

Variations for childminders

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Note - if you have any further questions about ratios and variation / exceptions, please ask. Admins on the Childminding Forum and Independent Childminders Facebook group would always rather answer your question than see members make the wrong decision and be downgraded for it at inspection.

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- The rules in the EYFS
- Confirmation from DfE about continuity of care
- Sample variations policy and procedures
- Sample letter to parents about variations
- Parent confirmation letter example
- Sample risk assessment – and completed example
- References etc...

Please see further documents which might be helpful including –

- Variations when working with staff / assistants
- Variations – a quick reference guide
- Looking after 2 children under 1
- When a child is rising 5
- Variations from Sept 2014 – comparing the wording in the EYFS 2012 and 2014

All the above documents are available to download from the Childminding Forum FREE downloads -

<http://www.childmindinghelp.co.uk/freeresources/freedownloads.html>

In the EYFS 2012 the variation process was simplified – and it is **exactly the same** in the EYFS 2014.

Childminders must follow the requirements of the EYFS when deciding whether it is appropriate to vary the conditions of their registration / organise a variation / change the number of children under 5 cared for at the same time. Ofsted are **not** involved in the variation process – they advise the childminder to read the rules in the EYFS and decide for themselves if the variation is within the rules.

Some childminders have been told that they must involve their Local Authority childminding support coordinators in the variations process - this is a Local Authority requirement, usually required to ensure the childminder understands and follows the rules correctly, and is not stated in the EYFS.

You can find a copy of the EYFS 2014 here –

<https://www.gov.uk/government/publications/early-years-foundation-stage-framework--2>.

What does the EYFS 2014 say about ratios?

The ratios rules in the EYFS 2014 are the same as the ratios rules in the EYFS 2012.

The ratios are still... 6 children under the age of 8 maximum at any one time for 1 childminder working on their own - I will talk about working with another member of staff later.

Of those 6 children under 8...

- 3 can be under 5
- 1 of the 3 under 5s can be under 1
- 3 can be over 5

You can play with these ratios –

You can have 4 over 5 and 2 under 5 if you want – just don't go above 6 children under the age of 8 when working on your own...

OR if you have 2 spaces in your under 5s ratios you can take on twins – *sibling babies* – so that you have 2 under 1 and 1 more child under 5 (EYFS requirement 3.42). Note that twins **always** count as 2 children – they can never be classed as 1 child because they take up 2 spaces and 2 lots of floor space – and remember you can never go above the 6 under 8 maximum when working on your own.

What you **cannot** do is take on twins (babies or older) if you only have 1 space in your under 5s...

Note - some childminders might have lower ratios if, for example, they have a small house, a medical condition or if they have asked for less children during their registration visit. If childminders currently working within lower ratios want to increase their ratios to 6 children under the age of 8 they must speak to Ofsted.

When is a child 5?

A child leaves your under 5s ratios when they are **rising 5** - a child is rising 5 for the purposes of ratios when they are in full time, 10 sessions a week school (reception class). When a child is in full time school, *they may be cared for at the same time as three other young children* (EYFS requirement 3.42). However, it is important to note that a *young child* still takes up floor space until *1st September following his or her fifth birthday* (EYFS requirement 3.41).

I have talked about floor space (EYFS requirement 3.57) in more detail here –

<http://www.childmindinghelp.co.uk/freeresources/Free%20downloads/spacerequirementseyfs2012.html>.

Note that DfE have **NOT** confirmed that this rule applies if a child is in pre-school or nursery – the EYFS only refers to school children as rising 5.

Note also that the DfE have **NOT** confirmed you can replace your own early years (pre-school) children with childminded children while they are off the premises – we are still trying to clarify this one.

The 'rising 5' rule applies to your own children as well as childminded children - once any child in the provision is past the 'settling in' period at school and attending 10 sessions a week (full time) they are classed as 5 for the purposes of your ratios.

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What does the EYFS say about variations?

The EYFS 2014 states that there are specific times when we can change the conditions of our registration – change how many children we look after – organise a variation – have more than 3 children under 5.

For example...

Requirement 3.42 - *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 when childminders are caring for sibling babies, or when caring for their own baby.*

A *sibling baby* is a twin (if you have 2 spaces in your under 5s ratios as discussed above) **OR** the baby brother or sister of a child already in your care (so you can offer continuity of care to the family). The Childcare Act clarifies that a 'baby' is under the age of 1 year old.

The *own baby* rule relates to circumstances when a childminder already has a baby under 1 in their care and then has their own baby - the childminder can continue the current arrangement to provide continuity of care for a baby already in their care.

AS WELL AS this sibling rule, there is another rule in the EYFS that you can use to change the number of children you look after – it is known as the **continuity of care in exceptional circumstances** rule. EYFS 2014 requirement 3.30 states '*Exceptionally, and where the quality of care and safety and security of children is maintained, changes to the ratios may be made.*'

This 'exceptional circumstances' rule is not the norm – you **cannot** use it to look after more than 3 children every day ... and you **cannot** use it to take on new business and you **cannot** use it to look after 4 children while your assistant pops to the shops...

Both Ofsted and DfE have confirmed that it is for **continuity of care** or in an **emergency situation** only and changes to conditions of registration must only be made in the best interests of the child – to offer support to families with children already in the provision who need to change the hours or days their child is with you or to provide emergency care for a child who already uses your childminding service.

Ofsted has also clarified that variations must be specific to the individual child and once the variation is no longer needed it is invalid and a new risk assessment must be written if a new exception to ratios is required. There is nothing in the EYFS to suggest that variations must be short-term.

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Informing parents about variations

The EYFS does not say that you have to ask parents permission to organise a variation. However, you do need to comply with requirement 3.42 - *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 etc...*

To show evidence of compliance with this rule, you should talk to your current parents about the variation, explain that you are supporting another child / family in your provision (ensure confidentiality) by increasing your numbers to more than 3 under 5 and reassure them that their child's care, learning and development will not be compromised.

It is good practice to show parents your registration certificate (which says you can do this if you are within the rules of the EYFS) and your risk assessment (information about writing a risk assessment to follow). Ask them to sign to confirm they have read it and are happy with the changes you are making. Listen to any concerns they might have and record their views.

Note - you might have other ways of demonstrating your parents are aware of and happy with what you are doing such as a variation policy (example to follow) which they sign when their child starts in the provision... or a letter that you give them when you change your number... this is just one way of complying with the requirements.

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Ofsted inspections and variations

I have come across a number of instances recently where Ofsted inspectors do not appear to understand the rules of the EYFS and are wrongly telling childminders they are over-minding because they have more than 3 children under the age of 5 for continuity of care.

At inspection, Ofsted should check that you have carefully considered any changes you have made to the conditions of your registration and spoken to parents (as above) to ensure they are happy before you vary the conditions of your registration. There are other considerations as well – I will look at them in a moment because they are part of the risk assessment you are strongly advised to write before you organise a variation.

If you are unsure whether the variation parents have asked you to organise is correct, you should check the EYFS wording and the rules here ... you can also ask admin on the Childminding Forum and Independent Childminders Facebook group – we know the rules and are happy to help you.

If an Ofsted inspector challenges your variation you have a number of ways of proving it is correct –

- Show them your risk assessment which states your reason for organising the variation (continuity of care, sibling care etc) and evidence of available floor space
- Use the DfE 'continuity of care' letter on the following page
- Show them the wording in the EYFS
- Use this document to prove you have followed the correct steps before changing your numbers
- Show them the children's learning and development files which prove that every child is making good progress from their starting points (the things they can do / say when they first start with you)
- If you have consulted your LA advisor before organising the variation, suggest the inspector speaks to them.

If the inspector still challenges what you are doing, take further advice – we know that, on occasion, Ofsted inspectors make mistakes. You have nothing to worry about as long as you have followed the rules of the EYFS.

Note - I have been informed on a number of occasions about Ofsted inspectors telling childminders with 5 children under the age of 5 that they are over-minding. They say that the childminder cannot deliver high quality learning and care to so many children when working on their own.

Another problem with 5 under 5 is floor space -

<http://www.childmindinghelp.co.uk/freeresources/Free%20downloads/planning-permission-rules-england.html>. You need a very big indoor play area to care for 5 children at the same time.

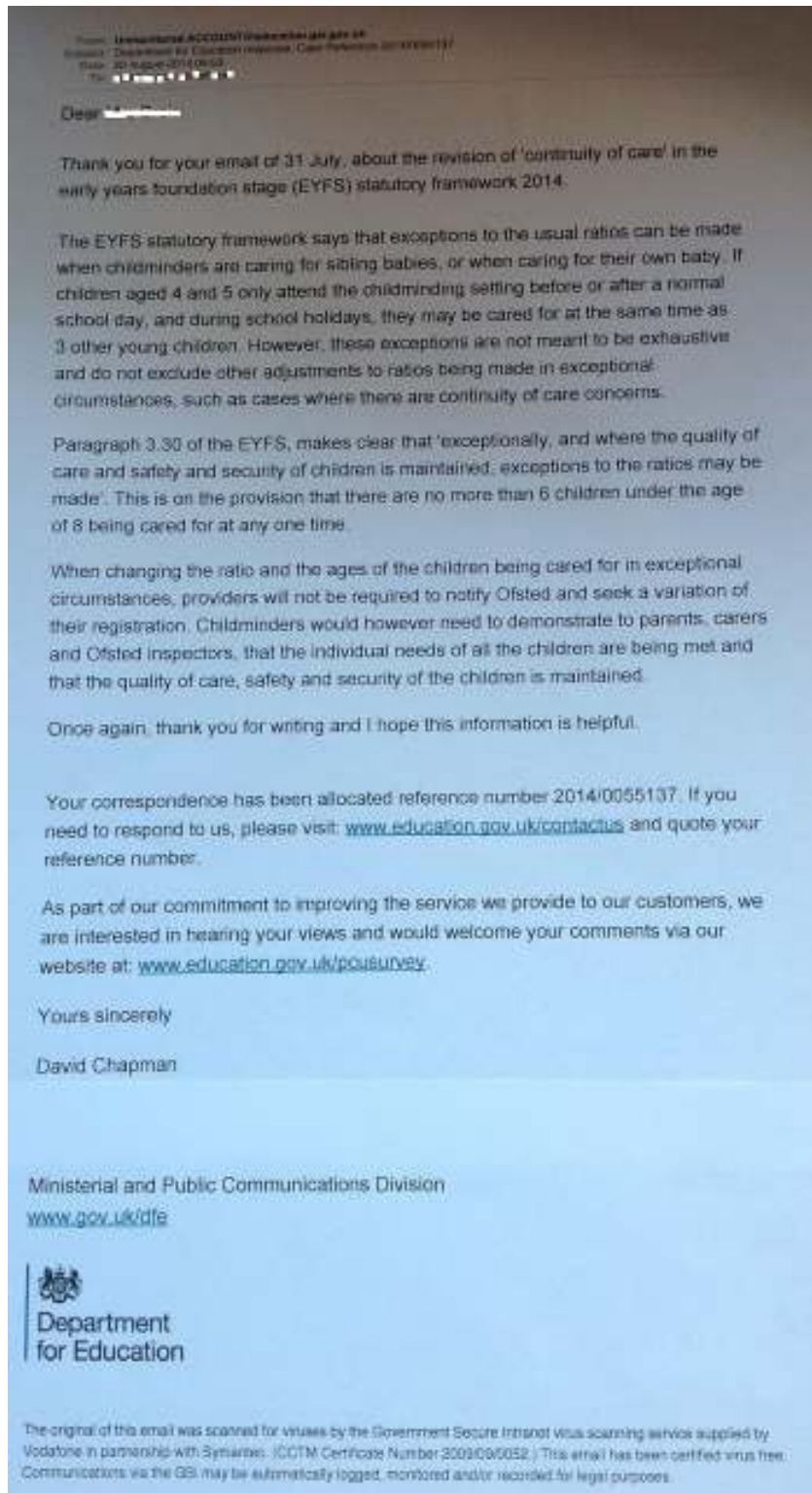
Childminders have told me that in some instances when inspectors have determined the childminder is over minding or unable to deliver high enough quality learning, they insist that the 5th child is collected and the contract terminated while they wait.

For this reason, I cannot recommend that a childminder working on their own has 5 children under the age of 5 on the premises at the same time.

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Confirmation of the 'continuity of care' rule from DfE

Note – I have removed the childminder's name and email address for confidentiality. The original of this letter can be viewed on the Independent Childminders Facebook group in files.



Here is some sample documentation which you can adapt when you are considering making changes to the conditions of your registration...

Variations policy and procedures

Date of writing –

Written by –

Policy

The Early Years Foundation Stage (EYFS) states that changes to childminder ratios can be made in exceptional and emergency circumstances to allow childminders to offer continuity of care for families whose children already attend the provision and need to change their hours of attendance.

Changes to ratios can also be made to allow childminders to care for 2 babies at the same time in certain circumstances and to welcome a sibling baby (brother or sister of an older child already in the provision). When a child is in full time school the rules also allow childminders flexibility to care for another child in the early years age group.

A change to conditions of registration must only be made if the childminder can show it is done in the best interests of the children. Changes cannot be made to allow childminders to take on new business.

Procedures

Before childminders are allowed to vary the conditions of their registration, they must ensure the needs of all the children in the provision will be met while the variation is ongoing. This will be done by -

- Giving a policy and procedures to affected parents.
- Writing a risk assessment which notes the impact of the changes and how they will be minimised.
- Informing affected parents about the changes and asking for their views which will be recorded as part of the risk assessment process.
- Ensuring floor space requirements, local planning laws, insurance conditions and other legal requirements are met.

If parents have any questions about the policy and procedures related to variations they should consult the EYFS which can be downloaded from the DfE website – a copy is available on request and ask us for more information.

Signature of childminder -

Review date -

Dear parents

The conditions of my registration with Ofsted allow me to care for 6 children under the age of 8, 3 of whom may be in the early years age group (pre-school children) with one of the 3 being a baby. You can see my registration certificate displayed in my provision.

The Early Years Foundation Stage (EYFS) allows me to change the conditions of my registration in exceptional circumstances to care for 2 babies or more than 3 children in the early years age group if I am asked to provide a space for parents who currently use me - this is known as offering continuity of care.

This flexibility in the conditions of my registration will allow me to respond very quickly to requests from current parents to change the numbers of children for whom I care and it will be of great benefit to the children as they will be able to stay with me in a settled environment, playing with the friends they have made in my provision rather than having to leave me because I cannot accommodate changing family circumstances quickly.

Before I am allowed to change the conditions of my registration I must speak to all affected parents and make sure you understand the changes I am making. I will show you my risk assessment which details how I will effectively meet all the children's care and learning needs and I will discuss any concerns you have about the new arrangements.

This is an exciting step forward for childminders as we are being trusted by Ofsted to manage our own ratios (within clearly defined limits). If you would like further information about the Early Years Foundation Stage ratios please see the EYFS document on the DfE website or ask me for more information.

Yours,

Changing conditions of registration - parent confirmation

Name of childminder -

Date -

A change in ratios is intended take place between the hours of - and
on the following day(s) -

Date change of registration conditions required from / to -

This change in ratios has been organised to provide continuity of care and flexibility to accommodate the changing needs of a family which already uses the childminder.

At no point is a childminder allowed to go over their ratios of 6 children under the age of 8 when working on their own.

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Dear parents

Please sign to confirm you have -

- Been informed about the above change I am making to the conditions of my registration
- Been shown a copy of my risk assessment
- Understood effect the changes being made to ratios might have on your child's time in my care
- Been given the opportunity to discuss any concerns you might have

If you have any further questions please do not hesitate to ask.

Parent signature -

Date -

Changes to conditions of registration - risk assessment

Date of risk assessment -

Risk assessment written by -

Risk assessment written to consider a change of conditions of registration to allow the following change in ratios to take place –

Change in ratios is intended take place between the hours of - and
on the following day(s) -

Date change of registration conditions required from / to –

What is the reason for the variation? –

Is the variation within the rules of the EYFS? Yes No

What are the new ratios? -

Do I need to ask my LA advisor / agency first? Yes No Not applicable

If applicable, include date, time and details of the conversation -

Have other families been consulted? Yes No

Consider confidentiality and note family / parent views on separate documents filed with the risk assessment for inspection by Ofsted.

Do I have enough floor space? Yes No

Floor space calculations can be viewed here -

Am I covered by my insurance? Yes No

My insurance company is -

I have spoken to –

Include date, time and details of the conversation

Am I compliant with local planning laws? Yes No

I have spoken to –

Include date, time and details of the conversation

Do I have the furniture, resources and equipment needed to support the extra child? Yes No

I have the following furniture, resources and equipment in place –

Will behaviour be managed effectively? Yes No

Children will always be in my sight and / or hearing at all times as required by the EYFS. I use the following behaviour management techniques –

Is my day well organised to meet all the children's individual needs? Yes No

Attach a sample daily routine

Comments -

Can I still deliver both care and learning effectively to all the children? Yes No

Comments -

Will I be able to comply with the safeguarding and welfare requirements of the EYFS? Yes No

Comments -

Any other comments...

Signature of childminder –

Review date -

Writing a risk assessment - EXAMPLE

While the EYFS states that risk assessments do not necessarily need to be in writing, it is very important that you write a risk assessment for a variation.

Risk assessment – variation

Date –

Risk assessment written by –

Reason for the variation –

Eg. Short term care for 1 child (continuity of care rule)

Child attending different days because dad's work pattern has changed (continuity of care rule)

Request to care for a sibling baby (sibling baby rule)

I have had my own baby and one of the current babies is 10 months old (own baby rule)

Is the variation within the rules of the EYFS?

Yes, the variation is covered by EYFS in requirement xx.

What are my new ratios?

I will be working within the following ratios –

***make sure you do not care for more than 6 children under 8 when working by yourself.*

Has my Local Authority / agency been consulted?

Yes / no / not applicable.

Have other families been consulted about the variation?

Yes, all parents have been consulted and they are happy that their child's care, learning and development will not be compromised. Parents have ... signed my variations policy / signed my risk assessment / signed a letter to confirm they have been informed about the variation.

Remember - parents must be able to decide if the changes are in the best interests of their own child. Their comments should be recorded if appropriate. Think about what you will do if a family refuse to accept a variation is in the best interests of their child and threaten to remove their child from your care.

Do I have enough floor space?

Think about whether you have enough space for all the children to play safely – the best way to do this is to get a tape measure and pen and measure it out. Also think - is your garden big enough for the extra children? Do you have spaces where children can sleep and eat? Are your resources organised so children can move around freely and play safely in the spaces you do have available?

Am I covered by my insurance?

It is recommended by Ofsted that you contact your insurance company and check your policy covers you before making changes to your ratios.

Am I breaking any local planning laws?

What does your Local Authority planning department say about changing ratios? In some instances, childminders who have changed their ratios or who work with assistants must apply for (and be granted) planning permission first. Ofsted advise you to contact your local authority planning department and check you are allowed to make changes to your ratios.

Do I have enough furniture and equipment?

Do you have enough cots, buggies etc? Can you get all the children in the car? Do you have enough buggies – and arms to push them? Can all the children sit round the table at meal times or during craft activities? Also think about places to sleep, highchairs, car seats, reins for walking, resources so the children can play without conflict etc.

Your answer will depend on the combinations of children you need to consider when ratios are changed and, as with all the risk assessment questions, must be specific to the variation you are considering.

Can I effectively manage behaviour?

Looking after extra children can cause conflict in a childminding provision. You are on your own all day with 3 children under 3 / 4 and children of this age struggle with sharing, taking turns, waiting for attention etc. Add an extra child into the mixture and you might find yourself dealing with conflict situations such as biting, hitting, hair pulling and tantrums. You need to be confident that you can manage situations as they arise.

Is my day well organised?

How will you organise your day so you can meet the needs of all the children and so each child gets enough of your time? The EYFS states that each child needs to receive a balance of care and learning and requires 'planned, purposeful play' through the day with a balance of adult led, adult guided and child initiated play times. All children also need to be given the opportunity to go outside every day.

Think about, for example, how you will ensure favourite outings are not compromised if you have, for example, 3 non walking children or the variation means you no longer have space in your car for all the children.

How will I ensure all children's learning and development needs are met?

The Ofsted inspectors document (which your inspector will grade you against during your inspection) states that inspectors will check how well you arrange and monitor the delivery of the 'educational programmes, planning and assessment in the provision'. The Ofsted inspectors document is available here - <http://www.ofsted.gov.uk/resources/conducting-early-years-inspections>

Think about how you ensure children's learning and development needs are met when you have extra children in the provision. Ofsted are looking for evidence of children making good progress in their learning and development from their starting points - how will you organise your time to ensure you meet their learning needs and complete required documentation so you can note their ongoing progress, share it with parents, work effectively with other settings etc?

Also consider outings, inside and outside play, effectively caring for different ages of children, keeping learning and development paperwork updated etc.

Can I effectively comply with the safeguarding and welfare requirements?

You should go through the EYFS and make sure you are able to meet all the requirements relating to –

- *Safeguarding and welfare*
- *Health and infection control*
- *Behaviour management and physical intervention*
- *Inclusion and equal opportunities*
- *Special educational needs and disabilities (SEND)*
- *Information and records eg ensuring you have the time to keep up with documentation*
- *Changes that must be notified to Ofsted eg telling Ofsted that you have a new assistant.*

Think about taking children on outings (space in car, seats etc), meeting children's by enabling daily outside play. planning to accommodate children's individual needs, monitoring children when asleep, road safety, behaviour management and boundaries to keep children safe, meeting individual dietary and health needs etc.

References

- Ofsted
- Early Years Foundation Stage (EYFS), 2014 © DfE
- Childminding Forum – www.childmindingforum.co.uk - various threads
- Independent Childminders Facebook group –
<https://www.facebook.com/groups/independentchildminders>
- Ofsted variations fact sheet –
<http://www.ofsted.gov.uk/resources/factsheet-childcare-numbers-and-ages-of-children-childminders-may-care-for>
- Variations for childminders - written by Sarah Neville / Knutsford Childminding for the Childminding Forum with input from Ofsted
- Conducting early years inspections © Ofsted, Aug 2014 –
<http://www.ofsted.gov.uk/resources/conducting-early-years-inspections>

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