

## Good Safeguarding Practice & Fulfilling Legal Duties when Referring Individuals to the Disclosure and Barring Service

This document has been produced to signpost organisations in Shropshire and Telford & Wrekin to relevant information concerning the Disclosure and Barring Service (DBS) following attendance on the 'Safeguarding for Provider Managers' Joint Training Course. General links to DBS information may be found on page 2.

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February 2017  
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### Referral to the DBS

In order to address the risk of 'future harm' posed by individuals and to keep unsuitable individuals out of the social care and Health workforce a legal duty (*Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act (2012)*) exists. This means that social care providers have a Duty to refer in certain circumstances, this includes where you:

- ✓ **Dismiss an individual from Regulated Activity for harming or risking harm, or you have moved them to a non-regulated Activity role.**
- ✓ However, it **also refers to cases where an individual has left the organisation but had they not left you would have dismissed them** (removing them from Regulated Activity).
- ✓ The duty to refer applies even when a report has been made to another body such as a local authority safeguarding team.
- ✓ If you know your employee has been convicted, or cautioned for an automatic barring offence, you have a legal duty to [make a referral](#).

### Penalty for a failure to refer to DBS:

A person who is under a duty to refer an individual to the DBS and fails to do so without reasonable justification is committing an offence. If convicted they may be subject to a fine up to £5,000.

### Circumstances in which to refer:

The Safeguarding Vulnerable Groups Act (2006) as amended by the Protection of Freedoms Act (2012) places a legal duty on employers and personnel suppliers to refer any person who has:

- ✓ harmed or poses a risk of harm to a child or vulnerable adult;
- ✓ satisfied the harm test; or
- ✓ received a caution or conviction for a relevant offence.

## **Regulated Activity Provider:**

A regulated activity provider is an organisation or individual that is responsible for the management or control of regulated activity, paid or unpaid, and makes arrangements for people to work in that activity. This will usually be an employer or a voluntary organisation.

## **Types of harm relating to adults can include (but are not limited to):**

- ✓ **Emotional / Psychological** - Action or inaction by others that causes mental anguish.
- ✓ **Financial** – Usually associated with the misuse of money, valuables or property.
- ✓ **Physical** - Any intentional physical contact that results in discomfort, pain or injury.
- ✓ **Sexual** – Coercion or force to take part in sexual acts.
- ✓ **Neglect** - Failure to identify and / or meet care needs.
- ✓ **Verbal** – Any remark or comment by others that causes distress.

## **Represent a risk of harm to a child or vulnerable adult (satisfied the harm test)**

## **Regulated Activity – a reminder:**

- ✓ Providing Health Care
- ✓ Providing Personal Care
- ✓ Providing Social Work
- ✓ Assistance with general household matters
- ✓ Assistance in the conduct of a person's own affairs
- ✓ Conveying

## [Regulated Activity](#)

## **Other DBS Links**

[Overview of DBS checks and barred lists](#)

[Track a DBS application](#)

[DBS update service](#)

[DBS check guidance](#)

[DBS eligibility guidance](#)

[Barring referral guidance](#)

[Barring referral form](#)

## **Reference:**

DBS (2016) Making barring referrals to the DBS (March 4<sup>th</sup>, 2016)  
<https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs#must-i-make-a-referral>