

Frequently asked questions: Enhanced Disclosure and Barring Service (DBS) checks and fit and proper person requirement (FPPR)

Fit and proper person requirement checks need to be undertaken on all 'directors or equivalent'. Where a provider has a board, this means board members. Where a provider does not have a board, this means the equivalent of board members. For the purposes of this document we are using the term 'directors' to cover this.

What are the types of DBS checks?

There are three types of checks. These are:

- **Standard checks** – To be eligible for a standard level DBS certificate, the position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.
- **Enhanced checks** – To be eligible for an enhanced level DBS certificate, the position must be included in both the ROA Exceptions Order and in the Police Act 1997 (Criminal Records) regulations.
- **Enhanced checks with children's and/or adults' barred list check(s)** – To be eligible to request a check of the children's or adults' barred lists, the position held must be eligible for an enhanced level DBS check and undertake 'regulated activities' that are covered by the barred list. The regulated activities are contained in the Protection of Freedoms Act 2012, which can be accessed [here](#).

Do providers need to undertake DBS checks on directors?

We expect providers to undertake a DBS check on directors where the position and role meet the [eligibility criteria](#) for a DBS check. Providers should consider on a case-by-case basis whether their directors meet the criteria. The criteria will help a provider to decide whether a check is required at all and, if so, whether it should be a standard DBS check or an enhanced DBS check.

Where the criteria for a check is met, there is additional guidance here to help you decide whether to undertake a standard or enhanced check depending on whether you work with [adults](#) or [children](#), or both.

Do providers need to undertake an enhanced checks with children's and/or adults' barred list check(s)?

For this level of check, a director would need to be acting in a role that falls within the criteria for an enhanced check described in the above documents for adults and children **and** their responsibilities include undertaking a "[regulated activity](#)" that would fall within the scope of the barring list(s) as defined by the Safeguarding Vulnerable Groups Act 2006 and as amended by the Protection of Freedoms Act 2012 (PoFA).

Where can I get further advice from?

The DBS can assist in helping you to decide whether the director position requires a DBS check and at what level. This advice is provided from their website:

“If you remain unsure about whether a position in your organisation is eligible for a criminal record check through DBS, you may want to consider obtaining legal advice. You can also email our [customer services team](#) for further advice; please include the job specification and the roles and duties of the position. DBS customer services may not always be in a position to provide you with a definitive answer about eligibility but will provide you with references to help you to make an informed decision about the role.”

Do providers only have to undertake DBS checks to make sure directors meet the FPPR?

No – the DBS check only tells us whether or not a person is prohibited from working with vulnerable adults/children and whether they have a criminal record. Where a director’s DBS check has been undertaken and no offence or information of concern has been found, providers still need to satisfy themselves that none of the other criteria of unfitness (such as being an undischarged bankrupt or being a disqualified director) applies to bar a director from holding such a position. They also need to establish whether the director is prohibited from holding the office in question under other laws such as the Companies Act or Charities Act.

Please refer to [regulation 5](#) for the full checks providers need to consider.

What do providers need to do to meet the FPPR where a director doesn’t meet the DBS eligibility criteria?

There are no plans to revise the present DBS eligibility criteria or broaden its scope. This means that DBS checks and barring list checks do not ordinarily need to be made on directors who do not meet the eligibility criteria as it currently stands.

This means, to satisfy FPPR where a director is ineligible for a DBS check, providers are still expected to carry out other relevant checks (for example, providers would need to carry out appropriate checks to satisfy themselves that a director has the necessary qualifications and experience, and is not an undischarged bankrupt).

Please refer to [regulation 5](#) for the full checks providers need to consider.

What do providers need to do to meet the FPPR for directors?

In relation to directors, CQC’s role is to assess that the provider has a proper process in place to enable us to make the robust assessments of directors or equivalent required by the FPPR – on recruitment and on an ongoing basis. CQC makes this assessment:

- a) at registration for aspirant registrants
- b) where information of potential concern arises which triggers our review process.

At registration, the information providers are required to submit is specified in the application form and this includes a declaration of directors’ fitness. It is for the provider to identify the checks required by [regulation 5](#) and, in applying those checks, to determine whether a director is fit or unfit. It is not CQC’s role to make checks on individual directors, but on the provider’s process for making their assessments of directors.