

The numbers and ages of children that providers on the Early Years and Childcare Registers may care for

A childcare factsheet

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361

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Introduction

1. This factsheet sets out our policy regarding the numbers and ages of children that registered providers may care for when registered on the Early Years and Childcare Registers.
2. From September 2012, in most cases, we will no longer set out the numbers and ages of children that registered providers may care for through conditions of registration. Registered providers may decide how many children they can care for in line with the legal requirements. These are set out in section 3 of the *Statutory framework for the Early Years Foundation Stage*¹ and the relevant regulations for the Childcare Register.² This will allow providers to be much more flexible in the service they offer without having to ask our permission to make changes. For example, if a group provider decides they want to take more two-year-olds and fewer three- to five-year-olds, they can make the necessary changes by referring to the relevant sections of the Early Years Foundation Stage (EYFS). We will check that providers continue to meet the requirements at inspection.
3. The EYFS allows us to decide if some providers must have a higher adult to child ratio than normal to ensure the safety and welfare of children. If we decide to do this, we will continue to limit the number and/or ages of children those providers may care for in a condition of registration set out on their registration certificate. For example, we may restrict the ages of children someone may care for if they have a medical condition that prevents them from lifting children. In the majority of cases, it will not be necessary for us to do this.

Childminders: numbers and ages of children

4. The EYFS sets out the ages and maximum numbers of children up to the age of eight that childminders can look after in paragraphs 3.39 – 3.41. Childminders must take account of the following factors that may limit the numbers and ages they can care for:
 - whether there are any other children under eight years of age who they regularly care for, including their own children, any foster children, children of relatives, or any other child they look after regularly without payment – childminders **must** include these children in the overall number that they may care for in this age range

¹ *Statutory framework for the Early Years Foundation Stage*, DfE, 2012;
<http://www.education.gov.uk/schools/teachingandlearning/curriculum/a0068102/early-years-foundation-stage-eyfs>.

² The Childcare (General Childcare Register) (Amendment) Regulations 2012;
<http://www.legislation.gov.uk/uksi/2012/1699/contents/made>

- any children aged eight and over who they regularly care for, and whether these children affect the space available to younger children or the time the childminder can spend with them – childminders **may have to** reduce the number of children they look after if they care for older children; we will check if they meet the younger children’s needs at inspection
- whether any children or adults regularly present, including those they provide a childminding service for, have additional needs that require extra care – childminders **may have to** reduce the number they childmind if children have particular needs
- the space available for childminding: space requirements are set out in paragraph 3.56 of the EYFS – childminders **must** reduce the number of children they care for if they do not have enough space for the maximum number
- any health or other difficulties they might have that prevent them from caring for some children (such as difficulties in lifting) – if the childminder has such difficulties, we will normally **restrict** the number of children that they can care for in a condition of registration
- when looking after children overnight, whether they need to reduce the maximum number of children they can care for in order to meet any overnight needs, including sleeping arrangements and being within the hearing of the childminder.

Exceptions to the numbers and ages of children

Looking after more children in the early years age group³

5. In some circumstances, childminders may care for more children in the early years age group, providing they do not exceed the maximum number of six children at any one time. These circumstances are exceptional and are not intended to be the norm. How to decide on when to apply such an exception is explained in paragraphs 6–9. Childminders do not have to inform or seek permission from Ofsted to change the number of children they care for. However, they must be able to demonstrate at all times that they meet the needs of all the children who attend. This includes their care needs and helping them to make progress in their learning and development.
6. Paragraph 3.40 in the EYFS allows childminders to care for more than one baby in certain circumstances. Childminders may also care for more children in the

³ The early years age group refers to children aged from birth to 31 August following their fifth birthday.⁴ A school day is defined as two sessions with a break in the middle of the day, between those two sessions (Department for Education) - *Regulation 10(1) of the Education (Schools and Further Education) Regulations 1981*.

early years age group if the children are aged four and five and attend other provision for a normal school day⁴ and/or the school holidays.

7. Paragraph 3.29 in the EYFS also allows childminders to care for more children, including babies, in the early years age group through an overarching 'exceptional circumstances' statement. In each case, before agreeing to take on a baby or older child as an exception, the childminder must make sure they can continue to meet the needs of all the children who attend, including making sure children are safe and that they receive an enjoyable and challenging learning experience. The childminder must make this decision in relation to each child they care for as an exception. Paragraph 3.29 does not give the permission to operate with more children in the early years age group at all times without an assessment as to whether an exception is appropriate.
8. Ofsted may also restrict the number of children childminders may care for through conditions of registration. We will only do this in circumstances where we judge a childminder cannot care for the full range of children, for example because they have a medical condition that might prevent them from lifting children.
9. In all cases, when deciding to care for additional children in the early years age group childminders should consider:
 - the length of time they are providing care
 - whether their furniture and equipment is sufficient
 - how they will deliver the learning and development requirements of the EYFS to all the children they care for and help them make the best possible progress
 - how they organise their day so that all children get enough of their time
 - whether they have assessed and mitigated any risks in relation to taking on any additional children, for example through considering how they might have to rearrange play spaces to cope with an extra child or manage outings.

Working with assistants or other childminders

10. If a childminder works with one or more assistants or in partnership with other childminders, they may be able to increase the number of children they care for to a maximum of six aged under eight for each adult caring for the children. However, some of the factors listed above, such as the space available and any

⁴ A school day is defined as two sessions with a break in the middle of the day, between those two sessions (Department for Education) - *Regulation 10(1) of the Education (Schools and Further Education) Regulations 1981*.

restrictions we impose,, may limit the total number. There are also other factors that might prevent a childminder from doing this, which are not part of their registration as a childminder: for example the local authority's rules for planning permission to run a business, and any tenancy or leasehold arrangement childminders might hold that prevent them from running a business from home. Childminders may wish to check these and also that their public liability insurance allows them to have extra children before deciding to do so.

11. If a childminder is working with assistants or other childminders, each person must meet the ratios at all times. The EYFS allows childminders to leave a childminding assistant unsupervised with children for up to two hours in a single day with parental permission. This permission must be in writing if the childminder is on the voluntary part of the Childcare Register. If childminders choose to leave children alone with an assistant they cannot leave an assistant with more than six children under eight and only three of these children can be in the early years age group and only one of these may be under one.
12. Although childminders may decide to increase the number of children they can care for when working with an assistant or another childminder, they must always tell us if they intend to work with an assistant, or if the people they work with change. This is because the law requires childminders to tell us about all people who are living or working on the premises where childminding is provided so that we can check to see if they are suitable to be in contact with children.

Examples

Example 1

13. A registered childminder is asked to take baby twins two days a week in addition to caring for a child of two full time. Her own children are aged six and seven and she has to take them to and from school. She decides that she can do so as she has made arrangements with the parents to use the twins' own equipment, and she will use her bedroom as a sleeping area in addition to the areas of her house she already uses. She plans to use the school run as part of the arrangements for outdoor play, as she passes the local park on her way to and from school. She can spend time with the two-year-old while the twins are sleeping on the days they are with her, and plan additional outings to the local children's centre on the days they are not. She consults the parent of the two-year-old before agreeing to take the twins.
14. We would judge at inspection whether the childminder's arrangements for outdoor play and for the development of the twins and the two-year-old sufficiently met their needs, which is likely given the arrangements she has put in place.

Example 2

15. An individual has applied to become a childminder. As part of the registration process we undertook a check with her GP. The GP confirmed the childminder's declaration of her long-standing back condition. This will cause her some difficulty in sitting on the floor and constantly lifting small children. The applicant talked to the inspector at the registration visit and explained she wished to be registered to look after children who need little lifting. She explained how she manages her condition with her own children who are now nine and thirteen years old. Her condition is controlled with regular exercise and pain relief. The applicant is not undertaking any treatment at the hospital and does not need to see a specialist. The applicant has a good understanding about her responsibilities and the requirements childminders must meet.
16. We judge that the applicant is suitable for registration but place a condition on her certificate that only allows her to care for children aged three and over. The applicant is reminded that should her health problem deteriorate to a level that may affect her suitability she should notify us.

Example 3

17. A childminder cares for three children in the early years age group. The parent of one of the children, a two-year-old who is with the childminder from 8am until 2pm, asks if she can extend the hours until 6pm. Her work pattern has changed and she must work full time for the next three months. This would mean that for three days a week the childminder would have four children under the age of five, as she currently looks after a three-year-old for three days between 3pm and 5pm. The parents of both children are keen to maintain continuity of care for their children who are very settled with the childminder. The childminder realises that she needs extra equipment and must change her daily routine so that most of her outings take place when she does not have four children. She borrows extra resources from the childminder resource centre.
18. We would judge at inspection whether the arrangements meet the needs of the children and they are likely to do so.

Childcare on non-domestic and domestic premises: numbers and ages of children

19. When deciding on the maximum numbers of children they may take, group providers must take into account:
 - the adult to child ratios set out in the EYFS paragraphs 3.27 – 3.38
 - the children's needs, including any identified additional needs that may require higher ratios

- the space they have available and how they organise it – the space requirements are set out in paragraph 3.56 and the accompanying footnote of the EYFS
 - the ages of the children they take and how these are grouped
 - staff qualifications and experience and how they are deployed
 - the activities provided and whether these need additional adult support or specific qualifications. This especially applies to those providers on the Childcare Register who may offer, for example, specialist sports provision⁵
 - how they notify parents of the arrangements they have in place.
20. The EYFS sets out the minimum adult to child ratios. These ratios apply to all types of group care, including group care provided on domestic premises where four or more people work together⁶. The ratios apply to the total number of staff available to work directly with children across the provision and not within individual spaces or rooms.
21. Many providers do not organise their provision in the age range groups set out in the adult to child ratios in the EYFS and must make decisions about numbers of children and staff in each area or for each group of children based on the needs of the children. When considering staff deployment, providers should take into account:
- the available space and how it is organised
 - staff experience
 - staff qualifications
 - whether children at all times are within the sight or hearing of suitably checked adults who form part of the staff ratio
 - the individual needs of children, including:
 - what children are doing
 - their personal and emotional needs
 - the support they need to participate in activities, including any identified additional support
 - the way that children are grouped
 - times they may need additional support, such as on separating from their parents.

⁵ There is more information on play provision and staff qualifications available in our factsheets <http://www.ofsted.gov.uk/resources/factsheet-childcare-regulating-play-based-provision>

⁶ EYFS section 3.27 – 3.38 *Statutory framework for the Early Years Foundation Stage*, DfE, 2012; <http://www.education.gov.uk/schools/teachingandlearning/curriculum/a0068102/early-years-foundation-stage-eyfs>

Examples

Example 1

22. A registered provider takes up to 40 children aged three to five years divided into three separate areas. The provider wants to extend its service to allow parents to take advantage of the Government's offer of free early education for two-year-olds. In order to accommodate two-year-olds, the provider has allocated one of the three areas for children of this age. Its space allows for 16 children aged three to five but only 15 two-year-olds. The provider has two staff working in this area but this number of staff would only support eight two-year-olds. The provider decides to take on one additional staff member so that they may offer places to 12 two-year-olds in total. This is a reduction in overall numbers of four children and the provider intends to adjust information to parents to reduce the maximum number of children to 36 and change the age range. The provider has also bought new equipment more suited to the needs of two-year-olds and has plans to recruit a new staff member with specific expertise with this age group.
23. The provider intends to reduce numbers over time and has plans to offer more places for two-year-olds if take-up is good. The provider does not need to notify Ofsted of these arrangements. We will judge at inspection if the arrangements meet the needs of children. They are likely to do so because the provider has paid attention to the space available, staffing arrangements and the needs of two-year-olds.

Example 2

24. A registered provider looks after eight children with special educational needs in her own home where she employs three other staff to work with her. She wants to extend her house to create a larger space with disabled facilities to allow her to take disabled children. She has notified Ofsted of the additional room as this will affect the space available to children. The provider intends to take two additional children with disabilities and use one additional carer if she finds she cannot support the additional needs.
25. We have noted this information to check at the next inspection, and have brought forward the date of that inspection as we want to make sure that the needs of the children are met.

Example 3

26. An individual has applied to open a day nursery in a large converted house. The downstairs has four large rooms, two bathrooms, a utility area (that will be converted into a nappy changing area), a kitchen and a garden. The applicant intends to use two of the rooms (room A and B – 34.5 m² each) for 3–5-year-olds; one room (room C – 42 m²) for babies and those in nappies; and one room (room D – 60 m²) for toddlers out of nappies up to the age of three. The

applicant has indicated on her application form that she intends to care for no more than 60 children at any one time in the four rooms, although the space for each room would indicate that she could take a maximum of 66. She explains to the inspector at the registration visit how she has arrived at this figure and shows the inspector her calculations based on the room sizes deducting space needed for furniture and equipment, including a fixed cupboard for storage.

27. At the registration visit, the inspector will check the provider's understanding of the space requirements as well as her understanding of the ratio and qualification requirements. The calculations show that the applicant has considered the net or useable space and has made appropriate deductions for furniture and equipment, showing her understanding of the space requirements.

More information from Ofsted

There is more information on the requirements for registration on the Early Years Register in the *Guide to registration on the Early Years Register: childcare provider on non-domestic or domestic premises*,⁷ and on the Childcare Register in the *Guide to registration on the Childcare Register*.⁸

You can find out more information on the Childcare Register requirements in *Requirements for the Childcare Register: childminders and home childcarers*.⁹

Further information

The *Statutory framework for the Early Years Foundation Stage* is available from the Department for Education's website:
<http://www.education.gov.uk/schools/teachingandlearning/curriculum/a0068102/early-years-foundation-stage-eyfs>.

Your local family information service can provide help with childcare vacancies available locally. You can get their contact details from the telephone directory or from the Daycare Trust website:
www.familyinformationservices.org.uk/index.php?option=com_comprofiler&task=userslist&listid=7&Itemid=72.

⁷ *Guide to registration on the Early Years Register: childcare provider on non-domestic or domestic premises*, Ofsted, 2012; www.ofsted.gov.uk/resources/120083.

⁸ *Guide to registration on the Childcare Register*, Ofsted, 2012; www.ofsted.gov.uk/resources/120084.

⁹ *Requirements for the Childcare Register: childminders and home childcarers*, Ofsted, 2012; www.ofsted.gov.uk/resources/080161.