

## Appendix 5 – Staffing ratios in the maintained sector

Below are relevant extracts from the EYFS Guidance (both the Practice Guidance and the Statutory Framework booklet), Teachernet and DCSF guidance regarding staffing.

### **Extracted from the EYFS Practice Guidance (not in order as only relevant paragraphs)**

Section 3 – Welfare Requirements, pages 16 – 19

Staffing arrangements to ensure safety, and to meet the needs of children

3.16 Providers must meet the specific requirements for ratios of adults to children set out in

Appendix 2 of the *Statutory Framework for the Early Years Foundation Stage* booklet. The ratio requirements set out the minimum numbers of staff that are required to be present with the children at any time. Providers are responsible for ensuring the welfare of the children in their care and for ensuring that their needs are met. They should consider at all times whether staffing levels are sufficient to ensure this. It may, according to circumstances, be necessary to exceed the minimum ratio requirements.

3.23 Where a reception class does not fall within the definition of an infant class because the children are too young i.e. the majority of children will not reach the age of five during the school year, then the ratio and qualification requirements for children aged three and over in maintained schools will apply.

3.24 However, children attending reception classes are part of the EYFS. Depending on school admissions arrangements children may be starting reception class shortly after their fourth birthday. Children attending at this age need special consideration to ensure that their particular needs are met and that they receive a high quality learning experience. Support staff can play an important role in this. Many schools already consider it good practice to employ full time support staff to work alongside teachers in reception classes.

Group size

3.25 Except in the case of reception classes in maintained schools, the size of a group or class should not normally exceed 26.

3.26 Where the size of a group of children aged three and over in a maintained school (except reception classes) exceeds 26, it is good practice to assign an additional teacher to the class. An additional teacher should always be assigned where the group size exceeds 30. If, in a registered setting, the size of a group of children aged three and over exceeds 26, the ratio requirement of one adult to thirteen children will only apply if two members of staff hold either Qualified Teacher Status or Early Years Professional Status or another suitable level 6 qualification.

3.27 In some settings, more than one group of children may operate together e.g. a school may combine its reception class and nursery class. In such circumstances, it is good practice to segregate children into smaller groups of 26 or fewer for some parts of the day.

#### Staffing large groups of children and mixed age groups

3.28 The EYFS ratio requirements vary according to the age of the children being cared for and apply to all early years provision except for reception classes in maintained schools. In many early years settings, children are not grouped in ways that directly reflect the way in which these requirements are set out. It may not always be straightforward to apply the ratio requirements in such circumstances.

3.29 Applying the ratio requirements may be particularly complex where a maintained school operates with a registered early years provider or where the reception class in a maintained school is combined with provision for younger children.

3.30 In some cases, it may be possible to meet the legal requirements in more than one way. Providers should use their professional judgement in deciding which staffing arrangements are most appropriate for their specific circumstances. In all circumstances, the provider is responsible for ensuring that the legal requirements are met. Staffing must be organised in the optimum manner to ensure children's safety and meet their individual needs.

3.31 Examples of how the minimum ratio requirements may apply for varied group sizes are set out below. This guidance demonstrates how providers can comply with the minimum requirements; however it is important that providers use their professional judgement when considering appropriate staffing arrangements for any type of activity inside or outside the setting.

### Examples of staff:child ratios in mixed-age groups

#### **Example 1**

**A group of 40 three to five year olds within a maintained school . 12 of the children will reach statutory school age within the academic year.**

In this example the ratio requirements may be applied in more than one way. This group does not fall within the definition of an infant class, as only a minority of the children will reach statutory school age within the school year. However, the EYFS recommends that large groups of children such as this should be segregated into smaller groups for parts of the day. Providers may find it helpful to think in terms of the smaller groups the whole group might be broken into, and how those groups could be staffed if they were not part of a larger group.

There are a number of ways in which this group may be broken into smaller groups, for example:

1. Two groups of 20 children, with all the children who will reach statutory school age in one group.

A group of 20 children, the majority of whom reach statutory school age during the school year, would fall within the definition of an infant class. An infant class of 20 children requires a minimum of one teacher.

A group of 20 children aged three and over, none of whom reach statutory school age within the school year, would not fall within the definition of an infant class. The EYFS would require that it had a minimum of one teacher and one practitioner qualified to level 3.

The minimum number of staff required across the two groups would be two teachers and one practitioner qualified to level 3.

2. Two groups of 20 children, with the children who will reach statutory school age divided equally between the two groups. Neither of these groups would fall within the definition of an infant class. The EYFS would require that each group had a minimum of one teacher and one practitioner qualified to level 3. The minimum number of staff required across the two age groups would be two teachers and two practitioners qualified to level 3.

### **Example 2**

**A group of 38 three to four year olds comprising 20 children from the nursery class in a maintained school and 18 children from a registered setting. None of the children will reach statutory school age within the academic year.**

In deciding how this group should be staffed, it may helpful to think about how each of the constituent parts would be staffed if they operated separately.

A nursery class of 20 children would require one teacher and one level 3 practitioner. In a registered setting, the ratio requirements for a group of 18 three- to five-year olds would vary depending on whether a practitioner holding Qualified Teacher Status, Early Years Professional Status or another suitable level 6 qualification was involved in working directly with the children. If such a practitioner were working with the children, the ratio requirement of 1:13 would apply. A level 3 practitioner would also be required. If the group did not have a QTS/EYPS/level 6, the ratio of 1:8 would apply. The group would also require a level 3 practitioner plus two other practitioners, at least one of whom should be qualified to level 2.

Two ways of meeting the requirement would be:

1. One teacher + one QTS/EYPS/level 6 + two level 3 practitioners, or
2. One teacher + two level 3 practitioners + two other practitioners, at least one of whom must be qualified to level 2.

Each provider would be responsible for ensuring that the ratio requirements were met in respect of the children from their setting

### **Example 3**

**A group of 28 three to five year olds within a maintained nursery school. 20 of the children will reach statutory school age within the academic year.**

As the majority of the children in this class will reach statutory school age within the school year, this class falls within the definition of an infant class. Infant class size legislation, therefore, limits its size to no more than 30 pupils per teacher. The school may consider it appropriate, particularly as some of the children in the class are only three years old, to assign another member of staff to work alongside the teacher.

## **Extracted from the Statutory Framework**

Page 32

Statutory guidance to which providers should have regard

Children should be supervised at all times, with staffing arrangements organised to meet the individual needs of all children.

Exceptions to the ratios requirements should only be made in limited circumstances, such as when the children are sleeping or resting. In these circumstances all the adults need not be present in the room with the children, but should be available nearby on the premises should they be needed.

Providers should put in place contingency arrangements for staff absences and emergencies. When there is staff absence or an emergency occurs suitable arrangements might include drawing on a pool of suitable staff, re-grouping of children, re-organising rooms and activities and re-deploying other suitable staff. When such disruptions occur there should continue to be a consistent experience for the child.

Where children in nursery classes and reception classes attend school for longer than the normal school day, in provision run directly by the governing body or the proprietor, we recommend that outside the school day the adult: child ratio is held at 1:8 with at least one member of staff holding a full and relevant level 3 (as defined by CWDC) and half of all others holding a full and relevant level 2 (as defined by CWDC).

Staff/volunteers/students under the age of 17 cannot count towards the ratio and should be supervised at all times. Individuals aged 17 and over who are on long-term placements may be included in the ratios if the provider is satisfied they are competent and responsible. Volunteers/committee members are given full information and guidance on their roles and responsibilities.

Some schools may choose to mix their reception classes with groups of younger children, in which case they should use their discretion in establishing ratios for these mixed groups based on the EYFS welfare requirements (that is, 1:30 for the reception group and 1:13, 1:8 and so on for the younger children). This applies whether the pre-school element is provided directly by the school or in partnership through a PVI provider.

However, in exercising this discretion the school, and any partner provider, must comply with the statutory requirements relating to the education of children of compulsory school age children and infant class sizes. At all times it is necessary to meet the needs of individual children and it may be appropriate to exceed these minimum requirements. Where a school operates in partnership with a PVI pre-school provider both parties will assume shared responsibility for meeting the ratios in the amalgamated setting.

**Staffing arrangements must be organised to ensure safety and to meet the needs of the children.**

Specific legal requirements

Specific Legal Requirements (Must Do)

Providers must meet the requirements for adult:child ratios set out in Appendix 2.

During breaks, or at times when teachers are undertaking preparation, planning and assessment and are out of the classroom/not interacting directly with the children, the ratios must be adjusted accordingly.

For childminders providing overnight care, required ratios continue to apply. The children must be close by and within easy hearing distance (this may be via a monitor).

For other settings providing overnight care, the ratios set out in these requirements continue to apply. At least one member of staff must be awake at all times.

Statutory guidance (should have regard)

Children should be supervised at all times, with staffing arrangements organised to meet the individual needs of all children.

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Providers should put in place contingency arrangements for staff absences and emergencies. When there is staff absence or an emergency occurs suitable arrangements might include drawing on a pool of suitable staff, re-grouping of children, re-organising rooms and activities and re-deploying other suitable staff. When such disruptions occur there should continue to be a consistent experience for the child.

Where children in nursery classes and reception classes attend school for longer than the normal school day, in provision run directly by the governing body or the proprietor, we recommend that outside the school day the adult:child ratio is held at 1:8 with at least one member of staff holding a full and relevant level 3 (as defined by CWDC) and half of all others holding a full and relevant level 2 (as defined by CWDC).

Staff/volunteers/students under the age of 17 cannot count towards the ratio and should be supervised at all times. Individuals aged 17 and over who are on long-term placements may be included in the ratios if the provider is satisfied they are competent and responsible.

Volunteers/committee members are given full information and guidance on their roles and responsibilities.

Some schools may choose to mix their reception classes with groups of younger children, in which case they should use their discretion in establishing ratios for these mixed groups based on the EYFS welfare requirements (that is, 1:30 for the reception group and 1:13, 1:8 and so on for the younger children). This applies whether the pre-school element is provided directly by the school or in partnership through a PVI provider. However, in exercising this discretion the school, and any partner provider, must comply with the statutory requirements relating to the education of children of compulsory school age children and infant class sizes. At all times it is necessary to meet the needs of individual children and it may be appropriate to exceed these minimum requirements. Where a school operates in partnership with a PVI pre-school provider both parties will assume shared responsibility for meeting the ratios in the amalgamated setting.

Examples of how these mixed-age groups may work in practice are set out in the *Practice Guidance for the Early Years Foundation Stage*.

## Appendix 2

Specific legal requirements for ratios of adults to children (as required by page 32 of this document)

*A: Maintained and independent schools and registered early years providers, except for childminders*

1 The ratio requirements set out the minimum numbers of staff that must be present with the children at any time. It may, according to circumstances, be necessary to exceed these minimum requirements. The provider should consider at all times whether there is adequate supervision of children and ensure that the needs of the individual children being cared for are met.

2 The numbers of children set out below represent the maximum numbers of children who may be provided for by early years providers. However, the maximum number of children who may be appropriately cared for by a particular provider may be fewer than the maximum numbers given here. In registered provision, Ofsted will make a judgement about the overall maximum numbers of children that a particular provider may be registered to care for which will be set out in the conditions of registration. This judgement will be based on factors such as the amount of space available.

3 The ratios relate to staff time available to work directly with children. Sufficient suitable staff must be available to cover staff breaks, holidays, sickness and time spent with parents, in order to ensure that the ratio and qualification requirements are always met in relation to the staff working directly with the children. Additional staff may be required to undertake management tasks, prepare meals, maintain premises and equipment and so on.

4 The ratios include any children of staff or volunteers. Any care provided for older children must not adversely affect the care of children receiving early years provision.

5 There must be at least two adults on duty in a setting at any time when children are present.

#### **Children aged under two in any early years group setting**

- there must be at least one member of staff for every three children; at least one member of staff must hold a full and relevant level 3 (as defined by CWDC), and have suitable experience of working with children under two;
- at least half of all other staff must hold a full and relevant level 2 (as defined by CWDC);
- at least half the staff must have received specific training in the care of babies;
- the member of staff in charge of the babies' room must have suitable experience of working with children under two years.

#### **Children aged two in any early years group setting**

- there must be at least one member of staff for every four children;
- at least one member of staff must hold a full and relevant level 3 (as defined by CWDC);
- at least half of all other staff must hold a full and relevant level 2 (as defined by CWDC).

**Children aged three and over in any registered early years provision**

6 Between the hours of 8 am and 4 pm, where a person with Qualified Teacher Status, Early Years Professional Status or another suitable level 6 qualification (which is full and relevant, and defined by CWDC) is working directly with the children, the following requirements apply:

- 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 (as defined by CWDC).

7 At any time outside the hours of 8 am and 4 pm, or between the hours of 8 am and 4 pm but where a person with Qualified Teacher Status, Early Years Professional Status or another suitable level 6 qualification (which is full and relevant, and defined by CWDC) is not working directly with the children, the following requirements apply:

- there must be at least one member of staff for every eight children;
- at least one member of staff must hold a full and relevant level 3 (as defined by CWDC);
- at least half of all other staff must hold a full and relevant level 2 (as defined by CWDC). Children aged three and over in independent schools

8 Where a person with Qualified Teacher Status, Early Years Professional Status or another suitable level 6 qualification (which is full and relevant, and defined by CWDC) is working directly with the children, the following requirements apply:

- 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 (as defined by CWDC).

9 Where a person with Qualified Teacher Status, Early Years Professional Status or another suitable level 6 qualification is not working directly with the children, the following requirements apply:

- there must be at least one member of staff for every eight children;
- at least one member of staff must hold a full and relevant level 3 (as defined by CWDC);
- at least half of all other staff must hold a full and relevant level 2 (as defined by CWDC).

### **Children aged three and over in maintained nursery schools and nursery classes in maintained schools**

- 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 and the Education (School Teachers' Qualifications) (England) Regulations 2003;
- at least one other member of staff must hold a full and relevant level 3 (as defined by CWDC)

### **Children aged four and over in reception classes in maintained schools**

10 Reception classes in maintained schools are subject to infant class size legislation. The School Standards and Framework Act (as amended by the Education Act 2002) limits the size of infant classes to 30 pupils per school teacher.<sup>1</sup> 'School teachers' do not include teaching assistants, higher level teaching assistants or other support staff. Consequently, a school must employ sufficient school teachers to enable it to teach its infant classes in groups of no more than 30 per school teacher.

### **Early Years Foundation Stage Frequently Asked Questions (from DCSF/Teachnet/Principal Mgr)**

#### **What is the staffing ratios for nursery and reception classes ?**

EYFS sets the *minimum* staffing ratios in nursery classes are 2:26 and in reception classes at 1:30. Class size legislation also restricts reception classes to 30 children. It is important to ensure that the QTS is trained to work in the EYFS. Effective EYFS practice relies upon highly developed skills and levels of knowledge and understanding about young children, their development and learning, working inclusively to meet individual children's needs and how to work with parents.

In a nursery class a level 3 qualified colleague must be in post to work with the QTS. Level 3 qualifications include the Diploma in Childcare and Education which replaced the NNEB qualification. Schools wishing to develop their provision are advised to employ such a second adult in their reception classes.

All staff would benefit from ongoing professional development about EYFS. The EYFS Practice Guidance (page 9) describes high quality, continuously improving settings as those where;

- Staff work in an environment that recognises the impact of higher qualifications on the quality of provision;
- There are clear progression routes for the EYFS workforce
- There are incentives for staff to become better qualified and there is support for staff taking qualifications

## **Can we combine nursery and reception classes?**

It is the LA position and Government advice that 3-4 year old children's needs are better met in nursery because of space, resourcing, teacher expertise and pedagogy etc unless there is a Foundation Stage Unit where nursery and reception are physically and philosophically integrated.

We are currently developing advice for schools on developing Foundation Stage Units. Any Foundation Stage Units need to be developed with a 2:26 staffing ratio, appropriate shared indoor and outdoor space and appropriate daily routines for children. Close attention must also be paid to meeting the needs of the youngest children when developing a Foundation Stage Unit.

It is not possible to admit nursery children into reception classes except in a Foundation Stage Unit. The law requires that a child must receive full time education the term after the fifth birthday.

County policy already allows for early admission to reception class from September of the academic year of the fifth birthday i.e. before compulsory school age. Nursery attendance does not afford priority for admission into reception.

## **Does the EYFS require there to be a teacher present in nursery classes in maintained schools?**

Yes. The EYFS requires that, in provision for children aged three and over in maintained schools (except for children in reception classes) 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 and the Education (School Teachers' Prescribed Qualifications, etc) Order 2003. One member of staff must hold a level 3 qualification. The requirement to have a teacher is not new. Since 2003, the School Teacher's Pay and Conditions Document has required head teachers to ensure that, save in exceptional circumstances, a teacher is assigned to each class or group of pupils in the foundation stage.

## **Does the EYFS require that there must be a teacher present with the children in a nursery class all of the time?**

No. The EYFS requires that the teacher must be present except during non-contact time, breaks and short term absence. Examples of teachers' non-contact time include planning, preparation and assessment (PPA) time or because he or she is a Newly Qualified Teacher on a reduced timetable. For the purposes of the EYFS, examples of short-term absence include times when the teacher must leave the children briefly e.g. to take an urgent telephone call or to speak to a parent, or special occasions such as the children's Christmas party when the teacher's particular skills and expertise are not necessarily required. Headteachers should exercise their professional judgement in determining where cover from another teacher is required.

### **What should the staffing arrangements during teachers' non-contact time or short term absence?**

During teachers' non-contact time and wherever possible during short-term teacher absence, one of the remaining members of staff should meet the following conditions:

- they must be assisting or supporting the work of a teacher
- they must be subject to the direction and supervision of a qualified teacher in accordance with arrangements made by the headteacher
- the headteacher must be satisfied that they have the skills, expertise and experience necessary.

The EYFS does not require schools to change the way in which they currently manage PPA time. These are the conditions set out in the regulations made under Section 133 of the Education Act 2002 and which must be met by support staff carrying out 'specified work'. See also Time for Standards: Guidance accompanying the Section 133 Regulations under the Education Act 2002. This is available [here](#).

### **Are maintained schools required to adjust their adult: child ratios at times when the teacher is not present with the children?**

No. The requirement that there must be at least one member of staff for every thirteen children remains the same at all times during the school day regardless of whether the teacher is present.

### **What should the staffing arrangements be in maintained schools in before and after school provision and holiday provision?**

The EYFS recommends that there should be a minimum of one member of staff for every eight children, that one member of staff should hold a level 3 qualification and that half all other staff should hold level 2 qualifications.

### **What should the staffing arrangements be in maintained schools during lunchtimes and breaktimes?**

The EYFS does not include ratio and qualification requirements for maintained schools during lunchtimes. However, under the Health and Safety at Work etc Act 1974, the statutory responsibility for the health and safety of pupils within a school rests with the employer of staff at the school. As part of this duty, a risk assessment should be undertaken for all activities, including lunchtimes, to assess the level of supervision that is required. This risk assessment should take into account the particular needs and vulnerabilities of children in the EYFS.

## **What are the ratio and qualification requirements for reception classes in maintained schools?**

The EYFS does not place ratio and qualification requirements on reception classes in maintained schools provided they fall within the legal definition of an infant class (i.e. a class containing pupils the majority of whom will reach the age of five, six, or seven during the course of the school year). Such classes are already subject to infant class size legislation which requires that an infant class must not contain more than 30 pupils while an ordinary teaching session is conducted by a single 'school teacher' (as defined by section 122 of the Education Act 2002 and the Education (School Teachers' Prescribed Qualifications, etc) Order 2003). However, children attending reception classes are still part of the EYFS and schools should take account of the particular needs and vulnerabilities of these children when making their staffing arrangements. Many schools already employ full time support staff to work alongside teachers in reception classes.

## **Who is included in the legal definition of a school teacher?**

The term 'school teacher' is as defined by section 122 of the Education Act 2002 and the Education (School Teachers' Prescribed Qualifications, etc) Order 2003. 'School teachers' include:

- headteachers
- qualified teachers
- overseas trained teachers
- instructors with special qualifications or experience
- staff on an employment-based teacher training scheme
- graduate teachers
- registered teachers
- student teachers
- teacher trainees yet to pass the skills tests

'School teachers' do not include teaching assistants, higher-level teaching assistants or other support staff. However, support staff are able to carry out 'specified work', in certain circumstances. See Time for Standards: Guidance accompanying the Section 133 Regulations under the Education Act 2002 for further information.

## **The EYFS ratio requirements vary according to the age of the children. In many settings children are not grouped in ways that directly reflect the way in which the requirements are set out. How should the requirements be applied in these circumstances?**

Providers should use their professional judgement in deciding which staffing arrangements are most appropriate for their specific circumstances. In all circumstances, the provider is responsible for ensuring that the legal requirements are met.

It may be helpful to think about how each of the constituent parts would be staffed if they operated separately for example, if a group is made up of children aged two and three, how many staff would be required for the two-year-olds if they were in a group of their own, and how many staff would be required for the three-year-olds.

**If a nursery class in a maintained school has more than 26 children, is an additional teacher required?**

The EYFS recommends that, where the size of a group or class exceeds 26 children, it would be good practice to assign an additional teacher to it and that an additional teacher should always be assigned when the size of a class exceeds 30.