

## Regulated activity - children

The Protection of Freedoms Act 2012 amends the definition of regulated activity relating to children from 10 September.

The revised definition of regulated activity can be found in [Part V of the Protection of Freedoms Act 2012](#)

### What is considered to be regulated activity relating to children?

Organisations need to consider whether an individual meets the following conditions:

- Do they meet the definition of the activity?
- Do they need to consider the DFE supervision statutory guidance?
- Do they meet the relevant frequency or intensively condition?
- Frequently or intensively means carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30 day period (or in some cases overnight between 2am and 6am, where there is opportunity for face-to-face contact).
- Where they are not carrying out an activity but their work takes place in a specified establishment do they meet the frequency or intensively condition and have opportunity for contact with children while carrying out their duties?
- Additionally where they are not carrying out an activity but their work takes place in a specified establishment is their work to provide occasional or temporary services?

The new definition of regulated activity relating to children still applies to individuals undertaking the following:

- Registered childminders.
- Registered foster carers.
- A person who manages or supervises someone who undertakes a regulated activity is also counted as undertaking a regulated activity. A person who manages someone who is not in regulated activity (but would be except for the fact that they are supervised) is also in regulated activity
- any specified position based in Wales as detailed in the amended Schedule 4 of the Safeguarding Vulnerable Groups Act 2006.

The following are newly defined regulated activities relating to children

### **Health care**

- Health care for children provided by, or under the direction or supervision of a regulated health care professional
- **This is regulated activity even if the activity is only carried out once.**
- **You do not have to apply the consideration of Statutory Supervision when assessing health care roles**

- **Personal care**

- Physical help in connection with eating or drinking for reasons of illness or disability;
- Physical help for reasons of age, illness or disability in connection with toileting, washing, bathing and dressing,
- Prompting with supervision or training or advice in relation to the above examples where the child is unable to decide to carry out the activities without that prompting or advice
- **This is regulated activity even if the activity is only carried out once.**
- **You do not have to apply the consideration of Statutory Supervision when assessing personal care roles**

For a full list of activities please see information on the [Department for Education website](#)

**What are the key changes in regulated activity relating to children?**

**Organisations must now consider the supervision guidance produced by the Department for Education when assessing a role in connection to the following activities:**

- teaching, training, instructing, caring for or supervising children.

The Department for Education has produced [statutory guidance on supervision](#) to describe the considerations an organisation should make when determining whether or not an individual is supervised to a reasonable level for the role.

Supervision means day to day supervision as is reasonable in all the circumstances for the purpose of protecting any children concerned.

Where an individual is deemed to be adequately supervised for the role they are not in regulated activity.

**There is an exception to this which is covered in the section below.**

**Organisations must now consider whether the provision of persons to carry out work which is not teaching, training, instruction, care for or supervision of children in specified establishments are merely providing occasional or temporary services. If the person is providing occasional or temporary services they are not in regulated activity.**

### **Specified Establishments for regulated activity relating to children**

Work carried out by volunteers supervised to a reasonable level, in accordance with the statutory guidance on supervision, in specified establishments is not regulated activity.

**However a supervised paid employee working for a specified establishment does is carrying out regulated activity.**

The new list of establishments is:

- an educational institution which is exclusively or mainly for the provision of full-time education to children
- pupil referral units or short-stay schools providing education for children or compulsory school age who because of illness, exclusion or other reasons cannot attend a school
- an alternative provision academy which does not fall within the definition of a school
- nurseries exclusively or mainly providing full-time or part-time education for children who have not reached compulsory school age
- children's detention centres
- children's homes providing care and accommodation wholly or mainly for children
- children's centres managed by or on behalf of, or under arrangements made with an English local authority securing early childhood services for their area
- relevant childcare premises where the person carrying on the activity is required or can volunteer to be registered under the Childcare Act 2006 or the Children Act 1989

The list, as amended by the Protection of Freedoms Act 2012, can be found in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006

### **Activities, establishments and positions removed from regulated activity relating to children from September 2012**

**What is no longer regulated activity relating to children?**

- giving legal advice
- treatment/therapy - unless it meets the new definition of health care which narrows the definition to "Health care which must be directed or supervised by a health care professional"
- a relevant activity supervised at a reasonable level.

- volunteers supervised at a reasonable level whose role is carried out in a specified establishment.
- activity by a person contracted (or volunteering) to provide occasional or temporary services which are not teaching, training or supervision of children.

**What is no longer a specified establishment?**

- children's hospitals

**What is no longer a specified position?**

- any specified position based in England which was listed in schedule 4 of the Safeguarding Vulnerable Groups Act 2006 before the effects of the Protection Of Freedoms Act 2012 came into force in September 2012

This link will take you to the original list [Schedule 4 of the Safeguarding Vulnerable Groups Act 2006](#)

**What is still not classed as regulated activity relating to children?**

- family arrangements and personal, non-commercial arrangements
- peer exemption – activity by a person in a group assisting another member of the group
- incidental contact – the activity is not being provided for children and the presence of a child or children is unforeseen