

# Clarification on staff disqualification requirements

In October 2014 Department for Education (DfE) released supplementary guidance to Keeping Children Safe in Education.

This guidance appears to have caused some confusion and concern amongst colleagues in schools. As a consequence the information below is an attempt to interpret this guidance as clearly as possible.

## Conditions where the guidance should be applied

Providers including schools have a legal responsibility to ensure that each member of their staff team is suitable to work with children and is not disqualified from working in childcare.

In this context childcare applies to provision being made for under 8's.

However, within a school environment the disqualification requirements apply to staff working with children between 0 years up to the 1st September following a child's fifth birthday. In the main this will apply to early years provision including teachers and support staff working in Nursery and Reception classes.

The requirements do apply to under 8's (and therefore beyond 1st September following the child's fifth birthday) but only in relation to provision being made by child minders, before and after schools settings and managers of such settings.

## Checking suitability

For those schools with Nursery and Reception provision it is essential that robust systems are in place to check staff member's suitability to work with children. Clearly, at the point of recruitment every school should already be following safe recruitment procedures. In addition to this however all employees, existing and new, in Nursery and Reception and those concerned in the management of such provision must be asked to provide relevant information not only about themselves but also about persons who live in the same household as them. The request for this information should form part of the pre-employment checks during any recruitment process.

The requirement to provide the relevant information about a person who lives in the same household as them, guards against an individual working with young children who may be under the influence of a person who lives with them and where that person may pose a risk to children i.e. 'by association'.

Schools will need to ask staff and volunteers who work in the early years setting identified above to complete and sign a declaration which will help identify anyone caught by 'the association' requirement. In the event that the declaration information

suggests a person is disqualified or someone in their household would be disqualified then this employee or volunteer must not be allowed to work in the early years setting.

Please note these declarations must be completed on an annual basis and retained confidentially in personnel files. This is in addition to the expectation that staff will inform managers at any stage should they become aware of someone living in their household with a relevant caution or conviction.

## Ofsted Waiver

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Where a school becomes aware that a member of staff is disqualified they should explain the implications to the individual and advise them that they can apply to Ofsted for a waiver of disqualification (Ofsted cannot, for example, grant a waiver to an individual who is on the Children's Barred List). Further details about how to make an application for a waiver can be found in the Ofsted fact sheet [Applying to waive disqualification: early years and childcare providers](#).

Any declaration where a caution or conviction is disclosed this must be referred to Ofsted for their consideration via the email: [disqualification@ofsted.gov.uk](mailto:disqualification@ofsted.gov.uk)

An example of the type of declaration that needs to be completed is attached to this guidance.

## Further information

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For more information please contact Barry Armstrong, LADO on 01865 815956 or [barry.armstrong@oxfordshire.gov.uk](mailto:barry.armstrong@oxfordshire.gov.uk)

or the DfE at [mailbox.disqualification@education.gsi.gov.uk](mailto:mailbox.disqualification@education.gsi.gov.uk)

## Staff Suitability Declaration

**This form is to be completed by all staff when they commence employment (including regular volunteers and students) AND completed by all staff on an annual basis irrespective of how long they have been employed.**

Name of staff: .....

Name of Manager: .....

Please answer the questions and sign the declaration below to demonstrate that you are safe to work with children. If there are any aspects of the declaration that you are not able to meet, you should disclose this immediately to the manager/senior responsible for your recruitment.

Please circle yes or no against each bullet point:

<p>Have you or anyone living in your household been cautioned, subject to a court order, bound over, received a reprimand or warning or found guilty of committing any offence <b>since the date of your most recent enhanced DBS disclosure?</b></p>	<p><b>Yes/No</b></p>
<p>Have you or anyone living in your household been cautioned, subject to a court order, bound over, received a reprimand or warning or found guilty of committing any offence <b>either before or during your employment at this setting?</b></p>	<p><b>Yes/No</b></p>
<p>Are you or anyone living in your household 'Disqualified for Caring for Children': (to include)</p> <ul style="list-style-type: none"> <li>• Have you or anyone living in your household committed any offences against a child?</li> <li>• Have you or anyone living in your household committed any offences against an adult (e.g. rape, murder, indecent assault, actual bodily harm etc.)?</li> <li>• Have you or anyone living in your household been barred from working with children (DBS)?</li> <li>• Are you living with someone who has been barred from working with children (DBS)?</li> <li>• Are you living in the same household as someone who has been disqualified from working with children under the Childcare Act 2006?</li> </ul>	<p style="text-align: center;"><b>Yes/No</b></p> <p style="text-align: center;"><b>Yes/No</b></p> <p style="text-align: center;"><b>Yes/No</b></p> <p style="text-align: center;"><b>Yes/No</b></p> <p style="text-align: center;"><b>Yes/No</b></p>

<ul style="list-style-type: none"> <li>• Have your own children been taken into care?</li> <li>• Have/are your own children the subject of a child protection plan?</li> </ul>	<p><b>Yes/No</b> <b>Yes/No</b></p>
<ul style="list-style-type: none"> <li>• Has your name or anyone living in your household's name been placed on the DBS barring list?</li> </ul>	<p><b>Yes/No</b></p>
<ul style="list-style-type: none"> <li>• Have you or anyone living in your household have any convictions or cautions for the supply of illegal drugs?</li> </ul>	<p><b>Yes/No</b></p>

If you have answered YES to any of the questions, please provide further information below:

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I understand my responsibility to safeguarding children and am aware that I must notify my manager of anything that may affect my suitability.

I will ensure I notify my employer of any convictions, cautions, court orders, reprimands or warning I or anyone living in my household may receive.

I give permission for you to contact any previous settings, local authority staff, the police, the DBS and Ofsted about my suitability to care for children.

Staff  
Signed: ..... Date: .....

Manager/Senior  
Signed: ..... Date: .....

Manager/Owner

Please record follow-on action taken, where relevant

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Signed: ..... Date action taken: .....

