

# 5

## Employing staff

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# 5 Employing staff

## 5.1 The committee as employers

The most important aspect of your childcare setting is the care and learning of the children. Therefore the staff who look after and support the children's individual development and learning through play, are vital to the success and wellbeing of everyone associated with the group. **The staff are the committee's legal responsibility.** Staff must be recruited and procedures put in place with regard to **safeguarding the children.** These procedures include; Criminal Records Bureau enhanced disclosures in accordance with the CRB's Code of Practice and Explanatory Guide (or membership of the Independent Safeguarding Authority vetting and barring scheme when the scheme is fully operational), interviews, full employment history, evidence of qualifications, Ofsted EY2 forms, health checks (where applicable) and a minimum of two references.

With references it is advisable to telephone the person giving the reference and talk to them about the applicant after first preparing a short list of questions (e.g. how long have you known the applicant). Remember that it is easy to fake a letter of reference so make sure you check references carefully. It is always best to call **Ofsted (08456 404040)** to check up on the latest safeguarding information and procedures as things change regularly. For a detailed description of the Independent Safeguarding Authority and Safeguarding Vulnerable Groups Act 2006 see **Section 3.2** and refer to – [www.isa-gov.org.uk](http://www.isa-gov.org.uk) and [www.crb.gov.uk](http://www.crb.gov.uk). See also the specific requirements on safeguarding children, in the *Statutory Framework for the Early Years Foundation Stage*, p29.

It is equally important to ensure that your staff are appropriately qualified. For example your supervisor and deputy should hold at least an NVQ level 3 in a Children's Care, Learning and Development qualification to work in a sessional playgroup or day nursery (as at June 2009). For working in Out of School Clubs playwork qualifications are appropriate. You will need to see evidence of the qualification and it is wise to confirm this with the awarding body. The government's Workforce Strategy proposes an Early Years Professional, trained to graduate level, in all full-day care settings by 2015 and a long-term vision for one in every Early Years Foundation Stage setting, but no final date has been given for this. These attempts to increase the status of childcare workers mean

that there is a lot of support and funded places for vocational training in childcare, particularly for foundation degrees.

For further information with regard to qualifications go to [www.surestart.gov.uk/childcarecareers](http://www.surestart.gov.uk/childcarecareers), [www.cwdcouncil.org.uk](http://www.cwdcouncil.org.uk) [www.connexions.gov.uk](http://www.connexions.gov.uk), and [www.openquals.org.uk](http://www.openquals.org.uk) and see **Section 5.10: Employing staff health check.**

You must ensure that the setting has the correct staff to children ratio with reference to the children's age and staff qualifications. For the specific legal requirements see Appendix 2 of the *Statutory Framework for the Early Years Foundation Stage*.

Employment law can be daunting, but this section is designed to support your confidence and briefly inform you of the main aspects of being an employer. It is important to bear in mind that much legislation around employment is designed with large companies in mind. However, there is a basic standard that is required of all employers and it is this that you should focus on. Childcare workers have the same rights as any other employees and their employers, in this case the committee, are legally bound to uphold these rights. Information regarding statutory employment rights can be found at [www.berr.gov.uk](http://www.berr.gov.uk), [www.direct.gov.uk](http://www.direct.gov.uk), [www.delni.gov.uk](http://www.delni.gov.uk) and [www.adviceguide.org.uk](http://www.adviceguide.org.uk).

There are a number of organisations who support employers and employees; one of the most useful is Acas. Acas stands for Advisory, Conciliation and Arbitration Service. It runs independently of government via a council – although it is largely funded by BERR (Department of Business, Enterprise and Regulatory Reform). Its main focus is to 'improve organisations and working life through better employment relations'.

Acas supplies up-to-date information, independent advice and training. It works with employers and employees to solve problems and improve performance. The author of this support pack has directed many committee members and staff to the Acas helpline, and most have found it to be very helpful (Acas Helpline 08457 474747 [www.acas.org.uk](http://www.acas.org.uk) also go to [www.businesslink.gov.uk](http://www.businesslink.gov.uk)).

For a good basic guide ask Acas to send you their pack of summary leaflets *Getting it right – guides for small firms* (call 08702 429090 to order) these can also be

found downloaded from their website.

The Acas leaflets cover:

- contracts of employment
- dealing with grievances
- discipline at work
- induction training
- recruitment and selection
- tackling absence problems
- communicating with your employees
- controlling labour turnover
- paying employees
- personnel records

This list summarises key employment issues that you are likely to consider at one time or another, or might need to consider if they change. Other legal helplines exist with lots of online information about statutory employment rights; for useful government websites see the text below. There are many business support agencies that specialise in employment rights and some that specifically help charities. Most of these will demand a fee for specific help, but you can always ask your insurer for advice as you will already be a customer of theirs. Don't forget to contact the various childcare support organisations: you will probably need to be a member to access a full level of service and advice, but some simple advice will be available to all on websites (e.g. the Preschool Learning Alliance – whose national helpline LAWCALL is available to members).

Relationships between childcare committee members and staff can become awkward and even difficult. The transitory or temporary nature of committee members and their personal liability in unincorporated childcare groups puts an unusual legal emphasis on the employment of staff. Equally staff may, especially those who have worked for the setting for many years, feel the burden of a constantly changing employer – i.e. the committee. Conflict can arise over misunderstandings related to the perceived powers, roles and responsibilities of the committee and the staff. The way these conflicts develop may have historical significance, be based in a lack of knowledge or entrenched positioning or simply be the result of a desire for control. The latter is, to some extent, understandable given an unincorporated childcare committee's personal liability for any incurred debts.

The committee need to understand their role as the employer, whilst respecting the roles of the staff and their

qualifications, and bearing in mind the recent and frequent changes to legislation and the curriculum. Communicating effectively and putting in place or updating job descriptions, contracts and appraisal is the way to protect the rights of the employee and the rights of the volunteer committee. It is vital that both the committee and the staff understand the legal structure of their group, as many initially believe that the committee is there solely to fundraise.

Much depends on the transfer of information from one committee to the next. This is where it is helpful to have some committee members' crossing over from one year to another. A mass exodus or a cohesive group going together commonly leads to a lack of information transferring effectively. The phrase "I had no idea there were so many different things involved in running childcare" can often be heard. The previous committee members may be keen not to make the tasks involved appear too onerous, but sometimes this leaves new committees uninformed and unprepared. (For more on this topic see **Section 6.8**). The bottom line is that without a new committee, the charitable childcare cannot remain open, at least in its present form. Sometimes at this point the staff will desperately try to find people to form a committee, in order to save the setting and their jobs. This is not an ideal scenario for good staff and employer relations.

All these factors mean that new committee members should take time to consider and understand their roles and those of their staff from an overall employer's perspective. The following paragraphs briefly explain many of these aspects. Also see **Section 1.4: Table 1 – Committee tasks/suggested roles**, and **Table 2 – Early Years Lead Practitioner tasks**.

West Sussex County Council have published two useful guides: *Recruiting and Retaining your Staff Team* and *Managing the Performance of your Staff Team*. These are available at:  
<http://wsgfl.westsussex.gov.uk/ccm/content/community-projects/my-childs-education/child-care/recruitment.en>

These documents, provided by the WSCC Childcare Support Co-ordinator, contain CDs and are usually kept at the setting. This can mean that people forget about them and incoming committees do not necessarily know that they exist or how useful they are.

The above webpage also has the latest edition of *Jobs in Childcare* (free advertising for childcare posts) available to view and download.

## 5.2 Recruitment

Safe recruitment is a vital part of safeguarding everyone's children at the setting and it is the committee's responsibility. Decisions about suitability should be evidenced not only by identity checks which are a specific welfare requirement, but also by information that can be gathered from recruitment procedures – see the *Statutory Framework for the Early Years Foundation Stage* for the specific legal requirements and statutory guidance for Safe Recruitment (p29).

### Job description and person specification

The job description and person specification should enable the employee to fully understand the job that they are applying for – or have agreed to do – and the skills that they are expected to bring to their post. A probationary period (between three and six months) when someone starts a job gives both parties a chance to fully clarify expectations, learn the setting's systems (e.g. policies and procedures) and determine training needs.

#### A job description should include:

- the name and address of the setting
- the job title
- grade (scale points)
- salary scale (pro rata for part-time staff)
- purpose of the post
- accountable to
- staff responsibilities (e.g. are they responsible for other staff)
- key accountabilities (these can be broken down into subheadings e.g. children, families and general tasks)
- health and safety (to uphold Health and Safety requirements, particularly by following agreed codes of practice and safe methods of working.)
- equal opportunities (to uphold the EO policy)
- statement of flexibility (something along the lines of “*staff will be expected to have a flexible attitude in responding to new priorities*”).
- hours per week
- location
- contract period (e.g. 1 year fixed-term)

You should identify specific or additional responsibilities such as Early Years Lead Practitioner, Equal Opportunities Co-ordinator, Child Protection nominated person, First Aider, Health and Safety Appointed Person and Training and Continuous Professional Development Co-ordinator.

**A person specification** identifying both **essential** and **desirable** criteria would include:

- education and qualifications
- knowledge, skills and abilities
- personal attributes
- other (e.g. driving licence)

For an example of job descriptions and personal specifications look on the CD that comes with the *Recruiting and Retaining your Staff Team* handbook available from WSCC Early Childhood Service. You could also put “childcare job description” into an internet search engine to get a good idea of what could be included for different jobs in different types of settings. Be aware that equal opportunities and disability discrimination must be carefully considered within your recruitment procedure and that any requirements that are made within the job description or person specification must be justified.

### Application forms

Many employers no longer want to see CVs, as they can be very misleading. Instead they want applicants to fill in an application form, making the process equal for all. This method clarifies what information the employer wants from the applicant. An application form might contain the following sections:

- Job title
- Personal details – in line with current legislation, i.e. no age, marital status, ethnic/cultural backgrounds, etc.
- References (to include name, job title, address, telephone number of the person the applicant is offering as a reference. Useful questions might include: how long have you known this person and in what capacity?).
- Present or most recent employment – including an outline of the main responsibilities of the post.
- Previous employment (in chronological order with most recent first) – this information might include timelines, brief outlines of main responsibilities, reasons for leaving and should include periods not accounted for, e.g. maternity leave, caring for children, study or travel.
- Details of education and qualifications (including awarding bodies).
- Training

- Other experience (this might include voluntary work).
- Information in support of your application (this is where the candidate can really explain their interest in the job and pull together their skills, abilities and experience).
- Whether the applicant has any other jobs and for how many hours (this relates to Working Time regulations 1998 – e.g. a right to 20 minutes (unpaid) break for every six hours worked and a right to four weeks paid leave per year – pro rata for part time employees. Please note the length of statutory holidays changed in April 09 to 5.6 weeks/year).
- Medical history (for example: Is there anything concerning your medical history or state of health that is relevant to this application? How many days of work have you missed in the last 12 months due to illness or injury?)
- Additional information (e.g. if it is a necessary aspect of the job you may want details of the applicant's driving licence).
- Declaration – this requires the applicant to state that the information submitted on the application form is true and correct. It will also usually say if the employer finds that something is untrue then the employer has the right to immediately dismiss them, if they have been employed. Usually, there is a reference as to how the employers will keep the applicant's information (data protection) and for how long (see info on [www.businesslink.gov.uk](http://www.businesslink.gov.uk)), usually between six months to one year).
- The Rehabilitation of Offenders Act 1974 – Please give details of any 'unspent' convictions as defined in the Rehabilitation of Offenders Act 1974. It is a matter of course that all childcare employees have a Criminal Records Bureau (CRB) enhanced disclosure or are registered as working in a 'regulated activity' with the ISA when the Safeguarding Vulnerable Groups Act 2006 comes into full legislative force.
- Guidance notes for filling in the application form.
- A note or a covering letter stating "*only those shortlisted will hear from us*".

By using an application form the information you are requesting can be easily compared across applicants to enable you to produce a shortlist of candidates for interview. A statement about your Equal Opportunities policy should also be enclosed with the application form – this is not simply about avoiding discrimination, but should actively contribute to the removal of barriers in organisations. A voluntary ethnicity data request and

recruitment process feedback form could also be included with the application form.

### How to attract the right applicants

Finding the right people to fill your job vacancy is a very important step to developing the quality of care and learning for the children and building the staff team at your setting. Two key aspects are how and where to advertise.

Remember that the 'look' of your advertisement is a reflection of the setting and should be attractive, informative and welcoming. It is very important to describe what the setting does, where it is based and the times by which the applicant is expected to arrive and leave. Time is a key factor, as many childcare workers need to make arrangements for their own children, especially first thing in the morning and at school pick-up time. Setting-up time can be crucial to groups that run from community buildings so if staff are needed by specific times, make it clear. (Bear in mind parents' right to apply for flexible working as of April 2003. There are, however, business grounds for refusal. For a good summary of flexible working see WSCC ECS *Recruiting and retaining your staff team* (see end of **Section 5.1** for full web address) or **contact Acas Equality Direct on 0845 600 3444 for flexible working information.**

### An advertisement could usefully contain:

- The name of the setting and the fact that the employer is the setting's voluntary management committee/charity trustees.
- What the organisation does and its geographical location.
- A brief outline of the post (do not suggest that the vacancy is suitable only for people of one sex, race, age, sexual orientation, religion, marital status or that any disability is unsuitable).
- Number of hours/times required and rate of pay (including any additional benefits).
- Qualifications, skills, experience or training required (or equivalent).
- A brief statement about safeguarding, CRB enhanced disclosure and equal opportunities, e.g. "*This post is subject to an enhanced CRB disclosure*".
- How to apply.

- A contact name, address, telephone number and email address.
- Closing date for applications and interview dates (if known).

You may need to shorten your advertisement to save on costs so use only the key points (job title, salary, hours, CRB check and location) and state *“For full details or job pack contact .....”* – giving the contact details.

Again you must be aware of equal opportunities legislation and be able to justify fully any specific requirements you make. For example do not use inappropriate terminology like *“must be physically fit”* or *“would suit mature person”*. The Disability Discrimination Acts (1995, 2005) apply to all businesses and service providers, no matter what their size.

### Where are the best places for your attractive and informative advertisement to go?

Much depends on your location and how this affects the recruitment of staff. For example, if the setting is located in a rural village then it may be appropriate to advertise via word of mouth, promote it in the setting’s newsletter, in the local shop and on noticeboards around the community that allow advertising for voluntary groups (e.g. in the village hall, parish board, GP’s surgery, parish newsletter and at the local primary school).

If you live in a larger settlement, village or town with good transport access then your applicants may be able to come from further afield. Local newspapers, Job Centres and libraries can be used.

Committees/employers can advertise vacancies for free in the *Jobs in Childcare* bulletin which is circulated to all candidates looking for a job in childcare in the West Sussex area. This can be done by contacting the Children’s/Family Information Service on 01243 777807 and asking for a ‘vacancy request form’ from the WSCC Workforce Development Team.

When advertising be mindful of how people might travel to the setting. It is useful to develop a ‘bank’ of staff and also to develop unqualified existing staff by encouraging training and working towards new childcare qualifications.

## Interviewing procedure

If you have lots of applicants, you will need to determine a short list. You can do this by sorting the requirements, evidenced from their application form, using a scoring system. For example, regarding experience of working in a setting – score 1 for ineffective, 2 for less than fully effective, 3 for satisfactory, 4 for excellent and 5 for outstanding (another scoring example could be: exceeds/meets/fails to meet the required standards). Do this for each requirement and for each candidate. You might also consider how to keep the applicants’ details confidential in the short-listing procedure. Some employers require the personal details of a candidate to be on a separate sheet from the application form, giving it a number so that personal information about a candidate cannot affect those who are selecting (e.g. sex or where they live).

Having made a selection from the applicants who most closely match your requirements, you need to ensure that the interviewing procedure you adopt is scrupulously fair. You will need to inform applicants of their invitation to be interviewed; this is usually done by letter but it could be done by a phone call as well. If you are expecting the candidates to prepare anything for their interview you will need to give them notice. Also inform the candidates of the necessity to bring evidence of their right to work in the UK and their qualifications to the interview. Collate a list of relevant, open questions to ask and score in the same or similar way to above. Whatever way you decide to do it, all the interviewers must aim to do the same.

### Some key aspects for fair interviewing procedures are:

- **Planning:** the interviewers should be familiar with:
  - the candidate’s application forms,
  - the requirements of the job description and person specification,
  - a planned series of relevant questions (ask open questions and probe until you have examples of, for example, initiative, flexibility and cooperation,)
  - an agreed scoring system,
  - they should also have the relevant paperwork available, and should make notes during the interview. Do not discuss the candidates until everyone has been interviewed.

- **Putting candidates at their ease:**

- be aware that candidates will be nervous,
- greet the candidates when they arrive,
- ensure confidentiality at all stages,
- give each candidate enough time,
- make sure the candidates are comfortable – be aware of how you organise the room, provide a drink, locate the toilets and the fire exits for the applicants,
- consider any special requirements for disabled applicants

Each interview should be carried out as similarly as possible. The candidates should leave feeling that they have been treated with respect and in a professional manner. Make sure that information about the job has flowed both ways. If you do not plan properly and base recruitment decisions on who you know and who you think you like, you are leaving the door open for accusations of discrimination, and can be encouraging high employee turnover, disciplinary problems and low morale. **Following an agreed procedure offers confidence and protection for everyone involved.**

### 5.3 Terms and conditions (Contract of Employment, the Written Statement)

*“A contract is a legally binding agreement between you [the committee] and your employee, which is formed when the employee agrees to work for you for pay.”*

From the Acas leaflet *Getting it right – Contracts of employment*

**An employer is required to provide the employee with written details and the main terms and conditions of employment within two months of that person starting work.** These details are known as the ‘Written Statement’. For a comprehensive document with guidance notes on what this legally must include, go to [www.businesslink.gov.uk/writtenstatement](http://www.businesslink.gov.uk/writtenstatement) (if this has changed, put ‘employing people’ or something similar in their search box).

It is common practice to incorporate other documents within the contract by referring to them in the written statement (see below). There are also requirements that

are imposed by law, such as the right not to be discriminated against. Lots of information on employing people is available on the Business link website ([www.businesslink.gov.uk](http://www.businesslink.gov.uk)) and also BERR (the Department of Business, Enterprise and Regulatory Reform) website: [www.berr.gov.uk](http://www.berr.gov.uk). These websites will also give you email updates about changes in legislation if you register your email address with them.

The ‘Written Statement’ may also be known as the ‘particulars of employment’, a ‘contract’ or ‘principal statement of terms and conditions of service’. It can be organised in such a way that some aspects of employment are signposted to a handbook and or specific policies and procedures. These must be made easily available to the employee. The following statements are commonly included in the written statement or are covered in a handbook – **this is not an exhaustive list:**

- The name and details of the organisation and the name and details of the employee
- A statement saying the contract is issued or given “in accordance with the terms of the Employment Rights Act 1996”.
- A statement about continuous employment – this states that the period of employment does not include any previous employment
- The employees’ acceptance of all terms and conditions set out in the particulars of employment
- Place of work – expectations about this (e.g. if there are plans for the setting to relocate)
- The need to provide references and demonstrate eligibility to work in the United Kingdom
- Job title and grade (if applicable)
- Who the employee is responsible to
- Remunerations and deductions
- Hours of work
- Timesheets
- Paid holidays/leave – bank holidays, holiday entitlement pro rata etc
- Absence from work (notification, self certification and medical certificates)
- Payment during sickness absence – contractual sick pay (scales – if applicable) and statutory sick pay
- Pensions (Unless you are exempt, you must arrange access to a stakeholder pension scheme for staff. Exemptions include having less than five employees and none of the staff earning above the NI Lower

Earnings Limit. For more information contact the Employers' Helpline on 08457 143 143)

- Termination of employment (including the notice required on each side, and requirement to hand over equipment or tangible items belonging to, or containing confidential information which belongs to, the setting)
- Health and safety (if you employ five or more people you must have a written statement of your health and safety policy)
- Disciplinary procedures
- Grievance procedures (It must state to whom the employee can refer a grievance – usually their line manager)
- Policies and procedures
- Staff handbook
- Confidentiality
- Restrictions on competition
- Variation clause

Because of the transitory nature of childcare management committees, it is most important for everyone to be clear about the legislation, systems and procedures or 'the rules' when employing staff. These should be simple, in writing, must be known and understood by all employees and supervision and performance reviews must be held. The management structure must be clear to everyone – the committee chair is the line manager (unless another committee member has agreed to be the designated line manager) to the employed nursery/preschool manager or supervisor and they, in turn, are responsible for the line management of the other staff.

Disciplinary and grievance procedures must be in place and used transparently to support a fair system for employees and the voluntary management committee. **Maintaining confidentiality as part of this clear, well-documented system is essential at all times.** Staff and committee must equally endeavour to remain calm and respectful in what can, occasionally, become charged situations. Making mistakes by not having clear grievance and disciplinary procedures and by not following the Acas Code of Practice (April 09) in a reasonable manner can result in cases of unfair dismissal being brought against the committee with all the inherent difficulties and costs that this entails.

Please refer to [www.acas.org.uk](http://www.acas.org.uk) and [www.businesslink.gov.uk](http://www.businesslink.gov.uk).

## 5.4 Staff induction

How a new member of staff is introduced to the workplace can have an enormous influence on their understanding of what is expected and overall success as an employee. Good induction maximises motivation and helps new employees understand the ethos of the childcare setting and the best practice of the staff team. For example, a clear initial briefing about Health and Safety within the setting helps to reduce accidents.

*“Induction training should be provided for new staff to help them understand how the provision operates and their role within it. Induction training should include matters such as evacuation procedures and child protection and health and safety issues.”*

*Statutory Framework for the Early Years Foundation Stage – statutory guidance to which providers should have regard (p31)*

**This list will help achieve a positive induction process:**

- Tell the other members of staff about the new starter and brief them if they are to be part of the induction process (the line manager should organise and carry out the majority of the induction).
- Organise any equipment (e.g. uniform) and documents into an information pack (this might contain the staff handbook including all the setting's policies and procedures – please see below for more information, and **Section 6** for a list of appropriate policies and procedures).
- Produce an induction checklist so that you and the new starter can be sure everything has been covered. Make sure that time for feedback and questions is included in the schedule.
- Ensure that the person is made welcome on their arrival and introduce them to their new colleagues.
- The new starter should be taken on a tour of the workplace and facilities (including the tea and coffee-making or rest area).
- Take the new starter through the terms and conditions of employment (e.g. hours of work, holidays, sick pay, disciplinary and grievance procedures).
- Explain the business, the routines, how the person fits in and the roles of the other staff
- Go through the health and safety procedures, including showing some typical risk assessments.
- Run through any office systems e.g. timesheets, child observation forms.
- Set individual objectives and training needs

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- Review meetings should take place during the probation period and afterwards (if the probationary period is passed) as a regular form of objective assessments. It should be noted that the employer is obliged to provide training to raise the capacity of the new employee if required.
- New starters should be asked to sign a form to indicate that all aspects of the induction programme are understood and agreed to.

Staff induction is a useful tool to make sure your new staff member fully understands their role (There is a very good detailed induction check list on the WSCC Early Childhood Service CD Rom from 'Managing the Performance of your Staff Team' booklet April 2007. Each setting has a copy of this, ask your manager if you would like to look at it, but make sure you return it). Induction will generally be carried out by the setting's manager or supervisor as they are the line manager to the other staff roles, but when the setting has a new manager or supervisor then the committee should take the new manager through the induction process. It is important that the committee are involved throughout the recruitment process as they are the employer and everyone (including the committee) must maintain awareness of their legal responsibilities.

#### The following information might usefully be included in a staff handbook

- Time keeping, dress code, attendance at meetings
  - Hours of work and timetable for the day
  - Probationary period and procedure
  - Setting-up and putting away (of particular relevance for those childcare groups operating from community buildings such as village halls)
  - Details of who to contact if you have any problems with pay
  - Details about holidays – note that from April 2009 all employees are entitled to 5.6 weeks (28 days) paid holiday, pro rata. The employer can choose to include public holidays in this total and the employer can control when holidays are taken. (If holidays are taken pro rata they should always be based on what full time is.)
- Also included should be details regarding:**
- unpaid leave for religious or cultural holidays not included in UK public holidays
  - rules regarding holidays taken during term times

- procedures for days when staff are off sick, or need parental or dependant incident or bereavement leave
  - an absence self certification form and who to notify when unable to work
  - policy with regard to school inset days (state school teacher training five days per year)
- General conduct at work (e.g. disclosure of confidential information and behaviour with parents) and conduct out of work (e.g. activities that may question a person's integrity or their ability to carry out their duties and responsibilities)
  - Commitment to personal and professional development (including the requirement of performance review)
  - General rules with regard to personal mobile phones, company telephones, personal property, communicating with the media, computer and email conduct
  - A copy of the setting's policies and procedures  
NB: "3.8 – Group providers will be expected to have written copies of any policies and procedures which are required, for example, to safeguard children or promote equality of opportunity. Providers should ensure that all members of staff have been given copies of these policies and procedures as part of their induction, and that they are explained to, and accessible to, all parents."  
From the *Statutory Framework for the Early Years Foundation Stage* – Meeting the welfare requirements, p20
  - General information about health and safety at the setting (see **Section 6.6**)
  - Information about disciplinary procedures and categories of conduct (e.g. gross misconduct and unsatisfactory conduct), investigations, right to be accompanied, meetings, disciplinary action, appeals and grievance procedures.
  - "The provider must ensure that all members of staff understand the procedures to be followed in the event of an allegation being made about a member of staff" From the *Statutory Framework for the Early Years Foundation Stage*, p22, which refers to safeguarding specifically.
  - Procedures to be followed if a parent makes a complaint about a member of staff or complaints against a member/s of the committee.

## 5.5 Staff appraisal/performance review

*“Regular staff appraisals should be carried out to identify the training needs of staff. A programme of continuing professional development should be applied so that these needs are met.”*

*Statutory Framework for the Early Years Foundation Stage – statutory guidance to which providers should have regard, p31.*

In order for the setting to maintain quality and high standards of care and learning for the children, it is important to review performance and identify the training or coaching needs of your individual staff. This review process must engage the staff and therefore should not simply be carried out and then left in a file. It is also an appropriate time to review job descriptions. The manager or supervisor (the early years lead practitioner) is the line manager to the other staff and the chair or designated committee member is the line manager to the early years lead practitioner. It is appropriate for a representative of the committee as the employer to attend and support the lead practitioner during appraisals.

There are many examples of annual performance reviews available on the internet but the personal development of staff should always be the basis for the review. More negatively, it can also be used to identify and make clear to staff any areas of work that they may need to develop.

**The human inclination to judge can create serious motivational, ethical and legal problems in the workplace. Without a structured appraisal system, there is little chance of ensuring that the judgements made will be lawful, fair, defensible and accurate** (see [www.performance-appraisal.com/intro.htm](http://www.performance-appraisal.com/intro.htm)).

*I appreciate how much effort you and Gloria put into this, but I think my legal and financial background will prepare me for most problems in a little playgroup, don't you?*



As previously mentioned there are various formats for appraisal, but the following will give you an idea if you have not come across appraisal before or would like a framework to develop your own. Here are some overall guidelines about the review process:

- The date and the place should be set at a mutually convenient date at least two weeks ahead. It should be held in a suitable room (good light, heat and seating) with as little noise or distraction as possible. Enough time should be set aside for the meeting.
- The reviewer (the line manager) and the appraisee both need to have prepared before the meeting – the appraisal form should be filled out beforehand and the line manager should have had time to go through it.
- The process should be open and equal.
- The appraiser should ask open questions and probe for views and concerns. It is important to reflect on positive and negative aspects of the job performance, as these will highlight individual strengths and weaknesses, and may potentially uncover changes that could also be made to organisational or communication issues within the team.
- It is useful to use the acronym '**SMART**' when **setting and agreeing objectives** or reflecting on previous objectives (**specific, measurable, achievable, realistic** and **timebound**). These give a useful framework with which to form objectives so that impossible targets, or bland meaningless words, are not put together for the sake of it. You don't need lots of objectives or targets either. The key is that they are relevant to the individual and the setting.
- An appraisal is an opportunity to refresh and vitalise performance, encouraging an employee to further improve on their own development and also that of the whole team, including the line manager.
- Determine training required to meet stated objectives.

See a sample **Annual/bi-annual performance review and development plan** overleaf.

# Annual/bi-annual performance review and development plan

Name: \_\_\_\_\_

Job title: \_\_\_\_\_

Performance review period ending: \_\_\_\_\_

Setting objectives for the following 6–12 months: \_\_\_\_\_

## Summary of previous review period

Previously agreed objectives and summary of performance	Achieved (how)	Not yet achieved (why)

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Early Years Lead Practitioner comments: \_\_\_\_\_

## Day-to-day activities/routine

Summary of performance	Achieved (how)	Not yet achieved (why)

Early Years Lead Practitioner comments: \_\_\_\_\_

## Training

Training during the review period	How did your performance improve in your job as a result of training?	Identify any skills/experience that you feel are not being used at present

Early Years Lead Practitioner comments: \_\_\_\_\_

### Upward feedback

(Optional) Feedback for your line manager and ideas to support team cohesion and good practice

Areas that work well

Areas that work less well

Early Years Lead Practitioner comments:

The next 6–12 months	Specific objective	What will success look like? (measurable)	By when? (timed)
<b>Group objectives (for the setting)</b>			
<b>Personal objectives (e.g. development of personal skills and competences)</b>			

<b>Training and development</b>	What training, coaching or mentoring needs do you have, to meet your present role?	What training, coaching or mentoring do you require to meet the changing needs of your role/medium-term goals?	What training, coaching or mentoring needs do you have that would support your personal development/long-term goals
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Comments from the Employee of review period

Comments from the Early Years Lead Practitioner

Comments from the Committee Representative

## 5.6 Training plans

*“Providers should use training made available by the local authority and other sources.”* – p31 of the *Statutory Framework for the Early Years Foundation Stage* – statutory guidance to which providers should have regard.

As covered in **Section 5.1**, Ofsted presently require a supervisor to have a level 3 qualification (as should a person who is to deputise for the supervisor). Fifty percent of the remaining staff should be qualified to Level 2, although the government hopes that all others working in settings will have a Level 3 qualification by 2015. Appendix 2 of the **Statutory Framework for the Early Years Foundation Stage contains a full description of qualifications and staff to children ratios as the law presently requires – or see [www.cdwcouncil.org.uk](http://www.cdwcouncil.org.uk)**.

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However, there are many training needs common to all staff, such as training which covers:

- the new Early Years Foundation Stage, for example *Curriculum and Using books to develop communication in all children*
- management and leadership
- playwork
- Common Assessment Framework (CAF) awareness
- FIRST training (inclusion support)
- *Keeping children safe from a multidisciplinary perspective*.

A training plan should be compiled using information gathered from your knowledge of your staff (you should hold copies of staff qualification certificates) and the appraisal process. This can take the form of a table listing all members of staff. This would usefully cover the following headings:

- summary of qualifications staff presently hold
- details of necessary training that the staff member has not done
- priority of the training to be done
- actions needed to achieve the priority training
- timescales (must be realistic)
- important review dates (e.g. when First Aid training needs to be renewed)
- any problems encountered.

For a comprehensive account of how to go about identifying training and development needs, of finding ways of meeting these needs (i.e. a training course is not always the answer; coaching or mentoring may be more appropriate, dependent on the need) and how to undertake a training needs analysis please refer to WSCC Early Childhood Service publication *Managing your Staff Team*. This publication is aimed mainly at the manager or supervisor (the group’s copy will be kept at the setting or the manager will have it), but it will help the committee to gain a perspective about what the staff are working towards. It is an excellent publication with useful information for everyone including *Vision and Values, Developing Listening Skills, Rapport, Managing Meetings and Time Management*.

You can download it from:

<http://wsgfl.westsussex.gov.uk/ccm/content/community-projects/my-childs-education/child-care/recruitment.en>

This webpage also has the latest edition of *Jobs in Childcare* available to view and download

### Staff Training and the Free Entitlement (FE)

In order to register with the WSCC Free Entitlement (Early Years Provision) Scheme, certain conditions must be satisfied. They are shown opposite.

The Free Entitlement (Early Years Provision) Registration Form is a very important document as it is the gateway to receiving government funding for three- and four-year-olds. This relates to the current offer of five sessions of 2.5 hours each (two of which may be taken back-to-back with a break e.g. lunch). In West Sussex from September 2010 there will be an extension to 15 hours/week for three- and four-year-olds.

For more information contact WSCC ECS Children’s/Family Information Service on 01243 777807

or [www.wsgfl.westsussex.gov.uk](http://www.wsgfl.westsussex.gov.uk) and put The Free Entitlement (Early Years Provision) Registration Form into the search box.

**Ensure that someone from the committee has fully read this document which contains the conditions of registration.**

Included in the WSCC Free Entitlement (Early Years Provision) Registration Form there are some conditions of registration. The following text is taken directly from the Registration Form:

- **3.5:** ensure that each practitioner has access to continued professional development (CPD) days. The recommendations for training in addition to required statutory and qualification training are:

Type of setting	Minimum training per setting
Early Years settings, preschools and day nurseries	5 days EYFS training
Childminders	1 day EYFS training
Childcare settings/holiday playschemes/ out of school clubs	2 days CPD relevant to playwork

- attendance at network training sessions, informal meetings and conferences
- attendance at EYFS training (including FIRST training)
- internal training and development sessions
- visits to nursery schools and children and family centres

(A training day is defined as 5 hours or more, between 2.5 and 5 hours as half of a day and less than 2.5 hours as quarter of a day.)

- **3.6:** have in place a staff training and development plan for all practitioners and complete in full and return applications for funding to stated deadlines (Further details are in the ECS Workforce Development Training and Development Funding Pack)
- **3.7:** (should) complete the Workforce Qualification Audit on the Children’s Workforce Development Council (CWDC) website expected to be available in July 2009
- **3.8:** complete setting and practitioner profiles throughout the year as and when changes occur within the setting
- **3.9:** keep a record of the training that their staff receive and funding allocated, using, e.g. the Passport to Learning.

## 5.7 Disciplinary and grievance procedures and the Employment Act 2008

The Employment Act 2008 repeals Sections 1–7 of the Employment Act 2002 that relate to the handling of discipline, dismissal and grievance issues. The statutory three steps procedure that had to be taken is repealed but should still be considered and implemented as best practice. The Acas Code of Practice 2009 sets out the principles for handling disciplinary and grievance situations in the workplace. Employment tribunals are legally required to take the Acas Code of Practice 2009 into account when considering relevant cases. They will determine whether a failure to follow the Code was unreasonable taking into account the size and resources of the business.

The Code does not apply to procedures for redundancy (redundancy must involve the loss of a post, not the dismissal of an employee) or the end of fixed-term contracts. You can download the *Acas Code of Practice 1* and *Discipline and Grievances at Work, The Acas Guide 2009* from their website [www.acas.org.uk](http://www.acas.org.uk).

Similarly you can find guidance and ask advice with regard to redundancy and fixed-term contracts, from their website and their helpline. Because this is new legislation there is little case law to determine some of the finer points. If in doubt, call the Acas helpline on **08457 474747**.

Fairness and transparency is the key to good employment relations, so this should start with everyone (staff and committee) being fully informed about the organisation’s policies and procedures for

discipline, dismissal and grievance. These are likely to be more effective if they are accepted as reasonable by those covered by them and those who operate them. It is good practice to develop policies in consultation with employees and those who will have responsibility for applying them. For childcare settings this might usefully be covered in joint staff and committee meetings that review policies and procedures for information and updating purposes. See *Discipline and Grievances at work, The Acas Guide 2009*, Appendix 1 (Disciplinary rules for small organisations) and Appendix 2 (sample disciplinary and grievance procedures).

The Acas Code places a greater emphasis on informally dealing with problems so that they do not escalate.

Acas also strongly encourages the use mediation (see below). Employers and employees should raise and deal

with issues promptly and act consistently: they should not delay meetings or decisions which relate to any such issues or problems.

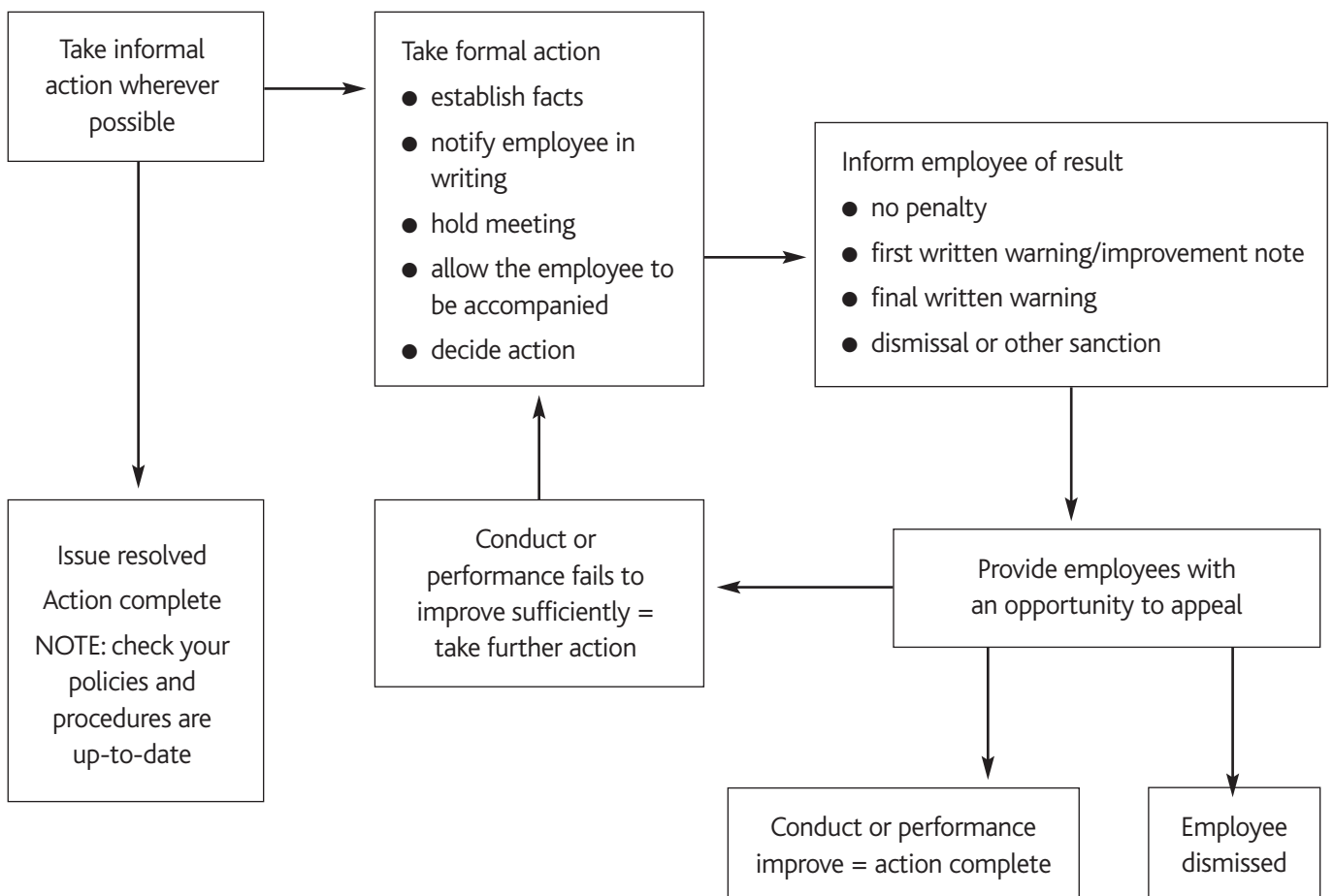
It is recommended that employers have clear procedures for discipline and grievance and both should be referred to in the Written Statement (or statement of particulars). But it should be made clear that the disciplinary or grievance procedures are not contractual unless the employer makes them so (this then means that they could be sued for breach of contract if they do not follow their own procedures). For ease of reference it is best if they are also included in the staff handbook.

Workers have the right to be accompanied by a fellow worker or another person where they are required or invited by their employer to attend certain disciplinary or grievance hearings.

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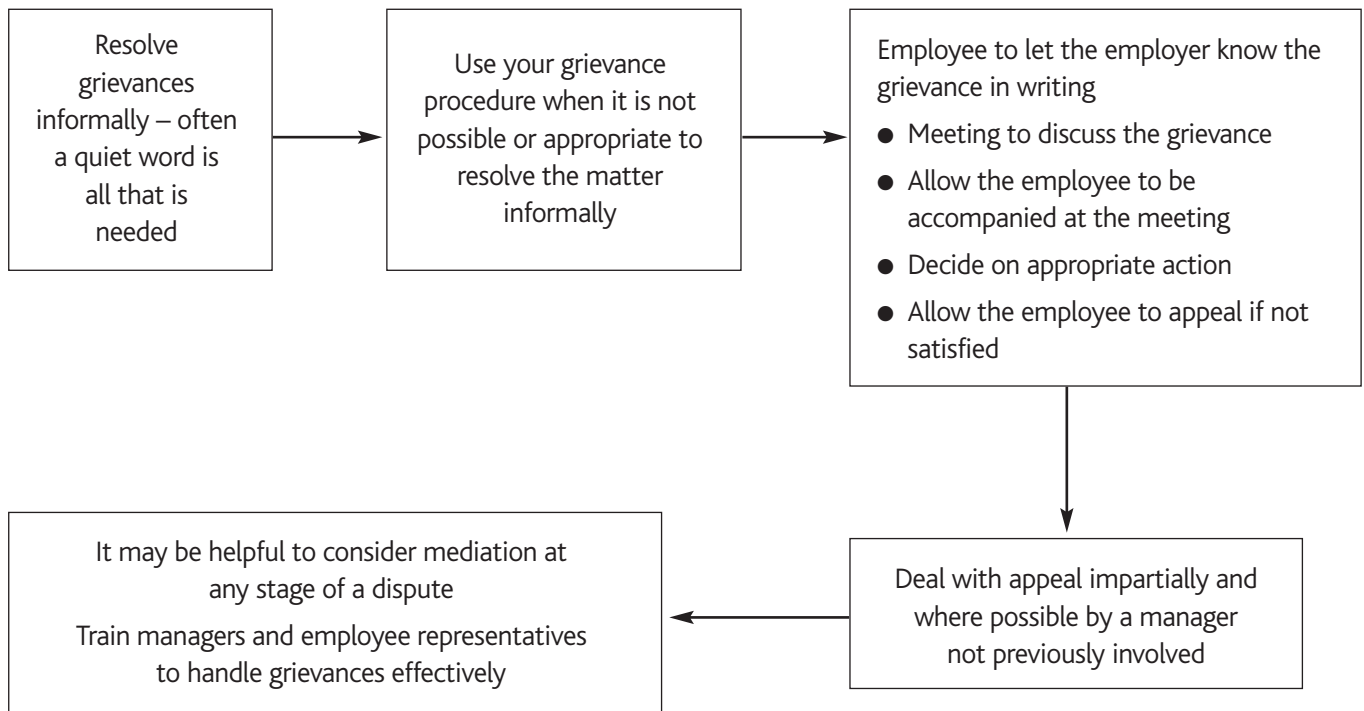
## Handling discipline – an overview

Adapted from *Discipline and Grievances at Work, The Acas Guide 2009*



## Handling grievances – an overview

Adapted from *Discipline and Grievances at Work, The Acas Guide 2009*



Employees must know to whom and how they can address a grievance. Common practice is to take it to the line manager, however if the grievance is with the line manager, then employees need to know who they should go to (e.g. the line manager’s line manager or the human resources manager – in this instance the chair).

### Using mediation

Overall, there is an emphasis on informally dealing with problems before they escalate. In some instances the use of mediation can be helpful and Acas are advocating its use.

*“An independent third party or mediator can sometimes help resolve disciplinary or grievance issues. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome. Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs. Or they may be from an external mediation provider. They can work*

*individually or in pairs as co-mediators.”*

*Discipline and Grievances at Work,  
The Acas Guide 2009*

Thus, a mediator helps participants to discuss their areas of difference and reach agreements. Unlike litigation or arbitration, the mediator has no power to decide the outcome of a dispute. Not all conflicts can be resolved by mediation. Knowing what process to use in a given dispute, and when to implement it, are the most crucial issues in resolving disputes successfully. Mediation may not be suitable if:

- used as a first resort – because people should be encouraged to speak to each other and talk to their manager before they seek a solution via mediation
- it is used by a manager to avoid their managerial responsibilities
- a decision about right or wrong is needed, for example where there is possible criminal activity
- the individual bringing a discrimination or harassment case wants it investigated
- the parties do not have the power to settle the issue or the power balance is unequal
- one side is completely intransigent and using mediation will only raise unrealistic expectations of a positive outcome.

Mediation addresses specific issues well, but not generalised patterns. For more information see *Discipline and Grievances at Work, the Acas Guide 2009*. Acas provide training in mediation and associated areas.

You can contact Acas on 08457 474747 [www.acas.org.uk](http://www.acas.org.uk) and go to [www.peaceworks.org.uk/mediation](http://www.peaceworks.org.uk/mediation) for information about the use of mediation in areas other than employment.

To summarise: if formal action is taken it must be reasonably justified. An employment tribunal will take the Code of Practice (but not the guidance) into consideration in its decision. Discipline and grievance procedures are not contractual unless the employer makes them so. When dealing with grievance, disciplinary or matters of complaint generally make sure you are not acting alone; talk to your committee colleagues (even in a hypothetical way for confidentiality purposes). If you are unsure, contact Acas or another support organisation before you take action.

*"Employers would be well advised to keep a written record of any disciplinary or grievance cases they deal with."*  
From the introduction of the Acas Code of Practice 2009

For the full Employment Act 2008 and explanatory notes see [www.berr.gov.uk/whatwedo/employment/employment-legislation/employment-act-2008](http://www.berr.gov.uk/whatwedo/employment/employment-legislation/employment-act-2008).

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*I'm delighted to learn that he keeps the kids calm, but we still can't accept waldo's application for the deputy supervisor's post!*



## 5.8 Paying employees (taxes, returns and payroll)

Any organisation that pays wages to staff is classified as an employer and as such will need to have an Employers Tax Reference (contact HMRC – New Employer helpline 08456 070143 or the Employers Helpline on 08457 143143).

The organisation needs to deduct income tax and National Insurance contributions (NICs), as applicable, from the employees' pay. PAYE (pay as you earn) is the system that HMRC uses to collect income tax as employees earn it. As an employer you need to deduct tax and NI and are accountable to do so via a tax code which is given out by HMRC. The employee should provide a P45 (the form you need when you leave an employer), or complete a P46 to determine the correct PAYE tax code to be applied. (NB a P46 can easily be downloaded from HMRC – enter P46 into the website search box). The employer is then responsible for deducting the correct amount of tax related to that code.

There are different types of NICs. Some are paid at a flat rate. With others, the amount payable is linked to earnings. Class 1 NICs are calculated using three levels of earnings set by the government: the earnings threshold, the lower earnings limit and the upper earnings limit. The lower earning limit is the level at which employees are entitled to NI benefits, even if they are not paying any contributions.

The table opposite shows the different categories of NICs and who pays them.

## The different categories of NICs and who pays them – taken from [www.businesslink.gov.uk](http://www.businesslink.gov.uk)

NIC type	Who pays it?	Basic explanation of NIC type
<b>Class 1 primary contributions</b>	Employees earning over the earnings threshold	Employees pay Class 1 NICs at a percentage rate on their gross earnings above the earnings threshold up to and including the upper earnings limit and at a reduced percentage rate for earnings over the upper earnings limit. They are 'deducted at source' from employee's salaries. Employers must keep adequate records showing how NICs were calculated and what payments have been made for each employee.
<b>Class 1 secondary contributions</b>	Employers, on the salaries of employees who earn above the earnings threshold	Employers pay Class 1 NICs on their employees' gross earnings over the earnings threshold at a single percentage rate. There is no upper earnings limit for employers' NICs. These are paid to HMRC, usually on a monthly basis, together with the employee's primary NICs.
<b>Class 1A contributions</b>	Employers	Payable by employers on their employees' benefits in kind such as a company car or private medical insurance. These are calculated and paid annually.
<b>Class 1B contributions</b>	Employers	Payable only by employers who have entered into a PAYE (Pay As You Earn) Settlement Agreement with HMRC to account for tax on certain expense payments and benefits.
<b>Class 2 contributions</b>	Self-employed	Payable by the majority of self-employed individuals at a flat rate, either monthly or quarterly.
<b>Class 3 contributions</b>	Voluntary	Payable at a flat rate by those who have not paid enough NICs to qualify for certain benefits, such as a state pension.
<b>Class 4 contributions</b>	Self-employed	Payable by self-employed individuals who have made a certain amount of profit in a year. Calculated annually using the self-assessment tax return form.

HMRC has launched a new business support service, the Business Payment Support Service to help those businesses who are struggling to meet tax, NI or other tax payments. Contact HMRC staff if you are concerned that you may not be able to pay amounts that are owed, so that you can discuss temporary payment arrangements. You can contact the HMRC Business Payment Support Service Helpline on 0845 302 1435.

It is very important to get your employees Tax and NICs correct. To not do so means letting your staff down, potentially taking away their state pension rights and putting the childcare setting/business in jeopardy. It is sensible to pay a book-keeper or other qualified individual to look after the staff payroll.

There are many organisations that support voluntary groups by offering this service at a reasonable rate and who specialise in charities. Ask your local CVS: you can find them via the National Association for Voluntary and Community Action (NAVCA) [www.navca.org.uk/liodir](http://www.navca.org.uk/liodir).

You must be aware that the treasurer role must still be fulfilled. The treasurer must collate and bring an overall perspective of the childcare's financial situation (including up-to-date financial forecasting and full bank reconciliation) to the committee for consideration. Again, if you are a large enough setting (related to annual turnover) an administrator could be employed for much of this but remember the committee are still ultimately responsible for the financial probity of the group. See **Section 4: Running the business**.

There is lots of support and information available. For example:

- interactive tools: such as a beginner's guide to tax and accounts, email alerts, a glossary and opportunities to create a personalised regulations checklist at [www.businesslink.gov.uk](http://www.businesslink.gov.uk)
- a comprehensive publication *Employers' Further Guide to PAYE and NICs* at [www.hmrc.gov.uk/guidance/cwg2.pdf](http://www.hmrc.gov.uk/guidance/cwg2.pdf)

The best advice is to keep on top of your records and ask for help from the WSCC Early Childhood Service Business Support Officer/s (via your ECS Childcare Support Coordinator), your Business Link local advisor, Action in rural Sussex, or the Pre-school Learning Alliance. Don't leave things until it is too late. Help is available but unless you ask, support officers will not know of your need. What you are doing is difficult and no-one wants you or the childcare setting to suffer losses of any kind.

## 5.9 Keeping the right staff records

As previously mentioned, the committee is transitory. As employers, however, they need to have access to appropriate staff data, which must be stored in a suitable way for maintaining confidentiality. See **Section 2: "Getting it right legally"**, which contains more information on the Data Protection Act 1998 and employees' rights to see their records. You can contact the Information Commissioners Office helpline on 0845 306060.

### You are legally required to keep the following data:

- attendance records – hours worked, breaks (ensuring you comply with the Working Time Regulations), holidays, statutory sick pay, statutory maternity pay and rates of pay (ensuring that you are meeting the rates in the National Minimum Wage Act 1998)
- payroll data – income tax (tax codes) and NI details, P45 or P46, all payments and deductions (do not forget employer NICs)
- accidents, injuries and dangerous occurrences (to meet health and safety requirements)
- accounting data
- crime prevention data, e.g. presently for enhanced CRB disclosures keep the name, job title, date of issue and unique number
- pensions data.

### Other staff records that are useful to keep

- training and appraisal
- employment history (date employment began)
- absence – records of lateness, sickness and any other unauthorised absences
- personal details – address, emergency numbers and who to contact, qualifications

- terms and conditions of employment – including written correspondence relating to changes made to an employee's terms and conditions
- minutes of meetings related to disciplinary action, hearings or redundancy meetings.

### Keeping records for how long?

- PAYE records (wages/salary records including overtime, bonuses and expenses) – minimum of 6 years
- income tax and NI returns, income tax records and correspondence with HMRC – 3 years
- accident reports, statutory maternity and paternity records, statutory sick pay records and the national minimum wage – should all be kept for 3 years after the last entry date
- application forms and interview notes for unsuccessful candidates should be kept for 6 months to a year. These records could be used to defend against accusations of discrimination.
- it is recommended, but not statutory, that personnel files and training records are kept for 6 years after the employment ceases (including disciplinary records – see *Acas Discipline and Grievances at Work, The Acas Guide 2009*, and [www.cipd.co.uk](http://www.cipd.co.uk) – Chartered Institute of Personnel and Development – retention of records)
- records relating to the Working Time Regulations should be kept for 2 years.

For further information see *Keep the right staff records* [www.businesslink.gov.uk](http://www.businesslink.gov.uk) and [www.cipd.co.uk](http://www.cipd.co.uk) records relating to children should be kept until the child reaches 21 (Limitations Act 1980), most importantly accident and incident records. It also advises that minutes of trustee meetings are kept permanently. The *Statutory Framework for the Early Years Foundation Stage* says records relating to individual children should be retained for a reasonable period of time (for example 3 years) after the children have left the provision", p40. See pages 38–39 of the *Statutory Framework for the Early Years Foundation Stage* for a list of which documents providers must maintain records of. For a definitive list of what records should be kept on the premises see the Ofsted publication *Guide to registration on the Early Years Register: childcare provider on domestic or non-domestic premises*.

Records of complaints from parents and subsequent investigations must be kept for 3 years. *Statutory Framework for the Early Years Foundation Stage*, p23.

## 5.10 Health check    Yes / No    Action to take

Are you aware that the committee is the employer of the childcare setting's staff?

The committee is the employer, with all the legal and statutory commitments that involves. Refer to the *Statutory Framework for the Early Years Foundation Stage*. Read **Section 5** of this pack and refer to Acas for information and support on employment matters Acas Helpline 08457 474747 [www.acas.org.uk](http://www.acas.org.uk). [www.berr.gov.uk](http://www.berr.gov.uk) and [www.businesslink.gov.uk](http://www.businesslink.gov.uk) also provide answers to many questions about employing staff.

One of the committee's statutory duties with regard to the employment of a childcare workforce and also for themselves is to ensure that "adults looking after children are suitable to do." From the *Statutory Framework for the Early Years Foundation Stage* p19.

'Suitable people' means, that all staff and committee have had a Criminal Records Bureau enhanced disclosure, commonly known as a police or CRB check. However when the new vetting and barring scheme is fully operational, people working and volunteering in 'Regulated Activities' will have a mandatory obligation to apply to register with the Independent Safeguarding Authority (ISA). The ISA will assess every person who wants to work or volunteer with children or vulnerable adults. It will do this by working closely with the CRB. The CRB will receive applications to the ISA and will gather and monitor information. The ISA will then assess this information and decide whether to give the individual concerned ISA registration or put them on one of the ISA Barred Lists. The committee, as the employer, will also have a duty to inform the ISA of any changes to the status of their employees. Further, employers will have to register with the ISA to receive information about changes to the status of their employees as referred by others, e.g. the police, social services or other employers. Please refer to **Section 3.2** for a full description of *The Safeguarding Vulnerable Groups Act 2006* which introduced the ISA. For more information and to register for updates about the full implementation of the new legislation go to [www.isa.gov.uk](http://www.isa.gov.uk) and [www.crb.gov.uk](http://www.crb.gov.uk)

How do you demonstrate that the childcare setting is run day to day and overall managed by 'suitable people'?

You also need to be aware of the CRB Code of Practice (April 09) which covers how you store CRB disclosure information (name, job title, date of issue and unique number).

Health checks, for registered person/person in charge are done via Ofsted. For other staff, a letter from a GP, confirming that job description duties can be undertaken by the employee will be required.

For further information relating to day-to day safeguarding, call Ofsted on 08456 404040.

Do you know what qualifications your staff must have for their job role? Do you know how many staff, of a particular qualification level, you need for the numbers of children and their ages, attending a session?

For a full description of child to staff ratios and qualifications required see Appendix 2 of the *Statutory Framework for the EYFS*, which is downloadable from [www.teachernet.gov.uk/publications](http://www.teachernet.gov.uk/publications) or [www.standards.dcsf.gov.uk/eyfs](http://www.standards.dcsf.gov.uk/eyfs), or call 0845 6022260 to order a copy.

See also the 'qualifications list' which is a tool for checking if a person's current qualifications are full, relevant and up-to-date. If they are not, the qualifications list will specify the relevant training needed to to bring those qualifications up to date. See <http://qualificationslist.cwdcouncil.org.uk>

For further information contact WSCC Workforce Development Team via the Children's/Family Information Service on 01243 777807.

Do you have relevant and up to date job descriptions for all your staff?

Please see **Section 5.2**; refer to the WSCC Early Childhood Service publication *Recruiting and retaining your staff team* and look online for childcare support (e.g. Pre-school Learning Alliance, the Daycare Trust and 4Children) for good examples of childcare worker job descriptions and much more.

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Health check	Yes / No Action to take
<p>Many employers require completion of an application form rather than a CV – do you have an application form ready for when you next recruit staff?</p>	<p>Please see <b>Section 5.2</b>, refer to the WSCC Early Childhood Service publication <i>Recruiting and Retaining your Staff Team</i> <a href="http://wsgfl.westsussex.gov.uk/ccm/content/community-projects/my-childs-education/child-care/recruitment.en">http://wsgfl.westsussex.gov.uk/ccm/content/community-projects/my-childs-education/child-care/recruitment.en</a> There will also be many examples on line.</p>
<p>Are you aware of anti-discrimination and equal opportunities legislation and how this may effect the description of the job role in your advertisement and during the interviewing process?</p>	<p>See <b>Section 5.2</b>. There is a very useful guide called the Professional Recruitment Guide that has a good explanatory section called legal issues from the Department for Innovation, Universities and Skills – go to <a href="http://www.dius.gov.uk">www.dius.gov.uk</a> click on <i>Higher Education</i>, then <i>Widening Participation</i>, then <i>Professional Recruitment Guide</i> and then <i>Legal Issues</i>. There are brief descriptions of the various types of discrimination and also 'genuine occupational requirements' as well as a list of the legislation, with links to that legislation and links to guides to that legislation. (This information was accessed from the internet 16/04/09.) See also <a href="http://www.berr.gov.uk">www.berr.gov.uk</a> and <a href="http://www.businesslink.gov.uk">www.businesslink.gov.uk</a>. From the Business Link website you can find the South East Business Link website and from this you can register to download help guides and also receive business issues email alerts. The full text of all HM Government Acts and their Explanatory notes are available to download at <a href="http://www.opsi.gov.uk">www.opsi.gov.uk</a></p>
<p>Do you know that you need to provide all staff with a Written Statement or a Contract of Employment within two months of them starting work? Do you know the minimum required by law that must be included in the Written Statement?</p>	<p>See <b>Section 5.3</b>. The Business Link website (<a href="http://www.businesslink.gov.uk">www.businesslink.gov.uk</a>, search for 'Written Statement') contains a comprehensive document that takes you through exactly what the law requires. Not providing a Written Statement or a 'Contract of Employment' for staff offers no protection to the Employer. Full terms and conditions (and/or a staff handbook) can take time to prepare, but make sure you issue a Written Statement within two months of employing a new member of staff and make sure that all present members of staff have full terms and conditions.</p>
<p>Do you know that as an employer you have to be registered with HMRC? Are you aware of your responsibilities with regard to tax deductions and NI (including Employer NI)? You will need your employer's tax reference code and your employee's tax code from their P45 – or they will have to fill out a P46</p>	<p>Please see <b>Section 5.8</b>. The HMRC website (<a href="http://www.hmrc.gov.uk">www.hmrc.gov.uk</a>) contains much useful information. The HMRC New Employers' Helpline (0845 6070143) can help. The Business Link website (<a href="http://www.businesslink.gov.uk">www.businesslink.gov.uk</a>) contains a useful section on 'taxes, returns and payroll'. It is quite legitimate for a childcare charity to employ administration support staff; you just need to consider what the business can afford. You must still have the minimum of five committee members. However, since the Charities Act 2006 a minority of committee members can be paid a fee at a reduced rate for specific services. See <b>Section 3.3: Regulation and regulatory bodies</b>. See also <a href="http://www.charity-commission.gov.uk">www.charity-commission.gov.uk</a> FAQs and a very useful booklet <i>Charities Act 2006 What Trustees Need to Know</i>.</p>
<p>Are you aware of the legislative changes brought about by the Employment Act 2008?</p>	<p>Please see <b>Section 5.7</b>. For a bullet list of the main points of the Employment Act 2008 go to <a href="http://www.berr.gov.uk/employment/employment-legislation/employment-act-2008/index.html">www.berr.gov.uk/employment/employment-legislation/employment-act-2008/index.html</a> very quick and easy reading. Also see and download the <i>Acas Code of Practice and the Discipline and Grievances at Work, The Acas guide 2009</i> from their website <a href="http://www.acas.org.uk">www.acas.org.uk</a></p>

**Health check**

**Yes / No Action to take**

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**Do you know that there are certain records you need to keep, by law for given periods of time?**

See **Section 5.9**. Also see the BERR website and the Business Link website as above and the *Statutory Framework for the EYFS* and the Ofsted guide, *Are you ready for inspection?* See also [www.cipd.co.uk](http://www.cipd.co.uk)

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**Do you know who to contact if you have problems paying Tax or NI bills?**

HMRC have a new business support service. You can contact their helpline on 0845 3021435. There is also the new Employers' Helpline, 0845 6070143 (which is relevant for the first three years of becoming an employer).