

# Disqualification from working in children's social care

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Disqualification – applying for written consent to carry on or manage, have a financial interest in, or be employed at, a children's home

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The law prevents certain people from working in some children's social care services in order to protect children and young people. This is known as 'disqualification'. This leaflet details who is disqualified and what options are available to disqualified people.

## **What must a disqualified person not do?**

A person who is disqualified must not:

- provide, manage, have a financial interest in or be employed at, a children's home
- provide, be directly concerned in the management of, or be employed at, any registered childminding or childcare service
- foster a child privately.<sup>1</sup>

We are responsible for the regulation of children's homes in England. We can, in some circumstances, give written consent to allow a disqualified person to provide, manage or have a financial interest in a children's home, or for a children's home to employ a disqualified person.<sup>2</sup> We can also waive a person's disqualification in connection with a childminding or childcare service.<sup>3</sup>

## **Does disqualification apply to other children's social care services?**

Disqualification only applies to children's homes, private fostering and childminding, and childcare; it does not apply to fostering agencies, adoption agencies or residential family centres. If a person applies to Ofsted to provide or manage one of these services, we will take into account the factors that would disqualify them from registering as a provider or manager of a children's home, as part of our decision about their fitness.

## **How do I know if I am disqualified?**

You **may** be disqualified if you have been:

- convicted of an offence against a child (for example murder, kidnapping, rape, indecent assault, assault causing actual bodily harm)
- included on the barred list of persons considered unsuitable to work with children, which is held by the Independent Safeguarding Authority
- made the subject of an order where a child has been removed from your care or prevented from living with you
- refused registration as a childcare or children's home provider previously, or had your registration cancelled.

You are also disqualified if you live in the same household as another person who is

disqualified or if you live in a household where a disqualified person is employed.<sup>4</sup>

A full list of all the circumstances that disqualify you from registering is available in regulations.<sup>5</sup> If you think that you, or a person connected to your provision (including potential employees), may be disqualified, you can talk to us confidentially by contacting 0300 123 1231. We may be able to tell you if you are disqualified and if not, we may ask you to write in with more information to allow us to decide.

### **If I am disqualified, how do I request your written consent?**

You can only ask for our written consent in connection with an application to register a children's home or in connection with an existing registered children's home. If you are a disqualified person and wish to work at a children's home, your potential employer must apply for written consent to employ you. Please telephone our helpline on 0300 123 1231 to request a disqualification/consent waiver form. You must give us the required information in writing. We cannot give our written consent on the strength of information given over the telephone.

### **In what circumstances do you give your written consent?**

We consider each request on its own merits taking into account the reasons for the disqualification, the length of time since any circumstance leading to your disqualification, and the risk to children and young people. We may ask you for more information, for your agreement to carry out further checks or to attend an interview before making our decision. Further information about this process is available in our *Compliance, Investigation and Enforcement handbook*.<sup>6</sup>

We will notify you in writing of our decision.

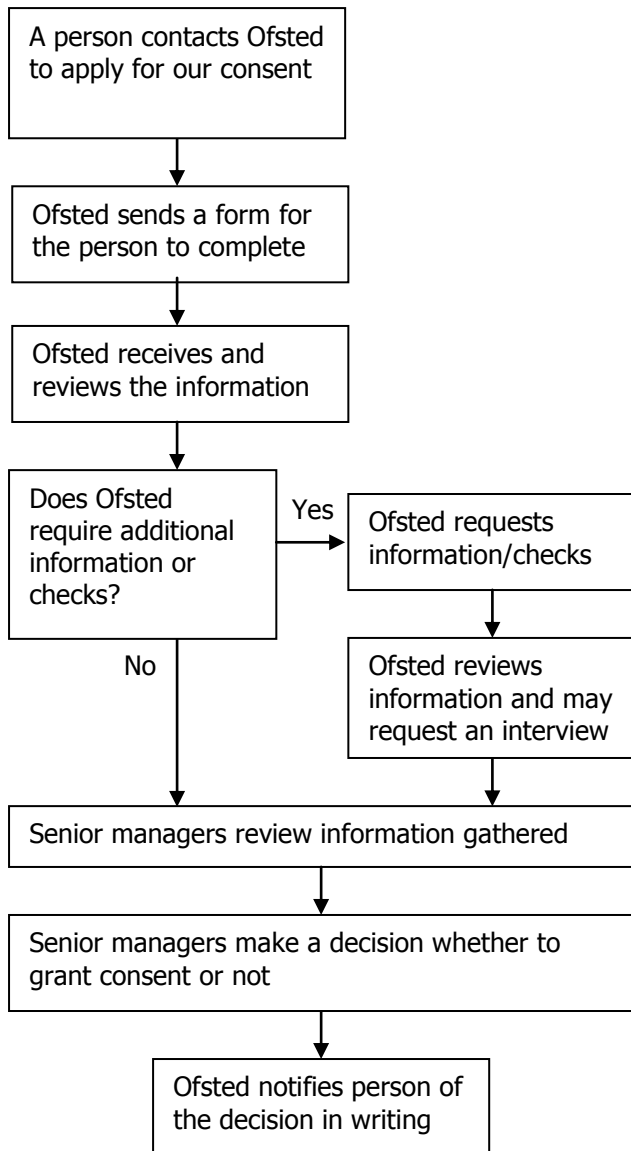
If we decide to give our written consent, we will send you a letter explaining the circumstances that apply to our consent. We

may limit our consent to one type of employment or to a particular children's home. You will need to keep this letter safe in case you need to show it to our inspector.

We cannot consider consent requests from anyone who:

- is included on the barred list of the Independent Safeguarding Authority
- lives with somebody who is included on the barred list of the Independent Safeguarding Authority
- lives where a person included on the barred list of the Independent Safeguarding Authority is employed.<sup>7</sup>

## The consent process



## **Information for applicants for registration who are disqualified**

If you are disqualified, you must gain written consent from us **before** lodging your application to register or manage a children's home. Our decision to grant registration will take into account your fitness to look after or be in regular contact with children and young people. We will refuse to grant registration if, after carrying out our checks, we are unsure about your fitness. This may be because of other factors or information unconnected with your disqualification.

## **Information for employers/potential children's home employees who are disqualified**

We expect the establishments and agencies we register to have robust vetting and recruitment procedures in place to ensure that those who work or live on those premises are fit to be in regular contact with children and young people. Anyone not vetted must not be left unsupervised with children or young people at any time.

If you wish to work at a children's home and you are disqualified, your potential employer must apply to us for written consent before they can employ you.

If we decide to give our written consent, it is your potential employer who will make the final decision about whether to employ you. Your potential employer may decide not to employ you because of other factors unconnected to your disqualification.

## **Information for those wishing to have a financial interest in a children's home**

If you want to join a body that is already registered as a children's home provider and you are disqualified, you must ask us for our consent. You must do so before you make any financial investment.

## **Offences and enforcement action**

It is a criminal offence for a disqualified person to carry on, manage or have a financial interest in a children's home without consent. It is also an offence for a children's home to employ someone whom they know to be disqualified, without consent.<sup>8</sup> We may prosecute in these circumstances.

We will also take action to safeguard children and young people where we find that a disqualified person is living or working at a children's home. This can include taking steps to cancel a registration.

## **Applying for an appeal**

You can appeal to an independent body, the Health, Education and Social Care Chamber against our decision to refuse to give our consent.<sup>9</sup> You must make an appeal in writing within three months of the date of our decision letter. You can obtain guidance on how to appeal from the Chamber by:

- writing to the secretary of the Health, Education and Social Care Chamber at: 18 Pocock Street, London, SE1 0BW
- telephoning 020 7960 0660 (line open 9.00am to 5.00pm, Monday to Friday)
- faxing 020 7960 0661 or 0662
- emailing [CST@tribunal.gsi.gov.uk](mailto:CST@tribunal.gsi.gov.uk)
- using its website [www.carestandardtribunal.gov.uk](http://www.carestandardtribunal.gov.uk).

## Chamber decisions

The Chamber's decision takes immediate effect. The Chamber will confirm its decision in writing and tell you the reasons for its decision, including any right to review or appeal you may have against its decision, and how to do this.

## Useful addresses and contacts

- Ofsted National Business Unit  
Piccadilly Gate  
Store Street  
Manchester M1 2WD  
Helpline: 0300 123 1231  
Website:  
<http://www.ofsted.gov.uk/Ofsted-home/About-us/Parents-and-carers>.
- You can find the Acts of Parliament and supporting legislation mentioned in this leaflet online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

## Additional information and supporting notes

1. Sections 65 and 68 of the Children Act 1989.
2. Section 65 of the Children Act 1989.
3. See our leaflet *Disqualification: how to apply to Ofsted for consent to waive disqualification*:  
([www.ofsted.gov.uk/resources/disqualification-how-apply-ofsted-for-consent-waive-disqualification](http://www.ofsted.gov.uk/resources/disqualification-how-apply-ofsted-for-consent-waive-disqualification)).
4. Section 68(3) of the Children Act 1989.
5. The Disqualification from Caring for Children (England) Regulations 2002, Statutory Instrument Number 635.
6. See our *Compliance, Investigation and Enforcement handbook* chapter 'Disqualification and written consent process for social care':  
([www.ofsted.gov.uk/resources/compliance-investigation-and-enforcement-handbook](http://www.ofsted.gov.uk/resources/compliance-investigation-and-enforcement-handbook))

7. Section 68(3A) of the Children Act 1989.

8. Section 68(4) and (5) of the Children Act 1989.

9. The Health, Education and Social Care Chamber is an independent body established under section 3 of the Tribunals, Courts and Enforcement Act 2007. The functions of the Care Standards Tribunal transferred to the Chamber on 3 November 2008.

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