



Department
for Education

Children and Families Bill: Childminder Agencies Statement of Policy Intention

Note from the Department for Education to the Grand Committee (House of Lords) on Clause 74 – childminder agencies, and Schedule 4 – childminder agencies: amendments to the Childcare Act 2006 and related amendments and on Government Amendment Numbers 240A to 240Q.

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Children and Families Bill: Childminder Agencies Statement of Policy Intention

To aid the Committee's consideration of the Children and Families Bill, this note provides further information on the delegated powers in Schedule 4. Schedule 4 amends the Childcare Act 2006 ("the CA 2006") to provide for the registration of childminder agencies on the childcare registers maintained by Her Majesty's Chief Inspector of Education, Children's Services and Skills ("the Chief Inspector"). It also provides for the registration of childminders (and others who offer childcare on domestic premises) with those agencies.

We have updated the policy statement, previously provided for the House of Commons Committee, and this now includes details of the childminder agency trials which are testing elements of the agency approach (a list of trial areas is at **Annex A**).

We are also, at **Annex B**, providing detail of the Government Amendments which we are tabling at Grand Committee (Amendment Numbers 240A to 240Q).

Policy background

1. The measures in this Bill were first set out in [More great childcare](#), which was published by the Department on 29th January 2013.
2. Currently anyone wishing to offer childcare provision is obliged to register with the Chief Inspector (unless that provision is exempt). The amendments brought about by Schedule 4 will enable anyone wishing to offer childcare on domestic premises to register instead with a childminder agency.
3. The Government wants to see an increase in both independent childminders who are individually registered with OFSTED, and those childminders operating as part of an agency. We want to see childminders supported to thrive and help deliver high quality outcomes for children. We think that childminder agencies will help with this. We want to see more of all types of childminders. The Government wishes to see the overall numbers of childminders increasing, and thereby increase the choice and availability of high-quality, affordable, flexible childcare for parents.
4. It is important to note that these changes are permissive and childminders will have a real choice. No childminder will be forced to register with a childminder agency and can remain on the registers maintained by the Chief Inspector should they wish to do so. However, we want childminders to have an alternative to working completely independently and the amendments to the CA 2006 proposed in the Bill offer that flexibility.
5. Childminder agencies will encourage more childminders to enter the market; support the training and development of childminders; make it easier for parents to find a suitable childminder; and further improve the quality of provision. We believe that agencies can and will provide parents and children with a safe, high quality childcare experience. Agencies themselves and the childminders who register with them will be committed to doing so – and further reassurance for parents is offered by the legislative requirements, and inspection and quality assurance arrangements we are putting in place.
6. Although we will set out in secondary legislation the key requirements for agencies (through the ‘prescribed requirements’ of their registration with the Chief Inspector – see paragraphs 17-20 below), agencies will be free to deliver an innovative service which works for them and the parents they provide childcare for. They might be led by existing or former childminders, schools, nurseries, children’s centres or other types of childcare service providers.
7. Agencies will be self-funded and independent of government. Although we expect agencies mainly to raise funds through charges to childminders, they will also be free to explore other funding streams, for example selling pedagogic materials or training to other providers or charging fees to parents. Any fees to childminders will encompass the range of services that agencies deliver – for example, registration, training, and marketing – many of which childminders are currently required to pay for separately.

Consultation with the sector and childminder agency trials

8. We have been working with a group of around 20 representatives from the early years and childcare sector as we have developed elements of the agency approach, including around childminder registration. This includes representatives from the main early years sector organisations, nurseries, schools, childminding networks and childcare businesses. One of the key matters on which we have worked with the group has been the development of the secondary legislation and, in particular, key requirements to be placed on agencies.

9. We have also now established 20 childminder agency trials which are testing elements of the agency approach. Those taking part in the trials include nursery chains and childcare organisations/agencies, schools, local authorities and children's centres. **Annex A** lists the trial areas. The trials are, amongst other things, testing out:

- how agencies can be set up by different organisations;
- how agencies will recruit and work with childminders;
- how agencies plan to deal with training, suitability and accountability of childminders;
- different agency business models and which models are likely to be most effective;
- how agencies might make the most of different funding streams, including the new childcare voucher system;
- how agencies will work with Ofsted; and
- how agencies might work as a part of a community childcare facility, linking with other organisations and working with parents.

10. The trials started in summer 2013 and will continue into 2014. We have commissioned an independent evaluation to report early in 2014. The results of the trials and the evaluation will further inform operational issues and the detail to be set out in secondary legislation.

Regulation-making powers in Schedule 4

11. Many of the provisions in Schedule 4 extend the existing regulation making powers of the Secretary of State in Part 3 of the CA 2006 to childminder agencies and/or childcare providers who register with childminder agencies, as the case may be. Consequential amendments will need to be made to a number of sets of existing regulations made pursuant to these powers to account for the introduction of childminder agencies. These are considered to be relatively minor changes. For illustrative purposes, some of these proposed amendments are briefly discussed at paragraphs 32-35, 40 and 43-44 below.

12. In addition, Schedule 4 contains a number of new regulation making powers governing the registration of childminder agencies with the Chief Inspector and their regulation. These largely mirror the existing powers in respect of the requirements and mechanics of registration of childminders with the Chief Inspector. Of particular significance are the new powers to:

- specify the requirements that a childminder agency must meet before it can be registered by the Chief Inspector (“the prescribed requirements for registration”) and the information that such an agency must provide in its application for registration;
- make provision for the cancellation, termination and suspension of a childcare provider’s registration with a childminder agency; and
- make provision for the effect of cancellation or suspension of a childminder agency’s registration on childcare providers registered with that agency.

13. It is envisaged that final regulations will be laid in time for agencies to start registering with Ofsted in September 2014. All regulations are intended to be made under the negative resolution procedure.

Registration of Childminder Agencies

14. Paragraphs 13 and 26 of Schedule 4 introduce new Chapters 2A and 3A of the CA 2006 respectively. These Chapters cover the information which must be supplied to the Chief Inspector in an application, fees for making an application for registration, the prescribed requirements for registration, operational matters concerning entry on the registers maintained by the Chief Inspector (including certificates of registration), the imposition of conditions on registration and inspection of agencies by the Chief Inspector. These provisions closely mirror the provisions in relation to registration applications made by childcare providers.

Applications for registration – information requirements

15. Regulations made under new sections 51A(2) (for early years childminder agencies) and 61A(2) (for later year childminder agencies) will set out the information that prospective childminder agencies will be required to supply to the Chief Inspector in an application for registration. We have provided draft indicative regulations which set out our intentions in this regard, and we are working with Ofsted to ensure that these requirements are sufficient and effective to enable the Chief Inspector to fulfil his duties. These requirements include basic information (such as the address out of which the agency will operate) and more specific information about the nature of the services offered by the agency and the childminders they work with.

Applications for registration - fees

16. New sections 51A(2)(c) and 61A(2)(c) enable the Secretary of State to prescribe a fee for making an application for registration as a childminder agency. Application fees for childcare providers are currently set out in the Childcare (Fees) Regulations 2008 (as amended). Similar regulations will be brought forward in respect of fees for agencies. We are working with Ofsted to determine the appropriate level of fees for agency registration.

Registration requirements

17. We have provided indicative regulations, to be made under new sections 51A(3)(b) and (5) and 61A(3)(b) and (5), setting out the requirements that will need to be met by agencies in order to be registered by the Chief Inspector.

18. As is set out in the indicative regulations, the Chief Inspector must be satisfied that an applicant is suitable to provide the services of a childminder agency before granting an application for registration. As part of that assessment, a prospective agency will need to provide sufficient information for the Chief Inspector to be able to arrange appropriate background checks, which will include a criminal records check with the Disclosure and Barring Service. We are working with the Ministry of Justice and the Home Office to ensure the legal framework is in place to ensure the relevant checks can be performed.

19. There are specific requirements relating to the appointment of a nominated individual to be responsible for dealing with matters relating to the application and the appointment of a manager. We propose that agencies compile a written 'statement of purpose' setting out the services that they will offer and, amongst other things, their procedures for registering providers and monitoring the standards of childcare provision on offer. It will be a requirement of an agency's registration that it secures that its services are conducted in a manner which is consistent with its statement of purpose.

20. In terms of specific requirements as to the conduct of agencies and their relationship with childcare providers, we propose that agencies must process applications for registration in a similar manner to the Chief Inspector. In particular, it will be a requirement of an agency's own registration that it arranges enhanced with barred checks with the Disclosure and Barring Service on those who apply to register with it, including members of the childcare provider's own household. Further, agencies will be required to visit the home of any prospective provider, pre-registration, to ensure that his/her premises are suitable and safe for offering childcare. In terms of the arrangements for training and monitoring providers, agencies will need to demonstrate to the Chief Inspector that they will provide a minimum amount of contact time per childminder per annum, including a minimum number of monitoring visits – in our indicative regulations we have suggested that this may be two visits per year but we will finalise this in due course. We propose to make it a requirement that these visits inform a regular, written assessment of the standard of care being delivered by the childminder, which must be made available to the provider and to parents of a child or children being cared for.

Inspection and reports

21. New sections 51D and 61E relate to the inspection of early and later year childminder agencies respectively. Sections 51D(3) and 61E(3) allow the Chief Inspector to charge a fee, as prescribed in regulations, for an inspection of a childminder agency, when both an agency has requested an inspection and the Secretary of State requires it. This is a new fee charging provision, which has also been introduced for other early years providers through Clause 75 of the Bill. It is intended that childcare providers and agencies should be able to request an inspection from the Chief Inspector in between scheduled inspections in order that they can demonstrate improvements which they may have made. Providers and agencies will, however, be expected to pay the full cost of

such inspections and the prescribed fee will therefore reflect the cost to Ofsted of providing these inspections.

22. New sections 51D(4) and 61E(4) enable regulations to be made setting out who should be notified in the event of an agency inspection. We intend to use this regulation making power to make clear, for instance, that childminders registered with an agency should be notified of an agency inspection (where the agency is aware of it) as well as parents who use the services of the agency.

23. Sections 51E (for early year childminder agencies) and 61F (for later year childminder agencies) contain powers relating to inspection reports. Under new sections 51E(2)(c) and 61F(2)(c) the Chief Inspector must ensure that copies of reports or the relevant parts of them are sent to prescribed persons. New sections 51E(3) and 61F(3) enable regulations to be made that require agencies to make copies of reports available for inspection, to provide copies of reports to prescribed people, for example, parents, and authorising agencies to charge a fee for providing copies of reports.

24. Agencies will register with, and be inspected by, Ofsted. Agencies themselves will be required to monitor the standard of care being delivered by the childminders they register. This will happen, for example, through the contact time visits referred to in paragraph 20 above. This will mean that agencies are in regular contact with their childminders and have a robust view of the quality of their provision.

25. Ofsted's inspections of agencies will focus on ensuring that agencies are adept at assessing the quality of childminding and ensuring that children's experiences are good. Ofsted will also consider how an agency is putting in place arrangements to drive up quality. As part of their inspection of an agency, Ofsted will sample a proportion of individual childminders registered with that agency and we expect Ofsted to do this on the basis of information provided to them by an agency. This will help ensure that the agency is providing proper support, training and guidance to their childminders and is making the right judgements about the quality of care provided by childminders and how they should improve. We are providing explicit powers in the Bill to enable this to happen, including ensuring that the Chief Inspector has sufficient powers of entry in order to carry out this role.

26. New sections 51D and 61E of Schedule 4 state that the Chief Inspector must inspect agencies at any time the Secretary of State requires it and allows the Chief Inspector to do so at any other time he feels it would be appropriate. As with other childcare providers, it is envisaged that the frequency of Ofsted's inspections of childminder agencies will be agreed via a remit letter from the Secretary of State. The Bill provides that the Chief Inspector must report in writing on the quality and standards of services offered by the childminder agency and the quality of leadership and management.

27. We are working closely with Ofsted to develop a robust registration and inspection regime for childminder agencies, overseen by Her Majesty's Inspectors, to make sure that agencies are providing a high-quality service to childminders and parents. This will also take into account a range of potential business models. We expect Ofsted to consult on the framework later this year and this will set out in full the matters touched on here and others, including notice given for inspection, who will conduct inspections, gradings, self-evaluation, and communication and feedback.

Cancellation and suspension of a Childminder Agency's registration

28. Paragraph 36 of Schedule 4 introduces new section 69B which allows the Chief Inspector to cancel an agency's registration in prescribed circumstances. The types of matters which may lead to cancellation are where the prescribed requirements for registration have ceased to be satisfied, the person has failed to comply with a registration condition, the person has failed to comply with a requirement imposed under Chapters 2A, 3A or 5 of the Act or the agency has failed to pay a prescribed fee.

29. Regulations made under new section 69B(4) may also make provision about the effect of the cancellation of a childminder agency's registration on providers registered with that agency. For example if an agency's registration has been cancelled for non-payment of fees, it is envisaged that these regulation-making powers may be exercised so as to provide for a childminder to be provisionally registered with the Chief Inspector for a period of time to enable childminders to continue to operate in the interim prior to being fully registered with the Chief Inspector or seeking registration with a new childminder agency.

30. We are committed to ensuring that agencies operate safely and effectively. With that in mind new section 69C provides for the suspension of childminder agencies' registration for such reasons and for such a period as may be set out in regulations. Regulations must include rights of appeal to the Tribunal. It is envisaged that regulations relating to agency suspension will be similar to those currently in force in respect of childcare providers in Part 4 of the Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008. Circumstances in which an agency's registration might be suspended may, for example, include where an allegation has been made against an employee of an agency about inappropriate behaviour towards children when visiting a childminder's home. Again, new section 69C(3) confers a power for the Secretary of State to make provision about the effect of suspension of an agency's registration on providers registered with that agency. In some circumstances it may be that those providers can continue to operate and we intend to use our regulation-making powers to clarify when that would be appropriate, following further consultation with Ofsted and others.

Disqualification from registration for Childminder Agencies

31. Paragraph 46 of Schedule 4 introduces new section 76A which enables regulations to be made setting out the circumstances in which a person can be disqualified from registration as a childminder agency. Regulations under clause 76A(3) may also provide for circumstances where a person is not disqualified if the person has disclosed the fact to the Chief Inspector and the Chief Inspector has consented in writing to the person not being disqualified and has not withdrawn that consent. Further details of the proposed disqualification regime are provided in **Annex B**.

Registration of childminders with Childminder Agencies

Applications for registration – information requirements

32. Our intention is that the information which a prospective childminder or other provider of childcare on domestic premises must supply with his/her application for registration with a childminder agency should be the same as if he/she were making an application to the Chief Inspector. As noted above, agencies will have to arrange enhanced with barred checks with the Disclosure and Barring Service on those who apply to register with it, including members of the childcare provider's own household. The information requirements are currently set out in the Childcare (Early Years Register) Regulations 2008 (as amended) and the Childcare (General Childcare Register) Regulations 2008 (as amended). Those regulations are made under powers conferred by sections 35 and 36 of the CA 2006 (for early years providers) and sections 54 and 55 of the CA 2006 (for later years providers). As a result of the amendments made by paragraphs 6(2) and 17(2) of Schedule 4 these powers will also apply to registration applications for registration with childminder agencies. Amendments will be needed to those regulations to account for the introduction of childminder agencies but the substantive requirements will remain the same.

Registration requirements

33. It is our intention that the minimum requirements that childminders and other providers of care on domestic premises will have to meet in order to register with a childminder agency (“the prescribed requirements”) should be the same as for those providers seeking registration with the Chief Inspector. Paragraphs 6, 7, 17, and 18 of Schedule 4 amend sections 35, 36, 54 and 55 of the CA 2006 respectively so as to allow a childminder agency to grant an application for registration only if it appears to the agency that the prescribed requirements for registration are satisfied and are likely to continue to be satisfied. Further, paragraphs 6(6), 7(6), 17(6) and 18(6) of Schedule 4 enable the Secretary of State to provide, as a prescribed requirement, that a person may not be registered with more than one childminder agency or with an agency and on one of the registers maintained by the Chief Inspector (to avoid “dual registration”). The intention is that a provider should hold all relevant registrations either with an agency or with the Chief Inspector to ensure clarity in the division of responsibility for inspection and assessment.

34. As with the information requirements described above, the prescribed requirements for early years and later years providers are currently set out in the Childcare (Early Years Register) Regulations 2008 (as amended) and the Childcare (General Childcare Register) Regulations 2008 (as amended). It is anticipated that minor amendments will be required to these regulations to account for childminders applying to register with agencies. It is also anticipated that the powers to prohibit dual registration will be exercised by amending these regulations.

Registers and certificates

35. New sections 37A and 56A, introduced by paragraphs 9 and 20 of Schedule 4, impose an obligation on childminder agencies to issue successful applicants with

certificates of registration. The certificate must contain prescribed information about prescribed matters. It is envisaged that the information to be contained in certificates issued by agencies will be the same as is currently prescribed for certificates issued by the Chief Inspector in the Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008. It is anticipated that minor amendments to these regulations will be needed to account for childminders registering with agencies but that the substantive requirements in terms of the information a certificate must contain will remain the same.

Cancellation, termination and suspension of registration with a Childminder Agency

36. Paragraph 35 introduces new section 69A which permits regulations to be made concerning the cancellation, termination and suspension of a provider's registration with a childminder agency.

37. We intend to use these regulation making powers primarily to ensure adequate procedural safeguards for childminders registered with agencies. We envisage at the very least that agencies will be required to give notice of intention to cancel the registration of a provider and that the provider would be given a sufficient period of notice to make representations to the agency if he/she objects to cancellation of registration. We also anticipate that providers will be allowed a sufficient period of time between a cancellation decision and cancellation taking effect in order to make a fresh application for registration to another agency or to the Chief Inspector.

38. In terms of suspension, it is envisaged that the same test would apply in the case of the suspension of agency-registered childminders as for childminders registered with Ofsted i.e. that suspension would be used when there was a risk of harm to a child should the childminder continue to operate. This would allow an agency immediately to suspend a childminder should they suspect that a child in their care was at risk of harm, in order that they could then investigate the matter. We propose that a childminder whose registration is suspended by an agency will be able to appeal against the suspension to the First Tier Tribunal (see **Annex B**). This would mirror current arrangements for childminders registered with Ofsted and we are working with the Ministry of Justice on this.

39. We have also taken a power, in new section 69A(1)(b), to provide in regulations for the creation of offences relating to things done by a provider whilst their registration with an agency has been suspended. Any offence may only be triable in a magistrates' court and is punishable by a fine which may not exceed level 5 on the standard scale. This is intended to mirror the existing provision for offences committed by childcare providers whose registration with the Chief Inspector is suspended. Again, it is anticipated that the exercise of these powers would benefit from further discussion with the sector but we intend to limit the period of suspension (except for cases in which it is not reasonably practicable for an agency to investigate the matter giving rise to the need to suspend registration in this time period). It is important to note that inappropriate use of enforcement powers by an agency will call into question the appropriateness of the agency's own registration.

Instruments specifying learning and development or welfare requirements

40. In the exercise of his functions under Part 3 of the CA 2006 the Chief Inspector is to have regard to the learning and development requirements and the welfare requirements of the Early Years Foundation Stage (“EYFS”). He is also able to take account of any alleged failure on the part of an early years provider to meet the requirements of the EYFS. Those powers and duties of the Chief Inspector are set out in the Early Years Foundation Stage (Learning and Development Requirements) Order 2007 (as amended) and the Early Years Foundation Stage (Welfare Requirements) Regulations 2012. Similar duties are imposed on Chief Inspector in respect of later years provision by virtue of the Childcare (General Childcare Register) Regulations 2008 (as amended). Paragraphs 11 and 24 of Schedule 4 amend sections 44 and 59 of the CA 2006 respectively so as to extend the Secretary of State’s powers to impose such duties and confer such powers on the Chief Inspector to childminder agencies. It is anticipated that the Department will amend the above-mentioned order and regulations so as to make clear that, in the exercise of their functions, agencies are to take into account any alleged failure to have regard to the learning and development and safeguarding and welfare requirements.

Information sharing

Supply of information to the Secretary of State, HMRC and local authorities

41. Paragraph 53 of Schedule 4 introduces new section 83A which enables regulations to be made requiring childminder agencies to provide prescribed information to the Secretary of State, Her Majesty’s Revenue and Customs and to the relevant local authority when an agency registers a person as a childminder under Chapters 2 or 3 and where it takes any other steps of a prescribed description, which might include steps relating to the suspension or cancellation of a person’s registration. New section 83A(2) makes clear that the prescribed information is limited to information that the Secretary of State and Her Majesty’s Revenue and Customs may require for functions relating to universal credit or tax credits respectively, or, in the case of a local authority, for discharging its functions under section 12 of the CA 2006 (duty to provide information, advice and assistance relating to childcare and information of benefit to parents and children). Regulations made under new section 83A are likely to mirror those which are currently in force in respect of childcare providers registered with the Chief Inspector (the Childcare (Supply and Disclosure of Information) (England) Regulations 2007 (as amended)).

Supply of information for certain purposes

42. Section 84(3) of the CA 2006 confers a power to make regulations requiring the Chief Inspector to provide prescribed information held by him in respect of registered providers to prescribed persons for the purposes of assisting parents or prospective parents in choosing a provider or for the purposes of protecting children from harm or neglect. Regulations may also be made allowing for the supply of prescribed information for those purposes. The current regulations are the Childcare (Supply and Disclosure of

Information) (England) Regulations 2007 (as amended). Paragraph 55 of Schedule 4 introduces new section 84A. That provision enables similar regulations to be made setting out the information childminder agencies hold which may, and in some circumstances must, be made available to parents and prospective parents for the same purposes (assisting those parents choose a provider and protecting children from harm or neglect). It is likely that regulations made under new section 84A will closely mirror the provisions of the Childcare (Supply and Disclosure of Information) (England) Regulations 2007 (as amended).

Miscellaneous provisions

Fees

43. Persons registered under Chapters 2 to 4 of the CA 2006 may be required to pay to the Chief Inspector prescribed fees of prescribed amounts in respect of the discharge of his functions. The existing regulations, made under section 89 of the CA 2006, are set out in the Childcare (Fees) Regulations 2008 (as amended). These regulations will require some amendment to account for fees payable by childminder agencies. As a result of the amendments made by paragraph 57 of Schedule 4, the power to make regulations in this regard will only apply to the fees of those registered in the early years register or in the general childcare register. It will not extend to childcare providers who register with agencies, which will set their own fees.

Cases where consent to disclosure withheld

44. Section 90 of the CA 2006 provides for regulations to be made allowing the Chief Inspector to take a refusal to, or withdrawal of, consent to the disclosure of information to the Chief Inspector as a reason to treat the prescribed requirements for registration as not being satisfied or having ceased to be satisfied. That power has been exercised in the Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008. Paragraph 58 of Schedule 4 extends the application of section 90 so as to encompass the registration of childminder agencies and minor consequential amendments to these regulations are therefore also likely to be brought forward.

Annex A

Childminder agency trials

The following 20 organisations are working to test and develop childminder agencies:

- Family Info Link
- St Bede's Academy
- Liverpool Council
- Salford Council/Rochdale Council/Wigan Council
- @Home Childcare
- Entrust Ed
- NoelQuinnLtd
- Telford Council
- Buttercups Nursery
- Riverside Childcare
- Merton Council (through the Sure Start Children's Centre)
- Broadclyst Community Primary School
- Trio Childcare
- Bournemouth Council
- South Gloucestershire Council
- First Year Childcare
- Calderdale Council
- Rutland Council
- Warwickshire Council
- Hampshire Council

Further information about the childminders and the trials can be found at:

<https://www.gov.uk/government/policies/improving-the-quality-and-range-of-education-and-childcare-from-birth-to-5-years/supporting-pages/childminder-agencies>

and

<http://www.foundationyears.org.uk/child-minders/>

More detailed information about some of the organisations taking part in the trials can be found at: <http://www.foundationyears.org.uk/category/child-minders-library/>.

Annex B

Government amendments for Grand Committee (Amendment Numbers 240A to 240Q)

Amendment to paragraph 35 of Schedule 4

1. Paragraph 35 of Schedule 4 to the Bill, which introduces new section 69A to the Childcare Act 2006, gives the Secretary of State a power to make regulations about suspension of a childminder's registration by a childminder agency. We propose to exercise that power so as to give agencies the ability to suspend a childminder's registration where the agency reasonably believes that the continued provision of care poses a risk of harm to a child. This will mirror the grounds for suspension of a childminder registered with Ofsted.
2. In light of the potential impact of a suspension on a childminder, both in reputational and financial terms, we consider that they ought to be given some mechanism for challenging an agency's suspension decision and that the most appropriate avenue for doing so is via a right of appeal to the First Tier Tribunal ('FTT'). Again, this would replicate the arrangements currently in place for childminders who are registered with Ofsted.
3. The regulations themselves will set out further detail as to the mechanics of suspension, the right of a childminder to appeal a suspension decision and the powers of the FTT to overturn or confirm it. However, we now propose an amendment to paragraph 35 which would make it explicit, on the face of the Childcare Act 2006, that any regulations about suspension must provide for such a right of appeal. This would put beyond doubt that the Secretary of State's power to make regulations in new section 69A(1) includes a power to provide for a right of appeal against suspension to the FTT.

Amendments to paragraphs 45 and 46 of Schedule 4

4. We are proposing amendments to paragraphs 45 and 46 of Schedule 4 to the Children and Families Bill which, together, set out the disqualification regime for those seeking to register as, or applying to work in, a childminder agency.
5. Amendments are needed to ensure that the disqualification regime reflects the level of checks with the Disclosure and Barring Service ('DBS') appropriate to persons who seek registration as an agency or otherwise apply to work in an agency.
6. The activities of a childminder agency are different from those of a childcare provider and it does not make sense to treat all agency personnel as if they were actively providing childcare, either in terms of the checks to which they ought to be subject or for the purposes of the provisions governing disqualification.
7. We now consider that it is more appropriate to have separate disqualification regimes which are specific to childminder agencies and providers.

8. We would, therefore, like to amend Schedule 4 to do two things: firstly, make clear that the consequences of disqualification from registering as a provider relate solely to the delivery of provision or direct concern in the management of such provision; and secondly, to provide that the consequences of disqualification from registering as an agency mean that a person is prevented from exercising any functions of an agency, being a director, manager or other officer of or partner in an agency or working for an agency in a capacity that involves or is likely to involve entering childcare premises.

9. As a consequence of amendments to paragraphs 45 and 46 of Schedule 4, there are also likely to be some minor, technical amendments needed to paragraph 49 of Schedule 4 and section 87 Childcare Act 2006, which concerns offences by bodies corporate.



Department
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