

Safeguarding Children – A Quick Guide

In England and Wales the changes made by Protection of Freedoms Act 2012 to the Rehabilitation of Offenders Act 1974 have scaled back the criminal records and barring systems to more proportionate levels. Regulated Activity now focuses on those who have close and unsupervised contact with vulnerable groups including children.

Eligibility for Disclosure & Barring Service checks will apply if a Regulated Activity is carried out namely, in so far as it affects BFHS members:

“(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”

This definition of Regulated Activity has the following impact on groups:

- An organisation which knowingly allows a barred person to work in regulated activity will be breaking the law
- If an organisation dismisses or removes someone from regulated activity (or you would have done had they not already left) because they harmed or posed a risk of harm to vulnerable groups including children, they are legally required to forward information about that person to the DBS. It is a criminal offence not to do so
- If you consider that a role is within the above definition of regulated activity, and if you ask the individual to apply for an DBS check you should request the barred list check for children

I have sought clarification from the service as what this means in practical terms for mixed classes where the primary target of the teaching is adults and they replied that teaching children in this circumstance would be a regulated activity if the child were to be taught on a regular basis. Regular, in this instance, is defined as four or more times within a 30 day period. Less frequent than this and it ceases to be a regulated activity. This is a change from previous advice.

It is important to note that only an organisation or group can request a DBS check on an individual, an individual may not apply for a check on themselves. An individual may apply for a ‘basic disclosure’ of unspent convictions for themselves from Disclosure Scotland (you don’t have to be from or in Scotland to do this)

The requirement for a DBS check can be relaxed under the “peer exemption” rule:

“Activity by a person in a group assisting or acting on behalf of, or under direction of, another person engaging in regulated activity in relation to children.”

Which is to say if teaching was carried out by members under the direction of someone who works in a regulated activity and has already been checked then they would not require enhanced checks as their activity is no longer unsupervised.

Examples of people in Regulated Activities are:

- A ‘senior’ instructor who has had an enhanced check to allow them to oversee teaching at the group
- Teacher
- Police Officer
- Officer of the court
- Medical professional
- Childcare professional
- Any other person whose employment falls under the remit of Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

A more complete list can be found at

<https://www.gov.uk/government/organisations/disclosure-and-barring-service>

Scotland operates under a different law, the Protection of Vulnerable Groups (Scotland) Act 2007, which was enacted in 2010. Although the law is different the effect on any member group is the same as it is for England & Wales.

A complete guide to the PVG Act including the Regulated Activities can be found at www.scotland.gov.uk

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