

Specific legal requirements under EYFS (updated 01/09/2022)

Safeguarding

- An effective safeguarding children policy and procedure must be implemented. This must include the procedure to be followed in the event of an allegation being made against a member of staff.¹
- The provider must ensure that all members of staff understand the safeguarding policy and procedure.
- All providers must notify any child protection agency (usually local children's services or the police) previously identified by the Local Safeguarding Children Board (LSCB), without delay, of allegations of abuse as above.
- Registered providers must inform Ofsted of any allegations of serious harm or abuse by any person living, working, or looking after children at the premises (whether that allegation relates to harm or abuse committed on the premises or elsewhere), or any other abuse which is alleged to have taken place on the premises, and of the action taken in respect of these allegations.
- Registered providers must inform Ofsted of these allegations as soon as is reasonably practicable, but at the latest within 14 days of the allegations being made. A registered provider, who, without reasonable excuse, fails to comply with this requirement, commits an offence.
- Except in childminding settings, a practitioner must be designated to take lead responsibility for safeguarding children within the setting and liaising with local statutory children's services agencies as appropriate. They must also attend a child protection training course.²

Information and complaints

- Providers must engage with, and provide the following information for, parents:³
 - the type of activities provided for the children;
 - the daily routines of the provision;
 - the staffing of the provision;
 - food and drinks provided for the children;
 - the provider's policies and procedures, for example, admissions policies, equality of opportunity policy, safeguarding children policy;
 - the complaints procedure (copies to be available on request);

¹ Child abuse policy

² Ashleigh Jones is designated person. "Safeguarding and Child Protection" course on 20/09 run by Hilary Shaw, designated senior officer for safeguarding and child protection department of RBK&C. Course completed by Chitra Kripalani, Valentina Luvara, Karin Bernard

³ Handbook, website

- details for contacting Ofsted and an explanation that parents can make a complaint to Ofsted should they wish;
 - the procedure to be followed in the event of a parent failing to collect a child at the appointed time;
 - the procedure to be followed in the event of a child going missing.
- Providers must obtain necessary information from parents in advance of a child being admitted to the provision, including:⁴
 - emergency contact numbers;
 - the child's special dietary requirements, preferences or food allergies the child may have;
 - the child's special health requirements;
 - information about who has legal contact with the child; and who has parental responsibility for the child.
 - Written parental permission must be requested, at the time of the child's admission to the provision, to the seeking of any necessary emergency medical advice or treatment in the future.⁵
 - Registered providers must put in place a written procedure for dealing with concerns and complaints from parents and keep a written record of complaints and their outcome⁶
 - Registered providers must investigate all written complaints relating to the requirements and notify complainants of the outcome of the investigation within 28 days of having received the complaint.
 - Registered providers must provide Ofsted, on request, with a written record of all complaints made during any specified period, and the action which was taken as a result of each complaint.
 - Independent schools must ensure that the complaints procedure they are required to have in place for the rest of the school also applies to their early years provision.
 - Parents must be given free access to developmental records about their child (for example, the EYFS Profile). However, a written request must be made for personal files on the children and providers must take into account data protection rules when disclosing records that refer to third parties.⁷

Illnesses and injuries

- Registered providers must notify Ofsted of any of the above events and of any serious accident, illness or injury to, or death of, any child whilst in their care, and of the action taken in respect of it.

⁴ Database, Information request

⁵ Contract

⁶ Policy and OP, Complaints book

⁷ Child profile, Leaving CD

- Notification must be made as soon as is reasonably practicable, but in any event within 14 days of the incident occurring. A registered provider who, without reasonable excuse, fails to comply with this requirement, commits an offence.
- Providers must notify local child protection agencies of any serious accident or injury to, or the death of, any child whilst in their care and act on any advice given.
- At least one person who has a current paediatric first aid certificate must be on the premises at all times when children are present. There must be at least one person on outings who has a current paediatric first aid certificate. First aid training must be approved by the local authority and consistent with guidance set out in the Practice Guidance for the Early Years Foundation Stage.⁸
- Providers must have a first aid box with appropriate content to meet the needs of children.
- Providers must keep a record of accidents and first aid treatment. Providers must inform parents of any accidents or injuries sustained by the child whilst in the care of the providers and of any first aid treatment that was given.⁹
- Providers must discuss with parents the procedure for children who are ill or infectious.¹⁰

Food and drink

- Where children are provided with meals, snacks and drinks, these must be healthy, balanced and nutritious. Those responsible for the preparation and handling of food must be competent to do so.
- Fresh drinking water must be available at all times.
- Registered providers must notify Ofsted of any food poisoning affecting two or more children looked after on the premises. Notification must be made as soon as is reasonably practicable, but in any event within 14 days of the incident occurring. A registered provider who, without reasonable excuse, fails to comply with this requirement, commits an offence

Smoking

- Providers must ensure that children are in a smoke-free environment.

⁸ Awaiting Jaqueline Jones advice on RBK&C approval list

⁹ Accident book

¹⁰ Handbook

Behaviour management

- Providers must not give corporal punishment to a child for whom they provide early years provision and, so far as it is reasonably practicable, shall ensure that corporal punishment is not given to any such child by:
 - any person who cares for, or who is in regular contact with, children;
 - any person living or working on the premises.
- An early years provider who, without reasonable excuse, fails to comply with this requirement, commits an offence.
- A person shall not be taken to have given corporal punishment in breach of the above if the action was taken for reasons that include averting an immediate danger of personal injury to, or an immediate danger of death of, any person (including the child).
- Providers must not threaten corporal punishment, nor use or threaten any form of punishment which could have an adverse impact on the child's well-being.
- Providers must have an effective behaviour management policy which is adhered to by all members of staff.

Safe recruitment

- Providers other than childminders must have effective systems in place to ensure that practitioners and other people aged 16 or over likely to have regular contact with children (including those living or working on the premises) are suitable to do so. (In the case of childminders, Ofsted is responsible for checking the suitability of all those aged 16 or over living or working on the premises.)
- Providers other than childminders must obtain an enhanced Criminal Records Bureau (CRB) Disclosure in respect of every person aged 16 or over:
 - who works directly with children;
 - who lives on the premises on which the childcare is provided;
 - who works on the premises on which the childcare is provided (unless they do not work on the part of the premises where the childcare takes place, or do not work there at times when children are present).
- This requirement will be deemed to have been met in respect of all people whose suitability was checked by Ofsted or their local authority prior to October 2005.
- Providers must not allow people whose suitability has not been checked to have unsupervised contact with children who are being cared for.
- Providers other than childminders must keep records of the information they have used to assess suitability to demonstrate to Ofsted that checks have been done. Such records must include the unique reference numbers of CRB Disclosures obtained and the date on which they were obtained.¹¹

¹¹ Database

- Providers must also meet any requirements of the new Independent Safeguarding Authority (ISA) scheme once it has been implemented. For more information about the ISA go to www.everychildmatters.gov.uk/independentsafeguardingauthority and www.isa-gov.org/index.htm

Registered providers must notify Ofsted of the following:

- In the case of all registered early years providers:
 - any change in the address of the premises on which childcare is provided;
 - particulars of any proposal to change the hours during which childcare is provided which will entail the provision of overnight care;
 - particulars of any significant event which is likely to affect the suitability of the early years provider or any person who cares for, or is in regular contact with, children on the premises to look after children.
- In the case of early years providers other than childminders:
 - any change to the person who is managing the early years provision;
 - where the early years provision is provided by a company, any change in the name or registered number of the company;
 - where the early years provision is provided by a charity, any change in the name or registration number of the charity;
 - where the childcare is provided by a partnership, body corporate or unincorporated association, any change to the 'nominated individual';
 - where the childcare is provided by a partnership, body corporate or unincorporated association whose sole or main purpose is the provision of childcare, any change to the individuals who are partners or members of its governing body.
- Where the specific legal requirements above require notification about a change of person, the information that must be provided to Ofsted is the new person's date of birth, name, any former names or aliases and home address.
- Where it is reasonably practicable to do so, notification must be made in advance of the event occurring. In all other cases, notification must be made as soon as is reasonably practicable, but in any event within 14 days of the event occurring.
- A registered provider who, without reasonable excuse, fails to comply with these requirements, commits an offence.
- The Childcare (Disqualification) Regulations 2007 require registered providers to inform Ofsted of any court order, determination or conviction or any other grounds for disqualification from registration applying to themselves or any other person living or working in their household

Alcohol/other substances

- When working directly with children, practitioners must not be under the influence of alcohol or any other substance which may affect their ability to care for children.

Adults looking after children must have appropriate qualifications, training, skills and knowledge.

- In registered settings other than childminding settings, all supervisors and managers must hold a full and relevant level 3 qualification (as defined by the Children’s Workforce Development Council (CWDC)) and half of all other staff must hold a full and relevant level 2 qualification (as defined by CWDC)¹²

Staffing arrangements must be organised to ensure safety and to meet the needs of the children.

- Providers must meet the requirements for adult:child ratios set out in Appendix 2.
- In registered group settings there must be a named deputy who is able to take charge in the absence of the manager.

Outdoor and indoor spaces, furniture, equipment and toys, must be safe and suitable for their purpose.

- The provider must conduct a risk assessment¹³ and review it regularly – at least once a year or more frequently where the need arises. The risk assessment must identify aspects of the environment that need to be checked on a regular basis: providers must maintain a record of these particular aspects and when and by whom they have been checked¹⁴. Providers must determine the regularity of these checks according to their assessment of the significance of individual risks.
- The provider must take all reasonable steps to ensure that hazards to children – both indoors and outdoors – are kept to a minimum

Premises

- Registered providers must inform Ofsted of any change to the premises on which childcare is provided that may affect the space available to children and the quality of childcare available to them. A registered provider who, without reasonable excuse, fails to comply with this requirement, commits an offence. Where it is reasonably practicable to do so, notification must be made in advance of the event occurring. In all other cases, notification must be made as soon as is reasonably practicable, but in any event within 14 days of the event occurring
- Providers must take reasonable steps to ensure the safety of children, staff and others on the premises in the case of fire, and must have a clearly defined procedure for the emergency evacuation of the premises.

¹² Have requested clarification from CWDC as how they define level 3

¹³ General school risk assessment

¹⁴ These need to be listed along with the name of the person who checked them, the date they were checked and how often they should be checked

- Providers must have appropriate fire detection and control equipment (for example, fire alarms, smoke detectors, fire extinguishers and fire blankets) which are in working order¹⁵

Outdoor and indoor spaces, furniture, equipment and toys, must be safe and suitable for their purpose.

- The premises and equipment must be organised in a way that meets the needs of children.
- In registered provision, providers must meet the following space requirements:
 - children under two years: 3.5 m² per child;
 - two year olds: 2.5 m² per child;
 - children aged three to five years: 2.3 m² per child.
- The provider must ensure that, so far as is reasonable, the facilities, equipment and access to the premises are suitable for children with disabilities.
- The premises must be for the sole use of the provision during the hours of operation.
- The provider must carry public liability insurance for the provision.

Organisation

- Providers must have effective systems to ensure that the individual needs of all children are met.
- Each child must be assigned a key person. In childminding settings, the childminder is the key person.
- Providers must promote equality of opportunity and anti-discriminatory practice and must ensure that every child is included and not disadvantaged because of ethnicity, culture or religion, home language, family background, learning difficulties or disabilities, gender or ability.
- Providers must ensure that there is a balance of adult-led and freely-chosen or child-initiated activities, delivered through indoor and outdoor play.
- Providers must undertake sensitive observational assessment in order to plan to meet young children's individual needs.
- Providers must plan and provide experiences which are appropriate to each child's stage of development as they progress towards the early learning goals

Data¹⁶

- Providers must record the following information for each child in their care:
 - full name;
 - date of birth;

¹⁵ Chubb and other certificates (please check the folder to see if these are up to date)

¹⁶ Database

- the name and address of every parent and carer who is known to the provider;
- which of these parents or carers the child normally lives with;
- emergency contact details of the parents and carers.

Providers' records¹⁷

- Providers must keep the following information and documentation:
 - name, home address and telephone number of the provider and any other person living or employed on the premises (this requirement does not apply to childminders);
 - name, home address and telephone number of anyone else who will regularly be in unsupervised contact with the children attending the early years provision;
 - a daily record of the names of the children looked after on the premises, their hours of attendance and the names of the children's key workers;
 - providers must display their certificate of registration and show it to parents on request;
 - a record of the risk assessment clearly stating when it was carried out, by whom, date of review and any action taken following a review or incident.¹⁸
- Records must be easily accessible and available for inspection by Ofsted (with prior agreement by Ofsted, these may be kept off the premises). Where Ofsted notifies providers in advance of the period in which an inspection will take place, this information must be passed on to parents. (Section 6 of the Education Act 2005 places an equivalent requirement on schools.)
- Providers must ensure that copies of the inspection report are provided to all parents. (Sections 5 and 15 of the Education Act 2005 place an equivalent duty on schools.)¹⁹

Specific legal requirements for ratios of adults to children (as required by page 32 of this document)

Maintained and independent schools and registered early years providers, except for childminders

- The ratio requirements set out the minimum numbers of staff that must be present with the children at any time. It may, according to circumstances, be necessary to exceed these minimum requirements. The provider should consider at all times whether there is adequate supervision of children and ensure that the needs of the individual children being cared for are met.

¹⁷ Database

¹⁸ See note 14

¹⁹ Website

- The numbers of children set out below represent the maximum numbers of children who may be provided for by early years providers. However, the maximum number of children who may be appropriately cared for by a particular provider may be fewer than the maximum numbers given here. In registered provision, Ofsted will make a judgement about the overall maximum numbers of children that a particular provider may be registered to care for which will be set out in the conditions of registration. This judgement will be based on factors such as the amount of space available.
- The ratios relate to staff time available to work directly with children. Sufficient suitable staff must be available to cover staff breaks, holidays, sickness and time spent with parents, in order to ensure that the ratio and qualification requirements are always met in relation to the staff working directly with the children. Additional staff may be required to undertake management tasks, prepare meals, maintain premises and equipment and so on.
- The ratios include any children of staff or volunteers. Any care provided for older children must not adversely affect the care of children receiving early years provision.
- There must be **at least two adults on duty** in a setting at any time when children are present.
- The EYFS ratio and qualification requirements for maintained schools are compatible with the national Agreement and the workforce remodelling agenda which have introduced changes to enable teachers to focus more effectively on their teaching and to enhance the role of support staff. Teacher involvement, due to their specific training and expertise, can have a significant impact on children's learning. Therefore, the teaching and learning in each class or group of pupils aged three and over in maintained schools and nursery schools must be led by a teacher.
- Children aged under two in any early years group setting
 - there must be at least one member of staff for every three children;
 - at least one member of staff must hold a full and relevant level 3 qualification (as defined by CWDC), and have suitable experience of working with children under two;
 - at least half of all other staff must hold a full and relevant level 2 qualification (as defined by CWDC);
 - at least half the staff must have received specific training in the care of babies;
 - the member of staff in charge of the babies' room must have suitable experience of working with children under two years.
- Children aged two in any early years group setting
 - there must be at least one member of staff for every four children;²⁰

²⁰ Note: 1:4 for two year olds

- at least one member of staff must hold a full and relevant level 3 qualification (as defined by CWDC);
 - at least half of all other staff must hold a full and relevant level 2 qualification (as defined by CWDC).
- Children aged three and over in any registered early years provision. Between the hours of 8 am and 4 pm, where a person with Qualified Teacher Status, Early Years Professional Status or another suitable level 6 qualification (which is full and relevant, and defined by CWDC) is working directly with the children, the following requirements apply:
 - there must be at least one member of staff for every 13 children;
 - at least one other member of staff must hold a full and relevant level 3 qualification (as defined by CWDC).
- At any time outside the hours of 8 am and 4 pm, or between the hours of 8 am and 4 pm but where a person with Qualified Teacher Status, Early Years Professional Status or another suitable level 6 qualification (which is full and relevant, and defined by CWDC) is not working directly with the children, the following requirements apply:
 - there must be at least one member of staff for every eight children;
 - at least one member of staff must hold a full and relevant level 3 qualification (as defined by CWDC);
 - at least half of all other staff must hold a full and relevant level 2 qualification (as defined by CWDC).
- Children aged three and over in independent schools, including in reception classes. Where a person with Qualified Teacher Status, Early Years Professional Status or another suitable level 6 qualification (which is full and relevant, and defined by CWDC) is working directly with the children, the following requirements apply:
 - there must be at least one member of staff for every 13 children;
 - at least one other member of staff must hold a full and relevant level 3 qualification (as defined by CWDC).
- Where a person with Qualified Teacher Status, Early Years Professional Status or another suitable level 6 qualification is not working directly with the children, the following requirements apply:
 - there must be at least one member of staff for every eight children;
 - at least one member of staff must hold a full and relevant level 3 qualification (as defined by CWDC);
 - at least half of all other staff must hold a full and relevant level 2 qualification (as defined by CWDC).
- Children aged three and over in maintained schools and nursery schools (except for children in reception classes)
 - The early years provision in each class or group of pupils must be led by a 'school teacher'. A teacher must be present with the children except during non-contact time, breaks and short term absence.



- There must be at least one member of staff for every 13 children.
- At least one member of staff must hold a full and relevant level 3 qualification (as defined by CWDC).