



National Offender Management Service

| This instruction applies to:- | | | Reference:- |
|--|--|-----------------|-------------|
| Prisons | | | PSI 05/2014 |
| Issue Date | Effective Date | Expiry Date | |
| 04 Nov 2024 (Revised) | 3 February 2014 | 30 January 2018 | |
| Issued on the authority of | NOMS Agency Management Board | | |
| For action by (Who is this Instruction for) | <p>All staff responsible for the development and publication of policy and instructions</p> <p> <input type="checkbox"/> HMPPS HQ <input checked="" type="checkbox"/> Public Sector Prisons <input checked="" type="checkbox"/> Contracted Prisons* <input checked="" type="checkbox"/> Governors <input type="checkbox"/> Heads of Groups </p> <p><i>*If this box is marked, then in this document the term Governor also applies to Directors of Contracted Prisons</i></p> | | |
| Instruction type | Service improvement | | |
| For information | All Staff | | |
| Provide a summary of the policy aim and the reason for its development/re vision | <p>This PSI advises of amendments to the Safeguarding Vulnerable Groups Act 2006 (SVGA) to enable the Disclosure and Barring Service (DBS) to share information relating to the barred status of an offender with prisons and providers of probation services for the purposes of the protection of children or vulnerable adults. It provides guidance on the role of the DBS and their barring functions and sets out the process to be followed when seeking information from the DBS. The PSI also outlines changes to the Disqualification Order regime as a result of the introduction of the SGVA.</p> <p>Update October 2015 – Amendment made to the contact details on the front page.</p> <p>Update November 2024 – Updated to include reference to the Prison Public Protection Policy Framework.</p> | | |

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| Contact | ppps@justice.gov.uk |
| Associated documents | PSI 03/2012 Activity Allocation PSI 06/2012 Prisoner Employment, Training and Skills PSI 32/2012 Open University, Higher Education and Distance Learning. PSI 39/2011 Categorisation And Recategorisation Of Women Prisoners Security Categorisation Policy Framework Prison Public Protection Policy Framework |

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| Replaces the following documents which are hereby cancelled: - None |
| Audit/monitoring: Deputy Directors of Custody, Commissioners and Controllers will monitor compliance with the mandatory actions set out in this Instruction. |
| Introduces amendments to the following documents: None |
| Notes: <i>All Mandatory Actions throughout this instruction are in italics and must be strictly adhered to.</i> |

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1. Executive summary

Background

1.1 The Disclosure and Barring Service (DBS) is a non-departmental government body that carries out the statutory functions previously undertaken by the Criminal Records Bureau and the Independent Safeguarding Authority, namely:

- processing requests for criminal records checks as defined by Part V of the Police Act 1997;
- deciding whether it is appropriate for a person to be placed in or removed from a barred list under the Safeguarding Vulnerable Groups Act 2006 (SGVA) or Safeguarding Vulnerable Groups Order (SVGGO); and
- maintaining the DBS children's barred list and the DBS adults' barred list.

In relation to its barring functions, the role of the DBS is to make independent barring decisions on people whose actions or behaviour deem them unsuitable to work (paid or unpaid) in regulated activity with children and/or adults.

1.2 The SVGA requires that convictions or cautions for relevant offences result in an automatic bar from working in regulated activity with children and/or adults. A list of these offences is at Annex A. Relevant offences are commonly referred to as **autobar offences** but may be referred to as either automatic barring offences (those which do not enable a person to make representations against their inclusion in the list(s)) or automatic inclusion offences (those which require the DBS to enable the person to make representations against their inclusion in the list(s)). The DBS has a duty to:

- bar any person who has accepted a caution for or been convicted of an automatic barring offence; and
- consider for barring any person who has accepted a caution for or been convicted of an automatic inclusion offence or has been referred to the DBS by an employer, a local authority, a professional regulatory body, or another organisation that has removed or dismissed them from regulated activity because of the harm they have caused to a child or vulnerable adult or the risk of harm they might present.

1.3 A new test for regulated activity (TRA) has been introduced which means that the DBS can only bar a person who is, has been, or may in future be, engaged in regulated activity with children and/or adults. Without this connection to regulated activity, the DBS is unable to place a person in a barred list. The only exception to this is where a person is cautioned for or convicted of an automatic barring offence and is not eligible to submit representations against their inclusion in the list(s). Guidance on the definition of regulated activity is at Annex B.1 for children and Annex B.2 for adults.

1.4 The two barred lists maintained by the DBS replace previous barred lists in England and Wales¹ and Northern Ireland². Secondary legislation required the ISA either automatically to

¹ List 99, the Protection of Children Act (POCA) List and the Protection of Vulnerable Adults (POVA) List.

² The Disqualification from Working with Children List, the Unsuitable Persons List and the Disqualification from Working with Vulnerable Adults List.

include individuals from the old lists in the new lists or to look afresh at whether they should be included. The ISA, and subsequently the DBS, have completed this work.

- 1.5 The DBS operates the barring scheme for England and Wales, and on behalf of Northern Ireland. A similar barring scheme, the Protecting Vulnerable Groups (PVG) Scheme, operates in Scotland and is managed by Disclosure Scotland, an Executive Agency of the Scottish Government. The two schemes are aligned and recognise each others' barring decisions. A person barred in one jurisdiction will, therefore, be barred throughout the UK.
- 1.6 Disqualification Orders were introduced under the Criminal Justice and Court Services Act 2000 and prevent individuals from working with children. The Criminal Justice Act 2003 amended the Disqualification Order regime and required those, subject to an Order to be managed automatically under MAPPA. With the introduction of the SGVA, Disqualification Orders became redundant and the ISA, and subsequently the DBS, was required to consider those subject to a Disqualification Order for inclusion in the barred list(s). The legislation relating to Disqualification Orders has been repealed on a phased basis to coincide with the phased implementation of the DBS' functions. The repeal of the legislation in England and Wales is now complete³ and, as of 17th June 2013, no further Disqualification Orders will be made by the courts. The repeal does not, however, cause existing Disqualification Orders to lapse or disappear. Existing Orders will remain in force but any breach will be dealt with under the SVGA and not as a breach of the Disqualification Order. Offenders with a Disqualification Order will continue to be managed under MAPPA.
- 1.7 The Protection of Freedoms Act 2012 amended the SVGA to allow the DBS to share barring information with prisons and providers of probation services. The SVGA, as amended, provides the DBS with the power to inform prisons and providers of probation services about information it believes to be relevant, provided it is for the purposes of the protection of children or vulnerable adults. It also places a duty on the DBS to provide prisons and providers of probation services, on request, with information about whether a person is in a barred list, provided that it is for the purposes of the protection of children or vulnerable adults. However, there is no similar provision within the legislation governing the PVG Scheme that enables Disclosure Scotland to share barring information with prisons.

Desired Outcomes

- 1.8 Better targeting of prisoners to suitable work activities
- Enhanced risk assessment and risk management through access to information held by the DBS.

Mandatory actions

- 1.9 *There must be a process in place within prison establishments to manage DBS correspondence to prisoners.*
- *“Certification by server” forms must be completed and returned to the DBS.*

³ The repeal of the legislation in Northern Ireland will be completed during 2014. At the time of writing, a date for completion had not been set.

- *If the prison receives information that suggests a prisoner who was believed not to meet the TRA has in fact worked in regulated activity or plans to do so in the future, consideration must be given to sharing this information with the DBS.*
- *Prisoners who have been barred, or whose cases are still pending or are subject to appeal, must not be considered for or placed in regulated activity (voluntary or paid) as part of work placements and resettlement plans or for any other reason.*
- *Information obtained from the DBS on the barred status of an offender and the barring decision must be taken into account when assessing or reviewing risk of serious harm and in the formulation and review of sentence plans and risk management plans.*
- *Any decision to pass on information received from the DBS to a third party must be considered on a case by case basis and must be compliant with NOMS policies, the Data Protection Act 1998, and based on an assessment of the relevance and appropriateness of the information. Where information is shared there must be a written auditable record.*

Resource Impact

- 1.10 The DBS has been corresponding with prisoners since the formation of the ISA in 2009 so the handling of such correspondence does not present a new burden. The requirement to put a process in place within prisons to manage the handling of DBS correspondence will ensure this is done more efficiently and effectively. The importance of a process being in place was first highlighted in a Senior Leaders Bulletin issued in May 2012.
- 1.11 Barring information received from the DBS will feed into existing public protection processes, including safeguarding and the review of assessment and risk management plans (receipt, analysis and acting upon information about contact, context, behaviour and risks from any third party). There should, therefore, be minimal resource impact on prison staff resulting from this Instruction.

2. Operational instructions

Handling of DBS correspondence with prisoners

- 2.1 When the DBS is considering a case, it will go through its decision-making process to assess whether the person should be placed in one or both of the barred lists. As part of this process, the DBS will correspond with the person concerned and is required to share with the person all the information it has used to make its barring decision. This may include police reports, minutes of disciplinary hearings or other relevant documentation. In the case of an automatic barring offence, correspondence will be limited to a barring notification. Although it is sensitive, correspondence from the DBS to prisoners is not covered by the privilege arrangements for Rule 39 or Confidential Access mail. It should, therefore, be dealt with in line with arrangements for handling prisoners' correspondence set out in the National Security Framework (NSF) in relation to routine reading.
- 2.2 The DBS sends correspondence to prisons in batches, with a request that the individual pieces of correspondence be passed to the prisoners concerned. *There must be a process in place within prison establishments to manage correspondence from the DBS to individual prisoners.* The process should enable the DBS correspondence to be passed to the prisoner to whom it is

addressed in a way that will minimise the risk of its contents becoming known to other prisoners, as this could place the prisoner concerned at an increased risk of harm from another prisoner. The process should also enable the prison to assess and manage any risk the prisoner may pose to themselves should the correspondence from the DBS prove to be distressing. If staff are aware DBS correspondence contains bad news, this should trigger consideration of an immediate case review if the prisoner is on an open ACCT or, where an ACCT is not open, opening one should the prisoner's reaction to the correspondence suggests this is advisable.

2.3 Not every letter sent to a prisoner by the DBS will require the prison to respond to the DBS. If a letter requires a response, there will be a "certification by server" form attached to the letter to complete. The DBS includes a "certification by server" with its letters informing a prisoner that they have been barred. *The letter must be handed to the prisoner and the "certification by server" form must be completed by both the member of staff handing the letter to the prisoner and the prisoner themselves.* If it is not possible to serve the prisoner with the letter due to their release or transfer, the second page of the form should be completed as fully as possible. It is important that the "certification by server" is completed and returned to the DBS. It is a criminal offence for a person who has been placed in a barred list knowingly to work or to seek to work in the regulated activity from which they have been barred. In such cases, the DBS will be required to demonstrate that the individual was aware that they had been placed in a barred list.

2.4 Where necessary, assistance should be given to the prisoner to ensure they understand the contents of the letter - for example, where issues such as English not being the first language or learning disabilities may prevent the prisoner from fully understanding the contents of the letter. The DBS operates a helpline between 8.30am and 5.30pm, Monday to Friday. The helpline number has been included in the global list to enable prisoners to contact the DBS about correspondence they have received should they wish to do so. The DBS will arrange, upon request, for letters to be translated into languages other than English or to be provided in an alternative format where necessary. Prisoners should make requests via the DBS helpline or the DBS contact point given in the letter.

Information on barred status

2.5 Information on a prisoner's barred status may be sought from the DBS in the case of prisoners who have been:

- cautioned for or convicted of an automatic inclusion offence (index or previous) (see Annex A for a list of relevant offences); or
- assessed as posing a risk of serious harm to children or vulnerable adults and their known employment history or qualifications suggest they may have engaged in regulated activity with children and/or adults or may seek to do so in the future.

Requests should not be made in respect of prisoners cautioned for or convicted of automatic barring offences (see para 1.2 above) as a person who commits one of these offences is not eligible to submit representations against their inclusion in the list(s) and will, therefore, be barred. Confirmation of barred status should be requested from the DBS via secure email to DBSNOMSBLC@dbs.qsi.gov.uk using the template letter at Annex C. As barred status relates to the work a person may or may not undertake, it has been agreed with the DBS that

confirmation of barred status will be sought only at the point when a prisoner's employment, training or education needs are being assessed or considered.

2.6 The DBS response will indicate whether the prisoner is in the children's barred list, the adults' barred list or in both lists. If a barring decision has not yet been made, the response will state "linked interest". This means that the DBS has registered the prison's interest and will notify the prison of the barring decision once made. The response will be sent to the prison via secure email.

2.7 Where a person cautioned for or convicted of an automatic inclusion offence has not been barred because they do not meet the TRA (see para 1.3 above), the DBS can review the case if they receive information indicating that the person may have engaged, or may in future engage, in regulated activity. *If the prison receives information that suggests a prisoner who was believed not to meet the TRA has in fact worked in regulated activity or plans to do so in the future, consideration must be given to sharing this information with the DBS.*

2.8 Barred status can change as a person included in the barred list(s) has the right to seek an appeal to the Upper Tribunal Administrative Appeals Chamber (England and Wales) and the Care Tribunal (Northern Ireland). Appeals can be lodged with the Tribunal only on the grounds that the DBS has made an error of fact or an error in law. A barred person who had the right to make representations can also seek a review of their inclusion in the barred list(s) if they can demonstrate to the DBS that their circumstances have changed significantly in such a way that it is no longer appropriate for them to be in the list(s). Minimum barred periods before a person can seek a review are:

- **one year** - where a person has not reached the age of 18;
- **5 years** - where a person was barred after the age of 18 but who has not reached the age of 25; and
- **10 years** – where a person was barred at the age of 25 or above.

If there is reason to believe the barred status of a prisoner has changed, confirmation should be sought from the DBS. As with all DBS correspondence, any correspondence from the DBS to a prisoner about an appeal or review should be handled in line with the requirements of paragraphs 2.1-2.4 above.

2.9 It is a criminal offence for a person who has been placed in a barred list(s) knowingly to work or to seek to work in the regulated activity from which they have been barred. It is also an offence for a person knowingly to permit someone to engage in regulated activity from which they have been barred. *Prisoners who have been barred, or whose cases are still pending or are subject to appeal, must not be considered for or placed in regulated activity (voluntary or paid) as part of work placements and resettlement plans or for any other reason.* Barred status should be taken into account when prisoners are receiving employment/training advice and guidance and being assessed for their learning needs.

Relevant information behind barring decisions

2.10 The DBS does not have an investigatory function but, as part of its decision-making process, it can seek relevant information from other organisations, agencies and bodies. This can

include, for example, police reports, court documents, competent body findings, adult social care or children's services reports, and employer disciplinary hearing records. DBS will secure only as much relevant information as is necessary and reasonably sufficient to make a fair and defensible barring decision. The test applied by the DBS in relation to barring considerations is the civil standard of proof, "on the balance of probabilities".

2.11 The SVGA gives a power to the DBS to share relevant information with prisons providing it is for the purposes of the protection of children and/or vulnerable adults. NOMS has agreed with the DBS the following information sharing process:

- Information-sharing requests may be made in the case of prisoners who have been:
 - cautioned for or convicted of an automatic inclusion offence (index or previous); or
 - assessed as posing a risk of serious harm to children or vulnerable adults and their known employment history or qualifications suggest(s) they may have engaged in regulated activity with children and/or vulnerable adults.

Requests should not be made in respect of prisoners cautioned for or convicted of automatic barring offences as the DBS will not hold information other than the fact of caution/conviction.

- Requests for information should be sent to DBS Central Operations Support Team (DBSNOMSBLC@dbs.gsi.gov.uk) via secure email using the template letter at Annex D. The letter should clearly indicate the context in which the information is being sought, for example assessment of risk, development of sentence plan or risk management plan, consideration of licence conditions.
- For prisoners who have been barred, the DBS will respond by providing an extract from their Minded to Bar (MTB) and Final Barring letters summarising the findings on which the barring decision was based. These letters will already have been sent to the prisoner as part of the DBS decision-making process.

In some cases, the summary of findings may suggest the DBS holds information not already known to the prison but relevant for offender management and public protection purposes. In such cases, the prison may ask the DBS contact point to identify the source of the information on which the particular finding was based and to provide contact details. The prison should then consider whether to approach the source of the information requesting disclosure for the purposes of the prevention of crime. This should be necessary in only a small number of cases, given the sources of information on which the DBS draws to reach its findings (see para 2.10).

2.12 *Information obtained from the DBS on the barred status of an offender and the barring decision must be taken into account when assessing or reviewing risk of serious harm and in the formulation and review of sentence plans and risk management plans.*

2.13 Information provided by the DBS at the request of a prison may need to be disclosed to specific third parties, such as providers of probation services, for the purposes of assessing and managing offenders. *Any decision to pass on information received from the DBS to a third party must be considered on a case by case basis and must be compliant with NOMS policies, the Data Protection Act 1998, and based on an assessment of the relevance and appropriateness of the information. Where information is shared there must be a written auditable record.*

Information-sharing agreements

2.14 In compliance with NOMS data sharing policies, sharing agreements need to be established with the DBS to provide terms and conditions for the use and processing of the personal data involved in the information sharing process set out above. Guidance on the type of sharing agreements and who should enter into them with the DBS will be issued shortly.

(Signed)

Digby Griffith Director of National Operational Services, NOMS

RELEVANT OFFENCES: ENGLAND AND WALES
(Extract from DBS Factsheet, October 2013)

CHILDREN'S AUTOBAR OFFENCES

| Children's Automatic Barring Offences - with NO right to make representations (A person who commits one of these offences, subject to any qualifications set out, WILL be barred from working in regulated activity relating to CHILDREN.) | | |
|---|----------------|--|
| Act | Section | Offence |
| Criminal Law Amendment Act 1885 | 4 | Defilement of a girl under 14 years of age |
| Sexual Offences Act 1956 | 1 | Rape (where the victim was a child) |
| Sexual Offences Act 1956 | 5 | Sexual intercourse with a girl under the age of thirteen |
| Mental Health Act 1959 | 128 | Sexual intercourse with patients (where the victim was a child) |
| Sexual Offences Act 2003 | 1 | Rape (where the victim was a child) |
| Sexual Offences Act 2003 | 2 | Assault by penetration (where the victim was a child) |
| Sexual Offences Act 2003 | 5 | Rape of a child under 13 |
| Sexual Offences Act 2003 | 6 | Assault of a child under 13 by penetration |
| Sexual Offences Act 2003 | 7 | Sexual assault of a child under 13 (intentionally touched a girl/boy and the touching was sexual) |
| Sexual Offences Act 2003 | 8 | Causing or inciting a child under 13 to engage in sexual activity |
| Sexual Offences Act 2003 | 30 | Sexual activity with a person with a mental disorder impeding choice (where the victim was a child) |
| Sexual Offences Act 2003 | 31 | Causing or inciting a person with a mental disorder impeding choice, to engage in sexual activity (where the victim was a child) |
| Sexual Offences Act 2003 | 32 | Engaging in sexual activity in the presence of a person with a mental disorder impeding choice (where the victim was a child) |
| Sexual Offences Act 2003 | 33 | Causing a person, with a mental disorder impeding choice, to watch a sexual act (where the victim was a child) |

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| Sexual Offences Act 2003 | 34 | Inducement, threat or deception to procure sexual activity with a person with a mental disorder (where the victim was a child) |
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| Sexual Offences Act 2003 | 35 | Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception (where the victim was a child) |
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| Sexual Offences Act 2003 | 36 | Engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder (where the victim was a child) |
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| Sexual Offences Act 2003 | 37 | Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception (where the victim was a child) |
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| Sexual Offences Act 2003 | 38 | Care workers: sexual activity with a person with a mental disorder (where the victim was a child) |
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| Sexual Offences Act 2003 | 39 | Care workers: causing or inciting sexual activity (where the victim was a child) |
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| Sexual Offences Act 2003 | 40 | Care workers: sexual activity in the presence of a person with a mental disorder (being a care worker involved in the care of a person who could reasonably be expected to have known had such a disorder intentionally engaged in an activity for the purpose of obtaining sexual gratification in the presence of/a place where you could be observed by that person knowing/believing that she/he was aware/intending that she/he should be aware that you were engaging in it) – (where the victim was a child) |
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| Sexual Offences Act 2003 | 41 | Care workers: causing a person with a mental disorder to watch a sexual act (being a care worker involved in the care of a person in a way which falls within s.42 of the SOA Act 2003 who had a mental disorder and who you knew/could reasonably be expected to have known such a disorder intentionally cause him/her to watch a third person/look at an image of a person engaging in a sexual activity) (where the victim was a child) |
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Children's Automatic Barring Offences - with right to make representations
(A person who commits one of these offences, subject to any qualifications set out, MAY be barred from working in regulated activity relating to CHILDREN.)

| Act | Section | Offence |
|------------|---------|------------|
| Common law | | Murder |
| Common law | | Kidnapping |

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| Common law | | Infanticide |
| Offences Against the Person Act 1861 | 21 | Attempt to choke & c. in order to commit or assist in the committing of any indictable offence |
| Offences Against the Person Act 1861 | 52 | Indecent assault on a female |
| Offences Against the Person Act 1861 | 53 | Fraudulent abduction of a girl under age against the will of her father & c. |
| Offences Against the Person Act 1861 | 54 | Forcible abduction of any woman with intent to marry or carnally know her & c. |
| Offences Against the Person Act 1861 | 55 | Abduction of a girl under 16 years of age |
| Offences Against the Person Act 1861 | 61 | Buggery (where the victim was under 16 or did not consent) |
| Offences Against the Person Act 1861 | 62 | Indecent assault upon a male, attempt to commit buggery, assault with intent to commit buggery (where the victim was under 16 or did not consent) |
| Criminal Law Amendment Act 1885 | 2 | (Procuration) |
| Criminal Law Amendment Act 1885 | 3 | Procuring defilement of a woman by threats or fraud or administering drugs |
| Criminal Law Amendment Act 1885 | 5 | Defilement of a girl under 17 years of age |
| Criminal Law Amendment Act 1885 | 6 | Householder & c. permitting defilement of young girl on his premises |
| Criminal Law Amendment Act 1885 | 7 | Abduction of a girl under 18 with intent to have carnal knowledge |
| Criminal Law Amendment Act 1885 | 8 | Unlawful detention with intent to have carnal knowledge |
| Criminal Law Amendment Act 1885 | 11 | Outrages on decency (where the victim was under 16 or did not consent, and the conviction has not been disregarded under Chapter 4 of Part 5 of the Protection of Freedoms Act 2012) |
| Vagrancy Act 1898 | 1 | Trading in prostitution |
| Punishment of Incest Act 1908 | 1 | Incest by males (where the victim was a child) |
| Punishment of Incest Act 1908 | 2 | Incest by females aged 16 or over (where the victim was a child) |
| Children and Young Persons Act 1933 | 1 | Cruelty to children (being a person 16 years or over or having responsibility for a child under 14/young person under 16 wilfully assaulted/ill treated/neglected/abandoned/exposed the child/young person in a manner likely to cause unnecessary suffering/injury to health) |
| Infanticide Act 1938 | 1 | Infanticide (caused the death of own child under age 12 months by wilful act/omission whilst balance of mind disturbed by offender not having recovered from giving birth to the child/effect of lactation consequent upon birth of the child) |

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| Sexual Offences Act 1956 | 1 | Rape (where the victim was an adult) |
| Sexual Offences Act 1956 | 2 | Procurement of a woman by threats (by threats or intimidation procured a woman/child to have unlawful sexual intercourse) |
| Sexual Offences Act 1956 | 3 | Procurement of a woman by false pretences (procured a woman/child to have unlawful sexual intercourse) |
| Sexual Offences Act 1956 | 4 | Administering drugs to obtain or facilitate intercourse |
| Sexual Offences Act 1956 | 6 | Sexual intercourse with a girl under the age of 16 |
| Sexual Offences Act 1956 | 7 | Intercourse with a defective |
| Sexual Offences Act | 9 | Procurement of a defective |

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| 1956 | | |
| Sexual Offences Act 1956 | 10 | Incest by a man (being man/boy had sexual intercourse with woman/girl he knew to be granddaughter/mother/sister/half-sister/daughter) (where the victim was a child) |
| Sexual Offences Act 1956 | 11 | Incest by a woman (being a woman with consent permitted a man you knew to be your grandfather/father/brother/half-brother/son to have sexual intercourse with you) (where the victim was a child) |
| Sexual Offences Act 1956 | 12 | Buggery (where the victim was under 16 or did not consent, and the conviction has not been disregarded under Chapter 4 of Part 5 of the Protection of Freedoms Act 2012) |
| Sexual Offences Act 1956 | 13 | Indecency between men (man aged 18/19/20 years or man over 21 years committed gross indecency with man under 16 years) (where the victim was under 16 or did not consent, and the conviction has not been disregarded under Chapter 4 of Part 5 of the Protection of Freedoms Act 2012) |
| Sexual Offences Act 1956 | 14 | Indecent assault on a woman |
| Sexual Offences Act 1956 | 15 | Indecent assault on a man |
| Sexual Offences Act 1956 | 16 | Assault with intent to commit buggery |
| Sexual Offences Act 1956 | 17 | Abduction of a woman by force for the sake of her property |
| Sexual Offences Act 1956 | 19 | Abduction of unmarried girl under 18 |
| Sexual Offences Act 1956 | 20 | Abduction of unmarried girl under 16 |
| Sexual Offences Act 1956 | 21 | Abduction of defective from parent or guardian |
| Sexual Offences Act 1956 | 22 | Causing prostitution of women |

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| Sexual Offences Act 1956 | 23 | Procuration of girl under 21 |
| Sexual Offences Act 1956 | 24 | Detention of a woman in a brothel or other premises |
| Sexual Offences Act 1956 | 25 and 26 | Permitting girl, under 13, or between 13 and 16, to use premises for intercourse |
| Sexual Offences Act 1956 | 27 | Permitting defective to use premises for intercourse |
| Sexual Offences Act 1956 | 28 | Causing or encouraging prostitution of, intercourse with or indecent assault on girl under 16 |
| Sexual Offences Act 1956 | 29 | Causing or encouraging prostitution of defective |
| Sexual Offences Act 1956 | 30 | Man living on earnings of prostitution |
| Sexual Offences Act 1956 | 31 | Woman exercising control over prostitute |
| Mental Health Act 1959 | 128 | Sexual intercourse with patients |
| Indecency with Children Act 1960 | 1 | Indecency with children under the age of sixteen |
| Sexual Offences Act | 4 | Procuring others to commit homosexual acts |

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| 1967 | | |
| Sexual Offences Act 1967 | 5 | Living on the earnings of male prostitution |
| Theft Act 1968 | 9(1)(a) | Burglary (with intent to commit rape) |
| Misuse of Drugs Act 1971 | 4(3) | Production or supply of controlled drugs (where the victim was a child) |
| Criminal Law Act 1977 | 54 | Inciting a girl under the age of 16 to have incestuous sexual intercourse |
| Protection of Children Act 1978 | 1(1) | Take, or permit to be taken, or to make any indecent photograph or pseudo-photograph of a child; distribution or possession of indecent photograph of a child |
| Customs and Excise Management Act 1979 | 170 | Penalty for fraudulent evasion of duty relating to importation of obscene material |
| Mental Health Act 1983 | 127 | Ill-treatment or wilful neglect of a patient with a mental disorder |
| Child Abduction Act 1984 | 1 | Abduction of a child by parent |
| Child Abduction Act 1984 | 2 | Abduction of child by other persons |
| Criminal Justice Act 1988 | 160 | Possession of indecent photographs of children |
| Sexual Offences (Amendment) Act 2000 | 3 | Abuse of trust (being a person aged eighteen years or over in a position of trust has sexual intercourse/engage in sexual activity with a person under 18) |

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| Nationality, Immigration and Asylum Act 2002 | 145 | Traffic in prostitution |
| Female Genital Mutilation Act 2003 | 1 | Carrying out female genital mutilation (where the victim was a child) |
| Female Genital Mutilation Act 2003 | 2 | Aiding, abetting, counselling or procuring a girl to mutilate her own genitals (where the victim was a child) |
| Female Genital Mutilation Act 2003 | 3 | Aiding, abetting, counselling or procuring a non-UK person to mutilate overseas a girl's genitals (where the victim was a child) |
| Sexual Offences Act 2003 | 1 | Rape (where the victim was an adult) |
| Sexual Offences Act 2003 | 2 | Assault by penetration (where the victim was an adult) |
| Sexual Offences Act 2003 | 3 | Sexual assault |
| Sexual Offences Act 2003 | 4 | Causing a person to engage in sexual activity without consent |
| Sexual Offences Act 2003 | 4(1A) | Trafficking people for labour and other exploitation |
| Sexual Offences Act 2003 | 9 | Sexual activity with a child |
| Sexual Offences Act 2003 | 10 | Causing or inciting a child to engage in sexual activity |
| Sexual Offences Act 2003 | 11 | Engaging in sexual activity in the presence of a child (being a person aged 18 years or over for the purpose of obtaining sexual gratification intentionally engaged in sexual activity in the presence of / a place where you could be observed by a child under 13 OR 13/14/15 years knowing / believing that the child was or intending |

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| | | that the child should be aware that you were engaging in that activity) |
| Sexual Offences Act 2003 | 12 | Causing a child to watch a sexual act (being a person aged 18 years or over for the purpose of obtaining sexual gratification intentionally caused a child under 13 OR 13/14/15 years whom you did not reasonably believe was aged 16 years or over to watch a third person/look at an image of any person engaging in a sexual activity) |
| Sexual Offences Act 2003 | 14 | Arranging or facilitating commission of a child sex offence |
| Sexual Offences Act 2003 | 15 | Meeting a child following sexual grooming (being a person 18 or over on at least two earlier occasions met/communicated with a girl/boy under 16 and who you did not reasonably believe was 16 or over intentionally met/travelled with the intention of meeting that girl/boy and at the time you intended to do anything to / in respect of her/him during/after the meeting and in any part of the world which if done would have involved the commission by you of a relevant offence) |

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| Sexual Offences Act 2003 | 16 | Abuse of position of trust: sexual activity with a child |
| Sexual Offences Act 2003 | 17 | Abuse of position of trust: causing or inciting a child to engage in sexual activity |
| Sexual Offences Act 2003 | 18 | Abuse of position of trust: sexual activity in the presence of a child (being a person 18 or over in a position of trust in relation to a child under 13 for the purpose of obtaining sexual gratification intentionally engaged in sexual activity the presence of/where you could be observed by that child knowing or believing that the child was / intending that the child should be aware that you were engaging in that activity or caused that child to watch a third person / look at an image of any person engaging in a sexual activity) |
| Sexual Offences Act 2003 | 19 | Abuse of position of trust: causing a child to watch a sexual act (being a person 18 or over in a position of trust in relation to a child aged 13/14/15/16/17 whom you did not reasonably believe was aged 18 or over or the purpose of obtaining sexual gratification intentionally caused that child to watch a third person / look at an image of a person engaging in sexual activity) |
| Sexual Offences Act 2003 | 25 | Sexual activity with a child family member |
| Sexual Offences Act 2003 | 26 | Inciting a child family member to engage in sexual activity |
| Sexual Offences Act 2003 | 30 | Sexual activity with a person with a mental disorder impeding choice (where the victim was an adult) |
| Sexual Offences Act 2003 | 31 | Causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity (where the victim was an adult) |
| Sexual Offences Act 2003 | 32 | Engaging in sexual activity in the presence of a person with a mental disorder impeding choice (where the victim is an adult) |

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| Sexual Offences Act 2003 | 33 | Causing a person, with a mental disorder impeding choice, to watch a sexual act (where the victim was an adult) |
| Sexual Offences Act 2003 | 34 | Inducement, threat or deception to procure sexual activity with a person with a mental disorder (where the victim was an adult) |
| Sexual Offences Act 2003 | 35 | Causing a person with a mental disorder to engage in or to agree to engage in sexual activity by inducement, threat or deception (where the victim was an adult) |
| Sexual Offences Act 2003 | 36 | Engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder (where the victim was an adult) |
| Sexual Offences Act 2003 | 37 | Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception (where the victim was an adult) |

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| Sexual Offences Act 2003 | 38 | Care workers: sexual activity with a person with a mental disorder (where the victim was an adult) |
| Sexual Offences Act 2003 | 39 | Care workers: causing or inciting sexual activity (where the victim was an adult) |
| Sexual Offences Act 2003 | 40 | Care workers: sexual activity in the presence of a person with a mental disorder (being a care worker involved in the care of a person who could reasonably be expected to have known had such a disorder intentionally engaged in an activity for the purpose of obtaining sexual gratification in the presence of/a place where you could be observed by that person knowing/believing that she/he was aware/intending that she/he should be aware that you were engaging in it) (where the victim was an adult) |
| Sexual Offences Act 2003 | 41 | Care workers: causing a person with a mental disorder to watch a sexual act (being a care worker involved in the care of a person in a way which falls within s.42 of the SOA 2003 who had a mental disorder and who you knew/could reasonably be expected to have known had such a disorder intentionally caused him/her to watch a third person/look at an image of a person engaging in a sexual activity) (where the victim was an adult) |
| Sexual Offences Act 2003 | 47 | Paying for sexual services of a child |
| Sexual Offences Act 2003 | 48 | Causing or inciting child prostitution or pornography |
| Sexual Offences Act 2003 | 49 | Controlling a child prostitute or a child involved in pornography |
| Sexual Offences Act 2003 | 50 | Arranging or facilitating child prostitution or pornography |
| Sexual Offences Act 2003 | 52 | Causing or inciting prostitution for gain |
| Sexual Offences Act 2003 | 53 | Controlling prostitution for gain |
| Sexual Offences Act 2003 | 57 | Trafficking into the UK for sexual exploitation |
| Sexual Offences Act 2003 | 58 | Trafficking within the UK for sexual exploitation |
| Sexual Offences Act 2003 | 59 | Trafficking out of the UK for sexual exploitation |
| Sexual Offences Act 2003 | 59A | Trafficking people for sexual exploitation |
| Sexual Offences Act 2003 | 61 | Administering a substance with intent (administered a substance to OR caused a substance to be taken by another person knowing he/she did not consent and with the intention of stupefying/overpowering him/her so as to enable any person to engage in a sexual activity involving him/her) |

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| Sexual Offences Act 2003 | 62 and 63 | Committing an offence or trespassing with intent to commit a sexual offence (where that offence leads to automatic barring) |
| Sexual Offences Act 2003 | 66 | Exposure (intentionally exposed genitals intending someone would see them causing alarm/distress) (where the victim was under 16) |
| Sexual Offences Act 2003 | 67 | Voyeurism (for the purpose of obtaining sexual gratification observed/operated equipment/recorded/installed equipment OR constructed/adapted a structure /part of a structure to observe another person doing a private act knowing that the person did not consent to being observed) (where the victim was under 16) |
| Sexual Offences Act 2003 | 72 | Sexual offences committed outside the UK (corresponding to an offence which leads to automatic barring from work with children with the right to make representations) |
| Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 | 4 | Trafficking people for exploitation |
| Domestic Violence, Crime and Victims Act 2004 | 5 | Causing or allowing a child or vulnerable adult to die, or suffer serious physical harm |
| Mental Capacity Act 2005 | 44 | Ill-treatment or wilful neglect |
| Criminal Justice and Immigration Act 2008 | 63 | Possession of extreme pornographic images |
| Coroners and Justice Act 2009 | 62 | Possession of prohibited images of children |

VULNERABLE ADULTS' AUTOBAR OFFENCES

| Adults' Barring Offences - with no right to make representations (A person who commits one of these offences, subject to any qualifications set out, WILL be barred from working in regulated activity relating to ADULTS.) | | |
|---|---------|--|
| Act | Section | Offence |
| Sexual Offences Act 2003 | 30 | Sexual activity with a person with a mental disorder impeding choice |
| Sexual Offences Act 2003 | 31 | Causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity |
| Sexual Offences Act 2003 | 32 | Engaging in sexual activity in the presence of a person with a mental disorder impeding choice |
| Sexual Offences Act 2003 | 33 | Causing a person, with a mental disorder impeding choice, to watch a sexual act |
| Sexual Offences Act 2003 | 34 | Inducement, threat or deception to procure sexual activity with a person with a mental disorder |
| Sexual Offences Act 2003 | 35 | Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception |
| Sexual Offences Act 2003 | 36 | Engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder |
| Sexual Offences Act 2003 | 37 | Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception |
| Sexual Offences Act 2003 | 38 | Care workers: sexual activity with a person with a mental disorder |
| Sexual Offences Act 2003 | 39 | Care workers: causing or inciting sexual activity |
| Sexual Offences Act 2003 | 40 | Care workers: sexual activity in the presence of a person with a mental disorder (being a care worker involved in the care of a person who could reasonably be expected to have known had such a disorder intentionally engaged in an activity for the purpose of obtaining sexual gratification in the presence of/a place where you could be observed by that person knowing/believing that she/he was aware/intending that she/he should be aware that you were engaging in it) |
| Sexual Offences Act 2003 | 41 | Care workers: causing a person with a mental disorder to watch a sexual act (being a care worker involved in the care of a person in a way which falls with s.42 of the SOA 2003 who had a mental disorder and who you knew/could reasonably be expected to have known had such a disorder intentionally caused him/her to watch a third person/look at an image of a person engaging in sexual activity) |
| | | |

| Adults' Barring Offences - with right to make representations (A person who commits one of these offences, subject to any qualifications set out, MAY be barred from working in regulated activity relating to ADULTS.) | | |
|--|----------------|--|
| Act | Section | Offence |
| Common law | | Murder |
| Common law | | Kidnapping |
| Common law | | Infanticide |
| Offences Against the Person Act 1861 | 21 | Attempting to choke & c. in order to commit or assist in committing an indictable offence |
| Offences Against the Person Act 1861 | 52 | Indecent assault upon a female |
| Offences Against the Person Act 1861 | 53 | Fraudulent abduction of a girl under age against the will of her father & c. |
| Offences Against the Person Act 1861 | 54 | Forcible abduction of any woman with intent to marry or carnally know her & c. |
| Offences Against the Person Act 1861 | 55 | Abduction of a girl under 16 years of age |
| Offences Against the Person Act 1861 | 61 | Buggery (where the victim was under 16 or did not consent) |
| Offences Against the Person Act 1861 | 62 | Indecent assault upon a male, attempt to commit buggery, assault with intent to commit buggery (where the victim was under 16 or did not consent) |
| Criminal Law Amendment Act 1885 | 2 | (Procuration) |
| Criminal Law Amendment Act 1885 | 3 | Procuring defilement of woman by threats or fraud or administering drugs |
| Criminal Law Amendment Act 1885 | 4 | Defilement of a girl under 14 years of age |
| Criminal Law Amendment Act 1885 | 5 | Defilement of a girl under 17 years of age |
| Criminal Law Amendment Act 1885 | 6 | Householder & c. permitting a defilement of young girl on his premises |
| Criminal Law Amendment Act 1885 | 7 | Abduction of girl under 18 with intent to have carnal knowledge |
| Criminal Law Amendment Act 1885 | 8 | Unlawful detention with intent to have carnal knowledge |
| Criminal Law Amendment Act 1885 | 11 | Outrages on decency (where the victim was under 16 or did not consent, and the conviction has not been disregarded under Chapter 4 of Part 5 of the Protection of Freedoms Act 2012) |
| Vagrancy Act 1898 | 1 | Trading in prostitution |
| Punishment of Incest Act 1908 | 1 | Incest by males (where the victim was a child or did not consent) |

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| Punishment of Incest Act 1908 | 2 | Incest by females aged 16 or over (where the victim was a child or did not consent) |
| Children and Young Persons Act 1933 | 1 | Cruelty to children |
| Infanticide Act 1938 | 1 | Infanticide (caused the death of own child aged under 12 months by wilful act/omission whilst balance of mind disturbed by offender not having recovered from giving birth to the child/effect of lactation consequent upon birth |

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| | | of the child) |
| Sexual Offences Act 1956 | 1 | Rape |
| Sexual Offences Act 1956 | 2 | Procurement of a woman by threats |
| Sexual Offences Act 1956 | 3 | Procurement of a woman by false pretences |
| Sexual Offences Act 1956 | 4 | Administering drugs to obtain or facilitate intercourse |
| Sexual Offences Act 1956 | 5 | Sexual intercourse with a girl under the age of 13 |
| Sexual Offences Act 1956 | 6 | Sexual intercourse with a girl under the age of 16 |
| Sexual Offences Act 1956 | 7 | Intercourse with defective |
| Sexual Offences Act 1956 | 9 | Procurement of defective |
| Sexual Offences Act 1956 | 10 | Incest by a man (where the victim was a child or did not consent) |
| Sexual Offences Act 1956 | 11 | Incest by a woman (where the victim was a child or did not consent) |
| Sexual Offences Act 1956 | 12 | Buggery (where the victim was under 16 or did not consent, and the conviction has not been disregarded under Chapter 4 of Part 5 of the Protection of Freedoms Act 2012) |
| Sexual Offences Act 1956 | 13 | Indecency between men (man aged 18/19/20 years or man over 21 years committed gross indecency with man under 16 years) (where the victim was under 16 or did not consent, and the conviction has not been disregarded under Chapter 4 of Part 5 of the Protection of Freedoms Act 2012) |
| Sexual Offences Act 1956 | 14 | Indecent assault on a woman |
| Sexual Offences Act 1956 | 15 | Indecent assault on a man |
| Sexual Offences Act 1956 | 16 | Assault with intent to commit buggery |

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| Sexual Offences Act 1956 | 17 | Abduction of a woman by force or for the sake of her property (took away/detained a woman against her will and by force with intention she should marry/ have unlawful sexual intercourse with self/another person) |
| Sexual Offences Act 1956 | 19 | Abduction of unmarried girl under 18 |
| Sexual Offences Act 1956 | 20 | Abduction of unmarried girl under 16 |
| Sexual Offences Act 1956 | 21 | Abduction of defective from parent or guardian |
| Sexual Offences Act 1956 | 22 | Causing prostitution of women |
| Sexual Offences Act 1956 | 23 | Procuration of girl under 21 |
| Sexual Offences Act 1956 | 24 | Detention of a woman in a brothel or other premises |

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| Sexual Offences Act 1956 | 25 and 26 | Permitting girl, under 13, or between 13 and 16, to use premises for intercourse |
| Sexual Offences Act 1956 | 27 | Permitting defective to use premises for intercourse |
| Sexual Offences Act 1956 | 28 | Causing or encouraging prostitution of, intercourse with or indecent assault on, girl under 16 |
| Sexual Offences Act 1956 | 29 | Causing or encouraging prostitution of defective |
| Sexual Offences Act 1956 | 30 | Man living on earnings of prostitution |
| Sexual Offences Act 1956 | 31 | Woman exercising control over prostitute |
| Mental Health Act 1959 | 128 | Sexual intercourse with patients |
| Indecency with Children Act 1960 | 1 | Indecency with children under the age of 16 |
| Sexual Offences Act 1967 | 4 | Procuring others to commit homosexual acts |
| Sexual Offences Act 1967 | 5 | Living on the earnings of male prostitution |
| Theft Act 1968 | 9(1)(a) | Burglary (with intent to commit rape) |
| Misuse of Drugs Act 1971 | 4(3) | Production or supply of controlled drugs (where the victim was a child) |
| Criminal Law Act 1977 | 54 | Inciting a girl under the age of 16 to have incestuous sexual intercourse |

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| Protection of Children Act 1978 | 1 | Take, or permit to be taken, or to make any indecent photograph or pseudo-photograph of a child; distribution or possession of indecent photograph of a child |
| Customs and Excise Management Act 1979 | 170 | Penalty for fraudulent evasion of duty relating to importation of indecent or obscene material |
| Mental Health Act 1983 | 127 | Ill-treatment or wilful neglect of a patient with a mental disorder |
| Child Abduction Act 1984 | 1 | Abduction of child by a parent |
| Child Abduction Act 1984 | 2 | Abduction of child by other persons |
| Criminal Justice Act 1988 | 160 | Possession of indecent photographs of children |
| Sexual Offences (Amendment) Act 2000 | 3 | Abuse of trust (being a person aged 18 years or over in a position of trust has sexual intercourse/engage in sexual activity with a person under 18) |

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| Nationality, Immigration and Asylum Act 2002 | 145 | Traffic in prostitution |
| Female Genital Mutilation Act 2003 | 1 | Carrying out female genital mutilation (where the victim was a child) |
| Female Genital Mutilation Act 2003 | 2 | Aiding, abetting, counselling or procuring a girl to mutilate her own genitals (where the victim was a child) |
| Female Genital Mutilation Act 2003 | 3 | Aiding, abetting, counselling or procuring a non-UK person to mutilate a girl's genitals (where the victim was a child) |
| Sexual Offences Act 2003 | 1 | Rape |
| Sexual Offences Act 2003 | 2 | Assault by penetration |
| Sexual Offences Act 2003 | 3 | Sexual assault |
| Sexual Offences Act 2003 | 4 | Causing a person to engage in sexual activity without consent |
| Sexual Offences Act 2003 | 4(1A) | Trafficking people for labour and other exploitation |
| Sexual Offences Act 2003 | 5 | Rape of a child under 13 |

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| Sexual Offences Act 2003 | 6 | Assault of a child under 13 by penetration |
| Sexual Offences Act 2003 | 7 | Sexual assault of a child under 13 |
| Sexual Offences Act 2003 | 8 | Causing or inciting a child under 13 to engage in sexual activity |
| Sexual Offences Act 2003 | 9 | Sexual activity with a child |
| Sexual Offences Act 2003 | 10 | Causing or inciting a child to engage in sexual activity |
| Sexual Offences Act 2003 | 11 | Engaging in sexual activity in the presence of a child (being a person aged 18 years or over for the purpose of obtaining sexual gratification intentionally engaged in sexual activity in the presence or/a place where you could be observed by a child under 13 OR 13/14/15 years knowing/believing that a child was or intending that the child should be aware that you were engaging in that activity) |
| Sexual Offences Act 2003 | 12 | Causing a child to watch a sexual act (being a person of 18 years or over for the purpose of obtaining sexual gratification intentionally caused a child under 13 OR 13/14/15 years whom you did not reasonably believe was aged 16 years or over to watch a third person/look at an image of any person engaging in sexual activity) |

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| Sexual Offences Act 2003 | 14 | Arranging or facilitating commission of a child sex offence |
| Sexual Offences Act 2003 | 15 | Meeting a child following sexual grooming (being a person 18 or over having on at least two earlier occasions met/communicated with a girl/boy under 16 and who you did not reasonably believe was 16 or over intentionally met/travelled with the intention of meeting that girl/boy and at the time you intended to do anything to/in respect of him/her during/after the meeting and in any part of the world which if done would have involved the commission by you of a relevant offence) |
| Sexual Offences Act 2003 | 16 | Abuse of position of trust: sexual activity with a child |
| Sexual Offences Act 2003 | 17 | Abuse of position of trust: causing or inciting a child to engage in sexual activity |

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| Sexual Offences Act 2003 | 18 | Abuse of position of trust: sexual activity in the presence of a child (being a person 18 or over in a position of trust in relation to a child under 13 for the purpose of obtaining sexual gratification intentionally engaged in sexual activity in the presence of/where you could be observed by that child knowing or believing that the child was/intending that the child should be aware that you were engaging in that activity or caused that child to watch a third person/look at an image of any person engaging in a sexual activity) |
| Sexual Offences Act 2003 | 19 | Abuse of position of trust: causing a child to watch a sexual act (being a person 18 or over in a position of trust in relation to a child aged 13/14/15/16/17 whom you did not reasonably believe was aged 18 or over for the purpose of obtaining sexual gratification intentionally caused that child to watch a third person/look at an image of a person engaging in sexual activity) |
| Sexual Offences Act 2003 | 25 | Sexual activity with a child family member |
| Sexual Offences Act 2003 | 26 | Inciting a child family member to engage in sexual activity |
| Sexual Offences Act 2003 | 47 | Paying for sexual services of a child |
| Sexual Offences Act 2003 | 48 | Causing or inciting child prostitution or pornography |
| Sexual Offences Act 2003 | 49 | Controlling a child prostitute or a child involved in pornography |
| Sexual Offences Act 2003 | 50 | Arranging or facilitating child prostitution or pornography |
| Sexual Offences Act 2003 | 52 | Causing or inciting prostitution for gain |
| Sexual Offences Act 2003 | 53 | Controlling prostitution for gain |
| Sexual Offences Act 2003 | 57 | Trafficking into the UK for sexual exploitation |
| Sexual Offences Act 2003 | 58 | Trafficking within the UK for sexual exploitation |
| Sexual Offences Act 2003 | 59 | Trafficking out of the UK for sexual exploitation |
| Sexual Offences Act 2003 | 59A | Replaces Sections 57-59 |
| Sexual Offences Act 2003 | 61 | Administering a substance with intent (administered a substance to OR caused a substance to be taken by another person knowing he/she did not consent and with the intention of stupefying/overpowering him/her so as to enable any person to engage in a sexual activity involving him/her) |

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| Sexual Offences Act 2003 | 62 and 63 | Committing an offence or trespassing with intent to commit a sexual offence |
| Sexual Offences Act 2003 | 66 | Exposure (where the victim was under 16) |
| Sexual Offences Act 2003 | 67 | Voyeurism (for the purpose of obtaining sexual gratification observed/operated equipment/recorded/installed equipment OR constructed/adapted a structure/part of a structure to observe another person doing a private act knowing that the person did not consent to being observed) (where the victim was under 16) |
| Sexual Offences Act 2003 | 72 | Sexual offences committed outside the UK (corresponding to an offence which leads to an automatic barring from work with adults with the right to make representations) |
| Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 | 4 | Trafficking people for exploitation |
| Domestic Violence, Crime and Victims Act 2004 | 5 | Causing or allowing a child or vulnerable adult to die, suffer serious physical harm |
| Mental Capacity Act 2005 | 44 | Ill-treatment or wilful neglect |
| Criminal Justice and Immigration Act 2008 | 63 | Possession of extreme pornographic images |
| Coroners and Justice Act 2009 | 62 | Possession of prohibited images of children |

ANNEX B.1**REGULATED ACTIVITY IN RELATION TO CHILDREN**

(Text of factual note by Department for Education and Department of Health, Social Services and Public Safety (Northern Ireland), June 2012)

Regulated activity is work that a barred person must not do. This note provides information on the scope of Regulated Activity in relation to children, defined in the Safeguarding Vulnerable Groups (SVG) Act 2006 and the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, both as amended (in particular by, respectively, section 64 and Schedule 7, Protection of Freedoms Act 2012). This note is about the law in England and Wales, and in Northern Ireland.

This note comprises (I) a short summary, and (II) a full description.

Regulated activity still excludes family arrangements; and personal, non- commercial arrangements.

(I) Summary

The new definition of regulated activity (i.e. work that a barred person must not do) in relation to children comprises, in summary:

- (i) unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/ guidance on well-being, or drive a vehicle only for children;
- (ii) work for a limited range of establishments ('specified places'), with opportunity for contact: e.g. schools, children's homes, childcare premises. Not work by supervised volunteers;

Work under (i) or (ii) is regulated activity only if done regularly: "regularly" is defined in detail on the following pages under items (a) to (f).

HM Government is publishing statutory guidance on supervision of activity that would be regulated activity if unsupervised.

- (iii) relevant personal care, e.g. washing or dressing; or health care by or supervised by a professional;
- (iv) registered childminding; and foster-carers.

A full detailed description of the above scope follows below.

(II) Full description of scope

Part 1: Regulated Activity for children – Activities Part 2: Regulated Activity for children – Establishments

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| Part 1: Regulated Activity in relation to children - Activities |
| |

The activities in the left-hand column are regulated activity in relation to children, subject to:

- exceptions in the right-hand column;
- different provisions for “establishments” (specified places) in Part 2 below.

Do not read the left-hand column in isolation from the right-hand column or from Part 2. In the right-hand column:

- “new” exceptions are those in the 2012 Act;
- “existing” exceptions are already in the 2006 Act or 2007 Order as amended before the 2012 Act, or in secondary legislation under it.

| Activity | Exceptions – not Regulated Activity |
|----------------------------|---|
| All of regulated activity. | Activity by a person in a group assisting or acting on behalf of, or under direction of, another person engaging in regulated activity in relation to children. This is the “peer exemption”. |

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| In para 2(1) of Schedule 4: | |
| <p>(a) Teaching, training or instruction of children, carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period, or overnight*.</p> <p>Day to day management or supervision on a regular basis of a person providing this activity which would be regulated if unsupervised. Para 1(15).</p> <p>*Sources: - once a week: guidance, March 2010, Annex B, page 70 para B.12; - four or more days/ overnight: Schedule 4, para 10(1) as amended.</p> | <p>New:</p> <ul style="list-style-type: none"> ☐ Supervised activity - under reasonable day to day supervision by another person engaging in regulated activity. Para 2(3A) <p>Existing:</p> <ul style="list-style-type: none"> ☐ Activity relating to a child in the course of his employment, not by a person for whom arrangements exist principally for that purpose. ☐ Activity merely incidental to activity with adults. |
| | |

| Activity | Exceptions – not Regulated Activity |
|---|---|
| <p>(b) Care or supervision of children if carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period or overnight.</p> <ul style="list-style-type: none"> ☐ See rows (i) to (iii) below re types of care. <p>Day to day management or supervision on a regular basis of a person providing this activity which would be regulated if unsupervised.</p> | <p>New:</p> <p>Supervised activity - under reasonable day to day supervision by another person engaging in regulated activity. Para 2(3B)(b).</p> <p>Existing:</p> <ul style="list-style-type: none"> ☐ Activity relating to a child in course of his employment, not by person for whom arrangements exist principally for that purpose. ☐ Activity merely incidental to activity with adults. |
| Particular types of care within (b) above, which apply to any child, even if done only once: (i) to (ii) below. | |

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| <p>(i) Relevant personal care. Para 1(1B): (a) physical help in connection with eating or drinking, for reasons of illness or disability; (b) physical help for reasons of age, illness, or disability, in connection with:</p> <ul style="list-style-type: none"> ☐ toileting (including re menstruation); ☐ (ii-iii) washing, bathing, or dressing; <p>(c)-(d) prompting with supervision, in relation to (a)-(b), where the child is</p> | |
| <p>otherwise unable to decide; (e)-(f) other training or advice in relation to (a)-(b)</p> | |
| <p>(ii) Health care. Para 1(1C): All forms of health care relating to physical or mental health including palliative care and procedures similar to medical or surgical care.</p> | <p>New:</p> <ul style="list-style-type: none"> ☐ Health care not by, or directed or supervised by, a health care professional*. Para 2(3B)(a). <p>*Defined by reference to regulatory bodies. Para 1(1C).</p> |
| <p>(c) Advice or guidance provided wholly or mainly for children relating to their physical, emotional or educational well-being if carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period or overnight</p> | <p>New:</p> <ul style="list-style-type: none"> ☐ Legal advice. Para 2(3C); <p>Existing:</p> <ul style="list-style-type: none"> ☐ Activity relating to a child in course of his employment, not by person for whom arrangements exist principally for that purpose. |
| <p>(a), (b) & (c): Definition of “overnight”: In relation to teaching, training or instruction; care or supervision; or advice or guidance, it is also regulated activity if carried out (even once) at any time between 2am and 6am and with an opportunity for face-to-face contact with children. Schedule 4, Para 10(2).</p> | |

| Activity | Exceptions – not Regulated Activity |
|---|---|
| <p>Former category (d), treatment or therapy, is now replaced by “health care” provisions</p> | |
| <p>(e) Moderating a public electronic interactive communication service likely to be used wholly or mainly by children, carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period.</p> | <p>Existing:</p> <ul style="list-style-type: none"> ☐ Activity by a person who does not have access to the content of the matter, or contact with users. |

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| <p>(f) Driving a vehicle being used only for conveying children and carers or supervisors under arrangements as prescribed*, carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period. *Prescribed by SI 2009-15483.</p> | |
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| <p>In para 1 of schedule 4:</p> | |
| <p>(3) Early years or later years childminding* with a requirement to register, or voluntary registration, under Childcare Act 20064. *That is: on domestic premises, for reward;</p> | |
| <p>as opposed to “childcare premises”, part 2 below.</p> | |
| <p>(5) Fostering** a child. **Defined at section 535.</p> | <p>Existing:</p> <ul style="list-style-type: none"> □ Care arranged by family members and not for reward is not regulated activity. Section 53(8)6. □ Local Authority can foster child with barred person who is, or lives with, a relative of the child. SI 2009-1797, Art 3(2). |
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|------------------------|---|
| <p>Activity</p> | <p>Exceptions – not Regulated Activity</p> |
|------------------------|---|

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| <p>(6) & (9) to (13)***: Wales only:</p> <ul style="list-style-type: none"> ☐ child minding with requirement to register under Children Act 1989 including activities that require registration if child under eight; ☐ functions of Children’s Commissioner for Wales and deputy; ☐ inspection functions in relation to education, training, childcare and children’s health or social care. <p>***In Northern Ireland: (6), (6A), (7A) & (8):</p> <ul style="list-style-type: none"> ☐ Guardians Ad Litem; ☐ Controllers appointed under Mental Health (NI) Order 1986; ☐ Inspection/ Registration functions in education, training, juvenile justice, childcare, and children’s health or social care. | |
| <p>(14)7 Day to day management on a regular basis of a person providing a regulated activity in Schedule 4, paragraphs 1(1) or (2) – that is, activity:</p> <ul style="list-style-type: none"> - at (a) to (f) above; or - in establishments in part 2 below; and - (9C) or (11) in Wales only. | |

Part 2: Regulated Activity in relation to Children - Establishments

An activity is regulated activity in relation to children if carried out (subject to exceptions below):

- ☐ in one of the following establishments;
- ☐ frequently (once a week or more often), or on 4 or more days in a 30-day period;
- ☐ by the same person, engaged in work for or in connection with the purposes of the establishment; and
- ☐ it gives the person the opportunity, in their work, to have contact with children. Day

to management or supervision on a regular basis of a person providing the above regulated activity for children is regulated activity for children.

| Establishment | Exceptions – not Regulated Activity |
|------------------------|--|
| Schedule 4, para 3(1): | |

| | |
|---|---|
| <p>(a) schools (all or mainly full-time, for children); (aa) pupil referral units (also known as Short Stay Schools) not falling within the above; (b) nursery schools; (d) institutions for the detention of children; (e) & (f) children’s homes; (fa) children’s centres in England; (g) childcare premises (including nurseries).</p> <p>Day to day management or supervision on a regular basis of a volunteer activity which would be regulated if unsupervised. Para 1(15).</p> <p>In Northern Ireland (under Schedule 2, Para 3(1) of the SVG Order): (a) schools (all or mainly full-time, for children); (b) nursery schools; (bb) Alternative Education Provision; (c) a children’s hospital; (d) institutions for the detention of children; (e) children’s homes; (f) childcare premises.</p> <p>In Northern Ireland: day to day management or supervision on a regular basis of a volunteer activity which would be regulated if unsupervised. Para 1(13)</p> | <p>New:</p> <ul style="list-style-type: none"> □ Activity by person contracted (or volunteering) to provide occasional or temporary services (not teaching, training or supervision of children). Para 1(2A) & (2B)(a); □ Volunteering, under day to day supervision of another person engaging in regulated activity. <i>Para 1 (2B)(b)</i>. <p>Existing:</p> <ul style="list-style-type: none"> □ Activity by a person in a group assisting or acting on behalf of, or under direction of another person engaging in regulated activity; □ childcare premises which are the home of a parent etc. of at least one child to whom the childcare or child minding is provided; □ for activity undertaken regularly in a number of different establishments, but only infrequently in each: each establishment is only arranging the activity infrequently, so each establishment is not a regulated activity provider in relation to that activity. |
|---|---|

Note: Categories for office holders (“Positions” - Para 1(9) and Para 4) and for Inspectorates in England (sub-paragraphs of Para 1) are removed. In Northern Ireland, categories for office holders (“Positions” – Para 1(7) and Para 4) are removed.

REGULATED ACTIVITY RELATING TO ADULTS

(Extract from Government Factual Note, August 2012)

This document provides information on the scope of Regulated Activity in relation to adults, as defined in the Safeguarding Vulnerable Groups Act 2006 (SVGA) and as amended by the Protection of Freedoms Act 2012 (PoFA). This note describes the situation in England and Wales (please note that certain inspection functions and commissioners are additionally within regulated activity in Wales).

The definition of regulated activity for adults from 10th September 2012 will identify the activities provided to any adult which, if any adult requires them, will mean that the adult will be considered vulnerable at that particular time. The SVGA will no longer label adults as 'vulnerable' because of the setting in which the activity is received, nor because of the personal characteristics or circumstances of the adult receiving the activities. This means, for example, anyone providing personal care to an adult is in regulated activity irrespective of whether that occurs in, say, a hospital, a care home, a day care centre, a prison or in sheltered housing.

There is no longer a requirement for a person to carry out the activities a certain number of times before they are engaging in regulated activity. Any time a person engages in the activities set out below, they are engaging in regulated activity.

General points

1. Regulated activity continues to exclude any activity carried out in the course of family relationships, and personal, non-commercial relationships.

a. Family relationships involve close family (e.g. parents, siblings, grandparents) and relationships between two people who live in the same household and treat each other as family.

b. Personal, non commercial relationships are arrangements where either no money changes hands, or any money that does change hands is not part of a commercial relationship (for example, gifting a friend money for petrol after they have driven you to the hospital), and the arrangement is made between friends or family friends.

2. An adult is a person aged 18 years or over.

3. A person whose role includes the day to day management or supervision of any person who is engaging in regulated activity, is also in regulated activity.

New Definition of Regulated Activity

There are six categories within the new definition of regulated activity.

Providing Health Care

1. The provision of **health care** by any **health care professional** to an adult, or the provision of health care to an adult under the direction or supervision of a health care professional, is regulated activity.
 - a. A **health care professional** is a person who is regulated by any of the following professional regulators:
 - General Medical Council
 - General Dental Council
 - General Optical Council
 - General Osteopathic Council
 - General Chiropractic Council
 - General Pharmaceutical Council
 - Pharmaceutical Society of Northern Ireland
 - Nursing and Midwifery Council
 - Health Professions Council
 - b. **Health care** includes all forms of health care provided for adults, whether relating to physical or mental health, and includes palliative care. This includes diagnostic tests and investigative procedures. **Health care** also includes procedures that are similar to forms of medical or surgical care that are not provided in connection with a medical condition. An example of this is taking blood from a blood donor or cosmetic surgery.
2. The provision of **psychotherapy and counselling** to an adult which is related to health care the adult is receiving from, or under the direction or supervision of, a health care professional, is regulated activity. This would include the provision of psychotherapy and counselling over the telephone. Life coaching is excluded.
3. **First aid**, when any person administering the first aid is doing so on behalf of an organisation established for the purpose of providing first aid (for example, St John Ambulance Service), is regulated activity. This includes first aid given by Community First Responders.
4. A worker employed for another purpose who volunteers, or is designated, to be that organisation's first aider is not in regulated activity. For example, a person who works in a department store whose role includes being a first aider is not engaging in regulated activity.
5. **Members of peer support groups** (for example, Alcoholics Anonymous), are not in regulated activity, even if the group is directed or supervised by a health care professional.
6. All staff who work in **community pharmacies and opticians** who are not regulated health care professionals will be excluded from regulated activity. For example, a person who works in a high street pharmacy providing health advice to customers over the pharmacy counter will not be in regulated activity.
7. Staff in GP surgeries or dental practices who do not provide health care (for example, receptionists) will not be in regulated activity.

Providing Personal Care

1. Anyone who provides an adult with physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails because of the adult's age, illness or disability, is in regulated activity.
2. Anyone who prompts and then supervises an adult who, because of their age, illness or disability, cannot make the decision to eat or drink, go to the toilet, wash or bathe, get dressed or care for their mouth, skin, hair or nails without that prompting and supervision, is in regulated activity.
3. Anyone who trains, instructs or provides advice or guidance which relates to eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails to adults who need it because of their age, illness or disability, is in regulated activity.
4. There is one exception to this. Excluded from regulated activity is any physical assistance provided to an adult in relation to the care of their hair when that assistance relates only to the cutting of the adult's hair. This is to ensure that hairdressers who cut the hair of patients and residents in hospitals and care homes are not engaging in regulated activity.

Illustrative examples:

1. A care assistant in a care home who cuts and files an adult's nails to keep the nails short and safe, because the adult cannot do it themselves (for example, because they cannot see well enough) would be engaging in regulated activity.
2. A beauty therapist who attends a day care centre once a week and provides manicures for anyone who would *like* one, instead of for people who *need them* because of their age, illness or disability, is not engaging in regulated activity.
3. A volunteer who prepares and serves a meal to an adult in their own home (but does not feed the adult) is not engaging in regulated activity. To be engaged in regulated activity you must provide physical assistance to the person, for example spoon feeding that person, or you must be prompting and supervising (for example, prompting and supervising a person with dementia, because without it they would not eat), or training or instructing (for example, teaching a person who has suffered a stroke to eat using adapted cutlery).
4. A health care assistant on a hospital ward who feeds an adult because they are too frail to feed themselves would be engaging in regulated activity.
5. A worker in a care home who reminds a person with dementia to eat their lunch, and ensures they do so is in regulated activity.

Providing Social Work

The activities of regulated social workers in relation to adults who are clients or potential clients are a regulated activity. These activities include assessing or reviewing the need for health or social care services, and providing ongoing support to clients.

Assistance with general household matters

Anyone who provides day-to-day assistance to an adult because of their age, illness or disability, where that assistance includes at least one of the following, is in regulated activity:

- a. managing the person's cash,
- b. paying the person's bills, or
- c. shopping on their behalf.

Illustrative examples:

1. A volunteer who collects shopping lists and the cash to pay for the shopping from older adults' homes, who then does the shopping on their behalf, would be engaging in regulated activity.
2. A befriender who helps a disabled person compile their weekly shopping list is not in regulated activity.

Assistance in the conduct of a person's own affairs

Anyone who provides assistance in the conduct of an adult's own affairs by virtue of:

- Lasting power of attorney under the Mental Capacity Act 2005 ○ Enduring power of attorney within the meaning of the Mental Capacity Act 2005 ○ Being appointed as the adult's deputy under the Mental Capacity Act 2005 ○ Being an Independent Mental Health Advocate ○ Being an Independent Mental Capacity Advocate
 - Providing independent advocacy services under the National Health Service Act 2006 or National Health Service (Wales) Act 2006
- Receiving payments on behalf of that person under the Social Security Administration Act 1992 is in regulated activity.

Conveying

1. Any drivers and any assistants who transport an adult because of their age, illness or disability to or from places where they have received, or will be receiving, health care, relevant personal care or relevant social work, are in regulated activity. The driver does, or the person assists in, such conveying on behalf of an organisation and for the purpose of enabling the adult to receive services. The meaning of health care, relevant personal care and relevant social work are discussed above.
2. In addition, hospital porters, Patient Transport Service drivers and assistants, Ambulance Technicians and Emergency Care Assistants who transport an adult because of their age, illness or disability to or from places where they have received, or will be receiving, health care, relevant personal care or relevant social work, are also in regulated activity.

3. Conveying does not include licensed taxi drivers or licensed private hire drivers, and does not include trips taken for purposes other than to receive health care, personal care or social work (for example, trips for pleasure are excluded).

Illustrative examples:

1. A person who volunteers to take an adult to and from their GP appointment on behalf of a community group is in regulated activity. It would not matter if that person knows, or is friends with, the adult they were taking to the appointment if the conveying is on behalf of the group.
2. A friend who takes their neighbour to a hospital appointment would not be in regulated activity, as this is a personal relationship.¹⁰

TEMPLATE: LETTER TO DBS REQUESTING INFORMATION ON THE BARRED STATUS OF A PRISONER

(to be sent on establishment headed paper)

To: Disclosure and Barring Service
PO Box 181
Darlington
DL1 9FA

Sent via secure email to DBSNOMSBLC@dbs.gsi.gov.uk

SAFEGUARDING VULNERABLE GROUPS ACT 2006, SECTION 50A(1C): REQUEST FOR BARRED STATUS INFORMATION

I am making enquiries about the barred status of a prisoner currently serving a custodial sentence in this establishment.

Prisoner details

Full name:
Any aliases:
Date of birth:
Any alias date of birth:
Gender:
Last known address:
Prison number:
Current conviction:
Relevant previous conviction(s):

Please would you advise whether the above-named prisoner is included in the:

| | | | |
|------------------------|-----|----|-----------------|
| Children's barred list | YES | NO | Linked Interest |
| Adults' barred list | YES | NO | Linked Interest |

I confirm that this information is required for the purpose of the protection of children or vulnerable adults.

Yours sincerely

Signature
Name printed
Department

ANNEX D

TEMPLATE: LETTER TO DBS REQUESTING INFORMATION BEHIND BARRING DECISION
(to be sent on establishment headed paper)

To: Disclosure and Barring Service
PO Box 181
Darlington
DL1 9FA

Sent via secure email to DBSNOMSBLC@dbs.gsi.gov.uk

SAFEGUARDING VULNERABLE GROUPS ACT 2006, SECTION 50A(1B): REQUEST FOR BARRED STATUS INFORMATION

I am making enquiries in relation to the following prisoner who is currently serving a custodial sentence in this establishment.

Prisoner details

Full name:
Any aliases:
Date of birth:
Any alias date of birth:
Gender:
Last known address:
Prison number:
Current conviction:
Relevant previous conviction(s):

I believe the prisoner to be included in the:

| | | |
|------------------------|-----|----|
| Children's barred list | YES | NO |
| Adults' barred list | YES | NO |

In line with the information sharing process agreed between NOMS and the DBS, please would you provide me with a summary of the findings that led to the barring decision.

I confirm that the information is required for:

[insert context in which information is being sought, for example assessment of risk of harm, development of sentence plan or risk management plan, consideration of licence conditions]

and is relevant to the purposes of offender management and the protection of children or vulnerable adults.

Yours sincerely

Signature
Name printed
Department