

Keeping Children Safe in Education: Childcare Disqualification Requirements Employee/Worker/Volunteer Declaration

All sections that you are required to complete are marked with an **X**.

School	Ealing Music Service
<p>Please refer to the accompanying letter for detailed information about the requirement for you to make this declaration.</p> <p><u>In accordance with the legislation you are required 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></p> <p>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.</p> <p>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.</p> <p>Reference: http://www.ofsted.gov.uk/resources/applying-waive-disqualification-early-years-and-childcare-providers</p>	

Name of Person signing the Declaration	Post Held
X	X

Section 1 – Orders or other restrictions	Please circle one option for every question
Have any orders or other determinations related to childcare been made in respect of you?	X YES / NO
Have any orders or other determinations related to childcare been made in respect of a child in your care?	X YES / NO
Have any orders or other determinations been made which prevents you from being registered in relation to child care, children’s homes or fostering?	X 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/uksi/2009/1547/schedule/1/made	X YES / NO
Are you barred from working with Children (Disclosure and Barring (DBS))?	X YES / NO
Teachers only - Are you prohibited from Teaching?	X 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)? 	X YES / NO
<ul style="list-style-type: none"> Any violent or sexual offence against an adult? 	X YES / NO
<ul style="list-style-type: none"> Any offence under the Sexual Offences Act? 	X YES / NO
<ul style="list-style-type: none"> Any other relevant offence? Available at the links below: http://www.legislation.gov.uk/ukxi/2009/1547/schedule/2/made http://www.legislation.gov.uk/ukxi/2009/1547/schedule/3/made	X YES / NO
Have you ever been cautioned, reprimanded, given a warning for or convicted of any similar offence in another country?	
X YES / NO	
Section 3 – Disqualification by Association	
To the best of your knowledge, is anyone who lives or works in the same household* where you live disqualified from working with children under the Regulations? <i>*household – includes family, lodgers, house-sharers, household employees</i> This means does anyone in your household have an Order or Restriction against them as set out in Section 1 or have they been cautioned, reprimanded, given a warning for or convicted of any offence in Section 2.	
X YES / NO	
Section 4 – Provision of Information	
If you have answered YES to any of the questions above you should provide details below in respect of yourself, or, where relevant, the member of your household. 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 ground for disqualification under the Childcare (Disqualification) Regulations 2009 etc.	X
The date(s) of these	X
The relevant court(s) or body(ies) and the sentence (if any) imposed	X
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 5 – Declaration	
In signing this form, I confirm that the information provided is true to the best of my knowledge and that: <ul style="list-style-type: none"> I understand my responsibilities to safeguard children. I understand that I must notify my head teacher immediately of anything that affects my suitability including any cautions, warnings, convictions, orders or other determinations made in respect of me or a member of my household that would render me disqualified from working with children 	
Signed	X
Print Name	X
Date	X

Frequently Asked Questions

(compiled by Southend Borough Council)

N.B. Any reference to the term "School" in this document should be read as Ealing Music Service in the context of your employment with the same.

- 1. For existing staff, is the advice that a self-declaration is sufficient or is any declaration expected to be verified wherever possible, for example by viewing a current DBS check or obtaining a new one, and are employers expected to verify the absence of any Orders or restrictions?**

There is no requirement to check DBS certificates for existing staff and there is no evident process for verifying if someone has a childcare order or other restriction against them. It seems that self-declarations are acceptable. For new staff, the employee should sign a declaration and the DBS certificate should be checked against the list of offences in the Schedules. Of course, other offences may also lead to non-employment under normal DBS assessment processes.

- 2. How can we do checks on "householders"?**

It is not the employer's role to carry out a check on individuals other than those they employ, however employers should have effective systems in place to ensure that staff are suitable to work in childcare. Employees who work in the specified early and later years provision should be asked to provide the necessary information about any person who lives or works in the same household as them.

- 3. Are school staff required to ask their householders if they are disqualified?**

We do not believe there is any requirement for this. Staff are required to declare "to the best of their knowledge" and schools can accept declaration at face value.

- 4. Where a care order was put in place in respect of someone's children because of the actions of their partner, and the care order is no longer in place or the partner is no longer living in the household – is this covered by the Regulations ?**

If the care order has been removed or the partner is no longer living at the household then these individuals would not be covered by the regulations. If the partner moved back into the household then the regulations would apply again.

- 5. Where are the disclosable offences set out?**

The relevant offences are listed in Schedules 2 and 3 in the Schedules to the Regulations - although it is appreciated that these are complex to understand. The key offences are those that result in a caution (including reprimands/ warnings/ youth cautions) issued post 2007 (see below) or conviction and relate to:

- any offences by an adult against or involving children
- any sexual offence by an adult or a child against an adult or a child
- murder, manslaughter, kidnapping, false imprisonment, ABH or GBH

The DfE have clarified that anyone who was issued with a relevant caution (including reprimands/warnings) before 6 April 2007 is **NOT** disqualified.

- 6. The reference to Burglary in Schedule 2 seems anomalous – why is it there?**

This refers to Burglary under the 1968 Theft Act which was actually Burglary involving rape so would only be applicable if someone was charged with this specific offence – which in turn comes under key offences outlined above.

- 7. Schedule 2 refers to repealed statutory offences – does this mean they do not apply?**

No – "repealed" does not mean these no longer apply, it means they have been superseded by other legislation but would still be a cause for disqualification if someone has been convicted of, cautioned etc. for any of these offences.

8. What if a person is not sure whether they have a relevant offence?

We would advise declaration of anything that they think may be relevant and schools can check with the DfE (mailbox.disqualification@education.gsi.uk) or schools can seek advice from HR.

9. The DfE guidance refers to “staff who work in the relevant provision” - does this include all staff employed e.g. including the caretaker or only those directly involved in care and supervision? If the latter, in a Primary/Junior School, does this include the Year 6 teacher/LSA who may or not teach under 8s but may at any time be involved in their care or supervision (e.g. trips, playground duty etc)?

The DfE says: The Childcare Act stipulates that a disqualified person should not be employed in connection with early or later years childcare and that they should not be directly concerned in the management of that provision. A person who sometimes works in the relevant childcare provision would be included in this definition

10. How long will it take to process an application for a disqualification waiver?

It is a matter for Ofsted who have the responsibility for granting a waiver or not. The time it will take to process a waiver application will undoubtedly vary from case-to case; whilst many should be straightforward, others will unfortunately be more complex and take time to resolve.

11. What constitutes childcare outside of the normal school day?

Child care includes breakfast clubs, homework clubs, nursery and crèche provision provided by the school. Where activities are run by other providers on school premises but not managed by the school (e.g. lettings, football clubs), these are not covered as they are not child care provision.

12. What should we do with the declaration forms once an employee has returned it?

These forms should be placed on the employee’s personal file as these are kept in a secure place. If required for volunteers, these forms should be retained in the same single central location that you store all the other papers.

13. How do these Regulations sit with the Data Protection Act, particularly in respect of sensitive personal data relating to someone not employed in the school (i.e. a householder) and the school passing information to OFSTED?

The DfE indicates that information must be processed in accordance with the Data Protection Act. The Childcare (Disqualification) Regulations require employers to pass information to OFSTED and such statutory duties are allowed under the Data Protection Act. Schools must handle and store all information in school carefully, in accordance with normal Data Protection rules.

14. Does this check need to be on the Single Central Record (SCR)?

There is no statutory requirement that the check should be recorded on the Single Central Record. However, it is advisable for schools to keep a record that all the checks have been completed and Ofsted Inspectors are reported as expecting it to appear on the SCR. Therefore our advice is that schools should record that a check has been satisfactorily completed on their SCR. Satisfactorily completed means no relevant information is declared or that a waiver has been obtained where relevant.

15. Who is going to check that schools comply?

This is unclear but it is anticipated that OFSTED will include this as part of their overall safeguarding/Single Central Record checks.

16. How is it that it has only just been decided to apply these Regulations in schools?

The DfE has confirmed that the Regulations have always applied to schools but it was only following requests to clarify that application, that the DfE identified that some supplementary advice would be helpful for schools. It is for this reason that they have issued guidance now and the expectations on schools became clear.