

Document Control Table		
Document Title	Disclosure Policy	
Version number	V1.0	
Policy Owner	Strategic Manager – SSE (as DBS Lead Signatory)	
Groups consulted/informed of change	Consulted Unison, Unite, Teachers Unions present at JNF	
Date Approved		
Approved by		
Date published		
Superseded Documents		
Document History		
Version	Date	Notes on Revisions
V1.0		Rewrite to bring policy up to date

Disclosure Policy

Contents:

- Introduction
- Detailed contents list
- Disclosure checks and when they should be used
- Validity of disclosures and expectation that staff will inform Somerset County Council of any changes to their status
- Portability of disclosure certificates
- Disclosure requirements for those moving positions within SCC
- Frequency of DBS disclosures re-checks
- Commencement of work prior to receipt of disclosure certificate
- Procedure on receipt of disclosure certificate
- Recruiting people from overseas
- Disclosures for agency workers, contractors, sub-contractors and commissioned services
- Work experience
- Roles and responsibilities

Appendices

1. DBS eligibility flowcharts
2. Standard contract clause relating to DBS disclosure requirements for commissioned services
3. Work experience flowchart

Disclosure Policy

INTRODUCTION

Document summary

This policy sets out how Somerset County Council (SCC) will make effective use of the Disclosure and Barring Service (DBS) process in recruitment to safeguard the children and adults who access our services and the Disclosure Scotland process to comply with Baseline Personnel Security Standards for employees that need to access to the Public Services Network.

Administrative arrangements

Somerset County Council is a Registered Umbrella Body for the provision of DBS checks. It is required to comply with the [DBS code of practice](#).

SCC is also registered with Disclosure Scotland for the provision of basic disclosures.

The DBS Lead Signatory for SCC is currently a designated Strategic Manager. The DBS Lead Signatory is responsible for ensuring compliance with the DBS code of practice, formulating and overseeing SCC's policy on use of disclosures and signing off Suitability Assessment Forms for candidates whose DBS disclosure reveals criminal background information.

The administration of the service is currently carried out by the Recruitment and Disclosure Team within the HR&OD service.

Eligibility

Before asking a person to apply for an enhanced or standard criminal record check through DBS, recruiting managers must ensure that the position is eligible under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended from time to time), see section 1.1.1 Disclosure & Barring Service (DBS) checks and [A guide to eligibility for DBS checks](#).

All applications must be confirmed as eligible before being authorised by registered Countersigning Officers. Further guidance is set out in [DBS workforce guides - Publications - GOV.UK](#)

See Appendix 1 for flowcharts to assist in determining DBS eligibility.

An online DBS eligibility tool can be accessed at [Find out if you can check someone's criminal record](#)

Before a basic criminal record check is requested through Disclosure Scotland, recruiting managers must assess whether the employee will be required to share sensitive personal information through the Public Services Network (PSN) with the Police, NHS and other local authorities. A basic disclosure is mandatory for such work.

Basic disclosures can also be required for employees who will have access to sensitive personal information about service users but who are otherwise

ineligible for DBS checks. This will generally apply to business support staff with access to such information but who are not regularly in contact with service users.

Application of this policy

Somerset County Council (SCC) is committed to safeguarding the welfare of those accessing its services through the effective use of the DBS vetting process as part of its 'safe recruitment' process for all relevant groups of employees and volunteers.

- The approach set out in this Disclosure Policy **must** be applied to those seeking paid work or volunteering opportunities within County Council services and Local Authority maintained Schools.
- The approach is recommended to Academies within Somerset which use the County Council's Registered Umbrella Body status to obtain DBS disclosures.
- Somerset County Council also recommends this approach to other external organisations that have links to the County Council and for whom it administers DBS checks.

Definition of terms

- Throughout this document where a "Disclosure" is referred to, this covers all types of DBS check and basic disclosure checks.
- Throughout this document where a "DBS disclosure" or "DBS check" is referred to, this covers all types of DBS check.
- The term "basic disclosure" refers to a criminal records check obtained through Disclosure Scotland.
- Where the term 'regulated activity' is used in this policy it refers to work defined as regulated activity relating to children or to adults within the meaning of the Safeguarding Vulnerable Groups Act 2006, as amended. (See Appendix 1)
- The terms 'work with children' and 'work with adults' are used in this policy to work defined as such within the Police Act 1997 (Criminal Records) Regulations 2002.

Use of disclosures

- SCC uses the disclosure process as part of a range of checks for assessing the suitability of preferred candidates for employment, volunteers, contractors, agency staff, those transferring within SCC, and the continued employment of those in specific roles which require periodic reassessment.
- SCC obtains and makes decisions based on information provided on disclosures certificates in accordance with the Data Protection Act, the DBS code of practice, the Rehabilitation of Offenders Act and the regulations and statutory guidance issued by Government Departments.

- This policy should be read in conjunction with SCC's [Employment of Ex-Offenders Policy](#) and the [Storage and Retention of DBS Disclosures Policy](#).
- SCC will undertake basic disclosure checks as part of the requirements of the Cabinet Office's Baseline Personal Security Standards for users of the Public Services Network.
- SCC will undertake basic disclosure checks as part of its recruitment process for business support staff who will have access to sensitive information about children and adults held by SCC's Children's and Adults' Services.

Detailed Contents List

Section	Title	Page
1.	Disclosure checks and when they should be used.....	7
1.1	Disclosure eligibility.....	7
1.1.1	Disclosure & Barring Service (DBS) checks.....	7
1.1.2	Basic disclosures.....	8
1.2	Types of disclosure check.....	8
1.3	Restrictions on eligibility for disclosure checks.....	9
1.4	Checks on existing staff should concerns arise.....	9
2.	Validity of disclosures and expectation that staff will inform Somerset County Council of any changes to their status.....	10
3.	Portability of disclosures certificates.....	10
3.1	Portability	10
3.2	DBS online update service.....	10
4.	Disclosure requirements for those moving positions within SCC.....	11
5.	Frequency of DBS disclosure re-checks.....	12
6.	Commencement of work prior to receipt of disclosure certificate.....	13
7.	Procedure on receipt of disclosure.....	13
7.1	Receipt of disclosure certificates.....	13
7.2	Considering information on a disclosure certificate.....	14
8.	Recruiting people from overseas.....	15
9.	Disclosures for agency workers, contractors, sub-contractors and commissioned services.....	16
9.1	Agency workers, contractors, sub-contractors.....	16
9.2	Standard clause in contract for commissioned services.....	16
10.	Work experience.....	16
11.	Roles and responsibilities.....	16

Appendices

	Title	Page(s)
Appendix 1	DBS eligibility flow diagrams.....	18-22
Appendix 2	A standard contract clause relating to DBS disclosure requirements.....	23-24
Appendix 3	Work Experience Flowchart.....	25

1. Disclosure checks and when they should be used

1.1 Disclosure eligibility

1.1.1 Disclosure and Barring Service (DBS) checks

The Rehabilitation of Offenders Act 1974 (ROA) prevents offenders from having to disclose 'spent' criminal convictions. It is an offence to require someone to apply for a DBS disclosure unless the position they are being considered for is defined as 'regulated activity' or is otherwise excepted from the provisions of the ROA by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended).

See:

- [A guide to eligibility for DBS checks](#),
- [DBS workforce guidance](#),
- the flowcharts at Appendix 1, and
- the DBS online eligibility tool at [Find out if you can check someone's criminal record](#)

Somerset County Council will only request a DBS disclosure application from those who are being considered for paid or voluntary roles excepted from the provisions of the ROA. Those individuals will be required to disclose their 'spent' criminal background by applying for a DBS disclosure.

If a manager has a vacant paid or voluntary position which they believe to be eligible for a DBS check they should verify eligibility by reference to the guidance mentioned above. If in doubt, the Disclosure Team will advise on whether the post is eligible and the type of check that can be applied for. This should be confirmed before the recruitment process commences.

The Disclosure Team can be contacted for advice at disclosure@somerset.gov.uk or 01823 357138.

If the Disclosure Team believes it would be unlawful to request a DBS check they will advise the manager and clarify the positions to which the ROA Exceptions Order applies.

If the manager disagrees, the Disclosure Team will refer the matter to Somerset County Council's DBS Lead Signatory with all relevant details for a decision on eligibility. If there is doubt about eligibility further advice may be sought from the DBS before the Lead Signatory makes a final decision.

This procedure to determine eligibility will ensure the Council does not undertake unlawful DBS checks whilst confirming those roles that are eligible for a DBS disclosure.

Managers are also responsible for ongoing assessment of the post/work to ascertain if the level and type of contact the individual has with children and/or adults has changed to an extent which may make it eligible for a DBS check

and, if necessary, to discuss with the Disclosure Team whether it is appropriate to initiate a DBS application.

1.1.2 Basic disclosures

For basic disclosures that are required as part of the Baseline Personnel Security Standards, eligibility will be determined by the need to share sensitive personal information via the Public Services Network.

Basic disclosures will also be required for business support staff who will access to sensitive personal information held in systems used by SCC's Children's and Adults' Services.

Basic disclosures do not provide information about 'spent' convictions.

1.2 Types of disclosure

There are six types of disclosure check available.

A series of flow diagrams are provided in Appendix 1 to help establish which, if any, level of check is required. The checks that are available are:

- **Enhanced disclosure with barred list check for regulated activity (Children)** – must be used when it is proposed that someone will undertake regulated activity relating to children (see Appendix 1). This involves a check of the police national computer, police information and the children's barred list.
- **Enhanced disclosure with barred list check for regulated activity (Adults)** – must be used when it is proposed that someone will undertake regulated activity relating to adults (see Appendix 1). This involves a check of the police national computer, police information and the adults' barred list.
- **Enhanced disclosure with barred list check for regulated activity (Children and Adults)** – must be used when someone is undertaking regulated activity relating to both children and adults (see Appendix 1). This involves a check of the police national computer, police information and the children's and adults' barred list.

(Note: For any enhanced DBS disclosure with barred list check the role must fall within the post-2012 definition of 'regulated activity' within the Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012. For such roles it is an offence to employ someone who is barred and therefore a disclosure must be obtained before the employment commences.)

- **Enhanced disclosure** – should be used where someone meets the pre-September 2012 definition of regulated activity (see Appendix 1). This involves a check of the police national computer and police information, but not the children's or adults' barred lists.

- **Standard DBS disclosure** – are used primarily for people entering certain professions such as members of the legal and accountancy professions. These involve a check of the police national computer and do not include a check of police information or the children’s or adults’ barred lists.

Appendix 1 shows the basis on which all DBS disclosures can be obtained.

- **Basic Disclosure** (via Disclosure Scotland) – are used primarily for people who share sensitive personal information via the Public Services Network, this check provides information only on unspent convictions. Where SCC staff will be using the secure Public Services Network, subject to Cabinet Office Baseline Personal Security Standards, they will be required to apply for a Basic Disclosure. Basic Disclosures will also be used by SCC in recruiting to support posts with access to personal sensitive information but no regular contact with service users.

1.3 Restrictions on eligibility for disclosure checks

- Organisations cannot apply for a disclosure check for someone who is under 16 years old.
- Organisations are no longer able to obtain a DBS check for anyone undertaking “controlled activity” since this category was scrapped in 2012. This category covered people in roles incidental or ancillary to those in regulated activity, for example those who had frequent access to education, health or social services records. This means posts with access to sensitive data only but not meeting the definitions of ‘regulated activity’ are no longer eligible for DBS disclosures. SCC will therefore require applicants for such posts to apply for a basic disclosure.

The only exception to this relates to work relating to adoption and fostering which gives access to sensitive personal information. Such work is covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and is therefore eligible for an enhanced DBS disclosure.

1.4 Checks on existing staff should concerns arise

If there are genuine concerns about an existing worker’s suitability to continue working with children and/or adults or in any other position that requires DBS disclosure clearance then they may be asked to apply for a new DBS disclosure as part of an investigation of the issues which have given rise to those concerns.

Due to the requirements of the DBS disclosure process the individual concerned must consent to apply for a DBS disclosure. The HR Advisory Service must be consulted for advice in such cases.

2. Validity of disclosures and expectation that staff will inform Somerset County Council of any changes to their status

There is no period of validity for a disclosure check. A disclosure certificate is accurate only on the day it is issued as a new or further criminal conviction, caution etc. may be recorded against the individual at any time after the issue date.

SCC expects that staff undertaking roles that are subject to disclosure checks who are arrested, cautioned, charged with, or convicted of a criminal offence will inform their line manager immediately. Any such information will be considered in relation to the role the employee undertakes and whether it adversely impacts upon their suitability for the role. Failure to disclose such information may undermine trust and confidence and lead to consideration of disciplinary action.

3. Portability of disclosure certificates

3.1. Portability

Portability refers to the re-use of a disclosure certificate, obtained for a position in one organisation and later used for a position in another organisation.

SCC does not currently accept portability of disclosure certificates for any positions to which it directly appoints. It requires a person taking up a new role excepted from the Rehabilitation of Offenders Act 1974 or who meets any other eligibility criteria to apply for a new disclosure.

3.2 DBS online update service

SCC does not currently promote use of the DBS online update service because new information concerning convictions, cautions and reprimands can take up to 9 months to be recorded on the DBS database. Moreover, recent figures indicate that only 11% of applicants for DBS checks register with the update service. SCC will, therefore always require applicants for eligible positions to apply for a new DBS disclosure.

However the DBS update service may be *useful* in the following circumstances:

- Applicants for positions which require a DBS disclosure may wish to consider registering with the DBS update service so that their disclosure can be used in relation to application for positions with other organisations that accept portability. Those who wish to register with the DBS update service must do so within 14 days of receiving their disclosure certificate and must meet the cost of registration. Registration with the update service will be at the applicant's own cost.
- A candidate who is already registered with the update service may produce their disclosure certificate during the appointment process as

evidence of their suitability for the role. In such cases it is important that managers check that the disclosure certificate relates to the individual by checking identity documents to ensure they match the details on the disclosure certificate and must also check consistency with any criminal background information declared in the candidate's application for the post.

- If the disclosure certificate provided by a candidate is relevant to the new position, a status check can be performed, with the applicant's permission, by the Disclosure Team via the DBS online update service. This will establish whether any new information is recorded about the individual since the certificate date.
- Information obtained from a presented disclosure certificate and verified via the DBS online update service as above can be used as part of an initial suitability assessment and may be particularly useful if the recruiting manager wants the candidate to commence work pending receipt of a new disclosure check (see section 6). However, it does not negate the requirement for a new DBS disclosure to be obtained before confirming the appointment.
- The DBS online update service can be used when periodic re-checks are required (see section 5) as an alternative to a new DBS disclosure application, subject to the individual having previously registered and giving consent for the County Council to access their information via the online service.
- Managers making use of the update service for re-checking must record the information received on the individual's personnel file, stating whether there has been a change of status since the disclosure certificate was issued. Where a change of status has been indicated the manager should raise this with the employee and ask them to apply for a new disclosure check to obtain updated criminal background information, considering new information by following the guidance in section 7.

4. Disclosure requirements for those moving positions within SCC

Where an individual has undertaken a DBS disclosure or basic disclosure for a position with SCC and they move to another position within the organisation, the previous disclosure certificate will be acceptable in the following instances:

- the type of disclosure check required (i.e. basic, standard / enhanced / enhanced + relevant barred list check) is the same for the old and new post and
- the individual has not had a break in service of more than three months and
- the new work does not represent a significant increase in responsibility for, or contact with, children and/or adults
- the new role is similar to the previous one and in a similar establishment.

For those individuals undertaking social care work eligible for a DBS disclosure, Somerset County Council requires pre-employment checks to be completed each time an individual moves post.

School staff moving positions in and between schools are not required by regulation or statutory guidance to apply for a further DBS disclosure if there is not a break in service but SCC strongly recommends that schools require newly appointed staff to obtain a new DBS disclosure so that up-to-date background information is available in determining suitability for appointment.

If moving from a position that only required access to the Public Service Network and therefore a basic disclosure to one that is covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 a DBS check will be required.

5. Frequency of DBS disclosure re-checks

Where a DBS disclosure is required, the individual will complete a DBS application as part of a recruitment and selection process to ascertain their suitability for the post. In most instances there is no requirement to undertake periodic re-checking as this practice does not enhance safeguarding and the additional costs of regular re-checking are not deemed a good use of resources.

However, SCC has determined that those working in the following areas are required to undertake a new DBS check every 3 years unless registered with the DBS update service (see section 3.2):

- Adoption and Fostering Services
- Supply Teachers
- Residential Children's Centres
- Volunteers in roles excepted from the Rehabilitation of Offenders Act 1974
- Casual Staff in roles excepted from the Rehabilitation of Offenders Act 1974

Services and schools are responsible for ensuring they record the dates for re-checking these employees and volunteers and ensuring a re-check is completed every three years. The Disclosure Team will be able to assist by confirming dates on which previous disclosure certificates were obtained but the service must maintain accurate records for managing the requirement for re-checks.

Re-checks may also be undertaken when there are concerns about an existing worker's continued suitability (see section 1.4).

Where an existing worker's disclosure re-check reveals a previously unknown criminal background or any cause for concern the manager must seek advice

from HR Advisory Service and consider any new information by following the guidance in section 7.

Further guidance on considering criminal background information in disclosures can be found below in 'Procedure on receipt of disclosure' (see section 7).

6. Commencement of work prior to receipt of a disclosure certificate

Every effort must be made to obtain a disclosure prior to the individual commencing work with SCC. Only in exceptional circumstances should an individual commence paid work (it is not envisaged that volunteer workers will ever commence before a disclosure certificate is obtained) without the full results of the disclosure being known and this should be subject to a recorded risk assessment procedure that can only be authorised by a service lead/headteacher.

Prior to the recruiting manager approaching the service lead/headteacher for approval the following must have taken place:

- all other pre-employment checks must have been undertaken, and
- a correctly completed disclosure application have been submitted to the DBS or Disclosure Scotland, and
- the Disclosure Team have checked and cleared the individual against the relevant online barred list, and
- the line manager has undertaken a suitability risk assessment to determine and ensure that sufficient safeguards are in place to ensure the individual has no unsupervised access to children or vulnerable adults until fully cleared

The Disclosure Team can provide advice and guidance and a standard template for conducting a [Suitability Risk Assessment](#). This should be completed by the recruiting manager, be approved by the service lead/headteacher and returned to the Disclosure Team.

7. Procedure on receipt of disclosure certificate

7.1 Receipt of disclosure certificates

NB: Applicant only certificates - disclosure certificates are not issued to the registered body.

The Disclosure and Barring Service and Disclosure Scotland do not issue a copy of the disclosure certificate to the registered body or the employer, only to the applicant.

This provides the applicant with time to consider the information on the certificate, and the opportunity to dispute any inaccurate or incorrect information on a certificate, before showing it to the prospective employer.

The employer must see and consider information on the applicant's disclosure certificate as part of their recruitment procedure. Therefore the recruiting manager must see the applicant's disclosure certificate as soon as possible to enable a recruitment clearance decision to be made.

All successful applicants must be informed that they should notify the recruiting manager as soon as they have received their disclosure certificate and arrange to make it available for inspection unless they propose to dispute its accuracy.

All successful applicants must produce their disclosure certificate before they commence paid or voluntary work – unless a risk assessment for a paid person has taken place and been signed off by the service lead/headteacher (see section 6).

7.2 Considering information on a disclosure certificate

Upon receiving a disclosure certificate from a prospective employee/volunteer the recruiting manager should check it against a record of the applicant's personal details gathered during the recruitment process to ensure it is consistent with regard to the following:

- forenames
- other names used
- place of birth
- address
- organisation name
- surname
- date of birth
- gender
- position applied for

The following must be recorded:

- form reference number (F00...)
- level of clearance (enhanced or standard)
- barred lists (children, adults, both, neither)

Any information that is incorrect or has been omitted from the disclosure certificate can make the certificate invalid and therefore must be addressed appropriately. Advice should be sought from the Disclosure Team if there appears to be omissions or inaccuracies.

Convictions etc on a disclosure certificate are clearly shown. Managers and administrators must check all five boxes on the disclosure certificate.

If a DBS disclosure certificate reveals criminal background information which may render the applicant unsuitable for the post the recruiting manager or Headteacher must discuss the situation with the applicant in line with the [DBS code of practice](#) and complete a [Suitability Assessment Form](#).

The manager may need to discuss the information with the Disclosure Team or an HR Officer for guidance prior to discussing it with the applicant. The applicant must be asked to provide details of the circumstances, sign the completed Suitability Assessment Form to verify the information provided and give permission for the risk assessment to be stored securely (and later

destroyed) in accordance with the policy on the secure storage, handling, use, retention and disposal of disclosures and disclosure information.

In these instances a Suitability Assessment Form is required to support a determination as to the risk of employing (or continuing to employ) an individual and what safeguards, if any, would need to be introduced to manage that risk.

In accordance with the Rehabilitation of Offenders Act and the SCC Policy on Employment of Ex-Offenders a criminal conviction should not automatically prevent an individual from working with SCC.

In general, criminal records relating to drug misuse/ trafficking, violent or abusive conduct, offences of a sexual nature and serious offences of dishonesty would be strong contra-indicators of suitability. However, consideration should be given to the circumstances of the offences (time since they occurred, personal circumstances at the time, isolated incident or repeat offending) and the applicant's subsequent conduct and attitude towards the crimes.

Managers should also ensure that other pre-employment checks have been completed and are properly considered alongside disclosure information. For example, references have been obtained and considered, gaps in employment history have been identified and explored with the applicant. Other checks such as ID check and right to work in the UK are also part of this process.

Managers must consider the following in relation to criminal background information:

- the requirements of the role and the level of supervision the individual will receive
- the seriousness of the offence/issue raised and its relevance to the safety of employees, service users, clients or property
- how relevant the offence is to the role to be undertaken
- how much time has elapsed since the offence was committed and whether it was a one-off incident or part of a history of offending
- whether the individual's circumstances have changed since the offence was committed making re-offending less likely
- whether the individual was open and transparent about their past and declared their criminal background prior to receiving the disclosure certificate
- the applicant's attitude towards their past criminal conduct.

8. Recruiting people from overseas

Disclosure certificates do not record convictions that were committed abroad. When recruiting candidates who have spent 3 months or more living or working abroad, including foreign nationals, a disclosure must be obtained in

the normal way and an equivalent certificate (e.g. certificate of good conduct) from the country(ies) concerned will usually also be required.

This may well depend upon the arrangements within the particular country and the circumstances in which the individual left that country (for example, asylum seekers may be unable to obtain such a certificate from their former country). Advice should be sought from the Disclosure Team in such cases. See: [Criminal records checks for overseas applicants](#)

9. Disclosures for agency workers, contractors and sub-contractors and commissioned services

9.1 Agency Workers, contractors or sub-contractors

Agency workers, contractors and sub-contractors must be assessed against the same criteria as those working directly for SCC to determine whether a disclosure is required (please refer to Appendix 1).

In relation to such staff, the contractor or agency as the “employer” is responsible for obtaining the disclosure check. This check can then be used within any organisation that the agency or contractor provides staff to work for. SCC may stipulate in any agreement with such a contractor or agency that workers deployed to carry out work on behalf of SCC will have been subject to an appropriate disclosure check. SCC managers/headteachers engaging staff through such arrangements must seek written confirmation from the agency or contractor that a worker has been subject to the relevant disclosure check. In such circumstances the disclosure will be portable.

Agency workers, contractors and sub-contractors staff should be re-checked in line with the provisions of section 5.

9.2 Standard clause in contract for commissioned services

A standard clause relating to DBS disclosure requirements has been developed and should be included in any contract which involves work with children or adults or providing services for or in, establishments where children and /or vulnerable adults may be present. This can be found at Appendix 2.

It is the responsibility of the relevant service/school to put appropriate measures in place to validate and ensure contract compliance.

10. Work experience

Arrangements for DBS disclosures in relation to work experience are set out in the flowchart in Appendix 3.

11. Roles and responsibilities

The roles and responsibilities of managers, the Recruitment Team, Disclosure Team and the Lead Signatory are as follows:

- managers are responsible for ensuring that disclosures are sought for eligible positions, whether paid or voluntary and for effective liaison with the Recruitment Team or Disclosure Team in relation to ensuring effective use of disclosures during recruitment processes;
- managers are also responsible for ensuring disclosure re-checks are carried out in accordance with the agreed timescales;
- the Recruitment Team and Disclosure Team support managers in making effective use of disclosure checks as part of safe recruitment processes by administering the process for obtaining disclosures as part of recruitment administration, by offering advice to managers on eligibility and procedures and by advising managers on undertaking suitability assessment procedures where disclosures reveal criminal background information;
- the Lead Signatory is responsible for ensuring that DBS disclosures are obtained lawfully and in accordance with the DBS Code of Practice, for determining eligibility in cases of doubt and for monitoring and authorising suitability assessments where certificates reveal criminal background information;
- the Lead Signatory will provide advice and updates on changes to the relevant legislation and statutory guidance and keep SCC policy under review.

Appendix 1 – DBS Eligibility Flow Diagrams

Eligibility for an enhanced DBS check

These diagrams are designed to help you to identify if a check is required and if it is, if a check of the barred lists for adults or children should be included.

These definitions have been developed by the Home Office in consultation with the Disclosure and Barring Service (DBS), Independent Safeguarding Authority (ISA), Department of Health (DoH) and Department for Education (DfE). The legislation underpinning these definitions is the Safeguarding Vulnerable Groups Act 2006 (SVGA) as amended by the Protection of Freedoms Act 2012.

Somerset County Council has a duty to ensure it is not unnecessarily undertaking checks which could result in a breach of the Rehabilitation of Offenders Act 1974 (Exceptions) 1975, and may lead to Somerset County Council losing Registered Body Status, which would mean that we would not be able to undertake DBS checks ourselves.

The steps needed to establish if an enhanced DBS check is required

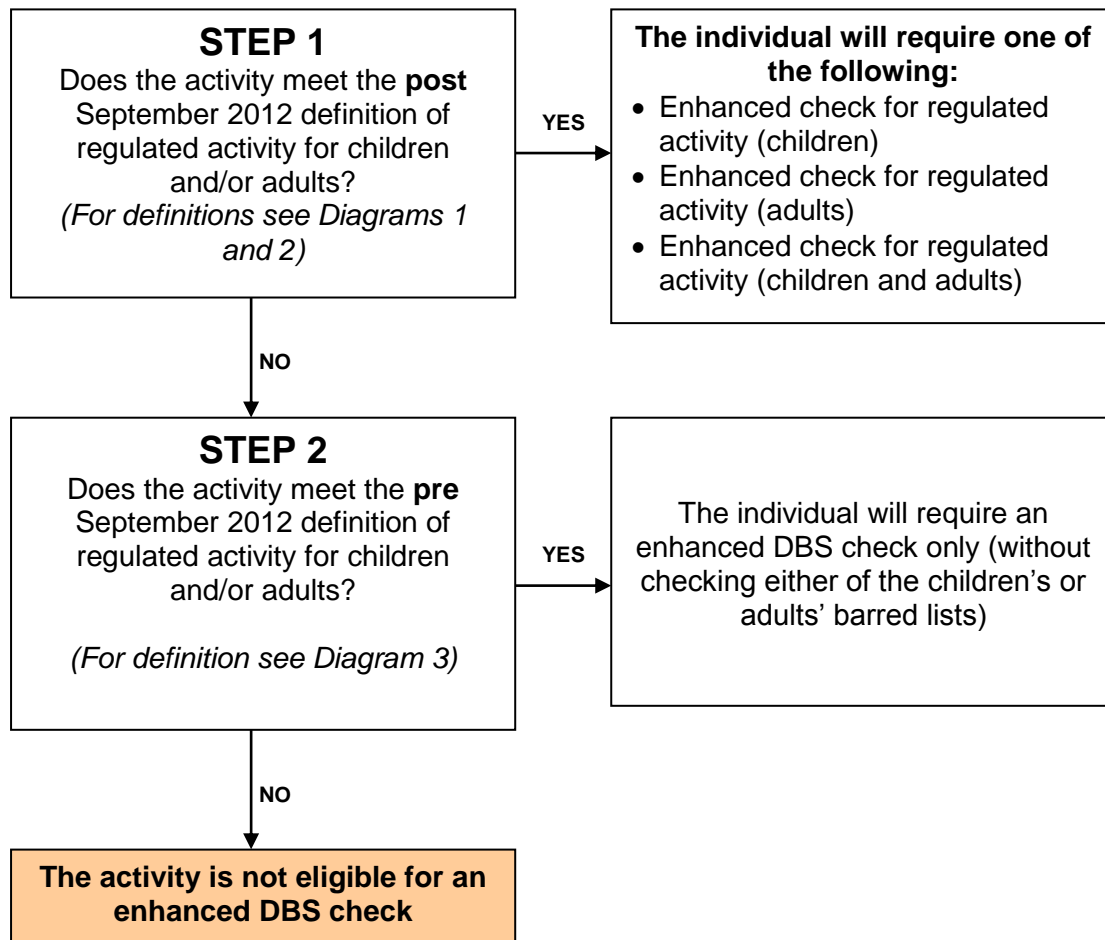


Diagram 1

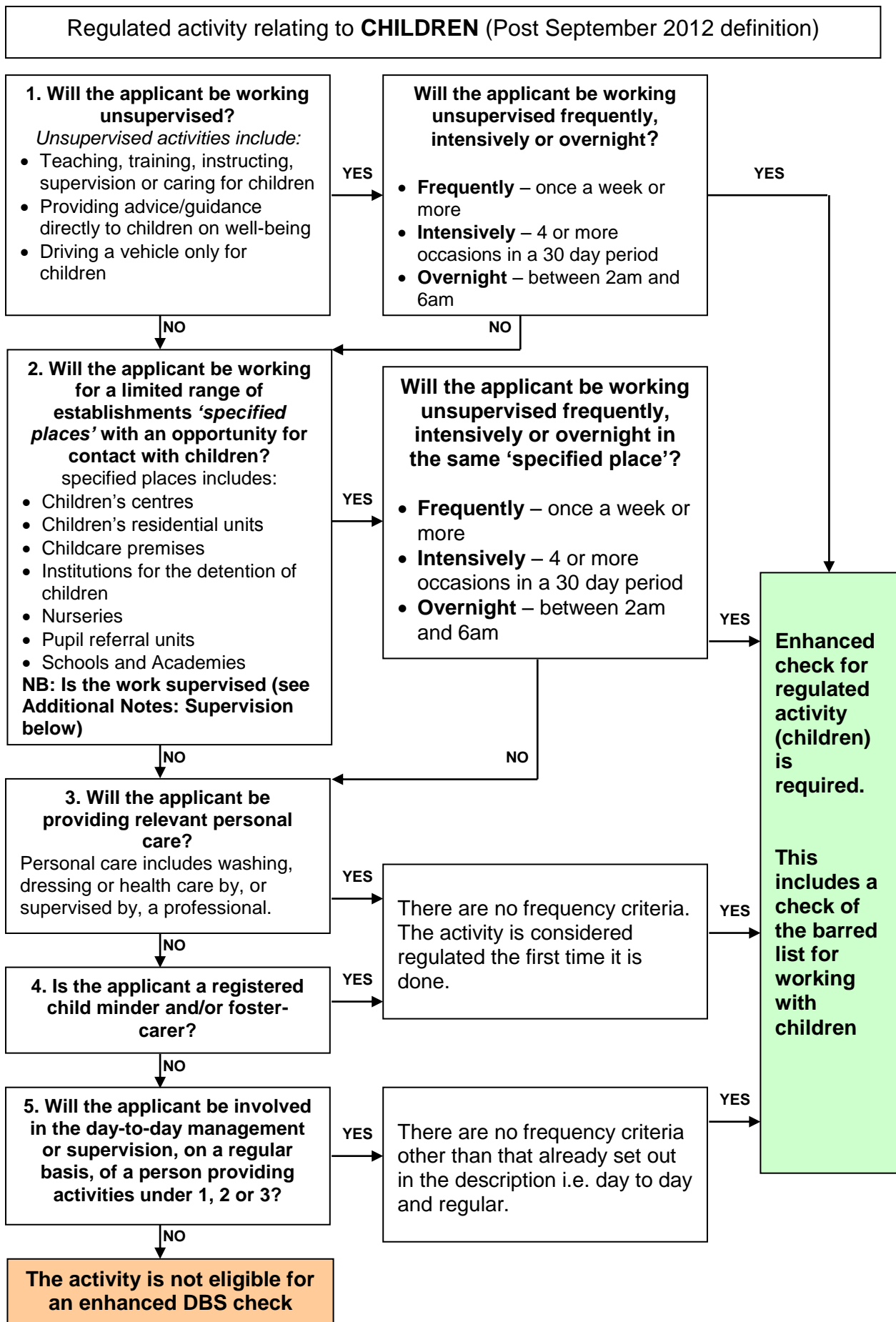


Diagram 2

Regulated activity relating to **ADULTS** (Post September 2012 definition)

Regulated activity relating to adults identifies activities which, if an adult needs them, lead to that adult being considered vulnerable at that time. There is not a requirement to perform the activity more than once to qualify as a regulated activity. If an activity meets one of the definitions below, the person performing the activity will require an enhanced DBS check, with an adults' barred list check, as will anyone who provides the day to day management or supervision of that person.

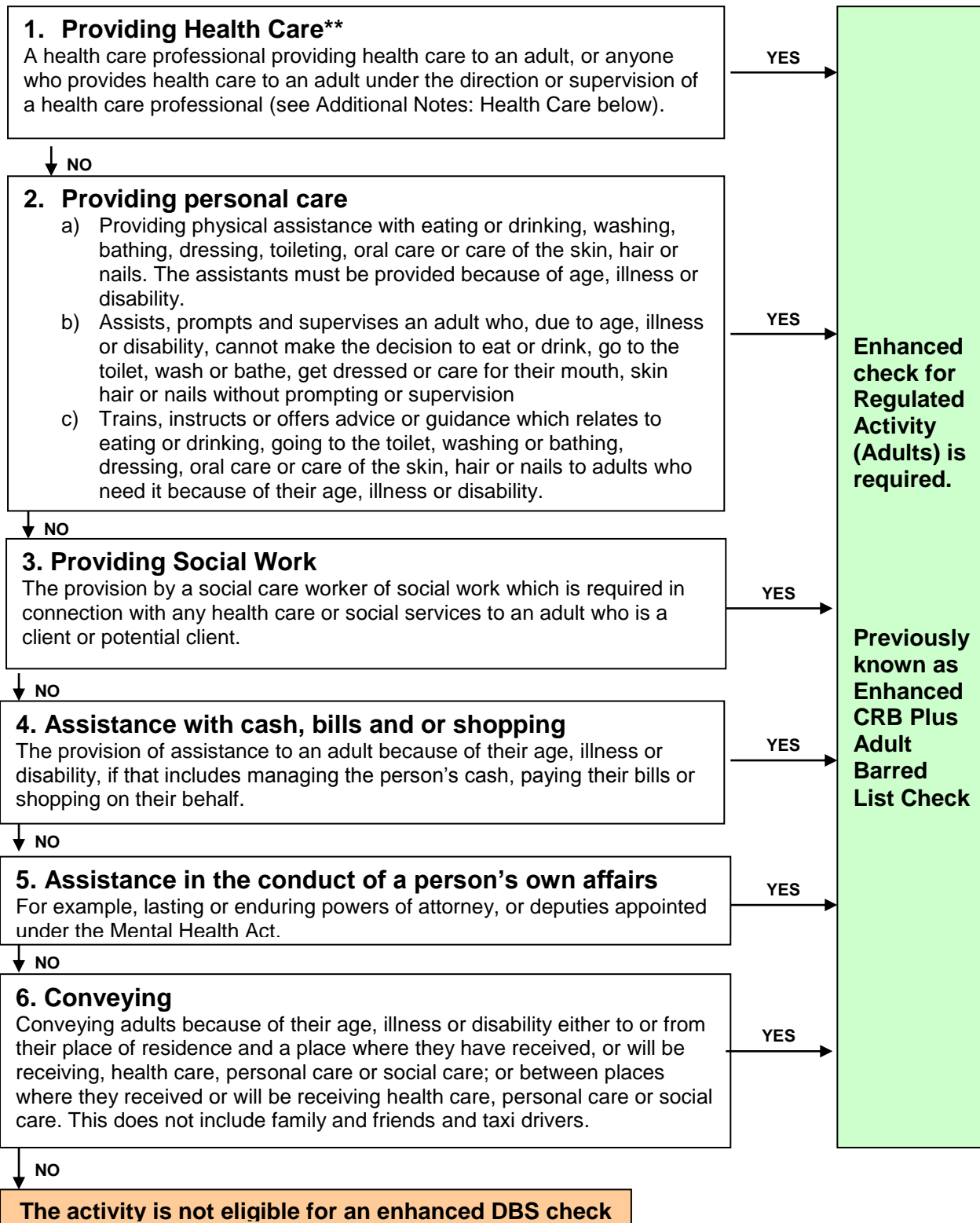
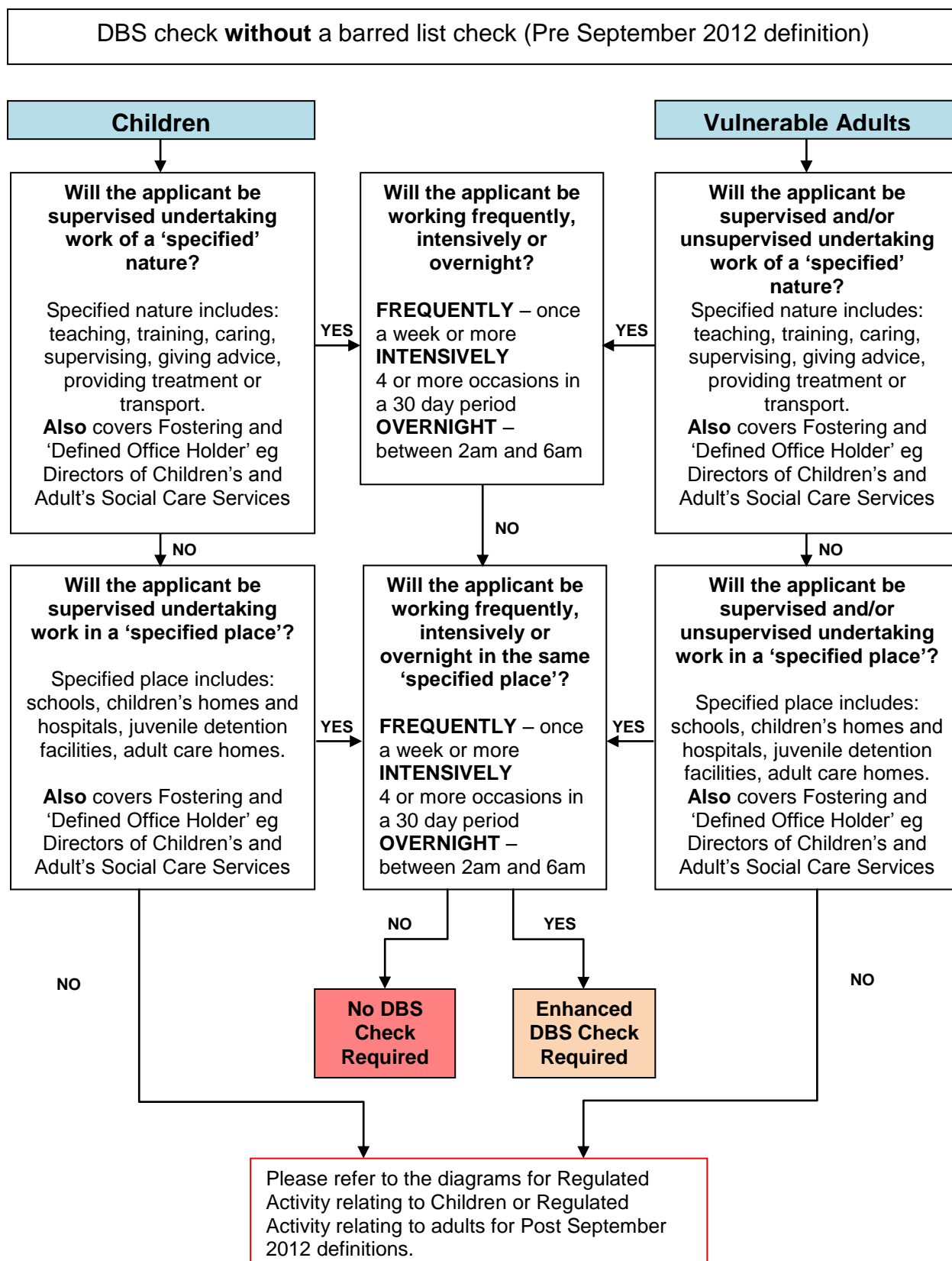


Diagram 3



IMPORTANT
 Where the activity is occurring in a specified place, it is only regulated activity if it is frequent or intensive in the same specified place, ie, same school

Additional Notes on eligibility flowcharts

1. Supervision of persons undertaken ‘regulated activity’ relating to children

The DfE has issued guidance on supervision of activity by workers with children, which when unsupervised is regulated activity: [Supervision of activity with children](#).

Those carrying out such work under supervision are not in ‘regulated activity’ and are therefore not eligible for an enhanced DBS disclosure and in such circumstances an enhanced DBS disclosure is not required.

Services and schools will need to consider this guidance in determining whether supervision is such that the supervised workers do not require a DBS check.

The precise nature and level of supervision will vary from case to case. This means that organisations must ensure that the supervision in place is sufficient, in their judgement to provide reasonable assurance for the protection of the children concerned. Organisations should consider the following factors in checking the specific level of supervision the organisation will require in individual cases:

- The age of the children concerned
- The number of children that the individual is working with
- Whether or not there are other adults/carers around
- The vulnerability of the children
- The experience of, and checks carried out on the person being supervised
- The number of people being supervised
- The supervision must be by a person in a regulated activity
- The supervision must be regular and day to day
- The supervision must be ‘reasonable’ in all the circumstances to ensure the protection of children.

2. Health Care

Health Care includes all form of health care provided for adults, whether relating to physical or mental health, and includes palliative care. This includes diagnostic tests and investigative procedures. It also includes procedures that are similar to forms of medical or surgical care that are not provided in connection with medical condition; ie taking blood from a blood donor or cosmetic surgery.

Appendix 2: A standard contract clause relating to DBS disclosure requirements

12. [Other personnel used to provide the services

At all times, the Supplier shall ensure that:

each of the Supplier's Personnel is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;

there is an adequate number of Supplier's Personnel to provide the Services properly;

only those people who are authorised by the Supplier (under the authorisation procedure to be agreed between the parties) are involved in providing the Services; and

all of the Supplier's Personnel comply with all of the Authority's policies including those that apply to persons who are allowed access to the applicable Authority's Premises.

The Authority may refuse to grant access to, and remove, any of the Supplier's Personnel who do not comply with any such policies, or if they otherwise present a security threat.

The Supplier shall replace any of the Supplier's Personnel who the Authority reasonably decides have failed to carry out their duties with reasonable skill and care. Following the removal of any of the Supplier's Personnel for any reason, the Supplier shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services.

The Supplier shall maintain up-to-date personnel records on the Supplier's Personnel engaged in the provision of the Services and shall provide information to the Authority as the Authority reasonably requests on the Supplier's Personnel. The Supplier shall ensure at all times that it has the right to provide these records in compliance with the applicable Data Protection Legislation.

The Supplier shall use its best endeavours to ensure continuity of personnel and to ensure that the turnover rate of its staff engaged in the provision or management of the Services is at least as good at the prevailing industry norm for similar services, locations and environments.]

13. [Safeguarding children and vulnerable adults

The parties acknowledge that the Supplier is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated

Activity provided under this Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006

The Supplier shall:

ensure that all individuals engaged in Regulated Activity are subject to a valid enhanced disclosure check for regulated activity undertaken through the Disclosure and Barring Service (DBS); and

monitor the level and validity of the checks under this *clause 15.2* for each member of staff;

not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to service users.

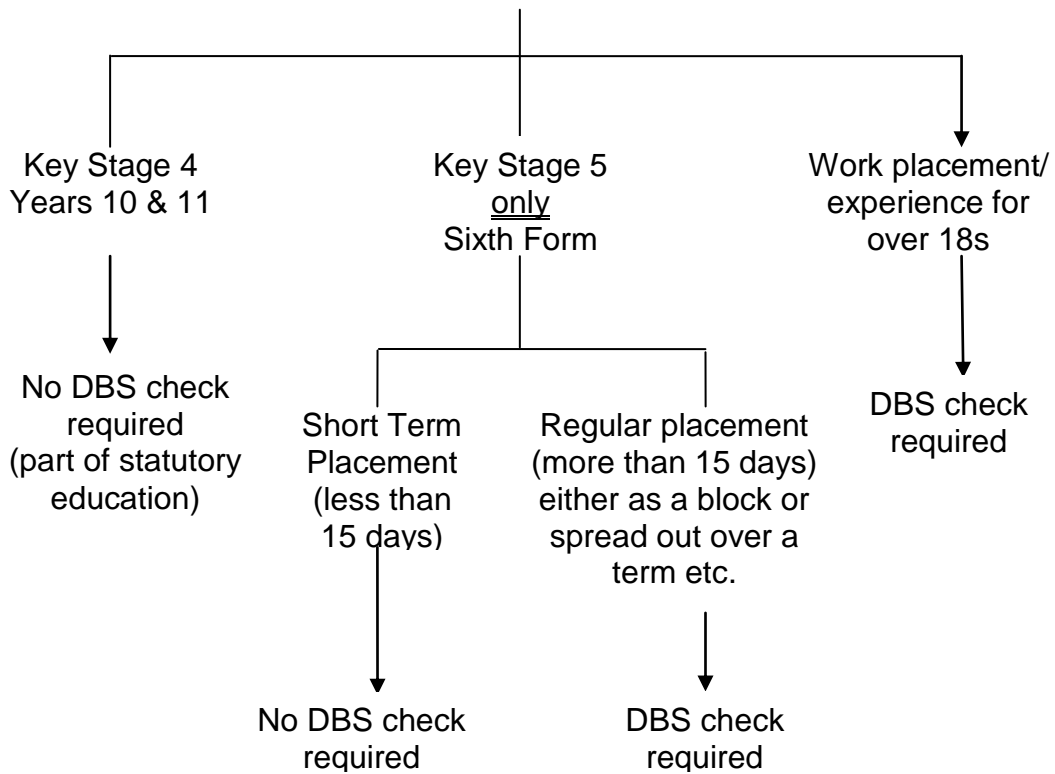
The Supplier warrants that at all times for the purposes of this Contract it has no reason to believe that any person who is or will be employed or engaged by the Supplier in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.

The Supplier shall immediately notify the Authority of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 15 have been met.

The Supplier shall refer information about any person carrying out the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to [the service users OR children OR vulnerable adults].]

Appendix 3: Work experience flowchart

DBS Checks for Work Experience



Work experience checks do not qualify as 'volunteer' free of charge checks – so applicant/college must pay fee.