


DISCLOSURE AND BARRING SERVICE (DBS) *Referral*

VERSION No	3	
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Purpose of this Document

To clarify the company's legal obligations and procedures for referring to the Disclosure and Barring Service (DBS) referral system formerly known as POVA. This list is now held by the DBS due to its having amalgamated the Independent Safeguarding Authority and the Criminal Records Bureau (CRB). Although the list is still known and operated as the POVA list, it is accessed only via a DBS referral and the use of the appropriate referral form. This form is accessed via: www.homeoffice.gov.uk/dbs. The form is completed and sent to the address on page 7 of the referral form.

Policy Statement

At present there are phased changes to the DBS system which are contained in the *Freedoms of Protections Act 2012*; this gives employers guidance regarding the new DBS, which include arrangements for the new referral system to access the POVA list.

This policy is updating current information and the steps to take when completing a referral. These documents will be read by all Registered Managers, all managers involved in any disciplinary investigations or proceedings, and those involved in the recruitment and selection of staff. Listed below are the factsheets and guidance available from the aforementioned website.

Factsheets:

- ⚠ Factsheet 1: employers and volunteer managers - when to make a referral to the DBS
- ⚠ Factsheet 2: referral and barring decision-making process
- ⚠ Factsheet 3: malicious and false allegations
- ⚠ Factsheet 4: the DBS and professional regulators
- ⚠ Factsheet 5: relevant offences
- ⚠ Factsheet 6: data protection and security
- ⚠ Factsheet 7: local authority- referral duty and power
- ⚠ Factsheet 8: reviews
- ⚠ Factsheet 9: appeals

Guidance

Guidance and instruction documents:

- ⚠ Guidance for completing the referral form
- ⚠ Referral frequently asked questions
- ⚠ Referral guide for employers and volunteer managers
- ⚠ Referral instructions for personnel suppliers

When to Refer

The *Safeguarding Vulnerable Groups Act (SVGA) 2006* and the *Safeguarding Vulnerable Groups (Northern Ireland) Order (SGVO) 2007*, place a duty on employers of people working with children or vulnerable adults to make a referral to the DBS in certain circumstances. This is when an employer has **dismissed or removed** a person from working with children or vulnerable adults (or would or may have if the person had not left or resigned etc.) because the person has:

- ⚠ Been cautioned or convicted for a relevant offence; or,
- ⚠ Engaged in relevant conduct in relation to children and/or vulnerable adults [i.e. an action or inaction (neglect) that has harmed a child or vulnerable adult or put them at risk of harm]; or,

- ! Satisfied the Harm Test in relation to children and/or vulnerable adults. (i.e. there has been no relevant conduct (i.e. no action or inaction) but a risk of harm to a child or vulnerable adult still exists).

Procedures

- ! After an incident has been reported or an allegation made that a resident has been abused there will be a thorough investigation that follows the company's own disciplinary procedures.
- ! The local authority safeguarding will be informed immediately and in some cases there may be a police investigation.
- ! The Care Quality Commission (CQC) will also immediately be sent a statutory notification.
- ! The company's manager will follow local safeguarding procedures, notifying and taking advice if needed from the CQC inspectorate/ local adult or child protection team/ police if involved.
- ! During such an investigation this organisation will take all possible steps to ensure that the residents in question are kept safe and well-protected from any possible further incidents.
- ! In most instances the employee(s) in question will be suspended or, if there is clear evidence of misconduct, they may already be dismissed.
- ! Once it is clear that misconduct resulting in harm or possible harm has occurred and the worker(s) involved remains a risk to vulnerable people the company's manager must by law refer that person to the DBS.
- ! However, it is important to note that a DBS referral might be made at any stage in the procedures used for establishing whether misconduct causing harm to a resident has taken place; the company does not have to complete the investigation before making a referral the paramount principle is the protection and safety of the vulnerable person.
- ! The DBS team will decide on the basis of the information made available if the worker should be investigated. If after assessment the person is not placed on the list then the person is not barred from current or future employment in a Regulated Activity. This does not necessarily mean that the company will re-employ the person if she/he has been dismissed.
- ! If the person is provisionally placed on the DBS list he/she will no longer be able to work in a Regulated Activity. A person can appeal against both provisional placement and confirmation on the DBS list following the established procedures that are not the concern of this company as an employer.
- ! The DBS referral and assessment process is separate from the company's own disciplinary and appeal procedures. The only obligation this company has is to make a referral if it considers vulnerable people have been harmed or are at risk of being harmed if the individual continues to work in a Regulated Activity. The DBS team will communicate all decisions to the individual once the referral has been made, and investigations complete.

Related policies
Adult Safeguarding
Disciplinary
Disclosure and Barring Service (DBS)
Duty of Candour
Good Governance