



Disclosure &
Barring Service

Regulated activity with children in Wales





Disclaimer: This is not legal advice. If you need help with making sure you are complying with the law, you should speak to a legal advisor.



What is regulated activity?

Regulated activity is work that a barred person must not do. It is defined in the Safeguarding Vulnerable Groups Act 2006 (SVGA) which has been amended by the Protection of Freedoms Act 2012 (PoFA).

A child is any person who has not yet reached the age of 18 years. However, if an activity relates solely to their employment e.g. induction training when starting work, they are only considered a child if under the age of 16 years.

If you are employing or assessing someone to do work that is regulated activity with children you could request an **Enhanced DBS certificate with a children’s barred list check**.



When you request a DBS certificate to assess someone to carry out regulated activity with children this means that you are a regulated activity provider (RAP) which brings obligations under the Safeguarding Vulnerable Groups Act 2006.

What are these obligations?

As a regulated activity provider you have a legal duty to refer an individual to the DBS where the relevant conditions are met. These are the conditions:

- you withdraw permission for a person to engage in regulated activity with children and/or adults. Or you move the person to another area of work that isn't regulated activity. This includes situations when you would have taken the above action, but the person was re-deployed, resigned, retired, or left.

And you think the person has carried out one of the following:

- engaged in relevant conduct in relation to children and/or adults. An action or inaction has harmed a child or adult or put them at risk or harm or;
- satisfied the harm test in relation to children and/or adults. E.g. there has been no relevant conduct but a risk of harm to a child or adult still exists, or
- been cautioned or convicted of a relevant (automatic barring either with or without the right to make representations) offence

How do I make a referral?

We accept referrals made using our online referral form or by post (paper).

Either way you'll be asked to provide prescribed information. This is information that you must legally provide, if you're under a duty to refer or if you fall within those persons/bodies who are legally required to provide information on request. You should be aware that the legal duty to provide prescribed information may apply whether you've made a referral to the DBS or not.

It's important that you provide us with as much relevant information as you can. DBS rely on the quality of information provided to us. You're not expected to provide information that you don't have access to. As part of the process to decide if an individual should be placed on a barred list, any information in your referral may be used by us and could be disclosed to the referred person or other parties.



For further help with referrals

You can call us on 03000 200 190 or see the referral flow chart at www.gov.uk/government/publications/dbs-referrals-referral-chart



Regulated activity with children is made up of:

- what activity a person carries out and how often the person does it; or
- where the role takes place and how often the person will work there; or
- working in specified positions in Wales.

In some circumstances, supervision of the role must also be considered.

For more detail on what constitutes regulated activity with children please see the related documents enclosed.



Specified activities with children

Activity	Period condition
Teaching, training or instruction, care or supervision of children	More than 3 days in a 30 day OR overnight between 2am & the opportunity for face to face with children
Moderating a web service wholly or mainly for children	More than 3 days in a 30 day ONLY
Advice or guidance wholly or mainly to children	More than 3 days in a 30 day OR overnight between 2am & the opportunity for face to face with children
Driving a vehicle for children	More than 3 days in a 30 day ONLY
Health care or personal care	Once is enough
Registering to be a foster carer or private foster carer	None
Registering to be a childminder or child care provider, including voluntary registration	None

and what you need to consider

	Supervision	Age
period 6am with e contact	Must be considered	Under 18 – but not if the activity is in relation to the child’s paid or unpaid employment AND they are 16/17.
period	Not required	Under 18
period 6am with e contact	Not required	Under 18 – but not if the activity is in relation to the child’s paid or unpaid employment AND they are 16/17.
period	Not required	Under 18
	Not required	Under 18
	Not required	Under 18
	Not required	In line with the Care and Social Services inspectorate Wales (CSSIW) regulations

Specified establishments with children

This section outlines the criteria that need to be met for roles which are not providing teaching, training, instruction, care, supervision or advice in one of the specified establishments listed below. If someone does not meet regulated activity because of what they do, they may meet it because of where they work. This will be mainly, but not exclusively, for ancillary roles e.g. cleaners, admin staff etc.

The specified establishments are –

- An educational institution exclusively or mainly for the provision or full time education of children
- A pupil referral unit
- A provider of nursery education
- A detention centre for children
- A children's home or a home provided under the Children Act 1989
- A children's centre



- Relevant childcare premises
- A children's hospital in Wales

Ancillary roles in these specified establishments must meet all four of the following criteria to be in regulated activity with children –

- they work there on more than 3 days in a 30 day period or overnight between 2am and 6am with the opportunity for face to face contact with the children and
- they have the opportunity, because of their job, to have contact with the children in the establishment and
- they work there for the purpose of the establishment and
- it is not temporary or occasional work and
- it is not a supervised volunteer role

Supervision – carrying out activities in specified establishments

If the role meets the definition of regulated activity with children because it involves teaching, training or instructing children, or is providing any form of care for or supervision of children in a specified establishment and the period condition is met, then the organisation must consider the Dept for Education (DfE) statutory supervision guidance.

If the role is undertaking one of the specified activities in a specified establishment, is voluntary and the organisation decides that the role is sufficiently supervised, then the volunteer is not in regulated activity with children and is eligible for an enhanced DBS certificate only.

If that role working within the specified establishment is paid, then the individual will always be in regulated activity with children and eligible for an enhanced DBS certificate with a children's barred list check. This is regardless of the level of supervision they are under.

Specified positions in Wales

These positions meet the definition of regulated activity with children because of the job title, or responsibilities, and do not need to be carried out a specific number of times.

- Functions of the Children's Commissioner for Wales and of the Deputy Children's Commissioner for Wales

The following positions are in regulated activity with children only if the job holder has the opportunity, because of the role held, to have contact with the children

- Functions of the Welsh Ministers to inspect registered establishments or agencies, an NHS body or anyone providing healthcare for the body
- Functions relating to the inspection of childminding, or fostering agency, residential family centre, voluntary adoption agency, adoption support agency
- Functions relating to the welfare of children in boarding schools
- Functions relating to inspections of teacher training, local education authorities, registered independent school, boarding schools and colleges

- Functions relating to a review or investigation of the functions of children’s services authorities
- Functions relating to the inspection of careers services
- Functions relating to the inspection of religious education
- Functions relating to the inspection of the discharge of social services functions by local authorities



Further information can be found on the DBS website. You may find the following pages useful.

www.gov.uk/find-out-dbs-check

www.gov.uk/government/publications/dbs-workforce-guidance

Information about regulated activity with children is also available from the Department for Education (DfE).

www.gov.uk/government/publications/new-disclosure-and-barring-services





Disclosure & Barring Service

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