



Department  
for Education

# **Disqualification under the Childcare Act 2006**

**Statutory guidance for local authorities  
and schools**

**Tables and annexes**

**31 August 2018**

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## Table A: Relevant Offences

**Offences mentioned in Regulation 4 of The Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018 (“the 2018 Regulations”) that will lead to disqualification.**

This list was compiled on 2 July 2018 and has not been updated since then. It is a list of offences that are mentioned in regulation 4 of the 2018 regulations and is not a comprehensive list of all offences that would lead to disqualification (note in particular that offences that would lead to disqualification under regulation 5 - Overseas offences are not covered in this list). The list also covers offences for which a person could be barred from regulated activity relating to children under regulation 8 of the 2018 Regulations and therefore be disqualified.

**The majority of offences that lead to disqualification under the 2018 Regulations will never become protected, which means that they must always be disclosed by a member of staff employed to work in relevant childcare, and they will not be filtered from the DBS certificate (see paragraphs 34 and 35).**

**All the offences listed in Table A<sup>1</sup> below must always be disclosed**

**Additional offences that would lead to disqualification not specifically listed in Table A:**

- **any offence involving death or bodily injury to a child would also lead to disqualification; and**
- **convictions or cautions for aiding, abetting, counselling, procuring or inciting the commission of an offence or of conspiring or attempting to commit an offence listed in the table below, will also lead to disqualification under the 2018 Regulations.**

There are three columns setting out:

- the statutory reference to the offence;
- a brief description of the offence (which may not be the official or only description); and;
- any conditions that apply in the disqualification regulations (e.g. that the offence will only lead to disqualification if it was committed against a child).

The table has been ordered by territory.

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<sup>1</sup> Except: Section 127, Communications Act 2003 (Improper use of public electronic communications network), and Section 1 Malicious Communications Act 1988 (Sending letters etc. with intent to cause distress or anxiety), which at time of publication may be filtered and considered non-discloseable if spent.

Statutory Provision/ Common Law Offence	Description of Offence	Comments and any conditions which apply in respect of disqualification under the Childcare (Disqualification) Regulations 2009
<p><b>Any offence (including any not listed below) involving death or bodily injury to a child.</b></p> <p>Convictions or cautions for aiding, abetting, counselling, procuring or inciting the commission of an offence or of conspiring or attempting to commit an offence listed in the table below, will also lead to disqualification under the 2018 Regulations.</p> <p>The legislation can be found in full at <a href="http://www.legislation.gov.uk/">www.legislation.gov.uk/</a></p>		

## RELEVANT OFFENCES - ENGLAND - Note these may extend to other jurisdictions

<b>COMMON LAW</b>		
Aiding, abetting, counselling or procuring the suicide of a child or young person (Northern Ireland)	Common Law	
False Imprisonment (England and Wales)	Common Law	Towards an adult or a child
Infanticide (contrary to the common law of Northern Ireland)	Common Law	
Lewd, indecent or libidinous behaviour or practices (Contrary to the common law of Scotland)	Common Law	Towards a child under the age of 17 years
Manslaughter (England and Wales)	Common Law	Towards an adult or a child
Murder (contrary to the common law of England & Wales)	Common Law	Towards an adult or a child
Kidnapping (contrary to the common law of England & Wales)	Kidnapping	Towards an adult or a child
Murder or manslaughter of a child or young person (contrary to the common law of Northern Ireland)	Common Law	
Plagium (contrary to the common law of Scotland)	Theft of a child below the age of puberty	
<b>ASYLUM AND IMMIGRATION (TREATMENT OF CLAIMANTS, ETC.) ACT 2004</b>		
Section 4	Trafficking people for exploitation	

<b>CARE STANDARDS ACT 2000</b>		
Section 11(1)	Failure to register	
Section 24	Failure to comply with conditions	
Section 25	Contravention of regulations	
Section 26	False descriptions of establishments and agencies	
Section 27	False statements in applications	

<b>CHILD ABDUCTION ACT 1984 (ENGLAND AND SCOTLAND)</b>		
Section 1	Offence of abduction of child by parent, etc.	
Section 2	Offence of abduction of child by other persons	
Section 6	Offence in Scotland of parent, etc. taking or sending child out of United Kingdom	

<b>CHILDREN ACT 1958</b>		
Section 14	Offences relating to private fostering	

<b>CHILDREN ACT 1989</b>		
Schedule 5, para 1(5)	Offences relating to voluntary homes and children's homes	
Schedule 6, para 2(3)	Offences relating to voluntary homes and children's homes	
Section 49	Abduction of child in care	
Section 50(9)	Abduction of child in care (obstruction of recovery)	
Section 63(10)	Where any child is at any time cared for and accommodated in a children's home which is not a registered children's home	
Section 70	Offences relating to private fostering	

<b>CHILDREN AND YOUNG PERSONS ACT 1933</b>		
Section 1	Cruelty to persons under sixteen	

<b>CHILDREN AND YOUNG PERSONS ACT 1969</b>		
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Section 32(3)	Detention of absentees	
<b>COMMUNICATIONS ACT 2003</b>		
Section 127	Improper use of public electronic communications network	n.b. at time of publication this offence may be filtered and considered spent
<b>CORONERS AND JUSTICE ACT 2009</b>		
Section 62	Possession of prohibited images of children	
Section 71	Slavery, servitude and forced or compulsory labour	
<b>CRIMINAL JUSTICE AND COURTS ACT 2015</b>		
Section 20	Care worker ill-treat /wilfully neglect an individual	
Section 21 (1)	Care provider breach duty of care resulting in ill-treatment/neglect of individual	
Section 33	Disclose private sexual photographs with intent to cause distress	
<b>CRIMINAL JUSTICE ACT 1988</b>		
Section 160	Summary offence of possession of indecent photograph of child	
<b>CRIMINAL LAW ACT 1977</b>		
Section 54	Inciting girl under sixteen to have incestuous sexual intercourse	
<b>CUSTOMS AND EXCISE MANAGEMENT ACT 1979</b>		
Section 170	Penalty for fraudulent evasion of duty, etc.	In relation to goods prohibited to be imported under Section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions) where the prohibited goods included indecent photographs of a child. (S.I. 2009/1547 Reg4(7) and Sch.3 para 7(1))

<b>DOMESTIC VIOLENCE, CRIME AND VICTIMS ACT 2004</b>		
Section 5	Causing or allowing the death of a child or vulnerable adult	

  

<b>FEMALE GENITAL MUTILATION ACT 2003</b>		
Section 1	Female genital mutilation	
Section 2	Assisting a girl to mutilate her own genitalia	
Section 3	Assisting a non-UK person to mutilate overseas a girls genitalia	

  

<b>FOSTER CHILDREN ACT 1980</b>		
Section 16	Offences relating to private fostering	

  

<b>INDECENCY WITH CHILDREN ACT 1960</b>		
Section 1	Indecent conduct towards young child	

  

<b>INFANTICIDE ACT 1938</b>		
Section 1	Manslaughter of child under 1 year	

  

<b>MALICIOUS COMMUNICATIONS ACT 1988</b>		
Section 1	Sending letters etc. with intent to cause distress or anxiety	n.b. at time of publication this offence may be filtered and considered spent

  

<b>MENTAL HEALTH ACT 1959</b>		
Section 127	Intercourse with defective	
Section 128	Sexual intercourse with patients	Committed against or involving a child

  

<b>MISUSE OF DRUGS ACT 1971</b>		
Section 4(3)	Supply of drugs	Supplying or offering to supply a Class A drug to a child or being concerned in the supplying of such a drug to a child, or being concerned in the making to a child of an offer to supply such a drug. (CJCSA 2000 - Sch.4 para 3(s))

<b>MODERN SLAVERY ACT 2015</b>		
Section 1 (1) (a)	Hold person in slavery or servitude	
Section 1 (1) (b)	Require person to perform forced or compulsory labour	
Section 2 (1)	Arrange or facilitate travel of another person with a view to exploitation	
Section 4 & 5 (2)	Commit offence other than kidnapping or false imprisonment with intention of arranging travel with view to exploitation	
Section 4 & 5 (3)	Commit offence of kidnapping or false imprisonment with intention of arranging travel with view to exploitation	
Section 30 (1) & (3)	Do act prohibited by slavery and trafficking risk or prevention order	

<b>OFFENCES AGAINST THE PERSON ACT 1861</b>		
Section 16	Threats to Kill	Threat to kill a child
Section 18	Shooting or attempting to shoot, or wounding with intent to do grievous bodily harm (GBH)	Towards an adult or a child
Section 20	Inflicting bodily injury, with or without weapon	
Section 27	Exposing child, whereby life is endangered, or health permanently injured	
Section 42	Persons committing any common assault or battery	Any offence against a child or young person
Section 43	Persons convicted of aggravated assaults on females and boys under fourteen years of age	Any offence against a child or young person
Section 47	Assault occasioning actual bodily harm (ABH)	Towards an adult or a child
Section 52	Indecent assault upon a female	Any offence against a child or young person
Section 55	Assaults	Any offence against a child or young person



<b>PROTECTION FROM HARRASSMENT ACT 1997</b>		
Section 4	Putting people in fear of violence	
Section 4A	Stalking involving fear of violence or serious alarm or distress	

<b>PROTECTION OF CHILDREN ACT 1978</b>		
Section 1	Indecent photographs of children	

<b>PSYCHOACTIVE SUBSTANCES ACT 2016</b>		
Section 5	Supply a psychoactive substance	Supplying or offering to supply a substance to a child or, or being concerned in the making to a child of an offer to supply such a drug.

<b>SERIOUS CRIME ACT 2015</b>		
Section 69	Possess a paedophile manual	
Section 76	Engage in controlling/coercive behaviour in an intimate / family relationship	

<b>SEXUAL OFFENCES (AMENDMENT) ACT 2000</b>		
Section 3	Abuse of position of trust	

<b>SEXUAL OFFENCES ACT 1956</b>		
Section 1	Rape of woman or man	
Section 2	Procurement of woman by threats or intimidation	
Section 3	Procurement of woman by false pretences or false representations	
Section 4	Administering drugs to obtain or facilitate intercourse	
Section 5	Intercourse with girl under thirteen	
Section 6	Intercourse with girl between thirteen and sixteen	
Section 7	Intercourse with defective	Committed against or involving a child
Section 9	Procurement of defective	Committed against or involving a child
Section 10	Incest by a man	Committed against or involving a child

Section 11	Incest by a woman	Committed against or involving a child
Section 12	Buggery	Committed against or involving a child and except if the other party to the act of buggery was aged 16 or over and consented to the act
Section 13	Gross Indecency between men	Committed against or involving a child and except if the other party to the act of gross indecency was aged 16 or over and consented to the act
Section 14	Indecent assault on a woman	
Section 15	Indecent assault on a man	
Section 16	Assault with intent to commit Buggery	
Section 17	Abduction of women by force or for the sake of her property	
Section 19	Abduction of unmarried girl under eighteen from parent or guardian	
Section 20	Abduction of unmarried girl under sixteen from parent or guardian	
Section 21	Abduction of defective from parent or guardian	Committed against or involving a child
Section 22	Causing prostitution of women.	Committed against or involving a child
Section 23	Procuration of girl	Committed against or involving a child under twenty-one.
Section 24	Detention of woman in brothel or other premises	
Section 25	Permitting girl under thirteen to use premises for intercourse	
Section 26	Permitting girl between thirteen and sixteen to use premises for intercourse	
Section 27	Permitting defective to use premises for intercourse	Committed against or involving a child
Section 28	Causing or encouraging prostitution of, intercourse with, or indecent assault on, girl under sixteen	
Section 29	Causing or encouraging prostitution of defective	Committed against or involving a child
Section 30	Man living on earning of prostitution	Committed against or involving a child
Section 31	Woman exercising control of prostitution	Committed against or involving a child

<b>SEXUAL OFFENCES ACT 1967</b>		
Section 4	Procuring others to commit homosexual acts	Committed against or involving a child
Section 5	Living on earnings of male prostitution	Committed against or involving a child

<b>SEXUAL OFFENCES ACT 2003</b>		
Section 1	Rape	Towards an adult or a child
Section 2	Assault by penetration	Towards an adult or a child
Section 3	Sexual assault	Towards an adult or a child
Section 4	Causing a person to engage in sexual activity without consent	Towards an adult or a child
Section 5	Rape of a child under 13	
Section 6	Assault of a child under 13 by penetration	
Section 7	Sexual assault of a child under 13	
Section 8	Causing or inciting a child under 13 to engage in sexual activity	
Section 9	Sexual activity with a child	
Section 10	Causing or inciting a child to engage in sexual activity	
Section 11	Engaging in sexual activity in the presence of a child	
Section 12	Causing a child to watch a sexual act	
Section 14	Arranging or facilitating commission of a child sex offence	
Section 15	Meeting a child following sexual grooming etc.	
Section 15 A	Engage in sexual communication with a child	(As Amended by Serious Crime Act 2015 Section 67)
Section 16	Abuse of position of trust: sexual activity with a child	
Section 17	Abuse of position of trust: causing or inciting a child to engage in sexual activity	
Section 18	Abuse of position of trust: sexual activity in the presence of a child	
Section 19	Abuse of position of trust: causing a child to watch a sexual act	

Section 20	Abuse of position of trust: acts done in Scotland	
Section 25	Sexual activity with a child family member	
Section 26	Inciting a child family member to engage in sexual activity	
Section 30	Sexual activity with a person with a mental disorder impeding choice	
Section 31	Causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity	
Section 32	Engaging in sexual activity in the presence of a person with a mental disorder impeding choice	
Section 33	Causing a person, with a mental disorder impeding choice, to watch a sexual act	
Section 34	Inducement, threat or deception to procure sexual activity with a person with a mental disorder	
Section 35	Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception	
Section 36	Engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder	
Section 37	Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception	
Section 38	Care workers: sexual activity with a person with a mental disorder	
Section 39	Care workers: causing or inciting sexual activity	
Section 40	Care workers: sexual activity in the presence of a person with a mental disorder	

Section 41	Care workers: causing a person with a mental disorder to watch a sexual act	
Section 47	Paying for sexual services of a child	
Section 48	Causing or inciting child prostitution or pornography	
Section 49	Controlling a child prostitute or a child involved in pornography	
Section 50	Arranging or facilitating child prostitution or pornography	
Section 52	Causing or inciting prostitution for gain	
Section 53	Controlling prostitution for gain	
Section 57	Trafficking into the UK for sexual exploitation	
Section 58	Trafficking within the UK for sexual exploitation	
Section 59	Trafficking out of the UK for sexual exploitation	
Section 59A	Trafficking people for sexual exploitation	
Section 61	Administering a substance with intent	
Section 62	Committing an offence with intent to commit a relevant sexual offence	
Section 63	Trespass with intent to commit a relevant sexual offence	
Section 64	Sex with an adult relative: penetration	
Section 65	Sex with an adult relative: consenting to penetration	
Section 66	Exposure	
Section 67	Voyeurism	
Section 69	Intercourse with an animal	
Section 70	Sexual penetration of a corpse	
Section 72	Offences outside the United Kingdom	

<b>TERRORISM ACT 2000</b>		
Section 11	Belonging or professing to belong to a Proscribed Organisation (P.O.)	
Section 12	Support - he invites support for a proscribed organisation	
Section 13	Wear, carry or display any article in a public place belonging to a P.O.	
Section 15	Invites another to provide money or other property and intends its use for the purposes of terrorism; this extends to use by P.Os.	
Section 54	Weapons Training	
Section 56	Directing terrorist organisation	
Section 58A	Eliciting, publishing or communicating information to assist commission or preparation of terrorism	
Section 59	Inciting terrorism overseas	
Section 63	Commit an act of terrorism	

<b>TERRORISM ACT 2006</b>		
Section 1	Publish/cause another to publish a statement intending to/recklessly encouraging terrorism.	
Section 2(2)(a) & 11	Distribute/circulate a terrorist publication	
Section 2(2)(b)(c) & 11	Give/sell/lend/offer for sale/offer for loan a terrorist publication	
Section 2(2)(d) & 11	Provide service re reading/listening to a terrorist publication	
Section 2(2)(e) & 11	Transmit contents of a terrorist publication	
Section 2(2)(f) & 11	Possess terrorist publication with view to distribution/sale/ loan/read/listen to/seen etc.	
Section 5	Preparation of terrorist acts. With intent that self/to assist another to commit act of terrorism engage in preparation	

Section 6	Provide instruction/training for terrorism	
Section 8	Attendance at place used for terrorism training	
Section 9	Making and possession of devices or materials	
Section 11	Terrorist threats relating to devices, materials or facilities	

<b>THEFT ACT 1968</b>		
Section 9(1)(a)	Burglary	Committed against or involving a child

## RELEVANT OFFENCES - NORTHERN IRELAND

<b>CHILD ABDUCTION (NORTHERN IRELAND) Order 1985</b>		
Article 3	Offence of abduction of child by parent, etc.	
Article 4	Offence of abduction of child by other persons	

<b>(THE) CHILDREN (NORTHERN IRELAND) ORDER 1995</b>		
Article 68	Abduction of children in care	
Article 69(9)	Obstructing recovery of abducted child	
Article 79(3)	Carrying on a home when not registered	
Article 81(4)	Non-compliance with registration conditions (children's homes)	
Article 95(3)	Caring for / accommodating child in non-registered home	
Article 97(4)	Non-compliance with registration conditions (children's homes)	
Article 117	Offences in relation to private fostering	
Article 132	Offences in relation to provision of day care / childminding	
Article 147(2)		Any offence under Article 147(2) of the Children Order in respect of a contravention of Article 141 of that Order
<b>CHILDREN AND YOUNG PERSONS ACT (NORTHERN IRELAND) 1968</b>		
Article 9(1)		

Article 14		
Article 127(5)		
Article 129(3)		
Section 20	Cruelty to persons under 16	
Section 23	Allowing children or young persons to be in brothels	
Section 24	Causing or allowing persons under sixteen to be used for begging	
Section 29	Exposing children under twelve to risk of burning	

<b>CRIMINAL JUSTICE (EVIDENCE ETC) (NORTHERN IRELAND) ORDER 1988</b>		
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Article 15	Possession of indecent photographs of children	
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<b>CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 1980</b>		
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Article 9	Inciting girl under 16 to have incestuous sexual intercourse	
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<b>CRIMINAL JUSTICE (NORTHERN IRELAND) ACT 1966</b>		
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Section 13(1)	Encouraging or assisting suicide	Where the relevant act is an act capable of, and done with the intention of, encouraging or assisting the suicide of a child or young person
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<b>HUMAN TRAFFICKING AND EXPLOITATION (CRIMINAL JUSTICE AND SUPPORT FOR VICTIMS) ACT (NORTHERN IRELAND) 2015</b>		
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Section 1	Slavery, servitude and forced or compulsory labour	
Section 2	Human trafficking	

<b>JUSTICE ACT (NORTHERN IRELAND) 2016</b>		
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Section 51	Disclosing private sexual photographs and films with intent to cause distress (revenge pornography)	
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<b>PROTECTION OF CHILDREN (Northern Ireland) ORDER 1978</b>		
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Article 3	Indecent photographs of children	
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<b>SEXUAL OFFENCES (NORTHERN IRELAND) ORDER 2008</b>		
Sexual Offences (Northern Ireland) Order 2008	All offences	
Article 5	Rape	Towards an adult or a child
Article 12	Rape of a child under 13	
Article 13	Assault of a child under 13 by penetration	
Article 14	Sexual assault of a child under 13	
Article 15	Causing or inciting a child under 13 to engage in sexual activity	
Article 16	Sexual activity with a child	
Article 17	Causing or inciting a child to engage in sexual activity	
Article 18	Engaging in sexual activity in the presence of a child	
Article 19	Causing a child to watch a sexual act	
Article 20	Sexual offences against children committed by children or young persons	
Article 21	Arranging or facilitating commission of a sex offence against a child	
Article 22	Meeting a child following sexual grooming etc.	
Article 23	Abuse of position of trust: sexual activity with a child	
Article 24	Abuse of position of trust: causing or inciting a child to engage in sexual activity	
Article 25	Abuse of position of trust: sexual activity in the presence of a child	
Article 26	Abuse of position of trust: causing a child to watch a sexual act	
Article 27	Abuse of position of trust	
Article 32	Sexual activity with a child family member	
Article 33	Inciting a child family member to engage in sexual activity	
Article 34	Family relationships	

Article 35	Articles 32 and 33: exception for spouses and civil partners	
Article 36	Articles 32 and 33: sexual relationships which pre-date family relationships	
Article 37	Paying for sexual services of a child	
Article 38	Causing or inciting child prostitution or pornography	
Article 39	Controlling a child prostitute or a child involved in pornography	
Article 40	Arranging or facilitating child prostitution or pornography	
Article 42	Indecent photographs of persons aged 16 or 17	
Article 70	Exposure	
Article 73	Intercourse with an animal	
Article 74	Sexual penetration of a corpse	

## RELEVANT OFFENCES - WALES

<b>REGULATION AND INSPECTION OF SOCIAL CARE (WALES) ACT 2016</b>		
Section 5	Requirement to register	
Section 43	Failure to comply with condition	
Section 44	False descriptions	
Section 45	Failure by service provider to comply with requirements in regulations	
Section 47	False statements	

## RELEVANT OFFENCES - SCOTLAND

<b>CHILD ABDUCTION ACT 1984 (ENGLAND AND SCOTLAND)</b>		
Section 1	Offence of abduction of child by parent, etc.	
Section 2	Offence of abduction of child by other persons	
Section 6	Offence in Scotland of parent, etc. taking or sending child out of United Kingdom	

<b>CHILDREN (SCOTLAND) ACT 1995</b>		
Section 81	Offences in connection with orders etc. for protection of children	
Section 83	Offences relating to harbouring a child in care / inciting that child to abscond	
Section 89	Offences in relation to parental responsibilities orders	

<b>CHILDREN AND YOUNG PERSONS ACT (SCOTLAND) 1937</b>		
Section 12	Cruelty to persons under sixteen	
Section 15	Causing or allowing persons under sixteen to be used for begging	
Section 22	Exposing children under seven to risk of burning	
Section 33	Prohibition of persons under sixteen taking part in performances endangering life or limb	

<b>CHILDREN'S HEARINGS (SCOTLAND) ACT 2011</b>		
Section 59(1)	Offences - obstruction	
Section 171	Offences related to absconding	

<b>CHILDREN'S HEARINGS (SCOTLAND) ORDER 2013</b>		
Article 10(2)	Offences relating to absconding	
Article 11(1)	Offence of intentional obstruction	

<b>CIVIC GOVERNMENT (SCOTLAND) ACT 1982</b>		
Section 52	Indecent photographs etc. of children	
Section 52A	Possession of indecent photographs of children	

<b>CRIMINAL LAW (CONSOLIDATION) (SCOTLAND) ACT 1995</b>		
Section 1	Incest	
Section 10	Seduction, prostitution, etc., of girl under 16	
Section 11	Trading in prostitution and brothel-keeping	

Section 12	Allowing child to be in brothel	
Section 13	Living on earnings of another from male prostitution	
Section 16A	Conspiracy or incitement to commit certain sexual acts outside the UK	
Section 16B	Commission of certain sexual acts outside the United Kingdom	
Section 2	Intercourse with step-child	
Section 3	Intercourse of person in position of trust with under 16	
Section 5	Intercourse with girl under 16	
Section 6	Indecent behaviour towards girl between 12 and 16	
Section 7	Procuring	
Section 8	Abduction and unlawful detention	
Section 9	Permitting girl to use premises for intercourse	

#### **FOSTER CHILDREN (SCOTLAND) ACT 1984**

Section 15	Offences relating to fostering	
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#### **HUMAN TRAFFICKING AND EXPLOITATION (SCOTLAND) ACT 2015**

Section 1	Human trafficking	
Section 4	Slavery, servitude and forced or compulsory labour	

#### **PROHIBITION OF FEMALE GENITAL MUTILATION (SCOTLAND) ACT 2005**

Prohibition of Female Genital Mutilation (Scotland) Act 2005.	Any Offence	Where the person mutilated or, as the case may be, proposed to be mutilated, is a child under the age of 17 years. (S.I. 2009/1547 Reg 4(5)(b), Sch.3 para 2(2))
Section 1	Female genital mutilation	
Section 3	Aiding and abetting female genital mutilation	
Section 4	Female genital mutilation - extra-territorial acts	

#### **PROTECTION OF CHILDREN AND PREVENTION OF SEXUAL OFFENCES (SCOTLAND) ACT 2005**

Section 1	Meeting a child following certain preliminary contact	In respect of a child under the age of 17 years. (S.I. 2009/1547 Reg 4(5)(b), Sch.3 para 2(2))
Section 10	Causing or inciting provision by child of sexual services or child pornography	In respect of a child under the age of 17 years. (S.I. 2009/1547 Reg 4(5)(b), Sch.3 para 2(2))
Section 11	Controlling a child providing sexual services or involved in pornography	In respect of a child under the age of 17 years. (S.I. 2009/1547 Reg 4(5)(b), Sch.3 para 2(2))
Section 12	Arranging or facilitating provision by child of sexual services or child pornography	In respect of a child under the age of 17 years. (S.I. 2009/1547 Reg 4(5)(b), Sch.3 para 2(2))
Section 9	Paying for sexual services of a child	In respect of a child under the age of 17 years. (S.I. 2009/1547 Reg 4(5)(b), Sch.3 para 2(2))

<b>PUBLIC SERVICES REFORM (SCOTLAND) ACT 2010</b>		
Section 78	Regulations: care services	
Section 80	Offences in relation to registration under Chapter 3	
Section 81	False statements in application under Chapter 3	

<b>REGULATION OF CARE (SCOTLAND) ACT 2001</b>		
Section 21	Offences in relation to registration	
Section 22	False statements in applications	
Section 29(10)	Offences under regulations	

<b>SEXUAL OFFENCES (SCOTLAND) ACT 2009</b>		
Section 1	Rape	Towards an adult or a child
Section 5	Coercing a person into being present during a sexual activity	Towards a child under the age of 17 years
Section 6	Coercing a person into looking at a sexual image	Towards a child under the age of 17 years
Section 7	Communicating indecently etc.	Towards a child under the age of 17 years
Section 8	Sexual exposure	Towards a child under the age of 17 years
Section 9	Voyeurism	Towards a child under the age of 17 years
Section 18	Rape of a young child	

Section 19	Sexual assault on a young child by penetration	
Section 20	Sexual assault on a young child	
Section 20(1) and (2)(b)to(e)	sexual assault on a young child involving sexual activity other than penetration	
Section 21	Causing a young child to participate in a sexual activity	
Section 22	Causing a young child to be present during a sexual activity	
Section 23	Causing a young child to look at a sexual image	
Section 24	Communicating indecently with a young child	
Section 25	Sexual exposure to a young child	
Section 26	Voyeurism towards a young child	
Section 28	Having intercourse with an older child	
Section 29	Engaging in penetrative sexual activity with or towards an older child	
Section 30	Engaging in sexual activity with or towards an older child	
Section 31	Causing an older child to participate in a sexual activity	
Section 32	Causing an older child to be present during a sexual activity	
Section 33	Causing an older child to look at a sexual image	
Section 34	Communicating indecently with an older child etc.	
Section 35	Sexual exposure to an older child	
Section 36	Voyeurism towards an older child	
Section 37	Older children engaging in sexual conduct with each other	

Section 42	Sexual abuse of trust	Towards a child under the age of 17 but only if the condition set out in Section 43(6) of that Act is fulfilled
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<b>SEXUAL OFFENCES (AMENDMENT) ACT 2000</b>		
Section 3	Abuse of trust	

<b>SOCIAL WORK (SCOTLAND) ACT 1968</b>		
Section 17(8)	Effect of assumption by local authority of parental rights	
Section 60(3)	Control of residential and other establishments	
Section 61(3)	Restriction on carrying on of establishments	
Section 62(6)	Registration	
Section 71	Harbouring	

## RELEVANT OFFENCES - ISLE OF MAN, JERSEY & GUERNSEY

<b>CHILDREN AND YOUNG PERSONS ACT 2001 (ISLE OF MAN)</b>		
Schedule 8	Various offences listed inc. murder of child, infanticide, and sexual offences against children	

<b>CHILDREN JERSEY LAW 1969</b>		
Part 7	All offences in part	

<b>CHILDREN JERSEY LAW 2002</b>		
Schedule 4	All offences in schedule	

<b>DAY OF CARE OF CHILDREN (JERSEY) LAW 2002</b>		
All offences		

<b>CHILDREN AND YOUNG PERSONS (GUERNSEY) LAW 1967</b>		
All offences		

<b>LOI RELATIVE A LA PROTECTION DES FEMMES ET DES FILLES MINEURES (LAW FOR THE PROTECTION OF WOMEN AND YOUNG GIRLS) 1914 (GUERNSEY)</b>		
All Offences		

<b>'LOI POUR LA PUNITION D'INCESTE' (LAW FOR THE PUNISHMENT OF INCEST) 1909 (GUERNSEY)</b>		
All Offences		

<b>'LOI RELATIVE A LA SODOMIE' (LAW RELATING TO SODOMY) 1929 (GUERNSEY)</b>		
All Offences		

<b>'LOI AYANT RAPPORT A LA PROTECTION DES ENFANTS ET DES JEUNES PERSONNES' LAW RELATING TO THE PROTECTION OF CHILDREN AND YOUNG PERSONS 1917, (GUERNSEY)</b>		
Article 7		
Article 9		
Article 10		
Article 11		
Article 12		
Article 41(1)		
Article 51(1,2,3,4)		

<b>PROTECTION OF CHILDREN (BAILIWICK OF GUERNSEY) LAW 1995</b>		
All Offences		



## Table B: Relevant Orders

**Orders and Determinations mentioned in Regulation 4(2) (Schedule 1) of The Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018 (“the 2018 Regulations”) that will lead to disqualification.**

The list of orders and determinations that will lead to disqualification under the 2018 Regulations pursuant to Regulation 4(2) are set out at Schedule 1 to the 2018 Regulation.

This list was compiled on 2 July 2018 and has not been updated since then.

<b>ORDERS ETC. RELATING TO THE CARE OF CHILDREN (ENGLAND) - <i>note these may extend to other jurisdictions</i></b>
An order under section 31(1)(a) of the 1989 Act (care order).
Any order that would have been deemed to be a care order by virtue of paragraph 15 of Schedule 14 to the 1989 Act (transitional provisions for children in compulsory care) had it been in force immediately before the day on which Part 4 of the 1989 Act came into force.
A supervision order which imposes a residence requirement under paragraph 5 of Schedule 6 to the Powers of Criminal Courts (Sentencing) Act 2000 or section 12AA of the Children and Young Persons Act 1969 (requirement to live in local authority accommodation) or paragraph 17 of Schedule 1 to the Criminal Justice and Immigration Act 2008
In relation to registration of a children’s home - (i) a refusal of P’s application for registration under section 13 of the Care Standards Act 2000; (ii) cancellation of P’s registration under section 14 or 20(1) of the Care Standards Act 2000; or (iii) cancellation of the registration of any person under section 14 or 20(1) of the Care Standards Act 2000 in relation to a children’s home which P has been concerned in the management of, or has any financial interest in.
Refusal at any time of P’s application for registration in relation to a voluntary home or a children’s home, or cancellation of the registration of a voluntary home or children’s home which was carried on by P or which P was otherwise concerned with the management of, or had any financial interest in, under, as the case may be - (i) paragraph 1 of Schedule 5 to the 1989 Act; (ii) paragraph 1 or 4 of Schedule 6 to the 1989 Act.
A prohibition imposed at any time under Section 69 of the 1989 Act, section 10 of the Foster Children Act 1980 or section 4 of the Children Act 1958 (power to prohibit private fostering).
Refusal at any time of registration in respect of the provision of nurseries, day care, child minding or other provision of childcare, disqualification from such registration or cancellation of any such registration under— (i) section 1 or section 5 of the Nurseries and Child-Minders Regulation Act 1948; (ii) part 10 or Part 10A of the 1989 Act; (iii) chapter 2, 3 or 4 of Part 3 of the Act.

<b>ORDERS ETC. RELATING TO THE CARE OF CHILDREN (NORTHERN IRELAND)</b>
An order under article 50(1)(a) of the Children (Northern Ireland) Order 1995 (care order).
A parental responsibility order made under article 7 of the Children (Northern Ireland) Order 1995.
A fit person order, parental rights order or a training school order under the Children and Young Persons Act (Northern Ireland) 1968.
In relation to registration of a children's home - refusal of P's application for registration or cancellation of P's registration under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.
A refusal of P's application for registration or cancellation of P's registration under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(19).
Refusal at any time of P's application for registration in relation to a voluntary home or a children's home, or cancellation of the registration of a voluntary home or children's home which was carried on by P or which P was otherwise concerned with the management of, or had any financial interest in, under, as the case may be - (i) section 127 of the Children and Young Persons Act (Northern Ireland) 1968; (ii) article 80, 82, 96 or 98 of the Children (Northern Ireland) Order 1995.
A prohibition imposed at any time under - article 110 of the Children (Northern Ireland) Order 1995 (power to prohibit private fostering).
Refusal at any time of registration in respect of the provision of nurseries, day care, child minding or other provision of childcare, disqualification from such registration or cancellation of any such registration under - (i) part XI of the Children (Northern Ireland) Order 1995; (ii) section 11(5) or section 15 of the Children and Young Persons Act (Northern Ireland) 1968.
Inclusion of P's name at any time on a list of persons unsuitable to work with children under article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 or disqualification from working with children under Chapter II of Part II of that Order.

<b>ORDERS ETC. RELATING TO THE CARE OF CHILDREN (SCOTLAND)</b>
A child protection order under section 57 of the Children (Scotland) Act 1995 or section 37 of the Children's Hearings (Scotland) Act 2011.
An exclusion order under section 76 of the Children (Scotland) Act 1995.
An order made at any time imposing a supervision requirement with respect to a child so as to remove that child from P's care, under - (i) section 44 of the Social Work (Scotland) Act 1968; (ii) section 70 of the Scotland Act 1995.
A compulsory supervision order, within the meaning of section 83 of the Children's Hearings (Scotland) Act 2011, or interim compulsory supervision order, within the

meaning of section 86 of that Act, made at any time with respect to a child so as to remove that child from P's care.
An order made at any time vesting P's rights and powers with respect to a child in a local authority in Scotland - (i) under section 16 of the Social Work (Scotland) Act 1968; or (ii) pursuant to a parental responsibilities order under section 86 of the Children (Scotland) Act 1995.
A permanence order made, or treated as being made, under section 80 of the Adoption and Children (Scotland) Act 2007.
Refusal at any time of P's application for registration in relation to a voluntary home or a children's home, or cancellation of the registration of a voluntary home or children's home which was carried on by P or which P was otherwise concerned with the management of, or had any financial interest in, under, as the case may be - (i) Part 1 of the Regulation of Care (Scotland) Act 2001 (care home services); (ii) Part 5 of the Public Services Reform (Scotland) Act 2010.
A prohibition imposed at any time under section 10 of the Foster Children (Scotland) Act 1984 (power to prohibit the keeping of foster children).
Refusal at any time of registration in respect of the provision of nurseries, day care, child minding or other provision of childcare, disqualification from such registration or cancellation of any such registration under Part 1 of the Regulation of Care (Scotland) Act 2001.
Disqualification from working with children at any time under the Protection of Children (Scotland) Act 2003.
Refusal at any time of P's application for registration or cancellation of P's registration under section 62 of the Social Work (Scotland) Act 1968 (registration of residential and other establishments).
Refusal at any time of P's application for registration as a provider of a child care agency under section 7 of the Regulation of Care (Scotland) Act 2001 or cancellation of any such registration under section 12 or 18 of that Act.
Refusal at any time of P's application for registration as a provider of a child care agency under section 59 of the Public Services Reform (Scotland) Act 2010 or cancellation of any such registration under section 64 or 65 of that Act.

### **ORDERS ETC. RELATING TO THE CARE OF CHILDREN (WALES)**

Refusal at any time of registration in respect of the provision of nurseries, day care, child minding or other provision of childcare, disqualification from such registration or cancellation of any such registration under Part 2 of the Children and Families (Wales) Measure 2010.
In relation to the registration of a care home service (within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016(18) ("the 2016 Act")) which is provided wholly or mainly to persons under the age of 18 - (i) a refusal of P's application for registration under section 7 of the 2016 Act; (ii) a refusal under section 12 of the 2016 Act of P's application to vary P's registration (made in accordance with section 11(1)(a)(i) or (ii) of that Act);

- (iii) a cancellation of P's registration under section 15(1)(b) to (f) or 23(1) of the 2016 Act;
- (iv) a cancellation of the registration of any person under section 15(1)(b) to (f) or 23(1) of the 2016 Act in relation to a care home service provided wholly or mainly to persons under the age of 18 in which P has been concerned in the management, or in which P had any financial interest; or
- (v) a variation of P's registration under section 13(3)(b) or (4)(b) or 23(1) of the 2016 Act

#### **ORDERS ETC. RELATING TO THE CARE OF CHILDREN (JERSEY)**

An order or determination specified in Schedule 4 to the Children (Jersey) Law 2002.

#### **ORDERS ETC. RELATING TO THE CARE OF CHILDREN (GUERNSEY)**

An order under section 3(3) of the Children and Young Persons (Guernsey) Law 1967 (fit person order or special care order).

An order made further to an application as permitted under section 48(3) of the Children (Guernsey and Alderney) Law 2009 (community parenting order).

Refusal at any time of registration in respect of the provision of nurseries, day care, child minding or other provision of childcare, disqualification from such registration or cancellation of any such registration under Part III of the Child Protection (Guernsey) Law 1972.

#### **ORDERS ETC. RELATING TO THE CARE OF CHILDREN (ISLE OF MAN)**

An order under section 31(1)(a) of the Children and Young Persons Act 2001 (an Act of Tynwald).

A supervision order which imposes a residence requirement under paragraph 5 of Schedule 9 to the Children and Young Persons Act 2001 (an Act of Tynwald) (requirement to live in accommodation provided by the Department of Health and Social Security).

Refusal at any time of P's application for registration in relation to a voluntary home or a children's home, or cancellation of the registration of a voluntary home or children's home which was carried on by P or which P was otherwise concerned with the management of, or had any financial interest in, under, as the case may be - Paragraph 2 or 4 of Schedule 2 to the Children and Young Persons Act 2001 (an Act of Tynwald).

A prohibition imposed at any time under section 59 of the Children and Young Persons Act 2001 (an Act of Tynwald) (power to prohibit or impose restrictions upon private fostering).

Refusal at any time of registration in respect of the provision of nurseries, day care, child minding or other provision of childcare, disqualification from such registration or cancellation of any such registration under -

(i) section 1 of the Nurseries and Child Minders Regulation Act 1974 (an Act of Tynwald);

(ii) section 65 or 66 of, or Schedule 7 to, the Children and Young Persons Act 2001 (an Act of Tynwald).

## Further information

### Useful resources and external organisations

- [The Childcare \(Disqualification\) and Childcare \(Early Years Provision Free of Charge\) \(Extended Entitlement\) \(Amendment\) Regulations 2018](#)
- [Childcare Act 2006](#)
- [Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975 \(as amended in 2013\) \('the Exceptions\)](#)
- [Rehabilitation of Offenders Act 1974](#)
- [DBS - Never Filtered List](#)
- [DBS - Filtering guide](#)
- [DBS - Referral Guidance](#)
- [Ofsted – Compliance and Enforcement handbook](#)
- [Ofsted – Waiver Procedures](#)
- [Information Commissioner's Office](#)
- [Data Protection Act 2018](#)
- [Data Protection Toolkit for Schools](#)
- [General Data Protection Regulation \(GDPR\)](#)
- [Guide to the General Data Protection Regulation \(GDPR\)](#)
- [Nacro](#)
- [Unlock](#)

### Other relevant departmental advice and statutory guidance

- [Keeping children safe in education](#)
- [The early years foundation stage](#)
- [Working together to safeguard children](#)
- [Boarding schools: national minimum standards](#)
- [Residential special schools: national minimum standards](#)
- [The Independent school standards](#)

# Annex A: Summary of changes to the arrangements

## Removal of disqualification by association

1. By amendment of regulation 9 of the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018 (“the 2018 Regulations”), we have removed disqualification by association for individuals working in childcare in non-domestic settings (e.g. schools and nurseries).
2. Disqualification by association continues to apply for individuals providing and working in childcare in domestic settings (e.g. where childcare is provided in a childminder’s home).
3. The arrangements continue to disqualify individuals working in domestic and non-domestic settings if they themselves have been found to have committed a relevant offence.

## Technical changes to the arrangements

4. Paragraph 4(c) of this guidance references that there are certain orders, made in relation to the care of children, which can lead to disqualification. These are set out at regulation 4(2) and listed at Schedule 1 of the 2018 Regulations, and are relisted at Table B of this guidance.
5. The 2018 Regulations amend the arrangements, which previously disqualified foster carers and those with adopted children in their household, as well as childcare workers who themselves were once subject to a care order, from working in childcare. Regulation 4(11) exempts these individuals from disqualification, thereby improving the fairness of the arrangements.

## Additions to qualifying offences

6. The 2018 Regulations bring up-to-date the offences by which an individual can be disqualified under the childcare disqualification arrangements. The relevant offences are set out at Schedules 2 and 3 of the 2018 Regulations and are relisted at Table A of this guidance.

## Annex B: Status of existing waivers post 31 August 2018

### No review of existing Ofsted waiver decisions

1. Where Ofsted has previously made a decision on an application for a waiver individuals should not ask Ofsted to review that decision. Whilst a number of the waivers previously issued by Ofsted are no longer necessary in order to allow individuals to work in childcare, Ofsted does not need to review an individual's disqualification status in order to enable them to work in childcare. Accordingly, Ofsted will not review decisions it has previously made on waiver applications submitted under the previous legislation.

### Status of existing waivers post 31 August 2018

2. The tables below explain how the changes to the Regulations impact on an individual's requirement to hold a waiver against disqualification in order to work in childcare from 31 August 2018.
3. Any waivers that have been granted with conditions may need to be considered on a case-by-case basis, as individuals may still be disqualified from certain settings, particularly those in domestic settings. Please contact [disqualification@ofsted.gov.uk](mailto:disqualification@ofsted.gov.uk) for further advice regarding waivers with conditions.

### Disqualified due to an offence the individual has committed

Current waiver/disqualification status	Post September waiver/disqualification status
Waiver granted – able to work in childcare	No change
Waiver declined – unable to work in childcare	No change
Waiver granted 'with conditions'	No change

## Disqualified due to an offence an associate has committed (by association)

Setting (Individual works in a....)	Current waiver/disqualification status	Post September waiver/disqualification status
Domestic setting <sup>2</sup>	Waiver granted – able to work in childcare	No change
Domestic setting <sup>18</sup>	Waiver declined – unable to work in childcare	Unable to work in childcare in a domestic setting <sup>18</sup> but able to work in a school or PVI
Domestic setting <sup>18</sup>	Waiver granted with conditions	No change
School/PVI setting	Waiver granted – able to work in childcare	Waiver no longer required – able to work in childcare in a school or PVI but not able to work in childcare in a domestic setting <sup>18</sup>
School/PVI setting	Waiver declined – unable to work in childcare	Waiver no longer required - able to work in childcare in a school or PVI, but not able to work in childcare in a domestic setting <sup>18</sup>
School/PVI setting	Waiver granted with conditions	Waiver no longer required. Able to work in childcare in a school or PVI, but not able to work in childcare in a domestic setting <sup>18</sup>

### Other sources of help

- Individuals with questions about the operation of the childcare disqualification arrangements should contact the DfE's disqualification helpline 01325 340 409, or email: [mailbox.disqualification@education.gov.uk](mailto:mailbox.disqualification@education.gov.uk).

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<sup>2</sup> Including non-domestic premises up to 50% of the time under a domestic registration.





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