

Further Guidance on Disclosure

Disclosure Information

The Disclosure and Barring Service (DBS) will provide information held by the police and other agencies, to those employers and organisations who are entitled to ask exempted questions of employees and voluntary workers who will be working with children and vulnerable adults.

Information will include:

- Police Checks (criminal records)
- Checks against List 99 (those barred from working in schools)
- Checks against Department of Health Listings (those unsuitable to work with children and vulnerable adults).

The DBS provides a service called 'Disclosure', which is available to employers and voluntary organisations. The type of Disclosure relevant for a particular individual will depend on the nature of job to which the person is being appointed.

There are two levels of Disclosure: Enhanced and Standard. Enhanced and Standard Disclosures are relevant for any work that is exempt from the provisions of the Rehabilitation of Offenders Act.

Standard Disclosure

A *Standard Disclosure* is required in three broad categories of work which are also exempt from the provisions of the Rehabilitation of Offenders Act (ROA):

1. Work that brings the person **into contact with** those that might be considered vulnerable at that particular time or in that circumstance e.g. hospital patients, those in elderly care, or children under the age of 18.
2. Certain other **specific positions** (such as medical practitioners, dentists, Pharmacists, accountants).
3. Positions that are concerned with the **administration of justice** (including a range of work, from solicitors to traffic wardens).

A Standard Disclosure will contain details of ALL convictions on record including current and spent convictions as defined by the Rehabilitation of Offenders Act 1974. It will also provide details of any cautions, reprimands, or warnings held on the police national computer. If the Registered Body that countersigns the application certifies that the check is required for child protection purposes, or relates to work with adults who are defined as vulnerable, this level of Disclosure will also give information contained on Government Department lists such as those maintained by the Department for Education and Skills (DfES) and the Department of Health (DoH).

A list of the work and occupations which would require Standard Disclosure are at **Appendix A**. This list is not exhaustive (but includes some roles that are not undertaken by the University).

Enhanced Disclosure

An *Enhanced Disclosure* is required for those carrying out certain activities or working in **Regulated Activity** with children or adults where the normal duties of the position

- involve **regularly caring** for,
- **training/supervising**, or
- being in **sole charge** of children under 18, or vulnerable adults.

The definition of Regulated Activity (i.e. **work that a barred person must not do**) is defined in **Appendix B**.

If the purpose of the job or one of the main areas of work fits the above, then this will **automatically require Enhanced Disclosure**.

In addition to that information provided under the Standard Disclosure, an Enhanced Disclosure will include information that is held locally by the police, i.e. non-conviction or 'soft information' which a Chief Police Officer thinks may be relevant in connection with the position sought.

The DBS aims to support the protection of children and vulnerable adults by providing information to inform recruitment decisions. However, **the University cannot ask for such information without justification**. Respect for an individual's right to privacy, which means ensuring that we do not ask for Enhanced Disclosure unless it is required, is an important factor in the University's policy on the use of the DBS Disclosure service.

Appendix B includes further details about Regulated activity and includes a list of work and occupations which would require Enhanced Disclosure. (There are a number of areas that do not relate to the work of the University.) The list is not exhaustive.

Risk Assessment

For most positions, it will be clear whether either Enhanced or Standard Disclosure is required. However, in some cases the requirement will not be so clear, and it is important that the manager and Countersignatory consider the duration, frequency and the nature of the contact with vulnerable groups to assess the nature of the work or activity.

Managers and Countersignatories should make an assessment of the level of Disclosure required, if it is required at all, by considering

- Purpose (e.g. care/support/assistance)
- Nature of the contact (e.g. sole contact/ group, supervised /unsupervised).
- Duration and frequency (low level, high frequency, for example, as little as one hour per week but occurring most weeks; or low frequency, high intensity, for example, occurring only one or two weeks per year but forming a significant part of the person's work for that period.)

Completion of a DBS risk assessment form is required when completing recruitment documentation prior to advertising. For volunteers the need for a DBS check should have been identified prior to the voluntary work being made available. Not all voluntary positions will need a DBS check.

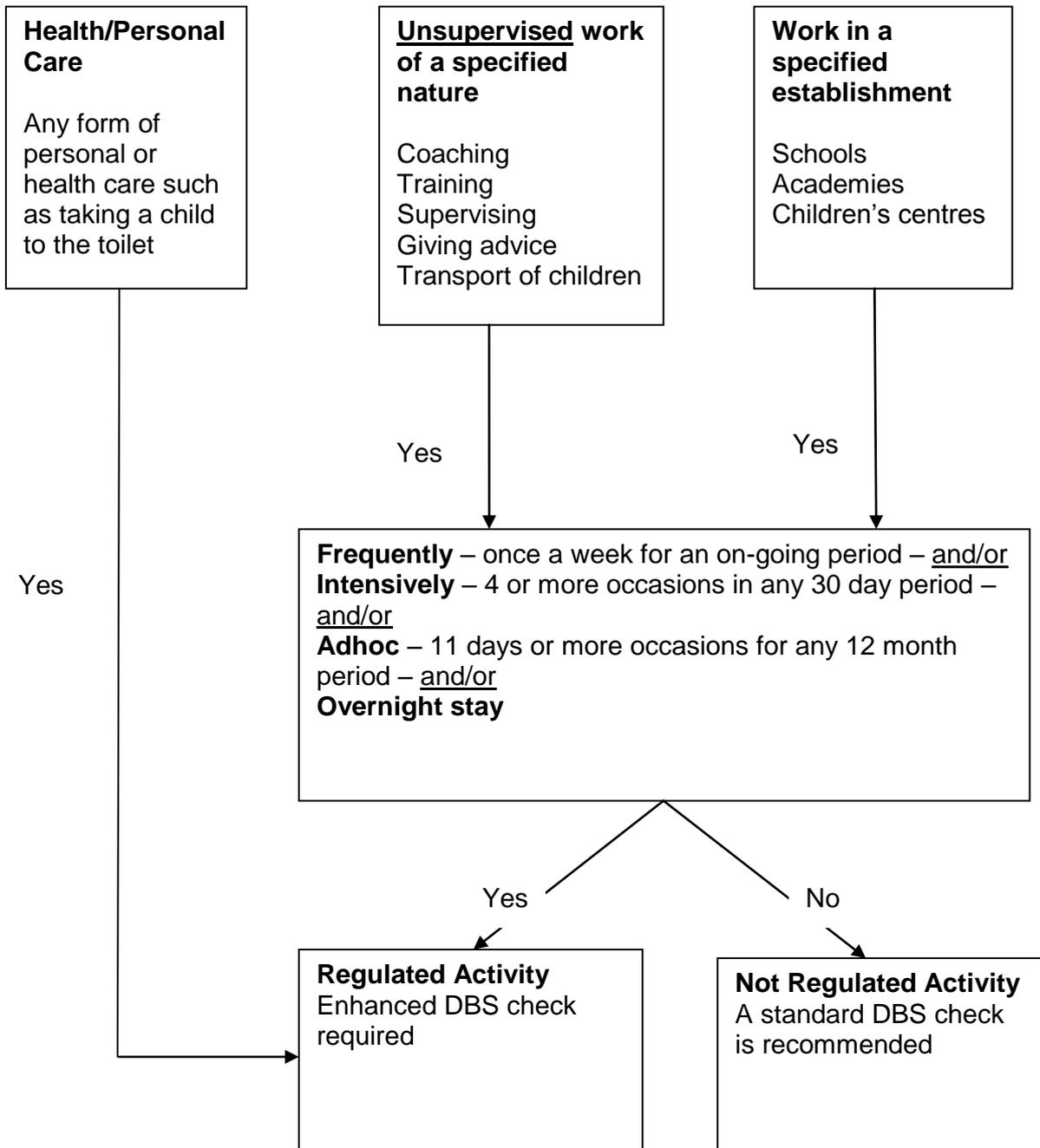
The risk assessment should involve balancing the University's responsibility to protect vulnerable people and its responsibilities as a body registered with the DBS. **The approach of choosing the highest level of Disclosure 'just to be on the safe side' is inappropriate and**

incompatible with the DBS Code of Practice. Advice should always be sought from the HR Department if there is any doubt about the Disclosure requirement.

As a general rule, **unsupervised volunteers** working with children or vulnerable adults **do** require a Disclosure; **supervised volunteers do not** require a Disclosure. The same applies for employees or students on placement/secondment (for study/research purposes), or undertaking activities outside of their usual roles or area.

February 2015

I am working with children or vulnerable adults; do I need a DBS check?



Appendix A

The following types of work/activities will automatically qualify for **Standard Disclosure: Health Service(On entry to the profession)**

- (Medical) doctor
- Dentist/Dental Hygienist
- Nurse or midwife
- Ophthalmic or dispensing optician
- Pharmacists
- Paramedics, clinical scientists, speech and language therapists
- Osteopath
- Chiropractor
- Psychologist
- Other work in the Health Services
- Work concerned with the provision of care services to vulnerable adults
- Managers of abortion clinics

Legal Profession

- Barrister
- Solicitor/Legal executive
- Foreign lawyer
- Receiver appointed by the Court of Protection
- Work in the Crown Prosecution Service
- Justices' chief executives, justices clerks and their assistants

Work related to the police or prisons

- Police Officers
- Work in a prison or high-security psychiatric hospital
- Traffic wardens
- Probation Officers and staff who work in probation and bail hostels
- Employment in the Serious Fraud Squad
- Employment in the National Crime Squad or the National Criminal Intelligence Service

Finance

- Actuary
- Accountant

Education

- Teacher (Scotland)
- Work in a further education institution where normal duties involve regular contact with those aged under 18

Other

- Vet

- Some employments within the RSPCA
- Employment in HM Customs and Excise
- Monitoring internet communications for the purposes of child protection
- Firearms dealer
- Financial Services sector
- Work with people aged under 18 in a regulated position²

² The term 'regulated position' is defined in Section 36 of the Criminal Justice and Court Services Act 2000. There are 8 types of regulated position:

6

- Safeguarding national security
- Those living in the same house as a person whose suitability is being assessed for a position working with children and who lives on the same premises where his/her work with children would normally take place.

The following types of licence

- Taxi licence
- Licence issued by the new Security Industry Authority

1. A position whose normal duties include work in a hospital, detention institution, care, residential, nursing or educational establishment exclusively or mainly for children.
2. A position whose normal duties include work on day care premises.
3. A position whose normal duties include caring for, training, supervising or being in sole charge of children.
4. A position whose normal duties involve unsupervised contact with children under arrangements made by a responsible person.
5. A position whose normal duties include caring for children under the age of 16 in the course of the children's employment.
6. A position a substantial part of whose normal duties includes supervising or training children under the age of 16 in the course of the children's employment.
7. The "great and the good". A position which, by virtue of its responsibility is one for which the postholder would be expected to be positively suitable to work with children.
8. A position whose normal duties involve supervising or managing an individual in his work in a regulated position.

Appendix B

Regulated Activity

The definition of Regulated Activity (i.e. work that a barred person must not do) comprises, in summary work relating to Children and work relating to adults:

Children

- (i) **unsupervised activities:** teach, train, instruct, care for or supervise children, or provide advice/ guidance on well-being, or drive a vehicle only for children;
- (ii) **work establishments with opportunity for contacting:** e.g. schools, children's homes, childcare premises. **Not** work by supervised volunteers;
- (iii) relevant **personal care**, e.g. washing or dressing; or health care by or supervised by a professional;
- (iv) **registered childminding;** and foster-carers.

Work under (i) or (ii) is regulated activity only if done regularly (generally once a week or more often).

Adults

There are six categories of people who will fall within the definition of regulated activity for adults (and so will anyone who provides day to day management or supervision of those people). A broad outline of these categories is set out below. For more information please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012.

(i) Providing health care

Any health care professional providing health care to an adult, or anyone who provides health care to an adult under the direction or supervision of a health care professional. Please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, for further details about what is meant by health care and health care professionals.

(ii) Providing personal care

Anyone who:

- provides physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails because of an adult's age, illness or disability;
- prompts and then supervises an adult who, because of their age, illness or disability, cannot make the decision to eat or drink, go to the toilet, wash or bathe, get dressed or care for their mouth, skin, hair or nails without that prompting or supervision; or
- trains, instructs or offers advice or guidance which relates to eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails to adults who need it because of their age, illness or disability.

(iii) Providing social work

The provision by a social care worker of social work which is required in connection with any health care or social services to an adult who is a client or potential client.

(iv) Assistance with cash, bills and/or shopping

The provision of assistance to an adult because of their age, illness or disability, if that includes managing the person's cash, paying their bills or shopping on their behalf.

(v) Assistance in the conduct of a person's own affairs

Anyone who provides various forms of assistance in the conduct of an adult's own affairs, for example by virtue of an enduring power of attorney. Please see the Safeguarding Vulnerable

Groups Act 2006, as amended by the Protection of Freedoms Act 2012, for the further categories which are covered here.

(vi) **Conveying**

A person who transports an adult because of their age, illness or disability either to or from their place of residence and a place where they have received, or will be receiving, health care, personal care or social care; or between places where they have received or will be receiving health care, personal care or social care. This will not include family and friends or taxi drivers.
Our thanks

The following types of work/activities will automatically qualify for **Enhanced Disclosure:**
Health Services (Practising)

- Doctor
- Dentist
- Optician (including ophthalmic optician)
- Pharmacist
- Director of private dental or optician's practice

Legal profession

- Judicial appointments

Betting and gaming industry

- Selling, supplying or maintaining gaming machines
- Posts concerned with betting
- Positions in a casino
- Local lottery manager or promoter
- National Lottery posts

Other qualifying categories

- Regularly caring for, training, supervising or being in sole charge of persons aged under 18
- Regularly caring for, training, supervising or being in sole charge of vulnerable adults
- Childminding and day care posts
- Foster carers
- Adoptive parents
- Social workers and social care workers
- National Standards Care Commission

Appendix C

Disclosure and Barring Service Checks for staff and students working as volunteers with children and young people

<https://www.gov.uk/disclosure-barring-service-check/overview>

The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA). The DBS searches police records and, in relevant cases, barred list information, and then issues a DBS certificate to the applicant.

What DBS checks are available to employers?

A DBS check may be needed for positions where there is a requirement to work with young people under the age of 18 or with vulnerable adults (a vulnerable adult is a person aged over 18 whose ability to protect him or herself from neglect, abuse, or violence is significantly impaired on account of disability, illness or otherwise).

Depending on the nature of the work, an employer or organization may ask for a Standard or an Enhanced Disclosure.

An individual cannot request a DBS check; however, once an application has been made they can register with the update service <https://www.gov.uk/dbs-update-service>. This enables updating of the DBS check online at an annual cost of £13 or free for volunteers. There are two types of criminal record check:

- Standard check - £26 (as at February 2015)

It takes about 2 weeks to obtain.

- Enhanced check - £44 (as at February 2015)

The enhanced check is available for those carrying out certain activities or working in Regulated Activity (see below for more details) with children or adults. It takes about 4 weeks to obtain.

Regulated Activity includes **unsupervised** activities which involve **regularly** caring for, training, teaching, instructing, supervising, providing advice/guidance on well-being, or driving a vehicle for children under 18; or working for a limited range of "specified places" with opportunity for unsupervised contact with children. Enhanced disclosures should also be requested for any position where an individual has regular contact with children.

Volunteer applications are free of charge

The DBS definition of a volunteer is defined in the Police Act 1997 (criminal records) Regulations 2002 as:

“Any person engaged in an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit some third party and not a close relative.”

To qualify for a free-of-charge criminal record check, the applicant must not benefit directly from the position the DBS application is being submitted for. The applicant must not:

- benefit directly from the position for which the DBS application is being submitted
- receive any payment (except for travel and other approved out-of-pocket expenses)

- be on a work placement
- be on a course that requires them to do this job role
- be in a trainee position that will lead to a full time role/qualification.

What is Regulated Activity?

The regulations in relation to Regulated Activity with children may be read in full at the link below:

<http://media.education.gov.uk/assets/files/pdf/r/regulated%20activity%20children%20full%20information%20ewni%20final%202012-06-01.pdf>

In summary, Regulated Activity with Children and Young People is any **unsupervised** contact that falls into one of the three categories below:

1. Work of a specified nature: coaching, training, supervising, giving advice or transportation. This must occur frequently (once a week for an on-going period), intensively (four or more occasions in any 30 day period), any overnight stay or ad-hoc (11 days or more occasions for any 12 month period).
2. Any type of work undertaken in schools, academies, nurseries or children's centres (but not work by supervised volunteers). This must occur frequently (once a week for an on-going period), intensively (four or more occasions in any 30 day period), any overnight stay or ad-hoc (11 days or more occasions for any 12 month period). It must also provide the opportunity for contact with children and young people.
3. Any form of personal care or health care, even if done once.

The onus is on organisations to determine what is a “reasonable level of supervision for their circumstances”. Particular points from the draft guidance are:

- The law makes three main points in relation to supervision:
 - there must be supervision by a person who is in Regulated Activity
 - the supervision must be regular and day to day; and
 - the supervision must be “reasonable in all the circumstances to ensure the protection of children”.
- Supervisors must be in Regulated Activity themselves.
- The precise nature and level of supervision will vary from case to case. However organisations need to have due regard to the guidance.
- The duty that supervision must take place “on a regular basis” means that supervision must not, for example, be concentrated during the first few weeks of an activity and then tail off thereafter, becoming the exception not the rule. It must take place on an ongoing basis, whether the worker has just started or has been doing the activity for some time.
- Within the statutory duty, the level of supervision may differ, depending on all the circumstances of a case. Organisations should consider the following factors in

deciding the specific level of supervision the organisation will require in an individual case:

- ages of the children, including whether their ages differ widely;
- number of children that the individual is working with;
- whether or not other workers are helping to look after the children;
- the nature of the individual's work (or, in a specified place such as a school, the individual's opportunity for contact with children);
- how vulnerable the children are (the more they are, the more an organisation might opt for workers to be in regulated activity);
- how many workers would be supervised by each supervising worker.

There are risks that if organisations decide on a case by case basis whether someone is in Regulated Activity, they could end up inadvertently introducing discriminatory practice. Therefore organisations need to devise transparent processes for determining whether someone is in Regulated Activity.

How do those working with children know if they need a DBS check?

If working with children is part of your job i.e. you are paid to do it, then you should have been made aware of the need for a DBS check which the University will undertake. If not, contact your HR officer.

If you are working with children as a volunteer and this work has arisen as a result of you being an employee of or student at Swansea University, then follow the guidance on the flowchart above to determine if a DBS check is required. If in doubt, the employer/organiser may refer the circumstances to the DBS for advice. If a DBS check is required then the University has to apply on your behalf and you need to contact the appropriate HR officer for further guidance.