



**NCN: [2026] UKUT 14 (AAC)
Appeal No. UA-2025-000466-V**

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

The Upper Tribunal has made orders prohibiting the disclosure or publication of the names of 12 individuals (including the Appellant) and 5 schools or other institutions and any matter likely to lead members of the public to identify them (page 185-186 of the Upper Tribunal bundle)

Between:

Mrs B

Appellant

- v -

Disclosure and Barring Service

Respondent

Before: Upper Tribunal Judge Citron, Mr Hutchinson and Ms Smith

Hearing date: 12 November 2025

Hearing venue: Field House, Breems Buildings, London EC4

Representation:

Appellant: by herself

Respondent: by Tim Wilkinson of counsel, instructed by DLA Piper

SUMMARY OF DECISION

SAFEGUARDING VULNERABLE GROUPS: Findings of fact (65.9)

The factual basis for the Appellant having been included in the children’s barred list was that she had had a conversation with her then-husband in which he derived sexual gratification from her telling him things about children in her care. Having heard oral evidence from the Appellant (which the Disclosure and Barring Service had not), who denied the “bedroom conversation” ever took place, and having reviewed the documentary evidence on which the Disclosure and Barring Service had relied and found it to be unreliable in material respects, the Upper Tribunal decided that the Disclosure and Barring Service had made a material factual mistake. The appeal was allowed and the Appellant ordered removed from the barred list (the only decision that could lawfully have been made, given that the “bedroom conversation” never happened).

Please note the Summary of Decision is included for the convenience of readers. It does not form part of the decision. The Decision and Reasons of the Upper Tribunal follow.

DECISION

The decision of the Upper Tribunal is to **ALLOW** the appeal. The Respondent made a mistake in findings of fact it made and on which its decision (DBS reference DBS6191 01026412614) of 23 December 2024 to include Mrs B in the children’s barred list was based.

The Upper Tribunal **DIRECTS** Mrs B’s removal from the children’s barred list.

REASONS FOR DECISION

This appeal

1. This is an appeal against the decision (“**DBS’s decision**”) of the Respondent (“**DBS**”) dated 23 December 2024 to include Mrs B in the children’s barred list.

The legislation underlying DBS’s decision

2. DBS’s decision was made under paragraph 3 of Schedule 3 to the Act. This provides that DBS must include a person in the children’s barred list if
 - a. it is satisfied that the person has engaged in relevant conduct,
 - b. it has reason to believe that the person is, or has been, or might in the future be, engaged in regulated activity relating to children, and
 - c. it is satisfied that it is appropriate to include the person in the list.
3. Under paragraph 4, a person’s conduct “endangers” a child if he (amongst other things)
 - a. harms a child
 - b. causes a child to be harmed
 - c. puts a child at risk of harm or
 - d. attempts to harm a child.

Jurisdiction of the Upper Tribunal

4. Section 4(2) of the Act confers a right of appeal to the Upper Tribunal against a decision by DBS under paragraphs 9 and 3 of Schedule 3 (amongst other provisions) only on grounds that DBS has made a mistake
 - a. on any point of law;
 - b. in any finding of fact on which the decision was based.
5. The Act says that “the decision whether or not it is appropriate for an individual to be included in a barred list is not a question of law or fact” (section 4(3)).

DBS’s factual findings

6. DBS’s decision letter found that Mrs B, whilst holding positions of trust as a teaching assistant at a primary school and a Beaver Group leader within the Scout movement, placed children at risk of emotional harm by
 - a. (sometime before January 2023) discussing and disclosing inappropriate information about children who attended her Beaver Group at the request of her (then) husband (“**Mr B**”), who had position of trust in the Scouts and access to children, whilst he masturbated and gained sexual gratification from this (in what follows, we will refer to this as the “**bedroom conversation**”); and
 - b. Mrs B deliberately failing to report Mr B’s sexually inappropriate behaviour to key safeguarding agencies.

The Upper Tribunal

7. Permission to appeal was given in a decision of Judge Citron issued on 24 July 2025.
8. Mrs B gave evidence at the Upper Tribunal hearing, including via cross examination and answering questions from the panel.

Documentary evidence in the Upper Tribunal bundle

9. In addition to DBS's decision letter, evidence in the bundle of 204 pages included:
- a. the referral (to DBS) from the primary school where Mrs B worked as a SEN teaching assistant; this
 - i. showed Mrs B's date of birth; she was in her early 50s at relevant times;
 - ii. showed that Mrs B started working at the school in November 2021; and was dismissed (following safeguarding allegations about the bedroom conversation) in December 2023; the matter had been referred to the local authority designated officer on 6 April 2023; Mrs B had been suspended from work on 20 April 2023; the chair of governors had "commissioned investigation" on 13 June 2023; and a disciplinary hearing to discuss "findings of investigation" had been held on 5 December 2023;
 - iii. showed the "investigating authority" as the local authority designated officer;
 - iv. showed the referrer as the head teacher at the primary school where Mrs B worked at the time (the "**head teacher**");
 - b. a witness statement of Mrs B on form MG11, dated 24 February 2023; this was Mrs B's account of what happened around the time Mr B was arrested (for voyeurism and having indecent pictures of children), in January 2023; it included that, shortly after his arrest, Mr B went to stay with a male family friend, **PE**, who lived in another part of the country; there was no mention in this statement of the bedroom conversation;
 - c. a local authority designated officer referral, made by the head teacher; under the heading, "New Information (April 2023)", this said that on 5 April 2023, the head teacher had messaged Mrs B to check on her wellbeing; the head teacher reported that Mrs B "responded to say more information had come to light and the police had spoken to her again"; the head teacher reported that, on the same day, she received a message from PE asking if the head teacher had heard from Mrs B recently; the head teacher described PE as "an extremely close friend" of the B family and also that that the head teacher and PE had known

each other for over 40 years; the head teacher then reported that PE had informed her that PE had broken off all contact with Mrs B as, the previous week, Mrs B had disclosed information to PE that made PE believe that Mrs B had known about Mr B's perversion for a considerable amount of time before his arrest; the head teacher then described the bedroom conversation, as having been disclosed by Mrs B to PE; the head teacher reported that PE had "passed all of these concerns to the police"; the head teacher reported that she met with Mrs B, who said she had been to the police "to share about her husband's coercive behaviour. The police said she could press charges for domestic violence. Nothing else was mentioned"; the head teacher's report ended as follows:

- I feel [PE] to be trustworthy. He has been open and transparent and shared information regarding [Mr B] with the police from the beginning and now regarding [Mrs B]. He has nothing to gain, in fact he is devastated at the loss of lifelong friends.
 - [Mrs B] had every opportunity to share her conversation with [PE] with me, but she did not mention it at all. She did not even mention [PE].
 - [Mrs B] deals with vulnerable children on a 1:1 basis. If she does not feel that what her husband asked her to say is not a serious safeguarding concern, what else might she not be reporting?
 - I have lost my trust in [Mrs B] professionally. I feel she has not been upfront and honest with me. I am concerned she has put the perverted needs of her husband, her job and her position as a Beaver leader in front of safeguarding children."
- d. minutes of safeguarding meeting of 23 April 2023 about Mrs B, attended by representatives of the police and Scouts, and the head teacher;
- e. a report of formal investigation by the primary school where Mrs B worked, dated 7 September 2023; those interviewed included the head teacher, PE (described as "external person/family friend") and Mrs B;

the school investigator's interview with PE included that: PE described Mr B as his "best friend" (prior to PE learning, in January 2023, about Mr B's offensive conduct, at any rate); that Mr B had stayed with PE for 11 days following Mr B's arrest; that PE spoke to Mrs B at 7.30 am and 8.30

pm every day during this time; that PE drove from his home in a different part of the country to collect Mrs B and then to a different part of the country, where Mrs B's and Mr B's daughter lived – PE said he “took on the job of telling [the daughter] what was going on” (the daughter appears to have been in her mid-20s at the time); it included this passage (in the first person by PE):

I believe it was the end of April beginning of May and I was having a conversation with [Mrs B] and I was outside and it was a bit noisy but I thought she said something to me that I thought I needed to follow up on. I then said I would phone her that night.

I said to her that you told me something, is that what I heard?

She said that she hadn't been intimate with her husband for a while but that she had been encouraged to recount scenarios with regards to the children at Beavers.

What she meant by this was that as a Beaver leader she would take young girls to the toilets.

Apparently [Mr B] was then asking her questions about this like what underwear the children were wearing, what she handled, and what she saw. He was in bed and he was pleasing himself with what she was saying.

I recalled and clarified what she was saying to confirm what she was saying and she said yes. I was angry with her. I said you told me you knew nothing about the situation and [Mr B].

I said it was perverted.

Afterwards I wrote her an email telling her I was going to the police

I said you did that for your husband and you didn't think that was a risk?

She then became super defensive. She was constantly trying to phone and email me. I didn't answer the phone and didn't reply to emails.

She got her friend to email me. Her friend “R” told me that [Mrs B] went to the police and they said she was a victim of abuse.

Previously, when we were in the car with just me and my fiancé she looked me in the eye and said I know nothing about this Billy [PE's nickname]. She was in a safe and calm environment and she still maintained she knew nothing.

I believe she is using the abused wife thing as an excuse as she realised her actions were stupid and how integral she has been in this.

I've had no contact with [Mrs B] since that email. I've known her for 31 years. I genuinely believe she is lying and she is unsafe around children.

To be clear and honest [the head teacher] and I have known each other since I was three or four years old.

the school investigator's interview with Mrs B included that: Mrs B said she had "made up" the bedroom conversation in order to make PE feel sorry for her and appreciate how "horrible" Mr B was; Mrs B had said that PE wanted to get both her and Mr B prosecuted;

the school investigator's interview with the head teacher included the head teacher saying that PE regarded Mr B as a father figure (at least prior to his finding out, in January 2023, about Mr B's offensive conduct) and that Mr B "sought refuge" at PE's house shortly after his arrest;

the school investigator found the bedroom conversation allegation unsubstantiated – the "admission" and "subsequent retraction" had all come from Mrs B herself; the information was impossible to verify; Mrs B had, however, lied to the police about the matter (i.e. told them that the bedroom conversation took place, when it really had not);

- f. school disciplinary hearing of 4 December 2023 – minutes;
- g. an update from the local authority designated officer, saying that Mr B had been found guilty at crown court and imprisoned for multiple sexual offences toward both children and adults;
- h. a letter from the police dated 8 February 2024 confirming that with regard to the incident that led to Mrs B's dismissal from her post of teaching assistant, the police were not investigating Mrs B as a suspect for that incident;
- i. Mrs B's representations dated 6 December 2024;

- j. a letter from the primary school confirming the outcome of a disciplinary appeal hearing held on 31 January 2025; this concluded that Mrs B admitted she made up a lie about the bedroom conversation.

Comments on the evidence made in DBS’s decision letter and “barring decision document”

10. DBS’s decision letter acknowledged that Mrs B cited being pressured into her “disclosure” to PE, by PE’s behaviour and continual queries when in a heightened emotional state and seeking his support and attention. DBS noted that Mrs B did not “elaborate on” or “provide any clarification” in relation to the behaviour she claimed PE exhibited to elicit a “confession” of this nature from her; DBS further commented that it was unclear what PE “had to gain” from trying to “compel” Mrs B, a longstanding friend, into make “such a concerning statement”. Moreover, DBS commented, it had already been established that Mrs B was “fully in receipt of [PE’s] support and attention” when she made her “disclosure” to him (as Mrs B “confirmed” at the school disciplinary hearing that PE was “a long term friend who had been [her] confidante and a constant source of support following [her] husband’s arrest”. Mrs B’s “rationale” (as DBS described it) – that she wanted PE to appreciate how horrible her husband was and feel sorry for her and her children – was considered implausible: PE, from January 2023, was “acutely aware of Mrs B’s deviancy and bad character”, said DBS; and PE had asked Mr B to leave his (PE’s) home, thereby evidencing (said DBS) PE’s desire to disassociate himself from Mr B and “an unlikely action if [PE] had continued to view [Mr B] positively. Additionally, DBS said, PE said he had made it a priority to “obtain information” for Mrs B and her children, “indicating that [PE] was already employing a sympathetic and caring approach towards [Mrs B].”
11. DBS noted that the police and also “seemingly” the school investigation report, “work to a higher standard of proof than the DBS, with the DBS operating to the civil standard of ‘on the balance of probabilities’. DBS judged it significant that the local authority designated officer found the allegations substantiated in April 2023 and in February 2024
12. DBS noted that Mrs B “had been afforded numerous opportunities” to tell the head teacher about the bedroom conversation (as she had told PE) “but chose not to do so.”
13. DBS said it was “seriously concerned” about Mrs B’s “susceptibility to peer influence”, based on evidence that she was “submissive to and easily influenced

by [her] husband and at his behest became involved in unacceptable behaviour that [she] might not necessarily have engaged in independently given that when making [her] disclosure to [PE she] stated that despite initially refusing to answer [her] husband's questions about the children in [her] Beaver Group [she was] eventually worn down and thereafter conceded that [she] allowed [her]self to be pressurised and manipulated by him."

14. DBS's "barring decision summary" document included the following as regards the evidence provided by PE:
 - i. "In view of the reported positive and well-established nature of their relationship there would appear to be no apparent reason for [PE] to make a malicious allegation against [Mrs B]. Furthermore, the fact [PE] described challenging [Mrs B] following her disclosure and taking swift safeguarding action by calling [the head teacher] to make her aware of the concern and thereafter willingly engaging with [the school's] formal disciplinary investigation suggests that he was seriously concerned about Mrs B's disclosure, which affords him significant credibility. It is also relevant that [PE] reportedly terminated his relationship with Mrs B following her disclosure, which would seem to be an unlikely step unless he had been given just cause to do so"
 - ii. "Overall therefore, whilst it is acknowledged that Mrs B retracted her admission to the alleged behaviour, given the credibility afforded to [PE] and the fact there is no evidence to suggest that he made a malicious allegation and in view of Mrs B's rationale for retraction being deemed to be implausible coupled with the fact that the [local authority designated officer] found the allegation substantiated and continue to do so it appears more likely than not that" the bedroom conversation had taken place.

Mrs B's oral evidence

15. Mrs B's oral evidence included that PE had been one of Mr B's Scouts when PE was young; that PE and Mr B had been very close and Mr B had been a father figure to PE; that Mr B's arrest in January 2023 came as a complete shock to Mrs B); she described the months after her husband's arrest, and then leaving the family home, as a very difficult time; PE was regularly in touch with her by phone, generally providing information about the police investigation into Mr B, and

support (PE was Mrs B's friend, as well as (prior to PE discovering what Mr B had been arrested for) Mr B's), but also asking many questions (about Mr B's offensive conduct and what Mrs B knew about it) in a somewhat investigatory manner; the culmination of this was the telephone conversation Mrs B had with PE in early April, in which the bedroom conversation was described. Mrs B's oral evidence at the hearing was that, in this telephone conversation, PE put the bedroom conversation story to her, asking if the elements of it were true, and that she had said "yes". Mrs B said that this had been a mistake on her part in an emotionally charged situation; shortly after the call with PE, she tried to contact PE to correct the picture (i.e. say that the bedroom conversation had not in fact taken place). Her evidence was that she spoke with the police soon after this, as a pre-emptive measure, because PE said he was going to tell the police about the bedroom conversation.

DBS's oral submissions, in brief

16. DBS cautioned against accepting that PE had "badgered" Mrs B into saying that the bedroom conversation had taken place. DBS submitted that there was no rationale for Mrs B to have confirmed, when speaking with PE on the phone, the bedroom conversation story, if it was not true. There was no rationale for PE to make up the bedroom conversation. And it was suspicious that Mrs B's account of her speaking to the police, after the "bedroom conversation" call she had with PE, does not say that she told the police the bedroom conversation did not take place (and, indeed, this is why the school investigator found that Mrs B lied to the police (in that she told them that the bedroom conversation *had* taken place)).

Our conclusions

17. The question before us is whether DBS made a mistake in finding that the bedroom conversation had, in fact, taken place. The single 'live' witness before us, Mrs B, who had first-hand knowledge of the matter, told us that the bedroom conversation had *not* taken place (although it was, of course, in her interests to say that); we also had the written evidence of three other people (none of whom had first-hand knowledge of the matter) who expressed opinions as to whether or not the bedroom conversation had taken place: PE and the head teacher

considered that it *had*; the school investigator considered that it had *not* (and so that Mrs B had lied to the police in telling them that it had).

18. The case therefore turns on Mrs B's credibility. The main challenge to her credibility is – if the bedroom conversation didn't take place, why did she tell PE, on a telephone call some time in April 2023, that it had? Mrs B's evidence, as it came through at the hearing, was in essence that this telephone conversation with PE was a thoroughly unreliable "confession" on her part: she was in a troubled, emotionally vulnerable state of mind, having discovered, out of the blue three months before, her husband's offensive conduct, and was now being questioned with some force by someone she regarded as a friend and support, PE; it was PE who assembled and articulated the bedroom conversation as a narrative, and asked her to assent to its accuracy; she did so on the phone (she said "yes" to his description), but immediately regretted doing so (as it was not true, she says).
19. We did not have oral evidence from PE, but the written record of his views confirms that he was in very regular communication with Mrs B, that he had deep emotional ties to Mr B (although it seems these were severed when PE learned of Mr B's offensive conduct); we note also that, immediately upon Mrs B assenting to the bedroom conversation having taken place (on the phone to PE), PE became angry with her and, shortly afterwards, cut off contact, and told others (including the head teacher and the police) about the bedroom conversation (and the implications of it, in PE's mind, as regards Mrs B's complicity with, and/or failure to report, Mr B's offensive conduct).
20. We do not have oral evidence from the head teacher or from the school investigator, either; but it seems the head teacher reached the same view as PE simply because she seemed to regard his opinion as reliable (they had been friends for a long time); the school investigator reached the opposite view (i.e. that the bedroom conversation never took place) on the basis of inadequacy of the evidence that it had.
21. We accord little or no weight to the opinions of PE, the head teacher, or the school investigator, as to Mrs B's credibility (and so to whether or not the bedroom conversation took place): this is a matter for us, on the evidence before this tribunal. In short, we find Mrs B to be credible, and her explanation as to why the (false) story of the bedroom conversation took shape during a conversation she had with PE in April 2023, believable: in all the circumstances, this telephone conversation, between a woman in a vulnerable state of mind, given what had

recently happened in her life, and a man whose loyalties, agenda, and wider objectives in that complex and difficult situation seem to us, at best, obscure, and, at worst, troubling, and in which the man was, purportedly, clarifying something that the woman had said on an earlier call, was an entirely unreliable forum for the “true” version of what happened to emerge. We should explain that our concerns about PE’s loyalties, agenda and wider objectives derive from matters including: his longstanding loyalty to Mr B (and so the upset to PE at finding his “father figure” fallen); the fact that PE appeared to be talking to various people about Mr B’s conduct, with an apparent agenda of “solving” or “explaining” the shock of what had been revealed about Mr B, at a time a criminal investigation by the police was going on – this seems to us an odd, and potentially inappropriate, course of conduct on PE’s part; and the fact that PE immediately expressed anger (i.e. heightened emotional involvement, negative to Mrs B) on hearing the bedroom conversation assented to by Mrs B, as well as dismissing her “abused wife thing” “excuse”. In short, the telling of the bedroom conversation story in a single, emotionally charged telephone conversation between PE and Mrs B in April 2023 seems to us a very weak piece of evidence; and so, in our view, DBS made a mistake in finding, on the basis of it, that the bedroom conversation had, in fact, occurred.

22. We note our analysis of the evidence is quite different to DBS’s, who were persuaded by arguments including that PE had “nothing to gain” by promoting the bedroom conversation story, and had been “supporting” Mrs B, and that Mrs B had behaved suspiciously in not “confessing” the bedroom conversation to the head teacher (prior to her having done so to PE). In addition to our having had the benefit of Mrs B’s oral evidence (which DBS did not have), we have also reached different conclusions because we are not prepared to put weight on the opinions of persons who had no first-hand knowledge of the matter and who were not made available to the tribunal for questioning.

Disposal

23. Given our finding that DBS made a material factual mistake in its findings, we are required either to direct Mrs B’s removal from the children’s barred list, or to remit the matter to DBS for a new decision. In *DBS v AB* [2021] EWCA Civ 1575, the Court Appeal said, at [72]:

Unless it is clear that the only decision that the DBS could lawfully come to is removal, the matter should be remitted to the DBS to consider. If, therefore, there is a question of

whether it is appropriate to include a person's name on a barred list, the appropriate action under section 4(6) of the Act would be to remit the matter to the DBS so that it could decide the issue of appropriateness.

24. Given that the bedroom conversation never took place, the only decision that DBS could lawfully have come to is removal of Ms B from the children's barred list. We have accordingly made an order to that effect.

**Zachary Citron
Judge of the Upper Tribunal**

**John Hutchinson
Rachael Smith
Members of the Upper Tribunal**

Authorised by the Judge for issue on 9 January 2026