



Disclosure & Barring Service

A GUIDE TO ADULT WORKFORCE ROLES

This will help you identify whether the position you are recruiting for falls into the adult workforce when completing the “Position Applied For” field on a DBS application form and where access to an adults’ barred list check is available. These are roles which relate specifically to working with adults.

It is important to make sure that the law allows you to submit a DBS application before you identify the relevant workforce. You are legally responsible for making sure you can submit applications and should be aware of the legislation that supports each application in case we need further clarification.

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.

DBS checks can be undertaken if the specific role, or the specific activities carried out within the role, are included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 (access to standard DBS certificates), or in the Police Act 1997 and Police Act 1997 (Criminal Records) regulations (access to enhanced DBS certificates). These laws only provide eligibility for DBS checks, they do not make it a mandatory requirement.

Decisions on when and whether to undertake a DBS check are a matter for the relevant employer or regulator. It is not discretionary as such, but a matter of considering the nature of the activities undertaken and if they are eligible for DBS checks. The DBS provide an electronic [eligibility tool](#) which can help and the [Police Act 1997 \(Criminal Records\) \(Amendment\) Regulations 2013/1194](#) (the legislative definition of work with adults) and the [Department of Health factual note](#) on the definition of regulated activity with adults will also help.

When you request a DBS certificate to assess someone to carry out regulated activity with adults this means that you are a regulated activity provider (RAP) which brings obligations under the Safeguarding Vulnerable Groups Act 2006.

As a RAP, you have a legal duty to refer an individual to DBS when you believe a person has caused harm or poses a future risk of harm to vulnerable groups, including children. You also have to provide information to DBS when we ask you to and may be fined unless you have a reasonable excuse for not providing the information. The conditions you have to consider before making a referral or providing information to us can be found on the [DBS website](#).

An employer or volunteer manager is breaking the law if they knowingly employ someone in a regulated activity with a group from which they are barred from working.

A barred person is breaking the law if they seek, offer or engage in regulated activity with a group from which they are barred from working

STANDARD level DBS certificate

Applications for standard DBS certificates **must** contain a workforce or they will be rejected. This is a mandatory requirement

Individuals whose role involves work relating to adults which is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

ENHANCED level DBS certificate

Applications for enhanced DBS certificates **must** contain a workforce or they will be rejected. This is a mandatory requirement

Individuals who carry out regulated activity with adults

Wording from the Safeguarding Vulnerable Groups Act 2006

- The provision to an adult of a regulated activity within the meaning of Part 2 of Schedule 4, as amended by sections 65 and 66 of the Protection of Freedoms Act 2012

Individuals who work in a high security psychiatric hospital

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013/1194

- Any employment or other work which is normally carried out in a hospital used only for the provision of high security psychiatric services within the meaning of section 4(2) of the National Health Service Act 2006

Individuals who carry out activities with adults that are specifically defined as work with adults

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013/1194

- The provision of any activity mentioned in paragraph 6 to an adult who receives a health or social care service within the meaning of paragraph 9 or a specified activity within the meaning of paragraph 10 provided that the person carrying out the activity does so –
 - (i) at any time on more than three days in any period of 30 days; or
 - (ii) at any time between 2am and 6am and the activity gives the person the opportunity to have face-to-face contact with the adult; or
 - (iii) at least once a week on an ongoing basis

The Annex at the end of this guidance provides the legislative descriptions of paragraphs 6, 9 and 10

ENHANCED level DBS certificate

Applications for enhanced DBS certificates **must** contain a workforce or they will be rejected. This is a mandatory requirement

Individuals who manage, on a day to day basis, anyone who carries out activities with adults that are specifically defined as work with adults

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013/1194

- The regular day-to-day management or supervision of a person providing any activity mentioned in paragraph 6, to an adult who receives a health or social care service within the meaning of paragraph 9 or a specified activity within the meaning of paragraph 10

The Annex at the end of this guidance provides the legislative descriptions of paragraphs 6, 9 and 10

Individuals whose role relates to a Care Quality Commission inspection function where the inspector has the opportunity for contact with adults in circumstances that are specifically defined as work with adults

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013/1194

- The exercise of a function of the Care Quality Commission in so far as the function –
 - (i) relates to the inspection of anything which is listed in section 60(1) of the Health and Social Care Act 2008 and involves the provision of social services, care, treatment or therapy for adults who receive a health or social care service within the meaning of paragraph 9 or a specified activity within the meaning of paragraph 10; and
 - (ii) gives the person exercising the function the opportunity, in consequence of anything the person is permitted or required to do in exercise of that function, to have contact with an adult who receives a health or social care service within the meaning of paragraph 9 or a specified activity within the meaning of paragraph 10

The Annex at the end of this guidance provides the legislative descriptions of paragraphs 9 and 10.

ENHANCED level DBS certificate

Applications for enhanced DBS certificates **must** contain a workforce or they will be rejected. This is a mandatory requirement

Applications to assess –

- **certain individuals who work for a local authority where their roles relate to carrying out social services functions for adults in circumstances that are specifically defined as work with adults**
- **chief executives of any local authority that has social services functions**
- **directors of adult social services in England and Wales**
- **any charity trustee where the charity workers regularly carry out activities with adults that are specifically defined as work with adults**
- **any person who needs to be registered under the Health and Social Care Act 2008**

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013/1194

- The exercise of a function of a person who is –
 - (i) a member of a local authority and discharges any social services functions of a local authority which relate wholly or mainly to adults who receive a health or social care service within the meaning of paragraph 9 or a specified activity within the meaning of paragraph 10
 - (ii) a member of an executive of a local authority which discharges any such functions;
 - (iii) a member of a committee of an executive of a local authority which discharges any such functions;
 - (iv) a member of an area committee, or any other committee, of a local authority which discharges any such functions;
 - (v) a person who is a chief executive of a local authority that has any social services functions;
 - (vi) a person who is a director of adult social services of a local authority in England;
 - (vii) a person who is a director of social services of a local authority in Wales;
 - (ix) a person who is a charity trustee of a charity whose workers normally engage in any activity which is work with adults;
 - (x) a person who is required to register to carry out a regulated activity within the meaning of the Health and Social Care Act 2008 where that activity will be carried out in relation to an adult who receives a health or social care service within the meaning of paragraph 9

The Annex at the end of this guidance provides the legislative descriptions of paragraphs 9 and 10

Access to the DBS ADULTS' BARRED LIST

Applications for enhanced DBS certificates in the adult workforce **including a check of the adults' barred list** are always in regulated activity with adults. Use the [Department of Health factual note](#) if you need help identifying whether a role falls into the definition of regulated activity with adults.

Individuals who carry out regulated activity with adults

Wording from the Safeguarding Vulnerable Groups Act 2006

- The provision to an adult of a regulated activity within the meaning of Part 2 of Schedule 4, as amended by sections 65 and 66 of the Protection of Freedoms Act 2012

ANNEX

GUIDANCE

There are three steps to follow to identify whether the position you are recruiting for is carrying out activities which are in the definition of work with adults.

1. Look at paragraphs 9 and 10 to identify whether the job holder will be working with adults who are receiving any of the services listed.
2. Look at paragraph 6 to identify what activity the job holder will be providing to those adults;
3. Establish whether the job holder will be providing the activity to the adults often enough.

Once this is identified, you have the legal justification for your enhanced DBS application.

Paragraph 9 – the adults

- a) residential accommodation provided for an adult in connection with any care or nursing he requires
- b) accommodation provided for an adult who is or has been a pupil attending a residential special school, where that school is –
 - (i) a special school within the meaning of section 337 of the Education Act 1996
 - (ii) an independent school within the meaning of section 463 of that Act which is in England and is specially organised to make special educational provision for pupils with special educational needs (within the meaning of section 312 of that Act) or is in Wales and is approved by the Welsh Ministers under section 347 of that Act
 - (iii) an independent school within the meaning of section 463 of that Act not falling within sub-paragraph (b)(ii) which, with the consent of the Welsh Ministers, given under section 347(5)(b) of that Act, provides places for children with special educational needs (within the meaning of section 312 of that Act)
 - (iv) an institution within the further education section (within the meaning of section 91 of the Further and Higher Education Act 1992) which provides accommodation for children
 - (v) a 16 to 19 Academy, within the meaning of section 1B of the Academies Act 2010, which provides accommodation for children
- c) sheltered housing
- d) care of any description or assistance provided to an adult by reason of his age, health or any disability he has, which is provided to the adult in the place where he is, for the time being, living, whether provided continuously or not
- e) any form of health care, including treatment, therapy or palliative care of any description
- f) support, assistance or advice for the purpose of developing an adult's capacity to live independently in accommodation, or sustaining their capacity to do so
- g) any service provided specifically for adults because of their age, any disability, physical or mental illness, excluding a service provided specifically for an adult, with one or more of the following disabilities (unless that person has another disability) –
 - (i) dyslexia
 - (ii) dyscalculia
 - (iii) dyspraxia
 - (iv) Irlen syndrome
 - (v) Alexia
 - (vi) auditory processing disorder
 - (vii) dysgraphia
- h) any service provided specifically to an expectant or nursing mother in receipt of residential accommodation pursuant to arrangements made under section 21(1)(aa) of the National Assistance Act 1948 or care pursuant to paragraph 1 of Schedule 20 to the National Health Service Act 2006

Paragraph 10 – the adults

- a) the detention of an adult in lawful custody in a prison (within the meaning of the Prison Act 1952), a remand centre, young offender institution or a secure training centre (as mentioned in section 43 of that Act) or an attendance centre (within the meaning of section 53(1) of that Act)
- b) the detention of a detained person (within the meaning of Part 8 of the Immigration and Asylum Act 1999) who is detained in a removal centre or short-term holding facility (within the meaning of that Part) or in pursuance of escort arrangements made under section 156 of that Act
- c) the supervision of an adult by virtue of an order of a court by a person exercising functions for the purposes of Part 1 of the Criminal Justice and Court Services Act 2000
- d) the supervision of an adult by a person acting for the purposes mentioned in section 1(1) of the Offender Management Act 2007
- e) the provision to an adult of assistance with the conduct of their affairs in situations where –
 - (i) a lasting power of attorney is created in respect of the adult in accordance with section 9 of the Mental Capacity Act 2005 or an application is made under paragraph 4 of Schedule 1 to that Act for the registration of an instrument intended to create a lasting power of attorney in respect of the adult
 - (ii) an enduring power of attorney (within the meaning of Schedule 4 to that Act) in respect of the adult is registered in accordance with that Schedule or an application is made under that Schedule for the registration of an enduring power of attorney in respect of the adult
 - (iii) an order under section 16 of that Act has been made by the Court of Protection in relation to the making of decisions on the adult's behalf, or such an order has been applied for
 - (iv) an independent mental capacity advocate is or is to be appointed in respect of the adult in pursuance of arrangements under section 35 of that Act
 - (v) independent advocacy services (within the meaning of section 248 of the National Health Service Act 2006 or section 187 of the National Health Service (Wales) Act 2006) are or are to be provided in respect of the adult
 - (vi) a representative is or is to be appointed to receive payments on the adult's behalf in pursuance of regulations made under the Social Security Administration Act 1992
- f) payments are made to the adult or to another person on the adult's behalf under arrangements made under section 57 of the Health and Social Care Act 2001
- g) payments are made to the adult or to another person on the adult's behalf under section 12A(1) or under regulations made under section 12A(a) of the National Health Service Act 2006 or under regulations made under section 12A(4) of that Act

Paragraph 6 – the activities provided by the job holder for the adults

For the purposes of this regulation “activity” means –

- a) any form of care or supervision;
- b) any form of treatment or therapy;
- c) any form of training, teaching, instruction, assistance, advice or guidance provided wholly or mainly for adults who receive a health or social care service within the meaning of paragraph 9 or a specified activity within the meaning of paragraph 10;
- d) moderating a public electronic interactive communication service which is likely to be used wholly or mainly by adults who receive a health or social care service within the meaning of paragraph 9 or a specified activity within the meaning of paragraph 10;

A person moderates a public electronic interactive communication service if, for the purposes of protecting the adults mentioned in that sub-paragraph, he has any function relating to –

- (i) monitoring the content of matter which forms any part of the service;
- (ii) removing matter from, or preventing the addition of matter to, the service; or
- (iii) controlling access to, or use of, the service.

But a person does not moderate a public electronic interactive communication service unless he has –

- (i) access to the content of the matter;
 - (ii) contact with users of the service.
- e) any form of work carried out in a care home (for the purposes of the Care Standards Act 2000) which is exclusively or mainly for adults, whether or not for gain, that gives the person carrying out the work the opportunity to have contact with the adults resident at that care home
 - f) representation of, or advocacy services for, adults who receive a health or social care service within the meaning of paragraph 9 or a specified activity within the meaning of paragraph 10, by a service which has been approved by the Secretary of State or created by any enactment, and which is of such a kind as to enable the person to have access to such adults in the course of his normal duties in providing such services
 - g) the conveying of an adult who receives a health or social care service within the meaning of paragraph 9 or a specified activity within the meaning of paragraph 10 whether or not the adult is accompanied by a person caring for them.