



Disclosure & Barring Service

Legitimate Interest and Information Sharing

[A guidance note for Local Authority Designated Officers \(LADOs\)](#)

Jurisdiction: England & Wales

LADOs can make information requests to DBS either under the DBS legitimate interest policy or under Schedule 2 Part 1 (5)(3) of the Data Protection Act 2018 if the information would be required in order to prevent harm to a child or adult at risk.

What does 'required in order to prevent harm' mean?

A request under the DBS legitimate interest policy and Data Protection Act 2018 needs to be for the purpose of prevention of harm. The LADO must be able to take action based on the results of the check and must be able to articulate a need for the information as it relates to their role in the management and oversight of allegations against people who work with children and adults at risk.

Legitimate Interest

The DBS may at the request of person with a legitimate interest in knowing if an individual is barred, inform that person if the individual is included in the DBS barred lists. Further information around why a barring decision was made will not be supplied.

DBS defines legitimate interest using the following three factors:

1. the sharing is in line with our purpose of preventing barred people from working with relevant groups;
2. there is no other legislative gateway for the sharing to take place. For instance, if the requester can request information under a specific section of SVGA/O or is eligible to apply for an enhanced DBS check with barred list information, they should not use legitimate interest; and
3. the requester is in a position to use the information to take appropriate action in relation to the protection of children or adults in receipt of a regulated activity.

All three of the above requirements must be satisfied.

When to make a legitimate interest request

Legitimate Interest requests should only be made when there is no other legislative provision/gateway which enables barring information to be shared.

To submit a legitimate interest request you need to complete the form at annex A, identifying why legitimate interest exists.

Data Protection Act 2018

LADOs who are involved in the management and oversight of allegations against a child or adult at risk and need information in order to prevent harm are entitled to ask for information under schedule 2 Part 1 5(3) of Data Protection Act 2018.

Data Protection Act 2018

5 Information required to be disclosed by law etc or in connection with legal proceedings

(3) The listed GDPR provisions do not apply to personal data where disclosure of the data—

- (a) is necessary for the purpose of, or in connection with, legal proceedings (including prospective legal proceedings),
- (b) is necessary for the purpose of obtaining legal advice, or
- (c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights,

to the extent that the application of those provisions would prevent the controller from making the disclosure.

Examples of requests:

Has a referral been made? Although a LADO has the power to refer to DBS, the legal duty rests with the employer. LADOs frequently encourage an employer to make a referral and if the LADO has been unable to establish from the employer whether this has been carried out, the LADO can contact DBS and ask if a referral has been made. The DBS will respond yes or no to this request. To access this information please email: contactus@dbs.gov.uk

Is this person barred? A LADO may need to know whether or not a person's name is on the barred list if that information is necessary to prevent harm by informing the investigation and management of an allegation against people who work with children or adults at risk.

A LADO may be concerned that a person has been deemed, on the balance of probability to have behaved in a way that has harmed a child or adult at risk, or may have harmed a child or adult at risk, possibly committed a criminal offence against or related to a child or adult at risk, behaved towards a child or children/ adults at risk in a way that indicates they may pose a risk of harm to children or adults at risk and has knowledge that the person is seeking to work in another authority. In these cases, the

LADO may need to know whether or not that person's name is on the barred list so that this may be shared with the LADO in the other authority as quickly as possible in order to prevent harm and progress a case in a manner consistent with a thorough and fair process.

When we will not share information:

Information about whether or not a person is on the barred list will not be shared if the requirements under legitimate interest or Data Protection Act 2018 are not met e.g. If the case is closed and the LADO is finalising the paperwork. This is because the LADO does not need this information in order to prevent harm.

To access DBS information the LADO will need to complete the form at annex A confirming the status of the case and identifying which information they require.

Annex A



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Local Authority Designated Officer (LADO) Request for Barred status.

Legitimate Interest

LADOs can make information requests to DBS either under legitimate interest or under Schedule 2 Part 1 (5)(3) of the Data Protection Act 2018 if they are involved in an on-going child or vulnerable adult protection case and the information would be required in order to prevent harm.

Under the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 and the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order (Northern Ireland) 2012, the DBS may at the request of person with a legitimate interest in knowing if an individual is barred, inform that person if the individual is included in the DBS barred lists. Further information around why a barring decision was made will not be supplied.

Request Details

Your Details

Name	
Title / Position	
Local Authority	
Address	
Your Reference Number	

Subject of Request

Name	
D.O.B.	
Address	
DBS Case Reference Number (if known)	

Do you have an open/ongoing safeguarding case in relation to the above individual? YES NO

Are you able to take direct action as a result of this check (see **Note*** below)? YES NO

Please state your current involvement with the individual (provide a brief chronology)

What further safeguarding actions do you intend to carry out as a direct result of being informed of this information? (see **Note*** below)

Note* The request needs to be for the purpose of prevention of harm. The LADO must be able to take action based on the results of the check and must be able to articulate a need for the information as it relates to their role in the management and oversight of allegations against people who work with children and adults at risk.

