



Staff Disqualification Declaration

This form is to be completed by all relevant staff and volunteers as part of pre-employment checks. [Additionally, we ask all relevant staff to complete this form annually.]

Full Name: _____

Address: _____

Please respond to the questions listed below and sign the declaration to confirm that there are no reasons why you should not be working with children. If you are unable to meet any of the following aspects, please disclose this immediately to the Head. Please circle yes or no against each point.

Your personal situation		
<ul style="list-style-type: none"> • Have you been barred from working with children (i.e. does your name appear on the DBS Barring List)? 	Yes	No
<ul style="list-style-type: none"> • Have you been cautioned for, convicted of or charged with certain violent and sexual criminal offences against children and adults, either at home or abroad? (Please see a list of the relevant offences set out in the Appendix below.) 	Yes	No
Those you live with		
<ul style="list-style-type: none"> • Do you live in the same household as or is someone employed in your household who has unspent cautions or convictions for a relevant offence? (Please see a list of the relevant offences set out in the Appendix below) 	Yes	No
<ul style="list-style-type: none"> • Do you live in the same household as or is someone employed in your household who has been barred from working with children as a result of receiving a caution or conviction for a relevant offence? (Please see a list of the relevant offences set out in the Appendix below) 	Yes	No

<ul style="list-style-type: none"> Do you live in the same household as or is someone employed in your household who has been disqualified from working with children under the Childcare Act 2006? 	Yes	No
<ul style="list-style-type: none"> Do you live in the same household where someone who has been disqualified from registration under the Childcare Act 2006 lives or is employed? 	Yes	No
Care of children		
<ul style="list-style-type: none"> Have your own children been taken into care? 	Yes	No
<ul style="list-style-type: none"> Have your own children been the subject of a child protection order? 	Yes	No
<ul style="list-style-type: none"> Have you had your registration cancelled in relation to childcare or children's homes or have you been disqualified from private fostering? 	Yes	No
<ul style="list-style-type: none"> Are you 'Disqualified from Caring for Children'? 	Yes	No

If you have answered 'yes' to any of the above, please provide further information below. This information will be used to determine whether or not you are disqualified from working with children. Please note that when providing further details, you do not need to provide details about any protected cautions or protected convictions. You are also not required to disclose spent cautions or convictions of a person who lives or is employed in your household.

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Please note: Staff who are disqualified from childcare or registration, including 'by association', may apply to Ofsted for a waiver of disqualification. A factsheet explaining the process can be found on this link: <https://www.gov.uk/government/publications/applying-to-waive-disqualification-early-years-and-childcare-providers> .Such staff may not be employed in the areas from which they are disqualified, or involved in the management of those settings, unless and until such waiver is confirmed.

I understand my responsibility to safeguard children, and I am aware that I must notify the Head immediately of anything that may affect my suitability to work with children.

I will ensure that I notify my employer immediately of any convictions, cautions, court orders, reprimands or warnings I may receive.

I give permission for you to contact any previous employer, local authority staff, the police, the DBS, or any medical professionals to share information about my suitability to care for children.

I will ensure that I notify my employer immediately if I live in a household where anyone lives or works who has been disqualified from working with children or from registration for the provision of childcare.

Signed Date

On behalf of South Lee School::

I have reviewed the above and confirm that no further action is to be taken.

Signed Date

OR

I have reviewed the above and the following action has been taken:

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Signed Date action taken

Appendix: List of relevant convictions which can be found here:

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384712/DBS_referrals_guide - relevant offences v2.4.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384712/DBS_referrals_guide_-_relevant_offences_v2.4.pdf)

Please note that due to changes in legislation, this list may not be exhaustive. If you have any queries or concerns, please contact the Bursar.

Guidance Notes on Staff Declaration Form for Schools

Note 1

Guidance from the DfE states that the following categories of worker could be caught by the Regulations:

Staff

The disqualification requirements apply to the following staff:

- Early years provision - any member of staff who provides any care for a child up to and including reception age. This includes breakfast clubs, lunchtime supervision and after school care provided by the school both during and outside of school hours for this early years age range.
- Later years provision, for children under 8 - please note however that the new DfE guidance states that the Regulations do not apply to education or supervised activity for children above reception age during school hours or in after school or co-curricular educational clubs. However, the Regulations do apply to before school settings, such as breakfast clubs and after school provision that would constitute childcare.
- The Regulations also apply to staff who are responsible for managing either the early or later years provision in that setting. The Guidance is clear that schools will need to use their judgement to determine who is covered but this will include the Head, and may also include members of the senior management or leadership team responsible for the day-to-day management of the provision.

Volunteers and governors

Initial guidance was that the Regulations do not apply to governors and volunteers; however, the DfE Guidance states that the Regulations will apply if the volunteer or governor works in relevant childcare on a regular basis, or they are directly concerned with the day-to-day management of such provision.

Staff who occasionally 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. Schools should exercise their judgement about whether such staff are within scope by evaluating and recording any risks and control measures put in place and taking advice from the LADO, safeguarding lead or advisor when appropriate. A record of the assessment should be retained on the employee's personnel file.

Agencies and supply staff

Where schools use staff from any agency, or third-party organisation, to work in relevant childcare in schools, or contract out such childcare, they must obtain confirmation that the agency or organisation providing the staff has informed staff that they will be committing an offence if they are deployed to work in relevant childcare, or are directly concerned in the management of such provision, if they are disqualified under the Regulations. This should include the provider requesting that their staff inform them if they consider that they could be disqualified under the legislation.

Trainees

The requirements for agency and supply staff also apply where training suppliers, such as initial teacher training providers, are placing trainees or students at the school, who are working and/or being trained in a relevant setting. Where trainee staff are salaried, for example on employment based teacher training programmes, and work in a relevant setting, the school must obtain confirmation from the provider that they comply with the legislation.

Self-employed contractors

Where the school deploys a contractor who is self-employed to work in relevant childcare provision, the school must obtain assurance that contractor is aware of their responsibilities under the guidance and has complied with them.

The Guidance states however that the disqualification requirements do not apply to the following:

Staff not directly employed to provide childcare

Staff such as caretakers, cleaners, drivers, transport escorts, catering and office staff who are not employed to directly provide childcare are not covered by this legislation.

Healthcare provision

Anybody involved in any form of healthcare provision for a child, including school nurses and local authority staff such as speech and language therapists and education psychologists, are specifically excluded from the statutory definition of childcare, and are therefore excluded from the legislation.

Note 2

Although there is no requirement set out in the Guidance or Regulations to state that schools are obliged to ask staff to self-declare, there is a legal requirement on schools to evidence that checks have been made and to 'take steps' to ensure that they gather sufficient and accurate information about whether any member of staff in relevant childcare is disqualified by association. Accordingly we suggest that the easiest way to do this is through completing staff declaration form. There has been discussion on whether this should be done on an annual basis. Which option a school takes may depend on resources.

Option 1

Ask staff to complete the form on recruitment and then include guidance around the duty to declare whether they are disqualified from providing childcare in policies. This could also be included in contracts of employment. Make sure that this is publicised.

Option 2

Take the steps set out in option 1 above and relevant staff to complete the Staff Declaration Form on an annual basis.

General Guidance

Data Protection

The statutory guidance highlights that schools should comply with their duties under the data protection legislation. Schools should not ask staff for details of any protected cautions or protected convictions. Staff are also not required to disclose spent cautions or convictions of a person who lives at or is employed in their household.

The DfE states that in gathering evidence to show that the school has complied with its requirement, schools should minimise the intrusion into the private lives of their staff and members of their household.

Schools should therefore ensure that in maintaining records they should not store personal data or sensitive personal data about household members without their consent, and they should ensure that any information is kept to a minimum is accurate and is only stored for the minimum period of time necessary.

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

The DfE states that it is vital that schools do not ask staff or third parties to make requests for their criminal records in connection with employment, as this will amount to an enforced subject access request which will be an offence under section 56 of the DPA from 10 March 2015. The Information Commissioner's Office (ICO) will be seeking to take prosecutions against organisations who commit this offence.

Record keeping

Schools must do the following:

- keep a record of those staff who are employed to work in or manage relevant childcare
- record the date on which disqualification checks were completed.

Schools may choose to keep this as part of the Single Central Record or maintain a record separately.

Schools should also keep records regarding action taken when employees declare that they are disqualified.

Rehabilitation of Offenders Act (ROA)

Schools must have regard to the ROA. The ROA allows criminal convictions, cautions, and youth cautions (formerly reprimands and final warnings) to be considered spent after a specified period of time known as the rehabilitation period, which is decided by the sentence or disposal received. Sentences of over 48 months and public protection sentences (regardless of the length of sentence) can never become spent.

The vast majority of roles in schools and relevant childcare settings are exempt from the ROA and as a result staff are normally required to disclose all their convictions and cautions, including those that are spent. There are exceptions with certain minor cautions or convictions.

However, please note that staff are not required to disclose the spent convictions of those who are living or employed in their households.

Application for an Ofsted 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 2009 Regulations they must inform Ofsted (using disqualification@ofsted.gov.uk). They should tell the relevant individual that Ofsted has been informed and explain the implications of disqualification to the individual, 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. When communicating these matters to a staff member schools should consider taking advice from their HR provider, LADO, safeguarding lead officer or adviser.

More details of the steps to be followed can be found in the DfE guidance.