

## Personnel suppliers: Duty to refer

The Safeguarding Vulnerable Groups Act 2006 (SVGA) places a legal duty on **regulated activity providers** and **personnel suppliers** to refer any person to the Disclosure and Barring Service (DBS) who has:

- Harmed or poses a risk of harm to a child or vulnerable adult
- Satisfied the harm test; or
- Received a caution or conviction for a relevant offence

The **DBS Referral Form Guidance** provide **regulated activity providers** and **personnel suppliers** with guidance on how to complete the **DBS Referral Form** and what information should be provided to meet the **duty to refer**. The **Safeguarding Vulnerable Groups Act 2006 (Prescribed Information) Regulations 2008** places an additional duty on **personnel suppliers** to provide additional information when referring a person to the DBS. This document is designed to assist **personnel suppliers** in identifying what information they hold that they are legally required to provide when making a referral.

A **personnel supplier** may be an **employment agency**, **employment business** or an **educational institution** and are described as follows:

- An **employment agency** makes arrangements to either find a work-seeker employment with a hirer or to supply him to a hirer to employ.
- An **employment business** engages a work-seeker and supplies him to a hirer to work under a hirer's control.
- An **educational institution** is a Personnel Supplier if it makes arrangements to supply a student following a course at the institution to a regulated activity provider such as a

school.

**Personnel suppliers** may provide additional information on separate sheets, within documents or on the DBS Additional Information Form.

## Employment agencies / businesses

**Employment Agencies** and **Employment Businesses** are required to provide the following information:

- a) Completed **DBS Referral Form**, providing all relevant information,
- b) Any information held by that **personnel supplier** under **Schedule 4 to the Conduct of Employment Agencies and Employment Business Regulations 2003** (particulars relating to work-seekers) except the information specified in paragraph 10 of that Schedule. The information to be provided is as follows:
  1. Date application received.
  2. Work-seeker's name, address and, if under 22, date of birth.
  3. Any terms which apply or will apply between the **employment agency** or **business** and the work-seeker, and any document recording any variation thereto.
  4. Details of the work-seeker's training, experience, qualifications, and any authorisation to undertake particular work (and copies of any documentary evidence of the same obtained by the **employment agency** or **business**).
  5. Details of any requirements specified by the work-seeker in relation to taking up employment.
  6. Names of hirers to whom the work-seeker is introduced or supplied.
  7. Details of any resulting engagement

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8. Copy of any contract between the work-seeker and any hirer entered into by the **agency** on the work-seeker's behalf.
  9. Date application withdrawn or contract terminated (where applicable).
  10. Details of enquiries made under the Conduct of **employment agencies** and **employment business** Regulations 19, 20 and 22 about the work-seeker and the position concerned with copies of all relevant documents and dates they were received or sent as the case may be.
- d) the date on which the person began the course.
  - e) Details of any **regulated activity** in which the person they are referring has engaged in as a result of them having been supplied to another person by the **educational institution** for the purposes of engaging in such activity including:
    - (i) The date on which any placement began and the duration of the placement.
    - (ii) The name and address of the person to whom they were supplied.
    - (iii) The setting and location of the placement.
    - (iv) Whether the activity was one relating to children or to vulnerable adults.
    - (v) A description of the position held and the duties undertaken by the person they are referring.

### Educational Institutions

**Educational institutions** are required to provide the following information:

- a) Completed **DBS Referral Form** and provide all relevant information - It should be noted that **educational institutions** are not required to provide information relating to a person's employment or details of any investigations that have taken place; however, while there is no legal requirement for this information to be supplied, if the information is held, **education institutions** are encouraged to do so as the provision of this information (if held) will assist the DBS in the consideration of the case.
  - b) Details of the course that the person they are referring is undertaking at the **educational institution** including the name and duration of the course and the qualification or other accreditation to which the course leads.
  - c) A copy of the application for a place on the course made by the person they are referring.
- f) The date on which, and the reasons why the **educational institution** determined:
    - (i) To cease to supply them to another person for them to engage in **regulated activity**.
    - (ii) That the person being referred should cease to follow a course at the institution.
  - g) Where an **educational institution** does not make a determination as mentioned in paragraph (f) but would have done so if the person being referred had not otherwise ceased to engage in the activity or ceased to follow the course, the reasons why the institution would or might have made any such determination.
  - h) Details of any comments or reports



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made by persons to whom the person being referred was supplied for the purposes of engaging in the **regulated activity**.

- i) An assessment of the referred person's progress on the course (including their placements with persons for the purposes of engaging in **regulated activity**).

