

Disclosure and Barring Service Checks

Everyone has a right to feel safe and to live without fear of abuse or exploitation, and to be happy and secure in their activities. Your group must look out for the safety and wellbeing of people it comes into contact with; no one should be harmed by coming into contact with your group.

The Charity Commission says safeguarding is a key governance priority for all trustees of all charities and all management committees, whoever they work with.

People who are vulnerable are at a higher risk of abuse, neglect, or exploitation. This includes adults with care and support needs, children, young adults under 25 and asylum seekers and refugees. Other people may also be vulnerable.

Your group has a legal duty to protect people by putting safeguards into place when recruiting and managing paid staff and volunteers. Recruiting safely includes appropriate pre-recruitment checks, selection, induction, day to day and ongoing supervision, vigilance, training, and disciplinary processes.

Proper processes like these can never give a guarantee that children or adults will not be harmed when in the care of your organisation, but showing that they are in place and are followed will show your organisation has complied with its duty of care.

The Disclosure and Barring Service (DBS)

helps employers and volunteer managers make safer recruitment decisions, and helps prevent unsuitable people working with children and adults at risk. It does this through checking criminal records, police files and through its barring function.

It is a criminal offence to knowingly offer paid or unpaid work in a regulated activity to a person barred from working with children or adults.

DBS checks used to be called CRB checks.

Who can carry out a DBS check

Organisations working with children and / or adults need to decide if their staff and volunteers are eligible for a DBS check, and what type of check. Jobs and volunteer roles that involve caring for, supervising, or being in sole charge of children or adults require an enhanced DBS check, or an enhanced DBS check with barred list check.

Use the DBS tool to find out if you can check someone's criminal record. You can contact DBS if you're not sure.

www.gov.uk/find-out-dbs-check

Trustees and management committees

The Charity Commission says that wherever a trustee is eligible for a DBS check it should be carried out. It states that trustees, of children's charities or 'vulnerable groups' (adults at risk) charities and who are not

carrying out regulated activity, would be eligible for enhanced DBS checks but without a barred list check.

www.gov.uk/government/publications/safeguarding-children-and-young-people/safeguarding-children-and-young-people#endnote

Age limit

You can only carry out a DBS check on a person aged 16 years and over.

Types of DBS checks

There are four levels of DBS checks:

- ✓ **Basic Disclosure check** - unspent convictions and conditional cautions.
- ✓ **Standard DBS check** - spent and unspent convictions, cautions, reprimands, final warnings.
- ✓ **Enhanced DBS check** - as above plus any additional information held locally by police forces that's reasonably considered relevant to the post applied for.
- ✓ **Enhanced DBS check with barred list check, child or adult or both** - an enhanced DBS check plus a check on the DBS child barred list, or the DBS adult barred list, or both lists.

Barring

The barred lists which are held and managed by the DBS and are lists of individuals who must not work or volunteer in **regulated activity** with adults or children. It is a criminal offence for employers or volunteer managers to allow a person who they know has been barred by the DBS to engage in regulated activity.

Each organisation that works with children

or adults at risk will have to determine whether they carry out 'regulated activity' to decide which DBS check the role is eligible for, and whether barring applies.

- ✓ **Adult First** - Social care workers can be checked against the DBS barred list while waiting for the full DBS Certificate.

What is regulated activity with children?

Key types of regulated activity include:

1. Unsupervised activities: training, caring for, supervising or being in sole charge of children, or driving a vehicle for children
2. Work for specified places with opportunity for contact: schools, children's home, nurseries. Does not include work by supervised volunteers

Work with children in 1 and 2 is regulated activity only if done 'frequently' and is 'unsupervised'. Frequently means more than three times a month or ever during the night between 2.00am and 6.00am.

3. Health care, by or supervised by a professional, and personal care such as washing or dressing, always regulated even if it is only done once
4. Registered child-minding and foster caring, always regulated even if it is only done once

Supervision of activity with children

There is statutory guidance on what 'supervision' means for children's activities. If an activity is properly supervised as in the guidance, it is not regulated. This includes activities that if unsupervised and frequent or intensive would be regulated.

The guidance is that supervision must be day to day and regular, and it must be 'reasonable in all the circumstances to ensure the protection of children'. The person carrying out the supervision is in regulated activity themselves.

www.gov.uk/government/publications/supervision-of-activity-with-children

What is regulated activity with adults?

There are six types of regulated activity with adults (18 years and over), which are always regulated activity even if only done once.

1. Healthcare provided by or supervised by a regulated health care professional
2. Personal care for adults involving:
 - Hands-on physical assistance to do with washing and dressing, going to the toilet, eating and drinking, oral care, care of the skin, hair or nails because of an adult's age, illness or disability
 - Prompting someone (such as someone with dementia) and teaching someone to do one of these tasks
3. Social work: provision by a social care worker of social work which is required in connection with any health services or social services
4. Looking after an adult's cash, bills, or shopping because of their age, illness or disability
5. Being appointed to represent an adult or conduct their affairs, for example lasting or enduring power of attorney, or deputies appointed under the Mental Health Act
6. Driving adults who need it because of their age, illness or disability to, from

or between places where they receive healthcare, personal care or social work. This does not apply to friends, family or taxi drivers

Some activities may be eligible for an enhanced DBS check but are no longer eligible for a barred list check. For example:

- Food preparation is not a regulated activity; spoon feeding and giving artificial nutrition is in regulated activity
- Teaching IT skills to a class of adults with learning disabilities is not regulated. Teaching someone with dementia to brush their teeth is in regulated activity

Anyone whose role includes the day to day management or supervision of a person carrying out regulated activity *is themselves also in regulated activity*.

How to carry out a DBS check

Employers and volunteer managers should only request a check for a successful candidate. They can withdraw the job/volunteer position offer if the results show anything that would make the candidate unsuitable.

Umbrella bodies

DBS checks can only be made through an authorised body. Organisations can be registered themselves if they carry out high numbers of checks; otherwise an umbrella body must be used. Local Umbrella bodies are listed below.

To apply

The individual being asked to carry out the DBS check (the applicant) fills out the form given by the umbrella body, and provides the specified identification. As well as the job role, the form asks if the position is part of the child

workforce, the adult workforce, or both, or other workforce, which you should specify.

The applicant can check the progress of their application using the DBS tracking service. Enhanced checks usually take 14 to 19 days.

Who gets the certificate

The DBS only sends the certificate to the person who applied. Employers and volunteer managers must ask to see the DBS certificate, and can keep a copy with the individual's consent. They must keep it securely and for no longer than six months.

Employing ex-offenders

If you carry out DBS checks you must have a policy on employing ex-offenders. You must show the policy to any applicant who asks.

For a sample policy visit:

www.gov.uk/government/publications/dbs-sample-policy-on-the-recruitment-of-ex-offenders

The DBS Update Service

Employers and volunteer managers can access the Update Service to carry out free online instant Status checks on an individual's DBS certificate. It will show if the certificate is current with no new relevant information since it was issued, or is not current.

Individuals can only register to the update service **at the time that they apply** for a DBS certificate, or **within 30 days** of their certificate being issued. Individuals can take the certificate with them from role to role within the same workforce (child, adult, both or other), where the same level of check is required.

How do you carry out a status check?

Next time you need to get someone DBS checked, ask them if they are registered for the update service. If they are registered, you can go online to find out more and carry out a Status check.

www.gov.uk/government/publications/dbs-update-service-employer-guide/dbs-update-service-employer-guide

Fees

The DBS charges a fee for DBS checks on employees but not for volunteers. Umbrella bodies charge an admin fee for both employees and volunteers. The DBS fees in 2017 are £26 for standard checks, £44 for all enhanced and barred list checks, and an extra £6 for the DBS Adult First service. The Update Service is free for volunteers and £13 per year for employees.

For information on which volunteer roles are eligible for free DBS checks: www.gov.uk/guidance/dbs-check-requests-guidance-for-employers#volunteer-applications

Referring someone to the DBS

Employers and volunteer managers must refer someone to the DBS if they:

- Sacked them because they have harmed a child or adult or put an adult or child at risk of harm
- Sacked them or moved them from regulated activity to another role because they might have harmed a child or adult
- Were planning to sack or move them but the person resigned first

Referral flowchart:

www.gov.uk/government/publications/dbs-referrals-referral-chart

Positive DBS check?

You need to carry out a risk assessment which should consider:

Nature of the position

- Does it involve one-to-one contact?
- Is it supervised or unsupervised? (see statutory guidance as above)
- Does it involve working in an isolated situation?
- Does it involve regular contact?
- Are the clients they are working with particularly vulnerable?
- Is the activity a regulated activity?
- Does it involve working with children or young people?

Nature of conviction/other matters

- Whether the conviction or other matter revealed is relevant to the position in question
- The seriousness of any offence or other matter revealed
- Whether the applicant has a pattern of offending behaviour or other relevant matters
- Whether the applicants circumstances have changed since the offending behaviour or other relevant matters
- The circumstances surrounding the offence and the explanation(s) offered by the convicted person

Relevance

For adults, the relevant categories are violent and sexual offences.

Seriousness

It is important to look at the sentence given for a conviction in order to assess how serious the matter was. The offence label may sound serious - actual bodily harm for example - but if the individual were only

given a conditional discharge, this would indicate that it was a minor incident. If an individual were given a caution, absolute discharge or bind-over, this would indicate that the incident was minor. If other punishments were given, there will be information to help assess the seriousness. For example, if a fine was given, how much was the fine? If it was probation, community service or custodial sentence, how long was the sentence or order?

Offence circumstances

An explanation of the circumstances surrounding an offence will often be plausible and reassuring. For example, the person who explains that, in fear and panic, they ended up assaulting someone who was threatening them may not be as culpable as an individual who caused serious injury with intent.

Age of offences

Many of the offences on disclosures are old, going back to when the person was growing up. They are not relevant in most instances, as the people concerned will have put their pasts behind them. People who do not offend for two years after being convicted or released from prison are generally no more likely to offend than those who have never offended. This is reinforced by prison statistics that show that approximately 60% of discharged prisoners are reconvicted within two years, but only a further 5% are reconvicted within four years.

Pattern of offending

People who have a pattern of offending right up to the present date have clearly not put their offending behind them. Those people with gambling, drink or drugs related convictions in particular may remain a risk unless there is evidence of a clear break in the pattern of their offending.

Changed circumstances

For instance, those convicted when young, perhaps as juveniles, often do not re-offend once they have family or mortgage responsibilities, because they have too much to lose by getting into trouble. Most offenders, even those with long and serious records, do eventually change, as they simply grow out of a period of offending or seek help to address related problems.

Help, information and resources

For support and information including how to decide which check to make contact:

Newcastle CVS:

E: information@cvsnewcastle.org.uk

T: 0191 235 7037

W: www.cvsnewcastle.org.uk

Who will do DBS checks?

Local voluntary sector friendly DBS checking umbrella bodies:

Caring Hands Charity

www.caringhandscharity.org.uk/dbs-checks

Gateshead Council

E: GeneralEnquiriesISA-CRB@Gateshead.gov.uk

T: 0191 433 2206

Jewish Community Council of Gateshead

E: admin@jccg.org.uk

T: 0191 478 2226

Northumbria Coalition Against Crime

www.thecoalition.org.uk

North East Regional Employers Organisation

www.nereo.gov.uk/disclosure-and-barring

For information on their charge visit:

www.cvsnewcastle.org.uk/publications-and-resources-gateshead/safeguarding

Find other umbrella bodies:

National database of umbrella bodies

www.gov.uk/find-dbs-umbrella-body

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www.cvsnewcastle.org.uk

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