

Childcare Disqualification Arrangements

This consultation by the Department for Education ran from 6 May 2016 – 1 July 2016. Our response was filed on line on 8 June 2016.

The consultation documentation is available [here](#):

What is your name?

Name **Sarah McKimm**

What is your email address?

This is optional, but if you enter your email address then you will be able to return to edit your consultation at any time until you submit it. You will also receive an acknowledgement email when you complete the consultation.

Email **sarah.mckimm@isi.net**

What is your organisation?

Organisation **Independent Schools Inspectorate**

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(Required)

Yes

No

Reason for confidentiality

Q1. Do you consider the current disqualification by association arrangements to be unfair and disproportionate to the risk to children?

Yes

No

Please give your reasons

Safeguarding guidance has been slimmed down over a number of years, with the introduction of “Keeping Children Safe in Education” in the place of the longer “Safeguarding Children and Safer recruitment in Education”, and a much shorter version of “Working Together to Safeguard Children”. However, pre-appointment vetting checks have increased in number. In the last two years, two types of “prohibition” check have been introduced, and now a new check for restrictions imposed by other EEA regulators. In our experience, schools are very confused about which vetting checks apply and to whom. The overlap of vocabulary which in normal parlance means essentially the same thing such as “barred”, “disqualified”, “prohibited” adds to the confusion, as does the lack of clarity in some instances over when checks are applicable, for example, when is a contractor to be considered “staff”.

The safeguarding regime needs to be easy to understand and operate and of obvious benefit for children if it is to continue to engage the support of school leaders. The statistics cited in the consultation document demonstrate that a disproportionate number of people (1397) have suffered uncertainty in their roles due to the need to apply for a waiver relative to the very few (2) who have in fact ultimately been refused a waiver. It is difficult to see that the signing of individual personal declarations (where that methodology has been adopted) has added anything to the safety of children as the system relies on the notion that unscrupulous people of malevolent intent are honest to their partners about their criminal past.

In the context of schools, staff are already subject to a raft of other vetting checks and the risk of association with people disqualified is more effectively dealt with by measures such as induction training and reminders for staff about their own vulnerability to being targeted, the existing requirement in the EYFS regarding managing mobile phones and cameras, and ensuring that staff understand that family and friends are treated as any other school visitors do not have enhanced access to the premises.

Q2. Which of the three options set out in this consultation, if any, do you think best achieves the objective of protecting children whilst making the regime fairer?

Show [Option 1](#)

Show Option 2

Show Option 3

[Option 1](#)

Option 2

Option 3

Not applicable

Q3. Do you support the proposal in option 1, that we should remove completely disqualification by association for childcare workers in non-domestic registered settings?

[Yes](#)

No

Please give your reasons for supporting option1

Schools are highly regulated environments with extensive vetting checks and security in place. The household members of early years staff would not normally have opportunity to come into contact with children. For those intent on harm, it is not clear how the disqualification by association provisions assist as they can be so readily circumvented by wrongdoers.

Q4. Do you support the proposal in option 2, to retain disqualification by association but allow representations from childcare workers disqualified by association in schools and on other non-domestic registered settings, or disqualified for having registration refused or cancelled in relation to childcare or children's homes, or disqualified from fostering, or on grounds relating to the care of children?

Yes

No

Please give your reasons for supporting option 2

Q5. Do you support the proposal in option 3, to retain disqualification by association, but reduce its scope so that it only applies to certain ‘more serious’ offences, and introduce a new right to make representations for certain workers (i.e. those disqualified by association in non-domestic registered settings where the qualifying offence is more serious, or those disqualified themselves for having registration refused or cancelled in relation to childcare or children's homes, or disqualified from fostering, or disqualified on grounds relating to the care of children)?

Yes

No

Please give your reasons for supporting option 3

Reasons not to support are not requested. However, we would comment that although this option has some merit in the abstract, the definitions of “more serious offences” would be likely to cause confusion and anxiety in the application.

Q6. If you support option 3 do you agree that offences should be categorised as more/less serious for the purpose of this option and which offences do you think should be categorised as more serious? The department’s statutory guidance Childcare Disqualification under the Childcare Act 2006 contains a list of offences under which childcare workers are currently disqualified (see related link).

Yes

No

Not applicable.

Q7. Do you agree that our proposals under option 3 to remove automatic disqualification and/or allow representations to Ofsted (including in cases of disqualification by association) should include headteachers and the registered person in other relevant settings?

Yes

No

Give your reasons

Not applicable.

Q8. Do you support the proposals to amend regulation 4(2) in respect to childcare workers who are foster carers or who have adopted children in their household and so that it no longer has the effect that childcare workers who themselves were once the subject of a care order are disqualified?

Yes

No

Q9. Do you have any comments about the potential financial costs or benefits to businesses of these proposals?

Yes

No

Q10. Do you have any other comments on the proposals in this consultation, or more generally about the childcare disqualification regime?



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No