



Disclosure and Barring Service Policy

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1. Policy Statement

- 1.1 The Council is committed to safeguarding the welfare of those accessing our services and has a statutory duty of care towards vulnerable members of society under the Safeguarding Vulnerable Groups Act (2006) and the Exceptions Order to the Rehabilitation of Offenders Act (1975). However, this duty must be carried out with due regard to all other relevant legislation including the Protection of Freedoms Act 2012, the Rehabilitation of Offenders Act (1974), the Data Protection Act (1998), the Disclosure Barring Service (DBS) Code of Practice and the Human Rights Act (1998).
- 1.2 This policy will apply to those seeking paid work or volunteering opportunities with the Council. In addition, certain types of voluntary or seasonal work, student placements, elected members, preferred contractors and other regulated positions will also come under the provisions of the policy, if they involve unsupervised contact with children or adults.

2. Key Points

- 2.1 Wyre Council 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.
- 2.2 Throughout this document where a “DBS Disclosure or check” is referred to, this covers all types of DBS check (i.e. basic, standard/enhanced/enhanced + children’s and /or adult’s barred list check).
- 2.3 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.
- 2.4 Wyre Council 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 the Council, and the continued employment of those in specific roles which require reassessment.
- 2.5 The Council obtains and makes decisions based on information provided on DBS Disclosures in accordance with the Data Protection Act, the DBS Code of Practice and the Rehabilitation of Offenders Act.
- 2.6 This policy should be read in conjunction with the Council’s Recruitment of Ex-Offenders policy and the Secure Handling and Storage of DBS Certificate Information Policy.

3. DBS Checks and when to use them

- 3.1 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 on-going 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.

3.2 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 Diagram 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 Diagram 2). This check involves a check of the police national computer, police information and the adult's 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 Diagrams 1 & 2). 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 Diagram 3). This level of check involves a check of the police national computer and police information.
- **Standard DBS Check** - used 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 children's or adult's barred lists.
- **Basic DBS Check** - A basic check can be used for any position or purpose. It will contain details of convictions and conditional cautions that are considered to be unspent under the terms of the Rehabilitation of Offenders Act (ROA) 1974.

Please note:

- You cannot apply for a DBS check for someone who is under 16 years old.

3.3 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. Human Resources must be contacted for advice in these instances.

4. Validity of DBS Disclosures

4.1 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.

- 4.2 Employees should inform their line manager immediately if following completion of a DBS Disclosure they are subsequently cautioned, charged, summonsed or convicted of a criminal offence. Failure to disclose such information may lead to disciplinary action being taken.

5. Portability of DBS Disclosures

- 5.1 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.

5.2 Update Service

The DBS have introduced a subscription service that lets individuals keep their DBS Certificate up to date so that they can take it with them when they move jobs or roles. As an employer Wyre are able to carry out instant checks, known as Status Checks, to see if any new information has come to light since the Certificate was issued.

If the individual has not subscribed to the update service Wyre will not be able to accept portable DBS Disclosures for any positions and will therefore undertake a new DBS check as part of the recruitment process.

6. DBS Disclosure requirements for those moving positions within the Council

- 6.1 Where an individual has undertaken a DBS Disclosure for a position with the Council 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. 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, and contact with, children and/or adults.

7. Frequency of DBS Disclosure checking

- 7.1 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. This will be reviewed every 3 years.
- 7.2 Where an existing worker's DBS Disclosure reveals a criminal background or any cause for concern (i.e. it is a Positive DBS Disclosure) HR will contact the manager to discuss and advise on the issues. Further guidance on Positive DBS Disclosures can be found below in 'Receipt of DBS Disclosure'.

8. Commencement of work prior to receipt of DBS Disclosure

8.1 In all circumstances every effort must be made to ensure a DBS Disclosure is obtained prior to the individual commencing work with the Council. 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 the relevant Head of Service in liaison with the Head of Business Support. Prior to seeking such approval the following must have taken place:

- HR are in receipt of all of the other pre-employment checks and these have been confirmed as being satisfactory; and
- An on-line DBS Disclosure application form has been completed; and
- HR 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.

9. Receipt of DBS Disclosure

9.1 DBS issue one copy of the DBS Disclosure which is sent to the applicant (e.g. employee, volunteer etc). Depending on the outcome of the Disclosure the Council may request a copy from the applicant.

9.2 If a positive DBS Disclosure (i.e. a Disclosure that reveals a criminal background or details that may be of concern) is received HR will contact the applicant who must ensure that they provide a copy of the Disclosure. On receipt HR will meet with the manager and advise on the next steps. The relevant Head of Service in liaison with HR must consider and approve a positive DBS Disclosure for an individual to commence/continue in employment.

9.3 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.

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

Amongst other factors, managers must consider the following:

- 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.

10. Recruiting from overseas

- 10.1 DBS 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.

11. DBS Disclosures for agency workers/contractors/sub-contractors/volunteers

- 11.1 Agency workers, contractors, sub-contractors and volunteers must be assessed against the same criteria as those working directly for the Council to see if a DBS Disclosure is required (please refer to Appendix 1).
- 11.2 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.
- 11.3 It is the responsibility of the relevant department to put appropriate measures in place to validate and ensure contract compliance.

12. Equality Impact Assessment and Monitoring

- 12.1 The operation of this policy will be monitored for its impact on different staff groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

13. Data Protection

- 13.1 In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with Data Protection requirements.

Appendix 1 – DBS Eligibility Flow Diagrams

Eligibility for DBS Check

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

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

The definitions provided in this document are to establish eligibility for a DBS check and have been developed by the Home Office in consultation with the Disclosure Barring Service (DBS), Independent Safeguarding Authority (ISA), Department of Health (DH) and Department for Education (DfE). The legislation which underpins these definitions is the Safeguarding Vulnerable Groups Act 2006 (SVGA) as amended by the Protection of Freedoms Act 2012.

Wyre 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 Wyre Council losing registered body status which would mean that we would be unable to carry on undertaking DBS checks.

Steps to establish if a DBS check is required as defined in the diagrams attached

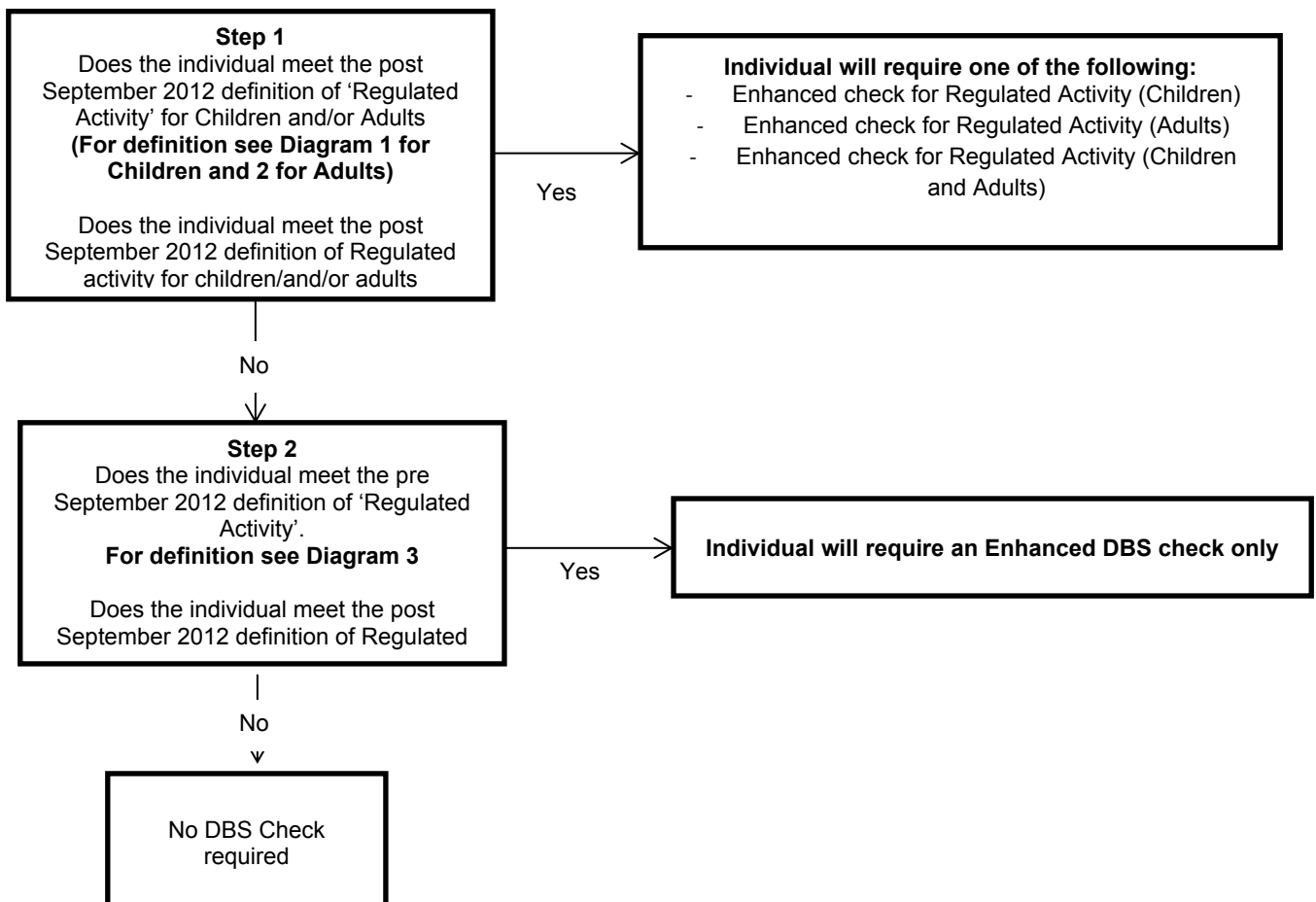


Diagram 1

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

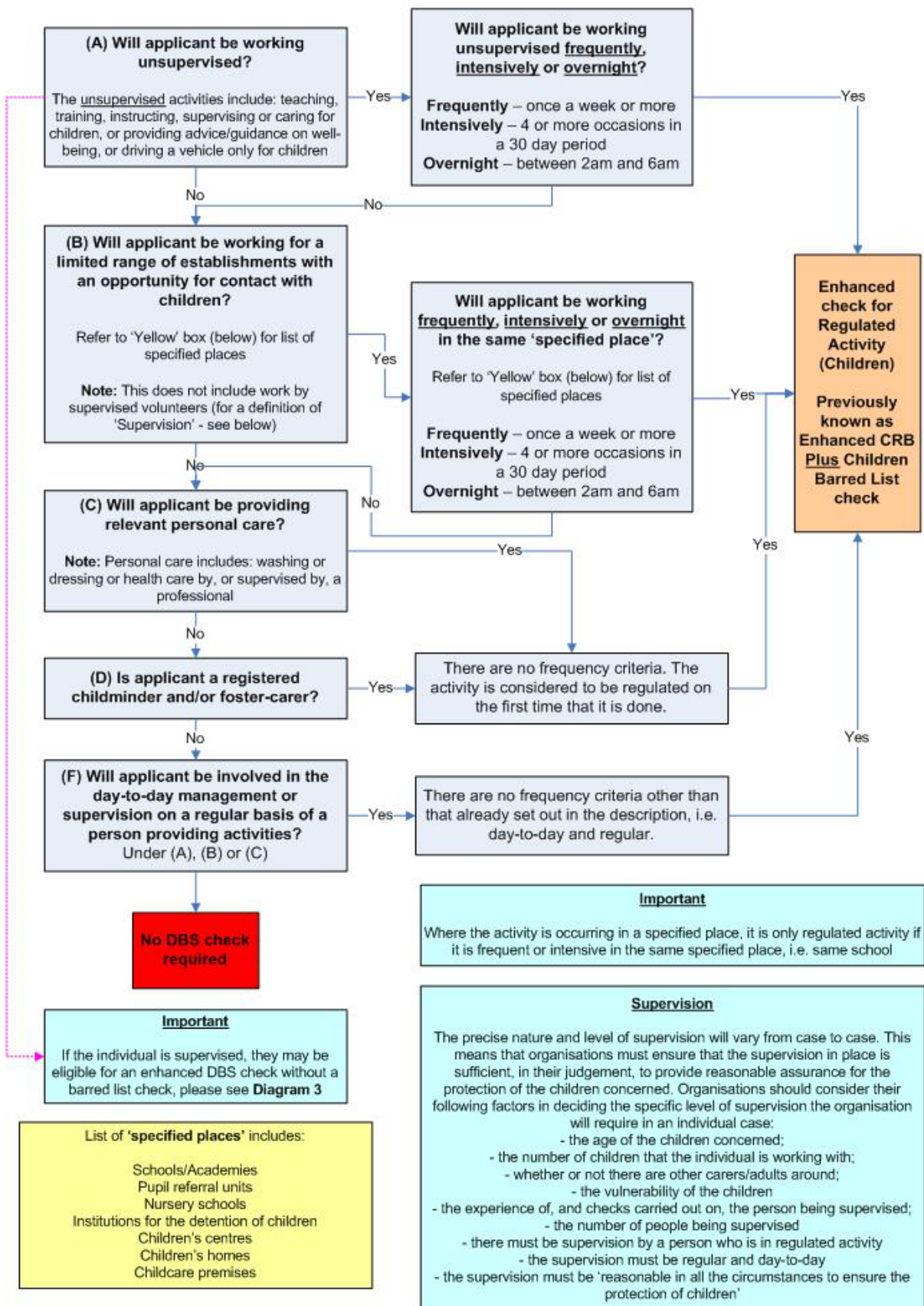
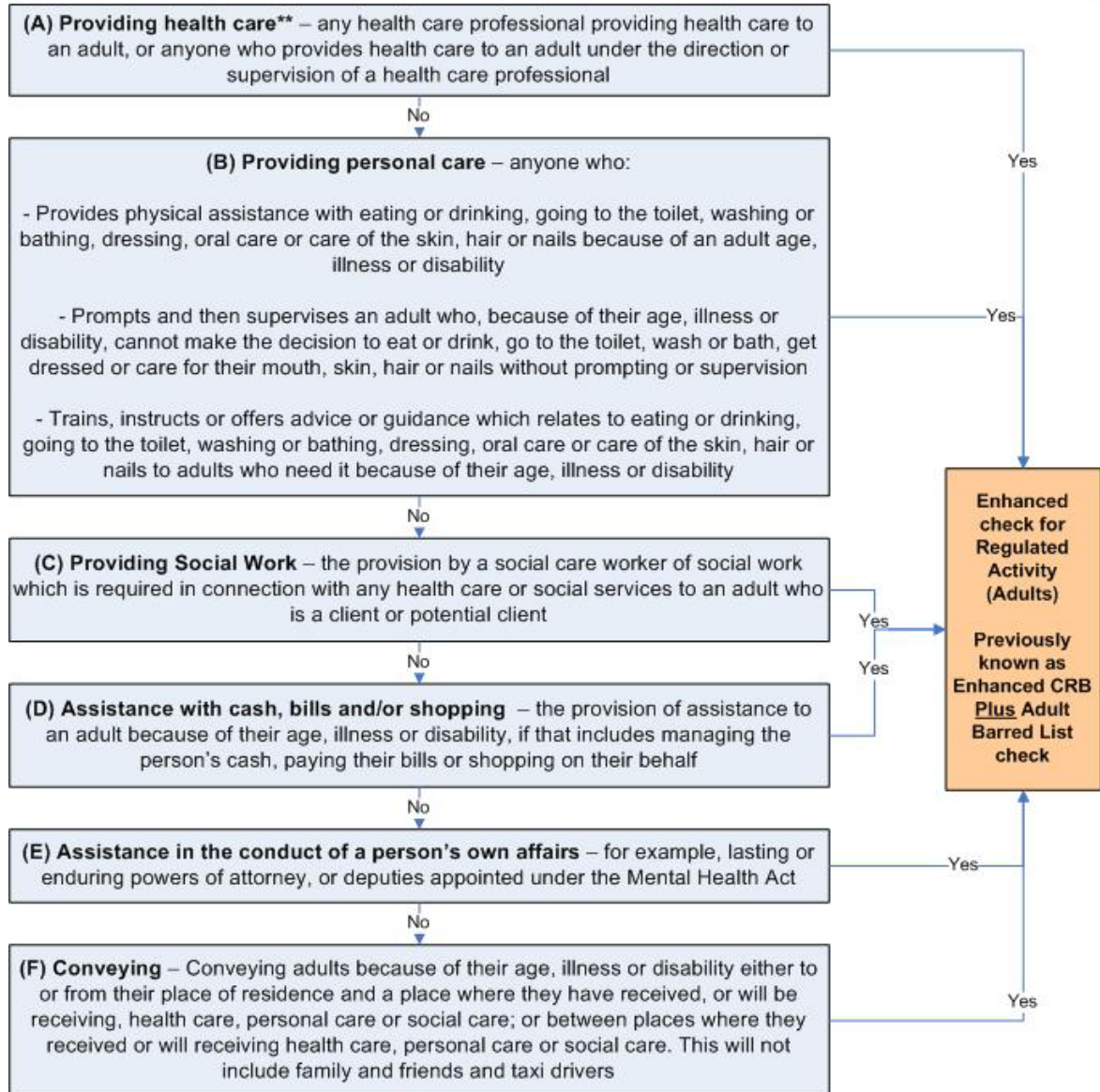


Diagram 2

**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.

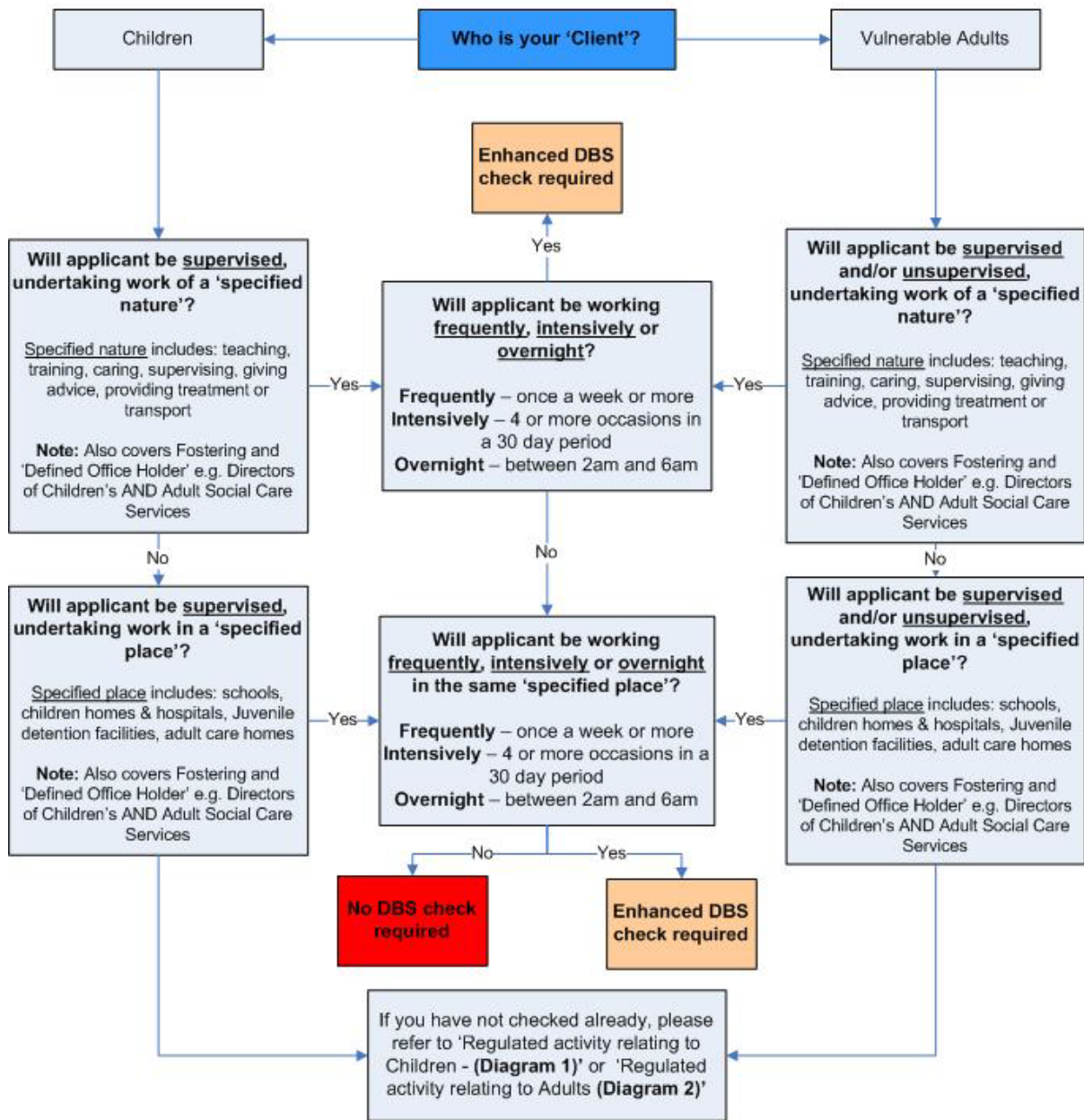


****Health Care** includes all forms of health care provided for adults, whether relating to physical or mental health, and includes palliative care. This includes diagnostic tests and investigative procedures. It also includes procedures that are similar to forms of medical or surgical care that are 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

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'