**Guidance for Headteachers**

**Disqualification by Association**

The DfE has produced ‘Keeping children safe in education: childcare disqualification requirements – supplementary advice’ as a supplement to the Keeping children safe in education statutory guidance. This incorporates new guidance on Disqualification ‘by association’.

This means if a HeadTeacher receives information that an employee is living with a person who would fall within the category of disqualified then the Headteacher must notify Ofsted within 14 days of the school becoming aware of the situation. The employee can then make an application for Ofsted to consider a waiver to allow them to continue to work.

**What is Disqualification ‘by association’?**

Disqualification ‘by association’ is where an employee is living in the same household where another person who is disqualified (\*) lives or works.

Examples of (\*) disqualification are given below:

* Found to have committed a relevant offence against a child.
* Made subject to an order or determination removing a child from your care or preventing a child from living with you.
* Found to have committed certain offences against an adult; for example, murder, kidnapping, rape, indecent assault, or assault causing actual bodily harm.
* Charged with certain offences against an adult, or an offence that is related to another offence, and had a relevant order imposed.
* Included on the list of those who are barred from working with children, held by the Disclosure and Barring Service.
* Made the subject of a disqualifying order.
* Previously refused registration as a childcarer or have had registration cancelled, unless the registration was for non-payment of fees for continued registration after 1 September 2008.
* Refused registration as a provider or manager of children’s homes or have had registration cancelled.A full list of all the circumstances that disqualify people from working with children is available in the Childcare (Disqualification) Regulations 2009. (<http://www.legislation.gov.uk/uksi/2009/1547/contents/made>)

**Action required**

* Headteacher’s are required to request existing staff to compete a declaration form.
* The declaration form must also be included as part of pre-employment checks for those posts covered by the provision as part of the recruitment process.
* The provision only applies to staff who routinely work with children aged 5 and under. Staff who only work with children aged 6-8 during school hours are not subject to the regulations.
* However, the regulations do apply to staff who work in out of hour’s provision, i.e. breakfast and afterschool clubs, who work with children up to the age of 8.
* There is a requirement by Ofsted for Schools to keep a single central record of disclosure.

**What happens if an employee makes a positive declaration?**

* The employee will be asked by the Headteacher to provide additional information on the person who lives in the same household as them. It is recommended that you contact Human Resources, Advice and Support to discuss further at this point.
* An employee who has made a positive declaration **must not be allowed to attend work** and must be suspended until such time as a waiver is issued from Ofsted.

**Ofsted waiver application processing and criteria**

Before making a decision on a waiver application, Ofsted say they will consider the following:

* The risk to children;
* The nature and severity of any offences, cautions or orders disclosed;
* The age of any offences or orders;
* Repetition of any offences or orders or any particular pattern of offending;
* Notes of any interviews with the disqualified person;
* Any other information available from other authorities, such as the police; and
* Any mitigating factors.

**Contact:**

Headteachers should contact, Human Resources, advice and support for further guidance.

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