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Education and childcare during coronavirus

DfE
Department for Education

Statutory guidance

Early years foundation stage: coronavirus disapplications

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1. Introduction

This early years foundation stage (EYFS) statutory framework sets the standards that all early years providers must meet to ensure that children aged 0 to 5 learn and develop well and are kept healthy and safe.

To support early years providers during the coronavirus (COVID-19) pandemic, the government has disapplied and modified certain parts of the EYFS statutory framework.

This was to allow providers greater flexibility to respond to changes in workforce availability and potential fluctuations in demand, so that they could ensure that it is high-quality and safe.

These disapplications came into force on 24 April 2020 and extend on 25 September 2020. These disapplications have been reviewed on a monthly basis.

Provisions were made in the regulations to allow for a transitional period of up to 3 months for disapplications around staffing levels to provide providers with time to plan ensure they need some time to get back to full staffing levels once the disapplications are lifted.

If there are further restrictions or requirements related to coronavirus (COVID-19) that are in place on or after 25 September 2020, we will review the EYFS and the EYFS. Therefore we have made new regulations as follows: where the relevant restrictions or requirements which have been made under Part 2 of the Coronavirus (Covid-19) Act apply the provisions in the EYFS statutory framework to coronavirus (COVID-19) related restrictions or requirements which have been imposed on a geographical area rather than a single provider.

These restrictions must have been implemented either through the Public Health (Control of Disease) Act 1984 or under the Coronavirus Act 2020. A provider would not be able to allow the disapplications strictly due to an incidence of coronavirus (COVID-19) in a setting. The EYFS provisions would be disapplied in relation to restrictions in place and the provider must have deemed these restrictions to mean they are unable to deliver the EYFS as required. The key changes are as follows:

- disapplications around paediatric first aid (PFA) certificates have been included within the transitional period until 25 September 2020 that originally only applied to staffing ratios and staff qualifications. This means that from 25 September some providers are having to accessing PFA training or renewing a paediatric first aid certificate, which may be difficult due to the impact of coronavirus (COVID-19)
- provisions have been made in regulations to allow for the current disapplications (as set out below) to be lifted, in relation to areas where it is not advantageous to keep a disapplication in place, or where it is not advisable to keep a disapplication in place
- restrictions or requirements imposed by regulations made under the Public Health (Control of Disease) Act 1984
- prohibitions, requirements or restrictions imposed by a direction made under any of paragraphs 1 to 4 of schedule 19 to the Coronavirus Act 2020
- 2020

The provision will be referred to in this guidance as a 'period of disruption'.

'Prescribed requirements' refer to the specific parts of the EYFS that can be disapplied, as shown below, including the learning and development requirements, the progress check at age 2 and assessments around PFA qualifications and staff qualifications and ratios.

The provider does not need to be located in the geographical area where the restrictions are applied but the restrictions do need to prevent them from complying with the EYFS. For example, if there are no staff due to the area where the restrictions apply and are able to get to the work.

Details of restrictions or requirements that might be imposed are set out in the COVID-19 United Kingdom and include restrictions on travel or movement and gatherings or general restrictions on movement of people, including requirements to 'stay at home' or restrictions on entering or leaving a defined area.

This guidance note outlines the arrangements in relation to statements of the EYFS statutory framework and should be read in conjunction with the EYFS statutory framework, childcare providers during coronavirus (COVID-19) pandemic, and any guidance from the providers' local authority.

Providers should also refer to the relevant guidance for the learning and development requirements and welfare requirements relating to staff qualification levels. For the PFA requirement, 'best endeavours' is higher-level. 'Best endeavours' is a higher-level requirement than 'should' or 'must'. It means that the provision of the EYFS requirements take priority over the other areas of the EYFS framework that have been changed.

2. Who is this for?

The disapplications and modifications to the EYFS are for all early years providers in England, including:

- maintained schools
- independent schools
- independent schools (including free schools and academies)
- all providers on Ofsted's Early Years Register
- all providers registered with an early years childminder agency

3. When do these changes apply?

Up to 25 September 2020 all disapplications in this section apply for all early years providers in England.

From 25 September to 25 November 2020:

- this is the transitional period for the safeguarding and welfare requirements that are disapplied in relation to staff qualifications and ratios, and the learning and safeguarding and welfare requirements in full by the 25 November 2020
- all of the parenting and development and assessment disapplications cease to apply. The learning and development ratios are required to be met by EYFS for those areas in full from the 25 November 2020

During a period of intervention related to coronavirus (COVID-19) between 25 September and 25 August 2021, if the government confirms that an area is subject to coronavirus (COVID-19) related requirements or restrictions and these restrictions, or the impact of them, are such that providers are unable to deliver the requirements of the EYFS, the disapplications below, with the exception of the EYFS parent and development disapplication, will be automatically applied. These will begin immediately and will last for a period of 3 months (unless the government lifts the restrictions or directions). We allow a 2 week transition period once the restrictions are lifted.

4. Disapplications for the early years foundation stage section 1

4.1 Learning and development requirements

The change

During the coronavirus (COVID-19) pandemic, including any period of intervention related to coronavirus (COVID-19), early years providers should use reasonable endeavours to meet the learning and development requirements, instead of the being something they 'must do'.

What this means in practice

The EYFS requirements that children are cared for and are safe within settings. As far as possible, children should also benefit from a broad range of educational opportunities.

The EYFS learning and development requirements comprise 7 high level areas of learning that underpin much shape educational programmes in settings, and 17 early learning goals. The EYFS requirements that children are cared for and are safe within settings and children should have gained by the end of the reception year.

Whilst providers should try and meet existing requirements as far as is possible, we recognise that this may be more challenging during the pandemic and it may not be not be possible to provide activities and experiences across all 7 areas of learning for all children all of the time.

5. Disapplications for the early years foundation stage section 2

5.1 Assessment - progress check at age 2

The change

The progress check at age 2 will not need to be undertaken during the coronavirus (COVID-19) pandemic, including any period of intervention related to coronavirus (COVID-19).

What this means in practice

Providers are encouraged to undertake a progress check when a child's age between 2 and 3. This provides parents/carers with a clear, written summary of child's development in the prime areas.

During the coronavirus (COVID-19) pandemic, including any period of intervention related to coronavirus (COVID-19), we do not expect providers to undertake this check. Providers should use their knowledge of children and their professional judgement to provide care and endeavour to provide as well additional support if needed. It is expected that the checks will take place as soon as is practical once the child returns to, or joins, the setting. Providers should use the EYFS Development Matters to inform their practice and useful in the provider's professional judgement and in discussion with the child's parents/carers.

5.2 Assessment – early years foundation stage profile

The change

The early years foundation stage profile (EYFSP) assessment was not undertaken in the academic year 2019/20.

During 2020/21 providers should still work towards the EYFSP assessment unless advised otherwise. In line with other statutory assessments, no disapplication has been made for the EYFSP for 2020/21.

What this means in practice

The EYFSP is usually undertaken in the final term of the year in which a child turns 5 and is a statutory requirement for all maintained schools, academies and free schools in KS1. This results are usually shared with parents/carers, year 1 teachers and the local authority and form national statistics.

There was no statutory requirement for schools to undertake the EYFSP in 2019/20.

Schools were free to undertake EYFSP assessments for children if they were able to, and to share with parents and carers and year 1 teachers if an appropriate time, but they were not required to. If they did choose to share children, they did not need to share the results with the local authority. Schools were also not required to moderate any assessments that were carried out in 2019/20.

6. Disapplications for the early years foundation stage section 3

6.1 Staff qualification and ratios

The change

Ratio requirements stay the same in the majority of cases (see Planning Nursery Provision). However, providers may temporarily deploy staff members, including a period of intervention related to coronavirus (COVID-19), exceptions can be made to the qualifications that staff hold in order to be counted in the ratio requirements. Providers may also temporarily deploy staff members who are not part of staff (including the manager) hold at least a full and relevant level 2 qualification to meet staff: child ratio requirements, but this will not be a legal requirement.

What this means in practice

Ratio requirements remain the same, except for maintained school nursery classes with a teacher and a full-time early years practitioner, which can be up to 26 children. To exceptionally, and where the quality of care and security of children is maintained, changes to the ratios may be made.

Providers still need to ensure that there is always a member of staff on a setting which is open and providing care, who holds at least a full and relevant level 3 qualification.

We expect providers to try and meet existing requirements that staff hold at least 2 as far as possible. For example, if staff with level 3 qualifications are available, they should work with children in the 2 year olds room. Providers should use their professional judgement and discretion to ensure the quality of care and security of children is maintained.

The qualifications of staff depend on the type of setting and the numbers of staff: child ratios in the EYFS. These are set out below:

6.2 Paediatric first aid

The changes

The requirement for at least one person who has a full PFA certificate to be on the premises at all times when children are present, including those who are in the care of childminders aged 24 months. Paragraph 3.25 and annex A of the EYFS set out more detail. However, if children are aged 2 to 5 within a setting, providers must use reasonable endeavours to ensure that at least one person who has a full PFA certificate is on the premises. If after using best endeavours they are unable to ensure a member of staff with full PFA is on site then they must carry out a written risk assessment and put in place a plan to ensure that as soon as it is safe, a temporary PFA certification is on site at times children are on premises.

'Best endeavours' means to identify and take all the steps possible within your power to achieve the aim. For example, if a PFA certificate is first aid or one where a setting is open, as per the usual EYFS requirement can PFA.

Please note this does not apply for childminders as they must already have a full PFA certificate.

New entrants (weeks 1 and 2) will not need to hold a PFA certificate within their first 2 months in order to be counted in staff: child ratios, during the coronavirus (COVID-19) pandemic, including any period of intervention related to coronavirus (COVID-19).

Providers will need to ensure that there is always a member of staff on a setting which is open and providing care, who holds at least a full and relevant level 3 qualification.

We expect providers to try and meet existing requirements that staff hold at level 2 as far as possible. For example, if staff with level 3 qualifications are available, they should work with children in the 2 year olds room. Providers should use their professional judgement and discretion to ensure the quality of care and security of children is maintained.

The qualifications of staff depend on the type of setting and the numbers of staff: child ratios in the EYFS. These are set out below:

6.3 Paediatric first aid

The changes

The requirement for at least one person who has a full PFA certificate to be on the premises at all times when children are present, including those who are in the care of childminders aged 24 months. Paragraph 3.25 and annex A of the EYFS set out more detail. However, if children are aged 2 to 5 within a setting, providers must use reasonable endeavours to ensure that at least one person who has a full PFA certificate is on the premises. If after using best endeavours they are unable to ensure a member of staff with full PFA is on site then they must carry out a written risk assessment and put in place a plan to ensure that as soon as it is safe, a temporary PFA certification is on site at times children are on premises.

'Best endeavours' means to identify and take all the steps possible within your power to achieve the aim. For example, if a PFA certificate is first aid or one where a setting is open, as per the usual EYFS requirement can PFA.

Please note this does not apply for childminders as they must already have a full PFA certificate.

New entrants (weeks 1 and 2) will not need to hold a PFA certificate within their first 3 months in order to be counted in staff: child ratios, during the coronavirus (COVID-19) pandemic, including any period of intervention related to coronavirus (COVID-19).

Providers will need to ensure that there is always a member of staff on a setting which is associated directly with the coronavirus (COVID-19) pandemic, or by complying with related government advice, the validity of current certificates can be extended to 25 September 2020 at the latest. This applies to certificates expiry on or after 16 March 2020.

If extend to do so, providers should be able to explain why the first aide has not been able to requalify and demonstrate what steps have been taken to ensure the safety. Employers or certificate holders must do their best to arrange requalification training of their staff as soon as it is safe to do so. Providers should use their best endeavours face to face, so that competency can be properly assessed.

Providers remain responsible for ensuring all children in their care are kept safe at all times.

What this means in practice

For providers with children below the age of 24 months in their care, the requirements around PFA remain the same as in the current EYFS framework, with the exception that providers may temporarily deploy staff members who do not have a full PFA certificate to be counted in ratios. This is in recognition of the greater risk factors for babies and young children in this age bracket, including choking risks and different cardiopulmonary resuscitation (CPR) procedures for babies and for an adult and for children.

For providers who have children aged 2 to 5 in their care they must use 'best endeavours' to ensure that at least one PFA is on site at all times. The use of 'best endeavours' we mean providers must be able to demonstrate they have tried hard and taken all the steps possible to approach a suitable person. This should include:

- liaising with their local authority to find a suitable person. Local authorities should identifying and leading to support either:
  - a registered Ofsted, Care Quality Commission and Earning Service (ERS) check from a local provider who has closed
  - a registered local childminder with a PFA certificate and DBS check who is willing to come to the setting to provide cover
- looking to secure full PFA training for staff that include the skills, knowledge and techniques required for the care of young children including but not limited to choking, CPR and the use of defibrillators, taking into account the EYFS framework and the criteria for effective PFA training

After these actions have been carried out and if it is still not possible for someone with a full PFA certificate to be on site at all times children are present, providers must prioritise the following actions in order to remain open:

- ensure that all other staff members to consider and mitigate the likely occurrence of a serious incident
- ensure at least one person with a current first aid at work or emergency PFA certificate is on site at all times children are on premises and accompany children on outings
- paragraph 3.45 in the EYFS continues to apply and outings should only be undertaken if it is safe to do so
- providers must take account of any government advice in relation to the coronavirus (COVID-19) pandemic

The written risk assessment should take into account all relevant factors with the aim of enabling the setting to ensure they can provide the safe care needed by children of parents/carers who are essential children during the coronavirus (COVID-19) pandemic, including:

- the number of children on the premises
- the staff to child ratios
- the types of activities undertaken with the children on the premises
- the ability of the setting to ensure the safety of children and maintaining the premises
- first aider knowledge among staff on the premises
- the mitigations available to reduce the risk of such an incident

Providers will need to ensure the written risk assessment is kept on site in the setting. This does not need to be sent anywhere but must be available on request.

Providers could help members of staff who have a first aid at work or emergency PFA certificate to help bridge the gap between their current qualification and full PFA by providing the relevant training to cover elements that are not part of general children.

The Health and Safety Executive (HSE) provides guidance on choosing a first aid training provider.

As set out in HSE guidance, any training in relation to paediatric CPR and choking should be in line with the Resuscitation Council's guidance and HSE England guidance.

6.3 Safeguarding and welfare

All other aspects of the safeguarding and welfare section of the EYFS framework still apply, including requirements relating to child protection arrangements. Providers will want to consider whether any which or review is needed of their child protection policies and procedures in relation to the coronavirus (COVID-19) pandemic, including any period of intervention related to coronavirus (COVID-19).

Settings must continue to have a practitioner designated to take lead responsibility for safeguarding. It is acceptable for the safeguarding lead to not be based on site. If this is not possible, for example they may be working from home, the lead or another member of staff, or temporary, should be available by phone or other means and known to staff.

See the statutory guidance on keeping children safe in education for more information.

7. Staff qualifications and ratios during the pandemic, including any period of intervention related to coronavirus (COVID-19)

7.1 All group settings

(See EYFS para 3.25)

Current requirements:

- the manager must hold at least a full and relevant level 3 qualification and at least half of other staff must hold at least a full and relevant level 2 qualification
- the manager should have at least 2 years' experience of working in an early years setting, or have at least 2 years' other suitable experience
- the provider must ensure there is a named deputy who, in their judgement, is capable and qualified to take charge in the manager's absence

Change for coronavirus (COVID-19):

Providers should use their 'reasonable endeavours' to ensure that at least half of all other staff (including the manager) hold at least a full and relevant level 2 qualification. However, meeting this will not be a legal requirement.

All other requirements remain.

7.2 All settings

(See EYFS para 3.25)

Current requirement:

- at least one person who has a current PFA certificate must be on the premises and must be available to accompany children on outings
- all newly qualified entrants to the early years workforce who have completed a level 2 or 3 qualification in the last 2 years, and who are in their first 2 years of working in a childcare setting 3 months of starting work in order to be included in the required staff: child ratios at level 2 or 3 in early years settings

Change for coronavirus (COVID-19):

The requirement for all newly qualified entrants to the early years workforce to have a current PFA certificate in order to be included in the required staff: child ratios included in the required staff: child ratios at level 2 or 3 in early years settings

There will remain a requirement for at least one person who has a current PFA certificate to be on the premises and available at all times when children are present. However:

Where a provider has only children aged 2-5 in their care they must use 'best endeavours' to have one person with PFA on site.

All other requirements remain.

7.3 All providers (other than childminders) caring for children under 2

(See EYFS para 3.31)

Current requirement:

- there must be at least one member of staff for every 3 children
- at least one member of staff must hold a full and relevant level 3 qualification and must be suitably experienced in working with children under 2
- at least half of all other staff must hold a full and relevant level 2 qualification
- at least half of all staff must have received Paediatric First Aid training, unless they are a childminder
- where there is an room for children under the age of 2, the member of staff in charge of that room must, in the judgement of the provider, have suitable experience of working with children under 2

Change for coronavirus (COVID-19):

Providers should use their 'reasonable endeavours' to ensure that at least half of all other staff (including the manager) hold at least a full and relevant level 2 qualification. However, meeting this will not be a legal requirement.

All other requirements remain.

7.4 All providers (other than childminders) caring for children aged 2

(See EYFS para 3.32)

Current requirement:

- there must be at least one member of staff for every 4 children
- at least one member of staff must hold a full and relevant level 3 qualification
- at least half of other staff must hold a full and relevant level 2 qualification

Change for coronavirus (COVID-19):

Providers should use their 'reasonable endeavours' to ensure that at least half of other staff, excluding the member of staff who holds a level 3 qualification, hold at least a full and relevant level 2 qualification, but meeting this will not be a legal requirement.

All other requirements remain.

7.5 Providers caring for children aged 3 and over where a person with qualified teacher status, early years professional status, early years teacher status or another suitable level 6 qualification is working directly with the children

(See EYFS para 3.34)

Current requirement:

- there must be at least one member of staff for every 8 children
- at least one member of staff must hold a full and relevant level 3 qualification
- at least half of other staff must hold a full and relevant level 2 qualification

Change for coronavirus (COVID-19):

Providers should use their 'reasonable endeavours' to ensure that at least half of other staff, excluding the member of staff who holds a level 3 qualification, hold at least a full and relevant level 2 qualification, but meeting this will not be a legal requirement.

All other requirements remain.

7.6 Providers caring for children aged 3 and over where a person with qualified teacher status, early years professional status, early years teacher status or another suitable level 6 qualification is not working directly with the children

(See EYFS para 3.34)

Current requirement:

- 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
- at least half of other staff must hold a full and relevant level 2 qualification

Change for coronavirus (COVID-19):

Providers should use their 'reasonable endeavours' to ensure that at least half of other staff, excluding the member of staff who holds a level 3 qualification, hold at least a full and relevant level 2 qualification but meeting this will not be a legal requirement.

All other requirements remain.

7.7 Independent schools (including in nursery classes in free schools and academies) caring for children aged 2 and over

over where a person with qualified teacher status, early years professional status, early years teacher status or another suitable level 6 qualification, an instructor, or another suitably qualified overseas trained teacher, is working directly with the children.

(See EYFS para 3.35)

Current requirement:

- for classes where the majority of children will reach the age of 5 or older within the school year, there must be at least one member of staff for every 30 children
- for all other classes 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

Change for coronavirus (COVID-19)

Providers should use their 'reasonable endeavours' to ensure that at least one other member of staff, excluding the member of staff who holds a suitable level 6 qualification, an instructor, or another suitably qualified overseas trained teacher, holds at least a full and relevant level 3 qualification but meeting this will not be a legal requirement.

Requirements placed on these providers remain subject to any permitted exceptions under The Schools Admissions (Infant Class Sizes) Regulations 2012 S.I. 2012/10.

All other requirements remain.

7.8 Independent schools (including in nursery classes in academies) caring for children aged 3 and over where there is no person with qualified teacher status, early years professional status, early years teacher status or another suitable level 6 qualification, no instructor, and no suitably qualified overseas trained teacher, working directly with the children

(See EYFS para 3.36)

Current requirement:

- there must be at least one member of staff for every 8 children
- at least one member of staff must hold a full and relevant level 3 qualification
- at least half of all other staff must hold a full and relevant level 2 qualification

Change for coronavirus (COVID-19)

Providers should use their 'reasonable endeavours' to ensure that at least half of other staff, excluding the member of staff who holds a level 3 qualification, hold at least a full and relevant level 2 qualification but meeting this will not be a legal requirement.

All other requirements remain.

7.9 Maintained nursery schools and nursery classes in maintained schools caring for children aged 3 and over

(See EYFS para 3.37)

Current requirement:

- there must be at least one member of staff for every 13 children
- at least one member of staff must be a school teacher as defined by section 122 of the Education Act 2002
- at least one other member of staff must hold a full and relevant level 3 qualification

Change for coronavirus (COVID-19)

Providers should use their 'reasonable endeavours' to ensure that at least one member of staff is a school teacher as defined by section 122 of the Education Act 2002.

In instances where this is not possible, providers should follow the requirements for providers where there is not someone with a suitable level 6 qualification working directly with the children (for example, there must be at least one member of staff for every 8 children, at least one member of staff who holds at least a full and relevant level 3 qualification and providers should use their 'reasonable endeavours' to ensure that at least half of other staff hold at least a full and relevant level 2 qualification).

Where at least one member of staff is a school teacher, providers should use their 'reasonable endeavours' to ensure that at least one other member of staff holds at least a full and relevant level 3 qualification but meeting this will not be a legal requirement.

All other requirements remain.

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