

Variations and the EYFS 2014

As we have already discussed, the variations wording in the EYFS 2014 (compared to the EYFS 2012) has **not** changed - <https://www.facebook.com/groups/independentchildminders/793537817334294/>.

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

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

You can play with those ratios –

- You can have 4 over 5 and 2 under 5 if you want – just don't go above 6 under 8...
- **OR** if you have 2 spaces in your under 5s ratios you can take on twins – *sibling babies* – so that you have 2 under 1 and 1 more child under 5 (EYFS requirement 3.42). Note that twins always count as 2 children – they can never be classed as 1 child because they take up 2 spaces and 2 lots of floor space – and remember you can never go above the 6 under 8 maximum when working on your own.

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

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

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

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

Note that DfE have **NOT** confirmed that this rule applies if a child is in pre-school or nursery – the EYFS only refers to school children as rising 5. Note also that the DfE have **NOT** confirmed you can replace your own children with childminded children while they are off the premises – we are still trying to clarify this one.

Changing the amount of children in your care

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

For example...

Requirement 3.42 - *If a childminder can demonstrate to parents and/or carers and Ofsted inspectors or their childminder agency that the individual needs of all the children are being met, exceptions to the usual ratios can be made when childminders are caring for sibling babies, or when caring for their own baby.*

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

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

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

This 'exceptional circumstances' rule is not the norm – you **cannot** use it to look after more than 3 children every day ... and you **cannot** use it to take on new business. Both Ofsted and DfE have confirmed that it is for **continuity of care** or in an **emergency situation** only – to offer support to families with children already in the provision who need to change the hours or days their child is with you or to provide emergency care for a child who already uses your childminding service.

Risk assessing variations

The DfE states that we must consider each request to change the conditions of ratios carefully, on a case-by-case basis. This means that we must look at every variation individually and ask ourselves –

- Is it continuity of care / an unavoidable short-term emergency situation?
- Do I have less than 6 children under the age of 8?
- Can I confidently demonstrate to Ofsted and parents that I am meeting all the children's needs?
- Will having an extra child work with the current mixture of children?
- Can I still deliver both care and learning effectively to all the children?
- Do I have enough floor space? You should check your floor space every time you organise a variation, measuring round your furniture and planning it out on paper to show it has been done.
- Am I covered by my insurance?
- Am I breaking any local planning laws? You are advised to check with your LA planning department before changing your ratios.
- Do I need to ask my LA advisor or agency first?
- Do I have the resources and equipment needed to support the extra child?
- Is my day well organised to meet all the children's individual needs? Can I get all the children in the car? Do I have enough buggies? Can all the children sit round the table?
- Are all the parents happy that I will continue to provide effective care and learning for their child? Childminders usually ask parents to sign a confirmation letter to state they have been advised about the variation and they are happy with the new arrangements – you will find a sample letter in the following document...

Most importantly, you **MUST** be able to demonstrate to parents and Ofsted that the individual needs of all the children are being met.

Note that a **NEW** variation must be carefully considered and re-written every time you change your numbers and that the variation runs out when the child leaves or moves up into another age range.

Working with an assistant, co-childminder or apprentice

EYFS requirement 3.43 - *If a childminder employs an assistant or works with another childminder, each childminder (or assistant) may care for the number of children permitted by the ratios specified above (subject to any restrictions imposed by Ofsted or the relevant childminder agency on registration).*

To comply with requirement 3.9 - *Providers must ensure that people looking after children are suitable to fulfil the requirements of their roles.* If you change the amount of children you care for your assistant, co-childminder or apprentice must have –

- A CRB check or DBS disclosure.
- A paediatric first aid certificate.
- An Ofsted 'suitability' letter.

You must also be confident that they are *competent in the areas of work they undertake* (EYFS requirement 3.24).

If you intend leaving them alone with the children they **MUST** be within their own ratios at all times – you **cannot** leave a member of staff with 4 under 5 while you nip to the shop – that is not an exceptional circumstance or an emergency so it cannot be used as a reason for a variation.

Note – assistants can only be left unsupervised with children for up to 2 hours a day and you must have parents written permission first. Inspectors look for a register which records times unsupervised. If you change your ratios because you have an assistant or other staff working with you, a staff attendance register will also help you to prove that your assistant was present when more than the normal ratios of children were on the premises.

If you do want to change your ratios to more than 6 under 8 when working with an assistant, co-childminder or apprentice you **must** also –

- Check whether you need planning permission from your Local Authority – if you look after more than 6 under 8 because you are working with a member of staff and you do not find out if you need planning permission, it is likely that you will be childminding illegally. Planning can (and have) shut childminders down.
- Make sure you are covered by your childminding insurance.
- Calculate your floor space very carefully – remember outside space, kitchens and hallways are not included.

You **must** do **all** these things **before** you start caring for more children than you can care for in your own ratios. Do not risk taking on extra children before your assistant's suitability letter is in your hand.

I have written some sample documentation including a letter for parents and a risk assessment here –

<http://www.childmindinghelp.co.uk/freeresources/Free%20downloads/Resources/Changing%20conditions%20of%20registration%20from%2009.2012.pdf>.

If you have any further questions about ratios and variation / exceptions, please ask. We would always rather answer your question than see members make the wrong decision and be downgraded for it at inspection.