3.32. For children aged two:

• there must be at least one member of staff for every four children35

• at least one member of staff must hold a full and relevant level 3 qualification

• at least half of all other staff must hold a full and relevant level 2 qualification 35

3.37. For children aged three and over in maintained nursery schools and **nursery classes in maintained schools**39: 🏳

• there must be at least one member of staff for every **13** children40

• at least one member of staff must be a **school teacher** as defined by section 122 of the Education Act 200241

• at least one other member of staff must hold a full and relevant level 3 qualification42

3.38. Reception classes in maintained schools and academies are subject to infant class size legislation.43 The School Admissions (Infant Class Size) Regulations 2012 limit the size of infant classes to 30 pupils per school teacher44 (subject to permitted exceptions) while an ordinary teaching session is conducted. ‘School teachers’ do not include teaching assistants, higher level teaching assistants or other support staff. Consequently, in an ordinary teaching session, a school must employ sufficient school teachers to enable it to teach its infant classes in groups of no more than 30 per school teacher45.

3.39. Some schools may choose to mix their reception classes with groups of younger children (nursery pupils, non pupils or younger children from a registered provider), in which case they must determine ratios within mixed groups, guided by all relevant ratio requirements and by the needs of individual children within the group. In exercising this discretion, the school must comply with the statutory requirements relating to the education of children of compulsory school age and infant class sizes. Schools’ partner providers must meet the relevant ratio requirements for their provision.

**Before/after school care and holiday provision**

3.40. Where the provision is solely before/after school care or holiday provision for children who normally attend Reception class (or older) during the school day, there must be sufficient staff as for a class of 30 children. It is for providers to determine how many staff are needed to ensure the safety and welfare of children, bearing in mind the type(s) of activity and the age and needs of the children. It is also for providers to determine what qualifications, if any, the manager and/or staff should have. See footnote 5

*5 Providers offering care exclusively before and after school or during the school holidays for children who normally attend Reception (or older) class during the school day (see paragraph 3.40) do not need to meet the learning and development requirements. However, providers offering care exclusively before and after school or during the school holidays for children younger than those in the Reception class age range, should continue to be guided by, but do not have to meet, the learning and development requirements. All such providers should discuss with parents and/or carers (and other practitioners/providers as appropriate, including school staff/teachers) the support they intend to offer.*

*35 In a maintained school or non-maintained special school, where the two-year-olds are* ***pupils****, staff must additionally be under the direction and supervision of a qualified or nominated teacher when carrying out specified work (as laid out in the Education (Specified Work) (England) Regulations 2012). Specified work broadly encompasses lesson (or curriculum) planning, delivering lessons, assessing the development, progress and attainment of pupils and reporting on the latter. The headteacher must be satisfied that the staff have the skills, expertise and experience needed to carry out the work and determine the appropriate level of direction and supervision.*

*39 Where schools have provision run by the governing body (under section 27 of the Education Act 2002) for three- and four-year-olds who are not pupils of the school, they can apply: a 1:13 ratio where a person with a suitable level 6 qualification is working directly with the children (as in paragraph 3.33); or a 1:8 ratio where a person with a suitable level 6 qualification is not working directly with children but at least one member of staff present holds a level 3 qualification (as in paragraph 3.34).*

*40 Where children in nursery classes attend school for longer than the school day or in the school holidays, in provision run directly by the governing body or the proprietor, with no teacher present, a ratio of one member of staff to every eight children can be applied if at least one member of staff holds a full and relevant level 3 qualification, and at least half of all other staff hold a full and relevant level 2 qualification.*

*41 See also the Education (School Teachers’ Prescribed Qualifications, etc) Order 2003 and the Education (School Teachers’ Qualifications) (England) Regulations 2003.*

*42 Provided that the person meets all relevant staff qualification requirement as required by The School Staffing (England) Regulations 2009.*

*44 As defined by section 122 of the Education Act 2002.*

*45 The Specified Work Regulations 2012 allow a non-teacher to carry out the work of the teacher (“specified work”) where the non-teacher is assisting or supporting the work of the teacher, is subject to the teacher’s direction and supervision as arranged with the headteacher, and the headteacher is satisfied that that person has the skills, expertise and experience required to carry out the specified work.*

|  |  |  |
| --- | --- | --- |
| School day example here is 9am-3.15/30pm. Suggested lunch time 12-1pm | Term time  3 and 4 year olds -pupils of the school | School holidays  3 and 4 year olds -pupils of the school |
| Before 9am | 1:8 1x L3 and ½ others L2 | 1:8 1x L3 and ½ others L2 |
| 9am to 12 | 1:13 Teacher + at least 1 xL3 | 1:8 1x L3 and ½ others L2 |
| 12-1pm [lunch time] teacher break approx | 1:13 Teacher + at least 1 xL3 or 1:8 1x L3 and ½ others L2  *We expect the teacher (or equivalent) to be working with children for the vast majority of the time. Where they need to be absent for short periods of time, the provider will need to ensure that quality and safety is maintained.* | 1:8 1x L3 and ½ others L2 |
| 1pm-3.15/3.30pm | 1:13 Teacher + at least 1 xL3 | 1:8 1x L3 and ½ others L2 |
| After 3.15/3.30pm | 1:8 1x L3 and ½ others L2 | 1:8 1x L3 and ½ others L2 |

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\*\* Schools may wish to consider dropping to a ratio of 1:8 with at least one member of staff holding a full and relevant level 3 qualification and at least half of all other staff holding a full and relevant level 2 qualification for provision in nursery classes delivered outside the standard two session school day.

Maintained schools: Governor-run nurseries

Where provision is set up under Section 27 of the Education Act (community powers) then the governing body can use the ratios and qualification requirements set out for early years providers. In this case they can use either 1:8 or 1:13 ratio staffed appropriately, but must deliver the learning and development part of the EYFS at all times.

This flexibility (to operate with a Level 3 leading provision) will only apply where the children are not registered pupils – so it will only apply to community provision. Schools will be able to choose which staffing model is most appropriate to their situation.🏳 Once a child is a registered pupil, then that is their status. **For example, it is not possible for a child to be a pupil in the morning and a non-pupil in the afternoon.**

We expect that as the governor-run early years provision is part of the school, and will be inspected as part of the school, that the head and governing body will ensure that the provision is adequately supervised and run, **even if a school teacher is not working directly with the children.**

*Reference:*

* *‘Statutory framework for the early years foundation stage: Setting the standards for learning, development and care for children from birth to five’ Published: 3 March 2017 Effective: 3 April 2017*
* *‘Early years entitlements: operational guidance’ April 2017 DfE*