Annex A: Registration not required

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 or as applicable, a childminder agency, unless the law says they do not need to.

The next section outlines when providers are not required to register on either the Early Years Register or on the compulsory part of the Childcare Register.

**Providers do not have to register with Ofsted in the following cases:**

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<tr>
<th>Case</th>
<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>If they care for children who are aged eight and over.</td>
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<td>2</td>
<td>If they provide care where a child does not stay with them for more than two hours a day, even if the childcare service is open for longer than two hours.</td>
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<tr>
<td>3</td>
<td>If they only care for a child or children aged under eight who they are related to. A relative means a grandparent, aunt, uncle, brother or sister of a child (or half-brother or sister) or someone they are related to through marriage or civil partnership.</td>
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<tr>
<td>4</td>
<td>If they care for children aged under eight on domestic premises as a childminder without receiving any payment or reward for the services. Domestic premises can be their own home or someone else’s home.</td>
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</table>
| 5    | If they only care for a child or children as a:  
  - local authority foster carer  
  - foster carer with whom the child has been placed by a voluntary organisation  
  - foster carer who fosters the child privately. |
| 6    | If they are a local authority approved foster carer, providing childcare for another child already placed with any local authority approved foster parent. |
| 7    | If they only care for the children of one or more friends in their own home or someone else’s home:  
  - if no money or payment changes hands  
  - for three hours or less per day, and some payment is made.  
  
Payment is defined as a ‘payment of money or money’s worth’ but does not include the provision of goods or services; it means payment for or towards the costs involved in the childcare, such as a contribution to heating and lighting, or paying for food or repairs to the place where the childminding happens. |
<p>| 8    | If they provide care for children in their own home. This includes caring for children of up to two sets of parents completely or mainly in one or both sets of parents’ homes. However, they need to register as a childminder if they look after the children of three sets of parents in any or all of the parents’ homes. |</p>
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<td><strong>9</strong></td>
<td>If they only provide care between 6pm and 2am on domestic premises (babysitting arrangements). Domestic premises can be their own home or someone else's home.</td>
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<td><strong>10</strong></td>
<td>If they are providing a home-education arrangement where a child of school age receives full-time education outside school, and is partly or completely taught by a person other than a parent of the child. Care provided to the child is incidental to (not the main focus of) the education offered.</td>
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| **11** | If they provide no more than two activities from the following list:  
  - school study support or homework support  
  - sport  
  - performing arts  
  - arts and crafts  
  - religious, cultural or language study.  
  This only applies if they care for children who are aged three and over, and do not care for children aged under five for more than four hours in any one day. There is further information about this type of provision below. |
| **12** | If they provide care as part of their organisation’s activities in any of the following places:  
  - a children’s home  
  - a care home  
  - a hospital in which a child is a patient  
  - a residential family centre  
  - a young offenders institution or secure training centre  
  - a residential holiday scheme for disabled children. |
| **13** | If they are a school or academy that provides education or care for children aged two and over, where at least one child being cared for is a pupil of the school. |
| **14** | If (excluding childminders) they care for children under eight for four hours or less each day and the care is for the convenience of parents who plan to stay on the premises where they are providing care or within the immediate area. This type of provision has no long-term commitment to provide care for children – for example, a shoppers’ crèche, a crèche attached to a sports centre or adult learning centre, or an exhibition – and covers services where children do not necessarily attend every day. There is further information about this type of provision below. |
| **15** | If they provide an open-access scheme\(^1\) for children who are not in the early years age group\(^2\). However, if they also offer provision for children in the early years age group, this would not be an open-access scheme. |

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\(^1\) An open access scheme offers play-based provision for children in the later years age group only, that is, from 1 September following their fifth birthday. This type of provision is exempt from registration.  
\(^2\) The early years age group is children aged from birth until the 31 August following their fifth birthday who go to early years settings that deliver the Early Years Foundation Stage.
group who attend for more than two hours in any one day, they must register on the Early Years Register and meet its requirements. Childminders are not allowed to provide an open access scheme for children under eight.

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<td>16</td>
<td>If (excluding childminders) they care for children under eight from specific premises for 14 days or less in any year, and they let Ofsted know in writing at least 14 days before starting the service.</td>
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<td>17</td>
<td>If they care for children between 6pm and 2am in hotels, guest houses or similar places. The care is for children of no more than two different clients, staying at the same place at the same time (babysitting arrangements).</td>
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<tr>
<td>18</td>
<td>If they wish to operate from an open space or other area with no building (for example as a forest school) they must still register with Ofsted unless they meet one or more of the exemption criteria outlined above in numbers 1–17.</td>
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**Further information on items 11 and 14**

**Providing no more than two activities (11)**

This exemption applies where the main purpose of what providers intend to offer is to give instruction or tuition in the activities, such as football coaching or art classes. Ofsted would not necessarily expect all those working with children to be specialist coaches, but it would expect them to have particular skills in the activities they were providing that would help children get better at them. For example, Ofsted would make a distinction between sports and physical activity for children. If providers offer a bouncy castle or activities like racquets and balls, bikes or roller skates for children to choose from then Ofsted would normally decide that these offered children physical exercise rather than being a sports activity. Similarly, the provision of pens, paints and paper does not fall under the exemption for arts and crafts. Ofsted looks for specific tuition or coaching to help children improve their skills.

Providers cannot claim this exemption where the main purpose of what they provide is childcare for working parents. Clearly if children are present for longer periods of time, Ofsted would expect them to have a break or rest time or if children are disabled or have special educational needs, Ofsted would expect them to have their needs met. But this must not be the main reason that the scheme or club exists. There is no reason why the specific care needs of disabled children or those with special educational needs cannot be met by attending sessions where the prime purpose is instruction. Those providing such activities may wish to give extra support and instruction to disabled children and those with special educational needs, or make arrangements for them to have their own carer present with them.

**Care where parents remain in the immediate area (14)**

The law sets out that this type of provision does not need to register with Ofsted, but it does not explain what is meant by the immediate area. Ofsted interprets this as meaning ‘premises where care is provided and where parents can be summoned immediately’. Examples include crèches in a college where parents are taking part in adult learning classes, in a sports centre where parents are playing sports, or in a
purpose-built shopping centre in enclosed premises. There are two separate exemptions that apply to crèches.

**Exemption one, if:**

- the crèche offers services for a particular child for four hours or less per day
- the provision is offered to parents or carers as a convenience
- there is no longer-term commitment
- the parents or carers intend to remain on the premises.

**Exemption two, if:**

- the crèche is operating for 14 days or less in a year at a particular premises
- the provider has notified Ofsted at least 14 days in advance of the first day they want to operate from a particular premises.

In each of these exemptions, **all of the criteria** need to be satisfied for the crèche to be exempt. If any part of the criteria is not met, the crèche will not be exempt and registration is required. It is important that inspectors and administrators ask sufficient questions to ensure that the crèche meets all the criteria before advising the provider that they do not need to register. For example:

- a mobile crèche that offers full daycare for children at different venues **is not exempt** under the first exemption, because children stay for longer than four hours. The provision **may be exempt** if it only operates from each venue for no more than 14 days per year, as long as the provider has notified Ofsted in advance

- a crèche where parents can leave their children while they undertake work or training **is not exempt** under the first criteria. This is because it is offering a longer-term commitment to parents so they can undertake work or training

- a crèche that operates from different venues, but has failed to notify Ofsted at least 14 days in advance of operating at each venue, is not exempt under the second exemption. It is only exempt if it has notified Ofsted in advance.