

Disqualification under the Childcare Act 2006

Staff self-declaration form

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Introduction

Under the Childcare (Disqualification) Regulations 2009 (“the 2009 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, including that they may be disqualified ‘by association’ where they live in the same household as a disqualified person or in a household in which a disqualified person is employed. Schools must ensure they do not knowingly employ a person who is disqualified.

You have been asked to complete this self-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 your school in the first instance.

Disqualification criteria

The criteria for disqualification under the 2006 Act and 2009 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 2009 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 2009 Regulations (*in relation to England, the only relevant order for these purposes is a Care Order under the Children Act 1989, or equivalent under previous legislation*);
- d. Refusal or cancellation of registration relating to childcare*, or children's homes, or being prohibited from private fostering**, as specified in Schedule 1 of the 2009 Regulations;
- e. Living in the same household where another person who is disqualified lives or is employed (disqualification 'by association') as specified in regulation 9 of the 2009 Regulations;
- f. Being found to have committed an offence overseas which would constitute an offence regarding disqualification under the 2009 Regulations if it had been done in any part of the United Kingdom.

Relevant offences and orders are listed in Table A and B of the DfE statutory advice. However, the above list and the DfE statutory advice are not comprehensive. Further details about the specific orders and offences which will lead to disqualification are set out in the 2009 Regulations: [The Childcare \(Disqualification\) Regulations 2009](#).

*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 2009 Regulations).

** Pursuant to legislation references in paragraph 17 of Schedule 1 to the 2009 Regulations.

What you need to do

At the end of this form, you are asked to make a self-declaration regarding any disqualification under the Childcare Act 2006. Before completing this 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

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:

I have read and understood the disqualification criteria and other information on this self-declaration form, referring to the DfE statutory advice and 2006 Act and 2009 Regulations as necessary, and confirm that:

Please delete as appropriate, either:

I am not disqualified under the 2006 Childcare Act, including 'by association'.

Or

I believe I may be disqualified under the 2006 Childcare Act, for the following reason(s):

Please provide details of relevant offence, order or determination. You may wish to provide a copy of relevant documentation. However, this is not a requirement. If you are considering providing any additional documentation, please consider first whether this would result in you sharing additional sensitive personal data which is not relevant to the 2006 Act.

I understand:

- I must notify my 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
- That failure to complete this declaration accurately to the best of my 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. In the case of volunteers/others, any such failure is likely to result in no longer being offered voluntary/casual work or other arrangements for training, etc
- That this form and any record of subsequent considerations regarding disqualification under the 2006 Act will be retained securely by the school and managed in accordance with the provisions of the Data Protection Act 1996. A note of the date and outcome of the school's check regarding any disqualification will be made on the school's Single Central Record. Any personal data I provide that is considered not relevant to the 2006 Act will be securely destroyed by the school.

Signed:

Name:

Role:

Date:

Immigration, Asylum and Nationality Act 2006

Information for candidates invited to interview

The law on the prevention of illegal migrant working is set out in Sections 15-25 of the Immigration, Asylum and Nationality Act 2006. These provisions replace the requirements set out under Section 8 of the Asylum and Immigration Act 1996, and came into force on 29 February 2008. The law requires all employers in the United Kingdom to make basic document checks on every person they intend to employ to prevent illegal migrant working in the UK.

The documents we may accept from a person to prove their right to work are set out in Annex A. There are two lists – List A and List B. You must present an original document, or document combination, specified in one of these lists

List A contains the range of documents which employers may accept for a person who has a permanent right to work in the UK, establishing a ‘continuous statutory excuse’.

List B contains a range of documents which may be accepted for a person who has a temporary right to work in the UK, establishing a ‘time-limited statutory excuse’. Follow up checks will be required.

Employers must check that the documents provided are genuine and that the person presenting them is the prospective employee or employee, the rightful holder and allowed to do the type of work being offered. The employer must check:

- 1) photographs and dates of birth are consistent across documents and with the person’s appearance in order to detect impersonation:
- 2) expiry dates for permission to be in the UK have not passed:
- 3) any work restrictions to determine if they are allowed to do the type of work on offer (for students who have limited permission to work during term-times, employers must also obtain, copy and retain details of their academic term and vacation times covering the duration of their period of study in the UK for which they will be employed);
- 4) the documents are genuine, have not been tampered with and belong to the holder; and
- 5) the reasons for any different names across documents (e.g. marriage certificate, divorce decree, deed poll). Supporting documents should also be photocopied and a copy retained.

Employers must also make a clear copy of each document in a format which cannot later be altered, and retain the copy securely: electronically or in hardcopy. The employer must retain a record of the date on which it made the check. They must copy and retain:

- 1) Passports: any page with the document expiry date, the holder’s nationality, date of birth, signature, leave expiry date, biometric details, photograph and any page containing information indicating the holder has an entitlement to enter or remain in the UK and undertake the work in question.
- 2) All other documents: the document in full, including both sides of a Biometric Residence Permit.

Employers must retain the copy or copies securely for not less than two years after the employment has come to an end.

This procedure is applied to all short-listed applicants, irrespective of nationality, ethnic origin or any other attribute. If you are subsequently unsuccessful, the document will either be destroyed or returned to you with a letter confirming you have been unsuccessful.

Annex A - Lists of acceptable documents for right to work checks

List A	
Acceptable documents to establish a continuous statutory excuse	
1.	A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2.	A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
3.	A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
4.	A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
5.	A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
6.	A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
7.	A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
8.	A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
9.	A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
10.	A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

List B	
Group 1 – Documents where a time-limited statutory excuse lasts until the expiry date of leave	
1.	A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
2.	A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3.	A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
4.	A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
Group 2 – Documents where a time-limited statutory excuse lasts for 6 months	
1.	A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with a Positive Verification Notice from the Home Office Employer Checking Service.
2.	An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, together with a Positive Verification Notice from the Home Office Employer Checking Service.
3.	A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question.

The following countries are part of the European Economic Area (EEA) and their nationals who may work without restriction:

- Austria
- Belgium
- Bulgaria
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Norway
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden

Nationals of Switzerland may also work without restriction.

Croatian nationals

Separate restrictions on Croatian nationals' access to the labour market are set out in the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013.

Since 1 July 2013, as EU nationals, Croatsians have been able to move and reside freely in any EEA Member State. However, the UK has applied transitional restrictions on their access to the labour market. These are set out in the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013. Under these Regulations, a Croatian national who wishes to work in the UK and who is subject to the worker authorisation requirement will need to obtain an accession worker authorisation document (permission to work) before starting any employment.

This means that since 1 July 2013 a Croatian national will only be able to work in the UK if they hold a valid accession worker authorisation document (such as a purple registration certificate) or if they are exempt from work authorisation. Under the 2013 Regulations employers are required to carry out document checks to confirm if a Croatian national is either exempt from work authorisation or holds a valid worker authorisation document for the work in question.