

Safer recruitment, safer sector

NW DBS/ Onboarding information session
15 February 2024, 13:30 – 14:30



Regulation 19

Regulated by



Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

- Be of **good character**
- Have the **qualifications, competence, skills and experience** which are necessary for the work to be performed by them, and
- Be able by **reason of their health, after reasonable adjustments** are made, of properly performing tasks which are intrinsic to the work for which they are employed



Reg 19, Schedule 3

‘Fit and proper’ persons employed

1. Proof of identity including a recent photograph
2. Criminal record check at appropriate level (i.e. basic, standard, or enhanced DBS checks; or enhanced DBS check with barred list checks)
3. **Satisfactory evidence of conduct (e.g. a reference) from any previous employment providing services relating to health, social care, children or vulnerable adults. This must include information regarding an individual’s conduct.**
4. **If the applicant was employed in a position where their duties involved work with children or vulnerable adults, the reference must include satisfactory reasons why that employment ended.**
5. Satisfactory documentary evidence of any relevant qualification
6. A full employment history, together with a satisfactory written explanation of any gaps in employment
7. Satisfactory information about any physical or mental health conditions which are relevant to the person’s capability to properly perform tasks which are intrinsic to their employment for the purposes of the regulated activity



Reference/ evidence of conduct



12 June 2021

Re: Layla Stephens - Employment Verification

To whom it may concern,

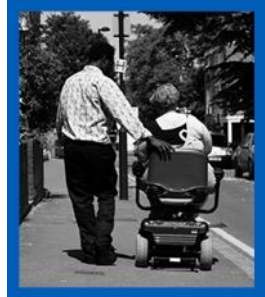
Layla Stephens worked for XYZ Care from 10 March 2019 – 17 December 2020 and held the title of Healthcare Assistant.

Yours faithfully,

Jane Doe
Registered Manager

Perceived barriers to...

Sharing evidence of conduct.



Legal responsibilities

Referees have a responsibility to...

- make sure any reference is accurate and there are no misstatements or omissions.
- Provide specific details of their concerns if they are not satisfied the person is suitable to work with vulnerable adults.

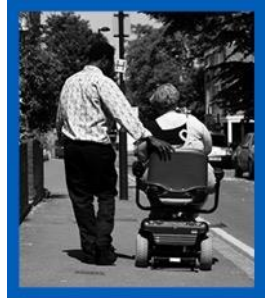
By not providing a reference which includes relevant conduct information, an employer may be failing in its duty of care.



Potential consequences of...

NOT sharing evidence of conduct

- There could be legal consequences for your organisation.
- It may look as though you're deliberately displacing the problem.
- **You may not be acting in the best interests of people drawing on support.**



The case for change

Outis Care recently recruited **Layla Stephens** as a **CARE WORKER**.

 <p>What Outis Care asked for...</p>	 <p>What they received...</p>	 <p>What Outis Care didn't do...</p>
<p>In line with Regulation 19 fit and proper person employed, Outis Care asked applicants to complete an application form which requested:</p> <ul style="list-style-type: none"> • full employment history, • reasons for leaving previous employment where they worked with children or adults at risk, and a written explanation of all gaps in employment. 	<p>Layla had a recent gap in her employment history – she did not complete the sections detailing full employment history, reasons for leaving or gaps in employment.</p>	<p>Outis Care DID NOT explore employment gaps or reasons for leaving prior employment with the applicant.</p>
<p>Outis Care requested a detailed reference from the previous employer.</p>	<p>They received a basic reference (employment verification) confirming dates only.</p>	<p>Outis Care DID NOT follow up the reference by phone for more information.</p>
<ul style="list-style-type: none"> • Outis requested Layla complete a criminal record self-declaration form • Outis Care requested an enhanced DBS check with adults' barred list check. 	<ul style="list-style-type: none"> • Layla did not complete a criminal record self-declaration form • Layla presented an enhanced DBS certificate which did not contain any criminal history or police intelligence 	<p>Outis Care DID NOT follow up Layla's failure to complete their criminal record self-declaration form in accordance with their recruitment policy.</p>

The case for change



Information Outis Care didn't find out...

- Layla had been subject to serious allegations of theft from an adult at risk in her care – whilst employed by the previous employer. She resigned prior to the completion of the investigation.
- Layla was not barred from working in regulated activity with children or adults when she applied for the role. The previous employer had completed a referral to the DBS for consideration that she be barred from engaging with regulated activity with adults but did not mention the allegations or the DBS barring referral in the basic reference/employment verification.



What happened next...

- A few months later, Layla was subject to a serious allegation of stealing £500 from vulnerable residents living in the care home whilst the experienced staff she was shadowing were distracted.
- Layla resigned prior to Outis Care completing their investigation.



What the CQC inspection established...

- Safe recruitment processes were not always followed to ensure staff employed were of suitable character.
- Suitable pre-employment checks had not always been carried out.
- Risks around recruitment were not always suitably assessed and managed.
- Outis Care was rated 'Requires improvement/ Inadequate' against the key areas questions 'Are they safe?' and 'Are they well-led?'

If Outis Care only provides a basic reference, and Layla is determined to continue seeking out opportunities where she has access to adults at risk, Outis Care will be inadvertently facilitating her ability to cause harm to vulnerable people through her work or volunteering.

Sharing Effective References and Conduct Information

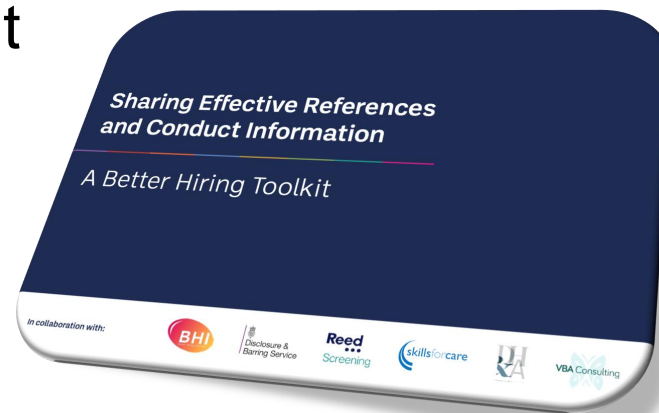
A Better Hiring Toolkit

In collaboration with:



Sharing effective references and conduct information

- This resource can support you...
- Share and request effective references
- Clearly demonstrate safe recruitment practices to CQC
- Deal with discrepancies or negative references
- Implement an effective exit process
- Explore gaps in employment
- Risk assess information
- Store information received
- Confidently refer to DBS



DBS

Jordan Hayden

DBS Regional Outreach Adviser

North West



DBS Overview Skills for Care

Presenter: Jordan Hayden

Date: 15th February 2024



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.

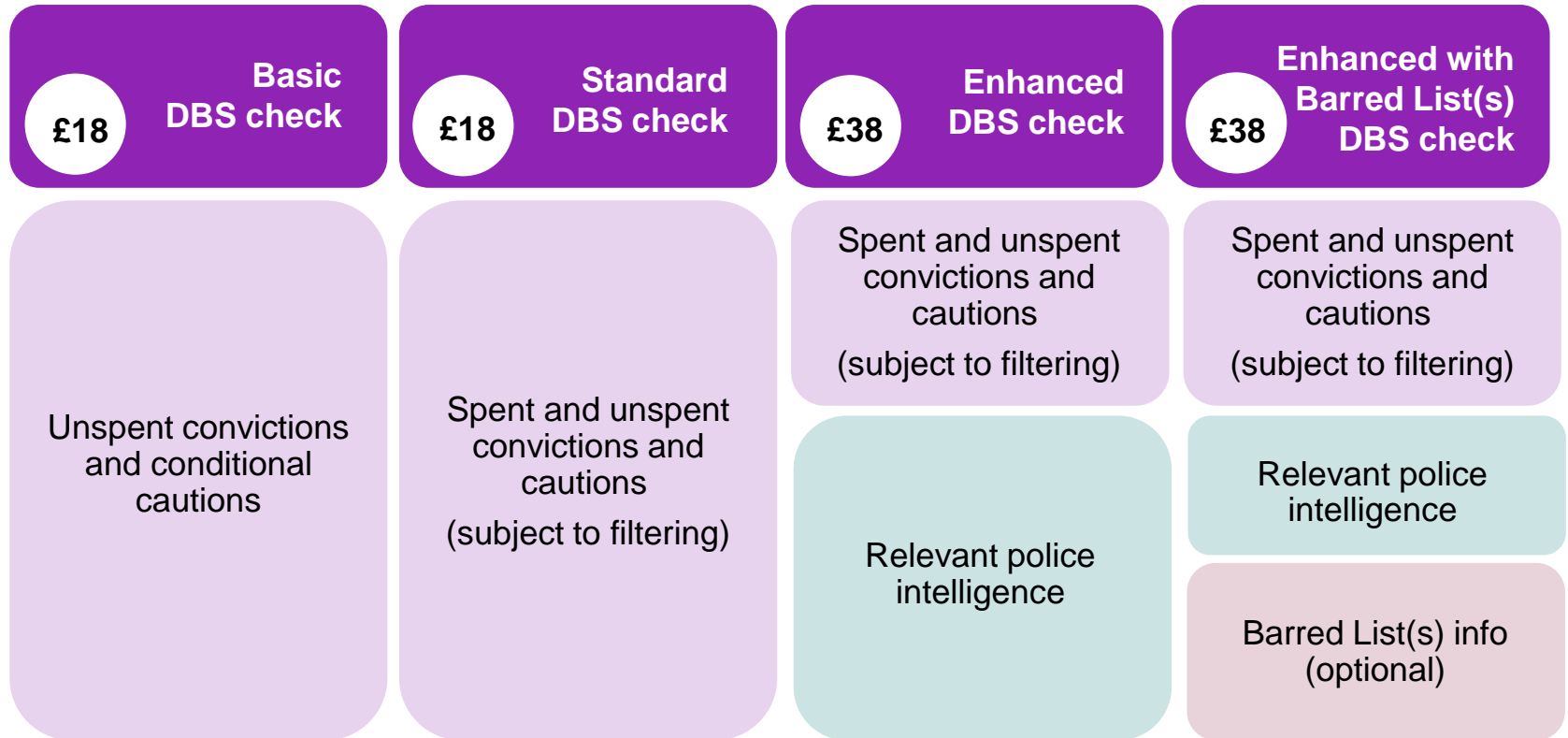
We operate **disclosure** functions for England, Wales, Jersey, Guernsey, and the Isle of Man under Part 5 of the Police Act 1997, supported by the following:

- 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

Different levels of DBS check



Filtering Rules

Convictions

All convictions are considered individually

A conviction will be filtered from a criminal record certificate only if:

- 11 years have elapsed since the date of conviction (5½ years if under 18 when convicted);
- it did not result in a custodial (or suspended) sentence;
- It is not on the Specified Offences List

Cautions

A spent caution for adults will be filtered after 6 years have elapsed since the date of the caution – and only if it does not appear on the Specified Offences List

- Spent youth cautions are not disclosed on DBS certificates

The police still have the power to disclose this information if it is relevant and ought to be disclosed.

Safe recruitment practices

- A DBS check
- **References from previous employer(s)**
- Safer Recruitment policy
- Recruitment of Ex-Offenders policy
- Whistleblowing policy
- Training plans and programmes
- Supervision
- Job shadowing
- Probation periods
- Clear job descriptions

Criminal Record Checks for Overseas Applicants

- The application process for criminal records checks or 'Certificates of Good Character' for someone from overseas varies from country to country
- These can be applied for either in the country, or to the relevant embassy in the UK
- More information can be found at [Criminal records checks for overseas applicants - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/criminal-records-checks-for-overseas-applicants)

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		

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, 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

How to make a barring referral

We accept referrals made using our new [online referral form](#).

You can post or email supporting documentation to us following submission of the online referral.

For organisations that want to make a referral and upload documents they can still do this by using the old [online referral form](#) for a limited period until we have upload functionality on the new portal.

Submit a barring referral

Submit a barring referral if you are concerned that an individual may have harmed, or put at risk, a child or vulnerable adult.

Submitting a referral takes around 45 minutes. You cannot save the form and return to it later.

Who can submit a barring referral?

Anyone can make a referral if they consider that someone has harmed or poses a risk of harm to a child or vulnerable adult.

However, some organisations have a legal duty to make a referral to the DBS.

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.

If you are unsure whether you should make a referral, use our [pre-referral checker](#) to confirm before continuing.

How to make a barring referral

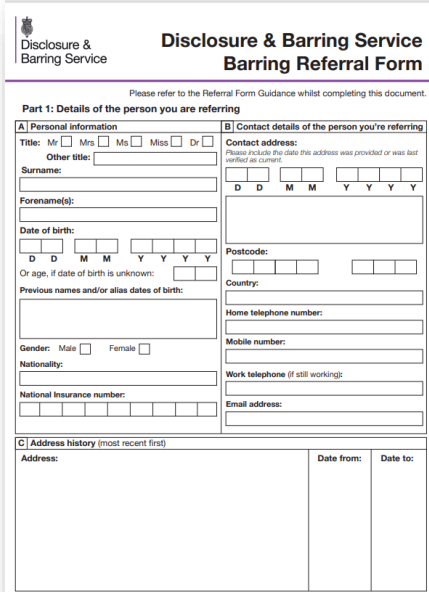
Alternatively, you can complete the DBS [paper referral form](#). You can post the referral form, with all the information requested on the form to:
DBS Barring, PO Box 3963, Royal Wootton Bassett, SN4 4HH

Alternatively, you can email this information to:

- contactus@dbs.gov.uk

Via Egress:

- dbsdispatch@dbs.gov.uk



The image shows a 'Disclosure & Barring Service Barring Referral Form'. It is a structured document with several sections for data entry. At the top, it says 'Disclosure & Barring Service' and 'Disclosure & Barring Service Barring Referral Form'. Below that, it instructs the user to refer to the Referral Form Guidance. The form is divided into three main parts: 'Part 1: Details of the person you are referring'. This part is further divided into 'A) Personal information' and 'B) Contact details of the person you're referring'. Section A includes fields for Title (Mr, Mrs, Ms, Miss, Dr), Surname, Forename(s), Date of birth (with a grid for DDMMYY), and National Insurance number. Section B includes Contact address, Postcode, Country, Home telephone number, Mobile number, and Work telephone. Section C is 'Address history (most recent first)' with columns for Address, Date from, and Date to. At the bottom, there is a small footer with 'Need help? Call 03000 200 190' and 'Referral Form Page 1 of 8'.

[DBS Paper referral form guidance](#)

Useful links

- [DBS Guidance Leaflets](#)
- [DBS Check process explained - video](#)
- [DBS eligibility guidance](#)
- [Eligibility guidance for enhanced DBS checks](#)
- [DBS Barring Referral Guidance](#)
- [DBS Barring Referral Form and Guidance](#)
- [How to make a Good Quality Barring Referral](#)

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>

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
Jordan.Hayden@dbs.gov.uk

North East: Julia Mitchinson
Julia.Mitchinson@dbs.gov.uk

Yorkshire &
The Humber: Rebecca Bool
Rebecca.Boot@dbs.gov.uk

East Midlands: Lizzie Whittington
Elizabeth.Whittington@dbs.gov.uk

West Midlands: Jo Wheatley
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East of England: Georgie Mitchell
Georgina.Mitchell1@dbs.gov.uk

Greater London: Kiranpreet Rehal
Kiranpreet.Rehal@dbs.gov.uk

South East:
DBSregionaloutreach@dbs.gov.uk

South West: Mel Berry
Mel.Berry2@dbs.gov.uk

Wales: Carol Eland
CarolAnn.Eland@dbs.gov.uk

Northern Ireland: Sean Maskey
Sean.Maskey@dbs.gov.uk

Q&A



Overseas applicants

DBS certificates don't generally detail the criminal record of applicants convicted overseas.

Good practice measures to ensure safer recruitment

- Obtain self-declaration of criminal record (i.e. written disclosure statement or criminal record declaration form).
- Request criminal record certificate from country of nationality.
 - Be aware of differences in the quality (and quantity!) of information.
- Seek good-quality character/professional references.
- Ensure identity checks and UK status checks are robust.



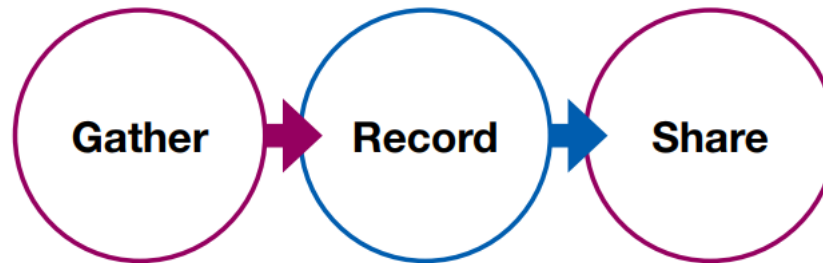
Practical resources

International recruitment webpage

- Recommendations and handy checklist on gathering criminal record information from overseas



Use our resources and templates to...



Be actively curious when gathering information

Use information gathered during the recruitment process when you can talk to candidates about it.

Get great at record-keeping

Use the templates, suggested wording, policies and checklists to review current processes.

Share conduct information with confidence

Use the customisable reference templates and make best use of the exit process to make giving references and making referrals easier.



Thank you