

Registering school-based provision

A childcare factsheet

The Childcare Act 2006 says childcare is 'any form of care for a child including education or any other supervised activity'.

Most childcare providers caring for children under eight years old must register with Ofsted unless the law says they do not need to.

We register childcare providers on the following two registers.

- The Early Years Register
- The Childcare Register

Introductory reading is in *Registering childcare providers from September 2008*, which is on our website (www.ofsted.gov.uk/publications/080043).

Introduction

This factsheet sets out our approach to judging whether childcare directly provided by a state-maintained or independent school needs to be registered with us and the issues that we take account of when making our decision.

When you do not need to register with us

At least one child attending the childcare is a pupil of the school

A pupil is someone who is on the school's register, which schools must have under the Education (Pupil Registration) (England) Regulations 2006. They have been accepted on your roll in line with your admission arrangements which you have agreed with your local authority. Provision that has at least one registered pupil aged three or over does not come under the Early Years Register and the Childcare Register where the childcare is provided directly by the school.

Rising threes

'Rising threes' are children who are registered pupils at a school and have not reached the age of three but will do so before the end of their first term at school. There are three cut-off dates for the end of a school term:

- 31 August

- 31 December, and
- 31 March.

Children who are rising threes may count as three for the purpose of registration and do not come under the Early Years Register as shown in the Childcare (Exemptions from Registration) Order 2008 (2008 No. 979) (www.opsi.gov.uk/si/si2008/uksi_20080979_en_1).

Early Years Register

You do not need to register with us on the Early Years Register if you provide the Early Years Foundation Stage (see note 1 below) for at least one of your registered pupils who is rising three or older.

You **must** register your early years provision if it is:

- for children aged from birth to under three years – but not rising threes if they are pupils at the school – and at least one child receives childcare from you for more than two hours a day
- only for children who are not pupils at the school. This might include early years provision in a separate part of the school or not on the school premises, such as a nursery for children of staff members or a nursery in a children's centre run by the school.

In all cases, whether or not you need to register, you must deliver the Early Years Foundation Stage for children in the early years age group (see note 2 below), including all care provision outside of the school day (wrap-around care).

Childcare Register

The Childcare Register has voluntary and compulsory parts – see the introductory reading in *Registering childcare providers from September 2008* (www.ofsted.gov.uk/publications/080043).

You cannot normally register on either part of the Childcare Register when you provide care for at least one registered pupil of the school. There are a few instances when you may be providing wrap-around care for children not in the early years age group which would need to be registered. If this applies, you must register on the Childcare Register. Examples of when you might need to register are set out below.

1 To find out about the Early Years Foundation Stage visit its website: www.standards.dfes.gov.uk/eyfs/site/index.htm.

2 The early years age group is children aged from birth until the 31 August following their fifth birthday who go to an early years settings that delivers the Early Years Foundation Stage.

You must register on the compulsory part of the Childcare Register if you provide childcare for more than two hours a day for children who are older than the early years age group but aged under eight and none of the children are pupils at the school. For example, this would cover an out-of-school club provided by a secondary school for children aged under eight where none of the children are pupils of the secondary school.

You may also, in limited circumstances, choose to register on the voluntary part of the Childcare Register. This is only if what you provide caters for children aged eight and upwards but none of the children are pupils at the school. For example, if the out-of-school club we described in the previous paragraph extends the age range of children.

You **cannot** register on the compulsory or voluntary part of the Childcare Register if any of your pupils go to the out-of-school club. However, whether or not registration is needed, you must still meet the requirements of the Childcare Register.

Childcare provided on a school site when the provider is not the school

A school may have childcare provided on the site where the provider is not the school. Sometimes the school may have arrangements with the provider to care for pupils before or after the school day in an out-of-school club. In other examples the only connection to the school is that it is in a school building. For example, a provider may rent the school hall to run a nursery for a few mornings during the week.

In these cases, depending on the age of the children attending, the provider will need to register on the Early Years Register, the Childcare Register, or both if the provision meets the requirements for registration and is not exempt from compulsory registration. Please read *Registering childcare providers from September 2008* (www.ofsted.gov.uk/publications/080043).

Childcare provided alongside that for school pupils

Some schools have arrangements with a registered provider to share the same premises, such as a classroom. For example, in some rural schools where numbers of children in the reception class are low they may combine with the local pre-school to share costs and facilities. This type of arrangement is sometimes referred to as a 'foundation stage unit'.

If you want to have this type of arrangement we allow this to happen where both of you can show you are aware of your own responsibilities for meeting the requirements of the Early Years Foundation Stage. For example, you know which children are pupils and which aren't and that you have the right number of qualified staff to work with them. You may share policies and procedures but each of you must make sure that they are right for you and meet your legal requirements.

The law says that 'the premises must be for the sole use of the provision during the hours of operation'. We interpret 'provision' as meaning delivery of the Early Years Foundation Stage so that it allows you to operate alongside each other.

Mixed provision on a school site

Not all provision on a school site fits neatly or easily into the requirements for registration as defined by law.

We deal with each application to register or make a change to a registration on a case-by-case basis. The examples in the section below show how complicated provision on school sites can be and how we deal with this using our policy for registering provision. Annex A also gives some common types of registration.

One common example is where childcare provided by the school has registered pupils going for part, but not all, of the time. We can usually deal with this situation by registering the provision and using a condition to limit this registration just to the times when no registered pupils are there. This allows schools to continue to offer childcare in the most flexible way possible.

Examples of complicated provision on school sites

Example 1

A primary school wants to run a pre-school for children aged three and four in the same room as its breakfast and after-school club.

The breakfast and after-school club is for all children who are pupils at the school, but the pre-school will be for local children who are not pupils at the school.

The childcare offered by the pre-school will not be part of the school's activities.

The school will need to apply to register its pre-school as 'childcare on non-domestic premises'.

The school does not need to register the breakfast and after-school club because it is run by the school direct, as part of the school's activities and for at least one child who is a pupil at the school.

We will say on the registration certificate that the registration only covers the pre-school. This will be either a statement that gives the exact details of the registered provision – for example 'the pre-school running for children aged three

and four, between the hours of 9.30am and 12.30pm' – or as a condition of its registration.

We will inspect the pre-school as part of the school inspection and write about it in the school's inspection report.

However, we can only take formal enforcement action against the school for the provision registered with us, that is, the pre-school. If we find other matters which concern us, for example in the breakfast and after-school club, we can only deal with these through recommendations in the school's inspection report.

Example 2

A secondary school has:

- **a nursery for the children of pupils, staff and the local community for children aged from three months to five years**
- **one after-school club for children who are not its pupils and are aged from four years 11 months to 11 years, and**
- **a second after-school club only for its own pupils for children from age 11 upwards.**

The school provides all the care and no children who go to the settings are registered pupils of the school, except at the second after-school club.

The school is currently registered on the Early Years Register, but only for children aged from birth to three years as the school believes that it only needs to register provision for children aged under three.

The nursery does not have the correct registration. It is only registered for children from birth to under three and needs to be registered for all of its childcare for children aged from birth to five years.

This is because although the nursery provision is made by the governing body, no pupil of the school goes there, so the secondary school is not providing childcare as part of its activities for at least one registered pupil of the school.

The school must register, on the Childcare Register, the after-school club for children that are not its pupils and are aged four years 11 months to 11 years. Schools cannot register provision on the Childcare Register if the provision is part of the school's activities and is made for at least one pupil at the school. In this case, as none of its pupils go to the club, the school must register on:

- the Early Years Register for children in the early years age group, and
- the compulsory part of the Childcare Register for children who are older than the early years age group and under eight.

The school can choose to register on the voluntary part of the Childcare Register for children aged eight to 11 years.

It cannot register the after-school club for its own pupils on the voluntary part of the Childcare Register as the provision is made for pupils of the school as part of the school's activities. However, we would expect the club to meet the requirements of the Childcare Register.

Schools who are incorrectly registered must contact us as soon as possible, so that we can make sure that they are running any extended services in line with the law and so that we can inspect all of its provision as part of the school inspection, if this is appropriate.

We inspect any provision that is managed by the governing body as part of the school inspection and include this in the school inspection report.

Example 3

A school runs a nursery for children aged three and four. It does this by linking its reception class for four-year-olds with its pre-school for three-year-olds.

Although the two groups of children are sometimes doing separate activities, they join up for many others, including outdoor play, story time and daily news. The staff in the nursery work with both groups of children.

All of the children aged four are registered pupils of the school, but none of the children aged three are registered pupils.

We would count the reception class and the pre-school as operating as one form of childcare. As some of the children are registered pupils and the class is part of the school's activities then none of the provision will need to be registered as it is provided by the school direct for children aged three and upwards.

The relevant factors we take account of when making this type of decision are:

- a significant number of the activities are joint
- the provision as a whole is treated as part of the school, and
- staff work in both the reception class and the pre-school.

We will inspect the provision as part of the school inspection and report on it in the school's inspection report.

Example 4

A maintained nursery school that is part of a children's centre run by a school governing body.

The centre offers childcare for children aged from birth to five and maintained education for children aged three to five. It is open 50 weeks of the year from 7am to 6pm.

All children aged three upwards, whether in the childcare or receiving maintained education, are together in one area of the children's centre. There are separate rooms for children aged under three.

During the school holidays no registered pupils of the school go, but the centre stays open.

This children's centre needs registration for children aged from birth to under three.

The childcare and maintained education for children aged three and upwards does not need registration as long as at least one child who is a registered pupil of the nursery school goes there. However, in the school holidays the childcare for children aged three and upwards does need registration as there are no registered pupils present.

It is not practical for the children's centre to keep changing its registration according to whether there are registered pupils present. We would register the provision and set conditions of registration to reflect this situation, such as: 'may care for x children aged three to the end of the early years age group at times where no children who are registered pupils of the school attend'.

We inspect the Early Years Foundation Stage provision managed by the governing body as part of the nursery school inspection and include it in the school's inspection report.

Example 5

A school reception class agrees to share its premises with the local pre-school run by a parent committee. The pre-school and reception class share one large classroom, toilet facilities and an outdoor area, although a room divider is used at times such as registration. They share many activities and carry out joint planning. Children from the pre-school usually start in the school reception class in the term before their fifth birthday.

The school will not have to register its early years provision but the pre-school does.

The relevant factors we take account of when allowing the pre-school to share premises with the school are:

- The pre-school committee retains and understands its responsibilities in relation to the provision of childcare and meets the requirements of the Early Years Foundation Stage.
- Staffing arrangements for the pre-school children meet the ratios and qualification requirements for registered provision. This includes the requirement to have a manager qualified to level 3. The manager cannot be the reception class teacher.
- Any shared policies and procedures are relevant to both types of provision.

We will inspect the pre-school separately to the school and it will have its own report. The reception class will be inspected as part of the school inspection and report on it in the school's inspection report. Wherever possible the two inspections will happen together.

Annex A. Who needs to register?

The table below may help to clarify who should apply to register in different scenarios, when childcare is provided in schools.

Situation	Who should register?
The governing body at a school employs an individual to provide childcare.	Registration isn't required providing at least one child attending is a pupil of the school and no children are aged under three. If registration is required the governing body would need to register.
The school commissions an individual or organisation to provide childcare on its behalf. The commissioned person employs staff to work in the setting and is responsible for the service, its policies and practice.	The individual or organisation commissioned to provide the service.
The school lets a room to a person or organisation for the provision of care.	The person or organisation renting the premises and providing the childcare.
The governing body sets up a committee to have full responsibility for the running of the out-of-school care provision. The committee does not report back to the governing body.	The committee responsible for providing the care.
The headteacher and some members of the governing body form a committee to provide the care (even if they do not report back to the governing body as a whole).	Registration isn't required providing at least one child attending is a pupil of the school and no children are aged under three. If registration is required the governing body would need to register.
The governing body sets up a committee to have responsibility for the management and running of the out-of-school care provision. The committee reports to the governing body.	Registration isn't required providing at least one child attending is a pupil of the school and no children are aged under three. If registration is required then the governing body would need to register.
The out-of-school club is run by a parent committee who have full control of the day-to-day care provided.	The committee.
The school uses a childminding network to provide its wrap-around care before and after school.	Each individual childminder.
The school rents a local community centre with two more schools.	Registration isn't required providing at least one child is a pupil at each of the schools and no child attending is aged under three. If registration is required the governing bodies would need to register if they are jointly responsible.
The headteacher directly manages the	Registration isn't required providing at least

childcare but does it on behalf of the school.	one child attending is a pupil of the school and no children are aged under three. If registration is required the governing body would need to register.
The headteacher employs a manager to provide childcare and does this on behalf of the school.	Registration isn't required providing at least one child attending is a pupil of the school and no children are aged under three. If registration is required the governing body would need to register.
The local authority runs childcare in one school and provides a bus service for all local schools to participate.	The local authority, as long as they employ the staff providing the childcare.
The local authority commissions an individual or organisation to provide childcare on its behalf in one school and the local authority provides a bus service for all local schools to participate.	The individual or organisation commissioned to provide the childcare.

More information from Ofsted

There is more information about registration on our website (www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Care-and-local-services/Childcare). If you are not sure whether you have to register, please contact us on 0300 123 1231.

There is more information on the requirements for registration on the Early Years Register in the *Guide to registration on the Early Years Register: childcare providers on non-domestic or domestic premises* (www.ofsted.gov.uk/publications/080017) and on the Childcare Register in the *Guide to registration on the Childcare Register* (www.ofsted.gov.uk/publications/080032).

Some childcare providers don't need to register their services and you can find out about the circumstances where providers do not have to register in our childcare fact sheet: *Registration not required* (www.ofsted.gov.uk/publications/080134). This is also part of the *Guide to registration on the Childcare Register* (www.ofsted.gov.uk/publications/080032).

The law that sets out our responsibilities is the Childcare Act 2006 and linked regulations. The specific order setting out exemptions from compulsory registration is the Childcare (Exemptions from Registration) Order 2008 (2008 No. 979) (www.opsi.gov.uk/si/si2008/uksi_20080979_en_1). The references to regulations and our policy on registration and inspection are included in our *Framework for the regulation of those on the Early Years and Childcare Registers* (www.ofsted.gov.uk/publications/080024).

Further information

Your local family information service (FIS) will help you. You can get their contact details from

www.familyinformationservices.org.uk/index.php?option=com_comprofiler&task=userslist&listid=7&Itemid=72, or from your telephone directory.

The Office for Standards in Education, Children's Services and Skills (Ofsted) regulates and inspects to achieve excellence in the care of children and young people, and in education and skills for learners of all ages. It regulates and inspects childcare and children's social care, and inspects the Children and Family Court Advisory Support Service (Cafcass), schools, colleges, initial teacher training, work-based learning and skills training, adult and community learning, and education and training in prisons and other secure establishments. It assesses council children's services, and inspects services for looked after children, safeguarding and child protection.

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