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## CLAS CIRCULAR 2000/01 (14 January 2009)

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### Disclaimer

CLAS is not qualified to advise on the legal and technical problems of members and does not undertake to do so. Though every care is taken to provide a service of high quality, neither CLAS, the Secretary nor the Governors undertake any liability for any error or omission in the information supplied.

It would be very helpful if members could let us know of anything that appears to indicate developments of policy or practice on the part of Government or other matters of general concern that should be pursued.

## Childcare, out-of-school clubs and registration

'Childcare' is defined in law as any form of care for a child including education or any other supervised activity. Under the provisions of the Childcare Act 2006, most childcare providers caring for children aged under eight must register with Ofsted unless the law says that they are not required to do so.

There are a series of exemptions which may cover the activities of church-run holiday and after-school clubs for children (from which, for convenience and clarity, the exemptions relating to relatives, foster-carers, au pairs, babysitters and suchlike are omitted). *The following do not have to register with Ofsted:*

1. Those who care for children who are aged eight years and over.
2. Those who provide care where any individual child does not stay with the provider for more than two hours each day even if the childcare service is open for longer than two hours.
9. Those who provide no more than two types of activities from the following list:
  - school study support or homework support
  - sport
  - performing arts
  - arts and crafts
  - religious, cultural or language study.

This exemption only applies if the provider cares for children who are aged three and over and children aged under five do not attend for more than four hours in any one day. Any care provided is incidental to the activity (it is not the main focus of the provision).

12. Those who care for children aged under eight for four hours or less each day, where the care is for the convenience of parents who intend to remain on the premises where the provision is or within its immediate locality. This type of provision has no long-term commitment to provide care for children: for example, a shoppers' crèche, a crèche attached to a sports centre or adult learning centre (*or, presumably, a crèche provided during a church service*).
13. Open access schemes for children. An open access scheme allows children not in the early-years age-group to leave the provision unaccompanied. (The early-years age-group is from birth to 31 August following a child's fifth birthday). Child-minders who care for children in the later-years age group are not allowed to provide an open access provision.

14. Those who care for children aged under eight from particular premises for 14 days or less in any year *and who 'notify Ofsted in writing at least 14 days before starting the provision'.*

The crucial exemption for Holiday Clubs – and the one over which there is evidently a degree of confusion – is **No. 14**. In order to be exempt, you must

- **both** "care for children aged under eight from particular premises for 14 days or less in any year"
- **and** "notify [Ofsted] in writing at least 14 days before starting the provision":

– the point being that it is **only** by notifying Ofsted that you trigger the exemption. ***If you fail to notify Ofsted, you lose the exemption.***

**Link to documentation and exemption registration form:**

<http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Exemption-notification-form>

[Source: *Ofsted website*]