

Duty to Refer

The Safeguarding Vulnerable Groups Act 2006 places a duty on Parochial Church Councils (PCCs) to make a referral to the Disclosure & Barring Service when they have dismissed or removed a person from working, either paid or unpaid, with children, young people and / or vulnerable adults because their behaviour has:

- caused concern.
The type of behaviour which would cause concern is referred to as 'relevant conduct' by the Disclosure & Barring Service and is defined below.
- raised concerns in respect of harm they have caused, either by action or inaction (neglect), or potentially could cause in the future to a child or vulnerable adult.
The type of harm which may cause concern is detailed in what the Disclosure & Barring Service refer to as the 'Harm Test' and is defined below.

and / or an individual has:

- received a caution or conviction for a relevant offence.
A relevant offence is a serious criminal offence which qualifies a person for automatic inclusion in the 'barred' lists; (e.g. the rape of a child)

The duty to refer if any of the above reasons applies exists if the person was not actually dismissed or removed but would have been if they had not resigned, retired, been made redundant, transferred to other activity or left the parish etc before the PCC could dismiss or remove them. A referral must also be made where the PCC fails to appoint a candidate to a role for any of the above reasons

This duty is unlikely to arise very often but it is important when it does occur, because failure to comply is a criminal offence.

How to refer

- Referrals should be made using the Disclosure & Barring Service's online referral form¹ If a referral becomes necessary the PCC or its representatives² should contact the Bishop's Safeguarding Advisers in the first instance. The Bishop's Safeguarding Advisers MUST be advised of all referrals that have been made within 24 hours. Copies of referrals to the Disclosure & Barring Service should be provided to local police.
- The above refers to the PCCs statutory duty to make a referral. However, it is important to remember that safeguarding vulnerable groups is the responsibility of us all and that anyone can and should report an individual if their behaviour is such that they believe that the individual has caused or is likely to cause harm to a child or vulnerable adult. Such referrals should be made directly to social services or to the police and the Bishop's Safeguarding Advisers MUST be informed within 24 hours.

¹ <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>

² e.g. incumbent/priest-in-charge, parish safeguarding co-ordinator, church warden or PCC safeguarding lead

What is relevant conduct?

Relevant conduct is defined by the Disclosure & Barring Service as conduct that falls into any of these categories:

- *it endangers, or is likely to endanger, a child or vulnerable adult;*
- *it is conduct that, if repeated against a child or vulnerable adult, would endanger them or be likely to endanger them;*
- *it involves sexual material relating to children (including possession of such material);*
- *it involves sexually explicit images depicting violence against human beings (including possession of such images);*
- *Inappropriate conduct of a sexual nature involving a child or vulnerable adult.*

What is the harm test?

The Disclosure & Barring Service defines the Harm Test as satisfied if, in the view of the relevant person or body (e.g. the PCC), an individual:

- *may harm a child or vulnerable adult;*
- *may cause a child or vulnerable adult to be harmed;*
- *puts a child or vulnerable adult at risk of harm;*
- *attempts to harm a child or vulnerable adult; or*
- *incites another to harm a child or vulnerable adult.*