



# Disclosure & Barring Service

## A GUIDE TO CHILD WORKFORCE ROLES

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

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 [Department for Education factual note](#) on regulated activity with children will also help.

When you request a DBS certificate to assess someone to carry out regulated activity with children this means that you are a regulated activity provider (RAP). This 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 or offer to 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 children 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 children**

Wording from the Safeguarding Vulnerable Groups Act 2006

- Considering the applicant's suitability to engage in any activity which is a regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, as amended by section 64 of the Protection of Freedoms Act 2012

**Individuals who carry out work which would have been regulated activity with children before changes were made to the definition in September 2012**

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment No.2) Regulations 2013/2669

- Any activity which is a regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 as it had effect immediately before the coming into force of section 64 of the Protection of Freedoms Act 2012

**Individuals who carry out regulated activity with children where the work is done infrequently (but more than once). This also applies to roles that involve work which would have been regulated activity with children before changes were made to the definition in September 2012**

Wording below taken from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment No.2) Regulations 2013/2669

- Work done infrequently which, if done frequently, would be regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 or as it had effect immediately before the coming into force of section 64 of the Protection of Freedoms Act 2012

### ENHANCED level DBS certificate

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

#### **Individuals applying to register as prospective childminders or childcare providers and anyone aged 16 and over who lives or works in the premises where the childminding or childcare takes place and has the opportunity for regular contact with the children**

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment No.2) Regulations 2013/2669

- Registration for child minding or providing day care under Part 2 of the Children and Families (Wales) Measure 2010, including assessing the suitability of any person to have regular contact with a child who is –
  - (i) aged 16 or over and living on the premises at which the child minding or day care is being or is to be provided;
  - (ii) aged 16 or over and working, or who will be working, on the premises at which the child minding or day care is being or is to be provided at times when such child minding or day care is being or is to be provided;
- Registration under Chapters 2, 3 or 4 of Part 3 of the Childcare Act 2006 (regulation of provision of childcare in England), including assessing the suitability of any person to have regular contact with a child who is –
  - (i) aged 16 or over and living on the premises at which the childcare is being or is to be provided;
  - (ii) aged 16 or over and working on the premises at which the childcare is being or is to be provided at times when such childcare is being or is to be provided

#### **Individuals applying as part of registration as a childminder agency, managing a childminder agency or working for a childminder agency in a quality assurance role visiting day care or childminding premises.**

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment No.2) Regulations 2014/2122

- Registration as a childminder agency under Chapter 2A or 3A of Part 3 of the Childcare Act 2006
- Considering the applicant's suitability to manage a childminder agency
- Considering the applicant's suitability to work for a childminder agency in any capacity which requires the applicant to enter childcare premises and enables that person, in the normal course of duties, to have contact with children for whom childcare is provided or access to sensitive or personal information about children for whom childcare is provided.

## ENHANCED level DBS certificate

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

### Individuals applying to be:

- **a foster carer and anyone aged 18 and over (according to Dept for Education regulations) who lives in the fostering household**
- **a private foster carer and anyone aged 16 and over who lives in the private fostering household**

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment No.2) Regulations 2013/2669

- Placing children with foster parents in accordance with any provision of, or made by virtue of, the Children Act 1989 or the exercise of any duty under or by virtue of section 67 of that Act (welfare of privately fostered children), including obtaining information in respect of any person who is –
  - (i) aged 18 or over and living in the same household as a person who is, or who wishes to be approved as, a foster parent within the meaning of section 53(7)(a) or (b) of the Safeguarding Vulnerable Groups Act 2006;
  - (ii) aged 16 or over and living in the same household as a person who fosters, or intends to foster, a child privately within the meaning of section 66(1) of the Children Act 1989 or who is otherwise a private foster parent within the meaning of section 53(7) (c) and (8) of the Safeguarding Vulnerable Groups Act 2006

### Individuals applying to be adoptive parents or special guardians and anyone aged 18 and over who lives in the adoptive or special guardian household

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment No.2) Regulations 2013/2669

- A decision made by an adoption agency within the meaning of section 2 of the Adoption and Children Act 2002 or the compiling of a report for the authority making a decision in respect of an application to be an application to be a special guardian within the meaning of section 14A of the Children Act 1989, as to a person's suitability to adopt a child or be a special guardian, including obtaining information in respect of any person aged 18 years or over living in the same household as the prospective adopter or special guardian

### Individuals applying to register as a social care worker

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment No.2) Regulations 2013/2669

- Registration under Part IV of the Care Standards Act 2000 (social care workers)

### **ENHANCED level DBS certificate**

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

**Individuals applying to work in a Further Education college or 16-19 Academy where the work they do brings them into regular\* contact with students aged under 18**

**\* regular should be applied by each organisation in line with the dictionary definition**

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment No.2) Regulations 2013/2669

- Considering the applicant's suitability for work in a further education institution (within the meaning of section 140 of the Education Act 2002) or a 16 to 19 Academy (within the meaning of section 1B of the Academies Act 2010) where the normal duties of that work involve regular contact with persons aged under 18

**Individuals who are aged over 16 and living in a household where another person in the household has been or is being assessed to:**

- **carry out regulated activity with children; or**
- **carry out work which would have been regulated activity with children before changes were made to the definition in September 2012; or**
- **work in a Further Education college or 16-19 Academy**

**and they both live on the premises where that work will take place**

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment No.2) Regulations 2013/2669

- Obtaining information in respect of any person who is aged 16 or over and who lives in the same household as an individual who is having or who has had their suitability assessed for the purposes of –
  - (i) engaging in any activity which is regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 or as it had effect immediately before the coming into force of section 64 of the Protection of Freedoms Act 2012
  - (ii) working in a further education institution (within the meaning of section 140 of the Education Act 2002) where the normal duties of that work involve regular contact with children
  - (iii) working in a 16 to 19 Academy (within the meaning of section 1B of the Academies Act 2010) where the normal duties of that work involve regular contact with children

where that individual, and the person who lives in the same household, live on the premises where that activity or work would normally take place

### **ENHANCED level DBS certificate**

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

#### **Individuals applying as part of registration to manage any type of agency or accommodation relating to the welfare of children**

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment No.2) Regulations 2013/2669

- Registration under Part II of the Care Standards Act 2000 (establishments and agencies).

### **Access to the DBS CHILDREN'S BARRED LIST**

Applications for enhanced DBS certificates in the child workforce **including a check of the children's barred list** are not always in regulated activity with children. Use the [Department for Education factual note](#) if you need help identifying whether a role falls into the definition of regulated activity with children.

#### **Individuals who carry out regulated activity with children**

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment No.2) Regulations 2013/2669

- Considering the applicant's suitability to engage in any activity which is a regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 as amended by section 64 of the Protection of Freedoms Act 2012

#### **Individuals who are aged over 16 and living in a household where another person in the household has been or is being assessed to carry out regulated activity with children and they both live on the premises where that work will take place**

Wording from the Police Act 1997 (Criminal Records) Regulations 2002, as amended by the Police Act 1997 (Criminal Records) (Amendment No.2) Regulations 2013/2669

- Obtaining information in respect of any person who is aged 16 or over and who lives in the same household as an individual who is having or who has had their suitability assessed for the purposes of engaging in any activity which is regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 where that individual, and the person who lives in the same household, live on the premises where that activity or work would normally take place

## Access to the DBS CHILDREN'S BARRED LIST

Applications for enhanced DBS certificates in the child workforce **including a check of the children's barred list** are not always in regulated activity with children. Use the [Department for Education factual note](#) if you need help identifying whether a role falls into the definition of regulated activity with children.

### **Anyone aged 16 and over who lives or works in the premises where the childminding or childcare takes place and has the opportunity for regular contact with the children**

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  - (i) aged 16 or over and living on the premises at which the child minding or day care is being or is to be provided;
  - (ii) aged 16 or over and working, or who will be working, on the premises at which the child minding or day care is being or is to be provided at times when such child minding or day care is being or is to be provided;
- Registration under Chapters 2, 3 or 4 of Part 3 of the Childcare Act 2006 (regulation of provision of childcare in England), including assessing the suitability of any person to have regular contact with a child who is –
  - (i) aged 16 or over and living on the premises at which the childcare is being or is to be provided;
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### **Individuals applying to be adoptive parents or special guardians and anyone aged 18 and over who lives in the adoptive or special guardian household**

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