



Access to Enhanced Disclosure Checks Eligibility process to follow if working with Adults –

Anyone carrying out an activity that's covered by the definition of 'work with adults' can be asked to apply for an Enhanced Disclosure Check but without an Adults' Barred List Check.

For DBS purposes, an adult is someone aged 18 or over.

'Work with adults' is defined in the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013 as 'any activity in paragraph 6, to an adult that receives a health or social care service in paragraph 9, or a specified activity in paragraph 10 carried out often enough'. This can be worked out by following the three steps below to determine whether the position is eligible:

Step 1 – Identify who the individual will be working with

The individual must be carrying out an activity with adults who are receiving a health and social care service in paragraph 9, or a specified activity in paragraph 10. These are:

Paragraph 9 of the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013:

- a) Residential accommodation for an adult in connection with any care or nursing they require.
- b) Accommodation for an adult who is or has been a pupil at a residential special school.
- c) Sheltered housing.
- d) Any form of care, or assistance provided because of an adult's age, health or disability they have, that is provided to the adult in the place that they live.
- e) Any form of health care, including treatment, therapy or palliative care of any kind.
- f) Support, assistance or advice to help develop or sustain an adult's capacity to live independently in accommodation.
- g) Any service provided specifically for adults because of their age, any disability, physical or mental illness. This excludes the following disabilities:
 - i. dyslexia
 - ii. dyscalculia
 - iii. dyspraxia
 - iv. Irlen syndrome
 - v. alexia
 - vi. auditory processing disorder
 - vii. dysgraphia
- h) Any service provided specifically to expectant or nursing mothers who are in receipt of residential accommodation.

If someone is carrying out an activity for an adult who is receiving a service in paragraph 9, go to Step 2.

If the adults aren't in receipt of a service in paragraph 9, check if they're receiving a service in paragraph 10.



Paragraph 10 of the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013:

- a) The detention of an adult in a prison, a remand centre, young offender institution, a secure training centre, or an attendance centre;
- 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 or in pursuance of escort arrangements made under that Act;
- c) The supervision of an adult under a court order by a person acting 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) Providing assistance to an adult 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; or
 - 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

If the individual is not working with adults who fall into the above two paragraphs, then there's no eligibility for an Enhanced Disclosure Check.

If someone is carrying out an activity with an adult who is receiving a service in paragraph 10, go to Step 2.

If the adults aren't in receipt of a service in either paragraph 9 or 10, the person working with them can only apply for a Basic Disclosure Check.



Step 2 – Identify what activity the individual will be providing

If the adults are receiving a health and social care service, or a specified activity from the lists above, then the activity being provided to those adults should be considered. A person must be doing one of the following activities in paragraph 6:

Paragraph 6 of the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013:

- 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 specified activity within the meaning of paragraph 10..
- d) A person moderates a public electronic interactive communication service if, for the purposes of protecting the adults mentioned in that sub-paragraph, has any function relating to
 - monitoring the content of matter which forms any part of the service
 - removing matter from, or preventing the addition of matter to, the service; or
 - controlling access to, or use of, the service

But a person does not moderate a public electronic interactive communication service unless they have

- Access to the content of the matter
 - 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 adult residents at the care home
 - f) Providing representation or advocacy services
 - g) Conveying adults, regardless of if they are accompanied by a person caring for them

If someone is carrying out one of the activities above, go to Step 3.

If they aren't carrying out one of these activities, they can only apply for a Basic Disclosure Check.

Step 3 – Establish whether it will be done often enough

If the adults are receiving a service or activity from Step 1 and the individual is providing an activity for them from Step 2; then they need to be providing this activity often enough to meet the requirement for work with adults.

This requirement is met if the person carrying out the activity is doing it:

- a) at any time on more than three days in any period of 30-days; or
- b) at any time between 2am and 6am and the activity gives the person the opportunity to have face-to-face contact with the adult; or
- c) at least once a week on an ongoing basis.



These criteria are set out in paragraph (5B)(c) of the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013.

If the individual meets all of the requirements in Steps 1-3, they're carrying out what is referred to for DBS checking purposes as, 'work with adults'.

This means they would be eligible to be asked to apply for an Enhanced Disclosure Check. There's no access to an Adults' Barred List Check for anyone carrying out work with adults.

If the role meets the criteria in steps 1 and 2, but doesn't meet the frequency criteria in step 3, then the role may be eligible for a Standard Disclosure Check.

Regulated activity with adults – Access to barred list checks

Regulated activity is something that must not be done by a person who is barred. If someone is included on the Adults' Barred List, they must not apply to work in a role that involves regulated activity with adults.

If someone who knows they're barred from regulated activity with adults applies for work that meets the definition of regulated activity below, they are committing an offence; as is anyone who allows them to work in a role involving regulated activity knowing that they are barred. Both could be liable for up to 5 years imprisonment and/or a fine.

An organisation that has any number of roles that meet the definition of regulated activity is known as a 'regulated activity provider'. These organisations have a legal duty to make referrals to the DBS when they believe a person has caused harm or poses a future risk of harm to vulnerable groups, including adults who are in receipt of certain services or activities. They also must provide information to DBS when requested to do so by us and may be fined unless they have a reasonable excuse for not providing the information.

Anyone carrying out an activity that's covered by the definition of regulated activity with adults can be asked to apply for an Enhanced Disclosure Check including an Adults' Barred List Check. The following activities are regulated activity with adults; regardless of how often they are carried out:

1. Providing health care to an adult by, or under the direction or supervision of, a regulated health care professional.
2. Providing personal care; made up of:
 - a) physical assistance with eating, drinking, toileting, washing, bathing, dressing, oral care or the care of skin, hair or nails for adults who can't carry this out themselves because age, illness or disability;
 - b) prompting and then supervising with eating, drinking, toileting, washing, bathing, dressing, oral care or the care of skin, hair or nails for adults who can't decide to do this for themselves because of age, illness or disability;



- c) training, instructing, providing advice or providing guidance on eating, drinking, toileting, washing, bathing, dressing, oral care or the care of skin, hair or nails to adults who can't carry this out themselves because of age, illness or disability;
- 3. Providing social work by a social care worker of relevant social work to an adult who is a client or potential client.
- 4. Assisting an adult who can't manage themselves because of their age, illness or disability with the day-to-day running of their household relating to:
 - a) managing the adult's cash;
 - b) paying the adult's bills;
 - c) shopping.

- 5. Assistance in the conduct of an adult's own affairs, where:
 - a) a lasting power of attorney is created, and the Office of the Public Guardian is making the suitability decision
 - b) an enduring power of attorney is registered or applied for and the Office of the Public Guardian is making the suitability decision
 - c) the Court of Protection has made an order in relation to the making of decisions on the adult's behalf
 - d) an independent mental health or mental capacity advocate is appointed
 - e) independent advocacy services are provided
 - f) a representative is appointed to receive benefits payments on the adult's behalf
- 6. Conveying adults to, from or between health care, personal care and/or social work services who can't convey themselves because of their age, illness or disability

or

Day-to-day management or supervision of anyone carrying out any of the activities listed in 1-6 above

