



What is the Disclosure and Barring Service (DBS) and what does it mean for you?

This is a brief outline of some of the changes brought in through the new DBS system. You will find a number of resources at the end that will help you to gain a better understanding of the system.

Please note: *This information is intended to offer assistance and provide information where appropriate and Community Waltham Forest is not liable for action taken, or not taken, as a result of reading this guide.*

Background

On 1 December 2012 the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) merged to form the Disclosure and Barring Service (DBS).



Disclosure & Barring Service

This has meant that CRB Checks have now become DBS checks with a number of changes brought in by the Protection of Freedoms (POF) Act 2012.

The reforms aim to reduce the red-tape traditionally associated with CRB checks and reduce the number of checks going through the system. There is now more of an emphasis on the employer to make a decision based on the role rather than the person.

'Statutory duties of the DBS are contained in the Safeguarding Vulnerable Groups Act 2006, and Part V of the Police Act 1997, as amended by the POF Act 2012:

- To hold and maintain a register of organisations approved by the DBS to submit applications for criminal records certificates.
- To issue three levels of certificates of criminal records:
 - **Basic Certificate.** The DBS will develop this new product that will contain details of convictions and conditional cautions that are considered to be unspent under the terms of the Rehabilitation of Offenders Act 1974. An applicant will apply for a Basic Certificate directly and use it for a wide variety of employment or other purposes, including insurance or certain licensing, such as street trading.
 - **Standard Certificate.** This is available to those working in roles as specified in the Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974. Standard

certificates show current and spent convictions, cautions, reprimands and warnings (statutory disposals given by a police officer to a young person who admits guilt) held on the Police National Computer (PNC).

- **Enhanced Certificate.** This is the highest level of check available to anyone involved in regularly caring for, training, supervising or being in sole charge of vulnerable groups, including children and other positions involving a high degree of trust, for example, certain licensing purposes. Enhanced certificates contain the same information as the standard certificate but with the addition of relevant police information held by a police force at a local level rather than national and, in some cases, where permitted to request, details of whether the individual is included on the lists of those barred from working in the children's and/or the adults' sector.'

(DBS Framework: 5 July 2013)

Changes

- New identity (ID) checking guidelines were introduced in May 2012 and these continue to be used by DBS. Guidance for this can be found on the [DBS website](#)
- From September 2012, the definition of 'Regulated Activity' changed, revising the level of check needed for Supervised Activities¹ so even if a role is involved in volunteering at a school, for example, on a regular² basis, if this is a supervised position it may not fall under regulated activity.
- September 2012 also saw the introduction of a minimum age of 16 for an individual applying for a disclosure, and 18 for a registered person or countersignatory for a registered body.
- Checks will be more filtered so that only relevant information is shown on the check. The DBS removed certain specified old and minor offences from criminal record certificates issued from the 29 May 2013.
- On 17 June 2013 DBS certificates began to be sent only to the individual applicant, NOT the employer/organisation or umbrella body which submitted the application.
- From 17 June 2013, individuals can choose to subscribe to the new online DBS update service (www.gov.uk/dbs-update-service) when they apply for their next (or first) check. Individuals must register for this service within 14 days of receiving their certificate. DBS will keep subscribers' information up to date, allowing free, instant checks to be carried out at any time i.e. a 'portable' disclosure that can be used for multiple jobs and roles. Note that this system is for similar roles in different organisations over time.
 - Individuals will therefore be responsible for remaining subscribed and providing employers with the ability to check.
 - Registration lasts 1 year and costs £13 annually

What you need to do

DBS checks should be a part of your wider safeguarding policies and procedures. Not every role or job will need to have a DBS check so make sure you have checked the [eligibility criteria](#):

1. **Standard Checks** – position **must** be specified in the Exceptions Order to the Rehabilitation of Offenders Act 1974.
2. **Enhanced Check** – position **must** be specified in the Exceptions Order to the Rehabilitation of Offenders Act 1974



¹ Supervised means regular supervision by someone who themselves is in Regulated Activity.

² Regular means carried out by the same person frequently (once a week or more) or on four or more days in a 30-day period (or in some cases overnight).

and regulations made under the Police Act 1997. Note that positions currently falling within the new and the old version of 'Regulated Activity' are eligible.

3. **Enhanced and Barred List(s) Check - Must** meet DBS definition of 'Regulated Activity'

As an organisation, it is your responsibility to check these lists and decide whether a role falls under regulated activity or whether a standard check is enough. It is also important to remember, that just because a volunteer is eligible for a DBS check, doesn't mean you should automatically undertake one.

It should also be remembered that it is unlawful for an organisation to carry out a check for which it is not eligible.

DBS checks are free for Volunteers and £26 (standard), £44 (enhanced) for staff. However, if you go through an agency there will be an administration charge.

*Note that, individuals and the self-employed cannot apply for a check directly to the DBS. Checks must be requested by an organisation as part of an offer of employment (or volunteering).

Do you need a DBS check?

First check if your staff or volunteers will need a check: if they will always be supervised by someone with a DBS check and never left alone with children or vulnerable adults then you may not need one (or at least not straight away):

Regulated Activity – Children & Young People

Regulated Activity is something that carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period (or in some cases, overnight)

Broadly speaking, the new definition of Regulated Activity relating to children no longer includes:

- Certain activities done on an irregular or ad-hoc basis or;
- Activities properly supervised by someone who is in Regulated Activity

Unsupervised activities (These are Regulated Activity if done regularly):

- Teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children
- Work for a limited range of establishments ('specified places'), with opportunity for contact, for example schools, children's homes, childcare premises. For example, a janitor would need to be DBS checked but a plumber coming in to do a one-off job is unlikely to need to be DBS checked.

The following require a DBS check regardless of frequency or supervision:

- Personal care, for example washing or dressing; or health care by or supervised by a professional, even if done once
- Registered child-minding; and foster-carers

Regulated activity still excludes:

- Family arrangements
- Personal, non-commercial arrangements

No longer in regulated activity:

- Some activities supervised at reasonable level
- Legal advice
- Occasional or temporary services e.g. maintenance
- All “positions” removed, e.g. governors and trustees

Regulated Activity – Adults

The definition identifies the *activities* which lead to an adult being considered vulnerable. The setting of the activity and the personal characteristics no longer apply. There is no longer a frequency condition for adult regulated activity.

The new definition is as follows:

- **Healthcare:** if they are a regulated health care professional or are acting under the direction or supervision of one, for example doctors, nurses, health care assistants and physiotherapists.
- **Personal Care:** assistance with washing and dressing, eating, drinking, toileting or teaching someone to do one of these tasks
- **Social Work:** provision by a social care worker of social work which is required in connection with any health services or social services
- Assistance with a person’s cash, bills or shopping because of their age, illness or disability
- Assistance with the conduct of an adult’s own affairs, for example, lasting or enduring powers of attorney, or deputies appointed under the mental Health Act
- Conveying adults for reasons of age, illness or disability to, from or between places where they receive healthcare, personal care or social work. *This does include friends or family or taxi drivers.*

Resources

- Disclosure and Barring website: <https://www.gov.uk/government/organisations/disclosure-and-barring-service>
- Department for Education: Children and Young People: Safeguarding: disclosure and barring – changes from September 2012: <http://www.education.gov.uk/childrenandyoungpeople/safeguardingchildren/a00209802/disclosure-barring>
- A guide to eligibility for DBS criminal record checks: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236659/DBS_guide_to_eligibility_v2.pdf
- Regulated Activity in relation to Children: scope. Factual note by HM Government: <http://media.education.gov.uk/assets/files/pdf/r/regulated%20activity%20children%20full%20information%20ewni%20final%202012-06-01.pdf>
- DBS Framework Document; 5 July 2013: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/210857/DBS_Framework_Document.pdf
- Sandy Adirondack: Legal Update: <http://www.sandy-a.co.uk/employment.htm>

- Volunteering England: DBS checks (formerly 'CRB checks'), protection and safeguarding: <http://www.volunteering.org.uk/component/gpb/protectionandsafeguarding>

Support

If you would like any support with safeguarding or any other issues facing your organisation, please contact the Development Team at Community Waltham Forest at hello@communitywalthamforest.org