



# Statutory Framework for the Early Years Foundation Stage

May 2008

Setting the Standards for Learning, Development  
and Care for children from birth to five



Every Child Matters

Change For Children



STATUTORY  
FRAMEWORK

department for  
**children, schools and families**

# Statutory Framework for the Early Years Foundation Stage

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# Statutory Framework for the Early Years Foundation Stage

Setting the Standards for Learning, Development and  
Care for children from birth to five





## Section 1 – Introduction

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### Purpose and aims of the Early Years Foundation Stage

- 1.1 Every child deserves the best possible start in life and support to fulfil their potential. A child's experience in the early years has a major impact on their future life chances. A secure, safe and happy childhood is important in its own right, and it provides the foundation for children to make the most of their abilities and talents as they grow up. When parents choose to use early years services they want to know that provision will keep their children safe and help them to thrive. The Early Years Foundation Stage (EYFS) is the framework that provides that assurance.
- 1.2 The overarching aim of the EYFS is to help young children achieve the five *Every Child Matters* outcomes of staying safe, being healthy, enjoying and achieving, making a positive contribution, and achieving economic well-being by:
- **setting the standards** for the learning, development and care young children should experience when they are attending a setting outside their family home, ensuring that every child makes progress and that no child gets left behind;
  - **providing for equality of opportunity** and anti-discriminatory practice and ensuring 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;
  - **creating the framework for partnership working** between parents and professionals, and between all the settings that the child attends;
  - **improving quality and consistency** in the early years sector through a universal set of standards which apply to all settings, ending the distinction between care and learning in the existing frameworks, and providing the basis for the inspection and regulation regime;
  - **laying a secure foundation for future learning** through learning and development that is planned around the individual needs and interests of the child, and informed by the use of ongoing observational assessment.

### Context and legal responsibilities

- 1.3 The EYFS is a central part of the ten year childcare strategy *Choice for parents, the best start for children* and the landmark Childcare Act 2006. The Act provides the context for the delivery of the EYFS and taken together with the other elements of the strategy, the EYFS will be central to the delivery of the new duties on improving outcomes and reducing inequalities.
- 1.4 Recent years have seen significant developments in early years practice and standards. The EYFS builds on these and practitioners will recognise continuity with the principles, pedagogy and approach of the *Curriculum Guidance for the Foundation Stage*, the *Birth to Three Matters* framework, and the *National Standards for Under 8s Daycare and Childminding*. These three frameworks are replaced by the EYFS and will be repealed.
- 1.5 The EYFS is given legal force through an Order and Regulations made under the Act. From September 2008 it will be mandatory for all schools and early years providers in Ofsted registered settings attended by young children – that is children from birth to the end of the academic year in which a child has their fifth birthday.

**1.6** The term 'early years provider' includes: maintained schools; non-maintained schools; independent schools; and childcare registered by Ofsted on the Early Years Register (to be introduced in September 2008), all of which are required to meet the EYFS requirements. From September 2008 it is the legal responsibility of these providers to ensure that their provision meets the learning and development requirements, and complies with the welfare regulations, as required by Section 40 of the Act.

## About this document

**1.7** This document contains the statutory framework for the EYFS. It sets out the legal requirements relating to learning and development (the early learning goals; the educational programmes; and the assessment arrangements) in Section 2 and the legal requirements relating to welfare (safeguarding and promoting children's welfare; suitable people; suitable premises, environment and equipment; organisation; and documentation) in Section 3. The learning and development requirements are given legal force by the Early Years Foundation Stage (Learning and Development Requirements) Order 2007 made under Section 39 (1) (a) of the Childcare Act 2006. The welfare requirements are given legal force by Regulations made under Section 39 (1) (b) of the Childcare Act 2006. Together, the Order, the Regulations and the Statutory Framework document make up the legal basis of the EYFS. The requirements in this document have statutory force by virtue of Section 44 (1) of the Childcare Act 2006.

**1.8** Providers have a duty to ensure that their early years provision complies with the learning and development requirements, and the welfare requirements. In addition, this document contains statutory guidance. All providers must have regard to this guidance, which means they must take it into account and, if they decide to depart from it, they must have clear reasons for doing so and be able to demonstrate that their alternative approach achieves the ends described in this guidance. Ofsted will take account of any failure to have regard to this guidance when exercising its functions, including any proceedings which are brought under the Act.

**1.9** This document is referred to as the *Statutory Framework for the Early Years Foundation Stage* and is part of a package of materials which comprise:

- this document – legal requirements relating to learning and development (including assessment) and the welfare requirements and statutory guidance;
- *Practice Guidance for the Early Years Foundation Stage* booklet – the areas of Learning and Development, non-statutory guidance, additional advice and information;
- EYFS resources for providers and practitioners – CD-ROM, poster and Principles into Practice cards.

## A principled approach

**1.10** The EYFS principles which guide the work of all practitioners are grouped into four distinct but complementary themes:

- A Unique Child
- Positive Relationships
- Enabling Environments
- Learning and Development

**1.11** Effective practice in the EYFS is built on these four guiding themes. They provide a context for the requirements and describe how practitioners should support the development, learning and care of young children. The themes are each broken down into four commitments describing how the principles can be put into practice. The EYFS *Principles into Practice* cards explain how practitioners can use these in their day-to-day work.

- **A Unique Child** recognises that every child is a competent learner from birth who can be resilient, capable, confident and self-assured. The commitments are focused around development; inclusion; safety; and health and well-being.
- **Positive Relationships** describes how children learn to be strong and independent from a base of loving and secure relationships with parents and/or a key person. The commitments are focused around respect; partnership with parents; supporting learning; and the role of the key person.
- **Enabling Environments** explains that the environment plays a key role in supporting and extending children's development and learning. The commitments are focused around observation, assessment and planning; support for every child; the learning environment; and the wider context – transitions, continuity, and multi-agency working.
- **Learning and Development** recognises that children develop and learn in different ways and at different rates, and that all areas of learning and development are equally important and inter-connected.

**1.12** This approach ensures that the EYFS meets the overarching aim of improving outcomes and reflects that it is every child's right to grow up safe; healthy; enjoying and achieving; making a positive contribution; and with economic well-being.

### Setting the standards

**1.13** The EYFS sets standards to enable early years providers to reflect the rich and personalised experience that many parents give their children at home. Like parents, providers should deliver individualised learning, development and care that enhances the development of the children in their care and gives those children the best possible start in life. Every child should be supported individually to make progress at their own pace and children who need extra support to fulfil their potential should receive special consideration. All providers have an equally important role to play in children's early years experiences – for example, a childminder who sees a child for two hours a day should consider what a child's individual needs are at that time of day, and ensure that the provision they deliver is both appropriate to those needs and complementary to the education and care provided in the child's other setting(s). All types of providers have the potential to deliver the EYFS to an excellent standard.

### Providing for equality of opportunity

**1.14** Providers have a responsibility to ensure positive attitudes to diversity and difference – not only so that every child is included and not disadvantaged, but also so that they learn from the earliest age to value diversity in others and grow up making a positive contribution to society. Practitioners should focus on each child's individual learning, development and care needs by:

- removing or helping to overcome barriers for children where these already exist;
- being alert to the early signs of needs that could lead to later difficulties and responding quickly and appropriately, involving other agencies as necessary;
- stretching and challenging all children.



- 1.15** All children, irrespective of ethnicity, culture or religion, home language, family background, learning difficulties or disabilities, gender or ability should have the opportunity to experience a challenging and enjoyable programme of learning and development.

### **Creating the framework for partnership working**

- 1.16** Partnership working underpins successful delivery of the EYFS in a number of different ways.

- Where children receive education and care in more than one setting, practitioners must ensure continuity and coherence by sharing relevant information with each other and with parents. Patterns of attendance should be a key factor in practitioners' planning.
- Close working between early years practitioners and parents is vital for the identification of children's learning needs and to ensure a quick response to any area of particular difficulty. Parents and families are central to a child's well-being and practitioners should support this important relationship by sharing information and offering support for extending learning in the home.
- Practitioners will frequently need to work with professionals from other agencies, such as local and community health services, or where children are looked after by the local authority, to identify and meet needs and use their knowledge and advice to provide children's social care with the best learning opportunities and environments for all children.

### **Improving quality and consistency**

- 1.17** The EYFS brings together and simplifies the learning and development and welfare requirements, in addition to ending the distinction between care and learning and between birth-to-three and three-to-five provision. Most requirements are applicable to all types of setting so that, wherever they send their children, parents can be assured that essential standards of provision are in place.

### **Laying a secure foundation for future learning**

- 1.18** It is crucial to their future success that children's earliest experiences help to build a secure foundation for learning throughout their school years and beyond. Practitioners must be sensitive to the individual development of each child to ensure that the activities they undertake are suitable for the stage that they have reached. Children need to be stretched, but not pushed beyond their capabilities, so that they can continue to enjoy learning. The keys to achieving this are:
- ongoing observational assessment to inform planning for each child's continuing development through play-based activities;
  - a flexible approach that responds quickly to children's learning and development needs;
  - coherence of learning and development across different settings and related to the child's experience at home.

## Section 2 – The learning and development requirements

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### Overview of the learning and development requirements

- 2.1** This section sets out the learning and development requirements that all early years providers must by law deliver, regardless of type, size or funding of the setting. The *Practice Guidance for the Early Years Foundation Stage* and supporting resources provide information and advice designed to help practitioners meet these legal requirements in a way which reflects the needs of the individual children in their care and is appropriate to their setting.
- 2.2** Children are competent learners from birth and develop and learn in a wide variety of ways. All practitioners should, therefore, look carefully at the children in their care, consider their needs, their interests, and their stages of development and use all of this information to help plan a challenging and enjoyable experience across all the areas of Learning and Development.
- 2.3** The Childcare Act 2006 provides for the EYFS learning and development requirements to comprise three elements:
- the early learning goals – the knowledge, skills and understanding which young children should have acquired by the end of the academic year in which they reach the age of five;
  - the educational programmes – the matters, skills and processes which are required to be taught to young children;
  - the assessment arrangements – the arrangements for assessing young children to ascertain their achievements.
- 2.4** There are six areas covered by the early learning goals and educational programmes:
- Personal, Social and Emotional Development;
  - Communication, Language and Literacy;
  - Problem Solving, Reasoning and Numeracy;
  - Knowledge and Understanding of the World;
  - Physical Development;
  - Creative Development.
- 2.5** None of these areas of Learning and Development can be delivered in isolation from the others. They are equally important and depend on each other to support a rounded approach to child development. All the areas must be delivered through planned, purposeful play, with a balance of adult-led and child-initiated activities.

## The early learning goals and educational programmes

**2.6** The statutory early learning goals (detailed below) establish expectations for most children to reach by the end of the EYFS. They provide the basis for planning throughout the EYFS, so laying secure foundations from birth for future learning. By the end of the EYFS, some children will have exceeded the goals. Other children, depending on their individual needs, will be working towards some or all of the goals – particularly some younger children, some children with learning difficulties and disabilities and some learning English as an additional language. Detailed guidance on the early learning goals and how to work with children to achieve them is set out in the *Practice Guidance for the Early Years Foundation Stage*. The section below lists the education programmes followed by the early learning goals for each of the six areas of Learning and Development.

### ***Personal, Social and Emotional Development***

Educational programme

**2.7** Children must be provided with experiences and support which will help them to develop a positive sense of themselves and of others; respect for others; social skills; and a positive disposition to learn. Providers must ensure support for children’s emotional well-being to help them to know themselves and what they can do.

Early learning goals

**2.8** By the end of the EYFS, children should:

- Continue to be interested, excited and motivated to learn.
- Be confident to try new activities, initiate ideas and speak in a familiar group.
- Maintain attention, concentrate, and sit quietly when appropriate.
- Respond to significant experiences, showing a range of feelings when appropriate.
- Have a developing awareness of their own needs, views and feelings, and be sensitive to the needs, views and feelings of others.
- Have a developing respect for their own cultures and beliefs and those of other people.
- Form good relationships with adults and peers.
- Work as part of a group or class, taking turns and sharing fairly, understanding that there needs to be agreed values and codes of behaviour for groups of people, including adults and children, to work together harmoniously.
- Understand what is right, what is wrong and why.
- Consider the consequences of their words and actions for themselves and others.
- Dress and undress independently and manage their own personal hygiene.
- Select and use activities and resources independently.
- Understand that people have different needs, views, cultures and beliefs, that need to be treated with respect.
- Understand that they can expect others to treat their needs, views, cultures and beliefs with respect.

## ***Communication, Language and Literacy***

Educational programme

**2.9** Children's learning and competence in communicating, speaking and listening, being read to and beginning to read and write must be supported and extended. They must be provided with opportunity and encouragement to use their skills in a range of situations and for a range of purposes, and be supported in developing the confidence and disposition to do so.

Early learning goals

**2.10** By the end of the EYFS, children should:

- Interact with others, negotiating plans and activities and taking turns in conversation.
- Enjoy listening to and using spoken and written language, and readily turn to it in their play and learning.
- Sustain attentive listening, responding to what they have heard with relevant comments, questions or actions.
- Listen with enjoyment, and respond to stories, songs and other music, rhymes and poems and make up their own stories, songs, rhymes and poems.
- Extend their vocabulary, exploring the meanings and sounds of new words.
- Speak clearly and audibly with confidence and control and show awareness of the listener.
- Use language to imagine and recreate roles and experiences.
- Use talk to organise, sequence and clarify thinking, ideas, feelings and events.
- Hear and say sounds in words in the order in which they occur.
- Link sounds to letters, naming and sounding the letters of the alphabet.
- Use their phonic knowledge to write simple regular words and make phonetically plausible attempts at more complex words.
- Explore and experiment with sounds, words and texts.
- Retell narratives in the correct sequence, drawing on language patterns of stories.
- Read a range of familiar and common words and simple sentences independently.
- Know that print carries meaning and, in English, is read from left to right and top to bottom.
- Show an understanding of the elements of stories, such as main character, sequence of events and openings, and how information can be found in non-fiction texts to answer questions about where, who, why and how.
- Attempt writing for different purposes, using features of different forms such as lists, stories and instructions.
- Write their own names and other things such as labels and captions, and begin to form simple sentences, sometimes using punctuation.
- Use a pencil and hold it effectively to form recognisable letters, most of which are correctly formed.

## ***Problem Solving, Reasoning and Numeracy***

Educational programme

**2.11** Children must be supported in developing their understanding of Problem Solving, Reasoning and Numeracy in a broad range of contexts in which they can explore, enjoy, learn, practise and talk about their developing understanding. They must be provided with opportunities to practise and extend their skills in these areas and to gain confidence and competence in their use.

Early learning goals

**2.12** By the end of the EYFS, children should:

- Say and use number names in order in familiar contexts.
- Count reliably up to ten everyday objects.
- Recognise numerals 1 to 9.
- Use developing mathematical ideas and methods to solve practical problems.
- In practical activities and discussion, begin to use the vocabulary involved in adding and subtracting.
- Use language such as 'more' or 'less' to compare two numbers.
- Find one more or one less than a number from one to ten.
- Begin to relate addition to combining two groups of objects and subtraction to 'taking away'.
- Use language such as 'greater', 'smaller', 'heavier' or 'lighter' to compare quantities.
- Talk about, recognise and recreate simple patterns.
- Use language such as 'circle' or 'bigger' to describe the shape and size of solids and flat shapes.
- Use everyday words to describe position.

## ***Knowledge and Understanding of the World***

Educational programme

**2.13** Children must be supported in developing the knowledge, skills and understanding that help them to make sense of the world. Their learning must be supported through offering opportunities for them to use a range of tools safely; encounter creatures, people, plants and objects in their natural environments and in real-life situations; undertake practical 'experiments'; and work with a range of materials.

Early learning goals

**2.14** By the end of the EYFS, children should:

- Investigate objects and materials by using all of their senses as appropriate.
- Find out about, and identify, some features of living things, objects and events they observe.
- Look closely at similarities, differences, patterns and change.
- Ask questions about why things happen and how things work.

- Build and construct with a wide range of objects, selecting appropriate resources and adapting their work where necessary.
- Select the tools and techniques they need to shape, assemble and join materials they are using.
- Find out about and identify the uses of everyday technology and use information and communication technology and programmable toys to support their learning.
- Find out about past and present events in their own lives, and in those of their families and other people they know.
- Observe, find out about and identify features in the place they live and the natural world.
- Find out about their environment, and talk about those features they like and dislike.
- Begin to know about their own cultures and beliefs and those of other people.

### ***Physical Development***

Educational programme

**2.15** The physical development of babies and young children must be encouraged through the provision of opportunities for them to be active and interactive and to improve their skills of coordination, control, manipulation and movement. They must be supported in using all of their senses to learn about the world around them and to make connections between new information and what they already know. They must be supported in developing an understanding of the importance of physical activity and making healthy choices in relation to food.

Early learning goals

**2.16** By the end of the EYFS, children should:

- Move with confidence, imagination and in safety.
- Move with control and coordination.
- Travel around, under, over and through balancing and climbing equipment.
- Show awareness of space, of themselves and of others.
- Recognise the importance of keeping healthy, and those things which contribute to this.
- Recognise the changes that happen to their bodies when they are active.
- Use a range of small and large equipment.
- Handle tools, objects, construction and malleable materials safely and with increasing control.

### ***Creative Development***

Educational programme

**2.17** Children's creativity must be extended by the provision of support for their curiosity, exploration and play. They must be provided with opportunities to explore and share their thoughts, ideas and feelings, for example, through a variety of art, music, movement, dance, imaginative and role-play activities, mathematics, and design and technology.

Early learning goals

**2.18** By the end of the EYFS, children should:

- Respond in a variety of ways to what they see, hear, smell, touch and feel.
- Express and communicate their ideas, thoughts and feelings by using a widening range of materials, suitable tools, imaginative and role-play, movement, designing and making, and a variety of songs and musical instruments.
- Explore colour, texture, shape, form and space in two or three dimensions.
- Recognise and explore how sounds can be changed, sing simple songs from memory, recognise repeated sounds and sound patterns and match movements to music.
- Use their imagination in art and design, music, dance, imaginative and role-play and stories.

## The assessment arrangements

*Assessment during the EYFS*

**2.19** Ongoing assessment is an integral part of the learning and development process. Providers must ensure that practitioners are observing children and responding appropriately to help them make progress from birth towards the early learning goals. Where practitioners require additional training in order to assess capably and objectively, it is the responsibility of the provider to ensure practitioners receive the support that they need. Assessments should be based on practitioners' observation of what children are doing in their day-to-day activities. As judgements are based on observational evidence gathered from a wide range of learning and teaching contexts, it is expected that all adults who interact with the child should contribute to the process, and that account will be taken of information provided by parents. An essential feature of parental involvement is an ongoing dialogue, building on the partnership begun by any previous practitioner(s). Settings should report progress and achievements to parents throughout the EYFS.

**2.20** The *Practice Guidance for the Early Years Foundation Stage* sets out detailed formative assessment suggestions in the 'Look, listen and note' sections of the areas of Learning and Development. Practitioners should:

- make systematic observations and assessments of each child's achievements, interests and learning styles;
- use these observations and assessments to identify learning priorities and plan relevant and motivating learning experiences for each child;
- match their observations to the expectations of the early learning goals.

*Assessment at the end of the EYFS – the Early Years Foundation Stage Profile*

**2.21** The EYFS Profile is a way of summing up each child's development and learning achievements at the end of the EYFS. It is based on practitioners' ongoing observation and assessments in all six areas of Learning and Development. Each child's level of development must be recorded against the 13 assessment scales derived from the early learning goals. Judgements against these scales, which are set out in Appendix 1, should be made from observation of consistent and independent behaviour, predominantly children's self-initiated activities.

- 2.22** Some children will have experienced a range of settings during the final year of the EYFS and may have a number of carers. In these cases the EYFS Profile must be completed by the provider where the child spends the majority of time between 8 am and 6 pm. Providers should take account of all available records and of any formal or informal discussions with the parents and with those involved with children in the previous year.
- 2.23** Children with special educational needs may be working below the level of the scales and require an alternative approach to assessment. In these cases providers may use the assessment systems of their local authority or other systems according to the needs of the children.
- 2.24** At the end of the EYFS providers must ensure that children are assessed against the 13 scales in the EYFS Profile. Providers may use the e-Profile (available from local authorities) or their own record keeping systems. Regulations made under Section 99 of the Childcare Act 2006 require early years providers to provide information about the assessments they carry out to local authorities. Local authorities are under a duty to return this data to the DCSF.
- 2.25** Local authorities have a duty to monitor and moderate the EYFS Profile judgements to ensure that providers are making assessments that are consistent across settings. Providers must take part in these arrangements.

#### *Assessment arrangements – the requirements*

**2.26** The assessment requirements are that:

- All providers must make arrangements for each child within the final year of the EYFS to be assessed throughout the year by a practitioner. Practitioners must use the 13 scales and have regard to the scale points as set out in Appendix 1 to complete the EYFS Profile as a record of achievement.
- This must be completed in the final term of the year in which the child reaches the age of five and no later than 30 June in that term.
- Providers must permit the relevant local authority to enter the premises at all reasonable times in order to observe the implementation of the arrangements for the completion of the EYFS Profile.
- Providers must permit the relevant local authority to examine and take copies of documents and other articles relating to the EYFS Profile and assessments.
- Providers must take part in all reasonable moderation activities specified by their local authority.
- Providers must provide the relevant local authority with such information relating to the EYFS Profile and assessment as they may reasonably request.
- Within the final term of the EYFS providers must provide the parent of a child in relation to whom the EYFS Profile has been completed with:
  - a written summary reporting the child’s progress against the early learning goals and the assessment scales;
  - where the parent requests it, a copy of the EYFS Profile;
  - details of the arrangements under which the EYFS Profile and its results may be discussed between a practitioner and the parent, giving a reasonable opportunity for the parent to discuss the EYFS Profile and its results with that practitioner.



- Where a child moves to a new provider during the academic year, the provider should send the following information to the new provider within 15 days of a request from the new provider:
  - any EYFS Profile data recorded by the EYFS provider;
  - the provider’s assessment made in respect of the child;
  - if no EYFS Profile of the child has been recorded by the EYFS provider, the reason why the assessment has not been carried out.



## Section 3 – The welfare requirements

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### Overview of the welfare requirements

- 3.1** This section sets out the welfare requirements that all early years providers must meet, regardless of type, size or funding of the setting. The *Practice Guidance for the Early Years Foundation Stage* and supporting resources provide information and advice designed to help practitioners meet these legal requirements in a way that reflects the needs of the individual children in their care and is appropriate to their setting.
- 3.2** Children learn best when they are healthy, safe and secure, when their individual needs are met and when they have positive relationships with the adults caring for them. The welfare requirements are designed to support providers in creating settings which are welcoming, safe and stimulating, and where children are able to enjoy learning through play, to grow in confidence and to fulfil their potential.
- 3.3** The general legal requirements are listed here and are then expanded with more detailed specific legal requirements in the grids on pages 22-40. Both the general and specific legal requirements have the force of regulations and therefore must be complied with by all early years providers. The grids also contain statutory guidance which providers must have regard to and take into account when seeking to fulfil the general and specific requirements. Where Ofsted considers that a provider has failed to comply with any of the welfare requirements, they may give notice to the provider setting out (i) in what respect the provider has failed to comply with the requirements (ii) what action the provider should take to comply, and (iii) the period within which the provider should take that action. It is an offence for a provider to fail to comply with such a notice.
- 3.4** It is an offence to fail to comply with certain of the welfare requirements. It is an offence for a registered provider to fail to notify Ofsted of certain events, which are set out in the relevant welfare requirements, and also in the Schedule to the welfare regulations. It is also an offence for a provider to give corporal punishment to a child, as set out under behaviour management on page 28 of this document.

### The general welfare requirements

#### Safeguarding and promoting children's welfare

The provider must take necessary steps to safeguard and promote the welfare of children.

The provider must promote the good health of the children, take necessary steps to prevent the spread of infection, and take appropriate action when they are ill.

Children's behaviour must be managed effectively and in a manner appropriate for their stage of development and particular individual needs.

#### Suitable people

Providers must ensure that adults looking after children, or having unsupervised access to them, are suitable to do so.

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

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

## Suitable premises, environment and equipment

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

## Organisation

Providers must plan and organise their systems to ensure that every child receives an enjoyable and challenging learning and development experience that is tailored to meet their individual needs.

## Documentation

Providers must maintain records, policies and procedures required for the safe and efficient management of the settings and to meet the needs of the children.

## Meeting the welfare requirements

**3.5** The requirements are set out in three sections:

- overarching general legal requirements;
- specific legal requirements;
- statutory guidance.

**3.6** Providers must comply with all the legal requirements set out and should have regard to the statutory guidance. Ofsted will base its regulatory and inspection judgements on whether a provider has met the general and specific legal requirements, and has had regard to the statutory guidance. This guidance gives examples of action providers are likely to have to take in order to meet the general and specific legal requirements; however, providers may be able to comply by using other methods, in which case they can depart from the statutory guidance provided that they are able to demonstrate that their alternative approach achieves the same ends.

**3.7** Where it is specified that a registered person must notify Ofsted of the occurrence of events or changes, written notification must be made:

- where it is reasonably practicable to do so, in advance of the event occurring;
- in all other cases as soon as reasonably practicable, but not later than 14 days after the event has occurred.

**3.8** Group providers will be expected to have written copies of any policies and procedures which are required, for example, to safeguard children or promote equality of opportunity. Providers should ensure that all members of staff have been given copies of these policies and procedures as part of their induction, and that they are explained to, and accessible to, all parents.

**3.9** Schools will not be required to have separate policies for the EYFS provided that the requirements are met through their policies which cover children of statutory school age. Childminders will be expected to ensure that any assistants are aware of all policies and procedures, and that they are able to clearly define them for parents and others as and when requested. However, it will not be necessary for childminders to have written copies of these policies and procedures.

**3.10** It is essential that children are provided with safe and secure environments in which to interact and explore rich and diverse learning and development opportunities. Providers need to ensure that, as well as conducting a formal risk assessment, they constantly reappraise both the environments and activities to which children are being exposed and make necessary adjustments to secure their safety at all times.



**The provider must take necessary steps to safeguard and promote the welfare of children.**

## Specific legal requirements

### 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. The provider must ensure that all members of staff understand the safeguarding policy and procedure. Providers must refer to paragraphs 3.8 – 3.9 of this document for details of how to record and make available all of their policies and procedures.

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.

### Statutory guidance to which providers should have regard

All providers should follow the guidance set out in the publication 'What to do if you are worried a child is being abused – Summary' published by DCSF. A link is available on the EYFS CD-ROM. This includes guidance on information sharing and confidentiality.

All practitioners should have an up-to-date understanding of safeguarding children issues and be able to implement the safeguarding children policy and procedure appropriately. Policies should be in line with LSCB local guidance and procedures.

Staff should be able to respond appropriately to any:

- significant changes in children's behaviour;
- deterioration in their general well-being;
- unexplained bruising, marks or signs of possible abuse;
- signs of neglect;
- comments children make which give cause for concern.

## The provider must take necessary steps to safeguard and promote the welfare of children.

### Specific legal requirements

#### Information and complaints

Providers must engage with, and provide the following information for, parents:

- 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);
- 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:

- 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.

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 outcome<sup>1</sup>.

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.

#### Statutory guidance to which providers should have regard

Providers should maintain a regular two-way flow of information with parents and between providers (for example, where the childminder regularly collects the child from nursery).

Providers should ensure that all staff are aware of the need to maintain privacy and confidentiality.

Parents should be allowed access to all written records about their children (except in exceptional cases where data protection laws stipulate it is against the best interests of the child to do so) and, where requested, comments from parents are incorporated into children's records.

The record of complaints should be kept for at least three years.

<sup>1</sup> Childminders are not required to have written policies and procedures. See paragraphs 3.8 and 3.9.

**The provider must take necessary steps to safeguard and promote the welfare of children.**

### Specific legal requirements

#### Premises and security

The premises, both indoors and outdoors, must be safe and secure.

Providers must only release children into the care of individuals named by the parent.

Providers must ensure that children do not leave the premises unsupervised.

Providers must take steps to prevent intruders entering the premises.

#### Statutory guidance to which providers should have regard

Providers should consider where relevant:

- general indoors and outdoors security, such as which doors are locked or unlocked, door alarms, the use of security systems, intercoms and name badges;
- staff awareness of the whereabouts of other people in the building and of other users on the premises;
- information about the need for security and the systems in place, for example, posters and reminders displayed for parents and visitors;
- what additional security measures may be necessary where children stay overnight;
- the use of a system to verify the identity of any visitors, record their names, the purpose of the visit, and details of arrival and departure times;
- arrival and departure procedures for staff, children, parents and visitors;
- except where there is reasonable excuse, obtaining written permission from parents where children are to be picked up by another adult.

### Specific legal requirements

#### Outings

Children must be kept safe whilst on outings.

For each type of outing, providers must carry out a full risk assessment, which includes an assessment of required adult:child ratios. This assessment must take account of the nature of the outing, and consider whether it is appropriate to exceed the normal ratio requirements (as set out in this document), in accordance with providers' procedures for supervision of children on outings. The assessment must be reviewed before embarking on each specific outing.

#### Statutory guidance to which providers should have regard

Providers should obtain written parental permission for children to take part in outings.

Providers should take essential records and equipment on outings, for example, contact telephone numbers for the parents of children on the outing, first aid kit, a mobile phone.

Records should be kept about vehicles in which children are transported, including insurance details and a list of named drivers. Drivers using their own transport should have adequate insurance cover.

**The provider must take necessary steps to safeguard and promote the welfare of children.**

### Specific legal requirements

#### Equality of opportunities

All providers must have and implement an effective policy about ensuring equality of opportunities and for supporting children with learning difficulties and disabilities.

All providers in receipt of Government funding must have regard to the SEN Code of Practice.

#### Statutory guidance to which providers should have regard

The policy on equality of opportunities should include:

- information about how the individual needs of all children will be met;
- information about how all children, including those who are disabled or have special educational needs, will be included, valued and supported, and how reasonable adjustments will be made for them;
- a commitment to working with parents and other agencies;
- information about how the SEN Code of Practice is put into practice in the provision (where appropriate);
- the name of the Special Educational Needs Co-ordinator (in group provision);
- arrangements for reviewing, monitoring and evaluating the effectiveness of inclusive practices;
- information about how the provision will promote and value diversity and differences;
- information about how inappropriate attitudes and practices will be challenged;
- information about how the provision will encourage children to value and respect others.



**The provider must promote the good health of the children, take necessary steps to prevent the spread of infection, and take appropriate action when they are ill.**

### Specific legal requirements

#### Medicines

Providers must implement an effective policy on administering medicines. The policy must include effective management systems to support individual children with medical needs.

Providers must keep written records of all medicines administered to children, and inform parents.

Providers must obtain prior written permission for each and every medicine from parents before any medication is given.

### Statutory guidance to which providers should have regard

Providers should ensure that they have sufficient information about the medical condition of any child with long-term medical needs.

Providers should ask parents about the medicines that their child needs to take and provide details of any changes to the prescription or the support required. If the administration of prescription medicines requires technical/medical knowledge then individual training should be provided for staff from a qualified health professional. Training should be specific to the individual child concerned.

Medicines should not usually be administered unless they have been prescribed for that child by a doctor, dentist, nurse or pharmacist. Non-prescription medication e.g. pain and fever relief or teething gel may be administered, but only with the prior written consent of the parent and only when there is a health reason to do so. A child under 16 should never be given medicines containing aspirin unless it has been prescribed for that child by a doctor. It is for the provider to arrange who should administer medicines, either on a voluntary basis or as part of a contract of employment.

Medicines should be stored strictly in accordance with product instructions and in the original container in which dispensed. They should include prescriber's instructions for administration.

### Specific legal requirements

#### 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. 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*.

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.

Providers must discuss with parents the procedure for children who are ill or infectious.

### Statutory guidance to which providers should have regard

The procedure should cover arrangements for the exclusion of children who are ill or infectious; and the protocol for contacting parents or another adult designated by the parent if a child becomes ill or receives minor injuries whilst in the provider's care.

Providers must ensure that any animals on the premises are safe to be in the proximity of children and do not pose a health risk.

If providers have reason to believe that any child is suffering from a notifiable disease identified as such in the Public Health (Infection Diseases) Regulations 1988, they should inform Ofsted. Providers should act on any advice given by the Health Protection Agency and inform Ofsted of any action taken. A link to the Health Protection Agency's list of notifiable diseases is provided on the EYFS CD-ROM.

**The provider must promote the good health of the children, take necessary steps to prevent the spread of infection, and take appropriate action when they are ill.**

### Specific legal requirements

#### 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.

### Statutory guidance to which providers should have regard

Children should be provided with healthy meals and other healthy snacks and drinks as appropriate.

Providers should obtain, record and act on information from parents about a child's dietary needs.

Providers should be aware of their responsibilities under food hygiene legislation including registration with the relevant Local Authority Environmental Health Department.

In group provision, food hygiene matters should be included in induction and on-the-job training, which is available to all staff involved in the preparation and handling of food.

If parents provide packed lunches, providers should inform them about what can be stored safely and about appropriate food content.

### Specific legal requirements

#### Smoking

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

### Statutory guidance to which providers should have regard

Providers should have a no smoking policy which ensures that no one smokes in a room, or outside play area, when children are present or about to be present. If, exceptionally, children are expected to use any space that has been used for smoking, providers should ensure that there is adequate ventilation to clear the atmosphere.

**Children’s behaviour must be managed effectively and in a manner appropriate for their stage of development and particular individual needs.**

### Specific legal requirements

#### 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:

- a) any person who cares for, or who is in regular contact with, children;
- b) 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.

#### Statutory guidance to which providers should have regard

Physical intervention should only be used to manage a child’s behaviour if it is necessary to prevent personal injury to the child, other children or an adult, to prevent serious damage to property, or in what would reasonably be regarded as exceptional circumstances. Any occasion where physical intervention is used to manage a child’s behaviour should be recorded and parents should be informed about it on the same day.

Except in childminding settings, a named practitioner should be responsible for behaviour management issues. They should be supported in acquiring the skills to provide guidance to other staff and to access expert advice if ordinary methods are not effective with a particular child.



**Providers must ensure that adults looking after children, or having unsupervised access to them, are suitable to do so.**

### Specific legal requirements

#### 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.

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](http://www.everychildmatters.gov.uk/independentsafeguardingauthority) and [www.isa-gov.org/index.htm](http://www.isa-gov.org/index.htm)

### Statutory guidance to which providers should have regard

Disclosures should be handled in accordance with the CRB's *Code of Practice and Explanatory Guide*.

Providers should make decisions of suitability using evidence from:

- CRB Disclosure;
- references;
- full employment history;
- qualifications;
- interviews;
- identity checks;
- any other checks undertaken, for example medical suitability.

Providers should notify all people connected with their provision who work directly with children that they expect them to declare to them all convictions, cautions, court orders, reprimands and warnings which may affect their suitability to work with children.

Further information about responsibilities for carrying out CRB checks and about disqualification is provided in the *Practice Guidance for the Early Years Foundation Stage*.

**Providers must ensure that adults looking after children, or having unsupervised access to them, are suitable to do so.**

### Specific legal requirements

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 childminders:**

- any change in their name or address;
- any change of the persons aged 16 years or older living or working on the childminding premises (a person is not considered to be working on the premises if none of their work is done in the part of the premises in which children are cared for, or if they do not work on the premises at times when children are there).

#### **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.

### Statutory guidance to which providers should have regard

Registered providers should also notify Ofsted of any change in their telephone number.

## Specific legal requirements

### 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.

### Statutory guidance to which providers should have regard

Practitioners taking medication which they believe may affect their ability to care for children should seek medical advice and only work directly with children if that advice is that the medication is unlikely to impair their ability to look after children.

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

### Specific legal requirements

Childminders must have attended a training course within six months of registration and must hold a current paediatric first aid certificate at the point of registration. First aid training must be approved by the local authority and consistent with the guidance set out in the *Practice Guidance for the Early Years Foundation Stage*.

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).

### Statutory guidance to which providers should have regard

Wherever possible, childminders should have attended a training course prior to or shortly after registration. The training should be approved by the local authority and provide support for childminders in meeting and putting into practice the requirements of the EYFS. Childminders are accountable for, and supervise the work of, any assistant. The childminder should be satisfied that they are competent in the areas of work undertaken.

The manager should have at least two years' experience of working in an early years setting, or have at least two years' other suitable experience.

All practitioners should have a clear understanding of their roles and responsibilities.

Providers should support their staff in improving their qualification levels. In particular, those staff with no qualifications should be supported in obtaining a relevant qualification at a minimum of a full and relevant level 2 qualification (as defined by CWDC).

Induction training should be provided for new staff to help them understand how the provision operates and their role within it. Induction training should include matters such as evacuation procedures and child protection and health and safety issues.

Regular staff appraisals should be carried out to identify the training needs of staff. A programme of continuing professional development should be applied so that these needs are met.

Providers should use training made available by the local authority and other sources.

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

### Specific legal requirements

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.

For childminders providing overnight care, required ratios continue to apply. The children must be close by and within easy hearing distance (this may be via a monitor).

For other settings providing overnight care, the ratios set out in these requirements continue to apply. At least one member of staff must be awake at all times.

### Statutory guidance to which providers should have regard

Children should be supervised at all times, with staffing arrangements organised to meet the individual needs of all children.

Exceptions to the requirement that staff included in the ratios must be working directly with the children may only be made in limited circumstances, such as when the children are sleeping or resting. In these circumstances all the adults need not be present in the room with the children, but should be available nearby on the premises should they be needed.

Providers should put in place contingency arrangements for staff absences and emergencies. When there is staff absence or an emergency occurs suitable arrangements might include drawing on a pool of suitable staff, re-grouping of children, re-organising rooms and activities and re-deploying other suitable staff. When such disruptions occur there should continue to be a consistent experience for the child.

Where children in nursery classes and reception classes attend school for longer than the school day or in the school holidays, in provision run directly by the governing body or the proprietor, we recommend that the ratio of adults to children should be 1:8, that at least one member of staff should hold a full and relevant level 3 qualification (as defined by CWDC) and half all other staff should hold a full and relevant level 2 qualification (as defined by CWDC).

Staff/volunteers/students under the age of 17 cannot count towards the ratio and should be supervised at all times. Individuals aged 17 and over who are on long-term placements may be included in the ratios if the provider is satisfied they are competent and responsible.

Volunteers/committee members should be given full information and guidance on their roles and responsibilities.

Some schools may choose to mix their reception classes with groups of younger children, in which case they should use their discretion in establishing ratios for these mixed groups based on the EYFS welfare requirements (that is, 1:30 for the reception group and 1:13, 1:8 and so on for the younger children). This applies whether the pre-school element is provided directly by the school or in partnership through a PVI provider. However, in exercising this discretion the school, and any partner provider, must comply with the statutory requirements relating to the education of children of compulsory school age children and infant class sizes. At all times it is necessary to meet the needs of individual children and it may be appropriate to exceed these minimum requirements. Where a school operates in partnership with a PVI pre-school provider both parties will assume shared responsibility for meeting the ratios in the amalgamated setting.

Examples of how these mixed-age groups may work in practice are set out in the *Practice Guidance for the Early Years Foundation Stage*.

## Suitable premises, environment and equipment

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

### Specific legal requirements

#### Risk assessment

The provider must conduct a risk assessment 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 checked. 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.

#### Statutory guidance to which providers should have regard

The risk assessment should cover anything with which a child may come into contact.

The premises and equipment should be clean, and providers should be aware of the requirements of health and safety legislation (including hygiene requirements). This should include informing and keeping staff up-to-date.

A health and safety policy should be in place which includes procedures for identifying, reporting and dealing with accidents, hazards and faulty equipment.



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

### Specific legal requirements

#### 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.

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

#### Statutory guidance to which providers should have regard

Significant changes or events which must be reported to Ofsted include:

- significant changes to the premises, for example structural alterations or an extension;
- something which adversely affects the smooth running of the provision over a sustained period of time;
- changes to the outside of the premises such as adding a pond or taking down fencing.

Where children stay overnight, it may be appropriate for the Fire Safety Officer to inspect the sleeping area.

Staff should understand their roles and responsibilities in the event of a fire.

Fire exits should be clearly identifiable; fire doors should be free from obstructions and easily opened from the inside.

Regular evacuation drills should be carried out and details recorded in a fire log book of any problems encountered and how they were resolved.

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

### Specific legal requirements

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 m<sup>2</sup> per child;
- two year olds: 2.5 m<sup>2</sup> per child;
- children aged three to five years: 2.3 m<sup>2</sup> 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.

### Statutory guidance to which providers should have regard

The premises should be clean, adequately ventilated and well lit. Daylight should be the main source of light. Where, in exceptional circumstances this is not possible, the provider should ensure that lighting is of good quality and children have adequate access to daylight.

Calculations of available indoor space should be based on the net or useable areas of the rooms used by the children (that is, not including storage areas, thoroughfares, dedicated staff areas, cloakrooms, utility rooms, kitchens and toilets).

Wherever possible, there should be access to an outdoor play area, and this is the expected norm for providers. In provision where outdoor play space cannot be provided, outings should be planned and taken on a daily basis (unless circumstances make this inappropriate, for example unsafe weather conditions).

There should be adequate space to give scope for free movement and well-spread activities.

In addition to the area per child stated in the requirements, there should be space within the premises to store children's records, toys and personal belongings. There should also be sufficient space to use and store any specialist equipment needed, for example, by disabled children. This equipment should be quickly and easily accessible by staff at the provision so that it can be used by those children whenever it is required. Security should be considered.

Rooms should be maintained at a temperature which ensures the comfort of the children and staff, including non-mobile children.

Except in childminding settings, there should be a separate baby room for children under the age of two, but they should be able to have contact with older children and be transferred to the older age-group after the age of 18 months or as appropriate for their individual stage of development.

Provision should be made (space or partitioned area) for children who wish to relax, play quietly or sleep, equipped with appropriate furniture. This may be converted from normal play space providing children can rest and/or sleep safely without disturbance. Each child should have their own bed linen, flannel, and hairbrush if they are used (these may be provided by parents or providers). Sleeping children should be frequently checked.

Where children are staying overnight, they should each have a suitable bed or cot and clean bedding.

There should be an area which is adequately equipped to provide healthy meals, snacks and drinks for the children as necessary. Ideally, the provision will have a full kitchen. Where this is not possible, appropriate alternative arrangements should be made for the hygienic preparation and storage of food and drinks.

There should be suitable facilities for the hygienic preparation of babies' feeds if necessary. Suitable sterilisation equipment is used for the sterilisation of babies' feeding equipment and dummies.

There should be at least one toilet and one hand basin for every ten children over the age of two. Except in childminding settings, there should normally be separate toilet facilities for adults. There should be adequate washing and toileting facilities for children who stay overnight.

There should be suitable hygienic changing facilities for changing any children who are in nappies and providers should ensure that an adequate supply of clean bedding, towels, spare clothes and any other necessary items are always available. Children should not be allowed access to any laundry facilities that are provided on site.

Where the early years provision takes place in a communal building such as a community centre or village hall, the part of the premises used by the early years provision should be for the sole use of the provision during the hours of operation. Ideally, the premises should have their own kitchen and toilet facilities but, where this is not possible, the provider should take steps to ensure that other users do not have a negative impact on the quality or safety of provision.

There should be an area where confidential information and necessary records can be kept and where staff may talk to parents confidentially. Staff should have a room or area available for breaks, away from areas being used by children.



**Providers must plan and organise their systems to ensure that every child receives an enjoyable and challenging learning and development experience that is tailored to meet their individual needs.**

### Specific legal requirements

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.

### Statutory guidance to which providers must have regard

The key person should help the baby or child to become familiar with the provision and to feel confident and safe within it, developing a genuine bond with the child (and the child's parents) and offering a settled, close relationship.

The key person should meet the needs of each child in their care and respond sensitively to their feelings, ideas and behaviour, talking to parents to make sure that the child is being cared for appropriately for each family.

Practitioners should value linguistic diversity and provide opportunities for children to develop and use their home language in their play and learning. This is part of the respect for each child's cultural background that is central in all early years provision. Alongside support in the home language, practitioners should provide a range of meaningful contexts in which children have opportunities to develop English. As they move into the Key Stage 1 curriculum, English will be crucial as the language they use to access learning.



**Providers must maintain records, policies and procedures required for the safe and efficient management of the settings and to meet the needs of the children.**

## Specific legal requirements

### Data

Providers must record the following information for each child in their care:

- full name;
- date of birth;
- 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 must record and submit the following information to their local authority about individual children receiving the free entitlement to early years provision as part of the Early Years Census:

- full name;
- date of birth;
- address;
- gender;
- ethnicity\*;
- special educational needs status;
- the number of funded hours taken up during the census week;
- total number of hours (funded and unfunded) taken up at the setting during the census week.

\* This data item can be collected on a voluntary basis. A child's ethnicity should only be recorded where parents have identified the ethnicity of their child themselves.

For maintained and independent schools, these requirements are in addition to the requirements of the Pupil Registration Regulations 2006.

## Statutory guidance to which providers should have regard

Ethnicity, where collected, should be recorded according to the following categories:

### White – British

- Irish
- Traveller of Irish Heritage
- Gypsy/Roma
- Any other white background

### Mixed – White and Black Caribbean

- White and Black African
- White and Asian
- Any other mixed background

**Asian or Asian British**

- Indian
- Pakistani
- Bangladeshi
- Any other Asian background

**Black or Black British**

- Caribbean
- African
- Any other Black background

**Chinese****Any other ethnic background**

A child's learning difficulties and disabilities status should be recorded according to the following categories:

- no special educational need;
- Early Years Action/School Action;
- Early Years Action Plus/School Action Plus;
- statement.

Providers should refer to the *SEN Code of Practice* for an explanation of the terms used above.

**Providers must maintain records, policies and procedures required for the safe and efficient management of the settings and to meet the needs of the children.**

### Specific legal requirements

#### Providers' records

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.

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.)

#### Statutory guidance to which providers should have regard

Providers should be aware of their responsibilities under the Data Protection Act 1998 and Freedom of Information Act 2000.

Records relating to individual children should be retained for a reasonable period of time (for example three years) after the children have left the provision.

There should be a suitable secure area for the storage of confidential information. Records on staff and children should only be accessible to those who have a right or professional need to see them.

All staff should be aware of the need for confidentiality.



## Section 4 – Other information

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### Other legal duties

4.1 The EYFS requirements sit alongside other legal obligations and do not supersede or replace any other legislation which providers must still meet. For example, where provision is taking place in maintained schools there is a range of education legislation in place with which headteachers, teachers and other practitioners must comply. Providers should ensure that they are aware of the requirements of the Safeguarding Vulnerable Groups Act 2006 (which creates offences) and any guidance issued under this Act which lays the foundation for the introduction of a new vetting and barring scheme from autumn 2008. Other duties on providers include:

- employment laws;
- anti-discriminatory legislation;
- health and safety legislation;
- data collection regulations;
- duty of care.

### Competency in English

4.2 Parents may choose to have their children educated primarily in their home language and choose a provider specifically for this reason. Linguistic diversity should be valued and we do not want to take away from parents the choice of using a provider who can meet the EYFS requirements through languages other than English. However, it will be necessary for providers to demonstrate to Ofsted that their employees have a sufficient grasp of English to ensure the well-being of children in their care. For example, it must be clear to Ofsted that providers would be able to summon emergency help where necessary, keep certain records and share these with Ofsted, and read and understand instructions such as safety instructions, information on administering medication or on food allergies. As part of the learning and development requirements, providers should also be able to support children to develop their Communication, Language and Literacy skills in English. Further information and advice on this issue is set out in the *Practice Guidance for the Early Years Foundation Stage*.

### Exemptions

4.3 The EYFS framework is designed to be fully inclusive of all children's needs, recognising the need to respond to differences of ethnicity, culture, religion or belief, home language, family background, SEN, disability, gender or ability. There is significant flexibility to provide the six areas of Learning and Development in a way that reflects the needs and circumstances of each child. In the majority of cases, therefore, it will be possible to deliver the EYFS in a way that is compatible with providers' and parents' philosophies and beliefs. However, existing provisions for exemptions have been carried forward and re-enacted in Section 46 of the Childcare Act 2006 which enables the Secretary of State to confer exemptions from the learning and development requirements in certain prescribed circumstances. Such exemptions will only be granted in exceptional circumstances and where the provider can demonstrate that every effort has been made to comply with the requirements.



## Inspection and regulation

- 4.4** From September 2008, providers will be inspected by Ofsted under Sections 49 and 50 of the Childcare Act 2006. Ofsted will have regard to the *Statutory Framework for the Early Years Foundation Stage* document when they are carrying out their inspections. The EYFS replaces *Birth to Three Matters*, the *Curriculum Guidance for the Foundation Stage*, the *Foundation Stage Profile* handbook, and the *National Standards for under 8s Daycare and Childminding*.
- 4.5** With the exception of schools, all settings are required to be registered by Ofsted in respect of all their provision for children from birth to the end of the EYFS. Maintained, independent and non-maintained special schools are required to be registered only in respect of any provision they offer for children below the age of three. This is to ensure extra safeguards for the youngest and most vulnerable children.
- 4.6** Provision in schools for registered pupils aged three and over are not required to be registered because it is already taken account of by the main school inspection framework. Such schools will, however, be expected to meet the same standards as other providers. All settings will be regularly inspected against the EYFS requirements, and all provision made directly by schools will be inspected as part of a single inspection event with the main school inspection.

## Local authorities

- 4.7** Section 13 of the Childcare Act 2006 requires local authorities to secure the provision of information, advice and training, whether delivered by themselves or by others, to meet the needs of local providers and support sufficiency of childcare provision.
- 4.8** Regulations made under Section 13 require that, within the context of the EYFS, this provision includes:
- training and support in meeting the requirements of the EYFS;
  - ensuring that training in EYFS assessment and the completion of the EYFS Profile summaries is offered to all providers who require it;
  - meeting the needs of disabled children and those with special educational needs and the use of effective safeguarding and child protection procedures;
  - support in entering the childcare market and in meeting the registration and regulatory requirements.
- 4.9** In addition, local authorities must secure information, advice and training to all childcare providers who have been deemed inadequate by Ofsted; and to those who have been granted a temporary exemption for a specific period of time to give them an opportunity to develop their provision so that it meets the learning and development requirements of the EYFS.
- 4.10** Local authorities have the responsibility for assuring that EYFS Profile assessment judgements are moderated. They appoint and train moderators with appropriate experience of the EYFS and the early learning goals to secure consistent standards in assessment judgements.
- 4.11** Local authorities ensure that all providers are visited regularly as part of a cycle of moderation visits and notify the provider whether the EYFS Profile assessment is being carried out in accordance with requirements. Where the moderator judges that the assessment is not in line with the exemplified standards, the local authority can require the provider to arrange for the practitioner to participate in further training/moderation activities and to reconsider their assessments as advised by the moderator.

## Where to go for help

- 4.12** Further copies of this document are available from DCSF Publications. The *Statutory Framework for the Early Years Foundation Stage* document is designed to be used together with the *Practice Guidance for the Early Years Foundation Stage* booklet, which contains further information and advice, and the EYFS resources (the CD-ROM, the Principles into Practice cards and the poster). The various components of the overall EYFS package may be ordered separately from:

### **DCSF Publications**

PO Box 5050  
Sherwood Park  
Annesley  
Nottingham NG15 0DJ

**Tel:** 0845 60 222 60

**Fax:** 0845 60 333 60

**Textphone:** 0845 60 555 60



## Assessment scales

- 1 The EYFS Profile captures the early learning goals as a set of 13 assessment scales, each of which has nine points. Early learning goals are presented individually or have been split or combined, where appropriate, for ease of use. The assessment scales are set out in the EYFS Profile booklet which practitioners may use.
- 2 The first three points describe a child who is still progressing towards the achievements described in the early learning goals. Most children will achieve all of these three points before they achieve any of the early learning goals, but there may be some exceptions to this pattern. Where it is not possible to record assessments in relation to items 1-3 of the Profile scales, attainment at the end of the EYFS could be recorded in an appropriate alternative way.
- 3 Points 4-8 are drawn from the early learning goals themselves. These are presented in approximate order of difficulty, according to evidence from trials. However, the points are not necessarily hierarchical and a child may achieve a later point without having achieved some or all of the earlier points.
- 4 Point 9 in each scale describes a child who has achieved all the points from 1-8 on that scale, has developed further both in breadth and depth, and is working consistently beyond the level of the early learning goals.

## Personal, Social and Emotional Development

### *Dispositions and Attitudes*

1. Shows an interest in classroom activities through observation or participation.
2. Dresses, undresses and manages own personal hygiene with adult support.
3. Displays high levels of involvement in self-chosen activities.
4. Dresses and undresses independently and manages own personal hygiene.
5. Selects and uses activities and resources independently.
6. Continues to be interested, motivated and excited to learn.
7. Is confident to try new activities, initiate ideas and speak in a familiar group.
8. Maintains attention and concentrates.
9. Sustains involvement and perseveres, particularly when trying to solve a problem or reach a satisfactory conclusion.

### *Social Development*

1. Plays alongside others.
2. Builds relationships through gesture and talk.
3. Takes turns and shares with adult support.
4. Works as part of a group or class taking turns and sharing fairly.
5. Forms good relationships with adults and peers.
6. Understands that there need to be agreed values and codes of behaviour for groups of people, including adults and children, to work together harmoniously.
7. Understands that people have different needs, views, cultures and beliefs that need to be treated with respect.

8. Understands that (s)he can expect others to treat her or his needs, views, cultures and beliefs with respect.
9. Takes into account the ideas of others.

#### *Emotional Development*

1. Separates from main carer with support.
2. Communicates freely about home and community.
3. Expresses needs and feelings in appropriate ways.
4. Responds to significant experiences, showing a range of feelings when appropriate.
5. Has a developing awareness of own needs, views and feelings and is sensitive to the needs, views and feelings of others.
6. Has a developing respect for own culture and beliefs and those of other people.
7. Considers the consequences of words and actions for self and others.
8. Understands what is right, what is wrong and why.
9. Displays a strong and positive sense of self-identity and is able to express a range of emotions fluently and appropriately.

## **Communication, Language and Literacy**

#### *Language for Communication and Thinking*

1. Listens and responds.
2. Initiates communication with others, displaying greater confidence in more informal contexts.
3. Talks activities through, reflecting on and modifying actions.
4. Listens with enjoyment to stories, songs, rhymes and poems, sustains attentive listening and responds with relevant comments, questions or actions.
5. Uses language to imagine and recreate roles and experiences.
6. Interacts with others in a variety of contexts, negotiating plans and activities and taking turns in conversation.
7. Uses talk to organise, sequence and clarify thinking, ideas, feelings and events, exploring the meanings and sounds of new words.
8. Speaks clearly with confidence and control, showing awareness of the listener.
9. Talks and listens confidently and with control, consistently showing awareness of the listener by including relevant detail. Uses language to work out and clarify ideas, showing control of a range of appropriate vocabulary.

#### *Linking Sounds and Letters*

1. Joins in with rhyming and rhythmic activities.
2. Shows an awareness of rhyme and alliteration.
3. Links some sounds to letters.
4. Links sounds to letters, naming and sounding letters of the alphabet.
5. Hears and says sounds in words.
6. Blends sounds in words.
7. Uses phonic knowledge to read simple regular words.
8. Attempts to read more complex words, using phonic knowledge.
9. Uses knowledge of letters, sounds and words when reading and writing independently.

### *Reading*

1. Is developing an interest in books.
2. Knows that print conveys meaning.
3. Recognises a few familiar words.
4. Knows that, in English, print is read from left to right and top to bottom.
5. Shows an understanding of the elements of stories, such as main character, sequence of events and openings.
6. Reads a range of familiar and common words and simple sentences independently.
7. Retells narratives in the correct sequence, drawing on language patterns of stories.
8. Shows an understanding of how information can be found in non-fiction texts to answer questions about where, who, why and how.
9. Reads books of own choice with some fluency and accuracy.

### *Writing*

1. Experiments with mark-making, sometimes ascribing meaning to the marks.
2. Uses some clearly identifiable letters to communicate meaning.
3. Represents some sounds correctly in writing.
4. Writes own name and other words from memory.
5. Holds a pencil and uses it effectively to form recognisable letters, most of which are correctly formed.
6. Attempts writing for a variety of purposes, using features of different forms.
7. Uses phonic knowledge to write simple regular words and make phonetically plausible attempts at more complex words.
8. Begins to form captions and simple sentences, sometimes using punctuation.
9. Communicates meaning through phrases and simple sentences with some consistency in punctuating sentences.

## **Problem Solving, Reasoning and Numeracy**

### *Numbers as Labels and for Counting*

1. Says some number names in familiar contexts, such as nursery rhymes.
2. Counts reliably up to three everyday objects.
3. Counts reliably up to six everyday objects.
4. Says number names in order.
5. Recognises numerals 1 to 9.
6. Counts reliably up to ten everyday objects.
7. Orders numbers, up to ten.
8. Uses developing mathematical ideas and methods to solve practical problems.
9. Recognises, counts, orders, writes and uses numbers up to 20.

### *Calculating*

1. Responds to the vocabulary involved in addition and subtraction in rhymes and games.
2. Recognises differences in quantity when comparing sets of objects.
3. Finds one more or one less from a group of up to five objects.

4. Relates addition to combining two groups.
5. Relates subtraction to taking away.
6. In practical activities and discussion, begins to use the vocabulary involved in adding and subtracting.
7. Finds one more or one less than a number from one to ten.
8. Uses developing mathematical ideas and methods to solve practical problems.
9. Uses a range of strategies for addition and subtraction, including some mental recall of number bonds.

#### *Shape, Space and Measures*

1. Experiments with a range of objects and materials showing some mathematical awareness.
2. Sorts or matches objects and talks about sorting.
3. Describes shapes in simple models, pictures and patterns.
4. Talks about, recognises and recreates simple patterns.
5. Uses everyday words to describe position.
6. Uses language such as 'circle' or 'bigger' to describe the shape and size of solids and flat shapes.
7. Uses language such as 'greater', 'smaller', 'heavier' or 'lighter' to compare quantities.
8. Uses developing mathematical ideas and methods to solve practical problems.
9. Uses mathematical language to describe solid (3D) objects and flat (2D) shapes.

### **Knowledge and Understanding of the World**

1. Shows curiosity and interest by exploring surroundings.
2. Observes, selects and manipulates objects and materials. Identifies simple features and significant personal events.
3. Identifies obvious similarities and differences when exploring and observing. Constructs in a purposeful way, using simple tools and techniques.
4. Investigates places, objects, materials and living things by using all the senses as appropriate. Identifies some features and talks about those features (s)he likes and dislikes.
5. Asks questions about why things happen and how things work. Looks closely at similarities, differences, patterns and change.
6. Finds out about past and present events in own life, and in those of family members and other people (s)he knows. Begins to know about own culture and beliefs and those of other people.
7. Finds out about and identifies the uses of everyday technology and uses information and communication technology and programmable toys to support her/his learning.
8. Builds and constructs with a wide range of objects, selecting appropriate resources, tools and techniques and adapting her/his work where necessary.
9. Communicates simple planning for investigations and constructions and makes simple records and evaluations of her/his work. Identifies and names key features and properties, sometimes linking different experiences, observations and events. Begins to explore what it means to belong to a variety of groups and communities.

## Physical Development

1. Moves spontaneously, showing some control and coordination.
2. Moves with confidence in a variety of ways, showing some awareness of space.
3. Usually shows appropriate control in large- and small-scale movements.
4. Moves with confidence, imagination and safety. Travels around, under, over and through balancing and climbing equipment. Shows awareness of space, of self and others.
5. Demonstrates fine motor control and coordination.
6. Uses small and large equipment, showing a range of basic skills.
7. Handles tools, objects, construction and malleable materials safely and with basic control.
8. Recognises the importance of keeping healthy and those things which contribute to this. Recognises the changes that happen to her/his body when s/he is active.
9. Repeats, links and adapts simple movements, sometimes commenting on her/his work. Demonstrates coordination and control in large and small movements, and in using a range of tools and equipment.

## Creative Development

1. Explores different media and responds to a variety of sensory experiences. Engages in representational play.
2. Creates simple representations of events, people and objects and engages in music making.
3. Tries to capture experiences, using a variety of different media.
4. Sings simple songs from memory.
5. Explores colour, texture, shape, form and space in two or three dimensions.
6. Recognises and explores how sounds can be changed. Recognises repeated sounds and sound patterns and matches movements to music.
7. Uses imagination in art and design, music, dance, imaginative and role-play and stories. Responds in a variety of ways to what (s)he sees, hears, smells, touches and feels.
8. Expresses and communicates ideas, thoughts and feelings using a range of materials, suitable tools, imaginative and role-play, movement, designing and making, and a variety of songs and musical instruments.
9. Expresses feelings and preferences in response to artwork, drama and music and makes some comparisons and links between different pieces. Responds to own work and that of others when exploring and communicating ideas, feelings and preferences through art, music, dance, role-play and imaginative play.

## Appendix 2

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

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

- 1 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.
- 2 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.
- 3 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.
- 4 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.
- 5 There must be at least two adults on duty in a setting at any time when children are present.
- 6 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;
- 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**

**7** 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).

**8** 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**

**9** 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).

**10** 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'<sup>1</sup>. A teacher must be present with the children except during non-contact time, breaks and short-term absence.

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<sup>1</sup> As defined by Section 122 of the Education Act 2002 and the Education (School Teachers' Prescribed Qualifications, etc) Order 2003.

- 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).

Guidance on staffing arrangements during the teacher's non-contact time, breaks and short-term absence is provided on page 17 of the *Practice Guidance for the Early Years Foundation Stage* booklet.

### Children in reception classes in maintained schools

- 11** The EYFS does not place ratio and qualification requirements on reception classes in maintained schools provided they fall within the legal definition of an infant class (i.e. a class containing pupils the majority of whom will reach the age of five, six, or seven during the course of the school year)<sup>2</sup>. Such classes are already subject to infant class size legislation: an infant class must not contain more than 30 pupils while an ordinary teaching session is conducted by a single school teacher<sup>3</sup>. See page 17 of the *Practice Guidance for the Early Years Foundation Stage* booklet for further information.

### B: Childminders

- 12** The numbers of children for whom a childminder may care are set out below. The numbers include the childminder's own children or any other children for whom they are responsible – for example, children who the childminder is fostering. Any care provided for older children must not adversely affect the care of children receiving early years provision.
- 13** The numbers of children set out below represent the maximum number of children who may be cared for by a childminder at any one time. However, the maximum number of children who may be appropriately cared for by a particular childminder may be fewer than the maximum numbers given here. In all cases, Ofsted will make a judgement about the maximum numbers of children that a particular childminder may be registered to care for which will be set out in the conditions of registration. This judgment will be based on factors such as the amount of space available.

### Each childminder may care for:

- a maximum of six children under the age of eight;
  - of these six children, a maximum of three may be young children<sup>4</sup>, however where four- and five-year-old children only attend the childminding setting before and/or after a normal school day, they may be classed as children over the age of five for the purposes of the adult:child ratio;
  - normally, no more than one child may be under the age of one, however a childminder may be registered to care for two children under the age of one where they are able to demonstrate that they can meet and reconcile the individual needs of all the children being cared for.
- 14** Exceptions to these ratios can be made for siblings and to provide continuity of care in certain circumstances approved by Ofsted, provided that the total number of children under the age of eight being cared for does not exceed six.
- 15** If a childminder either employs an assistant or works with another childminder, the above numbers apply to each of these individuals in addition to the childminder.

<sup>2</sup> Section 4 of the School Standards and Framework Act 1998.

<sup>3</sup> As defined by Section 122 of the Education Act 2002 and the Education (School Teachers' Prescribed Qualifications, etc) Order 2003.

<sup>4</sup> A child is a young child up until 1st September following his or her fifth birthday.

**Baby room**

A separate base room for children under the age of two; however after the age of 18 months these children may be transferred to an older group.

**CWDC**

The Children, Young People and Families Workforce Development Council (CWDC) is an independent employer-led delivery partner of DCSF. CWDC administers the Early Years, Childcare and Playwork: Qualifications website on behalf of the DCSF. The website supports individuals and employers in identifying appropriate training and development for particular job roles in early years and playwork. It also provides guidance to Ofsted inspectors, employers and practitioners about how specific qualifications meet the requirements set out by the DCSF for early years provision.

**Disabled child**

A child who has a disability for the purposes of the Disability Discrimination Act 1995.

**Early Years Action**

When practitioners working with a child on a daily basis, or the setting's SENCO, identify that the child has special educational needs and provide interventions that are additional to or different from those provided as part of the setting's usual activities and strategies.

**Early Years Action Plus**

When practitioners working with a child on a daily basis and the SENCO are provided with advice or support from outside specialists, so that interventions other than, or additional to, those provided through Early Years Action can be put in place.

**Early Years Foundation Stage**

The learning and development requirements and welfare requirements that early years providers must comply with.

**Early years provider**

A person who provides early years provision – this will include any person registered on the Early Years Register, and schools (maintained and independent) providing early years provision. A company, committee or group may make up the registered person.

**Early years provision**

The provision of learning, development and care for a young child.

**Independent school**

Defined in Section 463 of the Education Act 1996. A school which is not maintained by the local authority, and which provides full-time education for five or more pupils of compulsory school age, or one or more pupils with a statement of special educational needs or who is in public care (within the meaning of Section 22 of the Children Act 1989). A school providing education to such pupils must be registered with the DCSF. See [www.dcsf.gov.uk/reg-independent-schools/](http://www.dcsf.gov.uk/reg-independent-schools/)

**Key person**

The named member of staff assigned to an individual child to support their development and act as the key point of contact with that child's parents.

**Maintained nursery school**

Defined by the Education Acts 1996 and 2002. A school which is maintained by the local authority for pupils aged between two and four, and which is not a special school.

**Maintained school**

Defined in Section 106 of the Childcare Act 2006. A school maintained by a local authority.

**Manager**

The individual who manages the early years provision.

**Nominated individual**

The person who has been nominated by a registered provider who is a partnership, body corporate or unincorporated association:

- to be responsible for dealing with Ofsted in relation to the organisation's registration in the early years register;
- to oversee the management of the early years provision.

**Non-maintained special school**

A special school not maintained by a local authority, approved by the Secretary of State under Section 342 of the Education Act 1996.

**Nursery class**

For the purposes of this document, a class in any school comprising children who have their fourth birthday during the school year, and any other children with whom it is appropriate to educate them. This is usually the year before children attend a reception class.

**Ofsted**

Her Majesty's Chief Inspector of Schools in England. An independent, non-ministerial government department, responsible for the arrangement and the inspection of a range of education and children's services, and for the inspection and regulation of early years provision and registered childcare. From April 2007 the organisation's full title changes to the Office for Standards in Education, Children's Services and Skills, but will continue to be known as Ofsted.

**Overnight care**

For the purposes of this document, where a child spends the majority of the hours from 8 pm to 6 am with an early years provider.

**Parent**

Includes any individual who –

- a) has parental responsibility for a child; or
- b) has care of a child.

**Person in charge**

An individual appointed by the registered person as the person in charge of providing early years provision on the premises; or, where that individual is not present, the deputy who they have so nominated as being the person in charge of providing early years provision on the premises.

**Practitioner**

Any adult who works with children in a setting.

**Premises**

Any building, area or vehicle on which childcare is provided.

### **Reception class**

Defined by Section 142 of the School Standards and Framework Act 1998. An entry class to primary schools for children who have their fifth birthday during the school year and for children who are younger or older than five with whom it is appropriate to educate them.

### **Registered provider**

References in the EYFS to 'registered providers' refer to early years providers registered by Ofsted on the Early Years Register. Early years provision for children aged three and over made directly by a maintained or independent school (i.e. the governing body or proprietor is responsible for it) is not required to be registered providing at least one pupil of the school attends. Subject to certain exemptions, all other types of provision for children aged from birth to the end of August following their fifth birthday, including any provision made for children under the age of three by maintained or independent schools, must be registered by Ofsted.

### **School**

For the purposes of this document, refers to maintained schools, independent schools and non-maintained special schools.

### **School Action**

This is the equivalent of the term Early Years Action, but applies in respect of reception classes in maintained schools, when a class or subject teacher identifies that a pupil has special educational needs and provides interventions that are additional to or different from those provided as part of the school's usual differentiated curriculum or activities.

### **School Action Plus**

This is the equivalent of the term Early Years Action Plus, but applies in respect of reception classes in maintained schools, when the class or subject teacher and the SENCO are provided with advice or support from outside specialists, so that interventions other than, or additional to, those provided through School Action can be put in place. The SENCO usually takes the lead although day-to-day provision continues to be the responsibility of the class or subject teacher.

### **School day**

For the purpose of this document, a school day is defined as two sessions with a break in the middle of the day between those two sessions.

### **School teacher**

School teachers include qualified teachers and others, such as those on employment-based routes to Qualified Teacher Status and overseas trained teachers.

### **Setting**

Any out-of-home provider of early years provision for children from birth to five, such as childminders, local authority nurseries, nursery or early years centres, children's centres, playgroups, pre-schools, or schools in the independent, private or voluntary sector and maintained schools.

### **Special school**

A school which is specially organised to make special educational provision, and is approved by the Secretary of State under Section 342 of the Education Act 1996.

### **Young child**

A child is a 'young child' during the period:

- a) beginning with his birth, and
- b) ending immediately before the 1st September next following the date on which he attains the age of five.

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