



Disclosure &
Barring Service

Barring referrals:

Your guide to how and
when to make one



Safeguarding is at the heart of everything we do at the Disclosure and Barring Service (DBS). We help employers make safer recruitment decisions. We also prevent unsuitable people from working with vulnerable groups including children.

This involves us making considered decisions about whether somebody should be **barred** from engaging in Regulated Activity with children, adults or both in England, Wales and Northern Ireland.

The Barred Lists

There are two Barred Lists. The Children's Barred List and the Adults' Barred List. It is our job to decide who gets added to and removed from these lists in England, Wales and Northern Ireland. People can appear on one list or both.

If you are added to a Barred List then it is against the law to work, apply for work or volunteer in Regulated Activity with children and/or adults.

If you are an employer, you are also breaking the law if you allow someone to work or volunteer in Regulated Activity if you know that they are barred.

Both offences can result in a prison sentence of up to five years and/or a fine.

Who can refer?

Anyone can make a referral if you consider that someone has:

- Harmed or poses a risk of harm to a child or adult and satisfies the harm test (see later section)
- Received a caution or conviction for a relevant offence.

Some organisations have a legal duty to make a referral to us.

Organisations with a legal duty to refer

If you provide Regulated Activity and employ people in either a paid or unpaid capacity then you have a duty to refer if the conditions detailed later in this document have been met.

You also have a duty to refer if you are a ‘personnel supplier’. This is described as:

- An employment agency that make arrangements to either find someone employment with a hirer or to supply them to a hirer to employ
- An employment business that engages a work-seeker and supplies someone to a hirer to work under a hirer’s control
- An educational institution if it makes arrangements to supply a student undertaking a course at the institution to a Regulated Activity provider, such as a school.
- An employment agency or business that engages work seekers or provides supply workers
- An educational institution which supplies its students to a Regulated Activity provider, such as a school.

Your duty to refer to the DBS still applies even if a referral has also been made to a local authority safeguarding team or professional regulator. If you remain unsure of your duty to refer then we advise that you seek further relevant legal advice.

Conditions that need to be met before making a referral

The following details the conditions that should be met before you make a referral to us:

- You have withdrawn permission for the person to engage in Regulated Activity with children and/or adults **and**
- You have moved the person to another area of work that isn't Regulated Activity or you have dismissed them. This includes situations when you would have moved the person but the person was re-deployed, resigned, retired, or left.

And you also think the person has:

- Engaged in relevant conduct in relation to children and/or adults. An action or inaction has harmed a child or adult or put them at risk or harm

or

- Satisfied the harm test in relation to children and/or adults, e.g. there has been no relevant conduct but a risk of harm to a child or adult still exists

or

- Been cautioned or convicted of a relevant (Automatic Barring either with or without the right to make representations) offence.

The relevant conduct and harm test are explained in the following sections.



Relevant conduct in relation to children

You are a child if you are under 18 years old.

Relevant conduct is classed as:

- Activity that endangers a child or is likely to endanger a child
- Activity that, if repeated against or in relation to a child, would endanger the child or be likely to endanger the child
- Activity involving sexual material relating to children (including possession of such material)
- Activity involving sexually explicit images depicting violence against human beings (including possession of such images) of a sexual nature involving a child

Someone's conduct endangers a child if they:

- Harm a child
- Cause a child to be harmed
- Put a child at risk of harm
- Attempt to harm a child
- Incite another to harm a child.

Relevant conduct in relation to adults

For the purpose of DBS barring referrals we consider an adult to be someone 18 years old or over who is being provided with or getting a service that is classed as Regulated Activity.

Relevant conduct in relation to adults is:

- Activity that endangers an adult or is likely to endanger an adult
- Activity that, if repeated against or in relation to an adult, would endanger the adult or be likely to endanger the adult
- Activity involving sexual material relating to children (including possession of such material)
- Activity involving sexually explicit images depicting violence against human beings (including possession of such images) of a sexual nature involving an adult

Someone's conduct endangers an adult if they:

- Harm an adult
- Cause an adult to be harmed
- Put an adult at risk of harm
- Attempt to harm an adult
- Incite another to harm an adult.

The harm test

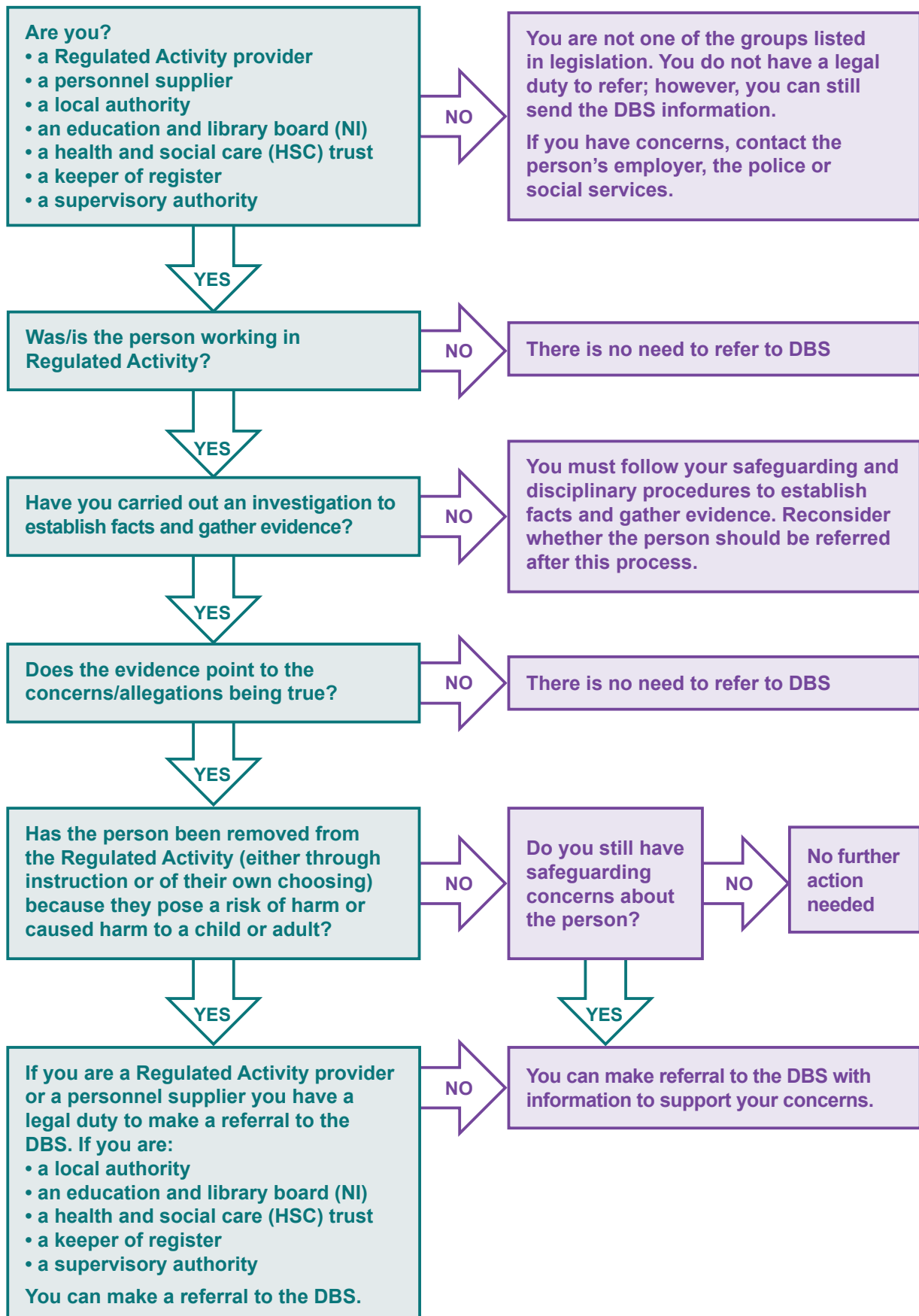
Someone's action satisfies the harm test when it appears that they may:

- Harm a child and/or an adult
- Cause a child and/or an adult to be harmed
- Put a child and/or an adult at risk of harm
- Attempt to harm a child and/or an adult
- Incite another to harm a child and/or an adult.



Referral flow chart.

We have put together the following flow chart to help you decide if it is appropriate to refer someone to us.



How to make a referral

You can either make a referral via a secure online form or by downloading a paper form and posting it to us. Both forms can be found on our website www.gov.uk/dbs

Our postal address for referrals is DBS Barring, PO Box 3963, Royal Wootton Bassett, SN4 4HH.

You will be informed either by email or post that we have received your referral.

The right person to refer

As stated earlier anyone can make a referral. However, if you are an organisation then it is worth making sure that the person writing the referral is aware of and has access to all the relevant documentation. This could be your Human Resources department alongside your safeguarding lead. The following sections provide some details of the sort of information that helps us to make a decision.

Providing as much information as you can

It is really important that anyone referring someone to us provides **as much detail as possible**. We have no powers of investigation and so we rely on the information given to us by those referring. It is vital that information is accurate, comprehensive and complete to enable us to avoid any unnecessary delays in dealing with the case.

If you have a duty to refer then you will also be asked for some specific details.

If there is information or details missing it could mean that we cannot bar someone.

What you should include

This section provides you with details of the type of information we need. By providing this you will help us to make accurate decisions. However, remember this is not an exhaustive list. If there is something you think we need to know to help make our decision – tell us.

Details of the person you are referring. Include their full name, address and date of birth if you know it. Also include details of their work history and current employment.

Details of the work carried out. We need more than just a job title. This is because some job titles do not allow us to fully understand the nature of the work undertaken. We need as much detail as possible to understand the tasks carried out by the person you are referring. Job descriptions are helpful.

External investigations. If there has been an external investigation in relation to the case you are referring we need to know the details. This could be interviews, police intervention or details of multi-agency meetings.

Other investigations. If the person you are referring has been the subject of disciplinary processes you should include this. You should also include recruitment and additional employment information. Let us know if there have been any previous misconduct or complaints. These are invaluable in helping us to establish patterns of behaviour.

Witness statements. If you have these then send them to us. These should be signed and dated.

Qualification and training records. This helps us to understand the level of training and skills in relation to their role.

Chronology. It is useful to provide us with a timeline of events. This can help us get a greater insight into how the behaviour occurred and any triggers.

Contact details. Please provide links and details of any other agencies or organisations you are aware of that hold information that may be useful in our decision making.

As part of the process to decide if an individual should be included in a barred list, any information in your referral may be used by us and could be disclosed to the referred person or other parties. You should consider redacting any information (such as names of third parties) that you do not wish to be shared.

The outcome of your referral

We will inform the person you have referred about the outcome. However, it is not automatic that we will inform you as the person who referred them.

We can only inform you if you are able to prove that you have a legitimate interest in the person you have referred.

If you no longer employ or let them engage in Regulated Activity, then you may not be able to show a legitimate interest. This means that we can't advise you of the outcome.





Disclosure & Barring Service

More information about referrals

If you would like more information about referring someone or about what Regulated Activity is then you can call us on **03000 200 190** or visit our website **www.gov.uk/dbs**

For Welsh Language Line you can call us on **03000 200 191** or Minicom number **03000 200 192**

The following links may also be useful

Information about Regulated Activity with children is available from the Department for Education (DfE).

www.gov.uk/government/uploads/system/uploads/attachment_data/file/550197/Regulated_activity_in_relation_to_children.pdf

Information about Regulated Activity with adults is available from the Department of Health and Social Care (DHSC).

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/216978/Regulated-Activity-Adults-Dec-2012.pdf