

GUIDANCE

Union wins concessions on disqualification by Association Guidance

The Union's threat to challenge the DfE's supplementary advice on the Childcare Disqualification legislation and its application to schools in the High Court has successfully drawn concessions from the Government who are now proposing changes to the guidance.

The supplementary advice was published on www.Gov.UK in October last year, with no warning and no consultation with the relevant trade unions, causing widespread confusion and concern. Despite this, the Union was able to initiate legal proceedings before the Christmas break, challenging the DfE's interpretation of the legislation.

As a result of the NUT's challenge, the DfE conceded last week that:

1. the legislation applies only to those who work in nursery and reception, or who supervise activities outside school hours involving children under 8 years old;
2. enquiries about individuals living in a teacher's household should be restricted only to those falling within the scope of the legislation
3. teachers correctly identified as falling within the scope of the legislation should not be asked to disclose the 'spent' convictions or cautions of people in their household.

We have agreed not to pursue the Judicial Review if these concessions are included in revised guidance to schools and local authorities. The DfE has now agreed to a specific meeting with the Union in addition to a round of stakeholder discussions, the last of which will be held on 27 January 2015. We have brought together other organisations who are supporting our position, and it is intended that a common position will be put forward on the content of updated guidance.

Our aim in the long run is to seek to change the relevant legislation. In the meantime, we are seeking that the Government amends the guidance to advise schools how to implement the legislation in a proportionate way, placing lowest level of burden possible on schools and teachers and providing advice and assistance to enable members return to work where they have been wrongly identified as 'disqualified' and suspended as a consequence.