

Fledglings Day Nursery

Disqualification Policy and Procedure

We have a legal responsibility to ensure that all staff and volunteers at this setting are suitable to work with children and are not disqualified from working in childcare under:

- Childcare Act 2006
- The Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge)(Extended Entitlement) (Amendment) Regulations 2018

We will fulfil this responsibility by:

- having effective systems in place to ensure the suitability of all staff, volunteers and any other people who come into regular contact with children, including obtaining information about whether a person is disqualified;
- ensuring all staff and volunteers understand their responsibility for disclosing any convictions, cautions, court orders, reprimands or warnings that may affect their suitability to work with children (whether received before or during their employment at this setting). While doing this we ensure that staff are informed that they do not need to provide details of any protected cautions or protected convictions.
- recording the information about staff qualifications, identity checks and vetting processes that have been completed; taking appropriate action in the event of the disqualification of a member of staff to ensure the safety of children.

To ensure suitability and to ensure everyone is aware of their responsibility for disclosing information to us, we will do the following:

- have and implement a Safer Recruitment Policy and Procedure; have a separate 'Declaration of Disqualification' for all staff and volunteers. This will be signed prior to a position being taken up with us and re-signed annually.
- ask specific questions about whether somebody is disqualified or has had any convictions, cautions, court orders, reprimands or warnings that may affect their suitability to work with children at 1:1 supervision sessions. While doing we ensure that staff are informed that they do not need to provide details of any protected cautions or protected convictions;
- display a poster advising staff of their requirement to inform us of any changes to their disqualification status or convictions, cautions, court orders, reprimands or warnings.

On receiving information that suggests a person is disqualified we will:

- ensure they do not carry on working with children in the setting;

- take employment advice on whether to terminate their employment, suspend or redeploy the staff member into a non-childcare contact role (where possible) if disqualification is confirmed;
- inform Ofsted (using disqualification@ofsted.gov.uk) and supply them with all necessary information;
- let the member of staff or volunteer know that Ofsted has been informed and explain the implications of disqualification to them, including whether they can apply to Ofsted for a waiver of disqualification;
- seek employment advice on whether to re-deploy (into a non-childcare contact role where possible) or terminate the employment of a staff member if they decide not to apply for a waiver, or a waiver is declined.

We will also:

- report to Ofsted any changes to staff or volunteers that may affect their suitability to work with children as soon as reasonably practicable but at the latest within 14 days. We understand that failure to do so would be a breach of the Early Years Foundation Stage (Safeguarding and Welfare Requirements) Regulations.
- report any member of staff or volunteer dismissed or who resigns before/during disciplinary action for inappropriate behaviour/concerns to the Disclosure and Barring Service, Ofsted and LADO.

Third Party Disclosures

If we receive a disclosure via a third party relating to concerns about a member of staff or volunteer's suitability to work with children we will treat this as an allegation and will follow our policies and procedures for reporting allegations against a member of staff or volunteer.

Applying for a Waiver

If a member of staff or volunteer is disqualified from working with children then they need to obtain a waiver from Ofsted to allow them to continue working with children. Application to have disqualification waived must be made by the disqualified person themselves. We cannot do it on their behalf.

For more details on applying for a waiver, see Ofsted's Applying to waive disqualification: early years and childcare provision. <https://www.gov.uk/government/publications/applying-to-waive-disqualification-early-years-and-childcare-providers>

If a waiver is granted

We will seek advice and make a decision as to whether we wish to continue to redeploy or to employ the person in their previous role. If we do, we will invite them back to work on full pay with preserved continuous service (unless a volunteer).

If a waiver is not granted

We will seek advice and in accordance with employment policies invite the person to a disciplinary meeting. Permanent redeployment in a non-childcare contact position or termination of employment will be considered. The reason

for any dismissal would be illegality – i.e. it is illegal to continue to employ them in a childcare role.

For more Information:

DfE Guidance - DfE guidance at <https://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006>

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