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2. Statement of Policy

This document states our policy on preventing and reducing harm to children and vulnerable adults when they are in contact with our staff and volunteers.

The policy aims to:

- Promote and prioritise the safety and wellbeing of children and vulnerable adults;
- Provide assurance to parents, carers and other parties that Above & Beyond takes reasonable steps to manage risks and keep children and vulnerable adults safe;
- Ensure that everyone understands their roles and responsibilities in respect of safeguarding and is provided with the necessary information, training and support on safeguarding matters;
- Prevent the employment of individuals in work with children and/or vulnerable adults where they have been barred by the DBS or are deemed by the University to pose an unacceptable risk to vulnerable groups;
- Ensure that appropriate action is taken in the event of any allegations or suspicions regarding harm to children or vulnerable adults arising from contact with Above & Beyond staff and volunteers, wherever the harm takes place.

The Children and Vulnerable Adults Safeguarding Policy also seeks to manage effectively the risks associated with activities and events involving children and vulnerable adults through their contact with Above & Beyond.

- Completing a risk assessment process which involves identifying risks and means of reducing or eliminating these;
- Implementing the required actions identified by the risk assessment process and reviewing the effectiveness of these on a regular basis;
- Ensuring that the appropriate DBS or basic disclosure checks are conducted, for any individuals whose work involves working with children or vulnerable adults;
- Requiring new employees and volunteers involved in working with children or vulnerable adults to familiarise themselves with the content of this policy and the associated Code of Practice.

This policy requires that any suspicions and allegations involving harm to children and vulnerable adults are referred to a Director to determine what action, if any, must be taken. This will enable each situation to be investigated thoroughly, whilst treating the parties involved fairly and with sensitivity. It will also ensure that suitable steps are taken as a result of any investigations, which may include contacting the police and/or fulfilling the legal duty to refer information to the DBS as required.

The procedure for managing suspicions and allegations aims to strike a balance between the need to protect children and vulnerable adults from abuse and the need to protect staff and volunteers from false or unfounded accusations.

The Children and Vulnerable Adult Safeguarding Policy should be used as the basis for all our staff and volunteers, approach to preventing and reducing harm to children and vulnerable adults.

3. Application and definitions

3.1 Application

The key parts of the Children and Vulnerable Adults Safeguarding Policy apply as described below.

- Risk assessment process
 - Recruitment to a new or existing post which involves working directly with children and/or vulnerable adults;
 - The commencement of new activities or events involving or potentially involving children and or vulnerable adults; and
 - Changes being made to activities or events involving or potentially involving children and or vulnerable adults.
- Screening check processes

These apply to those carrying out work for Above & Beyond which involves direct contact with children and/or vulnerable adults and meets the eligibility criteria for a basic disclosure or Disclosure and Barring Service check. Please see the DBS A Guide to Eligibility v8.1
- Procedure for dealing with reported suspicions and allegations

This applies to all staff & volunteers, made aware of, or involved in, an allegation or suspicion involving harm to children and/or vulnerable adults.
- Appendix B Code of Practice

This applies to all members of staff and volunteers, who come into direct contact with children and vulnerable adults.

3.2 Definitions

A child is any person under the age of 18.

Adults aged 18 and over have the potential to be vulnerable (either temporarily or permanently) for a variety of reasons and in different situations. An adult may be vulnerable if he/she:

- Has a learning or physical disability; or
- Has a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs; or
- Has a reduction in physical or mental capacity; or
- Is in the receipt of any form of healthcare; or
- Is detained in custody; or
- Is receiving community services because of age, health or disability; or
- children in care; or
- Is living in sheltered or residential care home; or
- Is unable, for any other reason, to protect himself/herself against significant harm or exploitation.

It is recognised that people who meet one or more of the criteria above may not be vulnerable at all, or all of the time. However, until Above & Beyond has direct contact with people on an individual basis, it may be impossible to identify whether vulnerability exists in relation to an activity or event involving adults that they are planning.

Therefore, in order to support staff and volunteers in identifying and managing potential risks of harm to people effectively, and for the purposes of this policy only, a vulnerable adult should be identified (for the purposes of this policy only) as a person aged 18 or over who meets one or more of the criteria listed above.

3.3 Examples of Above & Beyond activities involving children and vulnerable adults

Staff and Volunteers may encounter children and vulnerable adults in a wide range of situations. These include, but are not limited to, the following:

- The provision of workshops;
- Children's activities in youth groups;
- Community Action
- Festivals;
- School visits;
- Community sports projects;
- Photography of children for publication;
- Residential Experiences;

4. Procedure

4.1 Raising awareness of the policy

Directors must ensure that all new members of staff and Volunteer are made aware of this policy and that they are given time to read it during their induction period.

4.2 Initiating the Risk Assessment Process

Organisations are required under health and safety legislation to protect people as far as is 'reasonably practicable'. In particular, the Management of Health and Safety at Work Regulations 1999 require organisations to assess the risks in their workplaces and to put plans in place to control the risks.

The Children and Vulnerable Adults Risk Assessment process will be initiated by the following circumstances (although other situations may trigger this procedure if deemed appropriate by a Director):

- Recruitment to a new or existing post which involves working with children and/or vulnerable adults;
- The commencement of new activities or events involving or potentially involving children and or vulnerable adults;
- Changes being made to activities or events involving or potentially involving children and or vulnerable adults.

Please note that where there are multiple posts, activities or events of a similar nature, it is unnecessary to complete an individual risk assessment for each of them. Instead, it is possible to complete an overarching assessment for a particular type of post, activity or event and ensure that it manages the relevant risks appropriately.

Once it has been identified that the risk assessment process should be initiated, it is vital that the person responsible for the relevant recruitment campaign, activity or event includes completion of this within his/her planning process and ensures that it is completed.

4.3 Completing the Risk Assessment Process

A risk assessment must be completed in advance of the relevant recruitment campaign, activity or event by a competent person (where there are not current, adequate and documented risk management procedures already in place).

A form can provided to assist with this process. Risk assessments must be completed by a competent person; that is, is someone who understands the job, activity or event and is aware of the hazards. It is important to note that the Above & Beyond insurance may be invalid if a claim is made and no risk assessment is in place.

The purpose of the risk assessment is to enable the responsible person to identify, mitigate and remove any potential risks relating to contact with children or vulnerable adults. This can also be a prompt to consider alternative working practices, such as minimising occasions where an individual is alone with a child or vulnerable adult and considering whether the activity could be supervised or observed by others.

Any actions identified as a result of completing the risk assessment must be completed within the timescales specified on the form. The risk assessment should:

- Identify the nature, length and frequency of the contact and if it would be supervised or unsupervised;
- Consider if there will be children and adults who are particularly at risk;

- Consider whether any children or vulnerable adults have allergies, are on medication, have any disabilities (physical or mental), or any behavioural difficulties;
- Identify any potential areas for harm;
- Evaluate the risks;
- Determine actions to prevent harm occurring, which might include consideration of alternative working practices, and prompt individuals to ensure that they are implemented;
- Identify those situations that would require a DBS check or a basic disclosure check.

Completed risk assessments should be retained by staff and volunteers whilst and activity/event is ongoing and for five years after it has ceased (or the risk assessment has been superseded). Where an activity is ongoing but unchanged, Directors, staff and volunteers should review the risk assessment on a regular basis to ensure that the measures put in place are still relevant and appropriate.

4.4 Identifying required checks

Once the key duties and responsibilities of the activity are determined, one of the required actions must be to identify which checks, if any, are required prior to the individual working with children and/or vulnerable adults.

In addition, Directors, staff and volunteers must consider if any required checks should be treated as essential before employment (that is, that the new employee recruited to the role should not be able to start work until the check is completed).

4.4.1 DBS checks

Above and Beyond is not registered with DBS. Our DBS checks are completed through a local umbrella organisation. Above and Beyond are entitled in law to apply for a DBS check only where the position is included in the DBS's list of eligible posts. These posts represent the professions, offices, employments, work and occupations that are known as the exceptions to the Rehabilitation of Offenders Act 1974.

There are two types of check available from the DBS:

- Standard - contains details of all spent and unspent convictions, cautions, reprimands and warnings held on the Police National Computer (PNC) that are not 'protected'. Protected convictions and cautions are normally old and minor; they are filtered by the DBS so they are not disclosed and they must not be taken into account by employers. The filtering rules and the list of offences that will never be filtered are now available for you to view on the DBS's web pages.
- Enhanced - contains the same information as the standard check but also any relevant and proportionate information held by the local police forces. In addition, where the role is eligible, registered bodies can request a check on whether a person is barred from working with children or adults in regulated activity (particular types of work with children and adults).

Many activities that Above and Beyond deliver involve working directly with children and vulnerable adults fall into the category of 'regulated activity' and so are eligible in law for an enhanced DBS check with appropriate barred list check.

Until an appropriate DBS check has been returned no person will be able to start work or volunteering with Above and Beyond unless supervised by a member of staff or volunteer from the project, and only then as a shadow to the worker or volunteer. That person should also not take up any areas of responsibility such as

- Taking registers;
- Checking consent forms;

- Handling sensitive and confidential information and
- Handling money.

They may however start to 'Learn the Ropes' and ask questions relevant to their role

4.4.2 Portability

Where an individual has previously undergone a DBS check required for his/her post with another organisation in the course of his/her employment, this check is not portable to Above & Beyond. It will not be accepted as meeting the Above & Beyonds requirement for a post-holder to undergo a particular type of DBS check.

Exceptions to this are as follows:

- Where an individual has subscribed to the DBS Update Service – this means that their DBS check will be kept up-to-date and they can take this with them from role to role, where the same level and type of check is needed. With an individual's permission, Above & Beyond will be able to go online to do a free, instant check (known as a status check) to confirm that their DBS Certificate is still up-to-date.
- Where a DBS check has been carried out within the last 12 months by Above & Beyond for a post with comparable duties - individual cases will need to be discussed with the Directors and their agreement provided that another check is not required.

4.5 Disclosure of a criminal record

Where a criminal conviction is disclosed by an applicant or through a DBS check, the Directors will work with the individual concerned to establish facts and circumstance to make an informed assessment. The Director will consider this assessment objectively and, where the assessment indicates that the level of risk is too high to allow the individual to start working in a particular role, the consequences of this for the individual will depend upon:

- The check concerned;
- The reason for the check (that is, check for a new employee, a recheck for an existing employee in their current post or a check for an existing employee in a new post);
- Relevant legislation;
- The post concerned.

This could lead to a possible withdrawal of an offer of employment or volunteer role.

4.6 Recruitment of ex-offenders

Above & Beyond welcomes applications from a wide range of candidates, including those with criminal records. Having a criminal record will not necessarily bar an individual from working with us.

This will depend on the nature of the position and the circumstances and background of the offence.

Above & Beyond complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a disclosure because of a conviction or other information revealed.

4.7 Dealing with reported suspicions and allegations

Concerns for the safety and wellbeing of children and vulnerable adults could arise in a variety of ways and in a range of situations.

For example, a child/vulnerable adult may report or show signs of abuse, someone may hint that a child/vulnerable adult are at risk or that a colleague is an abuser, or someone may witness abuse.

According to the Department for Education and Skills, there are five main types of abuse, which are outlined in Appendix A. It is not always easy to recognise a situation where abuse may occur or has taken place and Above & Beyond staff and volunteers are not experts at such recognition.

However, each person has a responsibility to act if they have any concerns about someone's behaviour towards a child or vulnerable adult. It is important that the recipient of any complaint or accusation that a child or vulnerable adult has been or is being abused listens carefully without making or implying any judgment as to the truth of the complaint or accusation.

To ensure that all of the details of an allegation are captured for any future investigation, a detailed record should always be made at the time of the matter being raised. See Appendix E for a Safeguarding Incident Report Form.

It is impossible to promise complete confidentiality when a concern is raised or an accusation made. This is because the Above & Beyond owes a duty of care to its staff and volunteers that cannot be fulfilled unless Above & Beyond takes action on the basis of information that may have been provided in confidence.

The duty of confidentiality must be weighed against the duty of care, in case of potential or actual harm of an individual, however, at all stages, only those people who need to be made aware of an incident or concern, whether internal or external to Above & Beyond, should be informed.

Where an individual suspects or is informed that a child or vulnerable adult has been, is being or could be harmed as a result of taking part in a Above & Beyond activity/event or through contact with Above & Beyond staff and volunteers, it is not the responsibility of that person to decide whether abuse has taken place. Instead, the individual aware of these suspicions or allegations must contact the Directors immediately for guidance and assistance on the action that must be taken.

Staff who are worried about sharing concerns about abuse are encouraged to speak with an appropriate agency for further advice (for example, the NSPCC Child Protection Helpline on 0808 800 5000 or Childline on 0800 1111). Where a complaint of abuse is reported, the Director will carefully consider the information available and decide on the appropriate course of action. Such situations may require contact with the relevant external agencies (including social services and the police) for them to investigate the matter and determine any necessary action.

In emergency circumstances (for example, where there is certain immediate and significant danger to an individual or a criminal act has been witnessed), Above & Beyond staff and Volunteers should make referrals to the police, social services or other appropriate authorities themselves prior to consulting with a Director. Where this is necessary, a Director should be informed immediately afterwards. In such cases, a criminal investigation may follow.

Above & Beyond has a legal duty to refer an individual to the DBS if they have been removed from working in regulated activity with children and/or adults because they caused harm to children/adults or posed a risk of causing harm. The duty to refer is absolute and overrides any concerns about data protection. All cases for possible referral must be raised with a Director in the first instance as soon as harm or a risk of harm is identified.

The Directors should work together to complete the DBS referral form found on the DBS's web pages.

The completed form must then be provided to a full meeting of Directors for review and a final decision on whether the referral is required. Where it is deemed that a referral must be made, the referral form must be forwarded to DBS. Any enquiries made by the media about possible allegations of abuse regarding children/vulnerable adults should be referred to the Directors immediately.

4.8 Data protection

Above & Beyond complies with the principles of the Data Protection Act 1998 and Human Rights Act 1998 in the way it collects, holds and disposes of personal information. In accordance Records Retention Schedule:

- Completed risk assessments relating to activities involving children/vulnerable adults must be retained by Above & Beyond whilst an activity/event is ongoing and for a minimum of five years after it has ceased (or the risk assessment has been superseded).
- Details of relevant training (such as safeguarding or working with children or vulnerable adults) must be retained by Above & Beyond for a minimum of five years after the training is completed.
- Personal files of all employees and Volunteers (including those who have contact with children/vulnerable adults) and any documentation related to allegations or suspicions of abuse must be retained for a minimum of six years after the individual concerned leaves the Above & Beyond. In addition, Above & Beyond should, wherever practicable, record lists of the individuals (staff & volunteers and child/vulnerable adult participants) involved in activities/events for children and/or vulnerable adults and retain them securely for a minimum of six years after the activity/event.

Information about any allegations or suspicions of abuse must be shared on a need-to-know basis only. Documentation related to allegations or suspicions of abuse must be stored in a secure place which is only accessible to those with appropriate knowledge of the suspicions/allegations.

Where it is necessary for staff and volunteers to take photographs or video images of children or vulnerable adults, written consent must be obtained (from parents in the case of children) before these images are taken in order to comply with the Data Protection Act 1998.

5. Roles and Responsibilities

The Directors are the designated safeguarding people. As such, they take overall ownership of the policy and will promote the importance of safeguarding within Above & Beyond.

Due to the nature of Above & Beyond, the day-to-day operation of the policy and its procedures will be the responsibility of all staff and volunteers.

All Directors, staff and Volunteers are accountable for the adoption and implementation of this policy. They are required to promote the importance of safeguarding within their work environment and ensure that appropriate systems in place for:

- All their staff to become familiar with the Children and Vulnerable Adult Safeguarding Policy during their induction;
- Relevant staff to review the department/institution's activities and follow the Children and Vulnerable Adult Safeguarding risk assessment process.

It is the responsibility of the member of staff leading an activity or event which involves working with Children and Vulnerable adults to:

- Identify that the Children and Vulnerable Adults Safeguarding procedure is applicable to a particular role, activity or event;
- Ensure that staff and volunteers working with children and vulnerable adults are familiar with the contents of the policy and its application before any new or changed activity/event;
- Complete/update the risk assessment;
- Ensure implementation and review of the actions identified by the risk assessment.

In addition, they should, wherever possible, conduct themselves in accordance with the Code of Practice set out in Appendix B. This provides guidance on acceptable and desirable conduct to protect both children and vulnerable adults with Above & Beyond, and those working with them.

Every individual who becomes aware of any suspicions or allegations regarding harm to children or vulnerable adults is required to report this immediately a Director.

They will hold responsibility for:

- Promoting the Children and Vulnerable Adult Safeguarding Policy in their work.
- Dealing with any reported suspicions and allegations of abuse of children or vulnerable adults within Above & Beyond.
- Providing appropriate information when making referrals to external agencies (such as Social Services or the Police) in all cases of suspected abuse of children or vulnerable adults.
- Ensuring that appropriate records are kept in relation to the reporting of suspected abuse.
- Working with a Director to determine whether a referral needs to be made to the DBS.

Directors are responsible for promoting and providing day-to-day advice on the Children and Vulnerable Adult Safeguarding Policy, within Above & Beyond. They are also responsible for leading the review and update of the policy document on a periodic basis and to ensure that adequate training is available for staff and Volunteers on safeguarding.

6. Context

Above & Beyond has a duty, both in law and as a responsible organisation, to take reasonable care of children and vulnerable adults coming into contact with.

Above & Beyond aims to adopt the highest possible standards and take all reasonable steps in relation to the safety and welfare of children and vulnerable adults.

Above & Beyond encounters children and vulnerable adults in a variety of settings, including through its activities, as well as through its programmes.

Safeguarding in relation to children is defined by the Children Act 1989 and Joint Chief Inspectors Report on Arrangements to Safeguard Children (2002) as requiring: "Agencies [and organisations] working with children and young people to take all reasonable measures to ensure that the risks of harm to the individual's welfare are minimised; and

Where there are concerns about children and young people's welfare, all agencies [and organisations] take all appropriate actions to address those concerns, working to agreed local policies and procedures, working in partnership with other local agencies'.

Above & Beyond is fully committed to meeting the requirements of safeguarding, as defined above, both in relation to children and vulnerable adults, in order to ensure that they are safeguarded whilst enjoying opportunities to develop their full potential.

The following legislation is relevant to this policy, either because it has influenced its introduction and/or its content:

- Health and Safety at Work Act 1974
- Rehabilitation of Offenders Act 1974
- Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975
- The Police Act 1997
- Protection of Children Act 1999
- Management of Health and Safety at Work Regulations 1999
- The Human Rights Act 1998
- Sexual Offences Act 2003
- The Children Act 2004
- Safeguarding Vulnerable Groups Act 2006
- Equality Act 2010
- Protection of Freedoms Act 2012

The Protection of Freedoms Act 2012 is of particular importance as all decisions made to bar individuals from working with children or adults are now made by the Disclosure and Barring Service (DBS) under this legislation.

See Appendix D for further information legislation.

7. Further information and guidance

There is a range of supporting information for this policy, both internal and external to Above & Beyond including:

- Various Disability Resource Centre's have web pages with a series of pages related to supporting people with a range of impairments.
- Guidance on the operation of this policy can be sought the Directors
- Organisations such as the NSPCC and Safe Network have a range of useful information on their web pages, including guidance on minimum levels of supervision for children.

8. Policy Ownership and Status

The Children and Vulnerable Adults Safeguarding Policy is owned by the Directors. It will be periodically reviewed and updated by the Directors, in consultation staff and volunteers, to ensure compliance with relevant legislation and internal change. Above & Beyond will ensure that each published version of this policy is archived, along with details of when it was in operation.

The categories of abuse below are produced from external guidelines.

A person may abuse or neglect a child/vulnerable adult by inflicting harm, or by failing to act to prevent harm. There are four main forms of abuse, although there are variations within these:

- **Physical Abuse**
Deliberate physical harm to children and vulnerable adults or any other form of harm which causes illness in a child or vulnerable person.
- **Sexual Abuse**
Forcing or manipulating a child or vulnerable adult to take part in sexual activities.
- **Neglect**
This involves the persistent failure to meet a child or vulnerable adult's basic physical and/or psychological needs, likely to result in the serious impairment of the child' or vulnerable adult's health or development.
- **Emotional Abuse**
This involves the persistent emotional maltreatment of a child or vulnerable adult such as to cause severe and persistent adverse effects on the child's emotional wellbeing and/or development.

The Department for Education and Skills guidance: "What to do if you're worried a child is being abused" (2006) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/190604/DFES-04320-2006-ChildAbuse.pdf

Appendix B – Code of Practice

When working with children and/or vulnerable adults, Above & Beyond staff and volunteers are expected to take account of the guidance below in the way that they conduct themselves.

- Consider the wellbeing and safety of event participants in advance through proper planning and development of safe methods of working/activities.
- Wherever possible, work in an open environment with children where they can be seen by others.
- Avoid unnecessary physical contact.
- Avoid taking a child or vulnerable adult to the toilet, unless another adult is present or another adult is aware (this may include a parent, group leader or other responsible person).
- In a situation where you are alone with a child or vulnerable adult, make sure that others can clearly observe you.
- Set expectations of the standards of behaviour required from participants in an activity/event and encourage them to accept responsibility for their own performance and behaviour.
- Ask participants in an activity/event to take reasonable steps to ensure their own safety and that of others, and to report any inappropriate behaviour they experience/witness or any concerns that they may have.
- Avoid showing favouritism towards particular participants.
- Report incidents of alleged abuse to the Directors, and ensure that any allegations are recorded.
- Report any concerns about poor practice to the Directors
- Report any accidents to the Directors for recording and investigation where required.
- Avoid personal relationships with a child or vulnerable adult.
- It is not appropriate for staff to have a physically or emotionally intimate relationship with a young person under the age of 18. Particular attention is drawn to the provisions of the Sexual Offences Act 2003 which created a new criminal offence of abuse of “a position of trust”.
- Staff and volunteers should remember that inappropriate behaviour can also occur over the telephone, email, social media or internet.
- Only official Above & Beyond social media should be used for engaging with the wider community. Inappropriate or abusive comments should be removed swiftly and abusive individuals blocked/reported to the social media concerned. Wherever possible, communication should be only public pages and avoid colloquial language/abbreviations which may be misinterpreted (e.g. LOL).
- Do not make suggestive or inappropriate remarks to or about a child or vulnerable adult, even in fun, as this could be misinterpreted.
- Participate in training available to you to support you in your work with children and vulnerable adults.
- First aid treatment should be given with more than one adult present unless a delay would be life-threatening.
- Do not take children or vulnerable adults to your home.
- Maintain confidentiality about sensitive information.
- Where it is necessary for staff or volunteers to take photographs or video images of children or vulnerable adults, written consent must be obtained (from parents/guardians in the case of children) before these images are taken in order to comply with the Data Protection Act 1998. Personal details and photos which clearly identify an individual must only be published where he/she (or his/her parent/guardian) has given specific agreement. Subjects should be suitably dressed in photographs (e.g. when taking place in a sporting activity).

A guide to eligibility for DBS checks

The Disclosure and Barring Service (DBS) carries out criminal record checks for specific positions, professions, employment, offices, works and licences included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and those prescribed in the Police Act 1997 (Criminal Records) regulations.

Individuals and the self-employed cannot apply for a check directly to the DBS.

A DBS certificate will be requested as part of an organisation's pre-recruitment checks following an offer of employment, including volunteering roles and applications for specific licences. If you have been asked to apply for a, or provide a DBS certificate and are unsure how to obtain one, please speak to the organisation making the request.

DBS remove certain specified old and minor offences from DBS certificates in line with legislation introduced in May 2013. Please note, because of changes to legislation the reference numbers in the Annex have been amended and will be subject to further changes in the future.

Legal responsibilities

Before an organisation considers asking a person to apply for a criminal record check through DBS, they are legally responsible for ensuring that they are entitled to submit an application for the job role. This means that if you are a countersigning officer you must satisfy yourself that the position is eligible under the current legal provisions before you countersign each application form.

The Annex describes the most commonly submitted positions and duties that are known as the exceptions to the Rehabilitation of Offenders Act 1974. It should be noted that this is not an exhaustive list.

Levels of criminal record check available

standard checks – To be eligible for a standard level DBS certificate, the position **must** be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.

enhanced checks – To be eligible for an enhanced level DBS certificate, the position **must** be included in both the ROA Exceptions Order **and** in the Police Act 1997 (Criminal Records) regulations.

enhanced checks with children's and/or adults' barred list check(s) – To be eligible to request a check of the children's or adults' barred lists, the position **must** be eligible for an enhanced level DBS certificate as above **and** be specifically included in the Police Act 1997 (Criminal Records) regulations as able to check the appropriate barred list(s).

You can access the various Police Act 1997 (Criminal Records) regulations by searching for them on Legislation.gov.uk. This will not provide a list of job roles – such a list does not exist. Instead each regulation can be opened to identify what roles, duties or activities have been included from the date that the regulation was brought in. The regulations can also remove roles, duties or activities.

It's important to note that a DBS check does not provide evidence of a person's right to work in the UK, you may also need to complete a right to work check on the person to make sure they can work in the UK. DBS guide to eligibility v8.1 – April 2016 2

Applicant eligibility enquiries

If you have submitted an application form for a criminal record check through DBS following a request from a current or prospective employer/voluntary organisation but are unsure that the position you have applied for is eligible for a criminal record check, you can contact us to investigate.

Please send an email DBS customer services with the title **Application eligibility enquiry – urgent** giving your full name, date of birth, the name of organisation who asked you to get or provide a DBS certificate, details of the position applied for, and the form application number as well as the reasons why you are unsure that your position is eligible.

To carry out a full investigation into the eligibility of your position, we may have to contact the organisation concerned to ask them to explain their reasons for requiring you to submit a DBS application. If you provide your consent, we can refer to your specific application to enable us to discuss the eligibility issue with the organisation. However, we can also contact the organisation to discuss the submitted application without reference to your enquiry if you would prefer.

You have the right to request the DBS to prevent the processing of your application under the Data Protection Act 1998, principle 6 "*Personal Data should be processed in accordance with an individual's rights*". However, we cannot guarantee that we will be able to stop the application before it is issued as it may have already have reached the certificate printing stage

Using the annex

This annex has been designed for use in conjunction with legislation.

We use the numbers in the annex as a reference point for dealing with enquiries about eligibility. If your organisation is contacted to confirm eligibility for a position, you **must** provide full details of the job role and explain how the relevant legislation supports the eligibility of the position applied for. It is not sufficient to provide the reference number without supporting evidence.

The annex will not advise whether any specific role must have a DBS certificate. Any mandatory requirements will exist in legislation and guidance specific to your employment sector and so you will need to explore this independently.

The annex will not advise what level of criminal record check any specific role is eligible for. This can be established by referring to the Police Act 1997 (Criminal Records) regulations referred to previously.

If you remain unsure about whether a position in your organisation is eligible for a criminal record check through DBS, you may want to consider obtaining legal advice. You can also email our customer services team for further advice; please include the job specification and the roles and duties of the position. DBS customer services may not always be in a position to provide you with a definitive answer about eligibility but will provide you with references to help you to make an informed decision about the role.

Your responsibility is to ensure that the decision that eligibility for a criminal record check through DBS exists is based on the legislation that enables the check to be carried out for the activities and duties of the specific position.

From June 2013 you have been required to complete the DBS application form indicating which workforce the applicant will be working in. We have produced guidance to assist you with this, please [click here](#) and scroll down the page to read these documents.

| Annex Positions, Professions, Employment, Offices and Works included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 | Ref No |
|---|---------------|
| Any work defined as regulated activity relating to children within the meaning of Schedule 4 Part 1 of the Safeguarding Vulnerable Groups Act 2006 | 01 |
| Any work defined as “work with children” in regulation 5C of the Police Act 1997 (Criminal Records) Regulations 2002 | 02 |
| Any work defined as regulated activity relating to adults within the meaning of Schedule 4 Part 2 of the Safeguarding Vulnerable Groups Act 2006 | 03 |
| Any work defined as “work with adults” in regulation 5B of the Police Act 1997 (Criminal Records) Regulations 2002 | 04 |
| Any office or employment which is concerned with: <ul style="list-style-type: none"> • the provision of care services to vulnerable adults; or • the representation of, or advocacy services for, vulnerable adults by a service that has been approved by the Secretary of State or created under any enactment; • and which is of such a kind as to enable a person, in the course of his normal duties, to have access to vulnerable adults in receipt of such services | 05 |
| Any work in a further education institution or 16 to 19 Academy where the normal duties of that work involve regular contact with children | 06 |
| Health care professional (regulated by a body mentioned in subsection (3) of section 25 of the National Health Service Reform and Health Care Professions Act 2002) – on entry into the profession only | 07 |
| Barrister (in England and Wales), solicitor – on entry into the profession only | 08 |
| Chartered accountant, certified accountant – on entry into the profession only | 09 |
| Veterinary surgeon – on entry into the profession only | 10 |
| Actuary – on entry into the profession only | 11 |
| Registered foreign lawyer – on entry into the profession only | 12 |
| Chartered Legal Executive or other Chartered Institute of Legal Executive (CILEx) authorised person – on entry into the profession only | 13 |
| Judicial appointments | 14 |
| The Director of Public Prosecutions and any office or employment in the Crown Prosecution Service | 15 |
| Designated officers for: <ul style="list-style-type: none"> • magistrates’ courts • justices of the peace • local justice areas • justices’ clerks • assistants to justices’ clerks | 16 |
| Persons employed for the purposes of assisting constables of a Police Force established under any enactment | 17 |

Any employment within the precincts of:

18

- a prison
- a remand centre
- a removal centre
- a short term holding facility
- a detention centre
- a Borstal institution

Appendix D Further information around Child protection in England, Legislation, policy and guidance

From the NSPCC Website www.nspcc.org.uk

Child protection in England - Legislation, policy and guidance

The Department for Education is responsible for child protection in England. It sets out policy, legislation and statutory guidance on how the child protection system should work.

At the local level Local safeguarding children boards (LSCBs) co-ordinate, and ensure the effectiveness of, work to protect and promote the welfare of children. Each local board includes: local authorities, health bodies, the police and others, including the voluntary and independent sectors. The LSCBs are responsible for local child protection policy, procedure and guidance.

Legislation

Children Act 1989

Currently provides the legislative framework for child protection in England. Key principles established by the act include:

- the paramount nature of the child's welfare
- the expectations and requirements around duties of care to children.

Children Act 2004

Strengthens the 1989 Act. Encourages partnerships between agencies and creates more accountability. Part three of the Children Act 2004 applies solely to Wales.

Creates the post of Children's Commissioner for England

Places a duty on local authorities to appoint a director of children's services and an elected lead member for children's services, who is ultimately accountable for the delivery of services.

Places a duty on local authorities and their partners (including the police, health service providers and the youth justice system) to co-operate in promoting the wellbeing of children and young people and to make arrangements to safeguard and promote the welfare of children

Updates the legislation on physical punishment (section 58) by limiting the use of the defence of reasonable punishment so that it can no longer be used when people are charged with the offences against a child of wounding, actual or grievous bodily harm or cruelty. Therefore any injury sustained by a child which is serious enough to warrant a charge of assault occasioning actual bodily harm cannot be considered to be as the result of reasonable punishment.

Safeguarding Vulnerable Groups Act 2006

Established a single body to make decisions about individuals who should be barred from working with children and to maintain a list of these individuals.

Protection of Freedoms Act 2012 (Tab content expanded)

Merged the Independent Safeguarding Authority with the Criminal Records Bureau (CRB) to form a single, new, non-departmental public body called the Disclosure and Barring Service (DBS).

Children and Families Act 2014

Introduced a number of reforms including the following provisions:

Encourages 'fostering for adoption' which allows approved adopters to foster children while they wait for court approval to adopt.

Introduces a 26 week time limit for the courts to decide whether or not a child should be taken into care. In some cases, this limit may be extended by eight weeks.

'Staying put' arrangements which allow children in care to stay with their foster families until the age of 21 years. This is provided that both the young person and the foster family are happy to do so.

Introduces a single assessment process and an Education, Health and Care (EHC) Plan to support children, young people and their families from birth to 25 years. The EHC plan will replace statements of special educational needs.

Education Act 2002

Included a provision requiring school governing bodies, local education authorities and further education institutions to make arrangements to safeguard and promote the welfare of children.

Adoption and Children Act 2002

Amended the Children Act 1989 by expanding the definition of "harm" to include witnessing domestic violence.

Female Genital Mutilation Act 2003

As amended by sections 73 and 74 of the Serious Crime Act 2015, makes provisions for FGM Protection Orders and the legal duty for regulated social care and health professionals and teachers to make a report to the police if a girl under 18 tells them she has undergone an act of FGM, or if they observe physical signs that a girl under 18 has undergone FGM.

Children and Adoption Act 2006

Gave courts more flexible powers to facilitate child contact and enforce contact orders when separated parents are in dispute.

Children and Young Persons Act 2008

Legislated for the recommendations in the Care Matters white paper (DfES, 2007) to provide high quality care and services for children in care. It covers England and Wales (in part) and also placed a duty on registrars to notify the Local Safeguarding Children Board of all child deaths.

Borders, Citizenship and Immigration Act 2009

Placed a duty on the then UK Border Agency to safeguard and promote children's welfare (section 55), bringing them in line with other public bodies that have contact with children.

Apprenticeships, Skills, Children and Learning Act 2009

Legislated for there to be two lay members from the local community sitting on each Local Safeguarding Children Board.

Education Act 2011

Made changes to provisions on school discipline and placed restrictions on the public reporting of allegations made against teachers.

Policy and guidance - Working together to safeguard children (2015)

A guide to inter-agency working to safeguard and promote the welfare of children

The Department for Education published an updated version of the key statutory guidance for anyone working with children in England in March 2015. It sets out how organisations and individuals should work together and how practitioners should conduct the assessment of children. This latest guidance updates the previous version published in 2013. This is not a major review, but does include changes around:

- referral of allegations against those who work with children
- clarification of requirements on local authorities to notify serious incidents
- a definition of serious harm for the purposes of serious case reviews.

It also incorporates legislation and statutory guidance published over the last two years.

This release is one of a raft of new and updated guidance released by the Department for Education in recent days.

The 3 main changes are:

The referral of allegations against those who work with children (Chapter 2, Section 5)

The new guidance makes some changes to guidance on making allegations against people who work with children. Unlike previous editions, Working Together 2015 no longer refers to Local Authority Designated Officers (LADOs). Instead it states that local authorities should have a designated officer or team of officers for the management and oversight of allegations. The 2015 guidance includes for the first time a requirement that new appointments should be qualified social workers, unless they have previous experience in the role.

Notifiable incidents involving the care of a child (Chapter 4, Sections 13-16)

Due to some confusion from local authorities over when they are required to notify child abuse or neglect incidents to Ofsted and the relevant LSCB(s), Working Together 2015 includes a section on what constitutes a notifiable incident.

The definition of serious harm for the purposes of Serious Case Reviews (Chapter 4, Section 17)

Following concerns flagged by the national panel of independent experts on serious case review that some LSCBs were not making the right decision on when to commission a serious case review, Working Together 2015 now includes a definition of serious harm.

Child sexual exploitation, female genital mutilation and radicalisation

Other amendments include the specification that LSCBs, local authorities and their partners should be commissioning and providing services for children at risk of sexual exploitation, female genital mutilation and radicalisation (Chapter 1, Section 17).

New definitions

A notifiable incident is one involving the care of a child in which either:

- a child has died (including cases of suspected suicide), and abuse or neglect is known or suspected;
- a child has been seriously harmed and abuse or neglect is known or suspected;
- a looked after child has died (including cases where abuse or neglect is not known or suspected); or
- a child in a regulated setting or service has died (including cases where abuse or neglect is not known or suspected).

The guidance states that any incident meeting the criteria for a Serious Case Review will have met the criteria for a notifiable incident. However, it stresses that not all notifiable incidents will proceed through to Serious Case Review.

Seriously harmed includes, but is not limited to, cases where the child has sustained, as a result of abuse or neglect, any or all of the following:

- a potentially life-threatening injury;
- serious and/or likely long-term impairment of physical or mental health or physical, intellectual, emotional, social or behavioural development.

The guidance makes it clear that this definition is not exhaustive, and that serious harm can still have occurred if a child recovers from the incident. It states that LSCBs should ensure their considerations on whether serious harm has occurred are informed by available research evidence.

(HM Government, 2015)

Mandatory reporting of female genital mutilation

Procedural information

This gives health and social care professionals, teachers and the police information on their responsibilities under the female genital mutilation (FGM) mandatory reporting duty which came into force 31 October 2015. Covers: when and how to make a report; next steps following a report; and failure to comply with the duty.

(Home Office, 2015)

Appendix E Incident Reporting from

Safeguarding Incident Report Form



A Director should be informed as soon as possible by telephone.
This form will be used by members of staff or volunteers to record disclosures or suspicions of abuse.
The completed form should be sent to a Director with 2 hours of disclosure.

| | |
|--|----------------------|
| Your name | Your position |
| Place of work | Contact phone number |
| The child's details | |
| Name | |
| Address/phone number | |
| Date of birth | |
| Other relevant details about the child: <i>Eg family circumstances, physical and mental health, any communication difficulties.</i> | |
| Parent/guardian/carers details | |
| Details of the allegations/suspicions | |
| Are you recording: <ul style="list-style-type: none">• Disclosure made directly to you by the child?• Disclosure or suspicions from a third party?• Your suspicions or concerns? | |
| Date and time of disclosure | |
| Date and time of incident | |
| Details of the allegation/suspicions. <i>State exactly what you were told/observed and what was said. Use the persons own words as much as possible, record facts only</i> | |
| Action taken so far: | |
| Signed | Date |

Continue overleaf if necessary

30th May 2016