

**People Management – Policy and Guidance  
Disclosure & Barring Service (DBS) Checks and  
Self-Disclosures Guidance for Managers  
March 2024**



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## SECTION 1: OVERVIEW

### 1. Introduction

This document aims to provide practical guidance for managers on their responsibilities when they are:

- Recruiting into a post (paid or unpaid) that may be eligible for a Disclosure and Barring Service (DBS) check
- Receiving a disclosure which could affect an individual's suitability for a post
- Dealing with a situation involving a person who carries out regulated activity when you believe that they have caused harm or pose a future risk of harm to children or adults at risk.

This Guidance should be read in conjunction with the following policies:

- Safer Recruitment Policy (draft)  
(insert hyperlink)
- Recruitment of Ex-offenders Policy (draft)  
(insert hyperlink)
- Recruitment & Selection Policy  
<http://intranet/our-people/hr/recruitment/>
- Disciplinary Policy  
<http://intranet/our-people/hr/employee-relations/disciplinary/>
- Investigation Policy  
<http://intranet/our-people/hr/employee-relations/investigations/>
- Wales Safeguarding Procedures  
<https://www.safeguarding.wales/en/>

## 2. The Disclosure and Barring Service (DBS)

The DBS provides a facility for organisations to make safer recruitment decisions via a check against different types of information such as criminal and police records and information held on the barred list for children and adults.

Employers are allowed to ask for information in relation to a person's history under the Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974 (as amended) in certain circumstances including where employees work in a regulated activity. Checks can only be requested where it is proportionate and relevant to the role or where it is required by statute.

The Council is a Registered Body with the DBS and the People Services recruitment team provides a service for the appropriate check to be requested to the DBS in accordance with the scope of this Policy. To do so, the Council must comply with the DBS Code of Practice.

### [DBS Code of Practice](#)

Under this Code of Practice, the Council must ensure that, before allowing a DBS check application to be submitted, they have assessed the role to be eligible under current legislation, correctly applied the right level of check, and correctly requested the appropriate barring list information.

The Council is a regulated activity provider. This brings obligations under the Safeguarding Vulnerable Groups Act 2006, including a legal duty to refer an individual to DBS when it is believed that a person has caused harm or poses a future risk of harm to children or adults at risk.

An employer 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.

### 3. Types of DBS Checks

There are 4 types of DBS checks which the Council may request.

#### **Basic Disclosure**

Shows unspent convictions and conditional cautions only. Any post is eligible for this type of check if it is deemed proportionate and relevant for the role.

#### **Standard Disclosure**

Shows spent and unspent convictions, cautions, reprimands, and final warnings.

#### **Enhanced Disclosure**

Shows the same as a standard check plus any information held by local police that is considered relevant to the role.

#### **Enhanced Disclosure with Barred Lists**

Shows the same as an enhanced check plus whether the applicant is on the list of people barred from working with these service users.

### 4. Types of Workforces

Applications for standard or enhanced DBS certificates must contain a workforce.

For Enhanced Level Disclosure with Barred List certificates:

**Children's workforce** – provides access to a check of the Children's barred list

**Adults' workforce** – provides access to a check of the Adults' barred list

**Children's and Adults' workforce** - provides access to a check of the Children's and Adults' barred lists. These are for roles which work with both children and adults at risk.

**Other workforce** - provides access to a check of the Children's and Adults' barred lists. These are roles which don't specifically relate to working with children and/or adults. For more information on the type of roles that fall under this category of workforce, please refer to [Other workforce guide](#)

## 5. Assessing if the Role is Eligible for a DBS Check

Assessing if the job role is eligible for a DBS check can be complicated, but there are several sources of help to guide managers and counter-signatories. This section is to help you select the correct level of check and barring list (if appropriate).

Please refer to **Appendix 1: Establishing DBS Eligibility form**

You should complete this form to record the reason for selecting the type of DBS check and workforce for the job role.

Sources of guidance are as follows:

- DBS Eligibility Tool
- DBS Guidance Leaflets
- DBS Eligibility Guidance – this is the full guidance

**5.1 DBS Eligibility Tool.** DBS has made an online eligibility tool available which covers most, but not all, job roles.

Here is the link: [DBS Eligibility Tool](#)

This tool does not cover all roles currently. If the role is not covered, seek guidance from the People Services Recruitment team/ HR Adviser.

**5.2 DBS Guidance Leaflets.** DBS has published a range of guidance leaflets, which cover various areas of work.

### **DBS Checks in Sport – Working with Children**

[DBS Checks in Sports - Working with Children.pdf](#)  
([publishing.service.gov.uk](#))

### **DBS Checks in Sport – Working with Adults**

[DBS Checks in Sports - Working with Adults.pdf](#)  
([publishing.service.gov.uk](#))

### **Children's Social Care Providers**

[DBS guidance for children's social care providers and managers](#)  
([www.gov.uk](#))

### **Regulated Activity Working with Children**

[Regulated Activity with Children in Wales.pdf](#)  
([publishing.service.gov.uk](#))

### **Adult Social Care**

[Social care roles for adults.pdf](#) ([publishing.service.gov.uk](#))

### **Regulated Activity Working with Adults**

[Regulated Activity with Adults in Wales.pdf](#)  
([publishing.service.gov.uk](http://publishing.service.gov.uk))

Note: If you think that a job role might be in Regulated Activity, please also read Section 6 “**What is Regulated Activity?**”

### **School Governors and Elected Councillors**

[A Guide to School Governor and Elected Councillor Roles in Wales.pdf](#) ([publishing.service.gov.uk](http://publishing.service.gov.uk))  
[School Governor Councillor roles Cymraeg.pdf](#)  
([publishing.service.gov.uk](http://publishing.service.gov.uk))

All these guidance documents (and others) can be found here:  
[DBS guidance leaflets - GOV.UK \(www.gov.uk\)](#)

- 5.3 DBS Full Eligibility Guidance.** The full guidance is available on the DBS website, which includes the legislative wording. As this is not very user-friendly, it is recommended that you use the other sources of guidance first, and then use the full guidance to check and confirm that you are selecting the correct type of DBS check. Here is the link: [DBS Eligibility Guidance](#)

For Standard DBS checks, please refer to the [Eligibility guidance for standard DBS checks](#)

For Enhanced DBS checks and Enhanced DBS checks with Barred Lists, please refer to the [Eligibility guidance for enhanced DBS checks](#)

If you are still unsure about whether a post requires a DBS check, or the level of check required, please contact the People Services Recruitment Team / your HR Adviser to discuss.

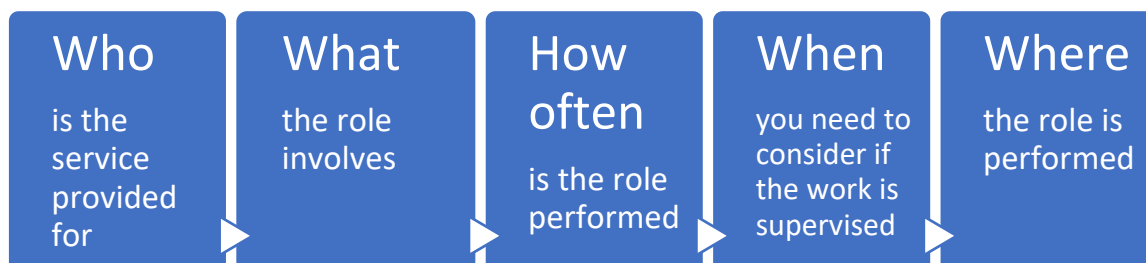
### **Home Based Checks**

For roles that take place in the applicant's own home, the DBS application form should answer 'Yes' to the question '*Does this position involve working with children or adults at the applicant's home address?*'. This allows a home-based check to be carried out. This means that the police will consider disclosing any relevant information held not only about the applicant, but also on any other person who is associated with the address that the applicant will be working from. This does not apply if the applicant is travelling to someone else's home to carry out regulated activity.

## 6. What is Regulated Activity?

Regulated activity is work that a barred person must not do.

There are 5 aspects you will need to think about:



Regulated activity can be summarised as follows:

### 6.1 Regulated Activity – Children

#### Definitions:

**Children** are usually under 18 years old, but not if the activity is in relation to the child's paid or unpaid employment, and they are 16 or 17 years old.

**Supervision** of a worker means day to day supervision.

**Regular** means carried out by the same person on a frequent basis – on more than 3 days in a 30-day period or ever working overnight (between 2am and 6am) where there may be face-to-face contact with children.

To establish whether or not an individual is engaging in **regulated activity with children**, you have to take into consideration three factors:

- the role - what activity a person carries out, how often the person does it and whether they are supervised
- the setting - where the role takes place and how often the person will work there

**Regulated activity** refers to the following unsupervised activities. These activities must be carried out regularly (i.e., on a frequent basis as defined above).

There are NINE categories that define Regulated Activity with Children.



The first FOUR activities must be carried out **regularly**:

1. **Teaching, training, instructing, caring for** or **supervising** children, or
2. Providing **advice or guidance** on physical, emotional or educational wellbeing, or
3. **Driving** a vehicle solely for children.
4. **Moderating** a website wholly or mainly for children

The following TWO activities are classed as **regular**, even if the activity is only carried out once:

5. **Health care**, which is provided by, or under the direction of, a regulated health care professional, or
6. **Personal care** for children, such as assisting with washing and dressing.

There are no frequency conditions placed on the following THREE activities:

7. Registering to be a **foster carer**
8. Registering to be a **childminder** or **childcare provider**
9. **Specified positions in Wales**. These are mainly inspection functions.

If someone does not meet regulated activity because of what they do, they may meet it because of where they work.

### **Places of Regulated Activity**

The Safeguarding Vulnerable Groups Act 2006 identifies Schools and other specified settings as a place of Regulated Activity

Other specified settings include: an educational institution for the full time education of children, a pupil referral unit, a provider of nursery education, a detention centre for children, a children's home or home provided under the Children Act 1989, a children's centre, a children's hospital in Wales and relevant childcare premises.

If the role meets the definition of regulated activity with children because it involves teaching, training or instructing children, or is providing any form of care for or supervision of children in a specified establishment and the period condition is met, then the organisation must consider the Department for Education (DfE) statutory supervision guidance.

<https://www.gov.uk/government/publications/supervision-of-activity-with-children>

If the role is undertaking one of the specified activities in a specified establishment, is **voluntary** and the organisation decides that the role is sufficiently supervised, then the volunteer is not in regulated activity with children and is eligible for an enhanced DBS certificate only.

If that role working within the specified establishment is **paid**, then the individual will always be in regulated activity with children and eligible for an enhanced DBS with children's barred list certificate. This is regardless of the level of supervision they are under.

Ancillary roles in specified establishments (such as catering, cleaning or caretaking) must meet all four of the following criteria to be in regulated activity with children:

- they work there on more than 3 days in a 30-day period or overnight between 2am and 6am with the opportunity for face-to-face contact with the children **and**
- they have the opportunity, because of their job, to have contact with the children in the establishment **and**
- they work there for the purpose of the establishment **and**
- it is not temporary or occasional work, and it is not a supervised volunteer role.

All individuals meeting these 4 criteria working within one of the specified settings must have an enhanced DBS with children's barred list certificate.

Schools must also comply with the Staffing Maintained Schools Wales Regulations 2005 and Staffing Maintained Schools (Miscellaneous Amendments) Wales Regulations 2007 in addition to the Safeguarding Vulnerable Groups Act.

## 6.2 Regulated Activity – Adults

### Definitions:

**Adults** are aged 18 and over.

**Personal care** includes teaching, training, instructing, caring for or supervising adults, or providing advice/guidance on wellbeing.

**Supervision** of a worker means day to day supervision.

**Regular** means carried out by the same person on a frequent basis working with adults receiving care – once a week or more, on more than 3 days in a 30-day period or ever working with adults receiving care overnight (between 2am and 6am).

Unlike regulated activity with children, regulated activity with adults focuses on the specific activities that are provided to an adult that requires them, rather than the setting in which a specific activity is taking place.

For example, any individual that provides personal care to an adult will be engaging in Regulated Activity irrespective of whether that occurs in a hospital, a care home, a prison or in the person's own home.

There are **EIGHT** categories that define Regulated Activity with Adults:

1. **Health Care** which is provided by or under the direction of a regulated health care professional to an adult, including palliative care, psychotherapy, and counselling.
2. Providing **Personal Care** to an adult in the form of feeding, washing, dressing, toileting, oral care or care of the skin, hair \*, or nails\* because of the adult's age, illness or disability. This includes prompting and then supervising an adult who because of their age, disability or illness 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 prompting and supervision. It also includes training, instructing or providing 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.
3. Providing **Social Work** to an adult in connection with assessing or reviewing the need of health or social care services and providing ongoing support to clients.
4. Drivers or assistants who **transport adults** because of their age, illness, or disability, to and from health care, personal care or social work activities, appointments, etc.
5. **Assisting an adult** in the conduct of their own affairs, where: a lasting power of attorney is created; an enduring power of attorney is registered or applied for; the Court of Protection has made an order in relation to the making of decisions on the adult's behalf; an independent mental health or mental capacity advocate is appointed; independent advocacy services are provided; a representative is appointed to receive benefits payments on the adult's behalf.
6. **Assisting an adult** with general household matters such as managing cash, paying bills or shopping on their behalf, where it is required because of their age, illness, or disability.
7. **Day to day management or supervision** of anyone carrying out the above activities.
8. **Specified positions in Wales.** These are mainly inspection functions.

\* There are exceptions to this. Excluded from regulated activity is any physical assistance provided to an adult in relation to the care of their hair or nails when that assistance is not related to their age, illness or disability. For example, a hairdresser who cut the hair of residents in care homes is not engaging in regulated activity.

For example, a beauty therapist who attends a day care centre 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.

## 7. Re-checking existing staff

The Authority will check existing staff where required to do so, for example in the following circumstances:

- To maintain the registration requirements of regulatory or professional bodies such as Social Care Wales (SCW), Education Workforce Council (EWC) and Health and Care Professionals Council (HCPC);
- To meet the statutory regulations for regulated services;
- When staff change their job role (see section 10 below);
- If there has been a change in the employee's criminal record (see section 11 below).

Employees may be required to sign up to the DBS Update Service to enable appropriate re-checks to be made.

### **See Appendix 2: Letter for Staff joining the Update Service**

Individuals who have changed their name by marriage, civil partnership or deed poll will be required to undergo a new DBS check at the next re-checking date.

### **7.1 All Staff who are subject to a DBS Check**

Employees are not required to disclose information about their criminal record unless asked to do so by their employer.

All staff in roles subject to a DBS Check will be requested to make a Self-Disclosure annually via MyView, at the same time as the annual Declaration of Gifts and Hospitality and Declaration of Interests is usually made in April. Managers must review the Declarations made by their staff and ensure that every member of the team has completed their Declarations.

*Note: This facility will not be available until after April 2024.*

**See Appendix 3: Self-Disclosure Form**

## **7.2 Staff who are registered with Social Care Wales**

Those who work in posts which are required to be registered with Social Care Wales will be asked for an updated DBS disclosure in accordance with their re-registration requirements.

A list of posts for which registration is a requirement may be found in this link: [What is registration? | Social Care Wales](#)

Employees in roles which require re-checks may be expected to join and maintain a subscription with the DBS Update Service to allow for re-checks to be undertaken. The Council will not reimburse any costs associated with this.

For staff who work in the following **Regulated Services**:

- Care home services
- Domiciliary support services
- Secure accommodation services
- Residential family centre services
- Adult placement services
- Fostering services

If the individual is registered with the DBS update service, the service provider must check the person's DBS certificate status at least annually.

If the individual is not registered with the DBS update service, the service provider must apply for a new DBS certificate within three years of the issue of the previous certificate.

## **7.3 Staff who are registered with Education Workforce Council**

Posts which are required to be registered with Education Workforce Council may be found in this link: [Applying for registration \(ewc.wales\)](#)

The DBS provides the EWC with regular updates on barred individuals.

There is no legal requirement to re-check staff who work in regulated activity/settings including those who work in Schools unless there has been a break in service of more than 3 months.

The School Governing Body is advised to adopt this policy. In the absence of a locally adopted policy, the Council will apply this policy. If the School's

policy varies from this, they will be expected to pay any additional costs associated with it.

## **7.4 Staff who are registered with Health and Care Professional Council**

Posts which are eligible to be registered with the HCPC may be found in this link: [Are you eligible for registration? | HCPC](#)

Those who work in posts which are required to be registered with the HCPC will be asked to renew their registration every two years which includes a personal declaration.

The personal declaration includes a statement that the person has not had any change relating to their good character (this includes any conviction or caution that they are required to disclose).

In addition, registrants are required to immediately self-refer to HCPC if a conviction has resulted in a significant change to their good character.

Further guidance from HCPC is provided at this link: <https://www.hcpc-uk.org/resources/guidance/guidance-on-health-and-character/>

## **8. DBS checks for non-employees**

### **8.1 Social Work Students and Student Teachers on placement**

Student teachers and Social work students should be checked by their University. Schools should seek written confirmation that checks have been carried out and by whom. Schools should then check the identity of the student on their arrival.

### **8.2 Agency or Supply Staff**

The Agency is the employer of the workers it provides. It must therefore carry out the same level of checks as required by this Policy and the post assessment. Service managers must ensure that the Agency provides written confirmation that DBS and all other pre-employment checks have been undertaken before the worker commences their placement. Managers should also arrange to see the original DBS certificate on the first day the Agency worker commences work.

### 8.3 Contractors

The organisation providing the service/contractors is the employer. It must therefore ensure that the appropriate DBS and pre-employment checks are undertaken. Contractors are required to comply with this Policy and this should be provided during the procurement process. Separate guidance is available from the Procurement Team.

Note: The Passenger Transport Service coordinates DBS checks for its contractors.

### 8.4 Volunteers

The DBS define a volunteer as '*a person who performs any activity which involves spending time, unpaid (except for travelling and other approved out-of-pocket expenses), doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives.*'

The DBS does not charge for providing disclosures for volunteers but before submitting a request for a volunteer, you must be satisfied that they will not:

- benefit financially from the position for which the application is being submitted
- receive any payment (except for travel and other approved out-of-pocket expenses)
- be on a work placement
- be in a trainee position or undertaking a course of study that will lead to a full-time role/qualification
- be a paid foster carer or a member of a foster care household

If your service contracts with other organisations who use volunteers then those organisations must follow this Policy /Guidance.

### 8.5 Elected Members

There is no general requirement for Elected Members to be DBS checked.

Elected members are eligible for an enhanced DBS check without a barred list check in the child and/or adult workforce if they are appointed as a member of a committee or sub-committee involved in:

- the delivery of services for children relating to education or social services;
- the delivery of services for adults relating to social services.

If the councillor is an appointed member of one of these types of committees, the 'Position Applied For' field on a DBS application form would need to reflect this committee role, rather than indicate that the applicant is an elected councillor.

## **8.6 Committee and Sub-committee Members**

Other individuals appointed as local authority committee and sub-committee members can be eligible to apply for an enhanced level DBS check without barred list in the child and/or adult workforce, if they are appointed as a member of a committee or sub-committee involved in:

- the delivery of services for children relating to education or social services;
- the delivery of services for adults relating to social services.

If the individual is an appointed member of one of these types of committees, the 'Position Applied For' field on a DBS application form would need to reflect this committee role, rather than their job role.

## **8.7 School Governors (including Clerks to Governing Bodies and co-opted committee members)**

Anyone holding any of the positions above is eligible to be asked to apply for an enhanced level DBS check without barred list in the child workforce.

This was an amendment made in 2013 to the Police Act 1997 (Criminal Records) Regulations 2002, following changes to the definition of regulated activity by the Protection of Freedoms Act 2012, result in in these roles being no longer eligible for a barred list check.

[A Guide to School Governor and Elected Councillor Roles in Wales.pdf \(publishing.service.gov.uk\)](#)

Schools must decide whether their Governors should be asked to apply for a DBS check dependent upon their role.

## **9. Counter signatories and Identity Verifiers**

It is the responsibility of every Counter signatory and Identity Verifier to:

- Undertake all training required and provided in relation to their responsibilities



- Keep up to date with information and guidance provided by the Disclosure and Barring Service, the Council's People Services or Legal teams, and any other relevant sources
- Maintain full and accurate records where required
- Seek advice if they are unsure about any area of responsibility in relation to DBS and pre-employment checking.

## SECTION 2: MANAGERS' RESPONSIBILITIES

### 10. Recruiting into a Post that may be eligible for a DBS check

You should use the following guidance in conjunction with the **Safer Recruitment policy** and the **Recruitment of Ex-Offenders policy**.

When you are recruiting to a vacant or new post, you should review / update the current Job Profile or write a new Job Profile.

The Job Profile should clearly state:

- The safeguarding requirements and responsibilities of the role, such as the extent of contact or responsibility for children and adults at risk.
- The individual's responsibility for promoting and safeguarding the welfare of the children and adults at risk that they are responsible for or will come into contact with.
- The requirements needed to perform the role in relation to working with children and adults at risk.
- The competencies, values, and qualities that the successful candidate should be able to demonstrate.
- The type of DBS check that will be requested for the role (if any).

The Recruiting Manager and the Counter-Signatory are responsible for making sure the job role is eligible for the DBS check requested.

DBS Checks can only be requested **after** a conditional job offer is made.

Information supplied via the DBS checking process is confidential personal data and must not be relayed to anyone who is not entitled to see it. Any individual found to be in breach of this may be subject to disciplinary action.

DBS disclosures are required for all new (to the Council) employees, agency workers and volunteers who are appointed to work in a post which requires a DBS check **before** commencing employment. You should allow up to 4 weeks for a DBS check to be processed – build this into your recruitment plan to ensure that all checks can be completed before you require the employee to start.

New employee details will not be set up for HR and payroll purposes until **all** pre-employment checks, including DBS checks, are completed satisfactorily. Therefore, where a post has been identified as requiring a DBS check, the employee must **not** commence work until that DBS certificate has been received and assessed by People Services and the Recruiting Manager.

If there are exceptional circumstances which you think may allow an employee, volunteer or agency worker to commence before DBS checks are completed, you should speak to your line manager and HR Business Partner BEFORE the employee commences. This may include where an employee will not be working with children or vulnerable adults immediately eg to attend off the job training or where the employee will not be working unsupervised until the DBS check is received. However, this is considered a last resort.

Failure to complete the appropriate checks may put your service users and colleagues at risk. Details of Recruiting Managers/Head Teachers who fail to comply with the DBS check requirements will be shared with the Corporate Safeguarding Group and a warning letter will be issued. Any further non-compliance will result in the Recruiting Manager/Head Teacher being asked to attend a formal meeting with the LADO and Director of Education and Childrens Services following which further steps including disciplinary action may be taken.

For details of the full pre-employment check requirements please refer to the Pre-employment checks section of the Recruitment intranet page.

If the prospective employee is registered with the DBS Update Service, the Recruiting Manager should check that they are able to produce the original DBS certificate and that the type of DBS check and the workforce stated on the certificate is valid for the job they have applied for.

**Current** Council employees who are offered a new post which requires a DBS disclosure must be checked if:

- a) They have not previously undergone a DBS check; **OR**
- b) They have undergone a check, but their DBS certificate is more than three years old; **OR**
- c) The DBS certificate is three years old or less but is not valid for the post for which they have applied **OR**
- d) They hold the appropriate DBS certificate but are moving to a post which is significantly different to their current post, e.g., driver to teaching assistant **OR**

e) They have changed their name by marriage, civil partnership, or deed poll since their last DBS check.

### **Sensitive Applications**

DBS offers a confidential checking service for transgender applicants which gives them the choice not to have any gender or name information disclosed on their DBS certificate that could reveal their previous gender identity. The applicant should contact the Sensitive Applications team on 0300 106 1452 or via email [sensitive@dbs.gov.uk](mailto:sensitive@dbs.gov.uk)

### **Employing People from Overseas or Refugees in Social Care**

The following web links provide useful guidance for managers recruiting staff from overseas or dealing with applications from refugees.

<https://gov.wales/employing-people-ukraine-and-refugees-social-care-resource-providers>

<https://www.local.gov.uk/our-support/sector-support-offer/care-and-health-improvement/adult-social-care-workforce/overseas-recruitment>

<https://www.skillsforcare.org.uk/Recruitment-support/Attracting-people/International-recruitment.aspx>

Applicants who have worked or resided overseas for six months or more in the previous five years (excluding members of UK armed forces and their families) will be advised to seek certificates at their own cost from the relevant countries in accordance with the relevant DBS Guidance.

[Criminal records checks for overseas applicants - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/criminal-records-checks-for-overseas-applicants)

## **11. What to do if a conviction is disclosed which may affect the person's suitability for the post**

Managers may receive disclosures containing previous convictions and/or cautions, or other information concerning the person's suitability for the post, in the following circumstances:

- Job applicants or Volunteers (who have been offered a post subject to satisfactory pre-employment checks). These could be internal or external applicants.
- Existing employees who are the subject of periodic re-checking

- Existing employees who report a change in their criminal record or other information of concern
- Ad hoc information about an employee or volunteer which is brought to the manager's attention

Disclosures could be received via a DBS check, or from a self-disclosure made during the job application process, or a self-disclosure made by an existing employee, or other information such as a news report of a court case.

## **11.1 Can someone with a criminal record be employed?**

The only circumstances in which an employer may NOT legally recruit a person with a certain type of offending history, is where that offending history has led to the individual being barred from regulated activity with either children, adults, or both. If you are recruiting for a role that is defined as regulated activity with children or adults, you must not employ a person who has been barred from working with the relevant group.

In all other circumstances, it is completely at the discretion of the employer to make their own recruitment decisions, which should be made on a case-by-case basis, assessing risk in relation to the nature of the role.

Seek the advice of your HR team before completing your assessment.

See **Appendix 4: Risk Assessment template**

## **11.2 A job applicant's (or volunteer's) DBS check has revealed details of cautions and/or convictions. What should I do?**

If the certificate confirms what the applicant has already disclosed.

Speak to your HR Team before contacting the applicant to discuss the disclosure(s). Once you have all the information you need, complete the risk assessment form and decide whether or not you are able to continue with the recruitment. The following sections give further guidance.

If the certificate reveals information that the applicant had not previously disclosed. See 11.6 below.

## **11.3 What information should I consider when determining whether an applicant with a criminal record is suitable for the post?**

Firstly, think about the post and consider the following aspects:

- Does the post involve one-to-one contact with children, or other vulnerable groups such as service users?

- What level of supervision will the post-holder receive? Is the post unsupervised? Does it involve working in isolation?
- Does the post involve any direct responsibility for finance, cash or items of value?
- Does the post involve a significant level of trust?
- Does the post involve direct regular contact with the public?
- Will the nature of the job present any opportunities for the post-holder to reoffend in the course of work?
- Are there any safeguards which can be put in place to minimise any potential risks?

Secondly, you should meet with the applicant to gather more information about the relevance of their criminal record. Based on the information provided, you should take into account the following:

#### *Nature of offence(s)*

What type of offence or offences did the individual commit? i.e. theft, fraud, violence, possession of drugs, supply of drugs, sexual offences, public order or other offences. Did the offender commit one type of offence or a range of different offences?

#### *Relevance*

You should consider whether the offence is relevant to the position in question. The relevant categories of offences in relation to the protection of children are generally considered to be serious, violent, sexual and drug-related offences, although the nature of the offence is not the only factor that ought to be considered. For example, a person with a previous history of drug-related convictions who has clearly moved on from that period may be particularly well-suited to support others with substance misuse problems.

For work with vulnerable adults, the relevant categories are generally considered to be violent and sexual offences. Offences of dishonesty, such as fraud, may be relevant if the nature of the post involves unsupervised access to money and valuables.

Drink-driving offences are not generally considered relevant unless the job itself involves driving.

#### *Seriousness*

You should consider the seriousness of any offence or allegations disclosed. This is important because all offence categories cover a very wide range of offences that vary in terms of seriousness. A sexual offence, for instance, covers everything from underage sex to indecent assault and rape. Violence covers

everything from battery or common assault to grievous bodily harm and murder. Drug offences cover everything from possession of small amounts of class B drugs (such as cannabis) for personal use to possession of class A drugs with intent to supply. Burglary covers illegally entering to steal from a non-domestic property to entering someone's home to steal. Robbery is stealing using force whilst aggravated burglary involves the use of a firearm or weapon. Arson ranges from reckless damage of property to intentionally destroying property and endangering lives.

The penalty applied may also give some indication of the seriousness of the case. The name of the offence (the offence code) does not indicate the seriousness of the incident, which is why it is important to gain further details of what actually took place and to consider the other factors listed.

### *Offence circumstances*

Who was involved? What happened? Where did it happen? When did it happen? How did it happen? Why did it happen?

You should consider the circumstances and the explanation offered by the applicant. Consider whether there were any aggravating or mitigating circumstances. What was the applicant's attitude to their offending? Did they show any remorse or take responsibility for their actions? Did they try to make reparation to any victim?

In particular, take into account the applicant's own circumstances at the time of the offending behaviour including issues with accommodation, education, employment, management of finances and income, lifestyle and associates, relationships, drugs and alcohol, emotional well-being or health.

You should also consider that a person convicted of a serious offence may have completely changed their life around for the better.

It is important to be aware that it is very difficult for an applicant seeking to show themselves in the best possible light to a prospective employer, to have to then discuss past matters that they may feel ashamed or embarrassed about. Taking that into account, you should look for openness and honesty, rather than denial and minimisation. You should consider the applicants' insight into their own behaviour, any indication of changed thinking, relevant changes in their circumstances and, where relevant, victim empathy rather than victim blame or shared responsibility.

### *Age of offences*

Employers should consider the length of time that has passed since the offence that has been disclosed took place. Cautions or convictions that appear on a disclosure certificate may be very old, for example, dating back to when the person was growing up. They may not be relevant if applicants have put their past behaviour behind them.

The government recognises that people can and do put their offending behind them. This recognition is embodied in the Rehabilitation of Offenders Act 1974 and by the introduction of the filtering system for positions subject to standard or enhanced disclosure checks. Reoffending statistics in the UK indicate that if individuals go more than two years without reoffending, they are no more likely to offend again than those who have never offended.

### *Pattern of offending*

Employers should consider whether the applicant committed a single offence, or whether there has been a pattern of offending behaviour or allegations. Is there a big gap between offences, or are there a number of offences within a short period? People who have a pattern of offending right up to the present date may not have put their offending behind them.

Those people with gambling, drink or drug-related convictions, in particular, may remain a risk unless there is evidence of a clear break in the pattern of their offending. Nevertheless, many offenders, including repeat offenders, do eventually give up crime. They may have a particular motivation for doing so (e.g. becoming a parent) and often there will be clear evidence shown throughout the other aspects of the recruitment process and on the disclosure certificate.

### *Changed circumstances*

You should take into account whether the applicant's circumstances have changed since the offending took place. For instance, those convicted when young, perhaps as juveniles, often do not reoffend as mature adults.

As part of the risk assessment, you should try to establish the applicant's attitude at the time of the offence. What is their attitude now? How do they now feel about what happened? How do they feel about their part in what happened? Do they show remorse? Do they blame others? Do they feel a victim of injustice? How genuine is their expression? What efforts have they made not to reoffend? Can a reference be sought from their probation officer or support worker if they have one?

Having reviewed the circumstances at the time of the offence, you should then compare the applicant's circumstances at the time of them applying for the role. It may be that the applicant can provide the necessary reassurance that past issues have been resolved. However, many people with more recent convictions will also have reached the point where they want to put their offending behind them and put their talents to constructive use. If the offence is not work-related, or if the post is at a level of responsibility which means that the applicant does not pose a risk, you might consider recruiting them if, in all other respects, they are suitable for the job.

## **11.4 Conducting a meeting with the applicant, volunteer or employee**

You should give the applicant the opportunity to address any concerns that you may have or any discrepancies in the information they have disclosed. Wherever possible, this is best done in the form of a face-to-face meeting with the applicant.

It is important that you make it clear to the applicant that the purpose of the meeting is to discuss any relevant information that can inform your risk assessment. Making your reasons clear is more likely to instil confidence in the applicant that their disclosure will not necessarily count against them and will encourage them to be more open with you. Try to conduct any such meeting with sensitivity and empathy, as discussing past convictions may be a source of great anxiety and embarrassment for the person concerned.

Think carefully about the questions you plan to ask and keep the discussion focused on the individual and their feelings and attitudes. It is best not to conduct the meeting alone. Invite a colleague who was involved in the recruitment process to provide support and take notes or ask your HR adviser for support. It is also important to remember it is not for you to decide whether the court's decision or police course of action was the right or fair one. The purpose of the interview is to help you to gather the necessary information to assess whether the individual may pose a risk in the position applied for.

## **11.5 How should I carry out a Disclosure risk assessment?**

A risk assessment form must be completed by the Recruiting manager with advice from your HR Business Partner. See **Appendix 4: Disclosure Risk Assessment** for the proforma to be used.

Where the disclosure relates to a School Governor or a Head Teacher, the school is advised to seek advice from the Director of Education and Children.

Before you carry out your risk assessment, it is important that you have gathered as much information as possible to inform your assessment. In addition to the information gathered from meeting the applicant / employee, other sources may include answers given on the application form and during interview, self-disclosures, DBS disclosure certificates, value-based interview notes, references and independent statements from support workers or probation officers.

Once you have gathered all the relevant information, you should carry out your risk assessment with advice from your HR Business Partner. If you identify any potential risks, you should assess whether appropriate safeguards can be put in place to minimise these risks. The assessment should be a documented decision-making process that is signed by those undertaking the assessment.



Only convictions which are relevant to the role which an individual applies for should be taken into consideration. Past “spent” convictions which would not impact on an individual's ability to perform a role competently and safely, should not bar an individual from taking up a position within the Council.

A record of the decision should be kept and communicated in writing to the Recruitment team and the applicant.

If you proceed with recruitment, the risk assessment should be retained (on the HR personnel file).

If you are subject to inspection by a regulating body, such as CIW or Estyn, or if you are subject to safeguarding audits, you should keep the risk assessment for the purpose of such inspections or audits.

If you have decided **not** to proceed with the recruitment of the applicant, keep the risk assessment for as long as the individual has to raise a dispute, appeal the decision or lodge an employment tribunal claim if they feel the decision was discriminatory.

If the applicant is an existing employee of the Council, you should consult your HR Adviser on whether there are any further actions that need to be taken.

## **11.6 There are discrepancies between the information provided by the applicant and the information on their DBS check. What should I do?**

Firstly, you need to consider whether you gave the applicant a reasonable opportunity to make a criminal record declaration during recruitment. The onus is on the employer to request such information; the applicant has no legal duty to disclose criminal record information if they have not been asked directly to do so. The Council usually relies on its on-line application process which requests this information at an appropriate stage in the recruitment process. If the recruitment process differed from this standard route, you should check if a criminal record declaration was requested.

If there are significant discrepancies between the information the applicant has provided and the criminal record information contained on the disclosure certificate, you should request a meeting with the applicant to gather further information. The [DBS code of practice](#) states that an employer should discuss any new matters (including other relevant information) revealed in the disclosure, with the applicant before making a final recruitment decision. It is important that the applicant is given the opportunity to address the employer's concerns.

You should not assume that when an applicant has not declared a criminal record that later comes to light on a disclosure certificate, it is an attempt to obtain employment by deception. If it has been made clear in the job advert and job profile that an appointment is subject to a DBS check, applicants will be far less likely to conceal their records deliberately.

In some cases, a discrepancy may have occurred because the applicant simply did not realise that they had a criminal record or was mistaken about the type of sentence or disposal they received due to a limited understanding of how the criminal justice system works. The changes to disclosure legislation, including the ROA and the ROA Exceptions Order, are extremely complex and many receive incorrect or outdated advice about their responsibilities to disclose. Without knowing exactly what information is contained on their criminal record and in the absence of appropriate guidance on what information needs to be disclosed, there is a possibility that applicants can simply make a mistake.

In some instances, it may be clear that a particular applicant is unsuitable for the post they have applied for because of their record. However, it is important not to make this decision without gathering more information from the applicant. The risk assessment must still be recorded with your reasons for withdrawing any offer of employment. (Please seek HR advice).

### **11.7 Do I have a duty to inform others in the Council (or School) about an employee's criminal record?**

Information about an applicant's criminal record should not be disclosed to anyone in the organisation apart from those who have a genuine need to know. This may include the Recruitment team, HR Business Partner, or the applicant's team leader/ line manager, but only if the offence is relevant to the applicant's role and only where the team leader/ line manager is responsible for implementing any safeguards deemed necessary and appropriate to manage any identified risks.

The applicant should also be told who in the organisation knows about their record, as they need to feel confident that their personal and sensitive information will not be disclosed to anyone unless there is a specific reason for doing so.

### **11.8 A member of my team's DBS re-check has revealed details of cautions and/or convictions. What should I do?**

Any re-checking has to be done with the employee's full knowledge and consent. However, it is expected that staff working in safeguarding roles will

provide that consent and may not be able to continue in their role if they do not provide consent and their registration requires a re-check to allow them to continue practicing.

If a re-check reveals a conviction or caution which has not been declared by the employee, you should not assume that this information has been withheld deliberately. Follow the guidance outlined in the previous paragraphs.

### **11.9 A member of my team has reported a change in their criminal record or other information of concern. What should I do?**

You should follow the guidance provided in the previous paragraphs.

### **11.10 Some information has been brought to my attention about an employee or volunteer which may affect their suitability for the role. What should I do?**

Firstly, you should consider the source of the information and whether it is likely to be reliable. For example, the member of staff concerned may have confided in a colleague, who has felt a professional responsibility to pass on the information to you as their line manager. A colleague may have pointed out to you the press coverage of a court case. Or you may have overheard some 'gossip' in the workplace or seen something written about the member of staff on social media such as an incident or an arrest. It is important to be mindful that mistaken identity could be needlessly casting doubt on a member of staff with no connection to the incident or court case in question. The reliability of the information, or the chance that the information may be unreliable, is likely to determine how you will approach the employee.

Remember that an employee only has to disclose information about their criminal record if they are asked to do so. You should not assume that there is a deliberate attempt to conceal information.

After consulting your HR Business Partner, you should arrange a meeting with the employee. You should make it clear to the individual that the purpose of the meeting is to give them the opportunity to respond to any concerns that have been brought to your attention. This may or may not result in you needing to undertake a risk assessment. Any relevant information gathered from the meeting can be used to inform the risk assessment.

Try to conduct any such meeting with sensitivity and empathy, as discussing a conviction, caution, arrest, or involvement in an incident that could result in them being charged with an offence may be a source of great anxiety and embarrassment for the person concerned.

Think carefully about the questions you plan to ask and keep the discussion focused on the individual and their feelings and attitudes about the situation or offence.

You should ask the individual if they need any support with their well-being. The following Intranet links are helpful:

<http://intranet/our-people/hr/employee-support/>

<http://intranet/our-people/health-wellbeing/stress-mental-health-and-emotional-wellbeing/>

<http://intranet/our-people/health-wellbeing/stress-mental-health-and-emotional-wellbeing/stress/>

Re-cap and agree with the individual any actions arising from the meeting, including informing them of whether you will need to undertake a risk assessment. It is best not to conduct the meeting alone. You should take notes and confirm the outcome of the meeting in writing. If you think that a risk assessment needs to be undertaken, this should be done quickly and in conjunction with your HR Business Partner.

## **12. Dealing with a situation where you have safeguarding concerns**

The [Wales Safeguarding Procedures](#), Section 5 (Safeguarding Allegations / Concerns about practitioners and those in positions of trust) should be used in all cases in which it is alleged that a person who works or has contact with children or adults at risk has:

- Behaved in a way that has harmed or may have harmed a child or adult at risk

- May have committed a criminal offence against a child or adult at risk or that has a direct impact on the child or adult at risk
- Behaved towards a child, children or adults at risk in a way that indicates they are unsuitable to work with both children and adults

All Local authorities have identified managers who are accountable and responsible for allegations against professionals and those in positions of trust, known as the Local Authority Designated Officer (LADO). Responsibility for managing allegations made against professionals and those in a position of trust may be delegated to a Designated Officer for Safeguarding (DOS)

There are two Designated Officers for Safeguarding (DOS) in the Council:

Rebecca Robertshaw, Child Protection Coordinator  
[childprotection@carmarthenshire.gov.uk](mailto:childprotection@carmarthenshire.gov.uk)

Cathy Richards, Senior Safeguarding Manager (Adults)  
[SCHAdultSafeguarding@carmarthenshire.gov.uk](mailto:SCHAdultSafeguarding@carmarthenshire.gov.uk)

You should inform the relevant Designated Officer for Safeguarding of your concerns at the very earliest opportunity and in all circumstances within no more than 24 hours after the concern has arisen (or next working day if out of office hours). You should clearly highlight that this is a safeguarding allegation/concern in relation to an employee, volunteer, agency worker or school governor.

Please also inform your HR Business Partner.

## **Making a report**

### **You should:**

- Treat the matter seriously and keep an open mind
- Make a written record of the information (using where possible, the child's / adult's own words), including the time, date and place where the alleged incident took place, what was said and anyone else present
- Sign and date the written record
- Immediately report the matter to the Designated Officer for Safeguarding using the email addresses above.
- Where possible, send accompanying documentation such as the risk assessment clearly advising what safeguarding action has been taken to protect any children and adults at risk
- Where the Designated Officer for Safeguarding is the subject of the allegation, the information should be reported to a more Senior Manager and the Local Authority Designated Officer (LADO)

### **You should NOT:**

- Investigate or ask leading questions
- Make assumptions or offer alternative explanations
- Promise confidentiality - the person/persons should be advised that the concern will be shared on a 'need to know' basis

It must be noted that some allegations are so serious as to require immediate referral to the Police and the relevant Social Services care management team. The Wales Safeguarding Procedures are not in any way intended to impede the requirement for urgent or immediate responses to circumstances that are clearly serious.

A professional strategy discussion will determine whether the matter meets the threshold for progressing to a formal professional strategy meeting, which will be convened by the DOS. You may be invited to attend this meeting. This formal meeting will decide whether there are any disciplinary issues to be followed up and at what stage of the disciplinary procedure.

**NOTE:** For Schools, there is statutory guidance for handling allegations against teachers and other staff

[Annex 3: Handling allegations of abuse against teachers and other staff](#)  
[Welsh Government Circular 009/2014 | Estyn](#)

## 13. Making a referral to the Disclosure and Barring Service and other Agencies

As a Regulated Activity Provider, there is a legal duty on the Council and on Schools to make a referral to the DBS if certain conditions are met.

There is also the same legal duty on educational institutions which supply students to a Regulated Activity Provider (such as a School or social care service). An organisation which is under a duty to refer and fails to refer to DBS without reasonable justification is committing an offence.

The Service Manager is responsible for making referrals to the DBS with the support of their Safeguarding Lead and HR Advisor/Business Partner. All records relating to the referral should be provided to People Services so that these can be retained on the personnel file.

### 13.1 When must you refer to DBS?

Barring referrals should be made to DBS when an employer believes an individual has caused harm or poses a future risk of harm to adults at risk and/or children.

The following **two stages** need to be considered when making a DBS barring referral and if both conditions are met, organisations have a legal duty to refer.

### Step 1

The organisation withdraws permission for an individual to engage in regulated activity with children and/or adults at risk or the organisation moves the individual to another area of work that isn't regulated activity.

Being removed from regulated activity can include:

- dismissal
- redeployment (i.e., moving someone to a non-regulated activity but keeping them within your employment)
- retirement
- redundancy
- resignation.

If an individual has retired, been made redundant or resigned before an investigation has been completed, you should continue with the investigation and decide on whether or not you would have kept the individual in regulated activity. Follow the Investigation Policy and seek HR advice.

<http://intranet/our-people/hr/employee-relations/investigations/>

### Step 2

You think that the person has:

- Engaged in **relevant conduct** in relation to children and/or adults.

or

- Satisfied **the harm test** in relation to children and/or adults. For example, 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 offence**. Refer to this DBS factsheet: [dbs-factsheet-05.pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/414242/dbs-factsheet-05.pdf)

The terms **relevant conduct**, **harm** and the **harm test** are explained below.

**Relevant conduct** is defined as activity that:

- Endangers a child/adult or is likely to endanger a child/adult
- If repeated against or in relation to a child/adult, would endanger the child/adult or be likely to endanger the child/adult
- Involves sexual material relating to children (including possession of such material)
- Involves sexually explicit images depicting violence against human beings (including possession of such images)
- Is of a sexual nature involving a child/adult

This relevant conduct is in relation to children (under 18 years old) or adults (someone 18 years old or over who is receiving a service that is classed as Regulated Activity).

Relevant conduct is a legal term which is defined under Schedule 3 of the Safeguarding Vulnerable Group Act 2006.

### **What is harm?**

Someone's conduct endangers a child/adult if they:

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

### **The harm test**

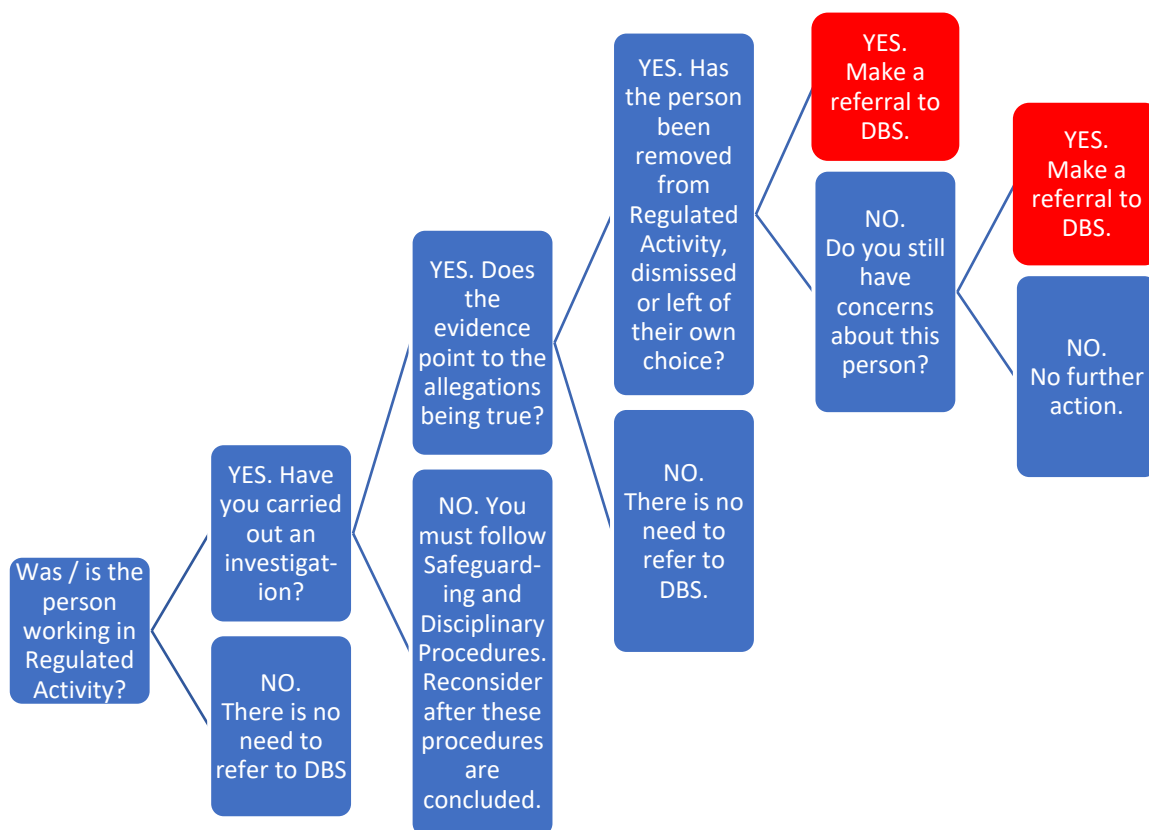
Someone's action satisfies the harm test when it appears that they may:

- 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.

For the harm test to be satisfied, relevant conduct would not have occurred but there must be tangible evidence rather than a "feeling" that a person still represents a risk to adults at risk and/children. For example, a teacher who confides in their head teacher that they are sexually attracted to children (but who had not engaged in 'relevant conduct') would satisfy the harm test.

This DBS referrals flow chart is intended to help you decide if you are required to make a referral to DBS:





## 13.2 How to make a referral to DBS

You can either make a referral via a secure online form or by downloading a paper form and posting it to DBS.

Both forms can be found on the website [www.gov.uk/db](http://www.gov.uk/db)s

The postal address for referrals is DBS Barring, PO Box 3963, Royal Wootton Bassett, SN4 4HH. You will be informed either by email or post that DBS has received your referral.

The employee, volunteer or worker should be informed prior to a referral being made.

Please ensure that your Safeguarding Officer and HR Business Partner are consulted before referring to the DBS.

### Providing as much information as you can

You should provide as much detail as possible. DBS has no powers of investigation and rely on the information given to them by referrers. It is vital that information is accurate, comprehensive and complete to enable DBS to avoid any unnecessary delays in dealing with the case and to assist them to make appropriate decisions.

**What you should include:**

**Details of the person you are referring.** Include their full name, address and date of birth if you know it. Also include details of their work history and current employment. Your HR Business Partner can help with this.

**Details of the work carried out.** To assist DBS to fully understand the nature of the work undertaken, you should provide the Job Profile. DBS need as much detail as possible to understand the tasks carried out by the person you are referring.

**External investigations.** If there has been an external investigation in relation to the case you are referring, provide 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 the disciplinary process, you should include relevant documents. You should also include recruitment and additional employment information. If there have been any previous misconduct or complaints, these are invaluable in helping DBS to establish patterns of behaviour. (HR can help with this).

**Witness statements.** If these are available, these should be signed and dated.

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

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

**Contact details.** Please provide details of any other agencies or organisations you are aware of that hold information that may be useful in our decision making.

**Remember this is not an exhaustive list.** If there is something you think DBS need to know to help make their decision, include this information.

**What does a good quality referral look like?**

Further Guidance on:

[How to make a good quality barring referral to DBS - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

**Important**

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 DBS and could be disclosed to the referred person or other parties.

You should therefore consider redacting any information that you do not wish to be shared (such as names of third parties).

### **The outcome of your referral**

DBS will inform the person you have referred about the outcome. However, it is not automatic that DBS will inform you as the person who referred them. They 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 them or permit them to engage in Regulated Activity, then you may not be able to show a legitimate interest. This means that DBS can't advise you of the outcome.

#### **Remember:**

- A referral might make the critical difference if there are no criminal offences that would show on a DBS check if the individual attempted to gain further employment in regulated activity.
- If you don't make the referral to DBS, the person may go on to cause further harm to a vulnerable person.
- If you do make the referral to DBS, they will consider all the evidence when deciding whether the person should be barred.
- Don't assume that someone else will make the referral to DBS. The line manager is best placed to provide the full range of supporting documentation that is required by DBS.

**Frequently Asked Questions** about DBS referrals are available in this document. [dbs-referral-faq.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/624247/dbs-referral-faq.pdf)

There are also seminars run the DBS on referrals. Contact your Learning and Development Business Partner who can provide more information.

## **13.3 Making Referrals to Other Agencies**

You have a professional obligation to make referrals to other agencies, when appropriate, to fulfil your responsibility to safeguard adults and/or children.

#### **Note: For Registered Residential and Domiciliary Care Services:**

According to the *Practice Guidance for Social Care Managers Registered with Social Care Wales (2017)*, service providers, responsible individuals and service managers are responsible for:

- Ensuring all appointments comply with safe recruitment best practice,
- Addressing any issues in relation to unsatisfactory staff performance or misconduct, and

- Informing the appropriate regulatory body about any conduct by a registered professional that might call into question their registration.

The table below summarises the circumstances when you should consider making a referral:

<b>Organisation or Council Officer</b>	<b>When should a referral be considered</b>
Designated Officer for Safeguarding (Children)	When there is an allegation against someone in a position of trust i.e., anyone working in either a paid or unpaid capacity, with children that they have or may have caused harm.
Designated Officer for Safeguarding (Adults)	When there is an allegation against someone in a position of trust i.e., anyone working in either a paid or unpaid capacity, with adults with care and support needs that they have or may have caused harm.
Care Inspectorate Wales (CIW)	As part of the Professional Strategy Discussion, Children's Services or Adult Services will consider informing Care Inspectorate Wales (CIW), Healthcare Inspectorate Wales (HIW) and any relevant professional bodies as appropriate.
Social Care Wales (SCW) Or	As part of the Professional Strategy Discussion, Children's Services or Adult Services will consider informing Care Inspectorate Wales (CIW), Healthcare Inspectorate Wales (HIW) and any relevant professional bodies as appropriate.
Health and Care Professions Council (HCPC)	Following the conclusion of a Safeguarding investigation, if you have concerns about the registration and fitness to practice of someone in a regulated profession. <a href="#">Raising a concern   Social Care Wales</a> <a href="#">Raising concerns   HCPC</a>
Education Workforce Council (EWC)	As part of the Professional Strategy Discussion, Children's Services or Adult Services will consider informing Care Inspectorate Wales (CIW), Healthcare Inspectorate Wales (HIW) and any relevant professional bodies as appropriate.  Following the conclusion of a Safeguarding investigation, if you have concerns about the registration and fitness to practice of someone in a regulated profession. <a href="#">Employer and Agent referral form (ewc.wales)</a>
Police	When a criminal offence has or may have occurred <a href="#">Report a crime or incident   Police.uk (www.police.uk)</a>

Action Fraud

When someone has committed financial fraud, scamming, defrauding or committing cybercrime against someone they provide care to.

[Contact us | Action Fraud](#)

**SEE APPENDIX 5: SAFEGUARDING REFERRAL RECORD**

## Appendix 1: Establishing DBS Eligibility form

This form is designed to record relevant information which will help to determine if a job role is eligible for a DBS check, and to select the correct level of check and barring list (if appropriate).

<b>Job Title:</b> _____  <b>Department:</b> _____	Tick box	Appropriate DBS check
<b>Does the job involve:</b> <ul style="list-style-type: none"> <li>• Healthcare or working in a hospital</li> <li>• Caring or working with children or working in a school</li> <li>• Working with older, ill or disabled adults</li> <li>• Caring or working with children or working in a school <b>AND</b> working with older, ill or disabled adults</li> <li>• None of these</li> </ul>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Go to Part 1 Go to Part 2 Go to Part 3 Go to Parts 2 & 3, then refer to Part 5 Go to Part 4
<b>Part 1: Healthcare or working in a hospital</b>		
<b>What is the role?</b> <ul style="list-style-type: none"> <li>• Healthcare professional (e.g., occupational therapist)            Will the role involve working with:           <ul style="list-style-type: none"> <li>○ children</li> <li>○ adults</li> <li>○ both</li> </ul> </li> <li>• Working with patients without the supervision of a healthcare professional (e.g., hospital-based adviser, reception, catering, cleaning, volunteers)</li> </ul> <p>Is it in a Children's Hospital?          YES</p> <ul style="list-style-type: none"> <li>○ Will the work be done <b>frequently</b>?            YES</li> <li>○ NO</li> </ul>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Enhanced Check <u>with</u> Children's Barring List Enhanced Check <u>with</u> Adults' Barring List Enhanced Check <u>with</u> Children's and Adults' Barring Lists Enhanced Check <u>with</u> Children's Barring List Enhanced Check <u>without</u> Barring List

<p>Is it in a Children’s Hospital? NO <u>Note:</u> you cannot request a DBS check for a manager of someone doing this role.</p> <ul style="list-style-type: none"> <li>• Providing first aid through a first aid organisation</li> <li>• None of these</li> </ul> <p><b>NOTE:</b> If a DBS check is required from Part 1, the Workforce could be <b>Children Workforce</b> or <b>Adults Workforce</b> or <b>Children and Adults Workforce</b>, depending on the patient group that receive the healthcare or service in a hospital.</p>	<input type="checkbox"/>  <input checked="" type="checkbox"/>  <input type="checkbox"/>	<p>Standard Check</p> <p>Not applicable to CCC</p> <p>Basic Check</p>
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**Part 2: Caring or working with children or working in a school**

<p><b>NOTE:</b> <b>Frequently</b> is defined as:</p> <ul style="list-style-type: none"> <li>• Working with children more than 3 days in a 30-day period or</li> <li>• Ever working overnight (between 2am and 6am) where there may be face-to-face contact with children</li> </ul> <p><b>What will the role involve?</b></p> <ul style="list-style-type: none"> <li>• <b>Teaching or caring for children</b> What will the teaching or caring involve? <ul style="list-style-type: none"> <li>○ Childminding</li> <li>○ Working in a school, nursery, children’s centre or home, detention centre, young offender institution or childcare premises <ul style="list-style-type: none"> <li>▪ Will the work be done <b>frequently</b>? YES</li> <li>NO</li> </ul> </li> <li>○ Teaching, training or supervising children, but not in a school, nursery, children’s centre or home, detention centre, young offender institution or childcare premises <ul style="list-style-type: none"> <li>▪ Will the work be done <b>frequently</b>? YES <ul style="list-style-type: none"> <li>• Will they be supervised? YES</li> <li>NO</li> </ul> </li> </ul> </li> </ul> </li> </ul>	<input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>	<p>Enhanced Check <u>with</u> Children’s Barring List</p> <p>Enhanced Check <u>with</u> Children’s Barring List</p> <p>Enhanced Check <u>without</u> Barring List</p> <p>Enhanced Check <u>without</u> Barring List</p> <p>Enhanced Check <u>with</u> Children’s Barring List</p>
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<p>Any other role with frequent visits to a household of fostered children</p>	<input type="checkbox"/>	<p>Basic Check</p>
<ul style="list-style-type: none"> <li>▪ Are the children fostered or adopted? <u>Adopted</u> <ul style="list-style-type: none"> <li>• <b>What will the role involve?</b> Adoptive parent or prospective adoptive parent or living in a household with adopted children</li> </ul> </li> </ul>	<input checked="" type="checkbox"/>	<p>Not applicable to CCC</p>
<p><b>Frequently</b> visiting a household with adopted children</p>	<input type="checkbox"/>	<p>Basic Check</p>
<ul style="list-style-type: none"> <li>• <b>Driving children</b> <ul style="list-style-type: none"> <li>○ Will the work be done <b>frequently</b>?</li> </ul> </li> </ul>	<input type="checkbox"/>	<p>Enhanced Check <u>with</u> Children's Barring List</p>
<p>YES</p>	<input type="checkbox"/>	<p>Enhanced Check <u>without</u> Barring List</p>
<p>NO</p>	<input type="checkbox"/>	<p>Enhanced Check <u>without</u> Barring List</p>
<ul style="list-style-type: none"> <li>• <b>Working in a school but not in a teaching role e.g. cleaner</b> <ul style="list-style-type: none"> <li>○ Will the role involve contact with children?</li> </ul> </li> </ul>	<input type="checkbox"/>	<p>Basic Check</p>
<p>NO</p>	<input type="checkbox"/>	<p>Basic Check</p>
<p>YES</p>	<input type="checkbox"/>	<p>Basic Check</p>
<ul style="list-style-type: none"> <li>▪ Who will they work for?</li> </ul>	<input checked="" type="checkbox"/>	<p>Not applicable to CCC</p>
<ul style="list-style-type: none"> <li>• An organisation that provides services for the school</li> </ul>	<input checked="" type="checkbox"/>	<p>Not applicable to CCC</p>
<ul style="list-style-type: none"> <li>• An organisation that hires school premises but does not do any work for the school</li> </ul>	<input type="checkbox"/>	<p>Enhanced Check <u>with</u> Children's Barring List</p>
<ul style="list-style-type: none"> <li>• The school <ul style="list-style-type: none"> <li>○ Will they get paid for the role?</li> </ul> </li> </ul>	<input type="checkbox"/>	<p>Enhanced Check <u>without</u> Barring List</p>
<p>YES (permanent role)</p>	<input type="checkbox"/>	<p>Enhanced Check <u>without</u> Barring List</p>
<ul style="list-style-type: none"> <li>▪ Will the work be done <b>frequently</b>?</li> </ul>	<input type="checkbox"/>	<p>Enhanced Check <u>without</u> Barring List</p>
<p>YES</p>	<input type="checkbox"/>	<p>Enhanced Check <u>without</u> Barring List</p>
<p>NO</p>	<input type="checkbox"/>	<p>Enhanced Check <u>without</u> Barring List</p>
<p>YES, but the role is temporary</p>	<input type="checkbox"/>	<p>Enhanced Check <u>without</u> Barring List</p>
<p>NO (volunteer)</p>	<input type="checkbox"/>	<p>Enhanced Check <u>without</u> Barring List</p>





<p style="text-align: center;">NO</p> <ul style="list-style-type: none"> <li>• <b>Inspecting places where adults received health or social care</b></li> <li>• <b>None of these</b></li> </ul> <p style="color: red;">NOTE: If a DBS check is required from Part 3, you should select <b>Adults Workforce</b></p>	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	<p>Standard Check</p> <p>Not applicable to CCC</p> <p>Basic check</p>
<b>Part 4: None of these</b>		
<p><b>Who is the check for?</b></p> <ul style="list-style-type: none"> <li>• <b>Financial or legal profession</b> <ul style="list-style-type: none"> <li>○ What type of financial or legal professional is the check for? <ul style="list-style-type: none"> <li>▪ Solicitor or legal executive</li> <li>▪ Accountant or actuary</li> <li>▪ Other financial services professional (regulated by the Financial Conduct Authority)</li> </ul> </li> </ul> </li> <li>• <b>Someone working in the courts, prisons, or probation services</b></li> <li>• <b>Vet or someone employed by RSPCA who is responsible for killing animals humanely</b></li> <li>• <b>Traffic warden or civil enforcement officer</b></li> <li>• <b>Immigration worker e.g. regulated immigration adviser or immigration search officer</b></li> <li>• <b>Someone applying for a licence or membership of an association</b></li> <li>• <b>None of these</b> <ul style="list-style-type: none"> <li>○ Is the check for any of the following? <ul style="list-style-type: none"> <li>▪ Gambling commission or Lottery employee</li> <li>▪ Football steward</li> <li>▪ None of these</li> </ul> </li> </ul> </li> </ul>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	<p>Standard Check</p> <p>Standard Check</p> <p>Standard Check</p> <p>Not applicable to CCC</p> <p>Not applicable to CCC</p> <p>Standard Check</p> <p>Not applicable to CCC</p> <p>Not applicable to CCC</p> <p>Not applicable to CCC</p> <p>Not applicable to CCC</p> <p>Basic Check if you think it is relevant and</p>

**NOTE: If a DBS check is required from Part 4, you should select **Other Workforce****

proportionate for the role

**Part 5: Caring or working with children or working in a school AND working with older, ill or disabled adults**

Having completed Parts 2 and 3, you should have determined:

- the DBS check recommended for the aspect of the role caring or working with children or working in a school
- the DBS check recommended for the aspect of the role working with older, ill or disabled adults

**Select the more stringent DBS check of the two results.**

**Example 1:** A driver drives children and adults to where they receive social care. Both Part 2 and Part 3 recommend an Enhanced Check with Children’s and Adults’ Barring Lists.

**Example 2:** A counsellor works with teenagers and young adults with learning disabilities. Part 2 recommends an Enhanced Check with Children’s Barring List. Part 3 recommends an Enhanced Check without Barring List. The DBS check required is Enhanced Check with Children’s and Adults’ Barring List.

**Example 3:** A cleaner works in a school outside of school hours and in a nearby care home. Part 2 recommends a Basic Check. Part 3 recommends an Enhanced Check without Barring List. The DBS check required is Enhanced Check without Barring List.

**Example 4:** A swimming instructor provides daily swimming lessons to children and weekly lessons to a group of adults with sensory impairments. Part 2 recommends an Enhanced Check with Children’s Barring List. Part 3 recommends an Enhanced Check without Barring List. The DBS check required is Enhanced Check with Children’s and Adults’ Barring List.

**NOTE: If a DBS check is required from Part 5, you should select **Children and Adults Workforce****

**Record the outcome**  
Enhanced Check with Children’s and Adults’ Barring Lists

Enhanced Check without Barring Lists

Standard Check

Basic Check



## APPENDIX 2 – LETTER TO BE SENT TO EMPLOYEES REGISTERED WITH DBS UPDATE SERVICE

Dear

### DBS Update Service

Thank you for signing up to the DBS Update Service and for letting us know. The DBS Update Service enables you to manage your DBS record electronically, and to give your permission to Carmarthenshire County Council, and other employers or organisations, to undertake a status check on your record online.

Your DBS certificate is portable if you apply for a position, within the Council or with another employer, where the same type and level of check is required.

The Update Service is currently available for standard and enhanced certificates only (not for basic checks). The Service is available in both Welsh and English.

Registration lasts for one year and costs £13 per year, starting from the date your DBS certificate was issued. The £13 fee is payable by debit or credit card only. Please remember to renew your subscription to the Update Service annually. If you select the annual 'auto renew' option, the DBS will attempt to take the annual renewal fee from the card used to initially subscribe. If your debit or credit card expires, it is very important to provide new card details to DBS to avoid your subscription being cancelled.

### **IMPORTANT:**

You must keep hold of your **original DBS certificate** in order to utilise the Update Service. Your employer will need to see this before they carry out a status check.

You need to make a note of your **unique subscription ID number** and keep it secure. You shouldn't share this subscription ID number with anyone else. If you forget your unique subscription ID number, call DBS on 03000 200 190.

All applications and DBS certificates attached to your subscription must be in the **same name**. If you change your name, you can link a new DBS certificate to your subscription, if your previous name is listed on the DBS certificate application.

If you wish to withdraw your permission for the Council to undertake an online status check, for example because you are no longer undertaking a role which requires a DBS certificate, you should immediately contact the People Services recruitment team at the address below.

Yours sincerely

Kay James

People Services Adviser (Recruitment)

Building 4, St David's Park, Jobswell Road Carmarthen SA31 3HB

[CEHRM@carmarthenshire.gov.uk](mailto:CEHRM@carmarthenshire.gov.uk)

**APPENDIX 3: SELF-DISCLOSURE FORM  
(REQUESTED ANNUALLY VIA MY VIEW)**

NAME	
EMPLOYEE NUMBER	
DEPARTMENT	
DIVISION	

Have you been cautioned, subject to a court order, bound over, received a reprimand or warning or found guilty of committing any offence <b>since the date of your most recent DBS disclosure?</b>	YES / NO
<b>Outside of this job</b> , have you been the subject of any investigation and/or sanction by any organisation or body due to concerns about your behaviour towards children or adults who are at risk of abuse or neglect? For example, as a volunteer, or in other employment, including school governor and elected member roles.	YES / NO
<b>If your job is working with children</b> , are you known to any Social Services department or Police as being a risk or potential risk to children? OR <b>If your job is working with adults</b> , are you known to any Social Services department or Police as being a risk or potential risk to adults who are at risk of abuse or neglect?	YES / NO / NOT APPLICABLE  YES / NO / NOT APPLICABLE
<b>If your job is working with children</b> , have your own children been taken into care, or have they been made the subject of a child protection order? OR <b>If your job is working with adults</b> , have you had a family member or friend removed from your care, or has Social Services put a care management plan in place to prevent you abusing or neglecting a family member or friend?	YES / NO / NOT APPLICABLE
Are there any other issues that you have not previously disclosed which could affect your ability to carry out your job safely and effectively? For example, health issues, alcohol or substance use issues.	YES / NO

If you have answered YES to any of the questions above, you should arrange to meet your manager to discuss further.





## APPENDIX 4: DISCLOSURE RISK ASSESSMENT FORM

**This form is to be completed by the Recruiting Manager/Line Manager with advice from the HR Business Partner and used when a criminal record has been disclosed:**

- For a successful candidate who has been offered a role, OR
- For an existing employee who has been offered a new role that requires a disclosure.

**Where required, the risk assessment must be completed before the candidate can commence employment.**

**If further action is necessary, this should be agreed between the HR Business Partner and the Recruiting manager/Line Manager.**

Once completed this form should be signed and stored in the employee's file.

In the event that the candidate is not employed, this form should be stored for 6 months and then destroyed.

**A review of this risk assessment should be carried out whenever a risk is presented.**

Please complete in full:

Name of applicant or employee:	
Post applied for OR Current Post and Employee Number	
Level of disclosure required:	Tick one: <input type="checkbox"/> Enhanced with Children's Barring List <input type="checkbox"/> Enhanced with Adults' Barring List <input type="checkbox"/> Enhanced with Children's & Adults' Barring Lists <input type="checkbox"/> Enhanced <input type="checkbox"/> Standard <input type="checkbox"/> Basic
Directorate: Service or School:	
Date of assessment:	
Name of assessor (Recruiting / Line Manager):	
Name of HR Adviser	

Question	Yes / No / Not applicable	Give Details
Has the applicant declared any criminal convictions, cautions, reprimands, final warnings or bindovers in the UK or any other country, or are they under police investigation?		
Are the offence(s) relevant to the position?		
Single offence, or have there been other offences?		
<b>Nature of conviction(s) and other information</b> (Continue on separate sheet if necessary)		
Offence: Date of conviction: Sentence:		
Offence: Date of conviction: Sentence:		
Offence: Date of conviction: Sentence:		
Offence: Date of conviction: Sentence:		
Seriousness of offence(s)		
Does the applicant have a pattern of offending or other relevant behaviour?		
Age at time of offence(s)		
Length of time since conviction(s)		
What were the circumstances surrounding the offence(s)?		
Attitude to the offence(s)		
Efforts made to not reoffend		

Is the applicant taking part in a specific remedial action programme?		
Have the individual's circumstances changed since the offence(s)? If so, how?		
Does the nature of the job present any opportunities for the post holder to reoffend in the place of work?		
Does the post involve direct contact with the public or service users?		
What level of supervision does the post holder receive?		
Does the position involve direct responsibility for money, finance or items of value?		
Does the position involve a significant level of trust?		
Were suitable references obtained and ID checked?		
Are there any potential risks to the reputation of the organisation?		
<b>Enter below any further questions you may feel relevant to the post in respect of criminal convictions.</b>		

Please enter below any precautionary measures recommended in the light of the above questions to ensure that the risk of any reoccurrence of any potential criminal activity or associated behaviour is avoided. In order to be more specific this can be expanded on as necessary for the particular role as required.

1.	
2.	

3.	

**Declaration by Recruiting Manager**

(Tick as appropriate)

The information above has been fully considered and I am satisfied that it is safe to allow the named applicant/employee to commence/continue work.

**Detailed actions to be recorded below**

The information above has been considered and I am not satisfied that it is safe to allow the named applicant/employee to commence/continue work.

**I have sought advice from the HR Team.**

**Recruiting Manager**

**Signed** \_\_\_\_\_

**Print name** \_\_\_\_\_

**Date** \_\_\_\_\_

## APPENDIX 5: SAFEGUARDING REFERRAL RECORD

NAME	
EMPLOYEE NUMBER	
DEPARTMENT	
DIVISION	

Details of any safeguarding allegations related to the individual:
Detail any concerns about the suitability of this individual in relation to safeguarding:
Details of any safeguarding referrals made about this individual during their employment to external organisations:

### Referral Considerations

Has the individual....	Yes/ No	If Yes refer to:
Committed a criminal offence.		Police
Behaved in a way that has harmed or may harm a child or adult while working in a regulated position		DBS
Behaved in a way that may make them unsuitable to carry out their professional role		Their professional regulator (e.g., Social Care Wales, Education Workforce Council, Health & Care Professionals Council)
Been subject to an allegation that they behaved in a way that has harmed or may harm a child.		Designated Safeguarding Officer (Children)
Been subject to an allegation that they have behaved in a way that has harmed or may harm a vulnerable adult.		Designated Safeguarding Officer (Adults)

Committed financial fraud, scamming, defrauding or committing cybercrime against someone they provide care to		Action Fraud
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**Referrals Made**

Date of referral	Who referral was made to	Reason for the referral

Manager's Signature	
Date Completed	