



# Disclosure & Barring Service

## A guide to Adult workforce roles

This will help you identify whether the position you are recruiting for falls into the adult workforce when completing the “Position Applied For” field on a DBS application form. These are roles which relate specifically to working with adults.

It is important to make sure that the law allows you to submit a DBS application **before** you identify the relevant workforce. You are legally responsible for making sure you can submit applications and should be aware of the legislation that supports each application in case we need further clarification. Use the following links to help you with this:

- [Police Act 1997 \(Criminal Records\) \(Amendment\) Regulations 2013/1194](#) the legislative definition of work with adults
- [Department of Health factual note](#) guidance on the definition of regulated activity with adults

You should seek independent legal advice if you are in any doubt about whether you can legally submit a DBS check.

**Disclaimer:** The plain English explanation which appears at the top of each section is not to be taken as the legislative purpose; it is a descriptor of the legislation in each section.

### ENHANCED level DBS certificate

#### **DBS criminal record check applications to assess individuals who carry out regulated activity with adults.**

Wording taken from the Safeguarding Vulnerable Groups Act 2006

The provision to an adult of a regulated activity within the meaning of Part 2 of Schedule 4, as amended by sections 65 and 66 of the Protection of Freedoms Act 2012.

#### **DBS criminal record check applications to assess individuals whose role is normally carried out in a high security psychiatric hospital.**

Wording taken from the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013/1194

Any employment or other work which is normally carried out in a hospital used only for the provision of high security psychiatric services within the meaning of section 4(2) of the National Health Service Act 2006.

#### **DBS criminal record check applications to assess individuals who carry out specific activities with adults in very specific circumstances.**

Wording taken from the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013/1194

The provision of any activity mentioned in paragraph 6 to an adult who:

- receives a health or social care service within the meaning of paragraph 9; or
- a specified activity within the meaning of paragraph 10, provided that the person carrying out the activity does so –
  - (i) at any time on more than three days in any period of 30 days; or
  - (ii) at any time between 2 a.m. and 6 a.m. and the activity gives the person the opportunity to have face-to-face contact with the adult; or
  - (iii) at least once a week on an ongoing basis.

The Annex at the end of this guidance provides the legislative descriptions of paragraphs 6, 9 and 10.

**DBS criminal record check applications to assess individuals who manage, on a day to day basis, anyone who carries out regulated activity with adults or specific activities with adults in very specific circumstances.**

Wording taken from the Safeguarding Vulnerable Groups Act 2006

The regular day-to-day management or supervision of a person providing regulated activity with adults within the meaning of Part 2 of Schedule 4, as amended by sections 65 and 66 of the Protection of Freedoms Act 2012.

Wording taken from the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013/1194

The regular day-to-day management or supervision of a person providing any activity mentioned in paragraph 6, to an adult who receives:

- a health or social care service within the meaning of paragraph 9; or
- a specified activity within the meaning of paragraph 10.

The Annex at the end of this guidance provides the legislative descriptions of paragraphs 6, 9 and 10.

**DBS criminal record check applications to assess individuals whose role relates to a social services or care/health services inspection function in Wales, where the inspector has the opportunity for contact with adults in very specific circumstances.**

Wording taken from the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013/1194

The exercise of any of the functions of the Welsh Ministers relating to the inspection of the following so far as the function gives the person exercising the function the opportunity, in consequence of anything the person is permitted or required to do in exercise of that function, to have contact with an adult who receives:

- a health or social care service within the meaning of paragraph 9; or
- a specified activity within the meaning of paragraph 10 –
  - (i) a local authority (within the meaning of section 1 of the Local Authority Social Services Act 1970) in the exercise of its social services functions (within the meaning of that Act)
  - (ii) an establishment in relation to which a requirement to register arises under section 11 of the Care Standards Act 2000;
  - (iii) an agency in relation to which such a requirement arises
  - (iv) a person to whom Part 2 of that Act applies in pursuance of regulations under section 42 of that Act
  - (v) an NHS body within the meaning of section 148 of the Health and Social Care (Community Health and Standards) Act 2003
  - (vi) any person, other than a local authority, providing Welsh local authority social services within the meaning of that section

in so far as the inspection relates to social services, care, treatment or therapy provided for adults who receive a health or social care service

within the meaning of paragraph 9 or a specified activity within the meaning of paragraph 10.

The Annex at the end of this guidance provides the legislative descriptions of paragraphs 9 and 10.

**DBS criminal record check applications to assess individuals whose role relates to a Care Quality Commission inspection function where the inspector has the opportunity for contact with adults in very specific circumstances.**

Wording taken from the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013/1194

The exercise of a function of the Care Quality Commission in so far as the function –

- (i) relates to the inspection of anything which is listed in section 60(1) of the Health and Social Care Act 2008 and involves the provision of social services, care, treatment or therapy for adults who receive
  - a health or social care service within the meaning of paragraph 9; or
  - a specified activity within the meaning of paragraph 10;and gives the person exercising the function the opportunity, in consequence of anything the person is permitted or required to do in exercise of that function, to have contact with an adult who
  - receives a health or social care service within the meaning of paragraph 9; or
  - a specified activity within the meaning of paragraph 10

The Annex at the end of this guidance provides the legislative descriptions of paragraphs 9 and 10.

**DBS criminal record check applications to assess –**

- **chief executives of local authorities;**
- **directors of adult social services in England or Wales;**
- **any individuals whose work for a local authority where their roles relate to carrying out social services functions for adults in very specific circumstances;**
- **Commissioner or his deputy for older people in Wales;**
- **any charity trustee where the trustees regularly carry out work with adults;**
- **any person who needs to be registered under the Health and Social Care Act 2008;**

Wording taken from the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013/1194

The exercise of a function of a person who is –

- (i) a member of a local authority and discharges any social services functions of a local authority which relate wholly or mainly to adults who
  - receive a health or social care service within the meaning of paragraph 9; or
  - a specified activity within the meaning of paragraph 10;
- (ii) a member of an executive of a local authority which discharges any such functions;
- (iii) a member of a committee of an executive of a local authority which discharges any such functions;
- (iv) a member of an area committee, or any other committee, of a local authority which discharges any such functions;
- (v) a person who is a chief executive of a local authority that has any social services functions;
- (vi) a person who is a director of adult social services of a local authority in England;
- (vii) a person who is a director of social services of a local authority in Wales;

- (viii) a person who is a Commissioner for older people in Wales or deputy Commissioner for older people in Wales;
- (ix) a person who is a charity trustee of a charity whose workers normally engage in any activity which is work with adults;
- (x) a person who is required to register to carry out a regulated activity within the meaning of the Health and Social Care Act 2008 where that activity will be carried out in relation to an adult who receives a health or social care service within the meaning of paragraph 9

The Annex at the end of this guidance provides the legislative descriptions of paragraphs 9 and 10.

## STANDARD level DBS certificate

**DBS criminal record check applications to assess individuals whose role involves work relating to adults which is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975**

## ANNEX

### DEFINITIONS OF THE REFERENCES USED IN THIS GUIDANCE

#### Paragraph 6 – Specific Activity

For the purposes of this regulation “activity” means –

- a) any form of care or supervision;
- b) any form of treatment or therapy;
- c) any form of training, teaching, instruction, assistance, advice or guidance provided wholly or mainly for adults who receive a health or social care service within the meaning of paragraph 9 or a specified activity within the meaning of paragraph 10;
- d) moderating a public electronic interactive communication service which is likely to be used wholly or mainly by adults who receive a health or social care service within the meaning of paragraph 9 or a specified activity within the meaning of paragraph 10;

A person moderates a public electronic interactive communication service if, for the purposes of protecting the adults mentioned in that sub-paragraph, he has any function relating to –

- (i) monitoring the content of matter which forms any part of the service;
- (ii) removing matter from, or preventing the addition of matter to, the service; or
- (iii) controlling access to, or use of, the service.

But a person does not moderate a public electronic interactive communication service unless he has –

- (i) access to the content of the matter;
- (ii) contact with users of the service.

- e) any form of work carried out in a care home (for the purposes of the Care Standards Act 2000) which is exclusively or mainly for adults, whether or not for gain, that gives the person carrying out the work the opportunity to have contact with the adults resident at that care home
- f) representation of, or advocacy services for, adults who receive a health or social care service within the meaning of paragraph 9 or a specified

- activity within the meaning of paragraph 10, by a service which has been approved by the Secretary of State or created by any enactment, and which is of such a kind as to enable the person to have access to such adults in the course of his normal duties in providing such services
- g) the conveying of an adult who receives a health or social care service within the meaning of paragraph 9 or a specified activity within the meaning of paragraph 10 whether or not the adult is accompanied by a person caring for them.

“activity” does not include any activity carried out in the course of a family relationship, or carried out in the course of a personal relationship for no commercial consideration.

“family relationship” includes a relationship between two persons who live in the same household and treat each other as though they were members of the same family.

“personal relationship” is a relationship between or among friends, where a “friend” of a person includes a person who is a friend of a member of that person's family.

### **Paragraph 9 – Specific Circumstances (health or social care service)**

For the purposes of this regulation “health or social care service” means –

- a) residential accommodation provided for an adult in connection with any care or nursing he requires
- b) accommodation provided for an adult who is or has been a pupil attending a residential special school, where that school is –
  - (i) a special school within the meaning of section 337 of the Education Act 1996
  - (ii) an independent school within the meaning of section 463 of that Act which is in England and is specially organised to make special educational provision for pupils with special educational needs (within the meaning of section 312 of that Act) or is in Wales and is approved by the Welsh Ministers under section 347 of that Act
  - (iii) an independent school within the meaning of section 463 of that Act not falling within sub-paragraph (b)(ii) which, with the consent of the Welsh Ministers, given under section 347(5)(b) of that Act, provides places for children with special educational needs (within the meaning of section 312 of that Act)
  - (iv) an institution within the further education section (within the meaning of section 91 of the Further and Higher Education Act 1992) which provides accommodation for children
  - (v) a 16 to 19 Academy, within the meaning of section 1B of the Academies Act 2010, which provides accommodation for children
- c) sheltered housing
- d) care of any description or assistance provided to an adult by reason of his age, health or any disability he has, which is provided to the adult in the place where he is, for the time being, living, whether provided continuously or not
- e) any form of health care, including treatment, therapy or palliative care of any description
- f) support, assistance or advice for the purpose of developing an adult's capacity to live independently in accommodation, or sustaining their capacity to do so
- g) any service provided specifically for adults because of their age, any disability, physical or mental illness, excluding a service provided specifically for an adult, with one or more of the following disabilities (unless that person has another disability) –
  - (i) dyslexia
  - (ii) dyscalculia
  - (iii) dyspraxia
  - (iv) Irlen syndrome

- (v) Alexia
  - (vi) auditory processing disorder
  - (vii) dysgraphia
- h) any service provided specifically to an expectant or nursing mother in receipt of residential accommodation pursuant to arrangements made under section 21(1)(aa) of the National Assistance Act 1948 or care pursuant to paragraph 1 of Schedule 20 to the National Health Service Act 2006

**Paragraph 10 – Specific Circumstances (specified activity)**

For the purposes of this regulation “specified activity” means –

- a) the detention of an adult in lawful custody in a prison (within the meaning of the Prison Act 1952), a remand centre, young offender institution or a secure training centre (as mentioned in section 43 of that Act) or an attendance centre (within the meaning of section 53(1) of that Act)
- b) the detention of a detained person (within the meaning of Part 8 of the Immigration and Asylum Act 1999) who is detained in a removal centre or short-term holding facility (within the meaning of that Part) or in pursuance of escort arrangements made under section 156 of that Act
- c) the supervision of an adult by virtue of an order of a court by a person exercising functions for the purposes of Part 1 of the Criminal Justice and Court Services Act 2000
- d) the supervision of an adult by a person acting for the purposes mentioned in section 1(1) of the Offender Management Act 2007
- e) the provision to an adult of assistance with the conduct of their affairs in situations where –
  - (i) a lasting power of attorney is created in respect of the adult in accordance with section 9 of the Mental Capacity Act 2005 or an application is made under paragraph 4 of Schedule 1 to that Act for the registration of an instrument intended to create a lasting power of attorney in respect of the adult
  - (ii) an enduring power of attorney (within the meaning of Schedule 4 to that Act) in respect of the adult is registered in accordance with that Schedule or an application is made under that Schedule for the registration of an enduring power of attorney in respect of the adult
  - (iii) an order under section 16 of that Act has been made by the Court of Protection in relation to the making of decisions on the adult’s behalf, or such an order has been applied for
  - (iv) an independent mental capacity advocate is or is to be appointed in respect of the adult in pursuance of arrangements under section 35 of that Act
  - (v) independent advocacy services (within the meaning of section 248 of the National Health Service Act 2006 or section 187 of the National Health Service (Wales) Act 2006) are or are to be provided in respect of the adult
  - (vi) a representative is or is to be appointed to receive payments on the adult’s behalf in pursuance of regulations made under the Social Security Administration Act 1992
- f) payments are made to the adult or to another person on the adult’s behalf under arrangements made under section 57 of the Health and Social Care Act 2001
- g) payments are made to the adult or to another person on the adult’s behalf under section 12A(1) or under regulations made under section 12A(a) of the National Health Service Act 2006 or under regulations made under section 12A(4) of that Act