



DBS referrals guide: harm, relevant conduct and risk of harm

Purpose

This guide provides information to help you to understand harm in relation to DBS child protection and adult safeguarding referrals and barring. This document is not legal advice or guidance and does not cover all aspects or examples of harm, referrals and barring. If you require legal assistance you should consult your legal advisor.

Referrals to the DBS

In simple terms, the legal duty to make a safeguarding referral to the DBS for regulated activity providers (employers and volunteer managers) and personnel suppliers (employment agencies, employment businesses and some educational institutions) will be triggered when a person is removed from **regulated activity** because they have been cautioned or convicted of an automatic barring offence, engaged in relevant conduct or the **harm test** is satisfied.

The legal duty to refer to DBS applies to regulated activity providers even when a referral has been made to a body such as a local authority safeguarding team or professional regulator regardless of whether that body has made a referral to the DBS about the person.

For Local Authorities (Health & Social Care Trusts, Education and Library Boards in NI), Keepers of Registers and Supervisory Authorities, in simple terms the referral power will be triggered when a person they think is or has been or might in future be engaged in **regulated activity** has been cautioned or convicted of an automatic barring offence, engaged in **relevant conduct** or the **harm test** is satisfied and they think DBS may consider including the person in a barred list.

For information in relation to automatic barring offences please see [DBS guide relevant offences - England and Wales](#) on our website.

What is regulated activity?

Regulated activity defines the range of activities related to children or to vulnerable adults that form the scope of the DBS barring regime. For posts (paid or unpaid) within regulated activity, it provides eligibility for a DBS enhanced criminal record check that includes a check of whether a person is included in a relevant barred list. A relevant barred list refers to either the children's barred list, the adults' barred list or both depending on the workforce(s) the person is seeking to work in.

The DBS check is used by an employer or volunteer manager to help determine if a person is suitable to engage in regulated activity. A person included in a DBS barred list commits an offence if they seek, offer to or engage in, regulated activity with a group (children and/or adults) they are barred from.

Regulated activity is defined in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 (SVGA) (as amended) and Schedule 2 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (SVGO). Government Factual Notes on Regulated Activity in relation to Children, Regulated Activity in relation to Adults and Statutory Supervision Guidance for Children can be found on our [website](#)

What is relevant conduct?

In simple terms relevant conduct is conduct (i.e. an action or inaction / neglect) that **has** harmed a child or vulnerable adult or put them at risk of harm. In other words it is something a person has done that has caused harm or posed a risk of harm to a child or vulnerable adult. Further details are outlined below.

What is the harm test?

In simple terms, a person satisfies the harm test if they **may** harm a child or vulnerable adult or put them at risk of harm. In other words it is something a person may do to cause harm or pose a risk of harm to a child or vulnerable adult. Further details are outlined below:

Child - a person aged under 18 years.

Vulnerable Adult - a person aged 18 years or over who is being provided with or receiving a service or activity that is a regulated activity.

Relevant conduct in relation to children

Conduct which:

- endangers a child or is likely to endanger a child
- if repeated against or in relation to a child would endanger the child or be likely to endanger the child
- 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) [See Secretary of State Guidance on DBS web pages]
- is of a sexual nature involving a child [See Secretary of State Guidance on DBS web pages]

A person's conduct endangers a child if they:

- harm a child
- cause a child to be harmed
- put a child at risk of harm
- attempt to harm a child
- incite another to harm a child

The harm test in relation to children

A person satisfies the Harm Test if they **may**:

- harm a child
- cause a child to be harmed
- put a child at risk of harm
- attempt to harm a child
- incite another to harm a child
- Relevant Conduct in relation to Adults

Relevant conduct in relation to adults:

Conduct which:

- endangers a vulnerable adult or is likely to endanger a vulnerable adult
- if repeated against or in relation to a vulnerable adult would endanger the vulnerable adult or be likely to endanger the vulnerable 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) [See Secretary of State Guidance on DBS web pages]
- is of a sexual nature involving a vulnerable adult [See Secretary of State Guidance on DBS web pages]

A person's conduct endangers a vulnerable adult if they:

- harm a vulnerable adult
- cause a vulnerable adult to be harmed
- put a vulnerable adult at risk of harm
- attempt to harm a vulnerable adult
- incite another to harm a vulnerable adult

The harm test in relation to adults

A person satisfies the harm test if they may:

- harm a vulnerable adult
- cause a vulnerable adult to be harmed
- put a vulnerable adult at risk of harm
- attempt to harm a vulnerable adult
- incite another to harm a vulnerable adult

What is harm?

Harm is not defined in any of the applicable legislation relating to DBS referrals and barring and so should be understood in terms of its common understanding or the definition you may find in a dictionary. Accordingly, harm should be construed within a broad context and meaning. The examples of harm below outline the key types of harm but are not an exhaustive list and harm may take many forms.

Experience indicates that it is unusual for abuse to manifest itself in only one harm category. It can be expected that evidence of a combination of these types of harm will be apparent in more serious cases: financial abuse may well involve financial harm but can also involve significant emotional/psychological harm where, for example, a position of trust has been exploited.

Examples of harm in relation to adults

Type of Harm to Vulnerable Adult	Meaning	Example
Emotional / Psychological	Action or inaction by others that causes	Inflexible regimes and lack of choice. Mocking, coercing, denying privacy, threatening behaviour, bullying, intimidation, harassment, deliberate isolation, deprivation.

	mental anguish	
Financial	Usually associated with the misuse of money, valuables or property.	Unauthorised withdrawals from vulnerable adult's account, theft, fraud, exploitation, pressure in connection with wills or inheritance.
Physical	Any physical contact that results in discomfort, pain or injury	Hitting, slapping, pushing, shaking, bruising, failing to treat sores or wounds, under or overuse of medication, un-prescribed or inappropriate medication, use of restraint or inappropriate restraint, inappropriate sanctions.
Sexual	Coercion or force to take part in sexual acts	Inappropriate touching. Causing bruising or injury to the anal, genital or abdominal area, forcing an individual to watch sexual acts. Transmission of STD.
Neglect	Failure to identify and/or meet care needs	Untreated weight loss, failing to administer reasonable care resulting in pressure sores or uncharacteristic problems with continence. Poor hygiene, soiled clothes not changed, insufficient food or drink, ignoring resident's requests, unmet social or care needs.
Verbal	Any remark or comment by others that causes distress	Demeaning, disrespectful, humiliating, racist, sexist or sarcastic comments. Excessive or unwanted familiarity, shouting, swearing, name-calling.

Examples of harm in relation to children

Type of Harm to Children	Meaning	Example
Emotional/ Psychological	Action or inaction by others that causes mental anguish	Emotional harm is the emotional ill-treatment of a child such as to cause severe and persistent adverse effects on the child's emotional development. It may involve conveying to children that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person. It may feature age or developmentally inappropriate expectations being imposed on children. It may involve causing children frequently to feel frightened or in danger, or the exploitation or corruption of children. It may involve children witnessing aggressive, violent or harmful behaviour such as domestic violence. Some level of emotional harm is involved in all types of ill-treatment of a child (grooming, harassment, inappropriate emotional involvement), though it may occur alone.

Physical	Any physical contact that results in discomfort, pain or injury	Physical harm may involve assaults including hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer feigns the symptoms of, or deliberately causes ill health to a child whom they are looking after. This situation is commonly described using terms such as factitious illness by proxy or Munchausen syndrome by proxy. Supply drugs to children. Inappropriate / unauthorised methods of restraint
Sexual	Any form of sexual activity with a child under the age of consent	Sexual harm involves forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative (e.g. rape or buggery) or non-penetrative acts. They may include non-contact activities, such as involving children in looking at, or in the production of, pornographic material or watching sexual activities, or encouraging children to behave in sexually inappropriate ways. Downloading child pornography. Taking indecent photographs of children. Sexualised texting.
Neglect	Failure to identify and/or meet care needs	Neglect is the failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. It may involve a parent or carer failing to provide adequate food, shelter and clothing, failing to protect a child from physical harm or danger, or the failure to ensure access to appropriate medical care or treatment. It may also include neglect of, or unresponsiveness to, a child's basic emotional needs.