



Arolygiaeth Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru
Her Majesty's Inspectorate for Education and Training in Wales

Safeguarding checks for those undertaking work for Estyn

Policy on the use of the Disclosure and Barring Service

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Information sheet

For further advice contact: Planning and Deployment team

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This policy and its associated procedures have been agreed by Estyn's management and Trades Unions.

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This and other Estyn publications are available on our website:
www.estyn.gov.wales

Impact Assessment

A business rationale assessment has been carried out and this policy contributes to Estyn's strategic objectives and delivery principles.

In accordance with Estyn's Impact Assessment 2016, a full equality impact assessment has been carried out and this policy is not deemed to adversely impact on any people on the grounds of disability, gender or race, religion or belief, sex and sexual orientation.

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1 Introduction

- 1.1 Estyn has a duty of care to safeguard the welfare of children and vulnerable groups; in undertaking this responsibility we implement relevant statutory requirements and adopt the recommendations of key relevant Government reports such as the Bichard and Waterhouse inquiries. This policy explains how Estyn undertakes safeguarding checks, using the Disclosure and Barring Service (DBS), to help determine whether individuals are unsuitable to undertake particular work activities for Estyn so that they are prevented from undertaking such work.
- 1.2 Estyn is committed to upholding the safety and welfare of children and vulnerable groups. All individuals who work for or on behalf of Estyn must be vigilant in undertaking their work and have a duty to report any disclosures or concern they may have. This duty is explained in Estyn's 'Policy and Procedures for Safeguarding', which is available on Estyn's website www.estyn.gov.wales.

2 To whom does this policy apply

- Estyn employees and secondees (prospective and appointed)
- All individuals that are trained by Estyn and/or inspect on behalf of Estyn

3 What is the Disclosure and Barring Service (DBS) and what are the levels of Disclosure checks undertaken by Estyn?

- 3.1 The DBS provides regulated information on criminal records (referred to as disclosures) to help organisations identify candidates who may be unsuitable for certain kinds of work, and to make safer recruitment decisions, thereby minimising the risks to children and vulnerable groups. The DBS replaced the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA). Further information about the DBS service can be found [here](#).

Levels of disclosure sought by Estyn

Basic disclosure

- 3.2 This disclosure provides information about 'unspent' criminal records. This check can be requested for any role, and contains details of convictions considered 'unspent' under the Rehabilitation of Offenders Act 1974. From January 2018 a basic disclosure can be issued by Disclosure Scotland or DBS.

Enhanced disclosure

- 3.3 This disclosure provides information on spent and unspent convictions, cautions, reprimands and final warnings, plus any additional information held locally by police that is considered relevant to the role being/to be undertaken

Enhanced disclosure with barred list checks

- 3.4 This disclosure provides information on spent and unspent convictions, cautions,

reprimands and final warnings, plus any additional information held locally by police forces that is considered relevant to the role being/to be undertaken - **including a check against the appropriate barred list.**

Type of checks applicable to activity

- 3.5 All individuals undertaking 'regulated activity' (see Annex 1) on behalf of Estyn must have undergone an enhanced check under the **child workforce category** within the last three years.
- 3.6 A Basic check, only, is required for the following roles that are outside of regulated activity:
- Inspectors who inspect in the Independent Specialist College sector
 - Inspectors who inspect in the Adult Community Learning sector (Adult Learning)
 - Inspectors who inspect in the Welsh for Adults sector
 - Inspectors who inspect Local Government Education Services (LGES)
 - Estyn Corporate Services staff who shadow ad hoc inspections as part of their development

Individuals from other inspectorates/regulated bodies attending Estyn led inspections

- 3.7 Estyn will ensure (through Memorandum of Understanding) that any individual from another inspectorate/regulated body who joins an Estyn led inspection, will have undergone the relevant check appropriate to that the inspection activity.

4 How often do DBS checks need to be renewed?

- 4.1 Estyn considers a DBS check to be **valid** if it has been undertaken during the previous **three-year** period. Estyn will commence the renewal process thirty three months after the certificate issue date.
- 4.2 Estyn currently uses an independent registered umbrella body of the DBS - Due Diligence Checking (DDC), to carry out DBS checks. DDC manage all administration of DBS checks and will automatically commence the renewal process thirty three months after the date on which the individual's latest certificate was issued.
- 4.3 We notify inspectors 3 months before their DBS expires that they need to renew their DBS status. At this point we ask inspectors to identify their preferred language for completing the process (Welsh or English) which is recorded in their inspector profiles. Due Diligence will then issue the application form in the applicant's preferred language. The DBS will inform the police if a request for a disclosure reveals that a barred person was seeking to work with children or vulnerable adults.

Portability of DBS checks

- 4.4 Portability refers to a DBS disclosure obtained for a position in one organisation being re-used for another position in a different organisation. Estyn accepts DBS certificates for the role of peer inspectors (PIs) and challenge advisors (ChAIs)

deployed through a memorandum of understanding, as long as the certificate was obtained within the last three years, the type and level of check is applicable to the activity (3.5), and it was issued for the same workforce type, i.e. child workforce.

- 4.5 Since June 2013 individuals can subscribe to the DBS Update Service. The Update Service is an online subscription that allows applicants to keep their standard or enhanced DBS certificate up to date and allows employers to check the certificate online. Individuals who wish to sign up to the DBS update service must do so within 30 days of the certificate issue date. To ensure the certificate remains current the registration must be renewed every year. The cost as of January 2019 is £13 per year. The service is for standard and enhanced DBS checks only.
- 4.6 The DBS Update Service enables certificates to be portable in cases where an individual changes employment provided it is within the same workforce type and the type and level of check is applicable to the activity.
- 4.7 Estyn will check the DBS certificate of individuals subscribed to the Update Service provided a full copy of the DBS certificate is produced along with the individual's written consent to perform a status check. A status check allows Estyn to see if any relevant information has been identified about the individual since their Certificate was last issued. This reduces the need to ask individuals to apply for multiple Certificates if they move from one job to another in the same workforce or when a recheck is required.

Attendance on initial and update training events

- 4.9 Individuals invited to Estyn initial training where there is no requirement to complete part of the assessed course in a school, setting or provider, may attend without holding a disclosure certificate. However, they must submit a full copy of a valid DBS certificate at the appropriate level in order to receive confirmation that they have passed the training and are eligible for deployment on inspection.
- 4.10 If the initial training includes a requirement to complete part of the assessed course in a school, setting or provider, individuals must submit a full copy of a valid DBS certificate at the appropriate level in order to attend the training.
- 4.11 All inspectors invited to update training will require their disclosure certificate to be valid and at the appropriate level in order to attend. All delegates must provide a full copy of the original certificate.

Change of name by marriage or deed poll

- 4.12 Individuals who are to undertake regulated work for Estyn for the first time after their name has changed by marriage or deed poll will be required to undergo a new DBS

check. Estyn will not accept a certificate that has been issued under a former name.

5 Content

- 5.1 In cases where a disclosure shows content, Estyn will follow its internal review procedure, taking into consideration the Rehabilitation of Offenders Act 1974. Cases will be considered carefully by a panel of internal managers, taking into account previous deliberations and any additional information provided by the individual, in order to decide whether an offer of training, employment, appointment or deployment should be withdrawn. Any individual who is on the Barred List will not be allowed to undertake a 'regulated activity'.
- 5.2 All individuals who undertake work with or for Estyn have an obligation to keep Estyn informed of any change in circumstance that may affect their continued suitability to undertake their role.

6 Assurance and Compliance

- 6.1 Estyn will not share the personal DBS disclosure details of any of its employees or others undertaking inspection work for the organisation. If an organisation to be inspected by Estyn requests this information, Estyn will provide written confirmation that appropriate checks have been completed for all individuals before they are deployed to the inspection or visit.
- 6.2 Estyn complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of disclosure information. We also fulfil our obligations under GDPR and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information. Estyn does not retain copies of DBS certificates for longer than six months after receipt.

Annex 1: What is ‘regulated activity’

The full, legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended (in particular by the Protection of Freedoms Act 2012). Regulated activity excludes family arrangements and personal, non-commercial arrangements.

The definition of regulated activity relating to children comprises:

- (i) **unsupervised activities:** teach, train, instruct, care for or supervise children, or provide advice/guidance on wellbeing, or drive a vehicle only for children; and
- (ii) **work for a limited range of establishments:** (‘specified places’), with opportunity for contact: for example, schools, children’s homes, childcare premises. It excludes work undertaken by supervised volunteers.

Work under (i) or (ii) is regulated activity only if done regularly. ‘Regular’ means carried out by the same person frequently (once a week or more often), or on three or more days in a 30-day period (or in some cases, overnight).

The Government has provided statutory guidance about supervision of activity, which would be regulated activity if it were unsupervised.

- relevant personal care, for example washing or dressing; or health care by or supervised by a professional; and
- registered child-minding; and foster-carers.

In Wales, the work of the office of the Children’s Commissioner for Wales and inspectorates in Wales (including Estyn) are considered to be regulated activity.

What is classified as a non-regulated activity when working with children?

- Activity supervised at reasonable level
- Health care not by (or directed or supervised by) a health care professional;
- Legal advice
- Treatment or therapy
- Activity by a person contracted (or volunteering) to provide occasional or temporary services, (not teaching, training or supervision of children)
- Volunteers supervised at a reasonable level