

5.1a Disqualification: childminding and childcare

Compliance, investigation and enforcement handbook: disqualification

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Introduction

1. The law disqualifies some people from registering as a childminder or childcare provider.¹
2. The law also prevents such people from being employed or involved in the provision of childminding or childcare. Regulations specify the particular circumstances that disqualify an individual (see tables 1–5 for information on disqualified persons).²
3. A person may be disqualified due to a number of reasons, including:
 - grounds relating to the care of children
 - offences against children
 - offences against adults
 - inclusion on the list held by the Disclosure and Barring Service <http://www.legislation.gov.uk/ukpga/2006/47/contents>
 - living or working on premises where a disqualified person lives
 - having registration refused or cancelled – this does not apply to a person whose registration as a childminder or childcare provider is cancelled in England for non-payment of the fee after 1 September 2008.³
4. The offences include those committed overseas that, had the offence been committed in the UK, would disqualify that person from registration, regardless of how the offence is described in the law of the other country.

Waiving disqualification

5. In some cases, the law does not allow us to consider granting consent to waive the disqualification. We do not have any power to waive disqualification in relation to childminding or childcare if a person is:
 - included on the list held by the Disclosure and Baring Service (the barred list) <http://www.homeoffice.gov.uk/agencies-public-bodies/dbs/>

¹ Regulations made under the Children Act 1989, section 65 and 68 (<http://www.legislation.gov.uk/ukpga/1989/41/contents>) and the Childcare Act 2006, section 75 (<http://www.legislation.gov.uk/ukpga/2006/21/contents#pt3-ch5-pb4-l1g75>).

² The Childcare (Disqualification) Regulations 2009 (<http://www.legislation.gov.uk/uksi/2009/1547/contents/made>)

³ For those only on the voluntary part of the Childcare Register this applies from 6 April 2007 and not 1 September 2008.

- has been found to have committed an offence against a child within the meaning of section 26(1) of the Criminal Justice and Courts Services Act 2000 (<http://www.legislation.gov.uk/ukpga/2000/43/contents#pt2-pb1-11g26>) and the court has ordered that she or he is disqualified from working with children – under section 28(4), 29A (2), or 29(4) of the same Act.
6. If this is the case we write to the individual to inform them that we cannot waive their disqualification or grant their application to register. We send a notice of intention to refuse registration as we cannot grant an application to register from a disqualified person or where a person connected to the application is disqualified.
 7. In some circumstances, the law does allow us to waive disqualification. The applicant must make a written request – see below- and we must consider whether the facts that gave rise to the disqualification mean the individual continues to pose a risk of harm to children or whether those facts should no longer prevent the individual from being registered, or connected to a registration.
 8. Disqualified persons must apply to us to waive their disqualification before they can register as a childminder or childcare provider; register as part of an organisation set up to provide childcare; or be employed in the provision of childminding or childcare. We must receive an application to register before we can consider an application to waive disqualification even though we cannot consider the application to register until and unless we have granted the application to waive disqualification. But, we do not make a decision about the suitability of an applicant for registration until we have made a decision about the request to waive the disqualification.
 9. We may decide to waive disqualification, but subsequently refuse to grant the person's application for registration taking into account all the other information available to us. Our decision about the suitability of a childcare provider takes into account a range of other factors such as the information we receive from checks, as well as the person's experience and understanding of the requirements of registration and not just the matter that disqualified that person. See the factsheet – Applying to waive disqualification. <http://www.ofsted.gov.uk/resources/applying-waive-disqualification>.
 10. Where the disqualified person is an applicant for registration, registered person or member of staff in a childminding or childcare setting, the person who is disqualified from registration must apply to us, in writing, to have her or his disqualification waived. They cannot do this through their employer or as a corporate body request.
 11. People who apply to provide childminding or childcare are disqualified if they live or work on premises where a disqualified person lives. In these cases, the registered person, applicant for registration or person wishing to work in childcare must apply to us to waive their disqualification, rather than the

disqualified individual. This is because the applicant/registered person are disqualified by virtue of living or working with a disqualified person.

12. We can consider a request to waive if a childminder or childcare provider is disqualified by virtue of living or working on premises where a disqualified person lives. This is because the person is disqualified under regulation 9 of the Childcare (Disqualification) Regulations 2009 (persons living or working on premises where a disqualified person lives) and not because they are included on the list themselves.

Local authorities and organisations whose prime purpose is not the provision of childcare

13. If we take action to cancel the registration of a provision operated by a local authority or an organisation whose prime purpose is not childcare, the local authority or other organisation is disqualified from registration and not the named contact/nominated person.⁴ In these cases, the local authority or other organisation must apply to Her Majesty's Chief Inspector to waive their disqualification/ written consent. However, the named contact/nominated person can apply to us to waive their disqualification/written consent on behalf of the local authority or organisation.

Responding to information indicating a person is disqualified

14. The Compliance, investigation and enforcement (CIE) team may receive information that indicates that a person is disqualified from registration from the:

- inspector during a registration or inspection visit
- disqualified individual contacting or writing directly to us
- application team, on checking the application or declaration and consent forms
 - results of any checks carried out to establish the suitability of an individual to work or be in regular contact with children.

15. If we receive information that an existing provider or staff member is disqualified from registration, we must inform the registered provider immediately and confirm in writing that we have received information indicating they are, or a staff member is, disqualified. We do this to allow the registered provider to take action before we take action. For example, if the disqualification is of the registered provider, they may request a waiver or provide evidence that they are not disqualified. Alternatively, if the disqualification is of a staff member, the registered provider may suspend the

⁴ A local authority consisting of a chairman and councillors (Section 2 of the Local Government Act 1972).

staff member while the individual concerned makes an application to us to waive their disqualification.

16. For those registered on the Early Years Register and the Childcare Register, the law requires us to cancel the registration of a person who becomes disqualified. It does not give us any discretion not to do so.⁵ We must write to the registered provider and tell them that the law requires us to take action to cancel their registration, but they can apply to us to waive their disqualification. We include the application form to waive disqualification with the letter and request they return it within 10 working days. If we receive the application and decide not to waive disqualification we must write to the provider refusing to waive their disqualification and send a notice of intention to cancel at the same time because the provider is disqualified. If we do not receive the application within 10 working days, we must proceed to issue a notice of intention to cancel. The provider can object to our notice of intention to cancel their registration. However, due to the automatic nature of disqualification, the onus will be on the provider to establish that they have not committed a disqualifying offence nor had a disqualifying order made against them – an error of fact.
17. We must also arrange a CIE case review, which will consider whether there is a risk of harm to children. The review should:
 - assess what steps the provider has taken, and whether they are appropriate, to ensure that children are not at risk of harm
 - decide on the most appropriate steps to take for example, the suspension of a childminder or childcare provider's registration.
18. The provider can object to other issues raised in the notice of intention to cancel, if we have also included points relating to the provider's non-compliance with regulations or others factors concerning their suitability. Even if we uphold the provider's objection to these other issues, we must still issue a notice of our decision to cancel the registration on the grounds the person is disqualified, unless they provide evidence that the information we have about the disqualification is inaccurate and they are not disqualified. The person can appeal to the First-tier Tribunal (Health, Education and Social Care Chamber) (the Tribunal).
19. If we refuse to waive disqualification and the disqualification relates to a member of staff at a childminding or childcare setting, the registered person must not continue to employ the disqualified person. In addition, the disqualified person cannot be involved in the management of the provision.

⁵ The Childcare Act 2006, section 68(1) states that: 'The Chief Inspector must cancel the registration of a person registered under Chapter 2, 3 or 4 if it appears to him that the person has become disqualified from registration by regulations under section 75' (<http://www.legislation.gov.uk/ukpga/2006/21/contents#pt3-ch5-pb1-l1g68>).

20. It is an offence to employ a disqualified person without reasonable excuse; we may prosecute a person who knowingly employs a disqualified person. (This does not apply to a person who is registered only on the voluntary part of the Childcare Register.)⁶

Handling requests to waive disqualification

21. Unless a person has already given full details in writing, we send the application to waive disqualification to the disqualified person.

22. In cases where we are able to consider waiving disqualification but where we decide to refuse to waive, the CIE professional will write to the person informing her or him of the decision. The person then has a right of appeal to the Tribunal against our decision. However, if the disqualified person is part of the proposed registered person and withdraws from the application, this will allow the application to proceed.

If an application for registration indicates that a person is disqualified

23. We cannot grant an application to register with Ofsted if the application indicates that any of the following individuals are disqualified from registration:

- the applicant for registration
- a person making up the registered body
- someone living or working on the premises where childminding or childcare is provided.

24. We cannot consider the application to register unless:

- the disqualified person has received written confirmation that we have waived the disqualification
- Or
- the disqualified person is removed from the application to register
- Or
- the person has provided evidence that they are not disqualified.

25. In such cases, we must inform the applicant of the reasons why we cannot grant the application to register. We must set out the powers we have to waive disqualification and how the disqualified person can apply to us to have

⁶ The Children Act 1989, section 65(4) and 68(1) (<http://www.legislation.gov.uk/ukpga/1989/41/contents>) and the Childcare Act 2006, section 76(5) (<http://www.legislation.gov.uk/ukpga/2006/21/contents#pt3-ch5-pb1-l1g68>).

a disqualification waived. If we do not receive an application to waive disqualification we will refuse their application by sending a notice of intention followed by a notice of decision, which gives our reason for refusal as due to their disqualification(or that of a person included in the application) from providing childcare.

26. If we are unaware that a person is disqualified when we commence the process for registration, but, during the application process, we receive information that a person is disqualified from registration, we must inform her or him about the disqualification and provide information about how to apply to us to waive disqualification. We should continue to record any information in relation to the application that we receive from checks that we have already initiated, for example, medical checks. However, we should not carry out any further checks until we have considered the application to waive disqualification.
27. If the applicant then applies to us to waive and we refuse to grant it, we send a letter setting out our reasons for refusing to waive disqualification. If the applicant appeals against our refusal to waive and their appeal is successful, we resume the application process. It may be that we subsequently decide to refuse their application to register on other suitability grounds.
28. If we decide to refuse registration, after we have waived disqualification, we issue a notice of intention to refuse registration. The notice of intention to refuse registration sets out all of the reasons for our decision to refuse registration, such as:
 - the applicant has failed to satisfy the prescribed requirements for registration
 - the applicant is not suitable for any other reason – such as not having the right qualifications.
29. The applicant can object to the notice of intention. If we do not uphold the objection the applicant can appeal to the Tribunal.

Making the decision on whether to grant consent to waive disqualification

30. If, after receiving the application to waive, we are of the opinion that a person is disqualified from registration, we follow our decision-making process (see chapter on decision-making).
31. Before making a decision we consider:
 - the risk to children
 - the nature and severity of any offences, cautions or orders. The following Crown Prosecution Service information may assist:
 - the Sentencing manual
(www.cps.gov.uk/legal/s_to_u/sentencing_manual/)

- Legal Guidance (www.cps.gov.uk/legal/), which provides a menu of various offences linking to a description of each offence and the sentencing range available to the courts
- the age of any offences or orders
- repetition of any offences or orders or any particular pattern of offending
- the notes of any interviews with the disqualified person, applicant for registration or registered person, including their explanation of and attitude to the disqualifying event
- any other information available from other authorities, such as the police or local authority children's services department in relation to the offences
- any mitigating circumstances given.

32. Where we agree to waive disqualification we are confirming that, despite the person being disqualified and having taken into account the information, we are allowing the person to apply to register to provide care, or look after or be in regular contact with children.

33. The CIE team:

- records the decision and the reasons for that decision, appropriately on the application to waive disqualification and on the regulatory support application (RSA) database
- ensures that the applicant receives a letter explaining the reasons for that outcome after asking Ofsted's legal advisors to review the letter if it is necessary to do so
- takes forward any action necessary resulting from the decision.

Extent of consent to waive disqualification

34. We may specify the extent to which we agree to waive a disqualification. For example, we may limit it to a particular setting or job. Limiting the decision to waive disqualification in this way requires the individual to reapply if the circumstances change or the risk to children increases. For example, person A wants to work in childcare on non-domestic premises, but is a disqualified person because she or he lives with person B, who has committed a disqualifiable offence against a child. In this case, we may decide to waive disqualification for A to work in childcare on non-domestic premises, but specify the extent to which we have waived the disqualification so that A can only work at that particular premises. This type of specification allows A to work with children, but does not extend to allow them to become a childminder or to work in another nursery. In this case, A will need to submit a new request to waive disqualification before making any decision about registration as a childminder or working in any other childcare setting.

Duty to disclose

35. All registered persons, and applicants for registration, must tell us about any information that disqualifies them, or disqualifies them by virtue of living with a disqualified person, or employing a disqualified person in their home. They must provide:
- details of the precise order, determination, conviction or other ground for disqualification
 - the date when the order, determination, conviction or other ground for disqualification arose
 - the name of the body or court
 - the sentence imposed (if any)
 - a copy of the relevant order.
36. If a childminder or childcare provider fails to notify us of this information within 14 days of the time when they became aware, without reasonable excuse, this is an offence. This (the offence) does not apply to those registered only on the voluntary part of the Childcare Register.
37. All people for whom we are responsible for determining their suitability must provide details of any criminal convictions on the appropriate declaration and consent form. These are:
- childminders and childcare providers on the Early Years Register – EY2
 - childminders and childcare providers on the Childcare Register – CR2.
38. Providers must inform us if they want to employ, or discover they have employed, a disqualified person, including any person who was not previously disqualified but is now disqualified under any new or amended regulations, or through any new offences or disqualifying events that happen after the registration is granted. Although the regulations do not set this out explicitly, we regard this as a significant event affecting the registration of a provider and require providers to tell us under the Early Years Foundation Stage (Welfare Requirement) Regulations 2012 <http://www.legislation.gov.uk/ukxi/2012/938/contents/made>, The Childcare (General Childcare Register) Regulations 2008 (amendments in 2009 and 2012).
39. Where a registered person or an employee discovers they are disqualified under regulations, for example because they were previously refused or cancelled registration, then they must apply to us to waive the disqualification. It is unlikely that we will refuse to waive where there are no additional concerns and we have already granted registration or found the person suitable. We treat such requests to waive as urgent because they affect the continuity of care for children.

Prompt sheet for inspectors: what to do in the course of an inspection if you become aware of a disqualification issue

40. If, in the process of carrying out an inspection, you become aware that a provider is or may be disqualified, or has employed a person who is disqualified, you must:

- assess the level of risk of serious harm; if you feel that children are at risk of harm you must contact CIE to discuss and agree further action
- explain to the individual that she or he may be disqualified and if necessary she or he may contact the CIE team
- where applicable, ask the individual to discuss the issue with her or his employer and to confirm this to us. Explain that we will tell the employer if the individual does not
- where applicable, check the provider's compliance with the regulations for assessing suitability, including any evidence the provider holds in relation to Disclosure and Barring Service checks and, from July 2010, checks against the list held by the Disclosure and Barring Service
- where applicable, question the provider about the information they had about the individual before offering employment
- tell the registered person or member of staff that, if disqualified, she or he must apply to us to waive their disqualification and give details about how to do this
- where you assess that children are safe, you must tell the registered person or manager about your concerns before you leave, taking care not to share any third party details about a member of staff. For example, if a person is disqualified because we have cancelled her or his registration for failing to comply with the Statutory Framework for the Early Years Foundation Stage, this does not necessarily mean that she or he poses a risk of harm to children. You should tell the registered person the following information; that:
 - a member of their staff is a disqualified person – you should tell the registered person the name of the staff member
 - you cannot discuss the circumstances surrounding the disqualification; the registered person should discuss this with the staff member
 - it is an offence to employ a disqualified person, unless HMCI has agreed to consent to waive the disqualification
 - they must inform us of the action they have taken to safeguard children

- make a referral to the CIE team, after the inspection, giving details of the information that caused you to believe that the individual was disqualified. You should do this in the same way you share any other information with CIE following an inspection.

41. In addition, you may wish to defer any inspection judgement until the outcome of any request to consent to waive disqualification, taking into account individual circumstances and the risk to children.

Disqualified persons

42. Please read the following paragraphs in conjunction with the:

- Childcare Act 2006, Section 75 and 76
(<http://www.legislation.gov.uk/ukpga/2006/21/contents>)
- Children Act 1989, Section 65 and 68
(<http://www.legislation.gov.uk/ukpga/1989/41/contents>)
- Childcare (Disqualification) Regulations 2009
(<http://www.legislation.gov.uk/uksi/2009/1547/contents/made>).

43. The disqualifying offences include (although not an exhaustive list):

- those listed in the above legislation
- the relevant offences listed in the Criminal Justice and Court Service Act 2000, schedule 4, paragraphs 1 and 2.7
(<http://www.legislation.gov.uk/ukpga/2000/43/contents#sch4>)
- an offence related to an offence under the Criminal Justice and Court Service Act 2000
- any other offence involving bodily injury to or death of a child.⁸

⁷ If the person is found to have committed any of the offences committed against a child as set out in paragraphs 1, 2 or 3 of schedule 4 to the Criminal Justice and Court Service Act 2000 (CJCS Act), or found to have committed any of the offences committed against a person aged 18 or over, as set out in paragraph 2 of schedule 4 of the Criminal Justice and Court Service Act 2000 or an offence related to it; if they have been charged with any offence, committed against a person aged 18 or over, provided for in paragraph 2 of schedule 4 to the Criminal Justice and Court Service Act 2000, or an offence related to such an offence in respect of which a relevant order has been imposed by a senior court. (A senior court means the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court).

⁸ The definition of 'bodily injury' is quite broad. Case law has established that 'bodily injury' need not be permanent but should not be 'so trivial or trifling as to be effectively without significance'. In general terms, something like bruising, a cut or swelling could constitute 'bodily injury'. It is vital that Ofsted has evidence of the 'bodily injury', ideally in the form of photographs, medical evidence, police statements or statements from those involved. Whether something constitutes 'bodily injury' will need to be established on a case by case basis. If you are in doubt, contact Ofsted's legal advisers who will be able to advise you.

44. A person who is disqualified from registration is therefore disqualified from being employed in connection with childminding or childcare if:

- she or he is included on the lists of people deemed unsuitable to work with children (see Table 1 below)
- she or he has been subject to any order relating to the care of children (see Table 2 below)
- a specified regulatory body has cancelled a registration, refused registration or refused approval for that person to care, foster or look after children (see Table 3 below) or has taken specified regulatory action⁹
- in relation to childminding or childcare, she or he has been found to have committed any of the offences listed in table 4.¹⁰ This includes convictions for aiding, abetting, counselling, procuring or inciting the commission of an offence against a child and conspiring or attempting to commit such an offence or conviction of any offence other than offences in Table 4 which involved bodily injury to, or death of, a child.
- she or he has, in relation to childminding or childcare:
 - been found to have committed (which includes having been convicted of an offence or having been given a caution on or after 6 April 2007) any of the offences in Table 5, against an child, or any other offence involving bodily injury to or death of a child; or
 - been found to have committed any of the offences against an adult which are mentioned in paragraph 2 of Schedule 4 to the Criminal Justice and Courts Services Act 2000, or an offence that is related to such an offence
(<http://www.legislation.gov.uk/ukpga/2000/43/contents>)
 - been charged with any of the offences in Table 5, committed against a person aged 18 or over which are mentioned in paragraph 2 of Schedule 4 to the Criminal Justice and Court Services Act 2000 and had a 'relevant order' imposed.¹¹

The offences listed in the tables below are not a comprehensive list. If unsure whether the offence disqualifies a person, and it is not included in the list

⁹ A person is not disqualified if she or he has had their registration cancelled as a childminder or childcare provider in England due to non-payment of the fee, charged annually, if the cancellation is after 1 September 2008 (6 April 2007 for those registered only on the voluntary part of the Childcare Register).

¹⁰ 'Found to have committed' means having been convicted of an offence, given a caution on or after 6 April 2007, having been found not guilty by reasons of insanity to be found to be under a disability and to have the act charged against them in respect of such an offence. The Crime and Disorder Act 1998, section 65 (<http://www.legislation.gov.uk/ukpga/1998/37/contents#pt4-ch1-pb3-l1g65>) determines that a caution includes reprimands and warnings issued by the police under that section.

¹¹ In this case 'relevant order' means an order made by a senior Court (senior court means, the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court) that the individual in question be admitted to hospital, or a guardianship order.

below, you can seek advice either from the early years and childcare team in the Education Directorate, or through them, from our legal advisors.

Table 1: Lists holding names of people deemed unsuitable to work with children for whom we have no power to waive disqualification

CC – childminding and childcare

List	Legislation	CC
The list held by the Disclosure and Barring Service of those people barred from working with children	The Safeguarding and Vulnerable Groups Act 2006: http://www.legislation.gov.uk/ukpga/2006/47/contents	x

Table 2: Disqualified by way of orders relating to the care of children

Order	Legislation	CC
Care order	The Children Act 1989, section 31(1)(a): http://www.legislation.gov.uk/ukpga/1989/41/section/31A	x
	The Children (Northern Ireland) Order 1995, 50(1)(a): http://www.legislation.gov.uk/nisi/1995/755/article/50	x
	The Children and Young persons (Guernsey) Law 1967, section 3(3): www.gov.gg/ccm/law-officers/guernsey--bailiwick/laws/children-and-young-persons/children---young-persons-guernsey-law-1967.en	x
	The Children and Young Person Act 2001 (an Act of Tynwald), 31(1)(a): www.gov.im/lib/docs/infocentre/acts/cypa2001.pdf	x
	Any order that would have been deemed to be a care order by virtue of paragraph 15 of schedule 14 to the Children Act 1989 (transitional provisions for children in compulsory care) had it been in force immediately before the day on which part 4 of the Children Act 1989 came into force: http://www.legislation.gov.uk/ukpga/1989/41/schedule/14	x
	Sexual Offences Act 2003, prevention order, section 104: http://www.legislation.gov.uk/ukpga/2003/42/section/104	x
	An order or determination specified in schedule 4 to the Children (Jersey) Law 2002: http://www.jerseylaw.je/law/display.aspx?url=lawsinforce%2Fconsolidated%2F12%2F12.200_ChildrenLaw2002_RevisedEdition_1January2006.htm	x
	An order made further to an application as permitted under section 48(3) of the Children (Guernsey and Alderney) Law 2009 (community parenting order)	x
	The Children and Young Persons Act 2001 (an Act of Tynwald), paragraph 5 of schedule 9: www.gov.im/lib/docs/infocentre/acts/cypa2001.pdf	x

Order	Legislation	CC
	The Children (Scotland) Act 1995, section 70: http://www.bailii.org/uk/legis/num_act/1995/ukpga_1995003_6_en_1.html	x
Child protection order	A fit person order, a parental rights order or a training school order under the Children and Young Person Act (Northern Ireland) 1968: http://www.bailii.org/nie/legis/num_act/caypai1968438/s140.html	x
	The Children (Scotland) Act 1995, section 57: http://www.bailii.org/uk/legis/num_act/1995/ukpga_1995003_6_en_1.html	x
Exclusion order	The Children (Scotland) Act 1995, section 76: http://www.bailii.org/uk/legis/num_act/1995/ukpga_1995003_6_en_1.html	x

Table 3: Disqualified by way of having been refused or cancelled registration or having a prohibition imposed or having committed a prescribed offence in relation to registration

Position	Legislation	CC
Refusal or cancellation in relation to childminders or childcare providers	The Childcare Act 2006, chapter 2, 3, or 4 of part 3: http://www.legislation.gov.uk/ukpga/2006/21/contents	x
	The Children Act 1989, part X or XA (mostly repealed check with legal on individual cases): http://www.legislation.gov.uk/ukpga/1989/41/contents	x
	The Children (Northern Ireland) Order 1995, part XI: http://www.bailii.org/uk/legis/num_reg/1995/Uksi_1995075_5_en_1.html	x
	The Children and Young Persons Act (Northern Ireland) 1968, 11(5) or 15: http://www.bailii.org/nie/legis/num_act/caypai1968438/s11.html http://www.bailii.org/nie/legis/num_act/caypai1968438/s15.html	x
	Nurseries and Childminders Regulation Act 1974 (an Act of Tynwald), section 1	x
	Children and Young Person Act 2001, schedule 7, or sections 65 or 66: www.gov.im/lib/docs/infocentre/acts/cypa2001.pdf	x
	Child Protection (Guernsey) Law 1972, part III	x
	Protection of Children (Scotland) Act 2003: http://www.bailii.org/scot/legis/num_act/2003/20030005.ht	x

Position	Legislation	CC
	ml	
	Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003, inclusion on the list under article 3, or disqualification under chapter II of part II: http://www.bailii.org/nie/legis/num_orders/2003/20030417.html	x
	The Children Act 1989, section 49–50(9): http://www.legislation.gov.uk/ukpga/1989/41/contents	x
	The Day Care to Children (Jersey) Law 2002: www.pac.gov.je/documents/docs/S-18010-20664-3152007.pdf	x
	The Children Act 1958, section 14	x
	The Children and Young Person Act 2001 (an Act of Tynwald), section 59: www.gov.im/lib/docs/infocentre/acts/cypa2001.pdf	x
	The Children Act 1958, section 4	x
	The Children Act 1989, section 70 http://www.legislation.gov.uk/ukpga/1989/41/section/70	
	A prohibition imposed under the Children Act 1989, section 69: http://www.legislation.gov.uk/ukpga/1989/41/section/69	x
Children's home	Care Standards Act 2000, sections 11(1), 13, 14, 20(1), 24, 25–27: http://www.legislation.gov.uk/ukpga/2000/14/contents	x
	Health and Personal Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003: http://www.bailii.org/uk/legis/num_reg/2003/20030431.html	x
	The Children (Northern Ireland) Order 1995, article 80, 82, 96, 98: http://www.bailii.org/uk/legis/num_reg/1995/Uksi_19950755_en_1.html	x
	The Children and Young Person Act 2001, schedule 2, paragraph 2 or 4, or section 59 (Act of Tynwald): www.gov.im/lib/docs/infocentre/acts/cypa2001.pdf	x

Table 4: Disqualified because they, in relation to childminding or childcare, are found to have committed any offence in this table.

Please note that, in relation to childminding and childcare, convictions for other offences – other than those listed in table 4, which involved bodily injury to, or death of, a child – may also disqualify a person from working with children. This includes where a person has been convicted of, or found to have committed, an offence that is related to an offence which includes aiding, abetting, counselling, procuring or inciting the commission of an offence against a child and conspiring or attempting to commit such an offence.

Some of the offences set out in this table are under repealed offences. However, a person is disqualified if she or he has at any time committed any of the offences under the specified legislation, when it was in force.

Offence	Legislation	CC
Abduction of a child in care	The Children Act 1989, section 49 or 50(9): http://www.legislation.gov.uk/ukpga/1989/41/contents	x
	Children (Northern Ireland) Order 1995, article 68 or 69(9): http://www.bailii.org/uk/legis/num_reg/1995/Uksi_19950755_en_1.html	x
Cruelty to children	Children and Young Persons Act 1933, section 1: http://www.legislation.gov.uk/ukpga/Geo5/23-24/12/section/1	x
Murder of an infant	Infanticide Act 1938, section 1: http://www.legislation.gov.uk/ukpga/Geo6/1-2/36/section/1	x
Rape of a child under 13	Sexual Offences Act 2003, section 5: http://www.legislation.gov.uk/ukpga/2003/42/section/5	x
	Sexual Offences (Northern Ireland Order) 2008, part 3, regulation 12: http://www.bailii.org/uk/legis/num_reg/2008/uksi_20081769_en_1.html	x
Assault of a child under 13 by penetration	Sexual Offences Act 2003, section 6: http://www.legislation.gov.uk/ukpga/2003/42/section/6	x
	Sexual Offences (Northern Ireland Order) 2008, part 3, regulation 13: http://www.bailii.org/uk/legis/num_reg/2008/uksi_20081769_en_1.html	x
Sexual assault of a child under 13	Sexual Offences Act 2003, section 7: http://www.legislation.gov.uk/ukpga/2003/42/section/7	x
	Sexual Offences (Northern Ireland Order) 2008, part 3, regulation 14: http://www.bailii.org/uk/legis/num_reg/2008/uksi_20081769_en_1.html	x

Causing or inciting a child under 13 to engage in sexual activity	Sexual Offences Act 2003, section 8: http://www.legislation.gov.uk/ukpga/2003/42/section/8	X
	Sexual Offences (Northern Ireland Order) 2008, part 3, regulation 15: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	X
Causing or inciting a child to engage in sexual activity	Sexual Offences Act 2003, section 10: http://www.legislation.gov.uk/ukpga/2003/42/section/10	X
	Sexual Offences (Northern Ireland Order) 2008, part 3, regulation 24: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	X
Sexual activity with a child	Sexual Offences Act 2003, section 9: http://www.legislation.gov.uk/ukpga/2003/42/section/9	X
	Sexual Offences (Northern Ireland Order) 2008, part 3, regulation 16: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	X
Engaging in sexual activity in the presence of a child	Sexual Offences Act 2003, section 11: http://www.legislation.gov.uk/ukpga/2003/42/section/11	X
	Sexual Offences (Northern Ireland Order) 2008, part 3, regulation 25: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	X
Causing a child to watch a sexual act	Sexual Offences Act 2003, section 12: http://www.legislation.gov.uk/ukpga/2003/42/section/12	X
	Sexual Offences (Northern Ireland Order) 2008, part 3, regulation 26: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	X
	Criminal Justice (Northern Ireland) Order 1980, article 9: http://www.bailii.org/nie/legis/num_act/cjio1980366/xx1.html	X
Incest with a child	'Loi pour la punition d'Inceste' (law for the punishment of incest) 1909 – Channel Islands	X
Indecent photographs of children	Protection of Children Act 1978, section 1: http://www.legislation.gov.uk/ukpga/1978/37/section/1	X
	Protection of Children (Northern Ireland) Order 1978, article 3: http://www.bailii.org/uk/legis/num_act/1978/1006310.html	X
	The Customs and Excise Management Act 1979, section 170: http://www.legislation.gov.uk/ukpga/1979/2/contents	X

	Customs Consolidation Act 1876, section 42: http://www.legislation.gov.uk/ukpga/Vict/39-40/36/section/42	X
	Sexual Offences (Northern Ireland) Order 2008, part 3, regulation 16 or 17: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	X
Abduction of a child by a parent	Child Abduction Act 1984, section 1: http://www.legislation.gov.uk/ukpga/1984/37	X
Possession of indecent photograph of child	Criminal Justice Act 1988, section 160: http://www.legislation.gov.uk/ukpga/1988/33/contents	X
	Criminal Justice (Evidence etc.) (Northern Ireland) Order 1988, article 15: http://www.bailii.org/nie/legis/num_orders/1988/nisi_19881847_en_1.html	X
Abuse of trust – sexual activity with a child	Sexual Offences Act 2003, section 16: http://www.legislation.gov.uk/ukpga/2003/42/section/16	X
	Sexual Offences (Northern Ireland) Order 2008, part 3, article 23: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	X
Abuse of position of trust: causing or inciting a child to engage in sexual activity	Sexual Offences (Northern Ireland) Order 2008, part 3, article 17: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	X
	Sexual Offences Act 2003, section 17, 21, 22, 23 or 24: http://www.legislation.gov.uk/ukpga/2003/42/contents	X
Abuse of position of trust: sexual activity in the presence of a child	Sexual Offences Act 2003, section 18: http://www.legislation.gov.uk/ukpga/2003/42/section/18	X
	Sexual Offences (Northern Ireland) Order 2008, part 3, article 18: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	X
Abuse of position of trust: causing a child to watch a sexual act	Sexual Offences Act 2003, section 19: http://www.legislation.gov.uk/ukpga/2003/42/section/19	X
	Sexual Offences (Northern Ireland) Order 2008, part 3, article 19: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	X
Abuse of position of	Sexual Offences Act 2003, section 20: http://www.legislation.gov.uk/ukpga/2003/42/section/20	X

trust: acts done in Scotland		
Abuse of position of trust: acts done in England and Wales or Scotland	Anything which, if done in Northern Ireland, would constitute an offence under any of articles 23 to 26 also constitutes that offence if done in England and Wales or Scotland. Sexual Offences (Northern Ireland Order) 2008, part 3, article 27: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	x
Position of trust	Sexual Offences (Northern Ireland) Order 2008, part 3, article 28: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	
Sexual activity with a child family member	Sexual Offences Act 2003, section 25: http://www.legislation.gov.uk/ukpga/2003/42/section/25	x
	Sexual Offences (Northern Ireland) Order 2008, part 3, article 32: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	x
Inciting a child to engage in sexual activity	Sexual Offences Act 2003, section 26: http://www.legislation.gov.uk/ukpga/2003/42/section/26	x
	Sexual Offences (Northern Ireland) Order 2008, part 3, article 33: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	x
Making a threat to kill a child	Offences against the Person Act 1861, section 16: http://www.legislation.gov.uk/ukpga/Vict/24-25/100	x
Paying for sexual services of a child	Sexual Offences Act 2003, section 47: http://www.legislation.gov.uk/ukpga/2003/42/section/47	x
	Sexual Offences (Northern Ireland Order) 2008, part 3, regulation 37: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	x
Causing or inciting child prostitution or pornography	Sexual Offences Act 2003, section 48: http://www.legislation.gov.uk/ukpga/2003/42/section/48	x
	Sexual Offences (Northern Ireland) Order 2008, part 3, article 38: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	x
Controlling a child prostitute or a child involved in	Sexual Offences Act 2003, section 49: http://www.legislation.gov.uk/ukpga/2003/42/section/49	x
	Sexual Offences (Northern Ireland) Order 2008, part 3, article 39:	x

pornography	http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	
Arranging or facilitating child prostitution or pornography	Sexual Offences Act 2003, section 50: http://www.legislation.gov.uk/ukpga/2003/42/section/50	x
	Sexual Offences (Northern Ireland) Order 2008, part 3, article 40: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	
	Channel Islands, 'Loi relative a la Sodomie (Law relating to Sodomy) 1929	x
Burglary with intent to rape a child	Theft Act 1968, section 9(1)(a): http://www.legislation.gov.uk/ukpga/1968/60/section/9	x
Supplying or offering to supply class A drugs to a child	Misuse of Drugs Act 1971, section 4(3): http://www.legislation.gov.uk/ukpga/1971/38/section/4	x
Being concerned in the supplying of class A drug to a child	Misuse of Drugs Act 1971, section 4(3): http://www.legislation.gov.uk/ukpga/1971/38/section/4	x
Being concerned in the making to a child of an offer to supply class A drugs	Misuse of Drugs Act 1971, section 4(3): http://www.legislation.gov.uk/ukpga/1971/38/section/4	x
Theft of a child below the age of puberty	Scottish Common Law Offence of Plagium	x
Taking or sending a child out of the United Kingdom	Child Abduction Act 1984, section 6: http://www.legislation.gov.uk/ukpga/1984/37/section/6	x
Obstruction of any person acting under a child protection order	Children (Scotland) Act 1995, section 81: http://www.bailii.org/uk/legis/num_act/1995/ukpga_19950036_en_1.html	x

Inducing a child to abscond or harbouring a child or preventing them from returning	Children (Scotland) Act 1995, section 83 or 89: http://www.bailii.org/uk/legis/num_act/1995/ukpga_19950036_en_1.html	x
Any offence specified in schedule 1 – offences against a child under the age of 17	Criminal Procedure (Scotland) Act 1995: http://www.bailii.org/uk/legis/num_act/1995/ukpga_19950046_en_1.html#sch1	x
Causing or allowing the death of a child or vulnerable adult	Domestic Violence, Crime and Victims Act 2004, section 5: http://www.legislation.gov.uk/ukpga/2004/28/section/5	x
Any offence specified	The Children and Young Person Act (Northern Ireland) 1968, schedule 1: http://www.bailii.org/uk/legis/num_act/1968/2907686.html	x
	The Children's Jersey Law 1969, part 7: http://www.jerseylaw.je/Law/lawsinforce/consolidated/superseded/12/12.200_ChildrenLaw1969_RevisedEdition_31August2004.pdf	x
	The Children (Jersey) Law 2002, schedule 4: http://www.jerseylaw.je/law/display.aspx?url=lawsinforce%2Fconsolidated%2F12%2F12.200_ChildrenLaw2002_RevisedEdition_1January2006.htm	x
Offences outside the UK	Sexual Offences Act 2003, section 72: http://www.legislation.gov.uk/ukpga/2003/42/section/72	x
	Criminal Law (Consolidation) (Scotland) Act 1995, section 16B: http://www.legislation.gov.uk/ukpga/1995/39/section/16B	x
Detention of absentees	Children and Young Person Act 1969, section 32(3): http://www.legislation.gov.uk/ukpga/1969/54/contents	x
Channel Islands protection of women and young girls	Loi relative a la protection des Femmes et des Filles Mineures' 1914	x

Channel Islands Law relating to the protection of children and young persons 1917	'Loi Ayant rapport a la Protection des Enfants et des Jeunes Personnes', article 7, 9, 10, 11, 12, section 1 of article 41, section 1–4 of article 51	x
	An offence contrary to the Children and Young Person (Guernsey) Law 1967: http://www.gov.gg/ccm/law-officers/guernsey--bailiwick/laws/children-and-young-persons/children---young-persons-guernsey-law-1967.en	x
	An offence contrary to the Protection of Children (Bailiwick of Guernsey) Law 1985	x
	An offence specified in the Children and Young Person Act 2001 (an Act of Tynwald), schedule 8: www.gov.im/lib/docs/infocentre/acts/cypa2001.pdf	x
Offences against children and young people for whom special provisions apply	Any offence specified in schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968: http://www.bailii.org/uk/legis/num_act/1968/2907686.html	x
Child sex offences committed by children or young persons (1) A person under 18 commits an offence if he does anything which would be an offence under any of sections 9 to 12 if he were aged 18	Sexual Offences Act 2003, section 13: http://www.legislation.gov.uk/ukpga/2003/42/section/13	x
	Sexual Offences (Northern Ireland) Order 2008, part 3, article 20: http://www.bailii.org/uk/legis/num_reg/2008/uksi_20081769_en_1.html	x
Arranging or facilitating commission of a child sex offence	Sexual Offences Act 2003, section 14: http://www.legislation.gov.uk/ukpga/2003/42/section/14	x
	Sexual Offences (Northern Ireland) Order 2008, part 3, article 21: http://www.bailii.org/uk/legis/num_reg/2008/uksi_20081769_en_1.html	x
Meeting a child following sexual grooming, etc.	Sexual Offences (Northern Ireland) Order 2008, part 3, article 22: http://www.bailii.org/uk/legis/num_reg/2008/uksi_20081769_en_1.html	x

	Sexual Offences Act 2003, section 15: http://www.legislation.gov.uk/ukpga/2003/42/section/15	X
Trespassing with intent to commit a sexual offence – for children’s social care this only applies where the intended offence was against a child	Sexual Offences Act 2003 section 62 or 63: http://www.legislation.gov.uk/ukpga/2003/42/contents	X
Sex with an adult relative	Sexual Offences Act 2003, sections 64 and 65: http://www.legislation.gov.uk/ukpga/2003/42/contents	X
Intercourse with an animal	Sexual Offences Act 2003, section 69: http://www.legislation.gov.uk/ukpga/2003/42/section/69	X
	Sexual Offences (Northern Ireland) Order 2008, article 73: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	X
Sexual penetration of a corpse	Sexual Offences Act 2003, section 70: http://www.legislation.gov.uk/ukpga/2003/42/section/70	X
	Sexual Offences (Northern Ireland) Order 2008, article 74: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	X

Table 5: Disqualified by way of being, in relation to childminding or childcare:

- found to have committed (which includes having been convicted of an offence or having been given a caution on or after 6 April 2007) any of the following offences against a child, or any other offence involving bodily injury to or death of a child¹²
- found to have committed any of the offences against an adult, which are mentioned in paragraph 2 of schedule 4 to the Criminal Justice and Court Services Act 2000 or an offence that is related to such an offence (which includes having been given a caution on or after 6 April 2007)
- charged with any of the following offences committed against a person aged 18 or over, which are mentioned in paragraph 2 of schedule 4 to the Criminal Justice and Court Services Act 2000 and had a 'relevant order' imposed.¹³

Offence	Legislation	CC *
Murder	Criminal Justice and Court Services Act 2000, schedule 4, paragraph 2(a): http://www.legislation.gov.uk/ukpga/2000/43/schedule/4	x
Kidnapping	Criminal Justice and Court Services Act 2000, schedule 4, paragraph 2(c): http://www.legislation.gov.uk/ukpga/2000/43/schedule/4	x
Manslaughter	Criminal Justice and Court Services Act 2000, schedule 4, paragraph 2(b): http://www.legislation.gov.uk/ukpga/2000/43/schedule/4	x
False imprisonment	Criminal Justice and Court Services Act 2000, schedule 4, paragraph 2(d): http://www.legislation.gov.uk/ukpga/2000/43/schedule/4	x
Wounding and causing grievous bodily harm	Offences Against the Person Act 1861, section 18 or 20: http://www.legislation.gov.uk/ukpga/Vict/24-25/100/contents	x
Assault occasioning actual bodily harm	Offences Against the Person Act 1861, section 47: http://www.legislation.gov.uk/ukpga/Vict/24-25/100/section/47	x

¹² For the purposes of this section, 'been given a caution' includes a reprimand or warning within the meaning of section 65 of the Crime and Disorder Act 1998.

¹³ In this case 'relevant order' means an order made by a senior Court (senior court means, the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court) that the individual in question be admitted to hospital, or a guardianship order.

Offence	Legislation	CC *
	Sexual Offences Act 2003, section 1: http://www.legislation.gov.uk/ukpga/2003/42/section/1	X
Assault by penetration	Sexual Offences Act 2003, section 2: http://www.legislation.gov.uk/ukpga/2003/42/section/2	X
Sexual assault	Sexual Offences Act 2003, section 3: http://www.legislation.gov.uk/ukpga/2003/42/section/3	X
Causing a person to engage in sexual activity without consent	Sexual Offences Act 2003, section 4: http://www.legislation.gov.uk/ukpga/2003/42/section/4	X
Sexual activity with a person with a mental disorder impeding choice	Sexual Offences Act 2003, section 30: http://www.legislation.gov.uk/ukpga/2003/42/section/30	X
Causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity	Sexual Offences Act 2003, section 31: http://www.legislation.gov.uk/ukpga/2003/42/section/31	X
Engaging in sexual activity in the presence of a person with a mental disorder impeding choice	Sexual Offences Act 2003, section 32: http://www.legislation.gov.uk/ukpga/2003/42/section/32	X
Causing a person, with a mental disorder impeding choice, to watch a sexual act	Sexual Offences Act 2003, section 33: http://www.legislation.gov.uk/ukpga/2003/42/section/33	X

Inducement, threat or deception to procure sexual activity with a person with a mental disorder	Sexual Offences Act 2003, section 34: http://www.legislation.gov.uk/ukpga/2003/42/section/34	x
Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception	Sexual Offences Act 2003, section 35: http://www.legislation.gov.uk/ukpga/2003/42/section/35	x
Engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder	Sexual Offences Act 2003, section 36: http://www.legislation.gov.uk/ukpga/2003/42/section/36	x
Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception	Sexual Offences Act 2003, section 37: http://www.legislation.gov.uk/ukpga/2003/42/section/37	x
Care workers: sexual activity with a person with a mental disorder	Sexual Offences Act 2003, section 38: http://www.legislation.gov.uk/ukpga/2003/42/section/38	x
Care workers: causing or inciting sexual	Sexual Offences Act 2003, section 39: http://www.legislation.gov.uk/ukpga/2003/42/section/39	x

activity		
Care workers: sexual activity in the presence of a person with a mental disorder	Sexual Offences Act 2003, section 40: http://www.legislation.gov.uk/ukpga/2003/42/section/40	x
Care workers: causing a person with a mental disorder to watch a sexual act	Sexual Offences Act 2003, section 41: http://www.legislation.gov.uk/ukpga/2003/42/section/41	x
Causing or inciting prostitution for gain	Sexual Offences Act 2003, section 52: http://www.legislation.gov.uk/ukpga/2003/42/section/52	x
Controlling prostitution for gain	Sexual Offences Act 2003, section 53: http://www.legislation.gov.uk/ukpga/2003/42/section/53	x
Trafficking into the UK for sexual exploitation	Sexual Offences Act 2003, section 57: http://www.legislation.gov.uk/ukpga/2003/42/section/57	x
Trafficking within the UK for sexual exploitation	Sexual Offences Act 2003, section 58: http://www.legislation.gov.uk/ukpga/2003/42/section/58	x
Trafficking out of the UK for sexual exploitation	Sexual Offences Act 2003, section 59: http://www.legislation.gov.uk/ukpga/2003/42/section/59	x
Administering a substance with intent	Sexual Offences Act 2003, section 60, 61: http://www.legislation.gov.uk/ukpga/2003/42/contents	x
Trafficking people for exploitation	Asylum and Immigration (Treatment of Claimants, etc) Act 2004, section 4: http://www.legislation.gov.uk/ukpga/2004/19/section/4	x
Exposure	Sexual Offences Act 2003, section 66: http://www.legislation.gov.uk/ukpga/2003/42/section/66	x
	Sexual Offences (Northern Ireland) Order 2008, article 70: http://www.bailii.org/uk/legis/num_reg/2008/uksi_2008176_9_en_1.html	x

Voyeurism	Sexual Offences Act 2003, section 67: http://www.legislation.gov.uk/ukpga/2003/42/section/67	x
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* Against a child or adult

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M1 2WD

T: 0300 123 1231
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