

2014 No.

CHILDREN AND YOUNG PERSONS, ENGLAND

**Local Authority (Discharge of Duty to Secure Early Years
Provision Free of Charge) Regulations 2014**

Made - - - - - ***
Laid before Parliament ***
Coming into force - - - - - *1st September 2014*

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 7A, 9A and 104(2) of the Childcare Act 2006(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Authority (Discharge of Duty to Secure Early Years Provision Free of Charge) Regulations 2014 and come into force on 1st September 2014.

(2) In these Regulations—

“the 2006 Act” means the Childcare Act 2006;

“the 2013 Regulations” means the Local Authority (Early Years Provision Free of Charge) Regulations 2013(b);

“early years provision inspection report” means a report under section 50 of the 2006 Act or a report under section 162A of the Education Act 2002(c), as applicable to the early years provision;

“early years childminder agency inspection report” means a report under section 51E of the 2006 Act;

“early years childminder” has the meaning given by section 96 of the Act.

Requirement on local authority when discharging its duty under section 7 to secure early years provision free of charge

2.—(1) An English local authority must discharge its duty to a young child under section 7 of the 2006 Act by making arrangements which secure that an early years provider chosen by a parent of the child provides the early years provision to which the child is entitled in cases where—

(a) the early years provider is willing to provide it, and

(a) 2006 c. 21. Section 7 was substituted by section 1 of the Education Act 2011 (c. 21). Section 7A was inserted by section X of the Children and Families Act 2014 (c. X). See section 106 for the definitions of “prescribed” and “regulations”.

(b) S.I. 2013/3193.

(c) 2002 c. 32.

- (b) the early years provider is also willing to accept—
 - (i) any terms as to the payments which would be made to him or her in respect of the provision; and
 - (ii) any requirements which would be imposed in respect of it.
- (2) The requirement in regulation 2(1) applies subject to regulation.

Scope of the requirement in regulation 2

3.—(1) In the case of early years provision other than provision by an early years childminder registered with an early years childminder agency, the requirement in regulation 2 applies only if the early years provision is by an early years provider other than the governing body of a maintained school, and—

- (i) where the early years provision is for a child who meets the condition in regulation (3)(2) of the 2013 Regulations, the overall effectiveness of the provision was awarded a grade of “good” or better in its most recent early years provision inspection report;
- (ii) where the early years provision is for a child who meets the condition in regulation (3)(3) of the 2013 Regulations, the overall effectiveness of the provision was awarded a grade of “satisfactory” or “requires improvement” (as applicable) or better in its most recent early years provision inspection report; or
- (iii) an early years provision inspection report has not yet been published in respect of the provision.

(2) In the case of early years provision by an early years childminder registered with an early years childminder agency, the requirement in regulation 2 applies only if—

- (i) where the early years provision is for a child who meets the condition in regulation (3)(2) of the 2013 Regulations, the childminder is registered with an agency which was awarded a grade of “good” or better in its most recent early years childminder agency inspection report;
- (ii) where the early years provision is for a child who meets the condition in regulation (3)(3) of the 2013 Regulations, the childminder is registered with an agency which was awarded a grade of “requires improvement” or better in its most recent early years childminder agency inspection report; or
- (iii) an early years childminder agency inspection report has not yet been published in respect of the agency.

(3) The requirement in regulation 2 does not apply where the local authority has reasonable grounds to believe that the person with whom the arrangements are intended to be made is not able to satisfy a requirement imposed in respect of the early years provision.

Termination of the arrangements

4. Arrangements made by the local authority for the purpose of complying with the requirement in regulation 2 must include provision allowing the local authority to terminate the arrangements if—

- (a) in the case of early years provision of the description in regulation 3(1)(i), the overall effectiveness of the provision ceases to meet that description;
- (b) in the case of early years provision of the description in regulation 3(1)(ii), the overall effectiveness of the provision ceases to meet that description;
- (c) in the case of early years provision of the description in regulation 3(2)(i), the childminder is registered with an agency which failed to be awarded a grade of “good” or better in its most recent early years childminder agency inspection report;
- (d) in the case of early years provision of the description in regulation 3(2)(ii), the childminder is registered with an agency which failed to be awarded a grade of “requires

improvement” or better in its most recent early years childminder agency inspection report.

Requirements governing arrangements made for the purpose of discharging the duty of the local authority under section 7

5.—(1) In making arrangements for the purpose of discharging its duty under section 7 of the 2006 Act with an early years provider other than the governing body of a maintained school, or with an early years childminder agency, a local authority may impose on the person with whom the arrangements are made only requirements which—

- (a) enable the local authority to comply with the requirement in regulation 2;
- (b) enable the local authority to terminate the arrangements made pursuant to the requirement in regulation 2, in the circumstances prescribed in regulation 4;
- (c) have as their purpose the satisfaction of one of the following objectives—
 - (i) that the early years provision is provided free of charge;
 - (ii) that the early years provision is provided in a pattern to suit the needs of the parents of the children for whom the early years provision is provided;
 - (iii) that the financial assistance provided under the arrangements is used properly and in accordance with the arrangements;
 - (iv) that the needs of disabled children (within the meaning given by section 6 of the Equality Act 2010^(a)) and children with special educational needs (within the meaning given by section 312 of the Education Act 1996 Act)^(b) for whom the early years provision is provided are met;
 - (v) the effective safeguarding and promotion of welfare of the children for whom the early years provision is provided;
 - (vi) in circumstances where an early years provision inspection report awards a grade of less than “good” to the overall effectiveness of the early years provision, that the early years provider takes the measures identified in that report to improve the overall effectiveness of the early years provision, including, where applicable, participating in a training or other quality improvement programme; or
- (d) are otherwise necessary for the proper administration of the arrangements.

(2) But a local authority may not impose requirements which—

- (a) where the arrangements are made with an early years provider, subject the quality of the early years provision to a quality assessment process by the local authority;
- (b) where the arrangements are made with an early years provider, require the provider to attend any training or other quality improvement programme, other than any training or quality improvement programme identified in an early years provision inspection report as a measure necessary for the improvement of the early years provision, where the report awards a grade of less than “good” to the overall effectiveness of the provision; or
- (c) where the arrangements are made with an early years childminder agency, subject the quality of the services provided by the childminder agency to a quality assessment process by the local authority.

(a) 2010 c. 15
(b)