



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref CL-01-16

Local Authorities  
Local Planning Authorities  
Local Authority Lead Childcare Officers  
Local Authority Family Information Services Managers

12/02/2016

Dear Colleagues

## **PLANNING AND CHILDCARE IN WALES**

This Policy Clarification Letter covers the issue of planning, child minding and day care provision. It comes jointly from the Planning Directorate and the Childcare and Play Division of the Welsh Government. This letter restates the importance of childcare provision set out in previous letters, clarifying the link with Planning Policy Wales and provides updated advice in relation to the regulation of childcare, including the extension of the upper age limit for the registration of childcare regulation from age eight to twelve. Previous Circular Letters CL-08-03 "Planning Issues and Childminders" of November 2003, CL-02-06 "Planning and Childcare in Wales" of August 2006 and the letter to chief planning officers of 25 January 2011 "Childminding and the Planning System" are cancelled.

Access to affordable childcare is a key Welsh Government priority. It enables parents to work, access training, and supports our drive to increase economic growth, tackle poverty and reduce inequalities. Local planning authorities and local authorities should work together to help support the development of childcare services for children and families. This is in line with the Welsh Government's key priority to provide affordable, accessible childcare, as prioritised within the Tackling Poverty Action Plan and the Early Years and Childcare Plan.

The Childcare Act 2006 places a statutory duty on all local authorities to secure, as far as is reasonably practicable, sufficient childcare to meet the needs of parents/carers in their area, who require childcare in order to train, work or study.

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi

To help local authorities assess the level of provision in their area, Childcare Sufficiency Assessments (CSAs) are carried out which identify any shortfall of provision. This enables local authorities to put in place arrangements to address any gaps in provision and to plan for future demand. Given the high priority which the Welsh Government attaches to the provision of childcare, it is important that the relevant parties involved in childcare provision work together to ensure there are sufficient child minding and day care facilities provided within their local authority area. Clarification of Planning Policy Wales set out in **Annex A** should be supported by regular dialogue between local planning authorities and those local authority officials responsible for childcare provision. By working together, all stakeholders will play a part in delivering better outcomes which will have a lasting and beneficial effect on the communities they support.

Childcare is regulated by the Care and Social Services Inspectorate Wales (CSSIW). While local planning authorities and CSSIW both have roles to play in the approval of new childcare provision, these processes operate independently. In determining any planning applications which may be needed, local planning authorities must have regard to their statutory development plan and the circumstances of each case. The criteria against which CSSIW register and inspect provision are currently set out in The Child Minding and Day Care (Wales) Regulations 2010<sup>1</sup>, and standards as set out in the National Minimum Standards for Regulated Child Care. This standard of care is assured through inspection and regulation by CSSIW. These are principally concerned with the safety and welfare of the children receiving childcare and the quality of the care they receive.

Previously, compliance with planning and building regulations was one of the national minimum standards. This is no longer the case so CSSIW does not need to see evidence of compliance. The responsibility for complying with planning legislation remains with the childcare provider.

From April 2016, the upper limit for the registration of childcare will be extended from 8 to 12 years. This means that all childcare providers who currently look after (or intend to look after) 8 to 12 year olds will have to register with the CSSIW.

Planning legislation remains the same. Therefore if child minders already look after 8 to 12 year olds (and the characteristics of the use of their dwelling mean planning permission is not required), the fact that they will need to register that they care for this age group will not affect whether they need planning permission. Consideration by the child minder of the need for planning permission will be needed when they intend to increase the overall number of children they care for at their property (whether of registration age or above); or they intend to make physical alterations to the exterior of the dwelling.

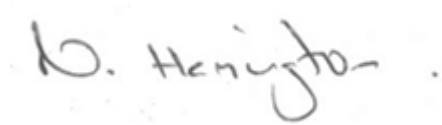
Child minders may want to seek advice from the local planning authority about their intentions. There is a suggested model letter at **Annex B**, and a questionnaire at **Annex C**, for child minders to use to ask a local planning authority for an informal view about whether their proposal requires planning permission. Given the

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<sup>1</sup> These Regulations and the National Minimum Standards for Regulated Child Care are currently being updated to reflect this change

importance of childcare provision for most local planning authority areas, the Welsh Government encourages local planning authorities to respond to such enquiries without charge.

Yours sincerely



**Neil Hemington**  
Head of Planning Directorate



**Owain Lloyd**  
Head of Childcare and Play Division

## **Annex A**

This annex provides policy clarification and guidance on the provision of child minding and day care services in Wales, and includes further background information about the relevant regulatory framework.

### **THE DELIVERY OF CHILD MINDING AND DAY CARE**

#### **Planning Policy Clarification**

Access to affordable childcare is a key Welsh Government priority. It enables parents to work, access training, and supports our drive to increase economic growth, tackle poverty and reduce inequalities. Local planning authorities and local authorities should work together to help support the development of childcare services for children and families.

Section 7.2 of Planning Policy Wales (PPW) relates to economic development, it states that development management decisions should take account of local development policies and locally specific evidence. This should include Childcare Sufficiency Assessments (CSAs) undertaken by local authorities.

Section 7.6 of PPW requires local planning authorities to adopt a positive and constructive approach to applications for economic development.

#### **Points for action:**

- Local authority CSAs play a key role in assisting local authorities in assessing and managing the sufficiency of childcare provision in their area. By its very nature childcare is cross cutting and for this reason interacts with a range of policy areas across local authorities, including planning departments. The CSAs should reflect this and colleagues in planning departments should ensure they are aware of the demands for childcare places within their areas and how these are, or are planned to be met.
- When formulating planning policy, considering planning applications, and providing pre-application advice, local planning authorities should have regard to all relevant factors in the local area and should take full account of local need for childcare places.

#### **Guidance for Local Planning Authorities**

##### **The Need for Planning Permission**

Planning permission may be required in relation to carrying out child minding or day care if:

- New premises are to be developed
- Existing premises are to be physically extended or altered
- Starting or intensifying childminding or day-care uses in existing premises constitutes a "material change of use"

## Change of Use

Planning permission is not normally required where the use of part of a home for business purposes does not change the overall character of the property's use as a dwelling.

Compliance with child minding standards is different from planning permission; the latter may still be required if, in the judgement of the local planning authority, a business use within a home (such as child minding), ceases to be merely incidental to the main residential use. In this case, the authority will have taken the view that a material change of use is likely to have taken place, and planning permission will need to be sought.

The established planning principle of ancillary (or incidental) uses recognises that new activities may be started in a building or within its curtilage without the need for planning permission, provided they remain ancillary to the main use. The possibility of there having been such a material change of use may be indicated where the business or non-residential use consistently generates visitors, traffic, noise or fumes over and above what would normally be expected if the property were in use as a home without any such ancillary use. Whether a use is ancillary, or constitutes a material change of use, is a judgement to be made by the local planning authority.

Those considering carrying out child minding work at home are advised to seek the advice of their local planning authority at an early stage.

Previous Welsh Government guidance encouraged the provision of planning advice for child minders operating from their home and we would like this informal arrangement to continue. Questions about whether planning permission is required fall outside the scope of the statutory pre-application advice service that local planning authorities will need to offer from March 2016.

Therefore the questionnaire at **Annex B** offers a way of providing basic information about intended child minding. Prospective child minders may find it helpful to use the letter at **Annex C** to inform the local planning authority of their intention to begin child minding at their home address, enclosing the questionnaire to provide basic information to help the local planning authority to respond. The advice provided should be clear, consistent and timely. Given the importance of childcare provision for most local planning authority areas, the Welsh Government encourages local planning authorities to respond to such enquiries without charge.

If someone wants to be certain that a planning application is not needed to do what they propose, they can apply for a certificate from the local planning authority. The Certificate of Lawfulness of a Proposed Use or Development (CLOPUD) process provides a measure of formality and certainty that informal enquiries cannot. A fee (currently £190) is payable to the local planning authority, and there is a right of appeal if a certificate is refused. The questionnaire at Annex C could be used in connection with an informal enquiry or to provide additional information in connection with an application for a CLOPUD.

When it is likely or already known that planning permission is required for a change of use, for example in respect of day care, the statutory pre-application advice service can be used (from March 2016). A form will be published by the Welsh

Ministers for this purpose and the questionnaire at Annex C should be used to supplement the information provided to the local planning authority. The fee for pre-application advice for a change of use up to 999 square metres of gross floor space will be £250.

In addition to advice from local planning authorities, those seeking planning permission may also obtain advice from Planning Aid Wales. Planning Aid Wales is a voluntary service, offering independent and professional advice on planning matters, to community groups and individuals. [www.planningaidwales.org](http://www.planningaidwales.org).

### **Local Planning Policy - the planning authority's statutory development plan**

Local planning authorities are required to make decisions in accordance with policies in their development plans, unless material considerations lead them to decide otherwise. Authorities are required to consult locally and consider representations made when preparing development plans. Authorities preparing Local Development Plans will be required to demonstrate that local people and organisations have been effectively involved in plan preparation from the outset.

Officers in local planning authorities can advise on development plan policies for their area, and can indicate how and when interested parties will be involved in plan preparation. This will provide an opportunity for those responsible for childcare development to make representations on policies that should form the basis for the local planning authority's subsequent decisions on planning applications which may be needed for childcare uses.

### **Planning Appeals**

It is possible to appeal against the local planning authority's refusal of planning permission, or its failure to decide a planning application within 8 weeks. An appeal must be made within six months of the decision, or, in the case of non-determination, at the end of the eight-week period from the registration date of the application. Planning appeals are dealt with by the Planning Inspectorate, an executive agency of the Welsh Government.

[www.gov.uk/government/organisations/planning-inspectorate](http://www.gov.uk/government/organisations/planning-inspectorate)

### **The Planning System and the number of children being cared for**

The National Minimum Standards for Regulated Child Care are changing. Until April 2016, child minders throughout Wales can care for a maximum of six children under the age of eight. However from April 2016, new childcare registration arrangements will allow child minders to care for a maximum of 10 children (including their own children and others they are responsible for) where they are under the age of 12. Some child minders may work together in the same premises, and this can increase the total number of children who may be looked after on those premises.

CSSIW decides the appropriate number of children capable of being minded at a particular location by taking into account a variety of facts and circumstances. This assessment includes a check of the premises, both indoors and out, and covers aspects of health, hygiene and safety (including arrangements for fire safety and prevention) as well as space available for children's activities. The number of children to be looked after is an integral part of the CSSIW registration and inspection

process. CSSIW Inspectors determine if premises are safe and suitable for the provision of care, taking into account the maximum number of children that a child minder will look after at any one time and the available space for each child.

If planning authorities consider, in the light of the advice set out above that planning permission should be required for an individual to use their home for child minding purposes, then unless there are specific planning reasons for doing so through conditions, they should not specify or restrict the number of children to be minded.

## **Guidance for Local Authorities**

The Childcare Act 2006 places a statutory duty on all local authorities to secure as far as is reasonably practicable sufficient childcare to meet the needs of parents/carers in their area, who require childcare in order to train, work or study.

To help local authorities assess the level of provision in their area and to fulfil their statutory duty, Childcare Sufficiency Assessments (CSAs) are carried out by them to assess the demand for and availability of childcare provision within their area. The CSAs identify any shortfall of provision in their area which enables local authorities to put in place arrangements to address gaps in provision and to plan for future demand. Given the high priority which the Welsh Government attaches to the provision of childcare, it is important that relevant parties, involved in childcare provision, work together to ensure there are sufficient child minding and day care facilities provided within their local authority area.

## Annex B

Draft template for letter from a prospective child minder seeking an informal opinion on the need for planning permission.

Dear [Chief Planning Officer of relevant LPA]

**I am considering becoming a registered child minder. My household members are [adults and/or children and ages]. My child minding business will be run from my home at this address.**

I intend to mind a maximum of [eg. 6 children] under the age of 12 years per day. I confirm that the following applies to my proposed business:

- My home will continue to be used as a private residence
- My business will not result in a marked rise in traffic or people calling
- My business will not involve any activities unusual in a residential area
- My business will not disturb my neighbours at unreasonable hours or create other forms of nuisance such as noise or smells

I can confirm that my home is still mainly a home while I carry on my business as a registered child minder.

My understanding from the Welsh Government leaflet: *Planning permission – a guide for business*,

(<http://gov.wales/topics/planning/policy/guidanceandleaflets/ppguidebusiness>) is that I do not require planning consent to undertake my child minding business as I have described it above. However, I would be grateful if you would provide your informal opinion on whether planning permission is required. I understand that your opinion will not be binding on the local planning authority. Also, should my business change in any way it is my duty to inform you.

**I have enclosed a completed questionnaire providing details about my business. If you need further information please contact me.**

Yours sincerely

Prospective child minder



## Annex C

### CHILD MINDING QUESTIONNAIRE FORM

**YOUR ANSWERS TO THESE QUESTIONS WILL GIVE THE LOCAL PLANNING AUTHORITY INFORMATION TO HELP IT TELL YOU WHETHER YOU NEED PLANNING PERMISSION TO CHILD MIND**

|            |  |  |
|------------|--|--|
| <b>1.</b>  | Name(s) of child minder(s) and full address of child minding premises. Please also give telephone number(s) and/or e- mail address   | Name(s)<br>Address<br>Tel No<br>E-mail |
| <b>2.</b>  | Name, address and telephone number of enquirer (if different)  | Name<br>Address<br>Tel No<br>E-mail    |
| <b>3.</b>  | Please confirm that the child minding place is a dwelling  |  |
| <b>4.</b>  | Intended maximum number of children who will be "minded"   |  |
| <b>5.</b>  | Age range of children to be "minded"   |  |
| <b>6.</b>  | In addition to the above children, will anyone else (e.g. an assistant child minder) work on or visit the premises in connection with child minding? If so, please give details. |  |
| <b>7.</b>  | What are the expected days and hours of child minding?   |  |
| <b>8.</b>  | Please list the number and types of room in the dwelling   |  |
| <b>9.</b>  | Will any particular room be set aside solely for child minding? If so, please give details.  |  |
| <b>10.</b> | Is the dwelling, or its curtilage, used for any other non-domestic purpose (For example, storage in  |  |

|     |   |  |
|-----|---|--|
|     | <p>connection with a business, keeping vehicles which are not used for domestic transport by people living at the house, office use, keeping a lot of pets, or any other activity which is in excess of normal domestic use of a dwelling by people who normally live there)? Please give details, even if you are doubtful about the relevance of any such activity.</p> |  |
| 11. | <p>If you answered “yes” to Question 6, please estimate how many cars would be parked at or near the dwelling</p>   |  |
| 12. | <p>Please estimate how many “vehicle trips” would be generated daily by the childminding operation (a parent dropping off and collecting a child would count as 2 “vehicle trips”)</p>  |  |
| 13. | <p>Where do you expect that vehicles calling briefly, or parking all day, would be parked? (you may wish to include a sketch to illustrate parking arrangements)</p>  |  |
| 14. | <p>Any other information you may wish to give (attach further notes if you wish)</p>  |  |

**Your Signature** ..... **Date** .....

NB. This is an informal procedure, which is intended to enable you to access professional advice about planning from local planning officers quickly, but the response to your enquiry will not be legally binding on the authority. In some cases, an informal response may not be possible.

You can get a formal response by making a formal application for a Certificate which states whether planning permission is needed, and planning officers can advise further about this.