Safeguarding Guidance: Harmful Behaviour Outside the Workplace and DBS Referrals

Safeguarding is not limited to what happens within the workplace. Harmful behaviour that occurs in personal, domestic, or social settings can have serious implications – particularly for those working in regulated activity with children or adults. The Disclosure and Barring Service (DBS) considers whether such behaviour demonstrates an inclination **to harm**, and whether that harm could **transfer into paid or voluntary roles**.

Understanding Harmful Behaviour

Harmful behaviour refers to actions, or omissions that result in a negative impact on others. This can include but is not limited to physical violence, verbal and emotional abuse, neglect, manipulation, or exploitation.

The key safeguarding concern is not just the behaviour itself, but its **impact on others** and the **risk of recurrence** when carrying out regulated activity. Transferrable harm can appear differently across varying sectors and organisations should consider how harmful behaviour in a context out of work could potentially transfer into the workplace, and impact vulnerable groups.

Examples of Harmful Behaviour and Transferability

- **Domestic Abuse**: Individuals who use violence or coercion to gain control in personal relationships may pose a risk of using similar tactics in professional settings. A short temper or belief that violence earns respect could be exacerbated by the pressures of carrying out regulated activity in the workplace.
- **Neglect of Children**: A person who struggles to meet the basic care needs of their own children may lack the capacity to provide safe and responsible care for others. This is particularly relevant in roles involving caregiving or supervision.
- **Financial Exploitation**: Those who manipulate or steal from others for personal gain may see people in settings where they are receiving regulated activity as easy targets. This behaviour would pose a direct safeguarding risk.

When considering harmful behaviour that occurred outside the workplace, if this then results in an individual being removed from their role in regulated activity, then the duty to refer would exist and the individual should be referred to DBS.

Gross Misconduct and referrals to DBS

If an individual has been removed from their regulated activity role because the employer became aware of police intelligence the duty to refer should still be considered. This could be instances where the individual received a caution or conviction outside of their place of work but had not disclosed this information to their employer.

If the employer decides the dismissal is because of gross misconduct or gross negligence for not sharing important information, they must still ask: *If the employee had told us about this, would we still consider them suitable to work in regulated activity with vulnerable groups?*
If the answer is *no*, then the legal duty to refer to the DBS applies and a referral must be made.

When to Consider a Referral

If you are aware of harmful behaviour that has occurred outside of the workplace and believe it may affect someone's ability to safely engage in regulated activity, **you should consider telling DBS about it**. DBS will assess whether the behaviour is likely to transfer into professional settings and pose a risk to children or adults.

Duty to Refer

Regulated Activity Providers and Personnel Suppliers have a legal duty to refer an individual to DBS when specific conditions are met. This duty applies even if a report has already been made to another body, such as a local authority safeguarding team. For more information on when the legal duty to refer exists, please see: Making barring referrals to DBS - GOV.UK

There are occasions where a person may not have engaged in relevant conduct, but there are still serious concerns which satisfy the harm test. To satisfy the harm test there needs to be credible evidence of a risk of harm to vulnerable groups, including children.

If your situation does not meet the legal duty to refer, you can still make a referral on safeguarding grounds. Please seek your own legal advice when doing this.

Conclusion

Safeguarding is about **preventing harm before it happens**. Recognising harmful behaviour outside the workplace and understanding its potential to transfer into regulated activity is essential. By acting appropriately and making referrals when necessary, professionals can help protect those most at risk.

For more information and support

If you have any questions or would like any further support, please contact your DBS Regional Outreach Adviser or send an email to us at dbsregionaloutreach@dbs.gov.uk