



DBS Policy Statement

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Document summary

This policy statement provides guidance on the effective use of the DBS Disclosure process to safeguard the children and adults who access our services.

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About this document:

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<p>Accessibility help</p> <p>Zoom in or out by holding down CTRL and turning the mouse wheel. CTRL and click on the table of contents to navigate. Press CTRL and Home key to return to the top of the document Press Alt-left arrow to return to your previous location. References shown in blue text are available on the Intranet and/or Webshop. References shown in underlined blue text are hyperlinks to other parts of this document.</p>	

DBS Policy Statement

Key points

- East Sussex County Council (ESCC) is committed to safeguarding the welfare of those accessing its services through the effective use of the DBS Disclosure vetting process for all relevant groups of employees.
- The guidance set out in this DBS Policy Statement relates to employees, volunteers, agency staff and contractors/sub contractors.
- Throughout this document where a “DBS Disclosure or check” is referred to, this covers all types of DBS check (i.e. standard/enhanced/enhanced + childrens’ and/or adults barred list check).
- Where the term ‘vulnerable adult’ is used, this is where an adult is in receipt of, or accessing a service which, leads that adult to being considered vulnerable at that particular time.
- ESCC uses the DBS Disclosure process as part of a range of checks for assessing the suitability of preferred candidates, volunteers, contractors, agency staff, those transferring within ESCC, and the continued employment of those in specific roles which require reassessment.
- ESCC obtains and makes decisions based on information provided on DBS Disclosures in accordance with the Data Protection Act, the DBS Code of Practice, the Rehabilitation of Offenders Act and the regulations of the Department for Education (DFE) and the Department of Health (as regulated by OFSTED and CQC)
- This policy should be read in conjunction with ESCC's Employment of Ex-Offenders policy and the Storage and Retention of DBS Disclosures policy.

1. DBS checks and when to use them

- 1.1. It is best practice to determine the type of DBS Disclosure that is required by way of a risk assessment which should be undertaken by the manager responsible for the activity that the individual will be undertaking. Managers should conduct the risk assessment before the activity commences and in the case of recruitment to a vacant post, this should take place prior to the recruitment process. Managers are also responsible for the ongoing reassessment of the post/work to ascertain if the level and type of contact the individual has with children and/or vulnerable adults has changed and, if necessary, to initiate a new DBS Disclosure.

- 1.2. There are five types of check that are available. A series of flow diagrams are provided in Appendix 1 to enable you to establish, which, if any, level of check is required. The checks that are available are:
- **Enhanced Check for Regulated Activity (Children)** - used when someone is undertaking regulated activity relating to children (see Appendix 1). This check involves a check of the police national computer, police information and the children's barred list
 - **Enhanced Check for Regulated Activity (Adults)** - used when someone is undertaking regulated activity relating to adults (see Appendix 1). This check involves a check of the police national computer, police information and the adults barred list.
 - **Enhanced Check for Regulated Activity (Children and Adults)** - used when someone is undertaking regulated activity relating to both children and adults (see Appendix 1). This check involves a check of the police national computer, police information and the children's and adults barred list.
 - **Enhanced DBS Check** - used where someone meets the pre September 2012 definition of regulated activity (see Appendix 1). This level of check involves a check of the police national computer and police information.
 - **Standard DBS Check** - primarily for people entering certain professions such as: members of the legal and accountancy professions. Standard DBS checks just involve a check of the police national computer and do not include a check of police information or the childrens or adults barred lists.
- 1.3. Please note that you cannot apply for a DBS check for someone who is under 16 years of age.
- 1.4. If there are concerns about an existing worker's suitability to continue working with children and/or adults then there is the discretion to undertake a DBS Disclosure. Due to the requirements of the DBS Disclosure process the individual concerned must give their consent for the DBS Disclosure to be obtained. Personnel and Training (PAT) must be contacted for advice in these instances.

2. Validity of DBS Disclosures

- 2.1. There is no period of validity for a DBS Disclosure. A DBS Disclosure is technically out of date 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.
- 2.2. In ESCC contracts of employment it sets out that if following an individual's appointment they are subsequently cautioned, charged, summonsed or convicted of a criminal offence then they should inform their line manager immediately. Failure to disclose such information may lead to disciplinary action being taken.

3. Portability of DBS Disclosures

- 3.1. Portability refers to the re-use of a DBS Disclosure, obtained for a position in one organisation and later used for a position in a new organisation.
- 3.2. Any applicant (whether an employee or a volunteer) who applies for, or receives, their disclosure certificate on or after 17 June 2013 is eligible to join the online update service. Membership of the online update service incurs an annual charge (payable by the applicant). Membership for volunteers is free of charge.

- 3.3. If a certain set of criteria are met, a free and instant check can be undertaken online which will detail whether the individual's current certificate remains valid or if there is new information present which will mean that a new disclosure certificate will need to be sought. If the check remains valid then it will be accepted as a portable check.
- 3.4. Applicants can register to become a member of the online update service at <https://secure.crbonline.gov.uk/crsc/subscriber>
- 3.5. In relation to Contractors or Agency Staff, the "employer" is responsible for obtaining the DBS check. This check can then be used within any organisation that the Agency or Contractor provides staff to work within.

4. DBS Disclosure requirements for those moving positions within ESCC

- 4.1. Where an individual has undertaken a DBS Disclosure for a position with ESCC and they move to another position within the organisation, the DBS Disclosure will be acceptable in the following instances:
 - The type of DBS Disclosure (i.e. 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, and contact with, children and/or adults;
 - The individual is registered with the online update service and, following a check of the update service, the certificate has been verified as current and valid.
- 4.2. For those individuals undertaking social care work, CQC regulations require all pre-employment checks to be completed every time an individual moves post.

5. Frequency of DBS Disclosure checking – employees

- 5.1. Where a DBS Disclosure is required, the individual will complete a DBS check as part of a recruitment and selection process to ascertain their suitability for the post. In most instances there are no requirements to undertake periodic DBS Disclosures, commonly known as a DBS Disclosure refresh.
- 5.2. ESCC has taken a policy decision which means that those employees working in the following areas are required to undertake a new DBS Disclosure every 3 years:
 - Adoption and Fostering Service (Ofsted requirement)
 - Looked After Children and Disability Residential teams
 - Children's Disability Service posts in the following areas:
 - Direct Intervention Service
 - After School/Holiday clubs
- 5.3. PAT monitors the DBS Disclosures for these groups of employees and contacts their managers to initiate the process every 3 years.
- 5.4. Where an existing worker's DBS Disclosure reveals a criminal background or any cause for concern (i.e. it is a Positive DBS Disclosure) a conversation should take place between the line manager and employee in regards to their suitability for the post. The line manager will, after having this conversation, be required to make a recommendation to their Assistant Director on the suitability of the individual to continue in post.

5.5. Further guidance on Positive DBS Disclosures can be found below in 'Receipt of DBS Disclosure'.

6. Commencement of work prior to receipt of DBS disclosure

6.1. In all circumstances every effort must be made to ensure a DBS Disclosure is obtained prior to the individual commencing work with ESCC. Only in exceptional circumstances can an individual commence work without the full results of the DBS Disclosure being known and this can only be authorised by an Assistant Director/Head Teacher. Prior to the approaching the Assistant Director/Head Teacher for approval the following must have taken place:

- PAT are in receipt of all of the other pre-employment checks and these have been confirmed as being satisfactory and;
- A correctly completed DBS Disclosure application form has been submitted to PAT and this has been sent off to the DBS and;
- PAT have checked and cleared the individual against the relevant barred list and;
- The line manager has undertaken a risk assessment to determine and ensure that sufficient safeguards are in place to ensure the individual has no unsupervised access to children or adults.

7. Receipt of DBS disclosure

7.1. The DBS issue 1 copy of a DBS Disclosure to the applicant, a copy is no longer sent to the employer (i.e. ESCC). The applicant will need to present the certificate to their prospective manager within three working days of receipt. For employees and school based volunteers, PAT will still need to record the DBS Disclosure reference number, type of Disclosure (e.g. Standard or Enhanced) and the issue date on SAP. This information should therefore be passed to PAT in the appropriate manner.

7.2. If a positive DBS Disclosure (i.e. a Disclosure that reveals a criminal background or details that may be of concern) is received the manager needs to follow the necessary guidance found in the 'Online Update Service and Single Certificate Guidance', Assistant Directors/Headteachers (or Chair of Governors in the cases of a DBS Disclosure for a Headteacher) must consider and approve the suitability of the candidate to commence/continue their employment.

7.3. In these instances a risk assessment is required to determine whether the risk of employing or continuing to employ an individual can be taken and what safeguards would need to be introduced to manage that risk.

7.4. In accordance with the Rehabilitation of Offenders Act a criminal conviction may not automatically prevent an individual from working with ESCC.

7.5. Managers must consider the following factors:

- 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 on 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 DBS Disclosure.

8. Recruiting from overseas

8.1. Disclosures do not record convictions that were committed abroad. When recruiting candidates who have spent a period of time living or working abroad, a DBS Disclosure must be obtained in the normal way and a DBS Disclosure or equivalent from the country(s) concerned may be required as well.

9. DBS Disclosures for agency workers, contractors, subcontractors or volunteers

9.1. Agency workers, contractors, sub-contractors and volunteers must be assessed against the same criteria as those working directly for ESCC to see if a DBS Disclosure is required (please refer to Appendix 1)

9.2. Specific guidance relating to DBS checks for agency workers and contractors / sub-contractors can be found on the intranet and the Webshop.

9.3. A standard clause relating to DBS Disclosure requirements has been developed and should be introduced into 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 on the intranet by searching for 'supplementary contract conditions'.

9.4. It is the responsibility of the relevant department to put appropriate measures in place to validate and ensure contract compliance.

10. Frequency of DBS Disclosure checking – Agency staff and contractors

10.1. Staff employed via an agency must have their DBS renewed on an annual basis.

10.2. Contractors must ensure that their employees and sub contractors' DBS checks are refreshed every 3 years.

Appendix 1 – DBS Eligibility flow diagrams

This flow diagram and supporting guidance is designed to enable you to identify:

- a) If a check is required and
- b) If it is, what type of check is appropriate.

East Sussex 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) Order 1975, and may lead to the Council losing registered body status, which would mean losing the ability to undertake DBS checks itself.

Steps to establish if a DBS check is required

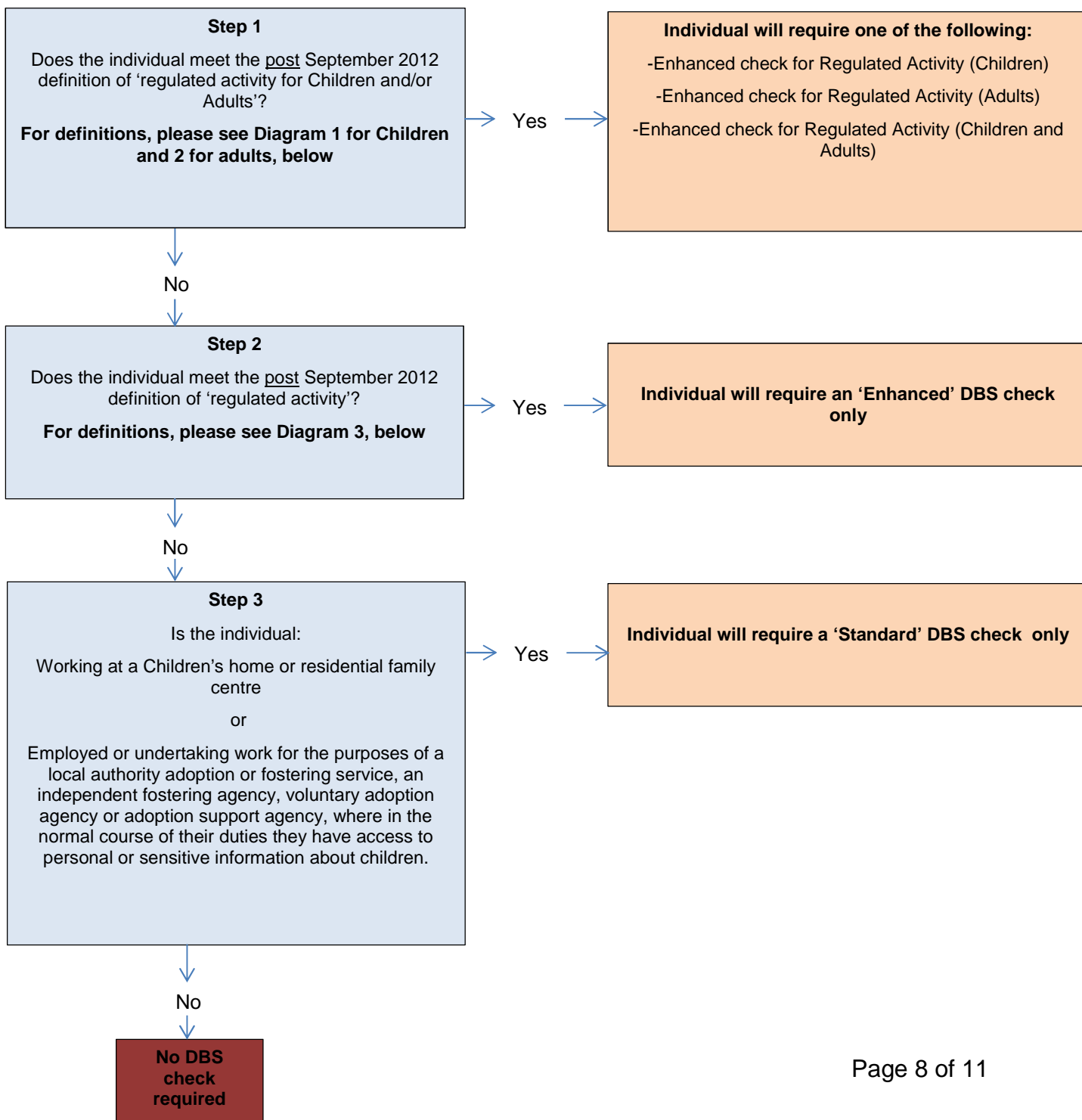


Diagram 1

**Regulated activity relating to Children
(Post September 2012 Definition)**

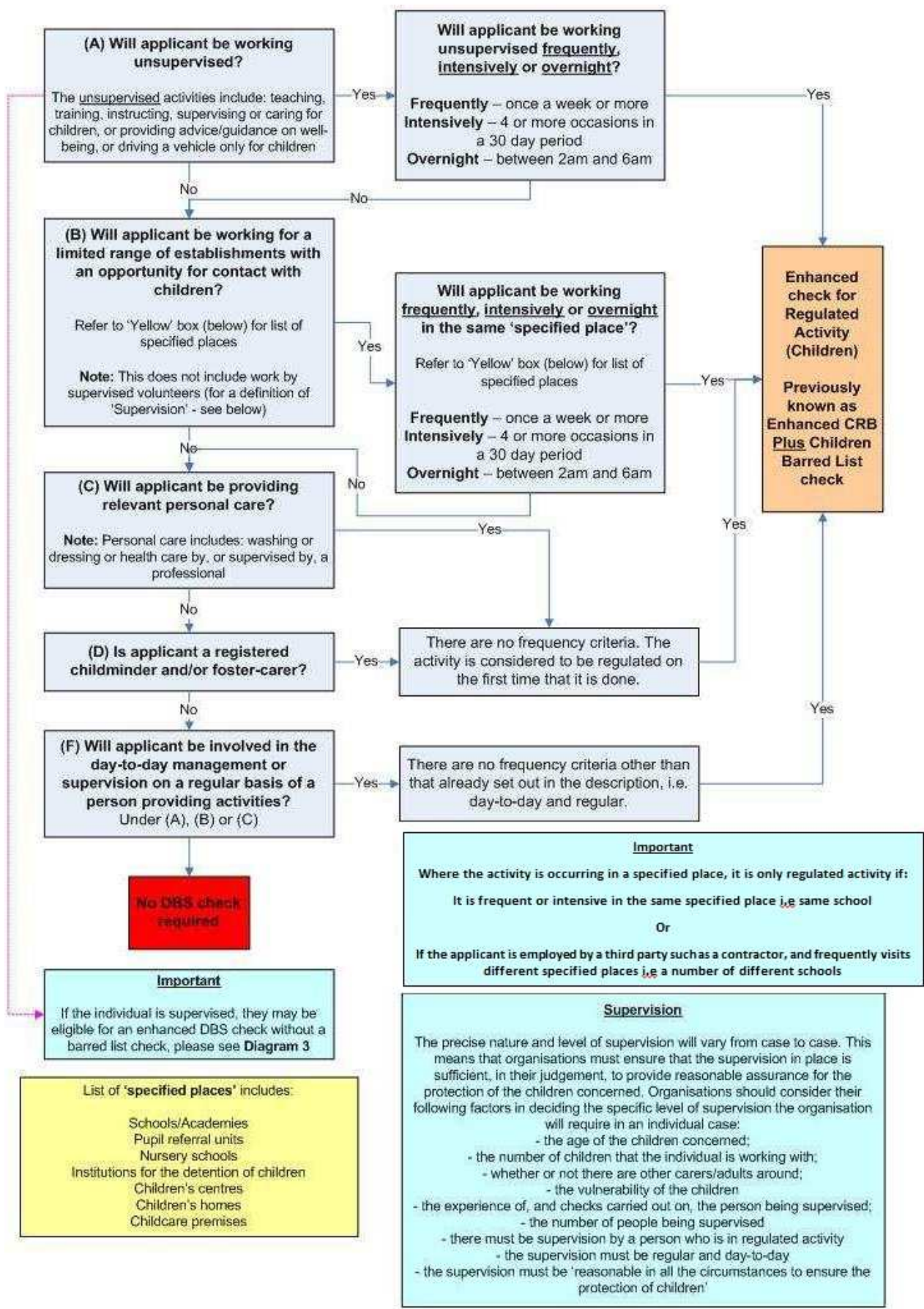
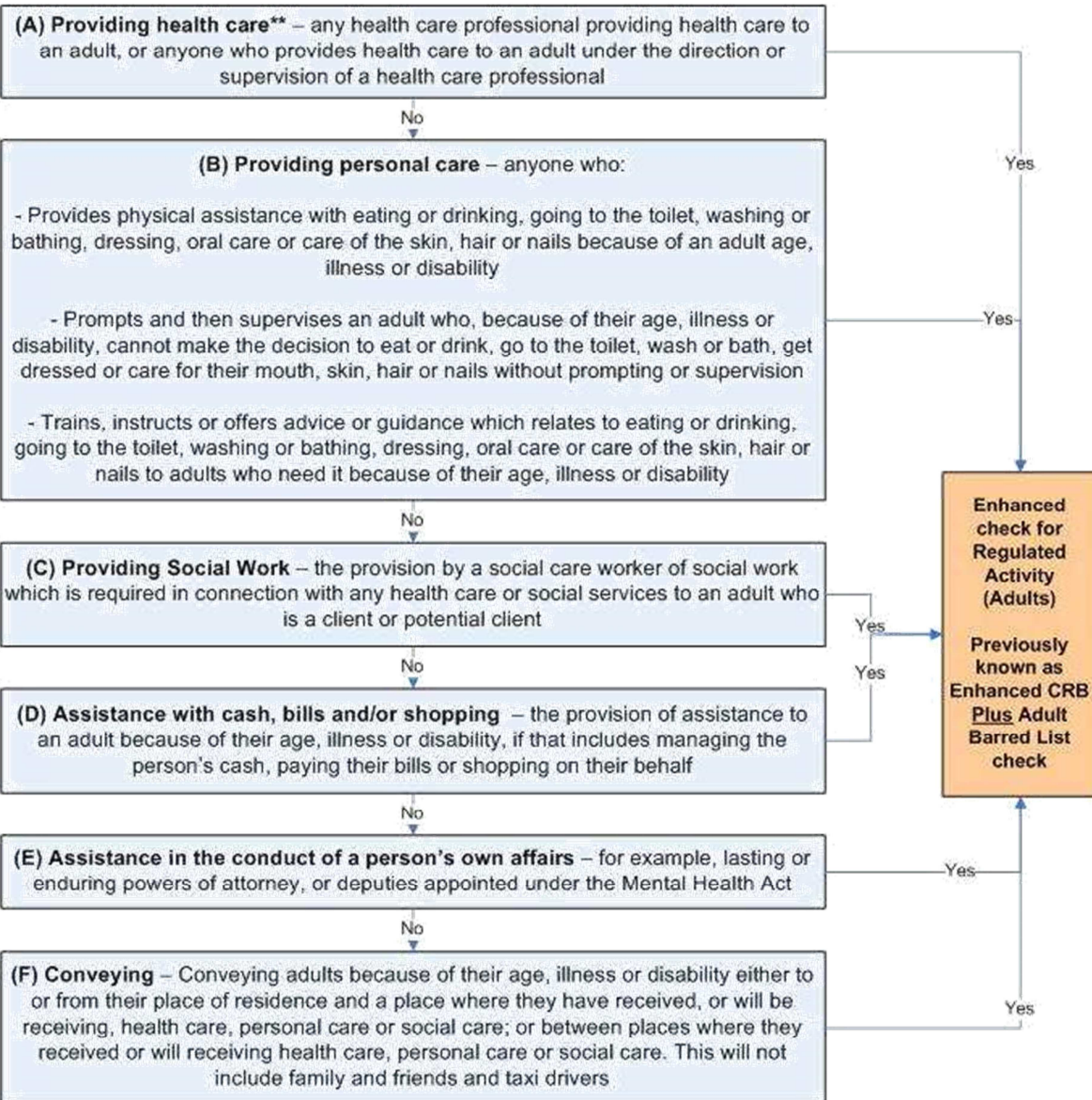


Diagram 2

**Regulated activity relating to Adults
(Post September 2012 Definition)**

Regulated activity relating to adults identifies activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time. There is not a requirement to do the activity a certain number of times before it is considered as engaging in regulated activity. Anyone meeting the six definitions below (including a person who provides day-to-day management or supervision of those people) will require an enhanced DBS check with an adults barred list check.

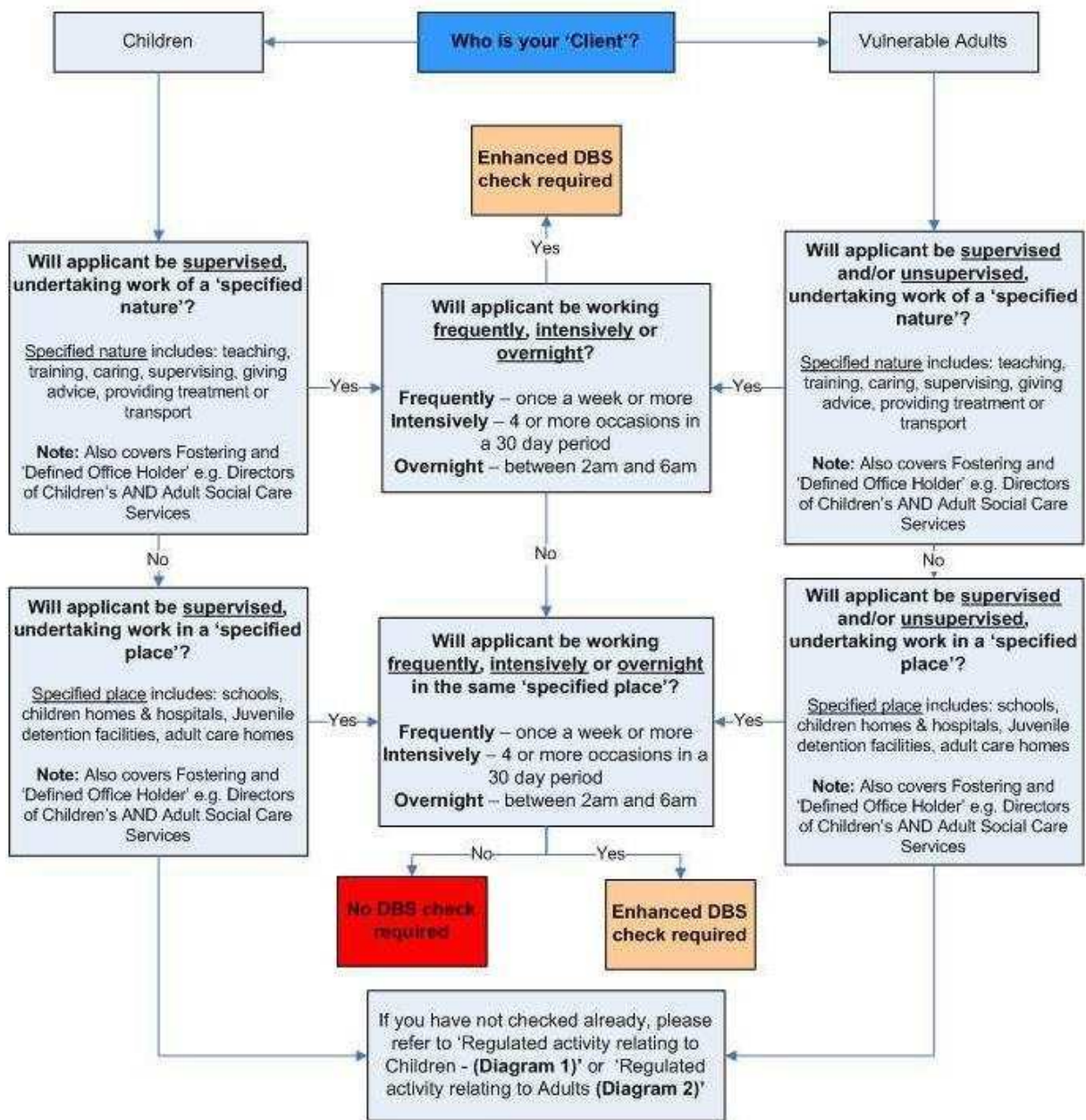


****Health Care** includes all forms of health care provided for adults, whether relating to physical or mental health, and includes palliative care. This includes diagnostic tests and investigative procedures. It also includes procedures that are similar to forms of medical or surgical care that are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

For an Enhanced CRB check with no barred list check
If an individual does not meet the definition of 'regulated activity' as set out above but **does** fall within the old definition of regulated activity. (See **Diagram 3** to see if they meet the old definition)

Diagram 3

**DBS Check without a barred list check
(Pre September 2012 Definition)**



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 i.e. same school

Or

If the applicant is employed by a third party such as a contractor, and frequently visits different specified places i.e. a number of different schools

Supervision

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 their following factors in deciding the specific level of supervision the organisation will require in an individual case:

- the age of the children concerned;
- the number of children that the individual is working with;
- whether or not there are other carers/adults around;
- the vulnerability of the children
- the experience of, and checks carried out on, the person being supervised;
- the number of people being supervised
- there must be supervision by a person who is in 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'