

Purpose

This factsheet highlights the differences between the barring role of the Disclosure and Barring Service (DBS) and the professional conduct role of regulators such as the General Medical Council or the Nursing and Midwifery Council. It also outlines how the DBS works with professional regulators to help safeguard children and vulnerable adults.

Different roles and responsibilities

There are important differences in the scope, roles and responsibilities of DBS barring operations and the professional conduct processes of professional regulators. However, the DBS and professional regulators each play an important part in protecting vulnerable groups including children.

DBS	Professional Regulator - Professional Conduct Process
<p>Scope of Bar</p> <ul style="list-style-type: none"> Covers England, Wales and Northern Ireland and recognises Scottish bars. Covers people who work or volunteer in regulated activity in relation to children and/or adults. 	<p>Scope of professional conduct processes</p> <ul style="list-style-type: none"> Covers their professional sector within their country. Covers people on their register working within their profession.
<p>Single Function</p> <ul style="list-style-type: none"> Barring decisions in relation to automatic barring and safeguarding misconduct (harm / risk of harm) in the paid or volunteer workplace involving children or vulnerable adults. 	<p>Professional conduct function (typical)</p> <ul style="list-style-type: none"> Fitness to practise within their professional sector - safeguarding misconduct (harm / risk of harm) as well as general misconduct.
<p>Barring decision making process</p> <ul style="list-style-type: none"> No investigatory powers or investigating officers No interim bars or suspensions 'Confidential' process - no public hearings Power to gather information - no power to call witnesses DBS decision based on conduct/future risk of harm to children and/or vulnerable adults. 	<p>Professional conduct process (typical)</p> <ul style="list-style-type: none"> Investigatory powers and officers. May issue Interim Suspension Orders. Public process - hearings Power to call witnesses and gather information Panel or Committee decision based on fitness to practise impairment.

(continued overleaf)

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DBS	Professional Regulator - Professional Conduct Process
<p>Sanctions</p> <ul style="list-style-type: none"> • Single sanction – DBS bar on children’s and/or adults’ barred list • May bar a person from working in regulated activity with children and / or vulnerable adults across England, Wales and Northern Ireland due to their unsuitability to this work, with bar also recognised by Scotland. 	<p>Sanctions (typical)</p> <ul style="list-style-type: none"> • Range of sanctions including warnings, agreed undertakings, restrictions and de-registration. • May prevent a person from working within their profession due to their unsuitability for this work, or place conditions on their practise.

Findings of fact by a regulator

The DBS is required by law to treat professional regulators as ‘competent bodies’. This means that the DBS accepts their formal ‘findings of fact’ as facts in our barring decision making. Accordingly, if for example, a regulator’s finding of fact is that an allegation has no foundation and so the person’s professional registration is re-instated, in the absence of any sufficient, compelling safeguarding information to the contrary, the DBS will rely on the regulator’s ‘finding of fact’ and close the case. A list of regulators is provided below. A list of competent bodies is included in DBS Factsheet: Reviews.

Regulator referrals to the DBS

A regulator is provided with a power under the SVGA 2006 (as amended) to make a referral to the DBS if a person on their register or being considered for their register has:

- Been cautioned or convicted for an ‘automatic’ barring offence; or
- Harmed or risked harm to a child or vulnerable adult such that the regulator thinks the DBS may consider barring the person.

This means that a regulator will always be able to exercise their professional discretion and judgement in deciding whether it is appropriate to make a referral to the DBS and in deciding what information is relevant to provide. If through their own professional conduct processes a regulator effectively mitigates a safeguarding risk that arises only in the context of their profession, a referral to DBS may not be required.

A regulator will generally only consider making a referral to the DBS when they have completed their disciplinary processes and the statutory referral criteria are met.

Regulators complete their processes first

If a case comes to the attention of a professional regulator and the DBS at the same time, the DBS will, in most cases wait for the regulator to complete their professional conduct processes prior to considering the case further. The key reason the DBS waits for a regulator to complete their investigations and disciplinary process first is that the DBS has no investigatory powers and relies on information and evidence from regulators and other



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bodies.

This is how, in the majority of cases, the relationship works between the DBS and professional regulators. The exception is when DBS has sufficient, compelling information to proceed to a barring decision and it is in the interests of safeguarding children or vulnerable adults to do so. This is when it relates to a relevant (automatic barring) offence or where the DBS may hold information about the person from another source that is not being considered by the regulator or relevant to their professional conduct case.

Secure information sharing

Appropriate information sharing related to safeguarding and professional functions create the basis for a close working relationship between professional regulators and the DBS. The DBS develops information sharing arrangements with professional regulators to ensure that safeguarding information is legally, appropriately and securely shared in accordance with legislation and the Data Protection Act.

List of Professional Regulators (Keepers of Registers)

- General Teaching Council for Wales (GTC W)
- General Teaching Council for Northern Ireland (GTC NI)
- Care Council for Wales
- Northern Ireland Social Care Council
- General Medical Council (GMC)
- General Pharmaceutical Council (GPhC)
- Pharmaceutical Society of Northern Ireland (PSNI)
- General Dental Council (GDC)
- General Optical Council (GOC)
- General Osteopathic Council (GOsC)
- General Chiropractic Council (GCC)
- Nursing and Midwifery Council (NMC)
- Health and Care Professions Council (HCPC) regulates social care and 15 health professions - arts therapists, biomedical scientists, chiropodists / podiatrists, clinical scientists, dieticians, hearing aid dispensers, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, practitioner psychologists, prosthetists / orthotists, radiographers and speech and language therapists

In addition, the National College for Teaching and Leadership (NCTL) is responsible for the professional conduct of teachers in England and under its profession conduct processes may prohibit a teacher from teaching.

DBS Contacts (Barring Operations)

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