

2007 No. 1771

CHILDREN AND YOUNG PERSONS, ENGLAND

**The Early Years Foundation Stage (Welfare Requirements)
Regulations 2007**

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| <i>Made</i> - - - - | <i>20th June 2007</i> |
| <i>Laid before Parliament</i> | <i>27th June 2007</i> |
| <i>Coming into force</i> - - | <i>1st September 2008</i> |

The Secretary of State for Education and Skills, in exercise of the powers conferred by sections 39(1)(b), 44(1) to (4) and 104(2) of the Childcare Act 2006(a), and having consulted Her Majesty's Chief Inspector of Education, Children's Services and Skills(b) and such other persons as he considered appropriate in accordance with section 43(2), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Early Years Foundation Stage (Welfare Requirements) Regulations 2007 and come into force on 1st September 2008.

Interpretation

2. In these Regulations—

“the Act” means the Childcare Act 2006;

“the Document” means the Document entitled “Statutory Framework for the Early Years Foundation Stage” published by the Secretary of State(c).

Specification of the welfare requirements

3.—(1) Regulations 7 and 8 specify welfare requirements under section 39(1)(b) of the Act.

(2) It is directed that the provisions in Section 3 of the Document have effect for the purposes of specifying the welfare requirements under section 39(1)(b) of the Act.

(3) Early years providers to whom section 40 of the Act applies must have regard to the guidance in Section 3 of the Document in securing that the early years provision they provide complies with the welfare requirements.

(a) 2006 c. 21.

(b) On 1st April 2007 the functions of Her Majesty's Chief Inspector of Schools in England were transferred to Her Majesty's Chief Inspector of Education, Children's Services and Skills (see Part 8 of the Education and Inspections Act 2006 (c. 40)). The definition of “Chief Inspector” in section 98(1) of the Childcare Act 2006 is amended by paragraph 117 of Schedule 14 to the Education and Inspections Act 2006. The consultation took place before 1st April 2007 and the Secretary of State therefore consulted at that time Her Majesty's Chief Inspector of Schools in England.

(c) ISBN 978-1-84478-921-4.

Requirement on Chief Inspector

4. The Chief Inspector must have regard to the welfare requirements specified in regulation 3 and the guidance in Section 3 of the Document in exercising her functions under Part 3 of the Act.

Matters to be considered by the Chief Inspector

5. Any allegation that an early years provider has—

- (a) failed to meet the welfare requirements; or
- (b) failed to have regard to the guidance in Section 3 of the Document

may be taken into account by the Chief Inspector in the exercise of her functions under Part 3 of the Act.

Proceedings under Part 3 of the Act

6. Any allegation that an early years provider has—

- (a) failed to meet the welfare requirements; or
- (b) failed to have regard to the guidance in Section 3 of the Document

may be taken into account in any proceedings under Part 3 of the Act.

Welfare of children: prohibition on corporal punishment

7.—(1) An early years provider must not use corporal punishment on a child for whom he provides early years provision and, so far as is reasonably practicable, must ensure that corporal punishment is not used on any such child by—

- (a) any person who cares for, or is in regular contact with, children; or
- (b) any person living or working on the premises on which the early years provision is provided.

(2) A person will not be taken to have used corporal punishment for the purposes of paragraph (1) if the action was taken for reasons that include averting an immediate danger of personal injury to, or an immediate danger of death of, any person (including the child himself).

(3) For the purposes of paragraphs (1) and (2) above, “corporal punishment” means anything done for the purpose of punishing the child (whether or not there are other reasons for doing it) which, absent any justification, would constitute battery.

Provision of information

8.—(1) An early years provider must notify the Chief Inspector of the occurrence of any of the events set out in the Schedule to these Regulations and must at the same time provide her with the information specified in that Schedule in respect of that event.

(2) Notification must be made—

- (a) where it is reasonably practicable to do so, in advance of the event occurring; and
- (b) in all other cases as soon as reasonably practicable, but in any event within 14 days of the event occurring.

Failure to comply with welfare requirements notice

9.—(1) Where the Chief Inspector considers that an early years provider to whom section 40 applies has failed or is failing to comply with the welfare requirements she may give a notice to the early years provider specifying—

- (a) in what respect that early years provider has failed or is failing to comply with those requirements;

- (b) where appropriate—
 - (i) what action the early years provider should take to comply; and
 - (ii) the period within which that early years provider should take that action, such period to begin with the date of the notice.

(2) The early years provider must comply with the terms of the notice within the period specified in that notice.

(3) A notice under this regulation must be given in accordance with regulation 10.

Service of the welfare requirements notice

10.—(1) A notice may be given to an early years provider by the Chief Inspector—

- (a) by delivering it to him,
- (b) by sending it by post,
- (c) subject to paragraph (2), by transmitting it electronically.

(2) If the notice is transmitted electronically, it is to be treated as given only if the following requirements are met—

- (a) the person upon whom the notice is required or authorised to be given must have indicated to the Chief Inspector his willingness to receive notices transmitted by electronic means and must have provided an address suitable for that purpose; and
- (b) the notice must be sent to the address provided by him.

(3) An indication given for the purposes of paragraph (2) must be given for the purpose of the service of notices under this regulation.

(4) For the purposes of section 7 of the Interpretation Act 1978^(a) (references to service by post) a notice under this regulation is to be treated as properly addressed if it is addressed to the early years provider at the address notified to the Chief Inspector as the address to which correspondence to him should be sent.

Offence

11.—(1) An early years provider who, without reasonable excuse, fails to comply with the requirements of regulation 7(1), 8 or 9(2) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Proceedings under this regulation may only be taken by the Chief Inspector, and only after she has afforded an opportunity, during a period not exceeding one month, within which the early years provider may make representations.

Beverley Hughes

Minister of State

Department for Education and Skills

20th June 2007

SCHEDULE

Regulation 8

Events to be notified to the Chief Inspector

1. Any change to the address of the premises on which childcare is provided.

2. Particulars of any change to the premises on which childcare is provided that may affect the space available to children and the quality of childcare available to them.

(a) 1978 c. 30.

3. Particulars of any proposal to change the hours during which childcare is to be provided which will entail the provision of overnight childcare.

4. Particulars of any allegation of serious harm to or abuse of a child committed by any person living, working or caring for children at the premises on which childcare is provided (whether that allegation relates to harm or abuse committed on those premises or elsewhere), and any other abuse which is alleged to have taken place on those premises, and of the action taken in respect of the allegation.

5. Particulars of any serious accident, serious illness, injury to, or death of, any child whilst in the care of the early years provider, and of the action taken in respect of the serious accident, serious illness, injury, or death.

6. Particulars of any incident of food poisoning affecting two or more children cared for on the premises on which childcare is provided.

7. Particulars of any other significant event which is likely to affect the suitability of the early years provider or any person who cares for, or is in regular contact with, children on the premises on which childcare is provided to look after children.

8. Where childcare is provided by a body corporate, any change in the name or registered number or registered address of the company.

9. Where childcare is provided by a registered charity, any change in the name or registration number or registered address of the charity.

10. In the case of an early years provider who is not an early years childminder^(a)—

- (a) any change in the name or address of the provider;
- (b) any change of the person who is managing the early years provision.

11. In the case of an early years childminder—

- (a) any change of the persons of 16 years or older living or working on the premises on which childcare is provided (providing that persons are not to be treated as working on the premises for the purpose of this paragraph if none of their work is done in the part of the premises in which children are cared for or if they do not work on the premises at times when children are there);
- (b) any change in the name or address of the childminder.

(a) For the definition of “early years childminder” see, by virtue of section 98(1), section 96(4) of that Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under the Childcare Act 2006, specify the welfare requirements that early years providers must secure in providing early years provision. Together with the “learning and development requirements” specified under section 39(1)(a) of the Childcare Act 2006, these form the “Early Years Foundation Stage”.

The “Statutory Framework for the Early Years Foundation Stage”, published by the Secretary of State for Education and Skills (ISBN 978-1-84478-921-4) is given the force of law. Copies of this document are available from DfES Publications, PO Box 5050, Sherwood Park, Annesley, Nottingham, NG15 0DJ (Tel 0845 6022260) Ref: 00012-2007PCK-EN, email dfes@prolog.uk.com or online from www.teachernet.gov.uk/publications.

Regulation 7 prohibits the use of corporal punishment by early years providers to children in their care.

Regulation 8 requires early years providers to notify the Chief Inspector of certain events (specified in the Schedule to the Regulations), and the procedure to be followed in providing notification.

Regulations 9 and 10 set out the procedure to be followed by the Chief Inspector where an early years provider has failed or is failing to comply with the welfare requirements.

Regulation 11 makes it an offence for an early years provider who, without reasonable excuse, fails to comply with the requirements set out in regulations 7, 8 and 9(2).

A regulatory impact assessment has been prepared for these Regulations. It is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website <http://www.opsi.gov.uk>.

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£3.00

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under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E0903 6/2007 170903T 19585

