

Early years inspection update

March 2017

Message to inspectors from the Deputy Director, Early Years, Early Years Policy

Dear colleagues

I am delighted to welcome those early years inspectors who are joining Ofsted on 1 April 2017 and pleased that we will have the opportunity to work more closely together. It is vital that we continue to improve the quality of EY provision across the country, particularly for our most vulnerable children, through our inspection and regulatory work. I am very much looking forward to working with you under our new arrangements and look forward to meeting you all over the coming weeks.

In this update, I would like to give you a summary of the changes to the recently revised EYFS and about our mythbusting project.

Where the revisions to the EYFS mean a change to inspection practice, it is outlined below. Alongside the revised elements of the EYFS, inspectors will continue to focus on how well providers are developing children's speech, language and communication skills because this is an important part of children's future success.

Ofsted has produced an early years inspection mythbusting document. This document confirms the facts about our early years inspections and dispel myths that can sometimes result in unnecessary workloads for registered early years settings. It follows our successful school inspection mythbusting campaign and will be available [online](#) from 3 April, sitting alongside the [early years inspection handbook](#).

We aim to expose misconceptions and highlight specific practices that are not required by Ofsted, so that we can make the inspection process as clear and straightforward as possible. We hope that this document will help promote the view that inspections do not try to catch early years staff off-guard or trick them.

This will be the last early years inspection update in this format. By the end of April 2017, we will be moving to our new learning and engagement hub, where information for inspectors will be stored.

I would like to take this opportunity to thank all inspectors who are currently employed and contracted to Tribal and Prospects for their work over the time of the

contract. Your work in driving improvement in the quality of early years provision for children is greatly appreciated.

Best wishes

A handwritten signature in black ink, appearing to read "G. Jones".

The Early years foundation stage framework 2017

On 3 March 2017, the Department for Education published a revised '[Statutory framework for the early years foundation stage](#)'. The revised framework will take effect from 3 April 2017.

This briefing sets out the main changes to the revised framework and the implication for inspection of early years providers.

Summary pages of the EYFS

Page 3 includes a new paragraph, which clarifies the requirements in the framework (provisions indicated by the word "must") and other provisions that providers must have regard to (provisions indicated by the word "should").

The learning and development requirements in sections 1 and 2 of this framework, and the safeguarding and welfare requirements in section 3 of this framework, are indicated by the use of the word "must". Additionally, early years providers must "have regard" to other provisions in these sections. These provisions are indicated by the use of the word "should". "Having regard" to these provisions means that early years providers must take them into account when providing early years provision and should not depart from them unless there is good reason for doing so.

Impact on inspection: This paragraph offers providers clarity. It has little impact on inspection. Inspectors should continue to raise actions to address breaches in requirements (i.e. the 'musts') and raise recommendations to support the development of good practice.

Section 1 of the EYFS (learning and development)

The footnote on page 7 has been amended to make it clearer for providers who exclusively offer 'out of school hours' care for children **younger** than those in the Reception class age range.

Providers offering care exclusively before and after school or during the school holidays for children who normally attend Reception (or older) class during the school day (see para 3.40) do not need to meet the learning and development requirements. However, providers offering care exclusively before and after school or during the school holidays for

children younger than those in the Reception class age range, should continue to be guided by, but do not have to meet, the learning and development requirements. All such providers should discuss with parents and/or carers (and other practitioners/providers as appropriate, including school staff/teachers) the support they intend to offer.

Impact on inspection: This footnote offers clarification for providers. It includes the guidance the DfE had issued separately. This makes no difference to inspection as inspectors were already applying this approach when inspecting settings that exclusively care for children before and after school.

Paragraph 1.5 on page 8 includes a new footnote with a link to the Chief Medical Office guidance on physical activity.

Impact on inspection: This footnote offers guidance to providers on physical activity. Providers are not required to follow this guidance and inspectors should not expect them to do so. However, inspectors may signpost providers to the guidance, especially if they are concerned about the quality of provision for physical activity.

Section 3 of the EYFS (safeguarding and welfare)

Paragraph 3.7 ("child protection") includes references to new and updated government guidance (e.g. Working together to safeguard children 2015, and the Prevent Duty Guidance 2015), which has been published since the EYFS was last updated in 2014.

Providers must have regard to the Government's statutory guidance 'Working together to safeguard children 2015' and to the 'Prevent duty guidance for England and Wales 2015'. All schools are required to have regard to the government's 'Keeping children safe in education' statutory guidance, and other childcare providers may also find it helpful to refer to this guidance. If providers have concerns about children's safety or welfare, they must notify agencies with statutory responsibilities without delay. This means the local children's social care services and, in emergencies, the police.

Impact on inspection: This amendment now makes it a requirement for providers to have regard to the 'Prevent' duty. If a provider does not meet this requirement, inspectors should raise an action to bring about the necessary improvement. As with all breaches of safeguarding and welfare requirements, inspectors should consider the impact of the breach on keeping children safe and take it into account when making inspection judgements.

The amendment also makes clear that schools are required to have regard to the statutory guidance 'Keeping children safe in education' and that other childcare providers may also find this guidance helpful. Inspectors should familiarise themselves with this guidance and direct providers to it as necessary.

Paragraph 3.23 (“staff qualifications, training, support and skills”) includes a new footnote about the literacy and numeracy qualification requirements for level 3 early years educators (EYE). As set out in the government response to the level 3 consultation, to be counted in the ratios at level 3, staff holding an EYE qualification must also have achieved a suitable level 2 qualification in English and maths.

Impact on inspection: Inspectors will need to be satisfied that providers understand the new literacy and numeracy qualification requirements for level 3 EYE staff and whether or not staff can be counted as a level 3 member of staff. The DfE has confirmed the requirement only applies to people who commenced an EYE qualification from September 2014. It does not apply to those with full and relevant qualifications obtained before then.

The DfE is responsible for defining the level 2 qualifications that are suitable. These will be listed in on the [Early Years Qualifications List](#) from 3 April 2017 and are as follows:

English

- Functional Skills in English at Level 2
- GCSE/International GCSE in English Language and/or Literature to at least grade C (grade 4)
- Key Skills in Literacy at Level 2
- A Level/AS Level in English Language and/or English Literature to at least grade E
- O Level in English to at least grade C
- CSE grade 1 English (Language)

Also recognised Scottish, Northern Irish and Welsh equivalents.

Maths

- Functional Skills in Mathematics at Level 2
- GCSE/International GCSE in Mathematics to at least grade C (grade 4)
- Key Skills in Application of Number at Level 2
- A Level or AS Level in Mathematics or Pure Mathematics and/or Further Mathematics to at least grade E
- O Level in Mathematics to at least grade C
- CSE grade 1 Mathematics

Also recognised Scottish, Northern Irish and Welsh equivalents.

Following the government consultation, paragraph 3.25 ("staff qualifications, training, support and skills") now includes a new paediatric first aid (PFA) requirement.

From 3 April 2017, all newly qualified entrants to the early years workforce with full and relevant level 2 or level 3 qualification must also have a PFA certificate before they can be included in the statutory staff:child ratios in early years settings. The requirement also includes additional detail so that providers are clear about what the training needs to cover and how frequently a qualification needs to be renewed.

At least one person who has a current PFA certificate must be on the premises and available at all times when children are present, and must accompany children on outings. **The certificate must be for a full course consistent with the criteria set out in Annex A.** Childminders, and any assistant who might be in sole charge of the children for any period of time, must hold a full current PFA certificate.

PFA training **must be renewed every three years** and be relevant for workers caring for young children and babies. Providers should take into account the number of children, staff and layout of premises to ensure that a qualified paediatric first aider is able to respond to emergencies quickly.

All newly qualified entrants to the early years workforce, who have completed a level 2 or level 3 qualification on or after 30 June 2016, must also have either a full paediatric first aid (PFA) or an emergency PFA certificate within three months of starting work in order to be included in the required staff:child ratios at level 2 or level 3 in an early years setting. Providers should display (or make available to parents) staff PFA certificates or a list of staff who have a current PFA certificate.

Inspectors should take account of footnotes 30 to 32 at the bottom of page 22, which provide further clarification:

30: Providers are responsible for identifying and selecting a competent training provider to deliver their PFA training. Training is available from a wide range of providers including: those who offer regulated qualifications; or the Voluntary Aid Societies (St John Ambulance, the British Red Cross and St Andrew's First Aid who together are acknowledged by the Health and Safety Executive (HSE) as one of the standard-setters for currently accepted first aid practice for first aid at work training courses); or those who operate under voluntary accreditation schemes; or one that is a member of a trade body with an approval and monitoring scheme; or those who operate independently of any such accreditation scheme. The Register of Regulated Qualifications may help providers identify PFA providers, which can be found at: <http://register.ofqual.gov.uk/qualification>. It may also be helpful to refer to HSE's guidance about choosing a first aid training provider, which can be found at: www.hse.gov.uk/pubns/geis3.htm

31: In this context, “newly qualified entrants” includes staff who have been apprentices or long term students who have gained a level 2 or level 3 early years qualification.

32: Newly qualified entrants who started work between 30 June 2016 and 2 April 2017 must have either a full PFA or an emergency PFA certificate by 2 July 2017 in order to be included in the required staff:child ratios at level 2 or level 3 in an early years setting.

Impact on inspection: Inspectors will need to be satisfied that providers are fully meeting this requirement. Inspectors are not expected to know the content of courses provided by different training agencies. It is up to the provider to ensure that training complies. Inspectors should check how the provider has ensured this. The requirement now makes clear to providers how frequently first aid qualifications should be renewed. This is in line with current timescales and is something inspectors already check.

Inspectors will now need to check that all staff who have qualified since 30 June 2016 have a PFA qualification within three months of starting work if they are being counted as part of the staff:child ratios. Where the three months has not yet passed, inspectors should discuss with the provider the steps they are taking to ensure that the new employee is able to get the necessary qualification within the required timescale. The DfE has confirmed that during this period of time new entrants can be counted as part of the staff:child ratio. However, inspectors should be satisfied that providers are working towards ensuring they obtain the qualification within the required timescale and that they understand the impact on ratios if the new entrant does not obtain their qualification in time.

Inspectors should also take account of footnote 30 at the bottom of page 22 when considering compliance with this requirement:

Providers can make an exception to this requirement where a newly qualified entrant to the workforce is unable to gain a PFA certificate if a disability would prevent them from doing so. Such a newly qualified entrant can still be included in the staff:child ratios if otherwise competent to carry out their childcare duties. Where possible, such staff should attend a relevant PFA training course and obtain written evidence of attendance.

In these circumstances, inspectors should discuss with providers how they are supporting the new entrant to gain a relevant first aid qualification. Inspectors must be confident that the provider remains compliant with the rest of the requirement. Providers must ensure that at least one person with a relevant first aid qualification is present on the premises and on outings at all times. Staff deployment should enable a qualified person to respond quickly in an emergency.

The requirement now also recommends that providers share with parents details of all staff who hold PFA qualifications. As this is not a ‘must’, inspectors will not be able

to raise actions in order to bring about compliance. However, inspectors should draw providers' attention to this element of the requirement if this is not in place. Where appropriate, inspectors can raise a recommendation to encourage this good practice.

The government has also awarded NDNA a contract to deliver 'Millie's Mark', a new quality mark for settings where all employees are trained in PFA. Further information can be found via the following link: <http://www.ndna.org.uk/milliesmark>.

Inspectors should familiarise themselves with this endorsement. Having Millie's Mark may indicate a setting's commitment to safeguarding. However, it is not a requirement. So, inspectors should not use its presence or absence to judge the effectiveness of safeguarding. There is no requirement to mention the accreditation in a report. To do so suggests that Ofsted endorses the scheme. Equally, inspectors should not raise actions or recommendations about getting the accreditation.

- Paragraph 3.37 ("ratios") includes a new footnote for schools that have provision run by the governing body (under section 27 of the Education Act 2002). This change was communicated to Ofsted and all local authorities in autumn 2015 and therefore has no current impact on inspection.

Where schools have provision run by the governing body (under section 27 of the Education Act 2002) for three- and four-year-olds who are not pupils of the school, they can apply: a 1:13 ratio where a person with a suitable level 6 qualification is working directly with the children (as in paragraph 3.33); or a 1:8 ratio where a person with a suitable level 6 qualification is not working directly with children but at least one member of staff present holds a level 3 qualification (as in paragraph 3.34).

- Paragraph 3.42 ("childminders") now includes a further example of when an exception to the usual ratios can be made (namely to maintain continuity of care).

If a childminder can demonstrate to parents and/or carers and Ofsted inspectors or their childminder agency that the individual needs of all the children are being met, exceptions to the usual ratios can be made, for example, when childminders are caring for sibling babies, or when caring for their own baby, or to maintain continuity of care. If children aged four and five only attend the childminding setting before and/or after a normal school day, and/or during school holidays, they may be cared for at the same time as three other young children. But in all circumstances, the total number of children under the age of eight being cared for must not exceed six.

Impact on inspection: This amendment brings further clarifies situations where a childminder can operate outside of the usual ratios. It is important however, that in these circumstances, the childminder can show the inspector that they continue to meet the individual needs of all children.

- Paragraph 3.45 (“medicines”) has been amended to make it clearer that prescription medicines must not be administered unless they have been prescribed for a child by a doctor, dentist, nurse or pharmacist.

Providers must have and implement a policy, and procedures, for administering medicines. It must include systems for obtaining information about a child’s needs for medicines, and for keeping this information up-to-date. Training must be provided for staff where the administration of medicine requires medical or technical knowledge. **Prescription medicines** must not be administered unless they have been prescribed for a child by a doctor, dentist, nurse or pharmacist (medicines containing aspirin should only be given if prescribed by a doctor).

Impact on inspection: The only change to this requirement is the insertion of the word ‘prescription’. This makes it clear for both providers and inspectors that this part of the requirement relates to medicines that are **only** available via a prescription. This removes the possible contradiction in paragraph 3.46.

- Paragraphs 3.10, 3.41, 3.63 and 3.77 include minor amendments as a result of section 76 of the [Small Business, Enterprise and Employment Act 2015](#), which allow childminders and domestic childcare providers - registered with Ofsted or a childminder agency - to operate from suitable non-domestic premises for up to half their time (without registering separately). This measure came into effect on 1 January 2016 and, therefore, does not affect current inspection and/or regulation.

3.10 Ofsted or the agency with which the childminder is registered is responsible for checking the suitability of childminders, **of every other person looking after children for whom the childminding is being provided (whether on domestic or non-domestic premises)**, and of every other person living or working on any domestic premises from which the childminding is being provided, including obtaining enhanced criminal records checks and barred list checks.

3.41 At any one time, childminders (**whether providing the childminding on domestic or non-domestic premises**) may care for a maximum of six children under the age of eight.

3.63 Providers must carry **the appropriate insurance (e.g. public liability insurance) to cover all premises from which they provide childcare or childminding.**

3.77 All registered early years providers must notify Ofsted or the childminder agency with which they are registered of any change:

in the address of the premises (and seek approval to operate from those premises where appropriate); **to the premises which may affect the space available to children and the quality of childcare available to them; in the name or address of the provider, or the provider’s**

other contact information; to the person who is managing the early years provision; in the persons aged 16 years or older living or working on any domestic premises from which childminding is provided; or to the persons caring for children on any premises where childminding is provided.