DERBYSHIRE County Council

G: Disqualification – Group and school-based providers

What do I need to know?

- Legal Framework
  - DBS code of practice
  - Childcare Act 2006
  - Protection of Freedoms Act 2012
  - Police Act 1997
  - The Police Act 1997 (Criminal Records) (Registration) Regulations 2006
  - Safeguarding Vulnerable Groups Act 2006
  - Disqualification under the Childcare Act 2006
  - The Childcare (Disqualification) Regulations 2009
  - Childcare (Disqualification) Regulations 2009
  - Rehabilitation of Offenders Act 1974
  - Data Protection Act 2018
  - Regulation (EU) 2016/679 of the European Parliament and of the Council
  - Human Rights Act 1998

EYFS statutory framework for group and school-based providers pages 28-29, 3.22-3.27

- If the member of staff has been removed from regulated activity e.g. Ofsted regulated childcare (either through instruction or their own choosing) because they pose a risk of harm or have harmed a child or vulnerable adult you **must make a referral to DBS**.
- An employer **commits an offence** if they employ a person who is disqualified, except if they can prove that they did not know and had no reasonable grounds for believing that the person they employed was disqualified (Disqualification Under the Childcare Act p6 section 3)

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Disqualification (pages 20-22 of audit)	Things to consider and discuss:
Are you aware, that *under Section 75 of the Childcare Act 2026,* a person may be disqualified from registration? Disqualification under the Childcare Act 2006 - GOV.UK	• What procedures are in place to regularly monitor the ongoing staff suitability? • How and when do you make all staff aware of your provisions' code of conduct? Are they aware from the beginning of their employment and when do you revisit this? • What would cause yourself or a member of staff to become disqualified from registration? How do you share this information and with whom?
If a person is disqualified, do you **ensure** that they must not continue as an early years provider or be directly involved in the management of any early years provision?	• How do you ensure that you are compliant with all relevant legislation relating to disqualification? • What measures do you have in place to ensure that you do not employ a disqualified person in connection with your early years provision? • How do you ensure staff are aware that they should inform managers if there are any convictions, cautions, court orders, reprimands or warnings that may affect their suitability to work with children at recruitment or during their employment?
Are you aware that it is an offence to employ a person who is disqualified from registration by regulations under section 75 in connection with the provision of early years provision.	• What would you do if you discovered you had employed a person who is disqualified from registration? Who would you need to report this to? How would this be recorded?
Do you **ensure** as a registered provider that you notify Ofsted or the agency with which a provider of CoDP are registered of any significant event that is likely to affect the suitability of any person who is in regular contact with children on the premises where childcare is provided?	• What would you consider to be a significant event which is likely to affect the suitability of any person who is in regular contact with children on the premises where childcare is provided? • What procedures do you have in place to check the ongoing suitability of staff and to alert you to any circumstances that could result in disqualification?
Are you aware the disqualification of an employee or a person living or working at domestic premises where childcare is provided is an example of a significant event?	• How, when and what must you notify to Ofsted or the agency with which you are registered of any significant event that is likely to affect the suitability of any person who is in regular contact with children on the premises where childcare is provided? • Have you read the Ofsted guidance on significant events? Childcare: significant events to notify Ofsted about - GOV.UK

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Disqualification (pages 20-22 of audit)	Things to consider and discuss:
Are you aware that a person working at provision in a domestic premises (CoDP) will also be disqualified if: • they live in the same household as another person who is disqualified, or • because they live in the same household where a disqualified person is employed. Are you aware that if a person working in domestic premises becomes disqualified for this reason (see above), they **must** apply to Ofsted to waive the disqualification if they wish to continue working in domestic childcare provision, and may, in some circumstances, be able to obtain a 'waiver' from Ofsted? Applying to waive disqualification: early years and childcare providers - GOV.UK	• How would you check and respond if you became aware that someone in your household, or someone employed in your household, was disqualified and this could affect your eligibility to work in childcare on domestic premises? • Why is it important for childcare professionals working in domestic premises to understand that disqualification can apply not only to themselves, but also through the people they live with? • What steps would you take if you discovered that you were disqualified by association? • Do you know how to apply for an Ofsted waiver to support you in continuing your role?
Do you **ensure** that you (the registered provider) give Ofsted or the agency with which a provider of CoDP are registered, the following information about yourself or about any person who lives in the same household as you, or who is employed in the household: • details of any order, determination, conviction, caution, or other ground for disqualification from registration under regulations made under section 75 of the Childcare Act 2006? • the date of the order, determination or conviction, or the date when the other ground for disqualification arose? • the body or court which made the order, determination or conviction, and the sentence (if any) imposed? • a certified copy of the relevant order (in relation to an order or conviction)?	• Do you know how to inform Ofsted or the agency with which you are registered of the relevant information? • How do you ensure you keep this information up to date? • Are you aware that if a member of staff has been removed from regulated activity e.g. Ofsted regulated childcare (either through instruction or their own choosing) because they pose a risk of harm or have harmed a child or vulnerable adult **you must make a referral to DBS?** • Are you aware that **an employer commits an offence** if they employ a person who is disqualified, except if they can prove that they did not know and had no reasonable grounds for believing that the person they employed was disqualified?

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Disqualification (pages 20-22 of audit)	Things to consider and discuss:
Do you **ensure** the information is provided to Ofsted, or the agency with which you are registered, as soon as reasonably practicable, but at the latest within 14 days of the date you became aware of the information or ought reasonably to have become aware of it if you had made reasonable enquiries?	• Do you have policies & procedures to follow if you become aware of any significant event or information that is likely to affect the suitability of any person who is in regular contact with children on the premises where childcare is provided? What are these procedures? How do you know this is implemented? • Who would carry out your duty to notify Ofsted or the agency with which you are registered? • How will you ensure this is done as soon as is reasonably practicable, but in any event within 14 days of the incident (Ofsted) and 24 hours (LADO)? • Are you familiar with the current procedures on how to notify Ofsted or the agency with which you are registered?
As an employer, do you **ensure** you take the appropriate action to ensure the safety of children, where you become aware of relevant information that may lead to the disqualification of an employee or a person living or working at domestic premises where childcare is being provided?	• What procedures will you follow to ensure the safety of children should you become aware of a person's unsuitability? • What action would you take to ensure the safety of children if you became aware of relevant information that may lead to disqualification? • Are you aware of how to inform the DBS, Ofsted and the LADO of any information which may lead to disqualification? How would you ensure this is done within the timeframe?

Useful links and further help:

Disclosure and Barring Service
Keeping children safe in education
Working together to safeguard children
Saferrecruitmentconsortium.org - Guidance for safer working practice for those working with children and young people in education settings
NSPCC Safer Recruitment advice
Advisory, conciliation and arbitration service (ACAS)
Applying for a Waiver
ICO - Information Commissioner's Office
Applying to waive disqualification: early years and childcare providers
List of offences that will never be filtered from a DBS certificate
DBS filtering guide

CONTACT INFORMATION:
DBS The East Midlands Regional Outreach Officer: Email DBSRegionaloutreach@dbs.gov.uk / alexandra.honey1@dbs.gov.uk/ Tel: 01325 953 562 / 07867 153 500

Department for Education: email mailbox.disqualification@education.gov.uk or telephone: 01325 340 409

Ofsted – waiver application process: email disqualification@ofsted.gov.uk

Derbyshire SchoolsNet - Early Years
Derbyshire Early Years Service - Eventbrite
Email: CS.EYS@derbyshire.gov.uk