

# Disclosure and Barring Service

## Guidance for Recruitment

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**With special thanks**

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## The Disclosure and Barring Service

The Disclosure and Barring Service was established under the Protection of Freedoms Act 2012 and merges the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA). It enables organisations to obtain criminal record information about prospective employees and volunteers by accessing information from the Police National Computer, and local police information. The DBS is responsible for deciding who should be barred from working with children or vulnerable adults, or both. This guide will help organisations decide which roles are subject to a DBS check and which level of check is relevant to these roles.

Please note that this document should be used as a guide only; it is the responsibility of each organisation to reassure itself of the appropriate check to apply for in accordance with the DBS legislation and regulatory guidance. In addition DBS checks should not form part of the recruitment exercise itself but only applied for after the person has been successful following the interview process, as this could be considered discriminatory.

### Types of DBS checks

There are a number of different types of DBS checks relevant to paid and voluntary roles in the sector.

#### Basic checks

Basic checks will provide details of convictions and conditional cautions that are considered to be unspent under the terms of the Rehabilitation of Offenders Act 1974<sup>1</sup>. A basic check can be used for any position or purpose.

#### Standard DBS checks

Standard checks disclose information such as any convictions considered to be spent or unspent under the Rehabilitation of Offenders Act 1974, convictions, cautions, warnings and reprimands held on the Police National Computer (PNC) which stores details of all convictions in England and Wales, and most from Scotland.

A standard level DBS can only be carried out on roles that are 'exempt' from the Rehabilitation of Offenders Act 1974<sup>1</sup>. Examples of job roles include Scheme Cleaners, Catering Staff and Assistants. However please note that if any of these roles also require working with, or supervising service users or clients, then it is likely they will require an Enhanced DBS check (non-barring).

#### Enhanced DBS checks (non-barring list)

Enhanced checks without barring will contain the same as the standard check plus any additional information held on local police records that is reasonably considered relevant to the job in question. If a person is on the Barred List (see below) this will not be stated on an Enhanced DBS check, but there will be details of criminal convictions that would indicate that someone might be on the Barred List.

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<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/945449/rehabilitation-of-offenders-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945449/rehabilitation-of-offenders-guidance.pdf)

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To be eligible for an Enhanced level DBS check, the position must be 'exempt' from the Rehabilitation of Offenders Act 1974 and fall under the definition of 'work with adults' as outlined within the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013.<sup>2</sup> In complying with the latter, the individual must be carrying out an activity with adults (aged 18+) who are receiving a health and social care service (see paragraph 9), or a specified activity (see paragraph 10). Examples of roles within paragraph 9 include (not exhaustive)<sup>3</sup>:

- Any form of care, or assistance provided because of an adult's age, health or disability, that is provided to the adult in the place that they live;
- Any form of health care, including treatment, therapy or palliative care of any kind;
- Support, assistance or advice to help develop or sustain an adult's capacity to live independently in accommodation;
- Any service provided specifically for adults because of their age, any disability, physical or mental illness (NB: please check exemptions).

In addition to the roles, the activity needs to be carried out often enough in order to meet the requirement for 'work with adults'. For example:

- At any time on more than three days in any period of 30-days; or
- At least once a week on an ongoing basis.

Examples of job roles include Outreach Workers, Supported Housing Officers, front line Managers.

### **Enhanced checks with children's and/or adults' barred list check(s)**

Enhanced checks include the same criminal record information as Enhanced Disclosures, but also detail whether the person is barred from working with either children or vulnerable adults, or both.

To be eligible to request a check of the children's or adults' barred lists, the position must meet the new definition of Regulated Activity.<sup>4,5</sup> Regulated Activity differs depending on whether you are working with adults or children.

Regulated Activity with **adults** includes (non-exhaustive):

- Healthcare
- Social Work
- Personal Care
- Management or supervision of any of the above roles

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<sup>2</sup> <https://www.legislation.gov.uk/ukxi/2013/1194/made>

<sup>3</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/789060/ENGLISH\\_-\\_CCS156\\_CCS0219642870-002\\_Charity\\_Roles\\_Adults\\_Web.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/789060/ENGLISH_-_CCS156_CCS0219642870-002_Charity_Roles_Adults_Web.pdf)

<sup>4</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/739152/Regulated\\_Activity\\_with\\_Adults\\_in\\_England.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/739152/Regulated_Activity_with_Adults_in_England.pdf)

<sup>5</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/550197/Regulated\\_activity\\_in\\_relati\\_on\\_to\\_children.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/550197/Regulated_activity_in_relati_on_to_children.pdf)

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There is no requirement to carry out these activities a certain number of times before a person is deemed to be engaging in Regulated Activity with adults.

*General exception:* Regulated Activity relating to adults does not include: activity by a person in a group setting who is assisting, acting on behalf of, or under direction of another person, who is engaging in Regulated Activity relating to adults.

Examples of job roles undertaking a Regulated Activity with adults include:

- The provision of psychotherapy and counselling to an adult, which is related to the health care the adult is receiving from or under the direction or supervision of, a health care professional;
- Personal Assistants (employed) that provide assistance with general household matters to an adult namely paying bills, shopping on behalf of the adult, or closely supporting them to undertake these tasks.

For **children (under 18)**, the scope of whether something is Regulated Activity is also affected by the location an activity takes place. Broadly, the definition of Regulated Activity includes:

- Unsupervised activities, such as teaching, providing advice or guidance, caring and supervising children;
- Working for an establishment where there is opportunity for the person to have contact with children; for example a school, children's homes /supported accommodation.<sup>6</sup>

*General exception:* a person is not undertaking Regulated Activity with children, if they are being supervised by another person who is conducting Regulated Activity.

Example of job roles undertaking Regulated Activity with children:

- Teacher
- Children's/youth centre worker providing 1-1 support, guidance, or advice unsupervised

## Job Descriptions

When applying for the relevant check, it is important to ensure that the job description clearly states the following:

- That staff will be working with vulnerable adults<sup>7</sup> and/or young people/children.
- The type of support that staff will be providing; whether this is guidance/support/empowering a person to develop or sustain independent living skills or personal care e.g. help with bathing, eating, cooking, shopping.
- How regular the support will be provided e.g. 20 hours a week support to xx number of people

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<sup>6</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/550197/Regulated\\_activity\\_in\\_relati\\_on\\_to\\_children.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/550197/Regulated_activity_in_relati_on_to_children.pdf)

<sup>7</sup> In accordance with the Care Act 2014 for vulnerable adults

- If this is a management post: details of the staff and staff roles who will be reporting to them and a summary of their job roles.
- That the relevant DBS check will be applicable to the post.

## The Update Service

There is no official expiry date of a Disclosure, but the older the Disclosure is the less reliable and relevant it becomes. It is therefore advisable to only accept Disclosures from new employees, which are no more than 6 months old and are of the relevant type/level appropriate to the role being offered.

For an annual subscription fee (currently £13/ free for volunteers), applicants can have their DBS certificate kept up to date and take it with them from role to role, within the same workforce, where the same type and level of check is required<sup>8</sup>.

If a new employee is a member of the Update Service, permission of the employee should be sought to access the instant online checking service. Otherwise if the DBS certificate is older than 6 months, or not of the right type, a new DBS check should be applied for.

## Further Information

For more information on the Disclosure and Barring Service, and deciding which level of check is required for your roles: <https://www.gov.uk/government/collections/dbs-eligibility-guidance>

For information on how to apply for standard and enhanced DBS checks as an employer: <https://www.gov.uk/dbs-check-applicant-criminal-record/get-a-standard-or-enhanced-dbs-check-for-an-employee>

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<sup>8</sup> <https://www.gov.uk/dbs-update-service>



## What we do

Homeless Link is the national membership charity for frontline homelessness services. We work to improve services through research, guidance and learning, and campaign for policy change that will ensure everyone has a place to call home and the support they need to keep it.

## Let's end homelessness together

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