

# Consett Infant School

## Disqualification under the Childcare Act 2006

Date: September 2021

### Introduction

As part of our duty to safeguard pupils, we need to check whether you have been disqualified from caring for children. Please read the guidance below. It is your responsibility to inform the **Headteacher or one of the Designated Safeguarding Leads** should any of the criteria apply to you.

Under the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018 ("the 2018 Regulations"), made under the Childcare Act 2006 ("the 2006 Act"), individuals may be disqualified from providing certain early and later years childcare or being directly concerned with the management of that provision, where they are included in the Children's Barred List, have committed certain violent and sexual criminal offences or because of certain orders or determinations made in relation to the care of children, childcare and private fostering.

The criteria for disqualification are explained further in the following pages and in the Department for Education's statutory advice [Disqualification under the Childcare Act 2006](#) ("the DfE statutory advice"), a copy of which is enclosed/available in the school office for your reference.

Schools are required to ensure relevant staff (including those undertaking training in schools (both salaried and unsalaried), casual workers and volunteers) are made aware of this legislation. Schools must ensure they do not knowingly employ a person who is disqualified.

You have been asked to read this declaration form because your role is considered to be covered by the legislation. If you have any questions regarding the requirements of this form or relevant information, please talk to the Headteacher or one of the designated safeguarding leads.

The criteria for disqualification under the 2006 Act and the 2018 Regulations) include:

- a. Inclusion on the Disclosure and Barring Service (DBS) Children's Barred List;
- b. Being found to have committed certain violent and sexual criminal offences against children and adults which are referred to in regulation 4 and Schedules 2 and 3 of the 2018 regulations (note that regulation 4 also refers to offences that are listed in other pieces of legislation;
- c. Certain orders made in relation to the care of children which are referred to in regulation 4 and listed at Schedule 1 of the 2018 regulations;
- d. Refusal or cancellation of registration relating to childcare (except if the refusal or cancellation of registration is in respect of registration with a child minder agency or the sole reason for refusal or cancellation is failure to pay a prescribed fee under the 2006 act (regulation 4(1) of the 2018 regulations)), or children's homes,

or being prohibited from private fostering, as specified in paragraph 17 of Schedule 1 of the 2018 regulations;

- e. Being found to have committed an offence overseas, which would constitute an offence regarding disqualification under the 2018 regulations if it had been committed in any part of the United Kingdom

The above list is only a summary of the criteria that lead to disqualification. Further details about the specific orders and offences, which will lead to disqualification, are set out in the 2018 regulations.

### **Relevant offences and orders**

Under the legislation a person is disqualified if they are found to have committed an offence which is included in the 2018 regulations (a 'relevant offence') this includes:

- being convicted of a relevant offence
- on or after 6 April 2007, being given a caution for a relevant offence
- on or after 8 April 2013, being given a youth caution for a relevant offence

A person who is found not guilty of a relevant offence by reason of insanity or found to be under a disability and to have committed the act for which they have been charged in respect of a relevant offence is also disqualified (regulation 2(2) of the 2018 regulations).

A list of the relevant offences and orders, as referred to in the [disqualification criteria](#) section of the DfE's guidance, that lead to the disqualification under the 2018 regulations is set out in the tables A and B in [the appendices](#). Additionally, any offence resulting in the death of or bodily injury of a child is considered a relevant offence under the legislation and must be disclosed.

### **What you need to do**

If the answer is "yes" to any of the questions below you must declare this. Before making a declaration, you should note **the following are not covered by the legislation and therefore do not need to be disclosed**:

#### **a. Cautions dated before 6 April 2007**

The Rehabilitation of Offenders Act 1974 (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. Such offences do not need to be disclosed in relation to anyone living or employed in your household.

Sentences of over 48 months and public protection sentences (regardless of the length of sentence) can never become spent and guidance on the ROA is available [here](#). The vast majority of roles in schools and relevant childcare settings are exempt from the ROA, under the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975 (amended in 2013)). This means you should still disclose any relevant offences that you have committed which meet the disqualification criteria above

#### **b. Protected cautions or protected convictions**

Under an amendment to the ROA made on 29 May 2013, certain old and minor cautions and spent convictions are 'protected'. They are not subject to disclosure under the Exemptions Order and will not appear on any standard or enhanced disclosure certificate issued by the Disclosure and Barring Service (DBS). Generally, this covers convictions which are over 11 years old (or over 6.5 years old if committed under the age of 18) for which a custodial sentence was not ordered, and cautions which are over 6 years old (or over 2 years old if committed under the age of 18). However, some serious offences, such as violent and sexual offences, will never be protected. Guidance provided by the DBS: [DBS Filtering Guide](#) will help you understand the old and minor cautions and convictions that do not need to be disclosed.

**Self-declaration – if the answer is yes to any of the following you MUST declare it to the **Headteacher or designated safeguarding lead**:**

<p>Have any orders relating to the care of children, as set out in Schedule 1 of the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018 ("the 2018 Regulations"), been made in respect of you?</p> <p>This includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Orders disqualifying you from caring for children</li> <li>• Orders disqualifying you from private fostering</li> <li>• Any refusal of an application for you to be registered in relation to a children's home</li> <li>• Care/child protection orders issued in respect of a child in your care</li> </ul>
<p>Have you been convicted of committing, or been given a caution, reprimand or warning since 6 April 2007 for, any offences set out in regulation 4 and schedules 2 and 3 of the 2018 Regulations?</p> <p>This includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Any offence against or involving a child</li> <li>• Any sexual offence</li> <li>• Any violent offence, i.e. murder, manslaughter, kidnapping, false imprisonment, actual bodily harm (ABH), or grievous bodily harm (GBH).</li> </ul>
<p>Have you been barred from working in regulated activity with children (i.e. are you included on the Disclosure and Barring Service Children's Barred List)?</p>
<p>Have you committed an offence overseas which would have resulted in disqualification if it had occurred in the UK?</p>

- You **MUST** notify school immediately of any change in circumstances that may affect disqualification under the 2006 Childcare Act, including any new caution, reprimand or warning for a relevant offence

Failure to declare information accurately to the best of your knowledge or failure to notify the school of any relevant change in my circumstances is likely, for employees, to be regarded as gross misconduct and will be dealt with under the appropriate policy.