



HOW TO SET UP AN OFSTED COMPLIANT DBS CHECK PROCESS AS A CHILDCARE PROVIDER

eBOOK - 2021

PERSONNEL
CHECKS

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DBS CHECKS IN CHILDCARE

A DBS Check is a search carried out by the Disclosure and Barring Service (DBS) to establish someone's criminal record history. In short, it's a criminal record check. Employers use these checks to make informed and safe recruitment decisions based upon the provided information.

Childcare providers must ensure that they have carried out the appropriate level of DBS Check on any member of staff, volunteers, or frequent visitors to sites. In the vast majority of cases, an Enhanced DBS Check will be required with a check of the Children's Barred List.

As this level of DBS Check is so commonplace in the sector, many people don't realise that access to them is strictly controlled by law. The level of DBS Check someone can have is determined by two things: eligibility and regulated activity.

DBS Eligibility and Regulated Activity

DBS eligibility criteria are the rules in place governing what level of check is required for certain job roles. Eligibility isn't determined by someone's job title but rather, what day-to-day activities they are involved in. The eligibility criteria are there to protect ex-offenders against the disclosure of their criminal record history where it isn't relevant.

Under the [Rehabilitation of Offenders Act 1974](#) (ROA), a person with a criminal record is not required to disclose any spent convictions unless the position they are applying for, or are currently undertaking, is listed as an exception under the Act. Activities relating to the care, supervision, or education of children are nearly always classed as an exception.

Regulated activity is work involving children or vulnerable adults that a barred person cannot do. This is because they may pose a threat to those groups. To be eligible to carry out an Enhanced DBS Check with a check of one or more Barred Lists, the applicant must be carrying out regulated activity.

Caring for children is nearly always classed as regulated activity which means an Enhanced DBS Check with a barred list check is nearly always required. There are certain situations where this doesn't apply which we'll look at in more detail later.

Who Needs a DBS Check?

Below are the general rules governing who requires an Enhanced DBS Check when working in childcare. These statements have been extracted from the DBS Child Workforce Eligibility Guide, which can be found [here](#). There is a wider range of guidance to be found there but these are the most relevant:

Require an Enhanced DBS Check without a check of the Children's Barred List:

'Individuals applying as part of registration as a childminder agency, managing a childminder agency or working for a childminder agency in a quality assurance role visiting daycare or childminding premises.'

Require an Enhanced DBS Check including a check of the Children's Barred List:

'Individuals applying to register as prospective childminders or childcare providers'

'Individuals who provide care for or supervision of children on more than 3 days in a 30-day period or overnight between 2am and 6am with the opportunity for face-to-face contact with the children'

'Individuals who provide advice or guidance wholly or mainly to children and this specifically relates to their emotional, educational or physical well-being on more than 3 days in a 30-day period or overnight between 2am and 6am with the opportunity for face-to-face contact with the children'

In certain situations, an individual doesn't need to be carrying out regulated activity to be eligible for the highest level of check. This is usually when childcare is being delivered on domestic premises. We'll look at this in more detail in a later section.

Ofsted Compliance

If you are registering as a childcare provider with Ofsted for the first time, you must process a DBS Check with them directly. You can find the site to do so [here](#). When your check arrives, you can start the process of becoming an Ofsted registered childcare provider. You will receive instructions on how to do this when completing your DBS Check.

Once your DBS Check arrives, which can take around 6-8 weeks, Ofsted recommend signing up to the DBS Update Service straightaway. We look at this in more detail in the next section.

All other members of staff can have their DBS processed through any background screening body registered with the Disclosure and Barring Service. You can find more info [here](#).

Ofsted does not expect or require childcare providers to keep copies of their staff members DBS Checks. Childcare providers only need to ensure that they have clear records that show that the appropriate checks were carried out. We will look at this in more detail in a later section.

THE DBS UPDATE SERVICE

The DBS Update Service (DBSUS) is a subscription run by the DBS. Signing up to this means that applicants gain a level of portability over their DBS check(s). This service is charged at £13p.a. and by subscribing to this service, applicants can:

- Add/Remove DBS Certificates
- View employers who have checked the status of a certificate
- Amend their contact details.

The key aim of the update service is to improve the speed and ease of the recruitment process for those within regulated industries like childcare.

If applicants are working within the same workforce, it allows movement between roles without needing another DBS check to be completed. Rather than carrying out another check, employers can:

- Access a free online status check for an individual's DBS check.
- Be notified of any new information relating to that check.

Ofsted strongly recommends that any childcare provider registers with the DBSUS. If you have an existing DBS Check registered on the DBSUS for childcare purposes, you can usually use this for future applications to Ofsted.

How Can Candidates and Employees Sign Up?

Signing up to the DBSUS is simple and individuals can even do it before a certificate is issued. Once a check is in process with the DBS, they will send the applicant an E-Reference number. This is the tracking number for the check and can be used to sign up.

Alternatively, they can wait for the certificate to come through. Each certificate has a unique disclosure number, and this can also be used to sign up. If they choose to wait until the certificate arrives, we recommend signing up as soon as possible. Certificate holders only have 30 days to sign up from the date of issue. Considering the DBS certificate can take up to two weeks to arrive, it's best to do this immediately upon receiving it.

To find the registration portal, either type 'DBS Update Service' into a search engine and look for the .gov website. Alternatively, you can follow this [link](#). All that's needed to sign up is basic personal information, the application or certificate reference and payment details.

As an employer, you have no obligation to make your staff sign up for the update service. However, it may save you both time and money in the future. Carrying out 'Status Checks' on a regular basis can provide you with all the information you need to fulfil your statutory safeguarding responsibilities.

Carrying out Status Checks

A Status Check is simply the act of looking up a subscriber's DBS certificate information online to check for new information. To do so, you would follow this [link](#) and be required to enter the following information:

- Your organisation name
- Your forename
- Your surname

Once you've entered this, the DBS system would ask you for the candidate's certificate information, as listed below:

- DBS Certificate Number
- Surname as it appears on the certificate
- DOB as it appears on the certificate

The DBSUS would then show whether the status of the applicant's check has changed. It is important to note that, the DBSUS will not show the original certificate. It only shows new information. For a subscription to the DBSUS to be valid, the certificate holder needs to retain the original certificate. You must have seen this before carrying out a Status Check.

Accepting an Existing Certificate on the DBS Update Service

The purpose of the DBSUS is to reduce the number of DBS Checks that need carrying out. Registration to the DBSUS means that a DBS certificate is essentially portable between employers. Before accepting an existing DBS certificate, which is registered to the DBSUS, organisations need to be sure of a couple of things:

- Obtain consent from the individual in question that you can carry out a Status Check of their existing DBS Check
- Examine the original DBS Certificate. If the candidate cannot provide this, their DBSUS subscription is invalid, and you cannot accept it
- Confirm the DBS Certificate matches the individual's identity
- Ensure that the level of DBS Check is appropriate to the job they are applying for

The last point is key when accepting an existing DBS Certificate. Not only does the level of DBS Check need to be the same, but it also needs to have the correct Workforce and Barred List included. Some DBS Certificates will disclose the criminal history and barring information that is relevant for working with adults. Some will only contain information relating to children.

Accepting an existing DBS Certificate of the wrong level or type can be a safeguarding risk because a recruitment decision would be made without all the relevant information. Consider the following situation:

A SEND teaching assistant is working at a college with pupils between the ages of 16-19 and has an Enhanced DBS Check in place. Their DBS Check is checked against both the Child & Adult Workforce and Barred List's and is registered on the DBSUS. If this individual applies for work at a nursery a new DBS Check must be carried out.

The new DBS Check is an Enhanced DBS Check against the Child Workforce and Children's Barred List only. Even though this information would have been available on the existing certificate, the existing DBS Check is of the wrong type for the role. This is because it could contain information that should not be disclosed to them under the circumstances.

In the example above, although it can seem logical to accept the existing check, the nursery would be inadvertently committing a criminal offence. This is because they would be viewing information that is not relevant and therefore protected under the [Rehabilitation of Offenders Act 1974 \(ROA\)](#).

Accepting an existing DBS Check is down to each individual employer's discretion. Employers have the right to request that a new DBS Certificate be carried out if they feel it is necessary.

For more information about the DBS Update Service, [click here](#).

CHILDCARE PROVIDERS ON DOMESTIC PREMISES

Ofsted defines childcare providers on domestic premises as "four or more people working together, for example, four childminders, or two childminders and two assistants, or one childminder and three assistants."

There are slightly different rules for childcare providers or childminders providing services from domestic premises. Ofsted also needs to consider the suitability of those that reside at the premises to determine whether it is an appropriate venue for delivering childcare.

Childcare providers on domestic premises must provide Ofsted with details of all adult household members and DOBs for children under the age of 16. During an inspection, Ofsted will check whether any children are about to turn or have turned 16. They will then need a DBS Check carried out. Ofsted does not expect childcare providers to inform them when children reach 16 years old and will not be penalised for not doing so.

However, Ofsted must be informed of any new adult that joins a household that is also used as premises for delivering childcare. If during an inspection, Ofsted believes that any information has been withheld about household members then they may take enforcement action.

DBS Checks for Household Members

Household members require an Enhanced DBS Check including a check of the Children's Barred List even though they aren't carrying out regulated activity. Below is the exact wording taken from the DBS eligibility guidance:

'Individuals who are aged over 16 and living in a household where another person in the household has been or is being assessed to carry out regulated activity with children and they both live on the premises where that work will take place'

Or

'Individuals aged 16 and over who live or work in the premises where the childminding or childcare takes place and has the opportunity for regular contact with the children'

These checks must also be carried out via Ofsted, as they are responsible for making a suitability decision in regard to household members. Childcare providers are not entitled to make suitability decisions on their own household members. These DBS Checks must also be carried out via the Ofsted portal [here](#).

CHECKING YOUR STAFF AS AN EMPLOYER

As discussed in the previous chapter, nearly every person working in the childcare sector is required to have an Enhanced DBS Check carried out including a check of the Children's Barred List. This is because their roles fall into one of the following two categories:

'Individuals who provide care for or supervision of children on more than 3 days in a 30-day period or overnight between 2am and 6am with the opportunity for face-to-face contact with the children'

'Individuals who provide advice or guidance wholly or mainly to children and this specifically relates to their emotional, educational or physical well-being on more than 3 days in a 30-day period or overnight between 2am and 6am with the opportunity for face-to-face contact with the children'

If you are an employer in the childcare sector, you are responsible for ensuring these checks are carried out. The process for carrying out DBS Checks is simple and depending on your provider can be completed online. The general process is as follows:

- Employers request an application form from their DBS provider
- Employee's (prospective or current) complete the DBS application form
- Employers then verify the employee's identity documents
- The DBS application form is then sent to the Disclosure and Barring Service
- Once received, the DBS begin the checking process which takes on average 14 days
- Once completed, the DBS post a DBS Certificate to the address stated on the application form

What Information Do My Staff need?

The information required by your staff is simply their personal data and some supporting documentation. There is nothing on the form that should come as a surprise. The application form will ask for:

- Full Name (including any previous names)
- Date of Birth
- Place of Birth
- Contact Number
- Nationality
- 5-years of address history
- National Insurance Number

There is also an optional field for mobile numbers. If your staff fill this section in, the DBS will be able to text them updates about the status of their DBS application, including when it is being posted out.

ID Verification

When applying for an Enhanced DBS Check, applicants must provide three forms of identification in support of their application. It is your responsibility as an employer or that of a nominated individual within your organisation to verify an applicant's ID documents. This simply involves you checking the documents are authentic and then cross-referencing the information on the form with the information available on the documents. You can find a full list of all the valid ID documents you can accept [here](#). Across the three documents you must have confirmed the following applicant information:

- Full Name
- Date of Birth
- Current Address

When completing the ID verification, you must use at least one Group 1 document and then two other supporting documents from any Group. As long as the above information is confirmed, it does not matter what combination of documents you use to support the application.

It is absolutely essential that the information provided is cross-referenced thoroughly. The DBS accept no responsibility for application forms submitted with incorrect information. If they discover incorrect information has been provided, they will withdraw the DBS Check from process, and another will need to be completed.

If a DBS Certificate is issued following the submission of incorrect information, the issued certificate is deemed invalid. In these cases, another DBS application should be submitted. Allowing someone to work with an invalid DBS Certificate means that you aren't fulfilling your statutory safeguarding responsibilities and are not Ofsted compliant.

Processing and Recording DBS Data

In line with the Data Protection Act 1998, any childcare provider needs a formal written policy on the secure handling of any information provided (electronically or otherwise). This policy needs to be clearly made available to any recruit or employee that a provider intends to run a DBS Check on. Your organisation is allowed to record the following information:

- The date of issue of a disclosure
- The name of the subject
- The type of disclosure requested
- The position for which the disclosure was requested
- The unique reference number of the disclosure
- The details of the recruitment decision taken

The information outlined above is what an Ofsted inspector would expect you to have on record. They would not expect you to keep copies of the actual DBS Certificate.

Disclosure information should never be kept on an applicant's personnel file and should be kept separately and securely, in a lockable, non-portable storage container with access strictly controlled and limited to those who are entitled to see it as part of their duties. This can be a physical or digital container.

Who Doesn't Need a DBS Check?

In certain circumstances, there will be certain individuals who don't require an Enhanced DBS Check. This is generally true of any person or persons providing a temporary service on premises which deliver childcare. For example, an emergency plumber repairing a toilet, who is only going to be onsite for one day, would not require a DBS Check to be carried out.

People working onsite outside of the usual hours of work would also not be expected to have a DBS Check carried out. For example, if a nursery was closed for renovations and there were no children present at any time, the contractors would not require DBS Checks to be carried out to be compliant.

Of course, circumstances may not be as clear-cut as the examples given above. If you have any doubts about who requires a DBS Check when working on your premises, get in touch with an expert.

Personnel Checks provide comprehensive screening services to thousands of childcare providers, schools and national fostering bodies. We are members of several background screening trade bodies, and our managing director is the sitting vice-chair of the Criminal Record Trade Body (CRTB). Personnel Checks are at the forefront of the industry and use this position to provide better solutions for our customers.

For more information about how Personnel Checks background screening solutions can aid your organisation, get in touch! You can give us a call on **01254 355688** or drop us an email at letstalk@personnelchecks.co.uk