



## **Additional Recruitment Vetting Checks**

### **Teaching regulation agency checks**

In addition to obtaining the DBS certificate, anyone who is appointed to carry out teaching work will require an additional check to ensure they are not prohibited from teaching – the prohibition order.

A prohibition order means that the person concerned is not allowed to undertake unsupervised teaching work in schools or other settings.

LA maintained schools: Prohibited from teaching for TAs are not required.  
LA maintained schools: For HLTAs are required if “teaching work” is undertaken.

With effect from 3<sup>rd</sup> September 2018 (KCSiE) the following lists should be checked: the Historic GTCE Sanctions & Restrictions list should also be checked by schools / Academies for any teaching staff; the “Teachers who have failed induction or probation” list which is also at the Teacher Services website must also be checked by schools / Academies to confirm that any teaching staff is not on the list.

All four lists can be checked via the Teacher Services website:

- Teachers who have failed induction or probation
- General Teaching Council for England (GTCE) Sanctions
- Teachers and others prohibited from the profession
- Section 128 barring directions

We recommend that all four lists above are checked for all teaching staff (not just new teaching staff) and recorded on an SCR.

### **European Economic Area (EEA) teachers with sanctions**

From 1<sup>st</sup> January 2021 the Teaching Regulation Agency will no longer maintain a list of EEA teachers with sanctions, so this check (undertaken by schools via the Teacher Services/Employer Access route) will no longer be available. Instead, teachers will be asked to provide a letter of professional standing from the organisation responsible for regulating teachers in the country in which they qualified. Teachers who are qualified in the EEA will be required to present this when they apply for Qualified Teacher Status in England.

### **Childcare disqualification regulations**

The Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018 (“the 2018 Regulations”) apply to staff and volunteers:

- working in childcare provision
- who are directly concerned with the management of childcare provision

and prohibit anyone who has disqualified themselves under the Regulations, from working in a relevant setting, including in schools and it is the school's responsibility to undertake these checks.

This requirement to check the 'disqualification' status of relevant staff and volunteers is in addition to existing checks such as Disclosure and Barring Service (DBS) Checks.

Schools or academies most likely to be affected are junior, primary, infants, and combined schools or academies that have children under age 8.

Schools must ensure that they are not knowingly employing a person who is disqualified under the 2018 Regulations.

- There is not a legal requirement for a relevant staff member or volunteer to sign a Declaration Form confirming his / her disqualification status; schools / Academies do need to be able to confirm, however, the date on which a disqualification check was completed so the Council's recommendation is to ask a relevant staff member and volunteer to sign a Declaration Form such as the one linked below;
- Staff such as caretakers, cleaners, drivers, transport escorts, school nurses, catering and office staff are not typically covered by the legislation; local authority staff involved in healthcare provision such as speech and language therapists and educational psychologists are excluded from the definition of childcare and are not covered by this legislation;
- Relevant schools / Academies need to confirm that any relevant staff from any agency or third party organisation are not disqualified;
- Relevant staff and volunteers who may be disqualified must not work in a relevant setting until or unless a waiver of disqualification is obtained by an individual from OFSTED;
- The process for determining whether a relevant staff member or volunteer is disqualified remains unchanged; the Council recommends that a school / Academy should contact the LADO in the first instance who will provide advice about the process to be followed in those cases;

The threshold for criminal information for relevant staff and volunteers being spent remains unchanged.

1. Anyone who is disqualified under the terms of the above Regulations is prohibited from working in a relevant non-domestic setting which includes relevant schools and Academies.
2. A disqualified person may apply for a waiver from OFSTED. View further details of the process of [applying for a waiver from OFSTED](#)
3. The following categories of staff in nursery, primary, or secondary school settings are covered by the Regulations:
  - staff and volunteers who work in early years' provision (including teachers and support
  - staff working in school nursery and reception classes); early years' provision includes work during normal school hours looking after children aged up to and including 31 August following their 5<sup>th</sup> birthday (i.e. a reception class)
  - staff and volunteers working in later years' provision for children; later years' provision includes work in childcare outside normal school hours with children who are older than reception age (as defined above) but under age 8; the work for later years' provision does not include extended education activities but it

- does include before school activities such as breakfast clubs and similar after school provision;
- staff and volunteers who are directly concerned in the management of early or later years' provision; the expectation is that this provision would apply to Headteachers and may include any other relevant members of a school's leadership team.
4. A school / Academy that includes early years and later years' provision (as defined above) may want to consider whether staff and volunteers who do not work regularly in those areas nevertheless work there to such a degree that they come within the scope of the legislation. For example, staff/volunteers not working regularly in early or later years' provision may nevertheless work with those children sufficiently frequently to warrant inclusion in the disqualification requirements e.g., helping out in the playground and during school events, covering early years' classes, and helping generally with those children.
  5. Where a staff member/volunteer does not work in a relevant setting sufficiently regularly to be covered by the legislation but does work in those settings from time to time then a school / Academy may want to consider recording any risks and control measures that should be put in place and keep such an assessment in an individual's local personal file.
  6. Staff members/volunteers in secondary schools may be covered where there are before school settings such as breakfast clubs and/or after-school provision for children under age 8.
  7. Relevant volunteers working in relevant settings with children under age 8 are covered by the legislation.
  8. Governors: The DfE has confirmed that this requirement only relates to those in employment in childcare and therefore does not apply to governors (unless a governor is working as a volunteer in a relevant setting with children under age 8).
  9. Contractors / Agency staff: schools / Academies that use staff working or volunteering in relevant childcare that is supplied by an agency or third-party organisation, must ensure that the agency or organisation has carried out the relevant disqualification checks. Our recommendation is that wherever possible confirmation is obtained from a relevant agency or organisation that any agency worker employed at a school / Academy in a relevant setting has not been disqualified under the terms of the Regulations. In practice, relevant schools / Academies may have to ask a relevant agency/contract staff member whether s/he is willing to sign a copy of the attached Declaration and keep those details in a school's / Academy's local personal files
  10. Single Central Record (SCR): There is not a requirement under the terms of the Regulations for any Disqualification Declaration record to be kept on a school's / Academy's Single Central Record. Nevertheless, a school / Academy may want to insert an additional column to record details of a Disqualification Declaration where applicable. The SIMS Team has included an additional column for this purpose and has reissued a new SIMS SCR. Including this information on a school's SCR may be helpful in that the relevant safeguarding information is kept in a single document.
  11. Data Protection: schools / Academies should not ask staff members/volunteers or any third parties for a "Subject Access Report" (SAR) from the DBS and/or a local police force (a SAR is a report about any personal information held by the DBS and/ or the police). In addition, a school / Academy should not store any personal data or sensitive data about a staff member without his/her consent and any information is kept to a minimum, is accurate, and is only stored for the minimum period of time necessary. Any personal information retained that is relevant to disqualification should be kept on a local personnel file.
  12. Some staff/volunteers working in Residential Schools may be subject to "Disqualification by Association" (i.e., by living in the same household as someone who is disqualified). In simple terms, a person may be disqualified through:
    - being included on the DBS Children's Barred List

- being cautioned for or convicted of certain violent and sexual criminal offences against children and adults (as defined in the above Regulations)
  - grounds relating to the care of children (including where an order is made in respect of a child under the person's care)
  - having registration refused or cancelled in relation to childcare or children's homes or being disqualified from private fostering
  - cautions and convictions of specified violent and sexual criminal offences against adults and children
  - being the subject of a Disqualification Order – including orders made in respect of his / her own children
13. Staff members who are disqualified may apply to OFSTED for a waiver of disqualification.

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

Relevant schools / Academies will need to:

1. Identify relevant staff members/volunteers working in relevant settings (as defined above); staff members/volunteers working in those settings should confirm that s/he is not disqualified under the terms of the legislation. (A Declaration Form for this purpose is linked below which we recommend is used by schools / Academies; the Form includes an addendum providing background information so that the Form constitutes a stand-alone document.)
2. A school / Academy should contact the LADO immediately if it becomes aware of anyone at a school / Academy (including volunteers) who is or may be disqualified; OFSTED must be notified within 14 days.
3. You may want to consider asking each relevant new appointment (including volunteers) working in relevant settings in schools / Academies to confirm that s/he is not disqualified by completing the Declaration Form linked below prior to commencing work recognising that completion of the Form is not mandatory.
4. DBS Certificates that contain information should be checked with reference to the list of relevant offences in the Regulations (as detailed above).
5. Relevant schools / Academies must ensure that any external agencies providing relevant staff have carried out those disqualification checks prior to placing those staff at a school / Academy. As detailed in paragraph 9 above, a relevant school / Academy may wish to request a signed Declaration Form directly from a relevant agency staff member/contractor if there are likely to be any significant delays in obtaining appropriate confirmation from an agency/organisation.
6. Schools / Academies will need to develop a process for obtaining regular confirmation from relevant staff/volunteers that there has been no change to their "disqualification status." Although there is no timeframe mentioned for obtaining the confirmation, we believe that an annual reminder to relevant staff/volunteers asking for an individual email response is sufficient. Copies of email confirmation from relevant staff/volunteers should be kept on an individual's local personal file.

[Staff Disqualification Declaration Form](#)

[Staff Disqualification Declaration \(Refresher\) Form](#)