

Childcare regulations amendments following removal of OE judgements from maintained schools (including maintained nursery schools) and academies

Following our email to you on Monday 2nd September, we are providing an update on the impact of the removal of Overall Effectiveness (OE) judgements on the childcare entitlements for 2024/25.

LAs will be aware that the regulations governing the childcare entitlements currently enable LAs to refuse to make arrangements with, or terminate funding for, a provider (other than a maintained school) where Ofsted gives an OE judgement of 'inadequate' for the working parent and universal entitlements, or 'requires improvement' for the disadvantaged 2 year-old entitlement.

Childminders and Private, Voluntary and Independent Providers in 2024/25:

There have been no changes to Ofsted grades for Childminders and Private, Voluntary and Independent (PVI) Providers. Childminders and PVI providers will continue to receive OE judgements and childminder agencies will continue to receive an 'effective' or 'not effective' grade. The entitlements regulations and statutory guidance remain applicable in the same way to these providers.

Academy and maintained school early years settings in 2024/25:

Subject to Parliament, we intend to make an amendment in late autumn to the regulations governing the free childcare entitlements in response to the removal of OE judgements for maintained schools and academies. We will amend the statutory guidance accordingly in the new year.

We intend to amend the regulations to reflect that, in relation to school inspection reports without OE judgements:

- For all the childcare entitlements, the 'Inadequate' OE judgement will be replaced with an Ofsted decision that the school 'requires significant improvement' or that 'special measures' are required.
- For the disadvantaged 2-year-old entitlement, the 'Requires Improvement' OE judgement will be replaced with the 'Requires Improvement' Early Years provision judgement.
- As previously, the powers to withdraw funding based on Ofsted ratings do not apply to local authority maintained schools, over whom LAs have alternative levers.

Future changes to single headline grades in early years:

At this time, childminder or Private, Voluntary and Independent providers continue to receive an OE judgement alongside the sub judgements. DfE and Ofsted will work in

partnership with the sector over the next year to develop alternative reporting arrangements. We expect that the new arrangements will take account of the unique characteristics of the sector but will broadly reflect the report card approach that is being taken for schools. It should be stressed that the government is committed to replacing OE judgements in all the remits that Ofsted inspects.

Q&A:

1) What should my Local Authority do before the regulation amendments are made?

If the inspection report is for a childminder or Private, Voluntary and Independent (PVI) provider, these providers will continue to receive Overall Effectiveness judgements. The entitlements regulations and statutory guidance remain applicable in the same way to these providers.

If the inspection report is a new report for early years provision at an academy or maintained school, inspected after 2 September 2024, an OE judgement will not have been awarded. Local Authorities should look to the terms of their provider agreement between the Local Authority and the individual provider. Local Authorities are advised to seek their own legal advice on these individual provider agreements.

2) How will I know the outcome of the new inspections now Overall Effectiveness judgements are removed?

We understand that some Local Authorities are currently automatically informed of the OE judgements of providers in their area by their software, which may not be possible for new inspections without OE judgements.

Local Authorities receive inspection reports for all graded inspections from Ofsted, including for LA maintained schools and academies. Local Authorities will need to consult the relevant inspection report of new inspections of school-based EY settings in their areas.

3) What does this mean for Local Authority maintained schools?

As previously, the powers to withdraw childcare entitlements funding based on Ofsted ratings do not apply to maintained schools (including maintained nursery schools), over whom Local Authorities have alternative levers. Further guidance can be found at this link: [Schools causing concern - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/schools-causing-concern)

As the statutory guidance sets out in A3.13, Local Authorities should take appropriate action to improve the quality of provision at a local authority-maintained school which has been judged by Ofsted to require significant improvement or has been placed in special measures.

4) Does this affect any previous funding decisions?

Previous funding decisions from Local Authorities will remain. The removal of OE judgements only applies to early years provision at maintained schools and academies who have been inspected from 2nd September 2024 onwards.

5) I have views on the upcoming change to the approach to Ofsted grades in EY, how can I share my view?

The Department for Education and Ofsted are committed to working in partnership with the early years and schools sectors to determine how best to implement the removal of OE judgements across all early years provision over time, and develop alternative reporting arrangements.

New arrangements will take account of the unique characteristics of early years but are expected to broadly reflect the report card approach that is being taken for schools, aiming to provide a more comprehensive assessment of the effectiveness of a setting in meeting needs of children and maintaining high standards of safety, quality in care and education, and which could work better for the unique nuances of early years and provide a better inspection experience for practitioners.

6) How does this change affect childminders registered with a childminder agency?

Childminder agencies do not receive Single Headline Grades when inspected by Ofsted. Local authorities should continue to follow the guidance in section A3.13 of the statutory guidance.