



REGULATION 44A

SPARE CAPACITY FOR CHILDREN UNDER 2 CAN IN CERTAIN CASES BE SET OFF AGAINST NUMBER OF CHILDREN 2 OR OVER IN DETERMINATION OF ADULT-CHILD RATIOS

What does Regulation 44A mean?

Regulation 44A allows services to take spare capacity in the under 2 age group into account in determining the staff required for children aged 2 and over.

The intention of this regulation is to allow flexibility for services in managing children during their transition into over two year old licensed spaces. Services should not use this regulation when they have existing capacity for movement between these two age groups. This regulation is not intended to manage existing staff ratio requirements at the beginning or end of the day.

Centres **can not** operate with more than the maximum number of children as stated on the Certificate of Licence issued to the centre.

Will Regulation 44A affect my centre?

Regulation 44A affects centres with mixed age groups where the number of children aged two and over is such that the attendance of an additional child (or children) aged two or over would mean an additional teacher would be required to meet minimum ratio staffing levels.

- If a centre has spare capacity in the under 2 age group, the additional child (or children) can be counted in the under 2 ratio.
- If there is no spare capacity in the under 2 age group an additional teacher would be required.

The most likely application of regulation 44A is in the situation where a service would have required another teacher because a child turned 2 even though the total number of children remained the same. Regulation 44A allows the newly turned 2 year old child to be counted in the under 2 ratio count until the 'space' in the over 2 ratio count becomes available.

What if my service operates with only under 2 children?

It is expected that services continue to work closely with their local Ministry of Education office to manage situations where children turn 2 years old and do not immediately transition to a service that cater for children over 2 years old.

It is not expected that a licence amendment will need to be completed to manage a short transition period. However, an under 2 service that wishes to enrol children over the age of 2 should contact their local Ministry of Education office to obtain an EC8 Licence Amendment application form.

Does Regulation 44A affect funding?

Any spare capacity in the under 2 age group filled by an over 2 year old will be funded at the over 2 year old funding rate.





Scenario 1: An all-day centre is licensed for 30 mixed aged children, including up to 10 children under 2. This service is operating with 20 children in the over 2 age group.



To meet ratio requirements four staff members are required – two for the under 2's and two for the over 2's.

One of the children has a birthday and turns 2 years old bringing the total to 21 over 2 year olds. According to ratio regulations this would mean another adult would be required.



With the new regulation the newly turned 2 year old can remain counted as an under 2 for ratio purposes. This means the centre does not require another adult.

Age band	Under 2's	2 and Over	Total Actual		Under 2's	2 and Over	TOTAL
Without applying regulation 44a				 One additional child (e.g. a birthday or new enrolment) 	Without applying regulation 44A		
Children	10	20	30		9	21	30
Adults	2	2	4		2	3	5
Applying regulation 44A					Applying regulation 44A		
Children	10	20	30		10 (9+1 Over 2)	20	30
Adults	2	2	4		2	2	4

Scenario 2: An all-day centre is licensed for 10 children maximum including up to 4 children under 2. This service is operating with six children in the over 2 age group.

Age band	Under 2's	2 and Over	Total Actual		Under 2's	2 and Over	TOTAL
Without applying regulation 44a				 One additional child (e.g. a birthday or new enrolment) 	Without applying regulation 44A		
Children	4	6	10		3	7	10
Adults	1	1	2		1	2	3
Applying regulation 44A					Applying regulation 44A		
Children	4	6	10		4 (3+1 Over 2)	6	10
Adults	1	1	2		1	1	2

Scenario 3: An all-day centre is licensed for 22 children maximum including up to 5 children under 2. In this scenario regulation 44A has no impact on as the centre has spaces available for additional children aged two and over.

Age band	Under 2's	2 and Over	Total Actual		Under 2's	2 and Over	TOTAL
Without applying regulation 44a				 One additional child (e.g. a birthday or new enrolment) 	Without applying regulation 44A		
Children	5	17	22		4	18	22
Adults	1	2	3		1	2	3
Applying regulation 44A					Applying regulation 44A		
Children	5	17	22		4	18	22
Adults	1	2	3		1	2	3