



Childcare Disqualification Checks Procedure

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Update Information

This model policy will be subject to ongoing review and may be amended prior to the scheduled date of the next review in order to reflect changes in legislation, statutory guidance, or best practice (where appropriate).

1. Scope

The procedure applies to all staff employed by schools and academies and to volunteers and governors where relevant.

Within this policy, references to the School, Headteacher, Governing Board and the Chair of Governors will, for Academies and Academy Trusts, be taken to mean a reference to the appropriate equivalent within those establishments.

The recognised trade unions have been consulted.

2. Background

The requirement for schools to carry out the relevant disqualification checks arises from:

- The [Childcare Act 2006](#)
- The [Childcare \(Disqualification\) and Childcare \(Early Years Provision Free of Charge\) \(Extended Entitlement\) \(Amendment\) Regulations 2018](#) [hereafter referred to as "The Regulations"]

The Regulations prohibit anyone who is **disqualified** under the Regulations from working in a relevant setting, including in schools.

The Department for Education (DfE) has issued statutory guidance on the application of the 2006 Act and the Regulations which can be found [on GOV.UK](#).

This guidance details a requirement for childcare disqualification checks to be carried out on relevant staff working in schools. Schools and local authorities must have regard to the guidance when carrying out their duties to safeguard and promote the welfare of children.

The DfE guidance should be considered alongside the guidance on [Keeping Children Safe in Education](#), in particular the "Childcare disqualification" section in Part Three.

3. Who is covered by the Regulations?

a) School staff

There is a requirement for schools to check the following categories of staff in nursery, primary or secondary school settings covered by the Regulations:

- Early years provision - staff who provide any care for a child up to and including reception age. This includes education in nursery and reception classes and/or any supervised activity (such as breakfast clubs, lunchtime supervision and after school care provided by the school) both during and outside of school hours for children in the early years age range.
- Later years provision (for children under 8) - staff who are employed to work in childcare provided by the school outside of school hours for children who are above reception age but who have not attained the age of 8. This does not include education or supervised activity for children above reception age during school hours (including extended school hours for co-curricular learning activities, such as the school's choir or sports teams) but it does include before school settings, such as breakfast clubs, and after school provision.
- Staff who are directly concerned in the management of such early or later years provision.

The Regulations refer to employing a person "in connection with" these provisions. The check will apply to the following staff employed in these settings who come into regular contact with children at these ages:

- **Nursery and Infant Schools** - Staff should be covered if they work directly with children up to Reception age
- **Primary and Junior Schools** - Staff should be covered if they work directly with children up to Reception age or if they work in before or after school settings with children up to the age of 8
- **Secondary Schools** - will need to undertake checks on relevant staff (including managers) where any services are provided where under 8s may be in attendance e.g. childcare facilities, before or after school clubs.

This means that staff employed who work in the following roles are **not** covered by the Regulations and would normally be excluded:

- Staff who only provide education, childcare or supervised activity during school hours to children above reception age; or
- Staff who only provide childcare or supervised activities out of school hours for children who are aged 8 or over; or
- Staff who have no involvement in the management of relevant provision; or
- Staff involved in any form of health care provision for a child, including school nurses, speech and language therapists, education psychologists; or
- Staff such as caretakers, cleaners, drivers, transport escorts, catering and office staff, who are not employed to directly provide childcare.

Most staff who are only occasionally deployed and are not regularly required to work in relevant childcare will not automatically come within the scope of the legislation.

b) Volunteers

Volunteers and casual workers (including individuals on work experience) who are directly concerned with the management of childcare provision, or who work on a regular basis, whether supervised or not, in relevant childcare, are within the scope of the legislation and are covered by the DfE guidance.

In these circumstances, it would be a proportionate decision to apply the same level of safeguarding checks to volunteers that are being applied to employees, if the volunteer is operating in one of the settings described above. That would mean asking the volunteer to complete the same declaration as a member of staff.

c) Governors

This requirement only relates to those in employment in childcare and therefore does not apply to governors unless they also fall into one of the other categories.

d) Contractors/Agency staff

In the case of contractors (where school engages a person who is self-employed, for example, music teacher or sports coach) the school must ensure that they are compliant with the Regulations.

In the case of workers supplied by an agency or third-party organisation, schools must ensure that the agency or organisation has carried out the relevant checks where children fall into an age group covered by the Regulations. This will include checks to ensure that those agency workers are not disqualified.

It is recommended that wherever possible, confirmation is obtained from a relevant agency or organisation that any agency worker employed at a school or academy in a relevant setting has not been disqualified under the terms of the Regulations. The agency and third-party organisation must request their staff to inform them if they consider they could be disqualified under the Regulations.

Schools must ensure that they are not knowingly employing a person who is disqualified under the Regulations in connection with relevant childcare provision. It is an offence to do so. Equally, schools must also ensure that they do not apply these arrangements to individuals who do not fall in scope or are specifically excluded. In gathering information to make these decisions, schools must ensure that they act proportionately and minimise wherever possible the intrusion into the private lives of their staff.

Schools should exercise their judgement about when and whether the Regulations apply to staff, evaluating and recording any risks and control measures put in place, and taking advice from the school's HR provider, Local Authority Designated Officer, Safeguarding Lead Officer or adviser when appropriate.

A record of the assessment should be retained on the employee's personnel file.

4. Disqualified employees

An individual may be disqualified if any of the following apply:

- They have been cautioned for or convicted of certain violent or sexual criminal offences against children and adults
- They are the subject of an Order, Direction or similar in respect of childcare, including Orders made in respect of their own children
- They have had registration refused or cancelled in relation to childcare or children's homes or have been disqualified from private fostering

Full details of what constitutes "disqualification" can be found in the Schedules to the Regulations (see [Appendix 4](#)) and the [DfE Statutory Guidance Tables A and B](#).

A disqualified individual must notify Ofsted as soon as reasonably practicable, but in any event within 14 days of the time when they became aware of the information leading to disqualification or would have become aware of it if they had made reasonable enquiries.

Schools should contact their HR provider or The Schools HR Co-operative immediately if they:

- Know of anyone in their employment who is or may be disqualified
- Receive a positive declaration from any person.

The Schools HR Co-operative will support schools in dealing with a case where a disqualified person is identified.

A school must not continue to employ an individual who is disqualified in connection with early or later years childcare provision, nor should a disqualified individual provide or be directly concerned in the management of such provision unless they have received a waiver from Ofsted (see Section 5 below), which covers the role that they wish to undertake. This does not necessarily imply that individuals are prevented from working in a school in any other setting.

A disqualified individual will need to be removed from the relevant setting. When making decisions about whether the member of staff should be suspended or redeployed, schools should take into account the risk of harm to children concerned and their obligations under the [Childcare Act 2006](#), the [EYFS framework](#), [KCSIE](#) guidance and any other relevant safeguarding guidance.

A trade union representative or work colleague should be allowed to accompany the disqualified member of staff to any meeting held to consider the issues referred to above.

5. Applying for a waiver

Where schools receive information and are satisfied that an individual working in a relevant setting falls within one of the disqualification criteria in the Regulations, they must inform the individual of this and explain the implications of disqualification to them, including whether they can apply to Ofsted for a waiver of disqualification (for example, Ofsted cannot grant a waiver to an individual who is on the Children's Barred List) and make clear what information the individual will need to share with Ofsted and why.

Schools should explain to the individual details about how to make an application for a waiver, and a copy of the form, can be found in the [Ofsted fact sheet: Applying to waive disqualification: early years and childcare providers](#). Ofsted will need the individual to complete the waiver application accurately and fully and will need information about the individual.

While a waiver application is under consideration, schools will need to decide whether it is appropriate to redeploy staff elsewhere within the school or make adjustments to their role to avoid them working in relevant childcare. This means that a member of staff could be disqualified from working with children of reception age or under in a school, but could work with children aged 6 and 7, provided they were not working with them in childcare provision outside of normal school hours.

Schools should consider taking advice from their HR provider, the local authority designated officer, safeguarding lead officer or adviser on these matters. Local authorities and academy trusts may also be able to consider making alternative arrangements, including for example a temporary alternative job role in another school. Where alternative arrangements cannot be made, or if it is not appropriate to do so, the school will need to consider whether to grant paid leave or similar, or as a last resort suspend the member of staff, while the waiver application is under consideration.

Where an individual decides not to apply for a waiver, or a waiver is declined, schools will have to consider and make decisions about whether the individual could be permanently redeployed, the appropriateness of redeployment, or whether steps should be taken to legitimately terminate their employment.

6. Actions required by schools

The guidance requires schools to ensure that the relevant categories of staff are made aware of the requirements under the relevant legislation.

Schools must make these staff aware of what information will be required of them and how it will be used to make decisions about disqualification.

Schools are free to decide how to bring these requirements to the attention of their staff. As a means of making staff aware of their duty to provide such information, they may, for example, choose to include a section in the school's safeguarding policy, or another policy document, or by means of an addition to new staff members' contracts of employment.

Alternatively, staff briefings can be held to highlight the necessary requirements. In the briefing, the school should explain the requirement for the relevant members of staff to confirm they are not disqualified; explain what disqualification means and how staff become disqualified; explain the 'best of your knowledge' test; and explain that if staff have concerns, who they should approach to discuss the concerns confidentially. A record can be kept of the briefing and all those attending.

Schools should draw the DfE guidance to the attention of their staff and the information provided by Ofsted as referenced in the DfE guidance.

All new appointments in relevant settings must be required to complete the declaration prior to commencing work. The school should also check the DBS certificate that they provide with reference to the relevant list of offences in the Act (see links to schedules above). Schools must ensure that any external agency or third-party organisation providing relevant staff in relevant settings carry out these checks prior to placing them in the school.

As well as completing a declaration, all relevant staff can be asked, on an annual basis, to affirm that they are not disqualified. A model letter is available at [Appendix 1](#) to give to staff explaining why the declaration is necessary and a model declaration form is at [Appendix 2](#).

It is not necessary for schools to ask staff to complete a self-declaration form to obtain information about whether a staff member is disqualified. Where schools decide to adopt the approach of using a self-declaration form, it is important that the questions posed in the declaration are relevant and limited to the requirements of the legislation, (for example cautions or convictions for a relevant offence, or whether a child has been made subject of a care order due to the care provided by the individual). This may mean that schools may not be able to use a generic self-declaration form for all employees, for example a teacher working solely with Year 5 children (age 9 and above) would be exempt from this legislation.

Schools should inform their staff that when responding to questions about their cautions or convictions, they do not need to provide details about any convictions that are not relevant to the childcare disqualification legislation. Therefore, it is important that schools avoid asking for information that is not relevant to ensure that they are not in breach of data protection legislation.

In completing these exercises, staff will need to have access to information about the relevant offences and orders. A summary of offences is given at [Appendix 4](#). If schools wish to access the relevant schedules to the legislation which give more detail about these, these can be found [here](#).

Following the implementation of the Regulations and the removal of disqualification by association in non-domestic settings, schools can no longer ask questions regarding the criminal history of people who live with the individual. However, it should be noted that other statutory guidance may be relevant where the third-party lives on the school premises, such as in boarding schools. Despite the removal of this provision, staff should be encouraged to voluntarily declare any information which may impact upon their employment within a school setting.

Schools must keep a record of those staff who are employed to work in or manage relevant childcare provision. They should record the date on which the information about disqualification was provided.

Schools should ensure that in maintaining records they comply with the requirements of the [Data Protection Act 2018](#) (including the UK General Data Protection Regulation). This Act does not mean that information cannot be gathered where the failure to do so would result in a child being placed at risk of harm as the school needs to safeguard and promote the welfare of children and protect their safety. When processing personal information, it should be used fairly, lawfully and kept secure. It should be kept to a minimum, be accurate and kept up-to-date and stored for the minimum period necessary, restricted only to those who need it and for the purpose it was gathered (e.g. safeguarding and child protection).

Additionally, schools will need to review any historical data collected and destroy any information which is no longer required. This does not extend to records which contain information about allegations of sexual abuse or other such safeguarding concerns which schools have an obligation to preserve in line with the requirements of the inquiry into child sexual exploitation, and other child protection requirements.

7. Appendix 1 - Declaration Letter

Dear *(Insert name of employee)*

IMPORTANT INFORMATION FOR ALL SCHOOL STAFF

Childcare Disqualification Requirements

The childcare disqualification checks arise from the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge (Extended Entitlement) (Amendment) Regulations 2018 made under the Childcare Act 2006. The Regulations prohibit anyone who is disqualified under the Regulations from working in a relevant setting, including in schools.

The Department for Education (DfE) statutory guidance on the application of the Regulations and the 2006 Act details a requirement for childcare disqualification checks to be carried out on relevant staff working in schools and academies.

There is a DfE requirement for schools to check the following categories of staff in nursery, primary or secondary school settings:

- Early years provision - staff who provide any care for a child up to and including reception age. This includes education in nursery and reception classes and/or any supervised activity (such as breakfast clubs, lunchtime supervision and after school care provided by the school) both during and outside of school hours for children in the early years age range
- Later years provision (for children under 8) - staff who are employed to work in childcare provided by the school outside of school hours for children who are above reception age but who have not attained the age of 8. This does not include education or supervised activity for children above reception age during school hours (including extended school hours for co-curricular learning activities, such as the school's choir or sports teams) but it does include before school settings, such as breakfast clubs, and after school provision
- Staff who are directly concerned in the management of such early or later years provision.

The Regulations refer to employing a person "in connection with" these provisions. The check will apply to the following staff employed in these settings who come into regular contact with children at these ages:

- Nursery and Infant School settings - Staff should be covered if they work directly with children up to Reception age
- Primary Schools - Staff should be covered if they work directly with children up to Reception age or if they work in before or after school settings with children up to the age of 8
- Secondary Schools - will need to undertake checks on relevant staff (including managers) where any services are provided where under 8s may be in attendance e.g. childcare facilities, before or after school settings.

A person may be disqualified if any of the following apply:

- They have been cautioned for or convicted of certain violent or sexual criminal offences against children and adults
- They are the subject of an Order, Direction or similar in respect of childcare, including Orders made in respect of their own children
- They have had registration refused or cancelled in relation to childcare or children's homes or have been disqualified from private fostering.

Full details of what constitutes "disqualification" are in the Schedules to the Regulations and in the DfE Statutory Guidance 2018.

All staff should be aware that this will affect them if they work in a relevant setting.

What happens next?

- All relevant staff in relevant settings should affirm that they are not disqualified by completing and signing a declaration form. As you have been identified as being covered by these Regulations, you are required to complete the attached declaration form and return it to me by no later than *(insert date)*
- Under the requirements of the DfE, any member of staff who is disqualified will need to be immediately removed from the relevant setting and they must notify Ofsted within 14 days
- The member of staff can be advised about applying to Ofsted for a waiver.

As you can see this is a very important matter for schools and their staff.

Please be assured that this school understands that this is a sensitive issue. If you have any concerns, then you may wish to speak to me in confidence.

Yours sincerely

Headteacher

8. Appendix 2 - Childcare Disqualification Requirements: Employee and Volunteer Declaration Form

School Name	
Please refer to the accompanying letter for detailed information about the requirement for you to make this declaration.	
<u>In accordance with the legislation you are asked to sign the declaration below confirming that you are not disqualified from working in, or being concerned in the management of, the above settings.</u>	
If you fail to complete and return the form, this will be regarded as a disciplinary matter for staff, which may result in dismissal, and, in the case of volunteers, will mean that you can no longer work at this establishment.	
A disqualified person is not permitted to continue to work in the above settings unless they apply for and are granted a waiver from Ofsted.	
Name of Person signing the Declaration	Post Held
Please circle one option for every question	
Section 1 – Orders or other restrictions	
Have any orders or other determinations related to childcare been made in respect of you?	YES / NO
Have any orders or other determinations related to childcare been made in respect of a child in your care?	YES / NO
Have any orders or other determinations been made which prevents you from being registered in relation to childcare, children’s homes or fostering?	YES / NO
Are there any other relevant orders, restrictions or prohibitions in respect of you as set out in the Schedule 1 of the Regulations ? Available at the link below: http://www.legislation.gov.uk/ukxi/2018/794/schedule/1/made	YES / NO
Are you barred from working with Children (Disclosure and Barring [DBS])?	YES / NO
Teachers only - Are you prohibited from teaching?	YES / NO
Section 2 – Specified and Statutory Offences	
Have you ever been cautioned, reprimanded, given a warning for, or convicted of:	
<ul style="list-style-type: none"> Any offence against or involving a child? (A child is a person under the age of 18)? 	YES / NO
<ul style="list-style-type: none"> Any violent or sexual offence against an adult? 	YES / NO
<ul style="list-style-type: none"> Any offence under the Sexual Offences Act? 	YES / NO
<ul style="list-style-type: none"> Any other relevant offence? 	
See Schedules 2 and 3 available at the links below:	

http://www.legislation.gov.uk/ukxi/2018/794/schedule/2/made http://www.legislation.gov.uk/ukxi/2018/794/schedule/3/made	YES / NO
Have you ever been cautioned, reprimanded, given a warning for or convicted of any similar offence in another country?	YES / NO

Section 3 – Provision of Information

If you have answered YES to any of the questions above, you should provide details below in respect of yourself. You may supply this information separately if you so wish, but you must do so without delay.

Details of the order, restriction, conviction, caution or other grounds for disqualification:	
The date(s) of these:	
The relevant court(s) or body(ies) and the sentence (if any) imposed:	

You should also provide a copy of the relevant order, caution, conviction etc. In relation to cautions/convictions a DBS Certificate may be provided.

Section 4 - Declaration

In signing this form, I confirm that the information provided is true to the best of my knowledge and that:

- I understand my responsibilities to safeguard children
- I understand that I must notify my headteacher immediately of anything that affects my suitability including any cautions, warnings, convictions, orders or other determinations that would render me disqualified from working with children.

Signed			
Print Name		Date	

9. Appendix 3 - Notification of Suspension Letter

Dear *(Insert name of employee)*

I am writing to confirm the decision taken to suspend you from work with effect from *(insert date)* until further notice. Your suspension is without prejudice and on full pay.

The reason for your suspension is that you are disqualified from working in school pending your application for a waiver from Ofsted. You must now contact Ofsted immediately at disqualification@ofsted.gov.uk. Please let me know as soon as you receive a decision from Ofsted.

(Name of designated person) will be your designated point of contact at the school during the period that you are away from the school. *He/she* will keep you informed of general activities and news at the school. If you wish to contact the school for any reason, please telephone *(name of designated person)* on *(insert telephone number)*. I must ask you not to contact any other member of staff, pupil at the school or any member of the Governing Board whilst the suspension is in force.

If you wish to collect any personal belongings at the school, please contact *(name of designated person)* who will make the appropriate arrangements.

I appreciate that this will be a difficult time for you and would like to inform you that the school's free employee counselling service is available if you require support at this time. You can contact them on *(insert contact details)* and/or I *enclose a leaflet*.

Yours sincerely

Headteacher/Chair of Governors

10. Appendix 4 - Specified Offences in Schedule 3 of the 2018 Regulations

Offences in England and Wales

1. (1) An offence under section 1 (offence of sending letters etc, with intent to cause distress or anxiety) of the Malicious Communications Act 1988.
 - (2) An offence under section 49 or 50(9) of the 1989 Act (offences relating to the abduction of a child in care).
 - (3) An offence under any of the following sections of the Protection from Harassment Act 1997:
 - (a) section 4 (putting people in fear of violence); or
 - (b) section 4A (stalking involving fear of violence or serious alarm or distress)
 - (4) An offence under any of the following sections of the Terrorism Act 2000:
 - (a) section 11 (membership);
 - (b) section 12 (support);
 - (c) section 13 (uniform);
 - (d) section 15 (fundraising);
 - (e) section 54 (weapons training);
 - (f) section 56 (directing terrorist organisation);
 - (g) section 58A (eliciting, publishing or communicating information about members of armed forces etc.);
 - (h) section 59 (England and Wales); or
 - (i) section 63 (terrorist finance: jurisdiction).
 - (5) An offence in relation to a children's home under or by virtue of any of the following provisions of the Care Standards Act 2000:
 - (a) section 11(1) (failure to register);
 - (b) section 24 (failure to comply with conditions);
 - (c) section 25 (contravention of regulations);
 - (d) section 26 (false descriptions of establishments and agencies); or
 - (e) section 27 (false statements in applications).
 - (6) An offence under section 127 (improper use of public electronic communications network) of the Communications Act 2003.
 - (7) An offence under any of the following provisions of the Sexual Offences Act 2003:
 - (a) section 15A (sexual communication with a child);
 - (b) section 62 or 63 (committing an offence or trespassing with intent to commit a sexual offence);
 - (c) section 64 or 65 (sex with an adult relative);

(d) section 69 (intercourse with an animal); or

(e) section 70 (sexual penetration of a corpse).

(8) An offence under any of the following provisions of the Terrorism Act 2006):

(a) section 1 (encouragement of terrorism);

(b) section 2 (dissemination of terrorist publications);

(c) section 5 (preparation of terrorist acts and terrorist training);

(d) section 6 (training for terrorism);

(e) section 8 (attendance at a place used for terrorist training);

(f) section 9 (making and possession of devices or materials);

(g) section 11 (terrorist threats relating to devices, materials or facilities).

(9) An offence under section 62 (possession of prohibited images of children) of the Coroners and Justice Act 2009.

(10) An offence under any of the following provisions of the Criminal Justice and Courts Act 2015:

(a) section 20 (ill treatment or wilful neglect: care worker offence);

(b) section 21 (ill treatment or wilful neglect: care provider offence); or

(c) section 33 (disclosing private sexual photographs and films with intent to cause distress).

(11) An offence under any of the following provisions of the Serious Crime Act 2015:

(a) section 69 (possession of paedophile manual); or

(b) section 76 (controlling or coercive behaviour in an intimate or family relationship).

(12) An offence under any of the following provisions of the Modern Slavery Act 2015:

(a) section 1 (slavery, servitude and forced or compulsory labour);

(b) section 2 (human trafficking);

(c) section 4 (committing offence with intent to commit offence under section 2); or

(d) section 30 (offences).

(13) An offence under section 5 (supplying, or offering to supply, a psychoactive substance) of the Psychoactive Substances Act 2016.

A further comprehensive list of the offences can be found in the DfE Statutory Guidance 2018, Table A (Relevant Offences – England) and Table B (Relevant Orders) [on GOV.UK](#).

Policy created: 09/2018

10 Nov 2024

Policy has been reviewed and refreshed. Refer to the Schedule of Amendments for full detail. [Schedule of amendments](#)

27 Oct 2022

Policy has had a minor update. Refer to the Schedule of Amendments for full detail. [Schedule of amendments](#)

25 Feb 2022

Policy has been reviewed and refreshed. Refer to the Schedule of Amendments for full detail. [Schedule of amendments](#)