

# Waltham Forest Early Years Guidance

## Premises, Health & Safety and Statutory Requirements for New Providers

The Requirements for the Childcare Register for childcare in domestic and non-domestic premises issued by Ofsted states that ***“The registered person must ensure that the children receiving childcare are kept safe from harm”***.

The premises in which an early years provision is based will play a key role in supporting and extending children’s development and learning. Therefore, premises need to be safe, comfortable and promote children’s physical, mental and emotional health and wellbeing. There are a number of statutory requirements that all providers must meet.

### Compliance Check 2

All newly proposed childcare providers in Waltham Forest MUST complete the [Free Early Education Entitlement \(FEEE\) Compliance Check Process](#) in order to be approved to deliver funded places for 2, 3 & 4 Year olds.

Waltham Forest Council expect all providers to have met with all relevant statutory requirements to ensure the safety of children, staff and visitors. Part of the new provider process is related to the L.A undertaking a statutory compliance check on a few main key requirements.

We do this by asking all new providers to complete a compliance check submission that will be evaluated. Your compliance check will need to be approved by the L.A before you can be approved to offer those funded places.

This compliance check is called [Premises Compliance Check 2](#)

### Early Years Foundation Stage Requirements

The Early Years Foundation Stage (EYFS) updated in March 2017 and applying to England, includes a number of requirements relating to the safety and suitability of premises, environment and equipment at the premises where an early years provision is based.

These requirements include space requirements as well as reminding providers that they must comply with requirements of health and safety legislation (including fire safety and hygiene requirements).



This guidance is followed by a recorded webinar offering new providers a deeper exploration into Premises, health & Safety Compliance

## Health and Safety at Work, etc Act 1974

Employers have a general duty to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all employees under Section 2 of the Health and Safety at Work, etc Act 1974. This includes the safety of the workplace environment.



## Workplace (Health, Safety and Welfare) Regulations 1992

The Workplace (Health, Safety and Welfare) Regulations 1992 require employers to make certain provisions to ensure the health, safety and welfare of employees with regard to the workplace environment.

## Planning Law

### Planning Approval to operate childcare from premises.

To operate a childcare provision on non-domestic premises, the premises must have a current planning approval for Classes E(e-f) and F1. Class E and F were introduced from 1 September 2020 to replace D1.

You must ensure that the premises you are operating from has the correct planning use approval.

If the premises does not have the correct planning class of use, it is illegal for you to operate a childcare business from the building. You will need to apply for a change of use planning approval. If the premises does have the correct planning class of use, you must still check to see if there are any conditions attached to that approval that would not allow early years childcare to operate from there

**Important:** Please be aware that as part of our Free Early Education Entitlement (FEEE) Compliance Check Process, when completing FEEE Premises Compliance Check 2, the first thing you will need to provide is written evidence of valid planning approval. We will be unable to begin evaluating your application until this part has been approved.

We have also published guidance on Planning which can be reviewed on our Education HUB website at <https://thehub-beta.walthamforest.gov.uk/finding-suitable-premises-childcare-business#planningapproval>.

You will also find a link on this page to a “**Planning & Building Regulations for Early Years Providers**” guidance document that must be reviewed.

Please visit **Planning portal** for further information.  
<https://www.planningportal.co.uk/info/200127/planning>

## Building Regulations

The Building Act 1984 and its Regulations The purpose of the Building Act 1984 is to ensure that buildings are constructed properly and are in accordance with current standards and regulations by safeguarding the health and safety of people in and around buildings, conserving energy and providing access and facilities for people with disabilities

The Building Regulations contain various sections dealing with definitions, procedures, and what is expected in terms of the technical performance of building work.

For example, they define what types of building, plumbing, and heating projects amount to 'Building Work' and make these subject to control under the Building Regulations.

### What you need to do

Please note that physical building alterations and a change of use may also require building regulations approval. You must check this if you are thinking of having any works undertaken to your premises by contacting Waltham Forest Building Control. You may require building regulations approval. You can contact the L.A's **Building Control** department by Phone 020 8496 3000 or email at [building.control@walthamforest.gov.uk](mailto:building.control@walthamforest.gov.uk).

The L.A have published guidance on Planning and Building Control, which can be reviewed on our Education HUB website at <https://thehub-beta.walthamforest.gov.uk/finding-suitable-premises-childcare-business#planningapproval>.

You will also find a link on this page to a “**Planning & Building Regulations for Early Years Providers**” guidance document that must be reviewed.

Please visit **Planning portal for building control** for further information.

[https://www.planningportal.co.uk/info/200128/building\\_control](https://www.planningportal.co.uk/info/200128/building_control)

## Health and Safety

The provider must take all reasonable steps to ensure that hazards to children, both inside and outside, are kept to a minimum. As well as doing a formal risk assessment on at least an annual basis the provider should ensure that all staff are aware of the need to ensure the safety of the children and suitability of the environment.

Health and safety considerations relating to the premises should cover a range of different aspects, including but not limited to, fire safety, electrical safety, gas safety, Water (legionella) safety, asbestos, temperature, ventilation, hygiene, light, safety from slips, trips and falls, window safety, security, structural safety, including adequate roofing, load bearing, damp proofing, heating, ventilation, water supplies and sanitation and adaptations.



A health and safety policy should be in place, backed up with regular inspection and review, which includes procedures for identifying, reporting and dealing with accidents, hazards and faulty equipment.

## Risk Assessments

Risk assessments should be used to identify aspects of the environment that need to be checked on a regular basis, when and by whom those aspects will be checked, and how the risk will be removed or minimised.

With regard to outdoor and indoor spaces, furniture, equipment and toys, early years services should have a clear and well-understood policy for assessing any risks to children's safety and risk assessments should be reviewed regularly.

## Duty Holder

The duty holder is the person or organisation that has clear responsibility for the maintenance or repair of the premises, such as day to day reactive repairs (day to day reactive maintenance), statutory compliance (e.g. Fire, Water, Gas, Electricity and Asbestos), cyclical maintenance (your regular service contract visits such as a fire alarm service, gas service). This should be through an explicit agreement such as a lease or contract. It can be that the Duty Holder roles are shared between a landlord and provider. You must be clear about the arrangements.



## Responsible Persons

Employers need to appoint one or more competent persons to assist in undertaking the measures necessary for compliance with the requirements and prohibitions imposed by legislation.

Under the Managements of Health and Safety at Work Regulations 1999, a person is deemed to be competent if they have an adequate combination of training and experience or knowledge. You must employ a competent person who is in their employment. This is in preference to one who is not. There are three main areas in terms of what constitutes a competent person:

1. Core knowledge of the subject
2. Experience to apply that knowledge correctly
3. Personal qualities needed to undertake functions effectively

## Water Safety

Legionellosis is a collective term for diseases caused by legionella bacteria including the most serious Legionnaires' disease, as well as the similar but less serious conditions of Pontiac fever and Lochgoilhead fever. Legionnaires' disease is a potentially fatal form of pneumonia and everyone is susceptible to infection.

Legionella bacteria is commonly found in water. The bacteria multiply where temperatures are between 20-45°C and nutrients are available. The bacteria are dormant below 20°C and do not survive above 60°C.

As an employer, or a person in control of the premises, you are responsible for health and safety and need to take the right precautions to reduce the risks of exposure to legionella.

You must understand how to:

- identify and assess sources of risks
- prevent or control any risks
- keep and maintain the correct records
- carry out any other duties you may have

## Asbestos

Asbestos is a naturally occurring mineral composed of soft and flexible fibres that are resistant to heat, electricity and corrosion. These qualities make the mineral useful, but they also make asbestos exposure highly toxic. There will be a Duty to Manage Asbestos if your property or any part of it was built before the year 2000.

Part of that duty to manage will include you finding out if there are any asbestos containing materials in the premises and to ensure that all necessary precautions are taken to monitor its condition and protect from accidental damage.

## Gas Safety

An annual inspection of all gas installations and equipment (e.g. gas boilers, flues, portable heaters, etc) must be carried out by a qualified and registered person. The certificate issued should be kept in the Site Safety Log. Where the certificate indicates that the system is in a safe working condition, it should simply be filed. Any remedial works reported as part of any inspection must be completed. Have all your gas appliances, including boilers, gas cookers and gas fires, safety checked annually. Always use a Gas Safe Registered engineer to fit, fix and check gas appliances in your home - it's the law and will help keep you safe.

## Electrical Safety

You need to ensure that you have a valid electrical inspection condition report (EICR) which is an in-depth inspection of your property's electrical systems and installation (your hard wired electrical installation). You must also ensure that all necessary remedial repairs found as part of that inspection report have been addressed.

As well as the above, you need to ensure that all portable appliances and equipment are examined and tested (PAT) to ensure they are safe to use

## Fire Safety

As well as day to day fire safety checks that you will need to take, your chosen “competent” person/organisation must undertake a Fire Risk Assessment (FRA) of the premises **and** equipment at least once in each calendar year, and immediately, where the need for an assessment arises.

You must ensure that all necessary measures are taken to minimise any identified risks.

It is worth noting that the person undertaking the FRA must be “Competent” to do so as described under the Managements of Health and Safety at Work Regulations 1999 (See Responsible Person section).

## Environmental Health (Food Safety, Hygiene and Pest Control)

Maintaining food safety is one of the most important things you can do as a food business operator. To make sure you are following food hygiene legislation, local authority Environmental Health Officers (EHO) will conduct food hygiene inspections at your premises. An EHO's job is to make sure that your food hygiene standards meet legal requirements and your food is safe to eat.

Your inspection will result in a food hygiene rating (scored out of 5) which will appear on the Food Standard's Agency FHRs website (<https://ratings.food.gov.uk/>). If an Environmental Health Officer deems your food handling policies and procedures to be poor, you'll likely receive a low score and you might be required to make amendments before you can continue to trade. To do that they'll look at:

1. How hygienically is food prepared, cooked, reheated, cooled and stored?
2. How much does the unit's structure lend itself to food hygiene? i.e. Do the cleanliness, layout, lighting, ventilation etc. aid hygienic food handling?



3. Do the policies and systems laid out in the Food Safety Management documentation ensure that food safety will always be maintained?

Having adequate pest control management in place is an important part in maintaining the required levels of food hygiene to ensure that your premises remain pest free, minimise the risk to public health and protect your business reputation.

Pests (insects, rodents, birds, as well as domestic animals) entering or infesting food establishments are a potential source of microbiological and physical hazards that can pose a serious risk to public health.

It is a legal requirement that as a business you have a pest control management plan in place to reduce this risk. Managing pest control is part of the overall good business practice and involves identifying and dealing with potential pest risks before they turn into a major problem and contaminate food.

## Final Note

The statements contained in this new provider guidance have been prepared solely for the purpose of meeting the local authority's statutory duty to secure the provision of information, advice and training to childcare providers and childcare workers, in order for them to understand and comply with their statutory obligations and local authority contractual requirements. It should not be solely relied on to establish compliance across all areas as this document focuses on a number of key subjects only. It remains the owner's / Ofsted registered person / organisation's sole responsibility to comply with all of the legal and statutory requirements associated with running their school or childcare business.

## Useful links/resources

[Renting a business property: tenant responsibilities](#)

[Health and Safety Executive Resources](#)

[Legionella Control](#)

[Get your air conditioning system inspected](#)

[The duty to manage asbestos](#)

[Gas Safe Register](#)

[Electrical Safety at Work](#)

[Fire safety in the workplace](#)

[Fire Risk Assessors Register](#)

[Fire Safety Advice Centre for Child minders and Day-Care Providers](#)

[LBWF Early Years Policies and Procedures](#)

[Finding Suitable Premises for your Childcare Business](#)

[Waltham Forest Planning and building control](#)

[Food Safety](#)