

DBS Barring Workshop: The Legal Duty to Refer

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Disclosure &
Barring Service

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">• Employers• Agencies• Keepers of Registers• Supervisory authorities	<ul style="list-style-type: none">• Specified convictions and cautions from PNC• Autobars without representation• Autobars with representation	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		

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 Enhanced DBS check with an Adults' Barred List check
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		

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

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 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

Physical abuse	Assault, hitting, slapping, misuse of medication, improper restraint, shaking, throwing, poisoning, burning or scalding, suffocating
Sexual abuse	Sexual teasing or innuendo, indecent images, rape, indecent exposure, sexual harassment, inappropriate looking or touching
Emotional or psychological abuse	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
Extremism	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
Financial abuse	Unauthorised withdrawal from accounts, theft, fraud, exploitation, pressure in connection with wills or inheritance, internet scamming, misappropriation of property, possessions, or benefits
Neglect or omission	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.

How to make a barring referral

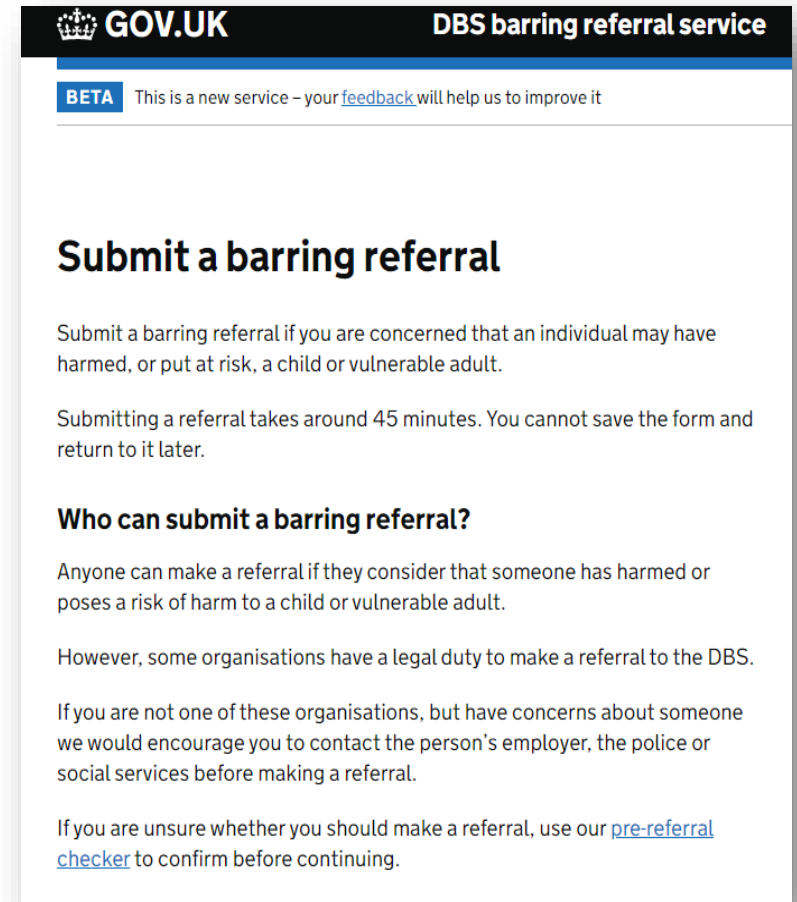
We accept referrals made using The Barring Referral Service:

[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 bar with the word 'BETA' and a message: '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: 'Submit a barring referral if you are concerned that an individual may have harmed, or put at risk, a child or vulnerable adult.' Below this is another paragraph: 'Submitting a referral takes around 45 minutes. You cannot save the form and return to it later.' There is a section titled 'Who can submit a barring referral?' with a paragraph: 'Anyone can make a referral if they consider that someone has harmed or poses a risk of harm to a child or vulnerable adult.' This is followed by another paragraph: 'However, some organisations have a legal duty to make a referral to the DBS.' Below that is a paragraph: 'If you are not one of these organisations, but have concerns about someone we would encourage you to contact the person's employer, the police or social services before making a referral.' At the bottom of the content area, there is a paragraph: 'If you are unsure whether you should make a referral, use our [pre-referral checker](#) to confirm before continuing.'

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

What does a good quality referral look like?

- **Timely:** Balance the need for a swift response with a need for sufficient documentary or supporting evidence
- **Accurate** and fully-completed referral form: Recognition of any gaps, if present
- **Chronology:** Detail the sequence of events from initial notification to the final outcome
- **Relevant information:** To facilitate the DBS decision-making process
- **Victim impact:** What was the impact on the victim
- **Training and supervision records:** Accurate, dated training and supervision records
- **Internal and external investigative and disciplinary processes:** This includes interviews, police intervention, and/or multi-agency meetings. Include recruitment and additional employment information i.e. any previous misconduct or complaint

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

A final thought...

- If you don't make the referral to DBS, who will?
- 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 of 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 re-cap...

- Three different referral routes
- When a DBS barring referral should be made, including when the legal duty is met
- How to make a good quality referral
- Having a clear understanding of the consequences of not making appropriate barring referrals and the consequences of being included on one or both Barred Lists

Useful Links

- [DBS Guidance Leaflets](#)
- [DBS Barring Referral Guidance](#)
- [How to make a Good Quality Barring Referral](#)
- [DBS Barring Referral Service](#)
- [How to use the Barring Referral Service](#)
- [Information for individuals that have been referred to DBS](#)
- [Help and Support | Disclosure and Barring Service](#)

How to contact us

Regional Outreach:

Email: DBSregionaloutreach@dbs.gov.uk

Partnerships Team:

Email: DBSEngagement@dbs.gov.uk

Further information - Disclosure:

Helpline: 03000 200 190 | Email: customerservices@dbs.gov.uk

Further information - Barring:

Helpline: 03000 200 190 | Email: Contactus@dbs.gov.uk

Website: 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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Evaluation

Please access this link 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?