

114. – Staffing Ratio and out of Ratio policy

Statutory legal requirements

The Early Years Foundation Stage Statutory Framework

“3.31. The ratio and qualification requirements below apply to the total number of staff available to work directly with children³⁷. Exceptionally, and where the quality of care and safety and security of children is maintained, changes to the ratios may be made. This applies to all settings but childminders cannot have more than six children under the age of eight per adult providing care. For group settings providing overnight care, the relevant ratios continue to apply and at least one member of staff must be awake at all times”

Footnote 37 – “Ofsted may determine that providers must observe a higher staff:child ratio than outlined here to ensure the safety and welfare of children.”

3.32. For children aged under two:

- there must be at least one member of staff for every three children
- at least one member of staff must hold an approved level 3 qualification, and must be suitably experienced in working with children under two
- at least half of all other staff must hold an approved level 2 qualification
- at least half of all staff must have received training that specifically addresses the care of babies
- where there is a room for under two-year-olds, the member of staff in charge of that room must, in the judgement of the provider, have suitable experience of working with under twos

3.33. For children aged two:

- there must be at least one member of staff for every four children³⁸
- 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”

Footnote 38 – “In a maintained school or non-maintained special school, where the two-year-olds are pupils, staff must additionally be under the direction and supervision of a qualified or nominated teacher when carrying out specified work (as laid out in the Education (Specified Work) (England) Regulations 2012). Specified work broadly encompasses lesson (or curriculum) planning, delivering lessons, assessing the development, progress and attainment of pupils and reporting on the latter. The headteacher must be satisfied that the staff have the skills, expertise and experience needed to carry out the work and determine the appropriate level of direction and supervision.”

“3.34. For children aged three and over in registered early years provision where a person with Qualified Teacher Status, Early Years Professional Status, Early Years Teacher Status or another approved level 6 qualification, is working directly with the children³⁹:

- there must be at least one member of staff for every 13 children
- at least one other member of staff must hold an approved level 3 qualification”

Footnote 39 – “We expect the teacher (or equivalent) to be working with children for the vast majority of the time. Where they need to be absent for short periods of time, the provider will need to ensure that quality and safety is maintained.”

“3.35. 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 another approved 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

3.36. For children aged three and over in independent schools (including in nursery classes in free schools and academies), where a person with Qualified Teacher Status, Early Years Professional Status, Early Years Teacher Status or another approved level 6 qualification, an instructor⁴⁰, or another suitably qualified overseas trained teacher, is working directly with the children:

- for classes where the majority of children will reach the age of five or older within the school year, there must be at least one member of staff for every 30 children⁴¹
- for all other classes there must be at least one member of staff for every 13 children
- at least one other member of staff must hold an approved level 3 qualification”

Footnote 40 – “An instructor is a person at the school who provides education which consists of instruction in any art or skill, or in any subject or group of subjects, in circumstances where: (a) special qualifications or experience or both are required for such instruction; and (b) the person or body of persons responsible for the management of the school is satisfied as to the qualifications or experience (or both) of the person providing education.”

“3.37. For children aged three and over in independent schools (including in nursery classes in academies), where there is no person with Qualified Teacher Status, Early Years Professional Status, Early Years Teacher Status or another approved level 6 qualification, no instructor, and no suitably qualified overseas trained teacher, 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”

Early Years Foundation Stage Framework, 2021.

Open letter to the early years sector from the Competition & Markets Authority

“Consumers should not have to pay for services that cannot be provided

- Consumers should also be offered a refund where services are paid for in advance but do not take place as agreed in the contract.
- Contract terms requiring consumers to pay providers who are not providing the services agreed in the contract are likely to be unfair and unenforceable.”

CMA, June 2020.

<p>What is this policy for?</p> <ul style="list-style-type: none"> • To guide the actions of senior leaders in the event of a short-term staffing shortage which creates risk of a potential legal breach in ratios. • To inform staff of the actions we will take to maintain safe staff:child ratios. • To inform parents/carers and external bodies of our approach. <p>About this policy</p> <p>This policy outlines how the nursery intends to respond to circumstances that lead to a sudden and unexpected drop in the number of staff available to directly work with children when the number of children attending remains the same, therefore, creating potential for a breach to the legal ratios set out in the EYFS 2021.</p>	<p>What does this policy cover?</p> <ul style="list-style-type: none"> • Short term staffing shortages • Circumstances that may impact the staffing complement, such as a viral outbreak, severe weather or a road traffic incident that prevents staff from getting to work. <p>This policy should be read alongside the following policies:</p> <ul style="list-style-type: none"> • critical incident • absence management
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Policy statement

We prioritise the safety of the children in our care and strive to work beyond the requirements of the Early Years Foundation Stage statutory framework wherever possible. However, in exceptional circumstances, there may be an occasion where expected or actual levels of staffing suddenly decrease but the numbers of children attending remains the same. Although we cannot pre-empt illness, or situations that may lead to a reduced staffing complement, we can put plans in place that will help us to manage the situation quickly, whilst ensuring that children remain safe.

These situations are likely to be complex as we try to safeguard any vulnerable children, navigate the requirements of government funded places/local authority funded places alongside consumer protection law.

Things you need to know

We will do everything in our power to ensure that children are safe, which includes ensuring safe levels of staffing that continue to meet children's individual care and learning needs.

In the event of short-term staffing shortages, we will:

- Keep children together in larger groups until 8.30 to allow the senior team to compose a plan and/or call parents and additional staff to collect children.
 - o Keep Lower School (under 2s) together where possible in the sun room and the outside spaces along with the middle room.
 - o Middle school and Upper School groups close together whilst utilising our outside courtyard and all-weather areas where possible.
 - o During this time focus on engagement and safety of children. Tasks can be postponed until later.
- Identify the numbers of children in each room and the number of staff required to maintain legal and safe adult:child ratios.

- Identify the total number of staff available to work with children and their level of qualification.
- Identify the shortfall in staffing.

Once we have a clear understanding of our staffing deficit, we will undertake the following in the order listed below:

1. Apply any possible room/unit moves that will not distress children but allow us to work on ratio rather than under in some rooms.
2. Consider whether different age groups of children can be brought together safely to increase levels of supervision and support.
3. Contact trusted supply/bank staff.
4. Contact all available off duty staff.
5. Contact any volunteer staff and/or students that currently work with us and are known to the children.
6. Contact trusted early years staffing specialists.
7. Ensure that any super numerate leaders work directly in ratio during this period.
8. Risk-assess unqualified members of staff to understand whether 3.31 of the EYFS can be applied. (When considering this step, you must contact your insurer to understand whether this would be covered by your policy).
9. And as a last resort, we will contact parents that indicated they (or an emergency contact such as a grandparent) would be willing and able to collect their child, in the event of a staff shortage.

If we exhaust these avenues and are still unable to maintain statutory ratios, we will prioritise the care of our most vulnerable children by risk assessing the needs of the children and may decide to close parts of the nursery to keep children safe. This will start with our youngest children as the ratio requirements will mean this effects fewer families.

Once this decision has been made, we will contact parents to share our plans and then undertake the following:

We will:

- Contact Ofsted to inform them of our situation and to provide an overview of our plans and the actions taken.
- Contact our local authority to make them aware of the situation and to understand what actions need to be taken if we are unable to offer government funded places.
- Issue refunds to families that were not able to access their normal session or identify specific times in the year where additional sessions will be offered.
- Keep a chronological log of the decisions made and the actions taken in a decisions and actions log.

Important

In the rare circumstances that staffing levels are significantly impacted (for example, a viral outbreak, severe weather or road traffic incidents that prevent staff from getting to work etc.), we may take the decision to close the nursery to ensure that the safety of the children and our staff are not compromised. In the event of an unforeseen closure then Ridgemount Nursery will not be held responsible for any loss of earnings or childcare costs.

Decision and action log summary (Example)

Date	Incident/event			Decision maker & role	
08/01/2022	One member of staff rang before opening to inform the leadership team that he had COVID-19 symptoms and a further member of staff was sent home around 8.30am after developing COVID-19 symptoms.			<i>A. Nother (Director)</i>	
Decision maker & role	Date	Actions taken/Decision made	Why the decision was made	How the decision was made	Supporting notes
<i>A. Nother (Director)</i>	<i>08/01/2022</i>	<i>Action – Points 1-7 were followed but did not resolve the staffing shortage.</i>	<i>Different age groups of children cannot be brought together safely due to the stage of development of some of the younger children.</i>	<i>By assessing the preschool learning environment and equipment, and by reviewing the size of the toddler environment.</i>	
<i>A. Nother (Director)</i>	<i>08/01/2022</i>	<i>Decision - Baby room to close due to staffing shortages.</i>	<i>There were only 4 babies attending who were being supported by 2 qualified members of staff.</i>	<i>None of the children were vulnerable and all parents had indicated that they or one of their emergency contacts would be available to collect their child in the event of severe staffing shortages.</i>	<i>Points 1-7 were exhausted before taking the decision to contact parents. By closing the baby room, 2 qualified members of staff were able to be redeployed to work with our vulnerable and older children.</i> <i>The affected baby room parents have been offered either a refund or alternative sessions.</i>

Decision and action log summary

Date	Incident/event	Decision maker & role

Decision maker & role	Date	Actions taken/Decision made	Why the decision was made	How the decision was made	Supporting notes

History of revisions

Minor revisions				Significant revisions			
Date reviewed	By whom	Role		Date reviewed	By whom	Role	
No changes		Minor changes		Summary of changes			
Summary of changes				Adopted by			Date adopted

Date reviewed	By whom	Role		Date reviewed	By whom	Role	
No changes		Minor changes		Summary of changes			
Summary of changes				Adopted by			Date adopted

Date reviewed	By whom	Role		Date reviewed	By whom	Role	
No changes		Minor changes		Summary of changes			
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