

Protocols - Disqualifying someone from working with children by association with someone who is barred

These protocols set out the way in which the Childcare (Disqualification) Regulations, 2009 (as set out under section 75 of the Childcare Act 2006) should be applied to individuals who are known to be associated with someone (i.e. living or working in the same household as someone who is barred from working with children and young people). This means being associated with someone who has been:

- Cautioned for, or convicted of certain violent or sexual criminal offences against adults and any offences against children
- Subject to an order, direction or similar in respect of childcare, including orders made in respect of their own children
- Refused registration or had their registration cancelled in relation to childcare, children's homes or have been disqualified from private fostering

Anyone who is disqualified under the 2009 regulations (either directly or by association) may not provide relevant childcare provision or be directly concerned in the management of such provision.

Relevant childcare means:

- Being employed or providing early years childcare (this covers the age range from birth until 1st September following a child's 5th birthday – up to and including reception age) or later years childcare (above reception age but who have not yet attained the age of 8 years) in nursery, primary or secondary school settings, or
- Being directly concerned with the management of such childcare (it should be assumed that school Governors come within this criteria unless it can be proved that they do not)

The following are not covered by the disqualification legislation:

- Staff such as caretakers, cleaners, drivers, transport escorts, catering and office staff – i.e. people not employed directly to provide childcare
- Anybody involved in any form of health care provision for a child, including school nurses, speech and language therapists and education psychologists
- Activities run by other providers on school premises that are not managed by the school (e.g. lettings, football clubs).

Under section 76(3) of the 2009 regulations schools are prohibited from employing a disqualified person in connection with relevant childcare provision. An employer commits an offence if they contravene section 76(3) except if they prove that they did not know, and had no reasonable grounds for believing, that the person they employed was disqualified.

Good practice guidance

In the event that you become aware that a member of your church has a relevant offence or is associated with someone who has a relevant offence you must report this immediately to the Diocesan Safeguarding Advisors (Elaine Rose and Paul Brightwell).

The DSA will pass this information to the Kent LADO in order to ensure that appropriate checks are made regarding their involvement in providing childcare in any schools.

In the event that it is established or believed that the individual is involved with a Church of England School – the Diocese's Director of Education (Quentin Roper) will be informed.

The DSA will undertake a risk assessment of the individual to determine what additional recommendations should be made with regard to this individual's involvement in any church activities involving children and young people.

This might involve a recommendation of taking NFA, temporarily suspending the individual from specific duties involving direct contact with children, or permanently excluding them from such roles, and / or requesting that they be subject to a safeguarding contract.

The DSA's recommendations will be presented to the Dioceses Risk Assessment Group (RAG) who will make a final recommendation on the appropriate action to take.

A meeting will then be held (face to face or by phone) between the DSA and the incumbent of the parish concerned to ensure appropriate safeguarding actions are put in place.