



Disclosure &
Barring Service

Barring Referrals:

Your guide to how and when to make one



Disclaimer: This is not legal advice. If you need help with making sure you are complying with the law, you should speak to a legal advisor.

Introduction

This guidance explains when employers and volunteer managers can make a barring referral to the Disclosure and Barring Service (DBS).

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

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

This guide does not cover all aspects or examples of harm, referrals and barring so if you need legal assistance, you should speak with a legal advisor.

What is a referral?

A referral is information about a person. It tells us about concerns that an individual may have harmed a child or vulnerable adult or put a child or vulnerable adult at risk of harm.

When a person has been referred, we use the information sent to us to decide if they need to be added to a Barred List(s) and prevented from working in regulated activity with children and/or adults.

You can look at the [referral flowchart](#) to help you decide if you need to make a referral.

Information about regulated activity

Guidance about [regulated activity with children](#) and [regulated activity with adults](#) is available from the Department for Education and the Department of Health and Social Care.

Information explaining regulated activity with children and

adults is available in leaflets on our website.

The Barred Lists

There are two Barred Lists. The Children's Barred List and the Adults' Barred List. DBS has responsibility for deciding who gets added to and removed from these lists in England, Wales, and Northern Ireland. People can appear on one list or both.

If you are added to a Barred List then it is against the law to work, apply for work or volunteer in regulated activity with the group(s) you are barred from working with.

If you are an employer, you are also breaking the law if you allow someone to work or volunteer in regulated activity with the group(s) they are barred from working with if you know that they are barred. Both offences can result in a prison sentence of up to five years and/or a fine.

Who can refer?

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

- Harmed or poses a risk of harm to a child or adult and satisfies the harm test (see later section)
- Received a caution or conviction for a relevant offence. Some organisations have a legal duty to make a referral to us.

Organisations with a legal duty to refer

If you provide regulated activity and employ people or have volunteers, then you have a duty to refer if the conditions detailed later in this document have been met.

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

- An employment agency that makes arrangements to either find someone employment with a hirer or to supply them to a hirer

to employ

- An employment business that engages a work-seeker and supplies someone to a hirer to work under a hirer's control
- An educational institution if it makes arrangements to supply a student undertaking a course at the institution to a regulated activity provider, such as a school
- An employment agency or business that engages work seekers or provides supply workers
- An educational institution which supplies its students to a regulated activity provider, such as a school

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

Conditions that need to be met before making a referral

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

- You have withdrawn permission for the person to engage in regulated activity with children and/or adults **and**
- You have moved the person to another area of work that is not regulated activity, or you have dismissed them. This includes situations when you would have moved the person, but the person was redeployed, resigned, retired, or left

And you also think the person has:

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

them at risk or harm

or

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

or

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

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

Relevant conduct in relation to children

You are a child if you are under 18 years old. Relevant conduct is classed as:

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

Someone's conduct endangers a child if they:

- Harm a child

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

Relevant conduct in relation to adults

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

Relevant conduct in relation to adults is:

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

Someone's conduct endangers an adult if they:

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

- Incite another to harm an adult.

The harm test

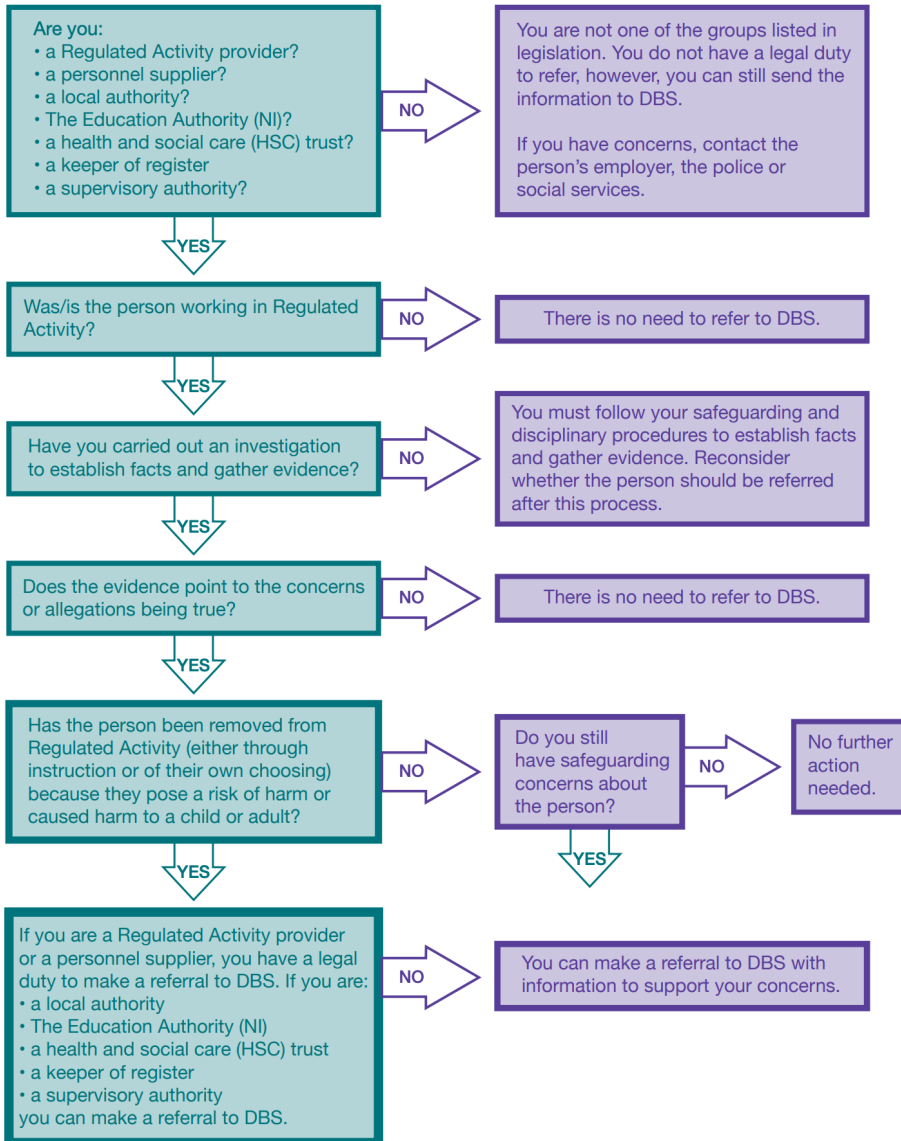
Someone's action satisfies the harm test when it appears that they may:

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



Barring referral flow chart

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



How to make a referral

You can make a referral via the online Barring Referral Service. Information on this can be found on our website: www.gov.uk/guidance/making-barring-referrals-to-the-dbs <http://www.gov.uk/dbs>.

You will receive confirmation of your referral.

The right person to refer

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

Providing as much information as you can

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

You are allowed to provide this information under UK General Data Protection Regulation (UK GDPR) and the Data Protection Act (DPA). You can find more information about GDPR on our guidance pages.

If you have a duty to refer then you will also be asked for some specific details. If there is information or details missing it could mean that we cannot bar someone.

What you should include

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

there is something you think we need to know to help us make our decision – tell us.

Details of the person you are referring. Include their full name, address, and date of birth, as well as any alias or former details if you know them. Also include details of their work history and current employment.

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

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

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

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

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

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

Contact details. Please provide links and details of any other

agencies or organisations you are aware of that hold information that may be useful in our decision making.

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

What to do if you do not have all the above information. Even if the referral does not have all the above information, if there is concern about an individual, make a referral. The DBS will never ignore or reject a referral. Even if this referral does not result in a bar, the information received could show evidence of a pattern of behaviour if other referrals are submitted about the same individual.

DBS requests for more information

Sometimes DBS needs more information to reach a barring decision. We may contact the referring organisation or local authority asking for information such as:

- minutes of multi-agency meetings
- family background
- any other relevant information that will support DBS findings.

DBS is legally allowed to ask for this information under the Safeguarding Vulnerable Groups Act (SVGA) 2006 which places a duty upon organisations to provide information to DBS upon request. We only approach organisations for information when it is necessary to support the case. It is important that these requests are responded to as quickly as possible. Failure to do so can affect the outcome or severely delay the decision.

The outcome of your referral

We will inform the person you have referred about the outcome. However, we will not automatically inform you as the person who referred them.

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

If you no longer employ or let them engage in regulated activity, then you may not be able to show a legitimate interest. This means that we cannot advise you of the outcome.

Further information can be found on the DBS website. You may find the following pages useful

www.gov.uk/find-out-dbs-check (Our eligibility tool)

www.gov.uk/government/publications/dbs-workforce-guidance

[DBS barring referral guidance](#) - GOV.UK (www.gov.uk)

Online Barring Referral Service - www.submit-a-barring-referral.service.gov.uk/start

Information about regulated activity with children is also available from the Department for Education (DfE)

www.gov.uk/government/publications/new-disclosure-and-barring-services

Information about regulated activity with adults is also available from the Department of Health and Social Care (DHSC)

www.gov.uk/government/publications/new-disclosure-and-barring-services

NHS employers provide a range of sector specific guidance on their website and have an eligibility tool for NHS roles

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