

Annex 1

Disclosure and Barring Service (DBS) checks, repeat checks and portability

The Protection of Freedoms Act 2012 came into effect on 10 September 2012 with further changes coming into force on a staged basis over the next few years.

The following changes have since been made:

- a new definition of “regulated activity” to focus on work which involves close and unsupervised contact with vulnerable groups
- activities and work that have been taken out of the definition of “regulated activity” will still be eligible for Enhanced DBS checks
- the repeal of “controlled activity”
- the repeal of registration and continuous monitoring
- the repeal of the provision of additional information
- the implementation of a minimum age (16) at which someone can apply for a DBS check
- a more rigorous ‘relevancy’ test for when the police release information held locally on an enhanced DBS check

On 1 December 2012 the CRB and ISA merged to form the Disclosure and Barring Service. The DBS is responsible for administering three types of checks;

- **Standard** – a check on the Police National Computer (NPC) records of convictions, cautions, reprimands and warnings.
- **Enhanced** – a check on the PNC as above plus also other information held by the police that is considered relevant by the police.
- **Enhanced with barred list information** – for people working in regulated activity with children. This adds checks of the DBS children’s barred list to the enhanced check.

During 2013, the DBS launched its Update Service. Employees are now able to register once for a DBS check, which is then automatically updated and available for organisations to check.

However, there are aspects of the old system which are not changing, these are:

- employers must make appropriate referrals to the DBS

- employers must not allow someone whom they know has been barred by the DBS to undertake regulated activity
- employers may undertake checks for anyone employed in activities which fall within the pre-September definition of regulated activity, as they remain eligible for enhanced DBS checks, whether or not they fall within the post-September definition of regulated activity (but they will no longer be eligible for barred list checks if they do not fall within the new definition of regulated activity)

Previously there has been widespread misunderstanding about when and how frequently to undertake checks. The following sets out the current position in relation to schools and settings as to when checks need to be in place before an employee can start work.

- CRB checks were strongly recommended for all employees who have regular contact with children if they were employed after March 2002. However, the only requirement for those appointed before this date was that they must have been List 99 checked.
- CRB checks became mandatory for the entire maintained schools' workforce from 12 May 2006 (September 2003 for independent schools). Employees who took up post from this date must have an enhanced CRB disclosure.
- **No further checks are required** for any staff unless the person has a break in service of more than three months. There is no statutory requirement for staff to have routinely updated checks, **although some employers may require this as policy**. There is also no statutory requirement for staff employed before March 2002 to have retrospective CRB or DBS checks as long as they have been in continuous service. In this context, continuity means no break of service of longer than three months. However, prior to 2002, there was a requirement for all staff who work with children and young people to have to been checked against List 99, and evidence of this should be checked.
- The CIW website states that 'all care staff, including registered managers, registered persons and responsible individuals must hold a current DBS certificate. In some cases (staff in children's homes, adoption services, children's day care and child minding) these need to be undertaken every three years.'

An employer can only ask for a barred list check for those staff undertaking regulated activity. It's a criminal offence to ask for a barred list check for any other role.

Visiting staff

Staff such as educational psychologists, health visitors, advisory teachers who are employed by an agency should be CRB or DBS checked by their employer, for example the health board or local authority.

It is sufficient for settings to seek written confirmation that all appropriate checks, have been carried out for these people (most commonly on appointment) and by whom (most

commonly the relevant human resources department). Settings should then confirm the identity of these visitors.

Moving between settings and local authorities

Providers should contact their CIW inspector to check whether a new CRB or DBS check is required when practitioners move between settings and/ or local authorities.