

Out of School Alliance

Statutory Framework for the Early
Years Foundation Stage 2021:

Quick Reference Guide for Out of School Clubs

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EYFS 2021 Safeguarding and welfare requirements:

Quick Reference Guide for Out of School Clubs

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Introduction

In this *Quick Reference Guide for Out of School Clubs* we have extracted all the safeguarding and welfare requirements that are relevant to out of school clubs from the current version of the *Statutory Framework for the Early Years Foundation Stage (2021)* which came into effect on 1st September 2021. The relevant requirements are set out in a clear format to make them quick and easy to refer to.

Layout of this Guide

The numbers shown in brackets after each requirement refer to the appropriate paragraph in the *Statutory Framework* so that you can quickly refer back to the main document if necessary.

Small amendments to wording or additions from previous versions have been highlighted in [blue text](#).

Our commentary is shown in *red italics* after the paragraphs to which it applies.

Each section is divided into **Specific legal requirements** (things that you *must* do) and **Guidance for practitioners** (things that you must take account of and which you are expected to do unless you have a good reason not to).

Template policies

At the end of each section of this *Quick Reference Guide* we have also included a list of our template policies that are affected by the requirements in that section. This is for your convenience when updating your policies if you use any of our template documentation sets.

Essential policies

In the appendix at the end of this *Quick Reference Guide* we have included a list of all the policies that are explicitly specified as being a statutory requirement within the *Statutory Framework*, together with the paragraphs to which they apply.

Other early years settings

We have not included any safeguarding and welfare requirements that apply only to childminders, nurseries, pre-schools or reception classes. If your out of school club is run in conjunction with a setting of this type you will need to refer to the main *Statutory Framework* document to check for the specific requirements that apply to that type of setting.

Child protection

Specific legal requirements

Safeguarding policy

- Providers must have a Safeguarding Policy which should be in line with the guidance and procedures of the relevant Local Safeguarding Partners (LSP). [3.4]
- The Safeguarding policy must include an explanation of the action to be taken if there are safeguarding concerns about a child, and if an allegation is made against a member of staff. [3.4]
- The Safeguarding policy must cover the use of mobile phones and cameras in the setting. [3.4]

Lead practitioner for safeguarding

- Every setting must have a lead practitioner responsible for safeguarding children. This designated person is responsible for liaison with local statutory children's services agencies, and with the LSP. [3.5]
- The lead practitioner must provide support and guidance to staff and advice on specific safeguarding issues. [3.5]
- The lead practitioner must attend a child protection training course that enables them to identify, understand and respond appropriately to signs of possible abuse and neglect. [3.5]

Staff training

- Providers must train all staff to understand their safeguarding policy and procedures, and ensure that all staff have up to date knowledge of safeguarding issues. This training must enable staff to identify signs of possible abuse and neglect at the earliest opportunity, and to respond in a timely and appropriate way. [3.6]

Reporting concerns and allegations

- Providers must have regard to the Government's statutory guidance '*Working Together to Safeguard Children 2018*' and to the '*Prevent Duty guidance in England and Wales 2021*'.
- If providers have concerns about children's safety or welfare, they must notify agencies with statutory responsibilities without delay. This means the local children's social care services and, in emergencies, the police. [3.7]
Note that the latest version of 'Prevent Duty Guidance in England and Wales' is dated April 2021.
- Registered providers must inform Ofsted of any allegations of serious harm or abuse by any person living, working, or looking after children at the premises (whether the allegations relate to harm or abuse committed on the premises or elsewhere). [3.8]
- Registered providers must notify Ofsted of the action taken in respect of the allegations. These notifications must be made as soon as is reasonably practicable, but at the latest within 14 days of the allegations being made. A registered provider who, without reasonable excuse, fails to comply with this requirement, commits an offence. [3.8]

Guidance for practitioners

- Settings should take account of any advice from the LSP or local authority on appropriate training courses for the designated person. [3.5]
- Safeguarding training for all staff should include information on signs of possible abuse and neglect including:
 - significant changes in children's behaviour;
 - deterioration in children's general well-being;
 - unexplained bruising, marks or signs of possible abuse or neglect;
 - children's comments which give cause for concern;
 - any reasons to suspect neglect or abuse outside the setting, for example in the child's home or that a girl may have been subjected to (or is at risk of) female genital mutilation;
- inappropriate behaviour displayed by other members of staff, or any other person working with the children. For example, inappropriate sexual comments; excessive one-to-one attention beyond the requirements of their usual role and responsibilities; or inappropriate sharing of images. [3.6]
- Providers may find the guidance '*What to do if you're worried a child is being abused*' helpful. [3.6]
- Settings should refer to the guidance '*Safeguarding children and protecting professionals in early years settings: online considerations*' to support their understanding of online safety. [3.4]
- Settings might find the 'Keeping Children Safe in Education' Guidance useful.

OOSA relevant policies: Safeguarding Policy, Staff Induction Policy, Internet Safety Policy, No Platform Policy - all updated for 2021

Suitable people

Specific legal requirements

Safe recruitment

- Providers must ensure that people looking after children are suitable to fulfil the requirements of their roles. [3.9]
- Providers must have effective systems in place to ensure that practitioners, and any other person **who may have** regular contact with children (including those living or working on the premises) is suitable. [3.9]
- Providers other than childminders must obtain an enhanced Disclosure and Barring Service (DBS) disclosure in respect of every person aged 16 and over (including unsupervised volunteers, and supervised volunteers who provide personal care) who:
 - works directly with children;
 - lives on the premises on which the childcare is provided (**unless there is no access to the part of the premises when and where children are cared for**); and/or
 - works on the premises on which the childcare is provided (unless they do not work on the part of the premises where the childcare takes place, or do not work there at times when children are present). [3.10]
- Providers must tell staff that they have to disclose any convictions, cautions, court orders, reprimands and warnings which may affect their suitability to work with children (whether received before or during their employment at the setting). [3.11]
- Providers must not allow people whose suitability has not been checked, including through a criminal records check, to have unsupervised contact with children being cared for. [3.11]

- Providers must record information about staff qualifications and the identity checks and vetting processes that have been completed (including the criminal records check reference number, the date a disclosure was obtained and details of who obtained it). [3.12]
- Providers must also meet their responsibilities under the *Safeguarding Vulnerable Groups Act 2006* which includes a duty to make a referral to the DBS where a member of staff is dismissed (or would have been, had the person not left the setting first) because they have harmed a child or put a child at risk of harm. [3.13]

Disqualification

- A provider or childcare worker may become disqualified from registration. In the event of the disqualification of a provider, the provider must not continue as an early years provider - nor be directly involved with the management of such provision. [3.14]
- Where a person is disqualified, the employer must not employ that person in connection with early years provision. [3.14]
- Where an employer becomes aware of relevant information which may lead to disqualification of an employee, the provider must take appropriate action to ensure the safety of children. [3.14]
- A registered provider must inform Ofsted of any significant event which is likely to affect the suitability of any person who is in regular contact with the children who attend the setting. The disqualification of an employee could be an instance of a significant event. [3.16]
- The registered provider must give Ofsted the following information about themselves or about any person who lives in the same household as the registered provider or who is employed in the household:
 - details of any order, determination, conviction, or other ground for disqualification from registration under regulations made under section 75 of the *Childcare Act 2006*;
 - the date of the order, determination or conviction, or the date when the other ground for disqualification arose
 - the body or court which made the order, determination or conviction, and the sentence (if any) imposed
 - a certified copy of the relevant order (in relation to an order or conviction). [3.17]
- The information must be provided to Ofsted as soon as reasonably practicable, but at the latest within 14 days of the date the provider became aware of the information or ought reasonably to have become aware of it if they had made reasonable enquiries. [3.18]

Staff taking medication / other substances

- [Staff members](#) must not be under the influence of alcohol or any other substance which may affect their ability to care for children. [3.19]
- If [staff members](#) are taking medication which may affect their ability to care for children, those practitioners should seek medical advice. Providers must ensure that those [staff members](#) only work directly with children if medical advice confirms that the medication is unlikely to impair that staff member's ability to look after children properly. [3.19]
- All medication on the premises (including [staff members'](#) medication) must be securely stored, and out of reach of children, at all times. [3.19]

Guidance for practitioners

- An additional criminal records check (or checks if more than one country) should be made for anyone who has lived or worked abroad. [3.10]
- If a registered person or childcare worker is disqualified they may under some circumstances be able to obtain a 'waiver' from Ofsted. [3.15]
- The rule about 'Disqualification by Association' was removed by the DfE from September 2018 for staff working in schools and in childcare on non-domestic settings (ie most out of school clubs). It still applies to childminders [3.15]

OOSA relevant policies: Safe Recruitment policy, Smoking Alcohol & Drugs policy, Staff Disciplinary policy

Staff qualifications, training, support and skills

Specific legal requirements

Equalities

- Providers must follow their legal responsibilities under the Equalities Act 2010 including the fair and equal treatment of practitioners regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. [3.20]

This addition clearly signposts the Equality Act 2010 that all providers must comply with and reflects the importance of a diverse workforce which better reflects society. This is a clarification and inclusion within the Framework amendment.

Induction and supervision

- Providers must ensure that all staff receive induction training to help them understand their roles and responsibilities. [3.21]
- Induction training must include information about emergency evacuation procedures, safeguarding, child protection, and health and safety issues. [3.21]
- Providers must support staff to undertake appropriate training and professional development opportunities. [3.21]
- Providers must put appropriate arrangements in place for the effective supervision of staff who have contact with children and families. [3.22]

Qualifications

- *If the out of school club takes children who are younger than reception age* the manager must hold at least an approved level 3 qualification and at least half of all other staff must hold at least an approved level 2 qualification (as defined by the DfE's Early Years Qualifications List). [3.28]

But if the out of school club only takes children who are of reception age or older, there are no minimum qualifications for managers or staff [see para 3.41].

- To count in the ratios at level 3, staff holding an Early Years Educator qualification must also have achieved a suitable level 2 qualification in English and maths as defined by the Department for Education on the Early Years Qualifications List published on GOV.UK. [3.28, footnote 34]
- 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. [3.28]

It is for providers to determine deputy suitability. 'Capable and qualified' includes having the necessary skills and knowledge to deputise. There is no specific qualification to deputise [3.28 footnote 36]

- At least one person who has a current paediatric first aid certificate (PFA) must be on the premises and available at all times when children are present, and must accompany children on outings. The certificate must be for a full course consistent with the criteria set out in Annex A. [3.25]
- PFA training must be renewed every three years and be relevant for workers caring for young children and where relevant, babies. [3.25]
- Providers should display (or make available to parents) staff PFA certificates or a list of staff who have a current PFA certificate. [3.25]
- All newly qualified entrants to the early years workforce who have completed a level 2 and/or level 3 qualification on or after 30 June 2016, must also have either a full PFA or an emergency PFA certificate within three months of starting work in order to be included in the required staff:child ratios at level 2 or level 3 in an early years setting. [3.25]

However, if all the children at your out of school club are of reception age or older, you are exempt from the staffing ratios (see para 3.40 below) therefore you don't need to have any Level 2 or Level 3 staff, hence you don't need to ensure that they have a PFA certificate in order to be

counted in your ratios.

- Providers must ensure that staff have sufficient understanding and use of English to ensure the well-being of children in their care. For example, settings must be in a position to keep records in English, to liaise with other agencies in English, to summon emergency help, and to understand instructions such as those for the safety of medicines or food hygiene. [3.26]

Key person

- Each early years child must be assigned a key person. [3.27]
- Providers must inform parents and/or carers of the name of the key person, and explain their role, when a child starts attending a setting. [1.10]
- The key person's role is to:
 - ensure that every child's learning and care is tailored to meet their individual needs. [1.16, 3.27]
 - help the child become familiar with the setting, offer a settled relationship for the child and build a relationship with their parents. [1.16, 3.27]
 - seek to engage and support parents and/or carers in guiding their child's development at home. [1.10]
 - help families engage with more specialist support if appropriate. [1.10]

Staff: child ratios

- Staffing arrangements must meet the needs of all children and ensure their safety. [3.29]
- Providers must ensure that children are adequately supervised **including whilst eating** and decide how to deploy staff to ensure children's needs are met. [3.29]
- Providers must inform parents and/or carers about staff deployment, and, when relevant and practical, aim to involve them in these decisions. [3.29]
- Children must usually be within sight *and* hearing of staff and always within sight *or* hearing. [3.29]
- Only staff aged 17 or over may be included in ratios **if they are suitable as per 3.9 and 3.11 (Suitability)** (and staff under 17 should be supervised at all times). [3.30]
- **Suitable** students on long term placements and volunteers **if they are suitable** (aged 17 or over) and staff working as apprentices in early education (aged 16 or over) may be included in ratios if the provider is satisfied that they are competent and responsible. [3.30]
- The ratio and qualification requirements apply to the total number of staff available to work directly with children. Exceptionally, and where the quality of care and safety and security of children is maintained, **changes** to the ratios may be made. [3.31]
- For children aged three and over at any time in registered early years provision when a person with Qualified Teacher Status, Early Years Professional Status, Early Years Teacher Status or equivalent Level 6 qualification) is not working directly with the children:
 - there must be at least one member of staff for every eight children;
 - at least one member of staff must hold **an approved** level 3 qualification;
 - at least half of all other staff must hold **an approved** level 2 qualification. [3.35]

However, if all the children at your out of school club are of Reception age or older, you are exempt from the staffing ratios set out in para 3.35 (see para 3.41 below).

Before/after school care and holiday provision

- Where the provision is solely before/after school care or holiday provision for children who normally attend Reception class (or older) during the school day, there must be sufficient staff as for a class of 30 children. [3.41]
- It is for providers to determine how many staff are needed to ensure the safety and welfare of children, bearing in mind the type(s) of activity and the age and needs of the children. [3.41]

The statutory minimum staff:child ratio for out of school clubs is therefore 1:30 if the children are of Reception age or older. However you still need to meet all the other EYFS welfare requirements, for example ensuring the safety of the children, meeting the needs of all the children, ensuring they are adequately supervised and keeping them within sight or hearing at all

times. Few settings will be able to meet these requirements if they operate at a staff:ratio of 1:30.

Note that if you care for any children who are younger than Reception age, you must meet the standard early years staff ratio [see para 3.35] in respect of those children.

- It is also for providers to determine what qualifications, if any, the manager and/or staff should have. [3.41]

Some insurance companies expect childcare settings to employ a qualified manager. If you choose to employ unqualified staff you may find that your insurance premiums will be affected. Check with your insurance provider.

Note that if you care for any children who are younger than Reception age, you must meet the standard early years qualification requirements [see paras 3.35] in respect of staff caring for those children.

- See footnote 5 at paragraph 1.1 for the learning and development requirements for providers offering care exclusively before/after school or during the school holidays. [3.41]
- Providers offering care exclusively before and after school or during the school holidays for children who normally attend Reception (or older) class during the school day (see paragraph 3.40) do not need to meet the learning and development requirements. However, providers offering care exclusively before and after school or during the school holidays for children younger than those in the Reception class age range, should continue to be guided by, but do not have to meet, the learning and development requirements. All such providers should discuss with parents and/or carers (and other practitioners/providers as appropriate, including school staff/teachers) the support they intend to offer. [1.1, footnote 5]

Out of school clubs are therefore exempt from meeting the learning and development goals for children of Reception age. If you care for children younger than Reception you still do not need to meet the requirements, but you do need to be 'guided by them'.

Guidance for practitioners

- Supervision should foster a culture of mutual support, teamwork and continuous improvement and should encourage the confidential discussion of sensitive issues. [3.22]
- Supervision should provide opportunities for staff to:
 - discuss any issues - particularly concerning children's development or well-being, including child protection concerns
 - identify solutions to address issues as they arise
 - receive coaching to improve their personal effectiveness. [3.23]
- The manager should have at least two years' experience of working in an early years setting, or have at least two years' other suitable experience. [3.28]
- Providers should take into account the number of children, staff and layout of premises to ensure that the paediatric first aider is able to respond to emergencies quickly. [3.26]
- Providers can make an exception to the requirement [for staff to have a PFA certificate] where a newly qualified entrant to the workforce is unable to gain a PFA certificate if a disability would prevent them from doing so. Such a newly qualified entrant can still be included in the staff:child ratios if otherwise competent to carry out their childcare duties. Where possible, such staff should attend a relevant PFA training course and obtain written evidence of attendance. [3.25, footnote 32]

OOSA relevant policies: Staff Induction policy, Illness and Accidents policy, Emergency Evacuation policy, Safeguarding policy, Health and Safety policy, EYFS policy

Health

Specific legal requirements

Medicines

- The provider must promote the good health, **including the oral health**, of children attending the setting. [3.45]
- The provider must
 - have a procedure, discussed with parents and/or carers, for responding to children who are ill or infectious,
 - take necessary steps to prevent the spread of infection, and
 - take appropriate action if children are ill. [3.45]
- Providers must have and implement a policy, and procedures, for administering medicines. It must include systems for obtaining information about a child's needs for medicines, and for keeping this information up-to-date. [3.46]
- Training must be provided for staff where the administration of medicine requires medical or technical knowledge. [3.46]
- Prescription medicines must not be administered unless they have been prescribed for a child by a doctor, dentist, nurse or pharmacist (medicines containing aspirin should only be given if prescribed by a doctor). [3.46]

*Note that this does not mean that you can't give a child medicine, only that if it is **prescription medication** it must have been prescribed for that child by an appropriate person. **Non-prescription medicines do not a GP prescription before providers can administer them.** [3.47 - see footnote 55]*

- Medicine (both prescription and non-prescription) must only be administered to a child where written permission for that particular medicine has been obtained from the child's parent and/or carer. [3.47]
- Providers must keep a written record each time a medicine is administered to a child, and inform the child's parents and/or carers on the same day, or as soon as reasonably practicable. [3.47]

Food and drink

- Where children are provided with meals, snacks and drinks, they must be healthy, balanced and nutritious. [3.48]
- Before a child is admitted to the setting the provider must also obtain information about any special dietary requirements, preferences and food allergies that the child has, and any special health requirements... Providers must record and act on information from parents and carers about a child's dietary needs. [3.48]
- Fresh drinking water must be available **and accessible** at all times. [3.48]
- There must be an area which is adequately equipped to provide healthy meals, snacks and drinks for children as necessary. There must be suitable facilities for the hygienic preparation of food for children. [3.49]
- Providers must be confident that those responsible for preparing and handling food are competent to do so. In group provision, all staff involved in preparing and handling food must receive training in food hygiene. [3.49]
- Registered providers must notify Ofsted of any food poisoning affecting two or more children looked after on the premises. Notification must be made as soon as is reasonably practicable, but in any event within 14 days of the incident. A registered provider, who, without reasonable excuse, fails to comply with this requirement, commits an offence. [3.50]

Accident or injury

- Providers must ensure there is a first aid box accessible at all times with appropriate content for use with children. [3.51]

- Providers must keep a written record of accidents or injuries and first aid treatment. [3.51]
- Providers must inform parents and/or carers of any accident or injury sustained by the child on the same day as the incident or as soon as reasonably practicable after, and of any first aid treatment given. [3.51]
- Providers must notify Ofsted of any serious accident, illness or injury to, or death of, any child while in their care, and of the action taken. [3.52]
- Notification must be made as soon as is reasonably practicable, but in any event within 14 days of the incident occurring. A registered provider, who, without reasonable excuse, fails to comply with this requirement, commits an offence. [3.52]
- Providers must notify local child protection agencies of any serious accident or injury to, or the death of, any child while in their care, and must act on any advice from those agencies. [3.52]

OOSA relevant policies: Illness and Accidents policy, Health and Safety policy, Emergency Evacuation policy, Administering Medication policy, Healthy Eating policy

Managing behaviour

Specific legal requirements

Behaviour management

- Providers are responsible for managing children's behaviour in an appropriate way. [3.53]

Corporal punishment

- Providers must not give or threaten corporal punishment to a child. [3.54]
- Providers must not use or threaten any punishment which could adversely affect a child's wellbeing [3.54]
- Providers must take all reasonable steps to ensure that corporal punishment is not given by any person
 - who cares for or is in regular contact with a child,
 - living or working in the premises where care is provided. [3.54]
- Any early years provider who fails to meet these requirements commits an offence. [3.54]
- Providers must keep a record of any occasion where physical intervention is used, and parents and/or carers must be informed on the same day, or as soon as reasonably practicable. [3.54]

Guidance for practitioners

- A person will not be taken to have used corporal punishment (and therefore will not have committed an offence), where physical intervention was taken for the purposes of averting immediate danger of personal injury to any person (including the child) or to manage a child's behaviour if absolutely necessary. [3.54]

OOSA relevant policies: Behaviour Management policy, Suspensions and Exclusions policy

Safety and suitability of premises, environment and equipment

Specific legal requirements

Safety

- Providers must ensure that their premises, including overall floor space and outdoor space, are fit for purpose and suitable for the age of children cared for and the activities provided on the premises. [3.55]
- Providers must comply with requirements of health and safety legislation (including fire safety and hygiene requirements). [3.55]

Although not explicitly specified in EYFS, employers need to have a health and safety policy under the Health and Safety at Work Act. If you have more than five members of staff the policy must be in writing. Employers also need to have a designated health and safety officer.

For more information see: <http://www.hse.gov.uk/pubns/indg449.pdf>

- Providers must take reasonable steps to ensure the safety of children, staff and others on the premises in the case of fire or any other emergency, and must have an emergency evacuation procedure. [3.56]
- Providers must have appropriate fire detection and control equipment (for example, fire alarms, smoke detectors, fire blankets and/or fire extinguishers) which is in working order. [3.56]
- Fire exits must be clearly identifiable, and fire doors must be free of obstruction and easily opened from the inside. [3.56]

Smoking

- Providers must not allow smoking in or on the premises when children are present or about to be present. [3.57]
- Staff should not vape or use e-cigarettes when children are present [3.57]
- Providers should consider Public Health England advice on the use of vapes or e-cigarettes in public places and workplaces [3.57]

It is up to providers to decide whether to have an explicit written policy on smoking, but it must still be made clear to staff (and parents and visitors) that smoking is not allowed.

Premises

- The premises and equipment must be organised in a way that meets the needs of children. Providers must meet the following indoor space requirements... for children aged three to five years: 2.3 m² per child. [3.58]
- Where the space standards are applied, providers cannot increase the number of children on roll because they additionally use an outside area [3.58]
- Forest and other exclusively (or almost exclusively) outdoor provision is not required to meet the space standards as long as children's needs can be met. For this type of provision, indoor space requirements can be used as a guide for minimum area needed. [3.58]
- Providers must provide access to an outdoor play area or, if that is not possible, ensure that outdoor activities are planned and taken on a daily basis (unless circumstances make this inappropriate, for example unsafe weather conditions). [3.59]
- Providers must follow their legal responsibilities under the Equality Act 2010 (for example, the provisions on reasonable adjustments). [3.59]
- Providers must ensure there is an adequate number of toilets and hand basins available. [3.61]

There is no longer a requirement to have one toilet for every ten children. Providers need to decide for themselves what is an adequate number.

- Providers must ensure there are suitable hygienic changing facilities for changing any children who

use nappies. [3.61]

- Providers must also ensure that there is an area where staff may talk to parents and/or carers confidentially, as well as an area in group settings for staff to take breaks away from areas being used by children. [3.62]
- Providers must only release children into the care of individuals who have been notified to the provider by the parent, and must ensure that children do not leave the premises unsupervised. [3.63]
- Providers must take all reasonable steps to prevent unauthorised persons entering the premises, and have an agreed procedure for checking the identity of visitors. [3.63]
- Providers must carry the appropriate insurance (e.g. public liability insurance) to cover all premises from which they provide childcare. [3.64]

Risk assessment

- Providers must ensure that they take all reasonable steps to ensure staff and children in their care are not exposed to risks and must be able to demonstrate how they are managing risks. [3.65]
- Providers must determine where it is helpful to make some written risk assessments in relation to specific issues, to inform staff practice, and to demonstrate how they are managing risks if asked by parents and/or carers or inspectors. [3.65]
- Risk assessments should identify aspects of the environment that need to be checked on a regular basis, when and by whom those aspects will be checked, and how the risk will be removed or minimised. [3.65]

Although EYFS no longer specifies the need for a risk assessment policy, it may still be helpful for your staff to have one.

*Whilst EYFS does not require you to have written risk assessments, under the Health and Safety at Work Act, if you have more than five members of staff you **must** have written risk assessments.*

In addition, EYFS does still require you to show how you are managing risks, and you may find that having a risk assessment policy and written risk assessments is a good way of doing this.

Outings

- Children must be kept safe while on outings. [3.66]
- Providers must assess the risks or hazards which may arise for the children, and must identify the steps to be taken to remove, minimise and manage those risks and hazards. The assessment must include consideration of adult to child ratios. The risk assessment does not necessarily need to be in writing; this is for providers to judge. [3.66]

Whilst written permission for outings is no longer explicitly required by EYFS, it is certainly best practice to obtain it, both from the point of view of keeping parents informed and to protect settings from complaints or even litigation. For regular outings, eg to a local play park, consider obtaining a blanket permission at the start of the school year.

- Vehicles in which children are being transported, and the driver of those vehicles, must be adequately insured. [3.67]

Guidance for practitioners

- These calculations should be based on the net or useable areas of the rooms used by the children, not including storage areas, thoroughfares, dedicated staff areas, cloakrooms, utility rooms, kitchens and toilets. [3.58 footnote 59]
- Providers should ensure that an adequate supply of spare clothes and any other necessary items ... is always available. [3.61]

Due to the age range of the children attending out of school clubs it is wise to not only have a small supply of pull-ups but also some sanitary towels.

OOSA relevant policies: Health and Safety policy, Risk Assessment policy, Emergency Evacuation policy, Fire Safety & Risk Assessment policy, Smoking, Alcohol and Drugs policy, Arrivals and Departures policy, Intimate Care policy, Visitor policy

Special educational needs

Specific legal requirements

- Providers must have arrangements in place to support children with SEN or disabilities. [3.68]
Although EYFS no longer has a specific requirement for providers to have an equal opportunities policy, para 3.74 states that providers must give parents information about how the setting supports children with special educational needs and disabilities. For this reasons we recommend that you continue to have an equal opportunities / equalities policy.

Guidance for practitioners

- Providers in group provision are expected to identify a SENCO. [3.68]

OOSA relevant policies: Equalities policy

Information and records

Specific legal requirements

Policies and procedures

- Where a policy is required under EYFS, it must be recorded in writing. [3.3]
- Schools don't need to have a separate policies in order to meet the requirements of EYFS, so long as the requirements are already met through existing policies. [3.3]
However, if a school-run club plans to re-use the school's policies, the manager of the provision should review the relevant policies carefully to ensure that they are still applicable in the context of a non-statutory, play-based setting. For example, a school's policy on admissions, behaviour management and payment of fees are likely to differ from those of a club.

Record keeping

- Providers must maintain records and obtain and share information (with parents and carers, other professionals working with the child, and the police, social services and Ofsted as appropriate) to ensure the safe and efficient management of the setting, and to help ensure the needs of all children are met. [3.69]
- Providers must enable a regular two-way flow of information with parents and/or carers, and between providers, if a child is attending more than one setting. [3.69]
- Records must be easily accessible and available. [These may be kept securely off the premises.](#) [3.70]
- Confidential information and records about staff and children must be held securely and only accessible and available to those who have a right or professional need to see them. [3.70]
- Providers must be aware of their responsibilities under the Data Protection [legislation](#) and where relevant the Freedom of Information Act 2000. [3.70]
This includes the Data Protection Act 2018 and the provisions of the General Data Protection Regulation (GDPR) 2018 [3.70 footnote 68]
- Providers must ensure that all staff understand the need to protect the privacy of the children in their care as well the legal requirements that exist to ensure that information relating to the child is handled in a way that ensures confidentiality. [3.71]
- Parents and/or carers must be given access to all records about their child, provided that no relevant exemptions apply to their disclosure under the DPA. [3.71]

- Records relating to individual children must be retained for a reasonable period of time after they have left the provision. [3.72]

Information about the child

- Providers must record the following information for each child in their care:
 - full name
 - date of birth
 - name and address of every parent and/or carer who is known to the provider (and information about any other person who has parental responsibility for the child)
 - which parent(s) and/or carer(s) the child normally lives with
 - emergency contact details for parents and/or carers. [3.73]

Information for parents and carers

- Providers must make the following information available to parents and/or carers:
 - how the EYFS is being delivered in the setting, and how parents and/or carers can access more information;

Although out of school clubs do not need to deliver the learning and development requirements they still need to share with parents the support they intend to offer, for example activities and experiences that support development. In addition clubs still need to meet all the other requirements of EYFS. You can refer parents to the DfE website if they require more information about EYFS.

- the range and type of activities and experiences provided for children, the daily routines of the setting, and how parents and carers can share learning at home
- how the setting supports children with special educational needs and disabilities;
- food and drinks provided for children
- details of the provider's policies and procedures (all providers except childminders must make copies available on request) including the procedure to be followed in the event of a parent and/or carer failing to collect a child at the appointed time, or in the event of a child going missing at, or away from, the setting
- staffing in the setting; the name of their child's key person and their role
- telephone number for parents and/or carers to contact in an emergency. [3.74]

Complaints

- Providers must put in place a written procedure for dealing with concerns and complaints from parents and/or carers, and must keep a written record of any complaints, and their outcome. [3.75]
- Providers must investigate written complaints relating to their fulfilment of the EYFS requirements and notify complainants of the outcome of the investigation within 28 days of having received the complaint. The record of complaints must be made available to Ofsted on request. [3.75]
- Providers must make available to parents and/or carers details about how to contact Ofsted, if they believe the provider is not meeting the EYFS requirements. [3.76]
- If providers become aware that they are to be inspected, they must notify parents and/or carers. After an inspection, providers must supply a copy of the report to parents and/or carers of children attending on a regular basis. [3.76]

Information about the provider

- Providers must hold the following documentation:
 - name, home address and telephone number of the provider and any other person living or employed on the premises
 - name, home address and telephone number of anyone else who will regularly be in unsupervised contact with the children attending the early years provision
 - a daily record of the names of the children being cared for on the premises, their hours of attendance and the names of each child's key person

- their certificate of registration (which must be displayed at the setting and shown to parents and/or carers on request). [3.77]

Changes that must be notified to Ofsted

- All registered early years providers must notify Ofsted of any change:
 - in the address of the premises (and seek approval to operate from those premises where appropriate); to the premises which may affect the space available to children and the quality of childcare available to them; in the name or address of the provider, or the provider's other contact information; to the person who is managing the early years provision
 - any proposal to change the hours during which childcare is provided; or to provide overnight care;
 - any 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 to look after children;
 - where the early years provision is provided by a company, any change in the name or registered number of the company;
 - where the early years provision is provided by a charity, any change in the name or registration number of the charity;
 - where the childcare is provided by a partnership, body corporate or unincorporated association, any change to the 'nominated individual';
 - where the childcare is provided by a partnership, body corporate or unincorporated association whose sole or main purpose is the provision of childcare, any change to the individuals who are partners in, or a director, secretary or other officer or members of its governing body. [3.78]
- Where providers are required to notify Ofsted about a change of person except for managers, as specified above, providers must give Ofsted the new person's name, any former names or aliases, date of birth, and home address. [3.79]
- If there is a change of manager, providers must notify Ofsted that a new manager has been appointed. [3.79]
- Where it is reasonably practicable to do so, notification must be made in advance. In other cases, notification must be made as soon as is reasonably practicable, but always within 14 days. [3.79]
- A registered provider who, without reasonable excuse, fails to comply with these requirements commits an offence. [3.79]

Guidance for practitioners

- If requested, providers should incorporate parents' and/or carers' comments into children's records. [3.69]
- The Data Protection Act 1998 (DPA) gives parents and carers the right to access information about their child that a provider holds. However, the DPA also sets out specific exemptions under which certain personal information may, under specific circumstances, be withheld from release. For example, a relevant professional will need to give careful consideration as to whether the disclosure of certain information about a child could cause harm either to the child or any other individual. It is therefore essential that all providers/staff in early years settings have an understanding of how data protection laws operate. Further guidance can be found on the website of the Information Commissioner's Office at:
http://www.ico.gov.uk/for_organisations/data_protection.aspx [3.71, footnote 69]
For more information see the ICO website: <https://ico.org.uk/for-organisations/guide-to-data-protection/>
- Individual providers should determine how long to retain records relating to individual children. [3.72, footnote 69]
*Note however that the requirements of the Compulsory Childcare Register state that you should keep child records for at least two years, and records of complaints for at least three years. Also the principles of the GDPR require you to retain data for no longer than necessary. See our article on retaining records for more information:
<https://www.outofschoolalliance.co.uk/retaining-records>*

- A person is not considered to be working on the premises 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. [3.78 footnote 70]

Other Legal Duties

- The EYFS requirements sit alongside other legal obligations and do not supersede or replace any other legislation which providers must still meet
- Other duties include:
 - Employment law;
 - Anti-discriminatory legislation;
 - Health and safety legislation;
 - Data collection regulations;
 - Duty of care.

OOSA relevant policies: Data Protection policy, EYFS policy, Equalities policy, Uncollected Child policy, Missing Child policy, Complaints policy, Privacy Policy

Annex A: Criteria for effective PFA training

Annex A of the Statutory Framework sets out the criteria for paediatric first aid training that is deemed suitable for registered early years settings.

1. Training is designed for workers caring for young children in the absence of their parents and is appropriate to the age of the children being cared for.
2. Following training an assessment of competence leads to the award of a certificate.
3. The certificate must be renewed every three years.
4. Adequate resuscitation and other equipment including baby and junior models must be provided, so that all trainees are able to practice and demonstrate techniques.
5. **The emergency PFA course** should be undertaken face-to-face and last for a minimum of 6 hours (excluding breaks) and cover the following areas:
 - Be able to assess an emergency situation and prioritise what action to take
 - Help a baby or child who is unresponsive and breathing normally
 - Help a baby or child who is unresponsive and not breathing normally
 - Help a baby or child who is having a seizure
 - Help a baby or child who is choking
 - Help a baby or child who is bleeding
 - Help a baby or child who is suffering from shock caused by severe blood loss (hypovolemic shock)

Note that the emergency PFA course is only suitable for those members of staff who just need a PFA qualification in order to be counted as Level 2 or Level 3 qualified staff in your staffing ratios, as set out in para 3.25.

6. **The full PFA course** should last for a minimum of 12 hours (excluding breaks) and cover the areas set out in paragraph 5 as well as the following areas:
 - Help a baby or child who is suffering from anaphylactic shock
 - Help a baby or child who has had an electric shock
 - Help a baby or child who has burns or scalds
 - Help a baby or child who has a suspected fracture
 - Help a baby or child with head, neck or back injuries
 - Help a baby or child who is suspected of being poisoned
 - Help a baby or child with a foreign body in eyes, ears or nose
 - Help a baby or child with an eye injury
 - Help a baby or child with a bite or sting
 - Help a baby or child who is suffering from the effects of extreme heat or cold
 - Help a baby or child having: a diabetic emergency; an asthma attack; an allergic reaction; meningitis; and/or febrile convulsions
 - Understand the role and responsibilities of the paediatric first aider (including appropriate contents of a first aid box and the need for recording accidents and incidents)

Note that the full PFA course is required for the designated first aider at your club, and for any other members of staff who are fulfilling the role of the first aider on duty at any of your sessions, see para 3.25.

The Emergency PFA elements of a full PFA course should be delivered face to face. This means trainers are physically present with their trainees and excludes the use of online platforms for the emergency skills element (para 6 footnote 71)

7. Providers should consider whether paediatric first aiders need to undertake annual refresher training, during any three year certification period to help maintain basic skills and keep up to date with any changes to PFA procedures.

Appendix 1: Essential policies

Policies specifically required by the EYFS Statutory Framework 2021

- Missing child [3.74]
- Uncollected child [3.74]
- Complaints [3.75]
- Safeguarding [3.4]
- Emergency evacuation procedure [3.56]
- Administering medication [3.46]

Policies implicitly required by the EYFS Statutory Framework 2021

- Equalities [3.20]
- EYFS [3.41, 3.74]
- Visitor [3.63]

Policies required by other legislation

- Health and safety policy [3.55]
- Data protection policy