

Submission

Response to the Government consultation on amending the childcare disqualification arrangements in schools and non-domestic registered settings

Introduction

Unlock welcomes the opportunity to provide a written submission to the Government consultation on amending the childcare disqualification arrangements in schools and non-domestic registered settings.

As part of the ‘ear to the ground, voice at the top’ approach to our policy work, we issued a call out for case studies from people that have been personally affected by the ‘disqualification by association’ arrangements. To ensure that the genuine experiences of these individuals are conveyed, we have attached a number of case studies to the end of this submission.

Throughout this submission, we refer to certain phrases for simplicity:

- ‘Partners’: Used to cover those individuals that the ‘association’ element of the regulations apply to, unless otherwise specified
- ‘Schools’: Used to cover those settings covered by this consultation, unless otherwise specified

Consultation questions

Q1 Do you consider the current disqualification by association arrangements to be unfair and disproportionate to the risk to children? Please give your reasons

Yes.

The current arrangements are disproportionate because they:

1. Duplicate existing measures that are effective, including:
 - a. Enhanced DBS checks - where relevant information about partners can be disclosed.
 - b. Disclosure by the police in serious MAPPA cases.
 - c. The variety of other risk-based safeguarding measures that schools themselves have.

2. Automatically assume that the fact a childcare worker lives with somebody means that their partner poses a risk.
3. Take no account of the actual risk to children. The fact that Ofsted has declined none of the 1148 waiver applications that it has received from childcare workers working in schools since October 2014 makes it clear that the arrangements are disproportionate to the risk to children.
4. Take no account of whether police and child protection services have already made the decision not to inform the school.
5. Are discouraging people from becoming teachers in the future (see case study five).

The current arrangements are unfair because:

1. They penalise innocent people and force them to choose between their partner and keeping their job. In some cases, they break up families so that the strict letter of the regulations can be met, despite generous contact still continuing (see case study two)
2. They mean that, even if an Ofsted waiver is granted, the school is still legally allowed to refuse the person a job (and in many cases would do so because of adverse publicity caused by the initial suspension).
3. The person has very little possibility of further employment within a school despite having nothing on their DBS check or a criminal record themselves.
4. They do not take into consideration any factors surrounding the conviction or any positive attributes of the person who is working in the school.
5. The waiver regime is a stressful, worrying and anxious time for anyone who has had to go through it and people who have had successful and faultless careers have been mindlessly punished and acutely embarrassed by the process.
6. They are being applied incorrectly – in particular, schools are not making it clear that ‘spent’ criminal records do not disqualify individuals (see case study six and case study eight)

We also believe the current arrangements are ineffective because:

1. The self-disclosure by the partner with a criminal record to the person working in a school, if using them to access children, is highly unlikely to happen.
2. They rely on the person working in the school to self-disclose their partners’ criminal record to the school.
3. Those that are honest are the least likely to be the ones that schools and Ofsted should be concerned about.
4. Those genuinely a risk will encourage their partners to not disclose to the school.
5. Ofsted has declined none of the 1148 waiver applications – showing that the process is an ineffective use of resources.

Q2. Which of the three options set out in this consultation, if any, do you think best achieves the objective of protecting children whilst making the regime fairer?

Option 1.

Q3. Do you support the proposal in option 1, that we should remove completely disqualification by association for childcare workers in non-domestic registered settings? Please give your reasons for supporting option 1

Yes.

We support the complete removal of the disqualification by association requirement from schools and non-domestic registered settings.

There is no evidence of a risk to children by a person working in a non-domestic childcare setting living with someone who has committed a relevant offence. The fact that Ofsted has declined none of the 1148 waiver applications that it has received from childcare workers working in schools since October 2014 makes it clear that the arrangements are disproportionate to the risk to children. Instead, the arrangements create disruption in schools whilst staff are suspended pending approval, and extreme anxiety for the staff who have to make a declaration. The arrangements risk alienating perfectly capable and suitable teachers and other school workers simply because of their unrelated private family life.

The concept of disqualification by association was predicated on the idea that high-risk individuals might use a partner to gain access to children. The result is a system that is based on fundamentally flawed presumptions, and predicated on a wholly ineffective system of self-disclosure:

1. Those partners that pose a risk would not disclose to their partner, or would encourage their partner not to self-disclose to the school
2. Individuals who commit sexual and violent offences are managed by MAPPA. However, only a VERY small portion of MAPPA cases would fall into the 'high risk' bracket - only about 2.5% of sexual offenders under MAPPA are managed at levels 2 and 3 - 'high' or 'critical' risk - at any one time. If there is concern that existing systems are not adequate, then they should be reviewed and appropriately funded.

Q4. Do you support the proposal in option 2, to retain disqualification by association but allow representations from childcare workers disqualified by association in schools and on other non-domestic registered settings, or disqualified for having registration refused or cancelled in relation to childcare or children's homes, or disqualified from fostering, or on grounds relating to the care of children?

No. See our reasons below.

Q5. Do you support the proposal in option 3, to retain disqualification by association, but reduce its scope so that it only applies to certain 'more serious' offences, and introduce a new right to make representations for certain workers (i.e. those disqualified by association in non-domestic registered settings where the qualifying offence is more serious, or those disqualified themselves for having registration refused or cancelled in relation to childcare or children's homes, or disqualified from fostering, or disqualified on grounds relating to the care of children)?

No. See our reasons below.

Q6. If you support option 3 do you agree that offences should be categorised as more/less serious for the purpose of this option and which offences do you think should be categorised as more serious? The department's statutory guidance Childcare Disqualification under the Childcare Act 2006 contains a list of offences under which childcare workers are currently disqualified (see related link).

Not applicable, although see our views on options two and three below, and in particular, point 6.

Q7. Do you agree that our proposals to remove automatic disqualification and/or allow representations to Ofsted (including in cases of disqualification by association) should include headteachers and the registered person in other relevant settings?
Please give your reasons

Yes. We support removing 'disqualification by association' and we believe this removal should include headteachers and the registered person in other relevant settings.

Q8. Do you support the proposals to amend regulation 4(2) in respect to childcare workers who are foster carers or who have adopted children in their household and so that it no longer has the effect that childcare workers who themselves were once the subject of a care order are disqualified?

Yes.

Q9. Do you have any comments about the potential financial costs or benefits to businesses of these proposals?

The current arrangements are an ineffective use of resources. It is difficult to quantify the current financial costs, however the case studies in this submission highlight the significant amount of money that is being spent on suspending staff on full pay (and paying for temporary staff to cover them), only for them to return to work many weeks (if not months) later.

The benefit to schools of option 1 is reduced bureaucracy and an increased talent pool of qualified, motivated and suitable childcare workers.

Q10. Do you have any other comments on the proposals in this consultation, or more generally about the childcare disqualification regime?

Yes. See below.

Views on options two and three

In addition to the above points, we have set out further reasons why we do not support options 2 and 3:

1. Both options are built on a system that has no evidence to support it being effective at safeguarding children. The fact that Ofsted has declined none of the 1148 waiver applications that it has received from childcare workers working in schools since October 2014 makes it clear that the arrangements are disproportionate to the risk to children.
2. Although this is not our view, if you accept the premise that people in childcare settings away from their own home pose a risk due to the criminal record of their partner and therefore need a waiver, it seems inconsistent that you would then enable those individuals to work in that role pending a waiver. The statistics relating to waiver applications show that Ofsted believe disqualification by association to be unnecessary.
3. Both options would maintain the need for individuals to have to make declarations and share a significant amount of personal details about their partners to their school, colleagues and Ofsted. This is disproportionate given the statistics surrounding the arrangements.
4. Both options would require significant resources for both schools and Ofsted when there are effective alternative measures in place.
5. In the current policy for dealing with waiver applications, there appears to be no acknowledgment about the impact of the passage of time in relation to the convictions, simply the severity of the conviction.
6. There appears to be no distinctions made in the current policy for dealing with waiver applications about whether the subject of the criminal record is still subject to MAPPA and, if they are, whether their 'risk-level' is sufficiently high to be concerned about it for disclosure purposes. Even for cases that are still subject to MAPPA, there is a significant tail-off in the risk of predicted sexual recidivism after five years even for those rated as 'very high' risk using actuarial measures such as RM-2000 (the actuarial tool MAPPA authorities use). The vast majority of predicted sexual-crime recidivism occurs in the first five years for all actuarial risk-levels.¹ As a result, if the 'by association' policy was to remain in place (which we are opposed to), there is a clear statistical basis for developing a policy that is:
 - a. time-limited to a specific post-conviction window where recidivism is most likely to occur;
 - b. for those managed in 'higher risk' MAPPA levels;
 - c. for offences of a certain gravity where there is a 'close nexus' between their original offence and any risk to children; and therefore
 - d. not applied to the current broad range of offences as it is currently.

¹ See table 9 on page 15 of *Scoring guide for risk matrix* – available at <http://www.birmingham.ac.uk/Documents/college-les/psych/RM2000scoringinstructions.pdf>

Duplication of existing safeguards

We also question the operation of the ‘disqualification’ framework that is not ‘by association’ (i.e. where a person has been convicted and are themselves seeking to work in a primary school). There is a doubling up of the regulations where a DBS check will be required in any event.

As a result, we recommend that option 3, as set out in this consultation, should be taken forward and applied to individuals that are disqualified due to their own convictions. In addition, in learning from the issues illustrated in some of the case studies attached to this submission, for those who would be disqualified from working in childcare settings due to their own convictions, we believe that they should be able to apply for a waiver in advance of taking up a new position.

Case studies

The case studies below were provided to us by those that responded to our call for evidence as part of preparing our response to this consultation. Names and personal details have been changed to protect the identities of those involved.

Case study one

My daughter got her first job in a privately owned day nursery in 2014 after qualifying to Level 3 in Childcare at college. This was a huge step into the world of work after a long slog and all was well for the first couple of months. The company suddenly produced some paperwork that was an extra policy to their existing one. This policy was stating that if you had any association with someone with a conviction you needed to declare it. We did the right thing and wrote a letter explaining our circumstances. My husband, my daughter's father, was serving time in prison at this point.

My daughter was suspended whilst they looked into things and completed a risk assessment and was then summoned for a meeting, which I attended with her, and was basically asked to leave as she had association with her father which included contact and in their eyes the risk was too great. As she was still on her probation period we had no choice in the matter. She was not actually disqualified under these regulations and nothing was on her DBS – yet they used these regulations as a way of obtaining this information from her.

We support option 1. I have no idea and cannot comprehend why any other members of the family should suffer with their jobs and career. Surely it is not necessary to completely ruin everyone's lives, it's bad enough the convicted person has to suffer forever.

I don't think that any other option should be considered really. If members of staff need to disclose certain information, I believe that their job should be safe and they should be able to continue working until all information is considered and any outcome has been decided. To have to be suspended pending enquiries makes it very difficult to go back to a job without people asking lots of questions.

Case study two

I am a primary school teacher and my husband is a headteacher. Our son is in his early 20's and has a relevant conviction. A couple of years ago he was still on the sex offenders register for this offence and living with us in the family home. He had left university with severe depression and suicidal ideation less than a year before and was unemployed. He also has type 1 diabetes.

I was given the choice of being suspended from my job or my son moving out of the family home. We managed to rent a flat locally with help from my parents and my son moved in. This was initially a big and unnecessary expense for our family (we have 3 younger children) and while still an expense for us, has subsequently become an expense for the taxpayer as my son is on benefits, including housing benefit, when he could quite easily live at home.

My son made his 3rd suicide attempt, definitely contributed to by the fact that he could not freely spend time with his family, where his mental health needs could be met more readily. He was also admitted to hospital again soon afterwards with his diabetes out of control.

My son continues to live separately from us, his unspent record preventing him from getting a job and his mental health continuing to be an issue.

I believe that option 1 would be the most appropriate change. The current regulations treat innocent people as though they have committed a crime without being charged or tried and without any evidence. What an appalling way to treat people. My son made a mistake, committed a crime which was not deemed serious enough to require a custodial sentence, yet 5 and half years later is still unable to move on from this, because of regulations such as this.

Case study three

I have been affected by the disqualification by association legislation, to the extent that I have lost my job and have (subject to appeal) a Gross Misconduct finding on my record. As my school dismissed me before a waiver decision was taken, my waiver application has been shelved.

Up until early 2016 I had been a teaching assistant in primary education for a number of years, with a hitherto unblemished record. I am a dissertation and an exam away from completing my degree in Education of Children with Learning Disabilities. Due to a recent conviction of my husband, I became *de facto* disqualified under these rules and informed the school at the first possible opportunity.

Though the guidelines, Ofsted and the literature of local education authorities in other areas of the UK suggest an expectation that schools would want to support disqualified staff with a view of returning them to work and suspension being "a last resort", the school immediately suspended me and began disciplinary procedures around a Gross Misconduct allegation, based on their assertion that I should have disclosed information earlier, prior to my disqualification. However, the charge chosen was as follows:

"In line with the Disqualification by Association legislation, you failed to declare information thus contravening the guidelines provided".

It was clear from the outset that the tone from the employer was very much a case of 'get rid of her whatever it takes', presumably to guard them against potential bad publicity. However, when I began re-examining the guidelines prior to a disciplinary hearing, I was very quickly reassured that not only had I acted entirely in accordance with the rules (I had also sought legal confirmation of this before answering a school questionnaire in the previous year), in fact it was the school, presumably ignorant of the guidelines, who had transgressed. The school in fact neglected even to bring the DbA guidelines to the hearing – it was left to me to present them as evidence, for my defence. Even so, the school did not even attempt to indicate how I had contravened these or any other legislation.

Unlike many statutory documents, the guidelines are mercifully short and very clear, most pertinent to my case is that: only convictions and equivalent 'disposals' give rise to disqualification by association, that schools only need to move affected staff to other duties to comply pending a waiver decision (though they are allowed to exercise their own judgement) and that schools must avoid asking for irrelevant information in their questioning, they should only ask about relevant convictions.

I was found guilty of the charge, which I was told amounted to Gross Misconduct and now resulted in summary dismissal. I have of course appealed the decision, but as the entire appeal panel again consists of representatives of the school (the presiding officers are school governors - perhaps parents even) I can

only assume that the blatant evidence will again be ignored, to come to the conclusion that the school desires.

Of course, Ofsted provides the waiver system as a means by which a disqualified person can be un-disqualified. Though the school maintained that in their opinion I would be unlikely to receive a waiver and that the granting/refusal of a waiver does not have a bearing on their disciplinary procedure in any case, I knew that for Ofsted to provide judgement that I am in fact not disqualified would be a major boost to my situation. More than 3 weeks after my waiver application was submitted, Ofsted got in touch with me, by phone, to ask about setting up an interview with me. After they heard about the school's dismissal decision they informed me that, as I was no longer an employed Teaching Assistant, they couldn't continue the waiver process – a Catch 22 situation if ever there was one!

So, in summary, the school has hijacked the legislation to remove me to protect their "reputation" (as they have stated on the record), citing the grounds that I should have declared "information" on their Disqualification by Association questionnaire, despite the clear statement in the DbA statutory guidelines that only convictions (et al) should be declared or asked for.

I support option 1 of course. The original aim of the legislation was surely to protect children in a domestic setting, where they might come into contact with a person who would be directly disqualified from working with children (who would otherwise be prevented from coming into contact with children in a workplace setting). A school or nursery in the current climate has a raft of safeguarding measures to provide a sealed-off safe environment for children, where all staff are vetted. If a person convicted of a scheduled offence posed a risk to children, regardless of the circumstances, existing separate MAPPA arrangements should identify and deal with this. How the presence of a disqualified person at the home address of a person who works with children exclusively in a school setting affects how they safeguard children, I have not heard explained, by Ofsted or anyone. Do they believe that the offending of the convicted person will transfer by osmosis to the member of staff? As a fully DBS checked TA, experienced in safeguarding and hitherto entrusted to do so, I find it an affront that this is rendered irrelevant when an associate of mine is convicted – but only in relation to 1 specific year group.

At best, this is an utterly unnecessary law, the scope of which is already catered for by existing arrangements. At worst, it has destroyed the lives and livelihoods of perfectly good and committed teaching staff. If this provision is scrapped, it will come too late for me – I have already been sacked and am now all but unemployable by a school – but at least others will not have to suffer the same bewildering fate, being punished simply as a result of living with a convicted person.

Case study four

I own and run a private tuition business which gives extra support to children from 4 – 16 with English and Maths. It is based in an office which I rent about 2 miles from my home. Although the number of children I work with varies, I usually give between 100 to 140 lessons per week to children with up to 16 children coming at once. I employ about 8 tutors who are generally 6th formers or undergraduates – all are DBS checked. Before setting up the company (in 2009), I worked as a class teacher for over 20 years in a primary school, where I lead the English curriculum for many years.

In 2013 my husband was arrested for downloading and distributing indecent pictures of children at all levels and was sentenced to 2 years in prison. Although we had two teenage children, the police were confident that he was not a risk to them and bailed him to live at home (supervised contact with the younger girl). Social services did assessments and the children were placed under child protection before his sentence. After his release the children put back on Child Protection register, but the case closed completely less than 5 months later.

From the first interview with the police, I made them aware of my work situation, they took down details, but were unconcerned about safety. Social services likewise were unconcerned. Had there been concern, they would doubtless have recommended that children's services do a full check with a view to closing me down – they did not.

My husband was released on licence in 2014. He was deemed as 'low risk' of contact offences although 'medium risk' of re-offending online. His licence conditions stated that he was to live at home and have no unsupervised access to under 18's except his own children. After his licence period ended the following year, there were to be no conditions about access to children. Neither social services nor the police were concerned about the safety of the children I worked with, although it was stipulated on the CP plan that he should not enter my work premises when children were present.

In 2015 I was aware from the press that I was working illegally whilst he was living at home until a waiver was obtained. He therefore moved out of the house to live with my mother (ironically only about 100 metres from my work, so much closer to it than the family home). This was all agreed by both police and his probation officer. Both made it clear to him that they saw him as no risk and that the rules were totally unnecessary. Behind the scenes they were unconcerned that he actually returned home every day at about 7am and left at 10.30 at night – in fact, they encouraged this. They also gave him permission to spend 2 nights a week at home (pre-arranged). I applied for a waiver for myself and my daughter (who worked for me 2 nights per week) applied too. After taking legal advice, I wrote a very full application and included supportive letters from his probation officer, the social worker (who stressed that she was

looking to close the case) and his (privately funded) therapist. The police officer apologised, but said she had been told not to get involved with Ofsted waiver cases because there were so many of them!

I then waited for several months without hearing anything. In July I had to move premises and therefore had to reapply for registration at the new address. This I think prompted action as I was forced to state on the new application document that my own family had had social services involvement.

A couple of weeks later I received a phone call from the inspector adjudicating the case. She thanked me for my full application, talked to me for 10 minutes about child protection and said she was not even going to visit me before recommending that the waiver be granted. The next day she had a brief discussion with my daughter.

In this case, there was a simple and successful outcome, however we had to wait several months for it and go through a lot of stress and uncertainty. It is ironic though that both police and social services had clearly come to the decision already.

Had I not had my own business and still been teaching in a school, the situation would doubtless have been very different. I would have been suspended the moment my husband was arrested (or at least charged) and possibly not re-instated even with a waiver. The family's only source of income would have dried up and I would have had very few opportunities for reasonably paid employment – unless I chose to break up the family.

The situation could well have been different had I chosen to disclose to Ofsted as soon as he was arrested and social services became involved with the family. Had I discussed it with them, doubtless Ofsted would have insisted that I stop working with all children under 8. This would have been about 1/3 of the business, but merely by telling people that I could no longer work with younger children would encourage questioning, bad publicity and doubtless closure. There would have been no choice but to break up the family. As soon as my husband was in prison my solicitor told me it wasn't necessary to do anything.

The family is now beginning to go through the process again so that my (now) 16-year-old daughter can become a tutor in September.

I am very pleased that the government is beginning to see sense. I consider that my story has had a good ending, but even that has been an ordeal and certainly elongated the anguish for the whole family. It would have been totally illogical for MAPPA to agree that my husband coming home would be best for both him and the family, but then Ofsted make this impossible and so force the family to break up.

Case study five

My partner, a newly trained teacher, has secured her first teaching post. This has however come with trepidation, nervousness and a great deal of worry. We have read the rules over and over and as she is going to be teaching either year 2 or 3, we have found that she doesn't have to apply for a waiver. She is trained to teach all of early years and KS1 but as the rules go, and not wanting to put her through the waiver procedure, she has been heavily restricted in the jobs she could apply for. She already feels anxious about anything being asked of her - to cover in other classes or even be moved into a foundation stage.

If this were the case, she has already said that she would quit her job, and be spared the embarrassment and stress of going through the waiver process.

To have this rule scrapped would bring us both a massive relief and show my partner that the powers that be aren't sentencing her for a crime that she has never committed.

I believe that there should be some checks done but only if childcare is taking place on domestic premises, where the partner is staying and going to be present at the time. If my partner decided to do home tutoring, I would expect the checks to be done in accordance with the law and fairness towards my partner in all ways. But to blanket those who work in registered settings where outside contact with pupils is very controlled and checked vigorously, I see no point!

Case study six

6 years before my wife applied to work at the school I am working at, she chastised my son for a situation that was linked to him and a young child (my son was 9 at the time and the child 2/3). She received a caution as he had an unexplained bruise on his leg. She applied to the school and was upfront with the old caution, and I had also told the school ahead of her application. The school followed procedures and employed her.

One week later the news on disqualification arose and she was suspended. I was allowed to stay as I was the associated person. It completely destroyed her confidence, and seriously upset me as I was being threatened with losing my job for something I had not done. After weeks of extremely upsetting times and countless emails to Ofsted, we finally got an interview with one of them. We explained all of the events, as we had many times before, and she also agreed it was simply a pen pushing exercise, and gave both of us unlimited waivers.

If I was to go for an interview for another school, I would most likely fail as this has to be disclosed. It would count against me as it could make the difference between me and another candidate and most schools err on the side of caution.

I always believed we were in a country where you were innocent until proven guilty, but current policy is guilty until proven innocent. Even writing this letter brings up the weeks of disruption to my family and the school which was over a Christmas period. I believe the disqualification by association regulations have achieved nothing except to put innocent people's lives on hold, disrupt schools and make innocent people question whether there is a justice system in place for the innocent.

I only wish that the people who create such laws never experience the unnecessary suffering my family had to endure, or they would then understand that the whole judicial system is wrong in this case. As a country we operate an "innocent until proven guilty" system with the exception of this ridiculous rule.

Case study seven

I have been personally affected by the disqualification by association guidelines. I am an infant school teacher and I currently teach in Year 1 but my school caters for children from kindergarten age to Year 2 (ages 3-7).

I was affected when I met my long term partner who had been convicted of rape of an adult. Because he insisted he was innocent and pleaded not guilty he was sentenced to 6 years and served 3, meaning that this conviction will never be spent. From what I've researched, if he had pleaded guilty he would have got a much lesser sentence and it would have become spent after a certain length of time!

My boyfriend was very honest about his conviction and I had to discuss things with his probation officer. I also voluntarily met the Public Protection Officers that work with him. I knew that his conviction could be a problem for me as I had heard about the disqualification by association regulations but decided to cross that bridge when we came to it because he was making me so happy! A while after we met and when we realised things were getting serious between us, we decided that we wanted to move in together. We had already been spending a lot of time at each others' houses and knew that this decision would create a few hurdles for us.

I immediately rang my union (NASUWT) who were amazing and gave me a lot of advice. I wanted to be able to apply for a waiver before moving in with my boyfriend because I couldn't bear the thought of being disqualified from the job that is my life. I know that I would have been able to carry on teaching in Year 1 at the time but I have always wanted to be able to be flexible within my school and one-day hope to teach in both Reception and Year 2. My boyfriend had also said in no uncertain terms that he would not allow his past to affect my life and the job I cared so much about so he too wanted to know whether or not I would be granted a waiver.

We considered ways around it if I wasn't - perhaps him living in a flat nearby but us spending lots of time together in a house we kind of shared but still not going above the limits as set by the government's definition of 'living together'. I was told by NASUWT that I would probably be unable to apply for the waiver before we moved in together but that I could contact Ofsted to see if there were any exceptions. Sadly there weren't! This was an incredibly stressful time for both myself and my partner.

We decided to move in together anyway but I chose to speak to my Head teacher about the situation before I'd officially given notice on my own rented flat. Although it was incredibly scary having to tell my Head as I look up to her so much, she very much treats the staff like an extended family and I was worried about any issues I would cause, she was actually more supportive, understanding and professional than I

could ever have imagined. Nevertheless, it did still cause a lot of issues and stress for both of us! I told her that I could apply for the waiver as soon as I'd officially moved in with my partner and she too thought that my idea of applying for it before made a lot more sense.

I applied for the waiver in November 2015. I cannot explain to you how much stress and sadness I felt at having to do this. I spent every day worrying about what this would mean for my relationship and for my career. I spent moments looking at my lovely class and feeling sad in case I wouldn't be able to teach forever if I wanted to stay in my relationship or that I would be able to teach but have to lose my relationship for it. I was so worried I'd have to choose and as both are such a huge part of my life and my boyfriend didn't want to have a negative impact on me, I didn't see how I would make that choice. I also felt deeply offended and hurt that the regulations imply that just because I live with someone who may have committed a crime, I was suddenly going to turn in to someone who would harm the children in my care. I almost felt like I had been accused of something. It was horrible. I was trusted to do the job and protect my children before living with this person and, if that is the case, then surely I'd have to have serious psychological problems to change that dramatically into someone who could be coerced into harming them.

I had an email to confirm receipt of my application when I sent it but then I didn't hear anything for months! I waited in order to give them enough time to process it and then in January, I'd finally had enough of being patient and incredibly stressed so I emailed Ofsted again.

I was told someone had tried to contact me by telephone shortly after I'd applied for the waiver but I definitely never received this call or an answerphone message of any sort. I was disgusted with the delay in the processing of my application. For a couple more weeks it was still rather disorganised with people trying to find out what had happened with my application and why it had been delayed. It seemed that they had some sort of staffing issues as the person originally assigned to my case was supposed to contact me after I emailed again but he never did and my case was soon transferred to someone else.

All the while, my partner, my Head teacher and I were left wondering what the outcome would be and trying not to be too worried. It wasn't until early February that I was finally granted and received my waiver! This was after a visit from an Ofsted inspector in my home at some point near the start of February. In all fairness to Ofsted, the inspector who visited me and assessed my eligibility for a waiver was brilliant; very supportive, understanding and processed things as quickly as she could. She also kept my Head informed whenever necessary.

I am so grateful that I finally have my waiver and know that I can carry on in my relationship without it directly affecting my career. But, I know that with the regulations as they are, I will continue having to have the difficult conversation of disclosing my situation if I move schools or if we have a new Head teacher

(something that is scheduled to happen in my school at the start of 2017!). I dread to think what a new person who doesn't know me, my partner or my situation will think when he/she take up a headship at my school and realises my partner was convicted of the rape of an adult! The stress of that alone is starting to eat away at me already! I have definitely noticed a difference in my health which could well be a result of the stress I have been under due to the above situation.

Furthermore, my Head was contacted by the local authority designated officer for safeguarding (LADO) in our area who was very concerned that a member of the school's staff was living with someone on the sex offender's register. The LADO panicked my Head teacher and told her that she had to do something to ensure that my partner would never step foot on the school grounds. So, although he wasn't massively keen on doing so, he signed a document to say that he would never come onto the school grounds. He was worried what might happen if I was ill or needed him for some reason in an emergency but signed it because he knew how much it meant to me not to cause my Head teacher any further stress.

I obviously think it is of the highest importance to ensure our children are safeguarded at all times. I will always place the safety and happiness of the children in my class above all else.

I do, however, wonder why the regulations include such a variety of crimes. Surely someone who has committed a crime on an adult isn't then guaranteed to commit a crime against a child? I also think that schools and registered childcare premises have a great deal of safeguarding procedures already in place to protect our children. In my school, for example, we are required to turn our phones off and only use them in the staff room or outside the school entrance away from children during our breaks. We are also not permitted to take any sort of school owned recording device such as cameras and iPads off site. All of this is to protect our children. Nobody without a DBS check is left alone with a child and all parent helpers are briefed on matters relating to safeguarding before school trips (e.g. not taking photos of children on their own devices). We have all had training on what to look out for in terms of abuse and any observation of a child that suggests there may be a safeguarding issue at home is recorded, passed on to the relevant people and dealt with appropriately. I could go on with more evidence to suggest how safe our school premises are.

A further failure of the current regulations is that they rely on people being honest. The person with the conviction has to be honest and tell their partner about it. Would they really do that if they were planning on coercing their partner into harming children in some way for them? Surely they'd keep quiet in order to coerce more successfully? If the person with the conviction is honest, the regulations then require the person who works in the school/childcare setting to disclose that to their employers and as the regulations state that people should disclose things to the best of their knowledge, this is hard to guarantee. Although there is a potential prison sentence for someone who has failed to disclose knowledge of a conviction of someone they live with, I find it difficult to see how knowledge of a conviction could be proven if the

'criminal' disclosed during a private conversation and the person had no contact with the police or probation service about it.

Furthermore, considering the length of time it took Ofsted to deal with my application, our children's supposed safety is obviously not as highly important as it should be!

In addition to this, I do not understand why if I was seen to be a risk to children because I live with someone with a conviction that I'd only be a risk to children younger than 5 in a school setting and younger than 8 in an after-school care setting. Surely all children deserve to be equally protected? I know from experience that I have children in my Year 1 class that are less able to express themselves than some of the children in the Reception classes and vice versa; it just depends on maturity and level of development. I worry about putting this particular argument across to the DfE as I worry that they will then just decide that the regulations will stay and can include every child and I'd have to go through the whole stressful waiver application process again!

Case study eight

My wife is an Assistant Head at a school. My crime was committed in a family setting 44 years ago. As a child I was subject to that deviancy myself by family members. The head of the family is serving time. I received a suspended sentence. Since leaving that family setting in 1977, no further offending has taken place.

However, because of this crime of "indecent" in the days of my youth, (with no moral compass to guide in my childhood), my wife of 22 years standing in education found herself suspended for 50 days. This of course with all the anxiety and emotional turmoil that brings. She had done no wrong. Although I volunteered to leave, she would not hear of it. We are a strong family unit, we are both together still, and after two years, we wonder why all this blame at all. What is hoped that is to be achieved?

It seems my best efforts of redemption were not enough. Blame and more blame. Devaluation and branding of good and innocent people. Is this what the law demands?

About Unlock

Unlock is an independent, award-winning charity for people with convictions which exists for two simple reasons. Firstly, we assist people to move on positively with their lives by empowering them with information, advice and support to overcome the stigma of their previous convictions. Secondly, we seek to promote a fairer and more inclusive society by challenging discriminatory practices and promoting socially just alternatives.

We help

- We support people with convictions by providing information, advice and support through our [websites](#) and [helpline](#)
- We help practitioners who support people with convictions by [providing criminal record disclosure training](#) and useful resources
- We [recruit and train people with convictions as volunteers](#) to help support the information and advice we provide
- We [support employers](#) in the fair treatment of people with criminal records

We listen and learn

- Our [helpline](#) and [forum](#) provide an ear to ground on the problems that people face as a result of their criminal record
- We [collect evidence and undertake research](#) into the barriers caused by criminal convictions

We take action

- We [challenge bad practice by employers and push for improvements to the way that criminal record checks operate](#)
- We advocate for a fairer and more inclusive society by [working at a policy level](#) with Government, employers and others

More information

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Written	July 2016