objection, but may ask them to clarify information given on the day. Similarly, you or your representative cannot cross-examine the panel.

If you attend, or you ask a representative to do so, we will arrange for the objection panel to take place at a venue that you can get to easily.

## Objection panel decision

The panel will consider your objection, taking account of the additional information you provide on the day or give in writing.

We will write to tell you about the panel's decision within 10 working days from the day of the panel. This letter will tell you:

- if the panel agrees with you and upholds, or partially upholds, your objection. It will also explain what steps, if any, we will take. In some cases this may result in us sending you a new notice of intention. You may raise a new objection to any step we propose to take under this new notice
- if the panel does **not** agree with you, and the reasons for this.

## Notices of decision

If you do not object, or if you object and we do not agree with your objection, we will confirm our decision in another letter called a **notice of decision**. Like a notice of intention, this is a legal document sent to you by hand or recorded delivery. You have the right to appeal against our decision to an independent body, the Health, Education and Social Care Chamber (the Chamber).<sup>4</sup>

## Emergency orders

We can take steps to protect children in situations where we believe that a child is, or children are, at risk of significant harm. We can apply to a magistrate for an emergency order to vary the conditions of registration or cancel a registration. If the order is granted it takes effect immediately.<sup>5</sup>

You have the right to appeal against an emergency order to the Chamber.

## Making an appeal

You may appeal against a notice of decision regardless of whether you have objected to our intention.

An appeal is a legal process and allows you to explain to the Chamber why you believe that our decision is wrong. You will have the opportunity to cross-examine us. We will have the same opportunity to cross-examine you.

You can represent yourself or you can have a legal representative.<sup>6</sup> It is our practice to have legal representation when we appear at a Chamber.

## How to make an appeal

You may request an appeal by writing to the secretary of the Chamber. You **must** do this within:

- **three months** of the notice of decision to refuse your registration
- **28 days** of other notice of decisions, emergency orders made by magistrates' courts, and refusals to waive disqualification
- **10 days** of the notice of suspension of your registration.

The Chamber will send you the relevant information. You can contact the Chamber by:

- writing to the secretary of the Health, Education and Social Care Chamber at: 18 Pocock Street, London, SE1 0BW
- telephoning 020 7960 0660 (line open 09.00 to 17.00, Monday to Friday)
- faxing 020 7960 0661 or 0662
- emailing\* [CST@tribunals.gsi.gov.uk](mailto:CST@tribunals.gsi.gov.uk)
- using the website\* [www.carestandardstribunal.gov.uk](http://www.carestandardstribunal.gov.uk)

You can also request a copy of the Chamber's guidance to help you through the process.

## Chamber decisions

The Chamber will either decide you are right, and allow the appeal, or dismiss it.

If your appeal is against refusal or cancellation of your registration, the decision of the Chamber takes effect immediately.

If your appeal is against conditions of registration, the Chamber can:

- add a condition of registration
- remove a condition of registration
- keep the existing conditions
- vary the conditions that apply to your registration.

In these cases, we will issue a new certificate of registration or will write to you to confirm that your existing certificate will continue.

You may have the right to a review or appeal against the Chamber's decision. When sending you the reasons for its decision, the Chamber will tell you about your rights of review or appeal and how to do this.<sup>7</sup>

### Useful addresses and contacts

- Ofsted National Business Unit  
Royal Exchange Building  
St Anne's Square  
Manchester M2 7LA  
Helpline: 08456 404040  
Website:  
[www.ofsted.gov.uk/parents](http://www.ofsted.gov.uk/parents).
- Family Information Services  
national helpline: 0800 298 9121.
- Acts of Parliament and supporting legislation. You can find the Acts and other legislation mentioned in this leaflet online at  
[www.opsi.gov.uk](http://www.opsi.gov.uk).

### Additional information and supporting notes

1. Section 33 and 34, and section 52 and 53 of the Childcare Act 2006 set out the requirements for registration. You can find out more about the requirements for registration in publications available from our website:

- *Guide to registration on the Early Years Register: childcare provider on domestic or non-domestic premises*  
([www.ofsted.gov.uk/publications/080017](http://www.ofsted.gov.uk/publications/080017))

- *Guide to registration on the Early Years Register: childminder*  
([www.ofsted.gov.uk/publications/080013](http://www.ofsted.gov.uk/publications/080013))
- *Guide to registration on the Childcare Register*  
([www.ofsted.gov.uk/publications/080032](http://www.ofsted.gov.uk/publications/080032)).

2. Chapter 4 of the Childcare Act 2006 sets out the legal basis for joining the voluntary part of the Childcare Register.

3. Section 73 of the Childcare Act 2006 sets out the procedure for us taking certain steps.

4. The Health, Education and Social Care Chamber is an independent body established under section 3 of the Tribunals, Courts and Enforcement Act 2007. The functions of the Care Standards Tribunal transferred to the Chamber on 3 November 2008.

5. Section 72 of the Childcare Act 2006 sets out the legal basis for the protection of children in an emergency.

6. You can contact your local Citizen's Advice Bureau, local authority or childcare organisation for advice about legal representation.

7. Rule 30 of The Tribunal Procedure (First-tier Tribunal)(Health, Education and Social Care Chamber) Rules 2008.

\*For now, the Chamber is not updating its email and website to reflect its new name.

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