



January 2018

Dear Colleague

As a school/academy we need to know if members of staff or newly appointed members of staff (as part of the pre-employment checks) are disqualified from working in certain settings in the school/academy because they are disqualified 'as an individual' or because they are 'disqualified by association' (i.e. because a person who lives or works in their household has been 'disqualified' from working in such settings). We consider that this is the best way for us to comply with the legislative requirement that we do not knowingly employ a disqualified person in connection with 'early' or 'later' years' provision.

The criteria for disqualification under the 'Childcare Act' 2006 and the 'Childcare (Disqualification) Regulations' 2009 include the following as a summary of such criteria:

- Inclusion on the DBS Children's Barred List;
- Being found to have committed certain violent and sexual criminal offences against children and adults to which are referred in Regulation 4 and Schedules 2 and 3 of the 2009 Regulations (Regulation 4 also refers to offences that are listed in other pieces of legislation);
- Certain orders made in relation to the case of children which are referred to in Regulation 4 and listed at Schedule 1 of the Regulations;
- Having registration refused or cancelled in relation to childcare or children's homes or being prohibited from private fostering;
- Living in the same household where another person who is disqualified lives or is employed (disqualification 'by association')

The reason why I am writing to you is because the legislation applies to the 'setting' in which you have been employed/going to be employed in the school/academy.

These settings are:

1. 'Early Years'

The legislation applies to staff who are employed or who are going to be employed in any care or classes provided for a child (including education in nursery and reception classes for pupils during the period ending immediately before the 1<sup>st</sup> September following that child's 5<sup>th</sup> birthday) and/or any supervised activity (such as breakfast clubs, lunchtime supervision and afterschool care provided by the school/academy both during and outside of school hours.

In practical terms, this means that if you are assigned to a nursery or a reception class or you 'care' for this age of children during the school day and/ or before and/or after school (e.g. lunchtime supervisors) then the legislation applies to you.

2. 'Later Years'

The legislation also applies to staff who are employed to work in childcare by the school or academy **outside of school hours** for children who have not attained the age of 8. This includes such settings as breakfast clubs and after school 'childcare' provision.

3. Staff who are concerned with the 'management' of 'early' or 'later' years' provision  
The legislation also applies to staff who are directly concerned in the management of 'early' and/or 'later' years' provision including the Headteacher, relevant members of the school's leadership team and any manager, supervisor or leader involved in the day-to-day management of the 'early' and/or 'later' years' provision.

### **ACTION REQUIRED**

In order to help you to check to see if you may be disqualified from working in 'early years' or 'later years' as an individual or if you are 'disqualified by association', then please read through the details below.

Having read the information there are 2 potential courses of action:

1. If there is nothing which you need to tell us about then please complete and sign the Statement Form and return it **by return** to the Headteacher. (For Headteachers, the letter should be returned to the CEO)
2. If there is something which you need to tell us about then please complete and sign the Statement Form, answer the questions on the Questions section and return both, **by return** in an envelope to the Headteacher. (For Headteachers the letter should be returned to the CEO). Your Headteacher will then arrange a meeting with you to discuss your situation. (The CEO will arrange a meeting with the Headteacher).

In the majority of cases you will be able to apply to Ofsted for a 'waiver'. Ofsted then make a judgement on whether or not you may continue to work in the 'setting' in which you have been employed. I will have to remove you from the 'setting' in which you are employed during this process which will form part of our discussions.

Please do seek advice from your professional association/trades' union if you wish to do so.

Yours sincerely

Mrs Dawn Sage  
Headteacher

## Statement Form

Your Name:

Please sign one of the following statements to confirm which of the following statements apply to you:

***Either:***

I have no declarations to make and so therefore do not need to answer the questions below as none of them relate to me.

I confirm that should this position change I will notify the Headteacher immediately. (Headteachers should immediately notify the CEO).

Signature:

Date:

Name in block capitals:

***Or:***

I have completed the questions below to the best of my knowledge. (Please note that you do not have to undertake an investigation at home to find this information out about a person who is living or is employed in your household- you just need to tell us what you know).

A meeting with you will then be arranged. You may be asked for further information.

I confirm that if there are any subsequent changes from the information which I have provided, I will notify the Headteacher immediately. (Headteachers should immediately notify the CEO).

Signature:

Date:

Name in block capitals:

## Questions

### Questions relating to you:

*Are you disqualified for caring for children?*

*General information:*

*NB: 'Spent' and 'unspent' convictions do need to be declared as you are/going to be employed to work in childcare. The exception is that you are not required to declare certain minor cautions or convictions. For guidance on this please refer to the following link:*

*<https://www.gov.uk/government/collections/dbs-filtering-guidance>*

*The majority of offences that lead to disqualification under the 2009 regulations must be disclosed by a 'childcare' employee. Please refer to the following link:*

*<https://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check>.*

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|---|-----------|
| 1. Have you been cautioned or convicted in relation to any offences against a child?  | 1. Yes/No |
| 2. Have you been cautioned or convicted in relation to any violent or sexual offences against an adult?   | 2. Yes/No |
| 3. Have you been barred from working with children by the Disclosure and Barring Service (the DBS which used to be known as the CRB)?   | 3. Yes/No |
| 4. If you have children, have your children, at any time, been taken into care?   | 4. Yes/No |
| 5. Have your children been, at any time, the subject of a child protection plan?  | 5. Yes/No |
| 6. Has a court order been made, at any time, in respect of a child under your care?   | 6. Yes/No |
| 7. Have you ever been refused registration or had registration cancelled in relation to childcare or a children's home or have you ever fostered privately and had that arrangement ended due to 'Child in Need' or child protection reasons or have not been permitted to be a foster parent because of 'Child in Need' or child protection reasons? | 7. Yes/No |

**Questions relating to ALL others in your household ('household' means anyone residing permanently or temporarily with you at the time of signing this 'declaration').**

*Is anyone living in your household disqualified for caring for children?*

*NB: You are not required to disclose a spent caution, conviction relating to an individual who lives or is employed in your household. For your information for the purposes of a 'disqualification' check, sentences of over 48 months and public protection sentences (regardless of the length of service) can never be spent)*

8. To the best of your knowledge, has anyone living in your household been cautioned or convicted of offences against a child which are 'unspent'?

8. Yes/No

9. To the best of your knowledge, has anyone living in your household been cautioned or convicted of violent or sexual offences against an adult which are 'unspent'?

9. Yes/No

10. To the best of your knowledge, has anyone living in your household been barred from working with children by the Disclosure and Barring Service (DBS)- this was formerly known as the criminal records' bureau (CRB)?

10. Yes/No

11. To the best of your knowledge, does anyone living in your household have children that have been taken into care?

11. Yes/No

12. To the best of your knowledge, has anyone living in your household been the subject of a child protection plan?

12. Yes/No

13. To the best of your knowledge, has anyone living in your household had a court order made in respect of a child in their care?

13. Yes/No

14. To the best of your knowledge, has anyone living in your household been refused registration or had registration cancelled in relation to childcare or a children's home or has anyone ever fostered privately and had that arrangement ended due to 'Child in Need' or child protection reasons or has not been permitted to be a foster parent because of 'Child in Need' or child protection reasons?

14. Yes/No

Headteacher

Follow- on action where relevant

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Headteacher (signature) \_\_\_\_\_

Date action taken \_\_\_\_\_

CEO (in relation to the Headteacher)

Follow- on action where relevant

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CEO (signature) \_\_\_\_\_

Date action taken \_\_\_\_\_