

# **DBS Barring Workshop: The Legal Duty to Refer**

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Disclosure &  
Barring Service

# Introduction

## Our Purpose:

Protecting the public by helping employers make safer recruitment and employment decisions, and by barring individuals who pose a risk to vulnerable people.

## Our vision:

Making Recruitment and Employment Safer, by being a visible, trusted, and influential organisation. We will provide an outstanding quality of service to all of our customers and partners. Our people will understand the important contributions they make to safeguarding and feel proud to work within an inclusive and increasingly diverse organisation.

[DBS Business Plan: 2024-25](#)



# The role of DBS

The Disclosure and Barring Service, also known as DBS, is responsible for the delivery of disclosure and barring functions on behalf of government.

We operate **disclosure** functions for England, Wales, Jersey, Guernsey, and the Isle of Man under Part 5 of the Police Act 1997, supported by the following:

- Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975
- Safeguarding Vulnerable Groups Act 2006
- Protection of Freedoms Act 2012

We also operate **barring** functions for England, Wales, and Northern Ireland under the following:

- Safeguarding Vulnerable Groups Act 2006
- Safeguarding Vulnerable Groups (Northern Ireland) Order 2007
- Protection of Freedoms Act 2012

# Types of barring referral

Referral type	Discretionary	Autobar	Disclosure information
Referral source	<ul style="list-style-type: none"><li>• Employers</li><li>• Agencies</li><li>• Keepers of Registers</li><li>• Supervisory authorities</li></ul>	<ul style="list-style-type: none"><li>• Specified convictions and cautions from PNC</li><li>• Autobars without representation</li><li>• Autobars with representation</li></ul>	Enhanced with Barred List(s) DBS checks that include convictions, cautions, or police intelligence
Representations	Yes, in all cases	Yes, but only where allowed – set out in law	Yes, in all cases
Appeal	Appeals may be made to the Upper Tribunal on a point of law or error in facts		
Request review	Under 18 – one year; 18 to 24 – five years; 25 and above - ten years; a material change		

# Who has a legal duty to refer?

## **A regulated activity provider:**

Employers or voluntary organisations who are responsible for the management or control of regulated activity and make arrangements for people to work in regulated activity

## **Personnel suppliers:**

An employment business, employment agency or an educational institution that makes arrangements with a person with a view to supplying that person to employers to undertake regulated activity

# Regulated activity with children

Role or activity	Once	More than 3 days in a 30 day period	Once overnight with opportunity for contact between 2am and 6am	Anyone carrying out any of these activities would be eligible for an <b>Enhanced DBS check with a Children's Barred List check</b>
Providing healthcare	Yes	Yes	Yes	
Providing personal care	Yes	Yes	Yes	
Teaching, training, and instruction - <b>unsupervised</b>	No	Yes	Yes	
Caring for or supervising - <b>unsupervised</b>	No	Yes	Yes	
Providing advice or guidance on physical, emotional, or educational wellbeing	No	Yes	Yes	
Driving children under arrangement	No	Yes	No	
Moderating a web-based service	No	Yes	No	
Registering to be a childminder (inc voluntary reg)	Not applicable			
Registering to become a foster carer	Not applicable			
Day-to-day managers of staff in regulated activity				

# Regulated activity with adults

If done once, the following activities are regulated activity with adults:		Anyone carrying out any of these activities would be eligible for an <b>Enhanced DBS check with an Adults' Barred List check</b>
Providing health care	By or under the direction/supervision of a regulated healthcare professional	
Providing personal care	Washing and dressing, eating, drinking and toileting, oral care and care of skin, hair and nails	
Social Work	Provided by a social care worker to an adult who is a client or potential client	
Assistance with the day-to-day financial running of the adult's own household	Managing cash, bills or shopping	
Assistance with the conduct of an adult's affairs	Power of attorney, deputies appointed under Mental Health Orders	
Conveying an adult	Must be for health, personal or social care due to age, illness or disability	
Day-to-day managers/supervisors of those who carry out regulated activity with adults		

# When must you refer?

When two main conditions have been met:

## **Condition one:**

You withdraw permission to engage in regulated activity: dismissed, re-deployed, retired, been made redundant, or resigned

## **Condition two:**

You think the person has either:

- engaged in relevant conduct
- satisfied the harm test; or
- received a caution for, or a conviction for, or been convicted for a relevant offence



# What is relevant conduct?

Relevant conduct is conduct which :

- endangers a child or adult, or is likely to endanger a child or adult
- if repeated against or in relation to a child or adult, would endanger the child or adult, or be likely to endanger the child or 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 or adult

# The 'harm test'

The harm test is satisfied when relevant conduct cannot be established but it appears to DBS that a person may:

- harm a child or adult who is in receipt of regulated activity
- cause a child or adult who is in receipt of regulated activity to be harmed
- put a child or adult who is in receipt of regulated activity at risk of harm
- attempt to harm a child or adult who is in receipt of regulated activity
- incite another to harm a child or adult who is in receipt of regulated activity

# Examples of abuse and harm

<b>Physical abuse</b>	Assault, hitting, slapping, misuse of medication, improper restraint, shaking, throwing, poisoning, burning or scalding, suffocating
<b>Sexual abuse</b>	Sexual teasing or innuendo, indecent images, rape, indecent exposure, sexual harassment, inappropriate looking or touching
<b>Emotional or psychological abuse</b>	Humiliation, blaming, controlling, cyber abuse, making a vulnerable person feel worthless, unloved or inadequate, not giving them opportunities to express their views, imposing inappropriate expectations
<b>Extremism</b>	Extremism goes beyond terrorism; it includes people who target the young/vulnerable - by seeking to sow division between communities on the basis of race, faith, or denomination; justifies discrimination towards women and girls
<b>Financial abuse</b>	Unauthorised withdrawal from accounts, theft, fraud, exploitation, pressure in connection with wills or inheritance, internet scamming, misappropriation of property, possessions, or benefits
<b>Neglect or omission</b>	Untreated weight loss, failing to administer reasonable care resulting in pressure sores/uncharacteristic problems with continence; poor hygiene, soiled clothes not changed, insufficient food or drink; unmet social or care needs.

# Referral example

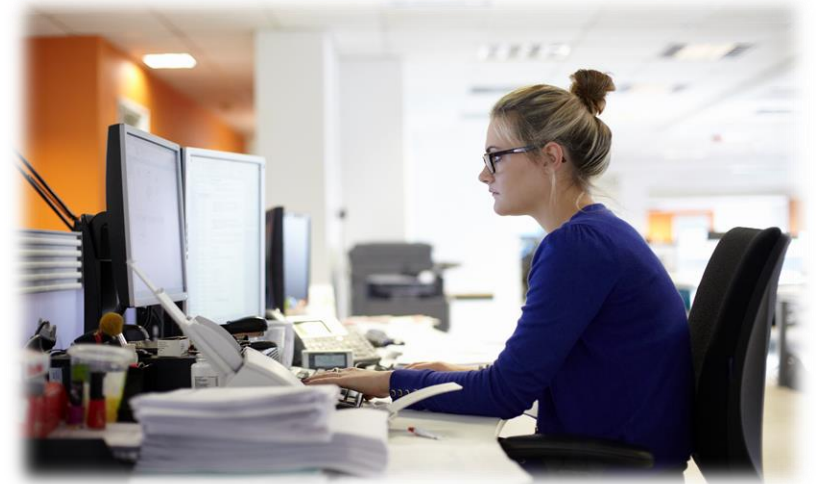
Jodie is a receptionist at her local GP surgery.

Alongside her role as receptionist, Jodie is also studying for the Care Certificate as she is looking to develop a career within social care.

Previous concerns had been raised about Jodie and inappropriate behaviour towards some patients. On one occasion Jodie was heard by a colleague raising her voice at an elderly patient in frustration and on another occasion, Jodie was overheard describing one patient as “a mental alcoholic” on the telephone.

A recent incident that was brought to disciplinary involved Jodie shouting at a patient and causing their child to cry. The outcome of the disciplinary was to dismiss Jodie from her role.

The role Jodie was dismissed from was not a Regulated Activity role, but the practice manager had concerns about any service users Jodie may be in contact with in the future in other organisations, as she was aware Jodie was studying for the Care Certificate.



# How to make a barring referral

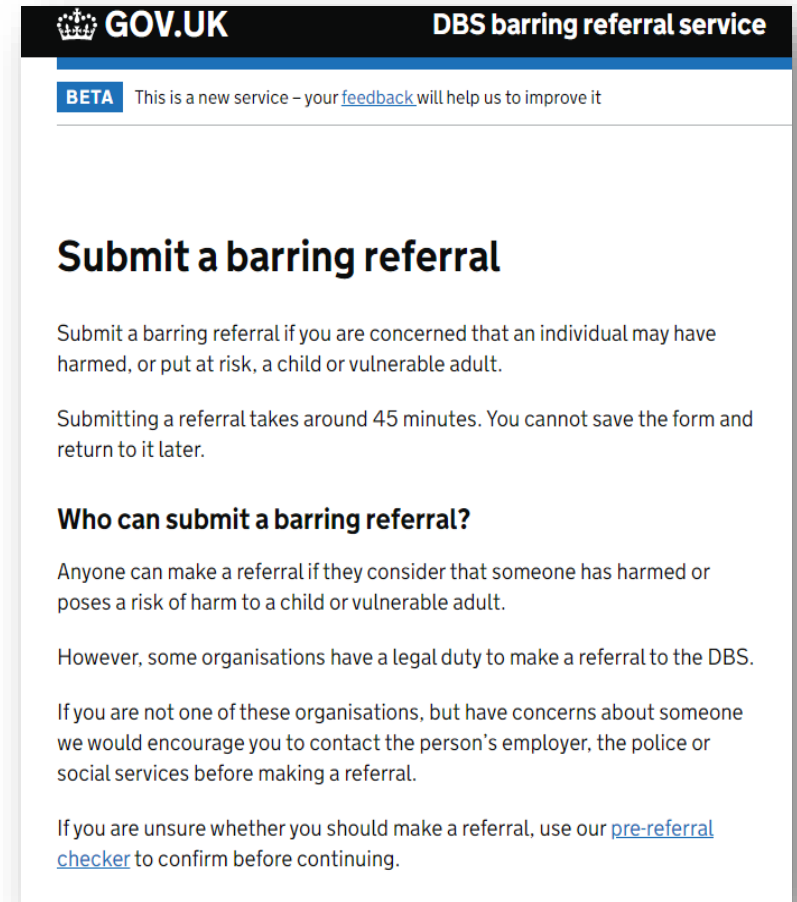
We accept referrals made using The Barring Referral Service:

[Submit a barring referral.](#)

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

This service is only available Monday to Sunday, 8am to 11:30pm.

If you do not add any information for 90 minutes your session will end, your answers will not be saved, and you will need to start the referral again.



The screenshot shows the GOV.UK website interface for the DBS barring referral service. At the top, there is a header with the GOV.UK logo and the text 'DBS barring referral service'. Below the header, there is a blue banner with the word 'BETA' and the text 'This is a new service – your [feedback](#) will help us to improve it'. The main content area has a heading 'Submit a barring referral' followed by a paragraph explaining that a referral should be made if someone is concerned about a child or vulnerable adult being harmed or at risk. It also states that submitting a referral takes about 45 minutes and cannot be saved. A section titled 'Who can submit a barring referral?' explains that anyone can make a referral if they believe someone has harmed or poses a risk to a child or vulnerable adult, but some organizations have a legal duty to do so. It encourages contacting the employer, police, or social services if not one of these organizations. Finally, it mentions a 'pre-referral checker' for those unsure if a referral is needed.

# What you need to make a barring referral

If you find you do not have all of the following information, you should complete as much of the form as possible.

1. your contact details
2. details of the person being referred (including their name, address, date of birth and national insurance number)
3. contact details for any other agencies involved in investigating the relevant conduct
4. details of the risk of harm or harm suffered
5. documents in support of your referral (for example, statements, reports, meeting minutes and other evidence)



If you are unable to use the Barring Referral Service you can find out about the other options on [Barring Referral Service - GOV.UK](#) or ring 03000 200 190 or for Welsh Language 03000 200 191

# Impact of being barred from regulated activity across UK jurisdictions

**Children's Barred List** - not allowed to engage in regulated activity with children in England, Wales, and Northern Ireland.

**Adults' Barred List** - not allowed to engage in regulated activity with vulnerable adults in England, Wales, and Northern Ireland.

It is a criminal offence to work, seek work, or offer to work in regulated activity when barred on the relevant list

It is a criminal offence for a person to permit an individual they know (or have reason to believe) is barred from regulated activity to engage in regulated activity

There is a maximum penalty 5 years imprisonment and or a fine

The bar also applies to regulated work in Scotland

# Final thoughts...

- Anyone CAN make a referral, but in certain circumstances we MUST make a referral.
- If you don't make the referral to DBS, how will we know?
- If you don't make the referral to DBS, the person may go on to cause further harm to a vulnerable adult or child
- If you do make the referral to DBS, we will consider all the evidence when deciding whether the person should be barred
- We will only bar them from working with vulnerable groups if it is the appropriate and proportionate thing to do



# A moment of reflection

Thinking about your own area of work – take a minute to reflect on the information shared today and think of one thing you weren't aware of or one thing you will do differently?

What was it you made a note of?

What was it that caught your attention?

Can you drop it in the chat box please?

# Resources and useful links

- [DBS Guidance Leaflets](#)
- [DBS Barring Referral Guidance](#)
- [DBS Barring Referral Form and Guidance](#)
- [How to make a Good Quality Barring Referral](#)
- [Help and Support | Disclosure and Barring Service](#)

# How to contact us

## Regional Outreach:

Email: [DBSregionaloutreach@dbs.gov.uk](mailto:DBSregionaloutreach@dbs.gov.uk)

## Partnerships Team:

Email: [DBSEngagement@dbs.gov.uk](mailto:DBSEngagement@dbs.gov.uk)

## Further information - Disclosure:

Helpline: 03000 200 190 | Email: [customerservices@dbs.gov.uk](mailto:customerservices@dbs.gov.uk)

## Further information - Barring:

Helpline: 03000 200 190 | Email: [Contactus@dbs.gov.uk](mailto:Contactus@dbs.gov.uk)

Website: [www.gov.uk/dbs](http://www.gov.uk/dbs)

Facebook: <https://www.facebook.com/dbsgovuk/>

Twitter: <https://twitter.com/DBSGovUK>

LinkedIn: Disclosure and Barring Service (DBS)

## Please get in touch for bespoke support:

- Questions about DBS checks, eligibility, and regulated activity
- Support with making barring referrals and the 'legal duty to refer'
- Delivery of training and workshops directly to your team or network
- Support your training programmes that require DBS information
- Provide us feedback so we can improve our DBS products and services

# How to contact us – Regional Outreach Advisers

North West: Jordan Hayden  
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Northern Ireland: Sean Maskey  
[Sean.Maskey@dbs.gov.uk](mailto:Sean.Maskey@dbs.gov.uk)

# Evaluation

Please access the following link, or scan the QR code, to complete a short evaluation form:

[DBS Legal Duty to Refer Bitesize evaluation](#)



Your feedback is very important to us in the DBS Partnership team.

Thank you for listening.  
Any questions?