

First-tier Tribunal Care Standards

The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care) Rules 2008

NCN: [2022] UKFTT 392 (HESC)
Appeal No. [2022] 4552.EY

Hearing Held Magistrates' Court
At Peterborough
On 18 and 19 October 2022

Before

Tribunal Judge Scott Trueman
Specialist Member Mike Cann
Specialist Member Roger Graham

BETWEEN:

Mrs Amanda Bond

Appellant

-v-

**The Office for Standards in Education,
Children's Services and Skills (OFSTED)**

Respondent

DECISION

The Appeal

1. This appeal is brought by Mrs Amanda Bond ("the Appellant" or "Mrs Bond") against the decision of Ofsted ("the Respondent") by notice dated 31 March 2022 to cancel her registration as a child minder on the Early Years Register and the compulsory part of the General Childcare Register in accordance with section 68 Childcare Act 2006.

Attendance

2. At the hearing, Mrs Bond attended. She was supported by her daughter, Ms Emilie Bond. The Appellant did not call any witnesses. The Respondent was represented by Miss Wendy Gutteridge, solicitor with Ofsted Legal Services. The Respondent's witnesses were Ms Anne Hornsby, Early Childhood Specialist with Peterborough City Council (read); Ms Emma Bright, Early Years Regulatory Inspector, Ofsted; Ms Lesley Barrett an Early Years Senior His

Majesty's Inspector, and Ms Anna Davies, Early Years Regulatory Inspector.

Restricted reporting order

3. The Tribunal makes a restricted reporting Order under rule 14(1) (a) and (b) of the Tribunal Procedure (First-Tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008 (as amended) ("the Tribunal Rules") prohibiting the disclosure or publication of any document or matter in this appeal likely to lead members of the public to identify any child or their parents in this case so as to protect their private lives.

Preliminary Issues

Reasonable adjustments for the Appellant

4. We were aware prior to the hearing that the Appellant had some medical needs and we agreed reasonable adjustments for these at the outset of the hearing, in the form of taking regular breaks during the course of the hearing. We took a number of breaks on day 1 and 2. We also allowed the Appellant's daughter to pose questions to the Respondent's witnesses to assist the Appellant, though in the event the Appellant preferred to do much of the questioning herself.
5. Pursuant to the order of Judge Khan made on 17 October 2022 we also started the hearing on day 1 at 2pm. As the Appellant said that she had to accompany her husband to a medical appointment himself on the afternoon of day 2, we also agreed with the Appellant that we would seek to finish the hearing of evidence and submissions by lunchtime on day 2 if we were able to do so. In the event, we were able to complete all parts of the hearing in the time available.

Evidence

6. In view of the fact that at least one of the inspections relied on by the Respondent in this appeal occurred on 12 July 2021 before the implementation date of the current statutory framework for the Early Years Foundation Stage (EYFS¹), we asked the Respondent to provide a copy of the previous framework too. We also had a document from the Respondent which set out in summary form the changes made by the 2021 revisions. We admitted both of these into evidence.

The bundle

7. We made some observations to Miss Gutteridge at the outset of the hearing about the Tribunal's bundle. The statement of Ms Hornsby contained reference to a large number of additional documents which were not put before us; Miss Gutteridge said that was because no particular reliance was placed on the documents themselves, only the fact of the contact and any substance in the witness statement. She said that including documents would have made the bundle very substantial. We accepted that explanation and, in the event, it did not prove necessary to refer to any of them. But it would have been helpful to know this in advance or for the statement not to give the impression that it had attachments or that we were intended to read them. We also note here that although a number of documents were said to be 'exhibited' to the statements

¹ "Statutory framework for the early years foundation stage; setting the standard for learning, development and care for children from birth to five"; Department for Education. The current framework is effective from 1 September 2021.

of the various witnesses, in fact the exhibits had not been marked up correctly or identified on their face specifically. Neither had any front sheet identifying what followed for any document or group of documents as specific exhibits been prepared for each exhibit. We also noted that the Respondent's bundle provided no copies of relevant law either in the form of extracts from the Act or copies of relevant regulations. The electronic copy of Ms Davies' second statement also contained the unredacted names of children in the exhibit.

8. We note that we expected rather higher standards of preparation from the Respondent than was evident in the paperwork before us.

Background

9. The Appellant has been a registered childminder on the Early Years Register and the compulsory part of the General Childcare Register since 30 November 2016 and provides childminding services from her home address in Peterborough. The Appellant has been subject to 5 full inspections since she was first registered and a number of additional monitoring visits. In her closing remarks, the Appellant said that she had wanted to provide for vulnerable children and those with SEN. She said that at times through 2018 and 2019 she had up to 21 families placing their children with her, with up to 40 children using her service.
10. It is not necessary to say much about the earliest inspections and visits save to note that the Appellant's childminding was rated as 'requires improvement' in November 2018 and in October 2019. On each occasion a number actions under both the Learning and Development requirements and the Safeguarding and Welfare requirements were identified. In 2018, two actions were raised following the inspection: a requirement that a progress check at age 2 was completed and shared with parents; and that the Appellant was required to improve her knowledge of what may disqualify someone from working with children and how to assess an assistant's suitability. Both were later resolved and no reliance is now placed on them specifically.
11. In October 2019 the Respondent again rated the Appellant as 'requires improvement' and raised 4 actions for response. Under Learning and Development, the inspector said that the Appellant needed to provide a more stimulating learning environment and also improve the educational programme for children's communication and language development. Under Safeguarding and Welfare, the Appellant was required to ensure that strategies for managing children's behaviour were age appropriate and to ensure that there was a two-way flow of information between providers when children were in more than one setting. The second rating of 'requires improvement' was given for breaches of the EYFS related to the above.
12. During the course of 2018 and 2019 the Appellant received advice, support and training from Ms Annie Hornsby, the Early Childhood Specialist with the Local Authority, Peterborough City Council ('the LA'). There was also a range of other contact between the Appellant and Ms Hornsby.

13. On 12 July 2021, Ms Emma Bright undertook a full inspection of the Appellant's childminding and rated it as 'inadequate'. It was said that the Appellant did not demonstrate adequate knowledge of how children learn or how to ensure that children benefit from meaningful learning across the EYFS curriculum and that she had failed to sustain improvement. Four actions were raised. Under Learning and Development, the Appellant was required to improve the quality of her teaching and to provide a range of interesting and stimulating activities to meet individual children's learning needs, and also to obtain an accurate understanding of each child's level of achievement, interest and learning styles and use this to plan additional learning. Under the Safeguarding and Welfare requirements, the Appellant was required to undertake additional appropriate professional development to increase her knowledge and understanding of how to provide children with a high-quality curriculum and to develop partnerships with parents so as to share what children know and help guide learning in the home.
14. On 6 January 2022 the Appellant was subject to another full inspection by Ms Bright and was rated inadequate with enforcement. This was again said to be due to continued breaches of the EYFS and the alleged failure to address issues from the previous inspection. The inspector, noting the support given by the LA, said that the Appellant did not demonstrate that she had the capacity to improve even with support. Again, a number of actions were raised under the Learning and Development Requirements and under the Safeguarding and Welfare Requirements. In particular, the Appellant was required to provide a range of interesting and stimulating activities that met children's individual learning needs; to ensure that children had rich opportunities to develop communication and language skills; and to obtain an accurate understanding of each child's level of achievement and to use this to plan additional learning experiences. The Welfare Requirements Notices (WRN) issued obliged the Appellant to undertake a range of professional development to improve knowledge and understanding of how to provide a well-designed curriculum, and to obtain and demonstrate appropriate skills and knowledge. Parents were to be informed of progress by their children to enable support at home.
15. A case review discussion occurred between Ms Bright and Ms Barrett thereafter on 11 January 2022 at which time the decision was made to begin the process to cancel the Appellant's registration. The Appellant was told this on 13 January 2022. Ms Bright undertook a monitoring visit to the Appellant on 26 January 2022.
16. A Notice of Intention to cancel the Appellant's registration was sent on 22 February 2022. The Appellant responded on 7 March 2022 objecting to the Notice of Intention. On 31 March 2022 the Appellant was notified both that her objections had been rejected and also that the Respondent had decided to cancel her registration. The reasons given in that letter for cancelling registration, in summary, were that the Appellant had consistently failed to meet the requirements of the statutory framework for the Early Years Register and the registration requirements for the compulsory part of the General Childcare Register. It was said that there had been significant failures in relation to providing children with appropriate learning and development and in particular,

the Appellant was said to have failed to provide a stimulating learning environment; failed to undertake appropriate professional development around the provision of a good-quality curriculum; failed to demonstrate improved teaching skills or knowledge of how children learn; failed to assess children's achievements and failed to promote children's communication and language development.

17. It is against this decision that the Appellant now appeals to this Tribunal.
18. After the appeal was issued, Ms Anna Davies undertook a further full inspection of the Appellant's setting on 8 June 2022. Ms Davies also rated the Appellant 'inadequate with enforcement'. This was said to be due to breaches of the EYFS and the failure to sustain improvement in the early years provision. It was noted that some of the actions raised were similar to those raised in January 2022. Two WRNs were re-issued concerning the need for the Appellant to undergo appropriate professional development to improve her knowledge and understanding of a good-quality curriculum and to obtain and demonstrate appropriate skills and knowledge on how to deliver good quality learning. A Learning and Development requirement was re-issued, to ensure children have rich opportunities to develop communication and language skills and 1 new action was issues requiring the Appellant to enable babies to explore, investigate and experience things freely and to have meaningful and positive interactions in learning.
19. On 8 August 2022 Ms Davies returned to the Appellant's setting to undertake a monitoring visit but on this occasion, she did not observe any children in the setting as the Appellant had said that she was not childminding in the week at present and only undertook work *ad hoc* and at weekends.

The agreed issues in the appeal

20. The Scott Schedule prepared by the parties in this appeal identified 3 key issues for the Tribunal to resolve:
 - a. Whether the Appellant has failed to sufficiently implement and/or maintain the Learning and Development requirements for children [in the Early Years Foundation Stage] including (but not limited to) children with English as an additional language (EAL); and children with special educational needs and/or disabilities (SEND) who attend the provision;
 - b. Whether the Appellant has failed to ensure that each child's learning is tailored to meet the child's individual needs, including (but not limited to) children with EAL and SEND who attend the provision; and
 - c. Whether the Appellant has failed to engage minded children's parents to guide and support children's development at home.
21. In a discussion with the parties about the issues arising, the Respondent accepted that each of these issues went to the same factual judgment question of whether the Appellant had complied with the requirements of the EYFS.

22. They also provided the evidence for the two legal questions of whether the Appellant: i) continued to meet the prescribed requirements for registration ('the suitability requirements'); and ii) whether the Appellant had failed to comply with a requirement imposed by regulations under the Chapter of the Act under which she was registered. The Respondent also accepted in closing that the factual evidence relied on in relation to both was exactly the same and that consequently the question of whether the Appellant continued to meet the registration requirements and whether she had failed to comply with the requirements of relevant regulations stood or fell together.

Legal Framework

23. Childminders are regulated by Part 3 of the Childcare Act 2006 which provides for registration and regulation by the Respondent in one or both of two Registers. Section 68 of that Act provides:

68 Cancellation of registration in a childcare register: early years and later years providers

...

(2) The Chief Inspector may cancel the registration of a person registered under Chapter 2, 3 or 4 [of the Act] in the early years register or the general childcare register if it appears to him—

(a) that the prescribed requirements for registration which apply in relation to the person's registration under that Chapter have ceased, or will cease, to be satisfied,

(b) that the person has failed to comply with a condition imposed on his registration under that Chapter,

(c) that he has failed to comply with a requirement imposed on him by regulations under that Chapter,

(d) in the case of a person registered under Chapter 2 in the early years register, that he has failed to comply with section 40(2)(a) [of the Act]....

24. An appeal lies to this Tribunal under section 74 Childcare Act 2006 against cancellation of registration by the Chief Inspector. In any appeal, the Tribunal must either confirm the cancellation or direct that it shall not have effect. If the cancellation is not confirmed the Tribunal may also impose, remove or vary conditions of registration. The Respondent must demonstrate that the cancellation is proportionate and necessary. The burden of proof in relation to cancellation lies on the Respondent.

25. Under the Childcare (Early Years Register) Regulations 2008² it is a prescribed requirement for registration (and continued registration) that the childminder is suitable to provide early years childminding; that the childminder will secure that the early years childminding meets the EYFS learning and development requirements; and that the childminder will comply with the EYFS welfare

² SI 2008 No. 974 as amended.

requirements³.

26. Under the Childcare (General Childcare Register) Regulations 2008⁴, it is a prescribed requirement for registration (and continued registration) that the childminder is suitable to provide later years childminding⁵.

Evidence

Written evidence

27. As part of Ofsted's evidence, we had witness statements from two inspectors who had undertaken one or more full inspections of the Appellant's setting and a statement from the senior decision maker, Ms Lesley Barrett. Ms Emma Bright's statement set out the conduct of the two full inspections on 12 July 2021 and 6 January 2022, the monitoring visit on 26 January and the findings she made. The statement exhibited her notes of the inspections and visits and copies of relevant Welfare Requirement Notices (WRNs).
28. The statement of Ms Davies dealt with her conduct of the full inspection on 8 June 2022, after the cancellation decision had been taken. This statement also exhibited her notes of the inspection and relevant WRNs. Her second statement admitted as late evidence by Order dated 3 October 2022 (which recorded that there was no objection from the Appellant to it) recorded the monitoring visit undertaken by her to the Appellant's setting on 8 August 2022 and again exhibited relevant notes.
29. The statement of Ms Barrett dealt with the decision-making process undertaken by the Respondent in reaching the decision to issue both a notice of intention and a final notice of decision to cancel to the Appellant's registration.
30. We had oral evidence from all 3 inspectors. We also had a written statement from Ms Annie Hornsby, the Early Childhood Specialist in the LA who detailed in her statement some of the interactions she and the LA more widely had had with the Appellant over the period April 2017- June 2022 and the support that had been provided. As we noted above, although this was a long statement and there were a large number of interactions, these were recorded in brief summary form only and the underlying documentation on which they were based was not exhibited. We therefore only had limited evidence of the substance and quality of the interactions. Whilst we do not necessarily criticise the decision not to include a voluminous range of additional material that might only have confused the case, we consider that it might have been helpful for Ms Hornsby's statement to have set out in more narrative form than it did fewer of the actual interactions but more substance as to the type, level and nature of support said to have been supplied to the Appellant by the LA, and the impact of it on her practice. In the absence of some of the action plans, for example, it is hard to see to what extent at the time the Appellant accepted the veracity of some of the earlier criticisms made of her or the nature of what she proposed to change to put it right. It would have been helpful for example to have seen

³ Schedule 1, paragraphs 1, 4 and 5 respectively.

⁴ SI 2008 No. 975 as amended.

⁵ Schedule 1, paragraph 1.

the actions plan prepared by the Appellant after the July 2021 inspection (referred to on H87- H88).

31. We also had two witness statements with exhibits from the Appellant herself setting out her own view of the various inspections and her performance in them, as well as some of the more personal and health issues she was experiencing at the relevant times as well as issued with her husband's own health. As this decision will be made public, it is not necessary to set these out in greater detail. She noted that the Respondent had commissioned some OT healthcare checks on her, and these had concluded that she was fit to look after children. However, she did indicate that she considered that the Respondent had discriminated against her in its judgments because of her illness and disability. In particular, she said that Ms Bright had told her that if she was disabled and claimed PIP benefit, she would not be allowed to work with children.
32. The Appellant's first statement also set out what she did in response to the various inspections. She set out the ways in which she considered that she did meet the prescribed requirements of the EYFS. She included evidence of the various training she had undertaken in the relevant period, parental feedback as well as detailed documents relating to some 2- year old checks. The Appellant's second witness statement set out her response to the Respondent's evidence, and also exhibited several letters from satisfied parents who confirmed their view of the very satisfactory care that their children received when with the Appellant. We also had a range of photographs of the Appellant's setting and the resources she has in it.

Oral evidence

33. In her oral evidence, Ms Bright said that she had suggested to the Appellant prior to the July 2021 inspection that they conduct a 'joint observation', a common inspection process whereby a provider in a setting might ask one of the staff to undertake an activity with children which the inspector and the provider then both observe, as evidence of learning and development skills in the setting; where, as here, the provider was a sole provider, the provider themselves would often do it. Ms Bright said that although this suggestion had been put to the Appellant, it had not occurred. She did not accept the point made by the Appellant that she had understood this to be the use of the 'story sacks' nor did she accept that she had been told the child with whom the observation was to be conducted was too tired. She said that in those circumstances they would normally look for a provider to offer something different, spontaneously. The provider had not told her this was her intended 'joint observation' and she said that she had hoped for more in-depth explanation of the sacks that never came. She accepted that she had not recorded in her notes of the inspection that no observation had taken place.
34. Ms Bright did not accept that the timing of the inspections or re-inspections was triggered by Covid or the Appellant's health but said that this was determined by the requirements of the Early Year Inspection Handbook (EYIH) which provided for inspections for settings which had received 'requires improvement' to be re-inspected within 12 months and settings which had received

'inadequate' ratings to be reinspected within 6 months. The EYIH was a public document.

35. Ms Bright said that at the July 2021 inspection, in terms of planning activities to support learning needs and explaining her professional development opportunities, the Appellant had not been able to explain, even with reframed and simpler questions, what it was that she did or had done, and the inspector had not observed any of these things in action in the setting either. She said that the Appellant was nervous, but they were used to this with providers and she was able to talk to a limited extent about some of her activities but wasn't able to expand on these in response to more questions and didn't seem to understand the learning and development requirements.
36. She noted that during the July inspection there had been a 4 year old and a baby present and she had noted the lack of interaction between the Appellant and both children which would help develop their communication skills: she said she would expect Mrs Bond to ask questions and to listen to the answers, and engage in back and forth conversation; but she noted that she had seen the 4 year old in the garden tell Mrs Bond that she was drawing a particular picture, but this had led to no further discussion or interaction.
37. She said that the same issue of limited or no interaction with the children had occurred at the January 2022 inspection: although Mrs Bond was caring for a 7 month-old baby, she had the baby on her lap facing away from her rather than in a position where it could see her face and mouth and how she formed words, or make eye contact with her. She said these things were particularly important where- as here- the baby's first language was not English. She said that the same issues arose when the baby was being fed at lunch time and when on the floor for a nappy change: there had been very little engagement or back and forth, and no attempt to encourage the child into independence. Ms Bright said she did not see any progress between the July 2021 and the January 2022 inspections with respect to these issues. She said that in her view Mrs Bond in January 2022 appeared distracted by her phone and she didn't accept that this had only been for a brief period of time to look at a text message. She said that she had observed the Appellant looking at her phone for an extended period whilst looking after the needs of the baby. Mrs Bond said this was a message from her husband who was then in hospital which she did not pick up. Ms Bright confirmed that she did not ask the Appellant what the message was or from whom it came. She also denied that the child had been asleep throughout the whole visit as Mrs Bond alleged.
38. Ms Bright accepted that the Appellant appeared to have undertaken professional development training at the relevant times: but she said that it appeared that she was not utilising this training in her practice. She said that her stated conclusion that the Appellant's knowledge of teaching was poor was reached from her observation and questioning both during the 'learning walk' and in subsequent questions and answers. She said that she had spoken to the Appellant and to her daughter and had asked questions but found it hard to get her to explain what she knew. She said that Mrs Bond's inability to explain the purpose of the 'story sacks' was an early indication of a lack of ability to

explain her practice and how she implements a curriculum. She accepted that some providers didn't always understand the questions put to them, especially if abstract and technical, and she said that they didn't expect everyone to use particular language, as long as they demonstrated the right approach orally or in practice. She said the concern with the Appellant was that her approach was not evident from what she did, and she was unable to explain it either. She said that in her view the history of inspection, with two previous requires improvement ratings and the outcome of the July 2021 inspection which she was at that point conducting persuaded her that the Appellant lacked an ability to improve. She said that as Mrs Bond had had two previous 'requires improvement' ratings and had not improved since then, the EYIH required the next inspection to conclude that the provider was inadequate.

39. Mr Bright said she did not recall any conversation with the Appellant about PIP but said a conversation about health and suitability was standard as was the need to inform the Respondent about health changes between inspections. She said that there was nothing to prevent a childminder from claiming PIP as long as they were able to do the role and the child minder's health hadn't declined to such an extent that they couldn't perform.
40. Ms Barrett confirmed that she made the decision to cancel Mrs Bond's registration following the various inspections. She noted that this was based on the evidence available about the failure to comply with the various requirements. She said that although the Appellant had been informed of this by phone on 13 January 2022, prior to the date for compliance with the January 2022 WRNs, this decision would have been revisited had there been compliance from the Appellant by that date. The notice of intention was not sent until 21 February 2022. She said that it was particularly important that children with Special Educational Needs (SEN) or English as an Additional Language (EAL) had good quality early years care as they were amongst the most vulnerable and had particular need for good-quality language and communication learning. She said that the inspections had not been triggered by any malicious complaints but only by the requirement to reinspect within a particular period following requires improvement or inadequate judgments.
41. Ms Barrett denied that the Appellant's health formed any part of the decision-making process. She noted that the Respondent had used an independent health management company to assess Mrs Bond at times and the assessments had concluded that there were no health issues of concern. As a result, she said the Respondent had no evidence to suggest that the Appellant's health impacted her childminding and it had not been taken into account.
42. Ms Barrett said that the key determinants in this case came from the evidence of the inspectors: Mrs Bond had been unable to demonstrate that she could make progress or how she could meet the learning and development requirements. She noted that there had been earlier concerns about safeguarding and welfare issues but those had been satisfactorily resolved. She said that although Mrs Bond believed she had taken some steps to improve, no progress had been observed by the inspectors through discussion or observation. She accepted that some providers did find it difficult to explain

their approach or process but that in those cases one could often see how they approached it from what they were doing.

43. Ms Barrett accepted that Mrs Bond had given some responses about how she approached her childminding in response to questions from the inspectors and that over time this had developed- for example she explained why she got down on the floor to put herself at a child's own sight- line. But she said that the Appellant wasn't able to develop these answers or respond further. She did not accept this was progress because it was not seen in action. She accepted that there had been other options open to Ofsted other than cancellation of the Appellant's registration but said that they had raised actions previously and the evidence did not demonstrate that earlier actions had led to progress being made.
44. Ms Barrett said that the decision to ask Ms Davies to inspect in June 2022 had been deliberate, given that Mrs Bond had raised concerns about Ms Bright by then, and also that it would be helpful to have a 'fresh pair of eyes' undertake the inspection and ensure that the Appellant not feel that it was just the same person. She said this was a common approach taken to demonstrate fairness.
45. She said that the complaint made by Mrs Bond had been treated as a complaint about the accuracy of the inspection and had been responded to within the comment process by Ms Bright herself. No additional response had been sent to the complaint and Ms Barrett noted that details of Ofsted's complaints procedure and how to take it to step 2 had been included in the materials sent to the Appellant after the inspection but that she had not progressed the complaint further.
46. Ms Barrett accepted in response to Mrs Bond that the basis for some of the various judgments of requires improvement, and inadequate were different- they were not always given for completely the same reasons. But she confirmed that it was the overall judgement that Ofsted looked to, and it did not matter for these purposes if the bases were not the same.
47. In relation to the monitoring visit on 8 August when there were no children present, Ms Barrett said that the visit was driven by the need to undertake the visit within a certain time frame, and the fact that Mrs Bond did not appear to take children in the week any more only at weekends. She said that she had agreed to the visit going ahead even without the presence of children, because it would be possible to reinspect within 6 months. She accepted that she had not proposed going back to finish the monitoring visit at a time when children might be present. She also accepted that the Respondent had needed to see Mrs Bond with children present and accepted that they could not fully conclude at the monitoring meeting whether she had met the requirements if they did not see her with children present. She did not accept that the visit was one designed for a setting where there were 'no children on roll' where the judgment made was different.
48. Ms Davies' said that she had undertaken a full inspection and concluded that the outcome was inadequate with enforcement and referred to her report and

notes for the reasons for this. She noted that interaction between the Appellant and the child, E, a 9 -month -old baby who had joined the setting in February 2022 was lacking. She said that language developments and communication were fundamental skills underpinning all other areas of learning and that warm, positive interactions were particularly important for babies both for this and for their emotional development. She said that she had observed a number of poor interactions and had discussed this with the Appellant particularly about silence at meal- time and during nappy change and that she had also discussed with her the sort of things you might talk to a baby about and the need for communication and warm interaction. But she said that the Appellant's approach had not changed as a result even during that day.

49. Ms Davies said that from the discussion the Appellant did appear to have some fundamental understanding- for example that babies learn single words first before joining them together- but did not put this into practice. Ms Davies referred to the baby being in the ball pool playing with the balls but that the Appellant did not initiate significant interaction other than putting the balls onto the baby's head. She said that she would have expected more verbal interaction and some narration in simple terms of what was occurring. She noted that mealtimes were a key time for interaction too that was missed.
50. She noted that her view had been that some of the interactions that did occur were 'meaningless' - because they were not followed up or were not of interest to the child. Essentially, she said they had no educational value. She noted further examples of the baby reacting to the word 'squeak' but this not being followed up with further sounds for the baby; reading a book to the baby but not letting it simply play with the book itself; and in not allowing E to play freely with a musical cube toy until suggested by Ms Davies that it and the baby move to the floor. She said the activities were provider- led and not child- led as she would have expected.
51. Ms Davies said that she had proceeded to issue 2 WRNs and 2 actions following the inspection: 3 were reissues from the previous inspection and one was new, relating to allowing babies to explore, investigate and experience freely. She said that in June the previous issues around hygiene had been resolved but she remained concerned that some of the actions she raised were a direct repeat of the ones set in January 2022. She accepted that there were no concerns about physical care or safeguarding of children in June 2022.
52. In relation to the August monitoring visit, Ms Davies accepted that she knew no children would be present but said that it was necessary to undertake the visit because it was overdue on their timescales. She said her '*primary aim was fairness to children*'. She said that she understood that Mrs Bond was not caring for children on weekdays but said that it was unclear (and Mrs Bond had not confirmed at the time) whether any child would be present on the following Saturday either, and it had been decided to proceed on that basis. She said that she considered that Ofsted were still able to make a fair judgment but couldn't reach a conclusion that the actions had been met. She said that it was fair to indicate that a further inspection could be conducted further down the line to check on the impact on children. She accepted that she hadn't asked whether

there was another time when the children or a child would be present.

53. She noted that the Appellant's answers to the questions she put were 'basic', though she eventually accepted that they were - just about - sufficient. She said that she had hoped for broader and more in-depth knowledge from Mrs Bond than she found. But she said that they were looking mostly for implementation of the learning and for its impact on children and this was something that couldn't be seen at that visit.
54. She said that the answer given about why it was appropriate to go down to a child's level was inaccurate- and did not reflect the factors which had just been discussed- the need for eye contact, mouth and face visibility etc. She said that Mrs Bond had shown in August that she had some understanding of the actions that had been set but that her answers had focused on resources rather than on how to facilitate learning through the use of the resources. She denied attending with any pre-conceived ideas on the provider or the setting.
55. She said that Mrs Bond was able to explain about the activities she had and learning through play, but that the issue remained the need to see this in practice. She said that the health of Mr and Mrs Bond had not been a factor in her decision. She said that she had asked Mr Bond some questions about his health as a social nicety but otherwise had only checked that medication in the house was out of reach of the children. She did not accept that she had told Mrs Bond that the actions had been completed at the August 2022 visit. She said that the 2nd statement and the evidence from the monitoring visit had been sent to the Appellant as soon as possible as part of the appeal process.
56. The Appellant elected not to give oral evidence but relied on the content of her two witness statements and attachments.

The Tribunal's conclusions with reasons

57. The principal ground relied on by the Respondent to this appeal is a range of alleged failures to comply with the requirements of the EYFS. In considering the appeal therefore, it is necessary to start with a consideration of the requirements of that EYFS and what it says about the standards and practices required of childminders. As we noted during the hearing, the EYFS has changed during the period relied on in this appeal and a new version was implemented in September 2021. As at least 1 of the inspections relied on pre-dates that, however, it is also necessary for us to consider the provisions and requirements of the 2017 version of the EYFS that were in force at the time of the July 2021 inspection.

58. The Scott schedule relies on failures to meet various paragraphs of the 2021 EYFS. Having reviewed both versions of the EYFS available to us it is evident that there is no *substantive* change to the various relevant requirement. The relevant parts of what is now contained in paragraphs 1.1- 1.16 were also to be found in paragraphs 1.1- 1.7 of the 2017 version. And likewise, the requirements of paragraphs 2.1- 2.3 of the 2021 version are also, substantively, replications of the rubric of paragraphs 2.1 and 2.2 in the earlier version. Paragraph 3.27 is identical in both versions.
59. In the 2021 version of the EYFS the wording of the educational programmes is longer, deeper and includes extensive examples. The prime and specific areas which make up the 7 areas of learning themselves remain the same.
60. We consider the issues in the Scott schedule separately, but our conclusion is based on whether the facts show that the statutory requirements for cancellation are made out.

Whether the Appellant has failed to sufficiently implement and/or maintain the Learning and Development requirements for children (including children who have EAL or who have SEN)

61. The key parts of the EYFS which form the Learning and Development requirements are set out in sections 1 and 2 of the EYFS. In the July 2021 inspection a key theme arising was substantive interaction with the children present. Ms Bright identified that whilst many different activities were laid on, Mrs Bond and her assistant did not interact sufficiently with the two children present to offer challenge or to develop their communication skills.
62. In our view this was supported by the evidence of the inspection notes and by the oral evidence we had: Ms Bright asked a range of questions about the intent behind some of what she saw in the garden including a trampoline, sand tray, toys chalk, blackboard and paints but said that Mrs Bond gave poor answers and did not seem to understand the questions. Nor could she answer questions about why those activities had been chosen on that day. Her response as recorded was that she put out resources that the children liked.
63. Mrs Bond was unable to say in any detail what specific things each of the children in her care then present needed to learn and in what order- even though there were only 2 children physically there. Ms Bright noted that Mrs Bond had purchased more resources and had laid these out- reflecting for example that the 4 year old liked to draw.
64. In terms of communication a number of examples were given of the Appellant failing to engage in a 'back and forth' conversation with the children or undertaking tasks designed to guide the development of their capabilities or providing a language-rich environment. Nor did the evidence we had show that Mrs Bond was focusing strongly on the three prime areas and on communication in particular. There was limited evidence of the EAL children being encouraged to explore their home languages (and indeed Mrs Bond at the inspection seemed unsure what they were). The inspection did note some

discussion with the children, but, like the discussion with child I in relation to what she drew on the blackboard, it was cursory.

65. The joint observation issue also, in our view, demonstrated that even if the “story sacks” had been intended to form the basis of the observation this was not sufficiently clearly communicated to the inspector nor was the fact it could not go ahead or why; nor did we have any explanation of why nothing else was attempted instead. We appreciate that a joint observation is not a requirement *per se*; but it was notable that there appeared to be no other purposive activity undertaken with the children that day from which the Inspector could draw similar evidential material. And we are driven, overall, to agree with the conclusion reached that there was no evidence on 12 July 2021 of a focus on learning or of the communication of educative intent by Mrs Bond. As the report concluded, she appeared to focus on supervising the children and letting them play entirely in a self-directed way that was unplanned and unstructured based on what they liked.
66. In her written evidence Mrs Bond said that the progress she had made with a child with additional needs in 2020 was not sufficiently reflected in her inspection in 2021, and also that the children present did not spend the majority of their time at the setting. She also indicated that her view was that she did interact with the older child and laid on child-led activities for them. She said the child did not want to undertake the planned activity and she concluded that the *‘EYFS states that children learn through play’*. The difficulty here however is that to the extent there was evidence of purposive teaching and development with another child this was not communicated to the inspector; and the Appellant has not given details of the ways she says she did deliver a broad curriculum or plan for learning activities. Although it is right to say that children do learn through play (as the EYFS acknowledges), this does not simply mean that children will learn if provided with a non-targeted range of provision from which they are allowed to select and with no supported input from the adult. We do not accept Mrs Bond’s explanation. We therefore conclude and find that there was evidence on 12 July 2021 of not meeting learning and development requirements of paragraphs 1.1 and 1.5- 1.8 of the EYFS 2017.
67. We also find that the inspector was right to conclude that the issues she had found represented a continuation of at least some of the issues that had arisen in previous inspections: the inspection notes recorded that the actions from the October 2019 inspection (just prior to the pandemic) were that the Appellant needed to provide a more stimulating learning environment with a wide range of child-initiated activities and to improve the educational programme for children’s communication and language development so that children benefited from a language rich environment (bundle, page H8).
68. In our view, the evidence from Ms Bright relating to her visit on 6 January 2022 and the subsequent monitoring visit, demonstrated that similar issues, and therefore non-compliance with the new EYFS, continued thereafter. A 7 month-old baby, H, was present on 6 January 2022, though Mrs Bond was also able to talk about another child, A, who attended the setting at times and who had SEN. In relation to H, the inspector again noted a lack of interaction and noted

what interaction there was, for example involving the cat, laying on his tummy or playing with a ball, was poor. The meal was again observed to be mostly silent and did not show evidence of encouraging independence. At the monitoring visit, there was disagreement about whether H was asleep throughout- Mrs Bond said that he was, Ms Bright said he was not. On balance we accept the evidence of Ms Bright that he wasn't; her contemporaneous notes (bundle, H50) indicated that he was 'compliant and did not fuss' during the visit, but we consider that had H been asleep throughout this would have been evident to the inspector. Furthermore, she repeated this point in evidence before us.

69. In relation to child A, we appreciate that Mrs Bond said that child A had made progress with her and was able to indicate some of what this was. But the inspection noted a lack of clear planning and noted her reliance on some of the guidance from his nursery. She indicated some additional resources she had purchased to use with him but could not explain to the inspector how these related to his learning (and she had been guided again by the nursery). The Appellant did discuss how she was working with A in a little more detail at the monitoring visit- but described in basic terms what she did, without a discussion of the educational intent behind it. In a similar way Mrs Bond said in her statement that she had not got credit for her discussion of messy play in the main inspection. But this is mentioned in the inspector's notes (bundle, H28) and it was only something that she said she was planning to introduce for child A. That being so, it was hard to give greater credit for it than this- especially when the skills that would be developed through it weren't discussed. We would also note that at the June 2022 inspection, when asked about messy play, Mrs Bond was asked whether messy play had been tried with E, and was told it hadn't (Bundle, H121) even though he had been at the setting for 4 months and had settled well and quickly. It was only at this point that it was marked down as evidence of a lack of curriculum breadth.
70. We accept, as Mrs Bond said, that she had done some personal training and development at this point in January 2022 to improve her own skills. But the benefit of that was not evident in the quality of her responses to the inspector or in the activities on display. We also noted that, according to the notes of Ms Hornsby, Mrs Bond had failed to attend the course '*how do I learn with my childminder*' in September 2021 (though it was still listed in her own record of training) (bundle, page I139) and had apologised to Ms Hornsby for doing so. We accept that the reason for this, Mr Bond's sudden ill-health, was entirely legitimate; but we saw no evidence of trying to undertake this course at any subsequent juncture or attending anything similar. Given the nature of the criticisms made of the Appellant's childminding practice and the advice of Ms Hornsby, this was surprising.
71. Mrs Bond complained that Ms Bright did not look at or take account of the many resources that she had in the setting; but in our view that is to miss the point. Ms Bright (and Ms Davies subsequently) accepted that Mrs Bond had some 'lovely' resources for children. The difficulty was how she used them in context and what the educational intent behind that was. Without evidence of these, the presence of the resources could only ever take Mrs Bond so far.

72. Again, for us these factors and the lack of a planned activity to undertake on the day was evidence of a lack of a high-quality curriculum or a language-rich environment for children. It was also evidence that there was insufficient focus on communications and language which were prime areas - more so for EAL and SEN children- or of *guiding* the development of children's capabilities. The fact that the Appellant herself told Ms Hornsby that she considered the 6 January 2022 inspection was going well until the hygiene issues were raised (bundle, H91) also indicated to us that Mrs Bond didn't understand the areas where she was weak, which tended to confirm the Inspector's assessment that she was unable to improve.
73. In the June 2022 inspection we find that these issues had not moved on to any appreciable degree. Mrs Bond's witness statements do not deal with this period and as she did not give evidence or mention it in closing, we did not have opportunity to explore this with her in depth. Ms Davies' first witness statement, however, and her contemporaneous inspection notes provide evidence that she observed poor or limited interaction with the baby, E, who was present. As before in January, Mrs Bond struggled to explain to Ms Davies what she hoped the children would learn from the provided activities. She used a book with the child, but not in a way that would help the child develop; she accepted that there were more sensory activities that she could undertake but hadn't. The use of the ball pool lacked depth or intent. She talked about a range of activities that she had been using with child A, including numbers and outdoor activity, but could not verbalise how these were developmental adult-led activities or what a 'curriculum' was in terms of the intended educational outcomes.
74. Ms Davies noted, and recorded, only basic answers to some key questions about what Mrs Bond provided to the children and how she selected these activities. Ms Davies also noted that even when she had deliberately discussed communication and language with Mrs Bond, and the importance of warmth and a language-rich setting, the Appellant did not change her approach. She even noted that she had said as little as possible at times to give the Appellant the maximum opportunity to interact with E but which had not been taken.
75. We therefore conclude that in the inspections in January and in June 2022, there remained failures to implement paragraphs 1.1, 1.4- 1.6 and 1.13- 1.14 of the EYFS learning and development requirements.
76. Lastly in this section we turn to consider the 8 August monitoring visit conducted by Ms Davies. In their evidence, both Ms Davies and Ms Barrett indicated that they considered that the visit had to go ahead on the day that it did because of the need to meet the regulatory time frames in Ofsted's inspection handbook. To her credit, Ms Barrett accepted in oral evidence that the Respondent did really need to see the Appellant's childminding with children present, so it was unfortunate that this had not occurred in practice.
77. It seems to us that it would have been substantively impossible for Mrs Bond to satisfy the Respondent at that visit that she had dealt with all of the issues which had previously been identified, was offered no follow up opportunity of any

meaning to make up such deficit, and in our view the visit was therefore overall unfair. Ms Davies' primary aim may be fairness to children, but it is required also (and particularly) for those who are regulated and inspected by the Respondent, and whose livelihoods depend on impartial and fair judgments being made.

78. The Respondent was aware that there would be no children present at the Appellant's childminding practice on 8 August because Mrs Bond had told them so. Although we were told that in fact no inspection was considered for the Saturday instead because it was not certain that a child would be present then either, in our view the real reason was that it was simply a Saturday and the Respondent wrote the possibility off immediately. There was no evidence before us that the Respondent tried to negotiate with the Appellant to find a date when she would have children on the premises or that it considered whether (exceptionally) a visit could occur on a weekend. A suggestion was made at the hearing that this could possibly be put right at a subsequent inspection or monitoring visit. But we consider this was disingenuous at best given that these proceedings were imminently moving towards a final hearing and when it was uncertain whether there would ever be the opportunity for another visit. The outcome of these proceedings demonstrates that there was not.

79. We regard it as most unsatisfactory in an appeal where the principal concern of the Respondent was that the Appellant did not demonstrate sufficient interaction or language-rich interaction with children, or the delivery of a sufficiently high-quality and varied curriculum, that the Respondent considered it appropriate to undertake a monitoring visit when there were no children present and without planning any other visit to make good such deficit. We understand that it was possible to cover some of the ground as to the theory and whether Mrs Bond could verbally describe what she had done to meet some of the concerns. But this would have required a level of articulacy that she had previously not demonstrated, and it would only ever have partially met the concerns. Ms Davies accepted that Mrs Bond's answers to at least some of the questions were satisfactory. Ms Davies tried to suggest in evidence that her conclusion from the visit was that she could not reach a judgment. But it is evident from her notes (bundle H152) that in practice the judgement was reached that it could not be concluded whether the Appellant had improved and that therefore, in substance, she remained at inadequate. That is not the same thing.

80. All that said, we have to consider, however, the totality of the evidence before us. We have to focus on the allegations made and on the evidence from the 3 key inspections before us and on the evidence of whether the Appellant fulfils the criteria for cancellation today. In our view, notwithstanding our concerns about the August visit, the evidence does show, and we find, there were persistent failures to implement the EYFS learning and development requirements across the 3 inspections; but more importantly for these purposes that these continued over time and that the Appellant did not demonstrate any understanding of her weakness or how she might consider improvement. Her attitude appears to be that she does not need to improve.

Whether the Appellant failed to ensure that each child's learning was tailored to meet the child's individual needs (including as EAL or SEN)

81. The allegations made by the Respondent under this heading were, in many ways similar (and connected) to those made under issue 1 but focused on different learning and development requirements.
82. For similar reasons to the issues above, we find that the Respondent's case with respect to these failures to meet the requirements is also made out. It was evident from the July 2021 visit that Mrs Bond obtained basic information from parents about their children but did not obtain detailed information about what the children could do, or where they were educationally, as part of registration or induction; she said that parents were often in a rush which made it hard to get the information. She could not recall what the children's home languages were. Ms Bright identified that Mrs Bond could not explain how she planned her activities around individual child's needs and could not explain what she hoped they would learn from some of them. She struggled to explain where child I was educationally or to move her learning on during the inspection despite opportunities. Similar concerns arose with baby M. Ms Bright noted a lack of cohesion as to what was put out for the children to play with and that the focus was on supervision, not learning (bundle, H16). In our view this was evidence of a failure to implement paragraph 1.10 of the 2017 EYFS.
83. In January 2022, it was observed again by Ms Bright that the Appellant struggled to give detailed answers as to why she had picked certain activities for H or to explain how these would develop his skills. We have already discussed above the fact that in relation to child A her knowledge of where and how to focus came from the nursery, and Mrs Bond did not appear to have planned any curriculum or programme of her own that complemented or built on that of the nursery. She demonstrated some knowledge of children's interests and likes, but not of their achievements or what they needed to focus on next.
84. By June 2022 although Mrs Bond could discuss what she was providing for child A in more detail, this direction was still being driven by his nursery and she talked about 'controlling' activities for A but was still unable to describe his curriculum. Again in June it was apparent from the interactions with child E that the learning on offer was not tailored to the needs of the child, as evidenced by E's interaction with the book resources. This continued omission was all the more odd given that the Appellant showed in the inspection that she had obtained greater understanding of the way babies developed, but could not demonstrate that she had implemented this into her work.
85. We find that there were therefore failures to implement paragraphs 1.15 and 1.16 of the Framework.

Whether the Appellant has failed to engage minded children's parents to guide and support children's development at home.

86. We acknowledge that the Appellant presented the Respondent, and us, with a variety of supportive parental statements from parents of children whom she had minded in the past and who were also parents of children minded during these inspections. All said how pleased they were with the service they received, how much their children enjoyed the time they spent at the childminders and spoke warmly of the relationships they had with her. We have taken that into account.
87. The requirements of the previous and new framework focus on more than just keeping children safe, out of danger and under physical supervision, however. In addition to the learning requirements in the setting, the Framework also places emphasis on partnership with parents and engagement with them to both establish where children's learning and development is at the time of arrival, through what the focus of learning should be during their time in the setting, and activities to continue and re-enforce between home and childminder setting.
88. In the July 2021 inspection, Mrs Bond had explained that she asked parents to fill out both contact information, an 'all about me' booklet and other details. But Mrs Bond evidently had difficulty obtaining wider, more educational material on her minded children and said that this was difficult due to parents often being in a rush, not wanting to enter the property due to Covid or it being too cold for door-step discussions. But the Appellant did not set out other ways that she tried to communicate with parents or seek feedback and in our view there were very many different ways of engaging a parent that did not involve a direct doorstep discussion- which included take home questionnaires, home-setting reports with space for comment or feedback, emails, use of the setting's Facebook page etc.
89. Some of this, on a basic level, Mrs Bond did appear to do: we had copies of the 2-year checks for a few pupils, and questionnaires for some more which asked 'are there any improvements you'd like to be made?', which parents had completed. But none of these showed detailed questions being asked of parents about children's preferred learning styles, current development and things being worked on, or feedback from Mrs Bond herself on how the children were doing and what she was focusing on. And this appeared to affect some of the child minding: Ms Bright noted in July 2021 that the Appellant did not seem to understand why the baby cried regularly or how she could involve parents to discover an answer.
90. At the January 2022 inspection Mrs Bond noted that many of her parents also had English as a second language, as did the children: 7 of the 8 at that point were non-native English speakers. But this too suggested that there might be other ways of trying to reach parents for information other than via discussion; and also that more effort needed to be made to work with parents to seek to develop home-language skills too as well as English, as suggested in the EYFS⁶. One attempt to explain some liaison with parents appeared to concern

⁶ Paragraph 1.7 (2017 version) and paragraph 1.13 (2021 version).

a rucksack, which the Inspector did not understand.

91. The same issues arose in the January monitoring visit: Mrs Bond provided evidence of understanding care and physical routines, but not of helping parents to understand what their child was learning or how they could support it at home. She again relied mostly on the 'all about me' document as evidence of her contact with home- but this provided only basic, and reasonably static, information on the child in a one-way direction.
92. The inspector in June 2022 commented positively on the honest and open relationship developed with the parent of E and noted the good feedback provided. But this again did not really offer clear evidence of working with the parent to guide educational provision or to understand learning needs. Mrs Bond showed some evidence of understanding what E was not getting at home and of adjusting some activities to include additional opportunities eg for physical time on the floor to explore.
93. Taking the various inspections and evidence together, we agree that there is insufficient evidence of partnership working with parents or engaging them positively in their children's learning- either to baseline the Appellant's own provision, to understand the child's developmental focus and level or to provide support to parents in learning opportunities at home. We conclude therefore that there have been failures to implement the relevant learning and development requirements. These are paragraphs 1.12, 1.13, 1.16, 2.1 and 2.2 in the 2021 version⁷.

Does the Appellant's situation meet one or more of the requirements in section 68(2) Childcare Act 2006 and, if so, is cancellation proportionate and necessary?

94. As we noted earlier, the Respondent relied in its decision letter on section 68(2)(a), (c) and (d) Childcare Act 2006 as grounds for cancellation. In its Response to the appeal the Respondent only relied on section 68(a) and (c). We must consider therefore whether those conditions apply, and consequently whether the requirements of the Regulations also set out in the legal section above have ceased to be met and/or whether the Appellant has failed to comply with requirements imposed on her under them.
95. For the reasons we have already given we have found that there have been persistent failures to meet the EYFS learning and development requirements. An obligation to ensure that the early years childminding meets these requirements is set out in paragraph 4 of schedule 1 to the Early Years Register Regulations. We therefore find that there has been a failure to comply with an obligation imposed by relevant regulations.
96. The Appellant has been registered since 2016 and has been subject to a number of full inspections in that time. At no inspection has the Appellant been rated more highly than requires improvement and has been rated inadequate

⁷ Corresponding to paragraphs 1.6, 1.7, 1.10, 2.1 and 2.2 in the 2017 version.

in the last 3 inspections. For these reasons, and the more particular reasons set out above for the failure to meet the requirements of the EYFS, we also consider that Mrs Bond is not suitable to provide early years childminding and therefore ceases to satisfy the requirements for registration.

97. For these reasons too we also consider that the Appellant is not suitable to provide later years childminding and that accordingly she ceases to satisfy the requirements for registration.
98. On the basis that we find that the requirements for cancellation of registration on the basis of both section 68(2)(a) and (c) are made out we must consider whether it is proportionate and necessary to confirm the cancellation.
99. We have considered the Appellant's contention that a number of inspections of her setting were driven by suspected Covid or by her illness or even by malicious complaints. But this was denied by the Respondent's witnesses and we could see no evidence to support this view. Several witnesses, particularly Ms Barrett pointed to the sequence of inspections and periodic re-inspections as being driven by the Early Years Inspection Handbook timetables. We accept that that was the reason for the various inspections and the points at which they occurred. We reject the Appellant's suggestion of other motivation as lacking evidence.
100. We have also considered the Appellant's contention that the Respondent discriminated against her in its various findings and that her treatment resulted from disability. However, we could see no substantive evidence to support this either. The Respondent accepted that the Appellant had undergone several OH assessments undertaken by an independent provider and had been certified as fit to undertake the work. Although health issues were discussed in some of the inspector's reports these were tangential considerations only of the sort applied to all providers and we could see no reliance placed on any issue of health or disability in the inspector's notes. The reasons identified for the ratings given and substantiated by the inspection notes were as above, concerning the curriculum, teaching, engagement with children and parents, and tailoring learning to children's needs. None of this decision-making was affected by the Appellant's disability.
101. We also did not accept that there was evidence of bias on Ms Bright's part. An assertion of this was made to us, and we understood that some complaint had been made. But we saw no substantive evidence of this, and we had the full notes from Ms Bright's inspections. We saw no reason to doubt the objective reasons she gave. We also note that the Respondent did involve a separate inspector for the June 2022 inspection partly to ensure that there was fairness and a 'fresh pair of eyes' undertaking another inspection. Ms Barrett said that this was common practice, and it did not stem from a recognition that there had been any impropriety in Ms Bright's inspections and visits.
102. We also take into account that a number of the issues identified by the Respondent are recurring across the most recent inspections. Mrs Bond does not accept that she has weaknesses in the stated areas, and it was evident to

us that the Respondent had made its case that the Appellant did not demonstrate she could improve. We note in this context the very considerable support and encouragement supplied to the Appellant by Ms Hornsby at the LA which had, sadly, no appreciable impact.

103. We do take into account the good feedback offered by parents and that there have been a number of medical difficulties not only in Mrs Bond's own life but also in her husband's which have made focusing on the childminding difficult. But those difficulties can only take the Appellant so far if her practice overall continues to fail to meet the required standards. The Appellant's actions show that she can provide for the physical needs of the children and supervise them whilst they play in an unstructured way. Unfortunately, this is not sufficient to meet the requirements of the EYFS. The Appellant appears to recognise this in part through her undertaking of relevant training. However, she has not demonstrated an ability to implement it in practice.

Conclusion

104. Taking all of these matters into account, we have come to the conclusion that in this case cancellation of the registration is a proportionate and necessary response. Accordingly, the appeal must fail and we will confirm the Chief Inspector's decision.
105. The Tribunal appreciates that this decision will be difficult for the Appellant. We understand too the last few years have not been easy for the Appellant or for her husband and we have considerable sympathy for the medical difficulties they have both had and the impact this has had on their lives. The difficult decision reached by Ofsted however was, in our view, the right one.

Decision:

The Appeal is dismissed.

The Tribunal confirms the Chief Inspector's cancellation of the Appellant's registration dated 31 March 2022.

Judge S Trueman

First-tier Tribunal (Health, Education and Social Care)

Date Issued: 2 November 2022