

Safer Recruitment & People Management Guidance

Frequently Asked Questions (FAQs)

Question	Answer
<p>What is the difference between the Requirements, the Good Practice Advice and the Toolkit?</p>	<p>The Requirements are safeguarding guidance issued by the House of Bishops under section 5 of the Safeguarding and Clergy Discipline Measure 2016.</p> <p>Under Section 5 of the Safeguarding and Clergy Discipline Measure 2016, all authorised clergy, bishops, archdeacons, licensed readers and lay workers, churchwardens and parochial church councils (PCC) must have “due regard” to safeguarding guidance issued by the House of Bishops.</p> <p>The Safeguarding and Clergy Discipline Measure 2016 applies to the whole of the provinces of Canterbury and York (including the Diocese in Europe subject to local variations/modifications), with the exception of Jersey.</p> <p>A duty to have “due regard” to safeguarding guidance means that the person under the duty is not free to disregard it but is required to follow it unless there are cogent reasons for not doing so. ‘Cogent’ for this purpose means clear, logical and convincing.</p> <p>Failure by a member of the clergy to have “due regard” to House of Bishops’ safeguarding guidance is an act or omission which may be considered to be misconduct under the Clergy Discipline Measure 2003 (‘CDM’).</p> <p>Failure by a licensed reader or lay worker to have due regard to House of Bishops’ safeguarding guidance may be grounds for the revocation of that licensed reader’s or lay worker’s licence by the bishop.</p> <p>Failure by a churchwarden or PCC to have due regard to House of Bishops’ safeguarding guidance may result in an investigation being carried out by the Charity Commission and the churchwarden or PCC members may be subject to disqualification as charity trustees.</p>

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	<p>The Good Practice Advice is advice and explanation to support Church bodies¹ in delivering the Requirements to a good standard. The Good Practice Advice explains why the Requirements are necessary, how the Requirements might be delivered and sets out some good practice examples.</p> <p>The Toolkit provides templates that can be used where there are none already in existence. Recognising the challenges that some Church bodies will need to manage in respect of volunteers, many of the resources contained in the Toolkit are for volunteer roles.</p> <p>Whilst the Good Practice Advice and Toolkit should be considered as good practice to be followed, the duty to have “due regard” under section 5 of the Safeguarding and Clergy Discipline Measure 2016 does not apply to these parts.</p>
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¹ “Church bodies” include parochial church council (PCCs), diocesan bodies (including Diocesan Boards of Finance (DBFs) and Diocesan Boards of Education (DBEs)), cathedrals, religious communities, theological educational institutions (TEIs) and the National Church Institutions (NCIs). This policy will apply to the whole of the provinces of Canterbury and York (including the Diocese in Europe subject to local variations/modifications). There is also an expectation that the policy will apply to the Channel Islands and Sodor and Man unless there is specific local legislation in a jurisdiction that would prevent adoption.

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<p>To whom does the Safer Recruitment & People Management Guidance apply?</p>	<p>The Requirements in this Guidance must be followed for the appointment of all roles within a Church body that involve substantial contact with children and/or vulnerable adults. This includes senior clergy as well as parish priests and all those in other roles, whether paid or voluntary. With such a variety of roles across the Church of England, the wording of the Requirements may not fit exactly in relation to a particular role, but the principles should always be made to apply.</p> <p>The Requirements apply to the whole of the provinces of Canterbury and York (including the Diocese in Europe subject to local variations/modifications). There is also an expectation that the Requirements will apply to the Channel Islands and Sodor and Man unless there is specific local legislation in a jurisdiction that would prevent adoption.</p> <p>The Requirements also apply to relevant roles that are performed outside of England, for example where individuals belonging to a Church body participate in overseas/link work. It will also apply to those from other countries who are coming to work in a relevant role and includes exchange programmes.</p>
<p>How do I assess whether a role is eligible for an enhanced DBS with/without barred list check?</p>	<p>Section 9 of the Toolkit lists various positions that <i>may</i> be eligible for an enhanced DBS with/without barred list check.</p> <p>However, it <i>must</i> be noted that it also states that the lists are indicative and not exhaustive due to the complexity of the Church of England and local variations in approaches, titles and roles (e.g. the same role can be termed differently in another diocese). Therefore, to establish whether a role is eligible for any form of enhanced DBS check, a Church body must carry out their own analysis and assess the specific nature of the duties being carried out.</p> <p>Broadly speaking, you need to consider the following:</p> <p>Children Is it an unsupervised role that teaches, trains, instructs, care for or supervises children or provides advice/guidance on physical, emotional or educational well-being to children on a</p>

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	<p>frequent (once a week or more), intensive (4 days or more in any 30 day period) or overnight basis (between 2am-6am)?</p> <p>If yes, then the individual is engaged in “regulated activity” and would be eligible for an enhanced DBS check with barring information in relation to children.</p> <p>If the individual is carrying out the activities but does not satisfy the frequency test or period condition and/or are supervised, then they will be eligible for an enhanced DBS check but without barring information in relation to children.</p> <p>Adults</p> <p>Is it a role that means the individual is carrying out one of the 6 categories of activity (i.e. health care, personal care, social work, assisting with cash, bills or shopping, assistance with affairs (e.g. under a Lasting Power of Attorney) or transportation)?</p> <p>If no, then it is not “regulated activity” and there is no eligibility for an enhanced DBS check with barring information in relation to adults.</p> <p>If the individual provides training, teaching, instruction, assistance, advice or guidance to an adult who receives a health or social care service (e.g. is in a care home or receives any form of care or assistance due to age, illness or disability) or a “specified activity” (e.g. in prison), on either a frequent (once a week or more), intensive (4 days or more in any 30 day period) or overnight (between 2am-6am) basis, then they will be eligible for an enhanced DBS check but without barring information in relation to adults.</p> <p>Please note this is only a broad summary. For full details you <i>must</i> refer to the SRPM Guidance and if necessary seek legal advice.</p> <p>If you have a query on the eligibility for a particular role, then all formal legal advice on which you intend to rely should be sought from your diocesan registrar or own lawyer.</p> <p>If an umbrella body is used (e.g. 31:8), then they may be able to assist with eligibility queries.</p>
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	<p>Further advice can be found here – https://www.gov.uk/government/collections/dbs-eligibility-guidance which includes the DBS Eligibility Tool.</p> <p>The DBS also provides a customer service helpline, details of which can be found here: Disclosure and Barring Service - GOV.UK (www.gov.uk)</p> <p>and have a regional outreach service that Church bodies can access: The DBS Regional Outreach service - GOV.UK (www.gov.uk).</p> <p>If a role does not meet the criteria for any form of enhanced DBS Check that does not mean the other principles of safer recruitment cannot be applied.</p>
Can we carry out basic DBS checks?	<p>There are no eligibility requirements attached to basic DBS checks (in the legislation termed “criminal conviction certificates”) and their use is left to local determination. If basic DBS checks are to be used then diocesan policy should set out when such checks will be requested, as well as the lawful basis for requesting them from a data protection point of view, and ensure individuals are made aware of this at the start of any application process. It should not be forgotten that basic DBS checks reveal unspent criminal conviction information only and therefore, their usefulness is relatively limited.</p> <p>The Church of England Confidential Declaration form <i>cannot</i> be used for roles which are only eligible for basic DBS checks This is because, as already noted, basic checks only reveal unspent criminal conviction information, and you cannot request information about “spent” convictions. A revised confidential declaration form would need to be used in this situation, for which legal advice would be required as well as advice from the data protection lead.</p>

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<p>What level of DBS check are clergy eligible for?</p>	<p>All ordained clergy with authority to exercise their ministry (including those with Permission to Officiate) in accordance with Canon C8 of the Church of England Canons (“Of ministers exercising their ministry”) are and will be eligible for an enhanced DBS check with barred list checks in relation to both children and adults.</p> <p>This policy requirement was agreed at a series of meetings with Government officials in 2012/3.</p> <p>The basis for this is that a member of the clergy, once ordained, is expected to provide a range of services including pastoral care when exercising his/her ministry. So, where a person is ordained and has the authority to exercise his/her ministry, he/she will have the authority required to undertake work which is “regulated activity”. It is recognised that a cleric could be called upon to undertake such work at any time without any further accreditation or approval process. Such an individual is therefore deemed to be part of the workforce carrying out “regulated activity” irrespective of the remit of his/her current post or the nature of his/her current role.</p> <p>A member of the clergy in the Church of England who does not have authority to exercise his/her ministry in accordance with Canon C8 would not be automatically engaging in “regulated activity” and will not be eligible for an enhanced DBS Check with barred list check.</p>
<p>Does a Confidential Declaration Form (CDF) need to be completed every time a DBS check is carried out?</p>	<p>There is no obligation (legal or policy) for a new CDF to be completed each time a new DBS is applied for or the DBS Update service accessed.</p> <p>From a good practice point of view, it can make some sense to renew a CDF at the same time as a DBS renewal because you would then have a contemporaneous DBS Check and CDF.</p> <p>If such a practice is adopted, then diocesan policy should reflect this to ensure consistency across the diocese.</p>

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When should a Confidential Declaration Form (CDF) be completed as part of the recruitment process?

Essentially, this is about using personal data appropriately and following the principles of data protection. There is nothing in legislation preventing you from requiring completion of the CDF at an early stage provided you have sufficient justification/legitimate purpose for requesting such information at the outset of the recruitment process. It is also important that you have been transparent with applicants so that they are fully aware of your policy/procedure, (reference should be made, for instance, in any Privacy Notice which covers the recruitment process).

The CDF is about obtaining information from individuals who are going to work in roles where they will be working with the vulnerable, so this can be discussed at interview and if necessary, risk assessed. It gives the candidate an opportunity to explain, so that ex-offenders are not necessarily automatically excluded from roles.

There may be some sense from an administrative point of view in not asking candidates to fill out the CDF until they are shortlisted for interview ie. less paperwork. From a safeguarding perspective requesting the information at that point should not generate any more risk to vulnerable people. However, you could have a candidate that you don't shortlist as a result of their responses on the CDF because that candidate is completely inappropriate from a safeguarding perspective. You need to be clear with candidates that this can happen and of course, give candidates an opportunity to explain.

Additionally, if you only request CDFs to be completed by shortlisted candidates, or even later in the process, then you may have a situation where a candidate is applying for a "regulated activity" (as defined under the Safeguarding and Vulnerable Groups Act 2006 (as amended)) role and they are barred from that activity by the DBS. If you didn't ask the candidate to complete the CDF until after they were shortlisted for interview – or later - you would not know that they were barred until you had called them for interview. If a person is barred you would not be interviewing/shortlisting the person for a "regulated activity" role. Indeed, it would be a criminal offence to employ such a person in "regulated activity", (it would also be a criminal offence for him/her to apply). By asking candidates to complete a CDF earlier in the process you avoid such an eventuality arising.

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	<p>Essentially then, the key element here is transparency. Be open and up front with your applicants and ensure that you have a legitimate purpose for collecting information. Make it clear to all applicants what information will be sought and how you will use that information in your decision-making process, including the opportunity for candidates to explain. You need to have a retention policy about storing the information, (whether a candidate is successful or not). If you are unsure, please discuss such issues with your data protection lead and/or diocesan registrar.</p>
<p>When are clergy (including those with Permission to Officiate (PTO)) eligible for an enhanced DBS check with the “at home” provision included?</p>	<p>The DBS define a “home-based position” as:</p> <ul style="list-style-type: none">• the applicant carries out some or all of his or her work with children or adults from the place where the applicant lives; or• the applicant lives in the household of someone who is being or has been checked because that person works with children and carries out some or all of the work from home. <p>If a member of clergy meets this criteria, then you can place a cross in the “yes” box in field x66 of the DBS application form.</p> <p>It may be that <i>most</i> clergy will fall into the category of home-based working.</p> <p>Clergy resident in a vicarage will probably have a home office in their home where they welcome all visitors and/or use their vicarage to meet people. However, this is not always the case – others may not meet anyone at their home; having an office elsewhere, e.g. connected to the actual church building or church hall, where they meet people.</p> <p>Therefore, an analysis of the role still needs to be carried out to ensure that it satisfies the DBS definition i.e. that individuals must be actually having substantial contact with children and/or vulnerable adults in their homes – writing up notes of a meeting will not count!</p> <p>Further advice can be found here -</p>

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	https://www.gov.uk/government/publications/dbs-home-based-positions-guide/home-based-position-definition-and-guidance
What level of DBS check should a person standing for election as a Churchwarden or as a member of the PCC have?	<p>What, if any, level of DBS check is appropriate for a churchwarden or member of the PCC will depend on the status of the PCC. It is not a requirement to carry out enhanced DBS checks on all churchwardens and members of the PCC because it depends on the nature of the arrangements in that particular Church body – therefore the decision is left to local determination.</p> <p>PCC members are not by virtue of their membership of the PCC engaging in ‘regulated activity’ (as defined) with children or vulnerable adults and are therefore not eligible for enhanced DBS disclosures with barred list check on that basis.</p> <p>In fact, PCC members (including churchwardens) are not necessarily eligible for anything other than a basic DBS check, which would reveal unspent criminal conviction information only, and to require a person who is not eligible to apply for an enhanced DBS check when the role they are fulfilling is not eligible is a criminal offence - an incumbent or diocesan official who asked a PCC member to apply for an enhanced check would be guilty of that offence.</p> <p>PCC members would only qualify for enhanced DBS checks without barred list check, if the PCC itself qualifies as a children’s or vulnerable adult’s charity, as per the statutory definition, or if an individual PCC member was undertaking work with children or vulnerable adults, (he/she may even be in “regulated activity” depending on the nature of the work).</p> <p>Churchwardens are ex officio members of the PCC, so where the PCC qualifies as a children’s or vulnerable adult’s charity then the churchwardens, along with all other members of the PCC as trustees of a children’s or vulnerable adult’s charity, would be eligible for an enhanced DBS check without barred list check.</p> <p>If a charity carries out work with children or vulnerable adults then the Charity Commission states that <i>“whenever there is a legal entitlement to obtain a DBS check in respect of such a trustee, a check should be carried out”</i>. As stated above, this is usually an enhanced DBS</p>

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check without a barred list check. The trustee does not need to work with children or vulnerable adults themselves in order to be eligible for this check – they are being checked because of the work of the charity.

It should be noted that there is no legal obligation on charities to require their trustees to apply for DBS checks - the Charity Commission *recommends* that they do so. Therefore, neither the diocese nor the incumbent has any legal power to require a PCC member to apply for a DBS check and a person who is elected to a PCC under the Church Representation Rules (and who is not disqualified), or who is chosen as a churchwarden under the Churchwardens Measure 2001 (and is not disqualified), is a member of the PCC and cannot be removed for refusing to apply for a DBS check.

It should not be assumed that all PCCs fall within the definition of a children's or vulnerable adult's charity. Indeed, there can be no blanket approach when it comes to deciding whether or not a PCC is a children's/vulnerable adult's charity. It will require a very careful analysis to establish whether the PCC falls within the relevant definition – this may occur, for instance, where the PCC has entered into an employment contract with a youth worker to run a youth club or other children's activities or if the PCC operated a pre-school or there were similar formalised arrangements for vulnerable adults, e.g. the PCC employed a worker to provide a regular care service to adults who receive a health or social care service.. You are advised to seek advice from your registrar in relation to such matters.

Appropriate checks should be carried out after the relevant individual is elected to his/her post. Where relevant, it should be made clear to all nominees prior to any election that if elected appropriate checks will be carried out. If it is discovered after the election that an individual is barred or has committed an offence under Schedule 1 Children and Young Persons Act 1933, consideration can then be given to what action to take in consequence. That might mean that the person is disqualified so his/her seat will be vacated but it could also mean, that the Bishop considers using his/her waiver (after seeking advice), if not barred but has committed an offence contained in the 1933 Act.

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<p>Does the declaration replace the Confidential Declaration Form (CDF) for elected roles?</p>	<p>Prior to PCC election, an individual must confirm that they are not disqualified from standing (e.g. on the PCC Nomination Form), which includes confirming they are not on the barred lists.</p> <p>Even if an individual, as part of their elected role, will be working with children and/or vulnerable adults, it must be noted that, as per the Church Representation Rules and Churchwardens Measure 2001, the appointment to an elected office is not conditional upon the receipt of satisfactory DBS checks or references and once elected, the person concerned is validly elected to his/her office.</p> <p>Following election, consideration should be given as to whether the individual, as part of his/her elected role, will be working with children and/or vulnerable adults.</p> <p>If yes, then the safer recruitment process must be followed and such work not undertaken until all appropriate checks have been completed. This will include completion of a CDF, as well as appropriate DBS checks. (Enhanced DBS checks could also be carried out, if the PCC qualifies as a children's or vulnerable adult's charity and it is the policy of the relevant PCC to carry out such checks of its members. Similarly basic DBS checks could be carried out if that is the policy of the PCC).</p> <p>This should be made clear to all relevant nominees prior to any election and should include an explanation that if the checks reveal anything of concern then consideration will be given to what action can be taken as a consequence, including consideration of whether that person is disqualified from the relevant role.</p> <p>Therefore, if appropriate, it does mean that an individual could complete the usual nominee declaration prior to election and then after having been elected complete a CDF, if this is appropriate to the role (along with any relevant DBS check).</p>
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<p>What about DBS checks on volunteer 'young helpers'?</p>	<p>DBS checks cannot be carried out on anyone under the age of 16. Whilst that is only one aspect of safer recruitment, obviously this would prevent anyone under the age of 16 from performing a role where a DBS check was requested.</p> <p>Those individuals who are under 16 years of age could be helping/shadowing/acting as an additional team member but must always be supervised by someone who has been safely recruited.</p> <p>Those in the 16/17 age bracket can have a DBS check and therefore could engage in a role that requests such a check – whether this is felt to be appropriate is a matter of local determination, as possible scenarios will vary from setting to setting. If 16/17 year olds are permitted to volunteer in such roles then it is expected that the Safer Recruitment & People Management policy applies to them in the same way as it would be for any other individual carrying out such a role.</p> <p>All volunteers engaging in children's/vulnerable adult's work must undertake the relevant Church of England safeguarding training and commit to adhering to the relevant policies. Where under 16s are involved, the Church body must satisfy itself that the individual is capable of undertaking safeguarding training, which does include descriptions of types of abuse, reporting procedures and advice on physical contact etc.</p> <p>All of the above must be considered against the backdrop of the under 18 volunteer/worker being considered a vulnerable person themselves in the context of safeguarding.</p>
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<p>Under the Safeguarding and Clergy Discipline Measure 2016 the parish secretary and treasurer of the PCC will be disqualified from acting in these roles if they are on a DBS barred list(s) or are convicted of an offence under Schedule 1 of the Children and Young Persons Act 1933.</p> <p>Does this mean that they are eligible for enhanced DBS checks?</p>	<p>No. Generally they will not be eligible for any form of enhanced DBS check unless they are actually members of a PCC, which is a children/vulnerable adult charity and they are, therefore, charity trustees of such a charity. In such a case, they will be eligible for an enhanced DBS check without barring information.</p> <p>They are, however, unlikely to be eligible for an enhanced DBS check with barring information (i.e. they will not be in regulated activity) and you will have to rely on an individual voluntarily disclosing whether or not he/she is barred.</p> <p>If the “secretary” and/or “treasurer” are not PCC members (or the PCC does not qualify as a children’s/vulnerable adult’s charity) they will only be eligible for a basic DBS check which will reveal unspent criminal conviction information only.</p>
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<p>Under Canon B43, a minister, who is member of a Church to which the Church of England (Ecumenical Relations) Measure 1988 applies (e.g. the Baptists, Methodists, Roman Catholics, URC, Moravians etc.), can be invited to perform certain duties, if the minister is authorised to carry out such duties in his/her own Church. An invitation to perform such duties may be given by the minister but only after he/she has “...made such enquiries as are appropriate in all the circumstances...[and] is satisfied that the minister or lay person is of good standing...”</p> <p>What does this mean? Are visiting preachers from churches nor part of the Church of England required to have a DBS check?</p>	<p>A “visiting preacher” will not be eligible for an enhanced DBS check if all he/she is doing is preaching at a church service for members of the public. Nevertheless, that does not stop a minister from asking the “visiting preacher” whether he/she is eligible for an enhanced DBS check in his/her current role at his/her Church and if so, has he/she had one, (this could also be checked with the “visiting preacher’s” Church – i.e. a reference sought from the relevant “line manager”).</p> <p>Indeed, to be “<i>of good standing</i>” and “<i>authorized to perform a similar duty</i>” in their own Churches, “visiting preachers” are likely to have had an enhanced DBS Check, which has been cleared by the relevant individual in his/her Church. Of course, even if not eligible for an enhanced DBS Check, a “visiting preacher” would still be eligible for a basic DBS check. A failure to carry out any enquiries and check that the invitee “<i>is of good standing</i>” could well result in disciplinary proceedings under the Clergy Discipline Measure 2003.</p> <p>In relation to the Scottish Churches, where a visiting preacher from one of the Scottish Churches will temporarily be engaging in regulated activity, he/she will be required to have a DBS Check (with barring information). In other cases, PVG clearance will suffice (as, outside regulated activity, the PVG Scheme will be regarded as an acceptable alternative).</p> <p>In certain situations, the bishop’s approval is also required, as is the approval of the PCC. For instance, if a minister from another Church wanted to preach at a service, the approval of the PCC would be needed and if it was to be on a regular basis, the bishop’s approval would also be needed.</p>
<p>Can PCC nominations be made and seconded by family members?</p>	<p>There is nothing in the Church Representation Rules (CRR) preventing this.</p> <p>The nomination forms simply state that the "proposer" and "seconded" must be on the electoral roll - so are baptised; aged 16 or over and a member of a church in communion or if not in communion then are in good standing in that church.</p>

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	<p>The CRR are silent about family members and there is nothing mentioned on the PCC nomination form except that the proposer and seconder must, as already stated, be on the electoral roll themselves.</p>
<p>Are adult choir members in any Church Body eligible for enhanced DBS (with/without Barred List) check?</p>	<p>No, simply being an adult member of a choir where children are present does not meet the criteria for an enhanced DBS (with/without Barred List) check. Such individuals would be eligible for a basic DBS check which would reveal unspent criminal conviction information only.</p> <p>The exception to this would be if the member's role includes responsibility for teaching, training, caring for or supervising vulnerable groups (children or adults).</p>
<p>When and how does the Guidance change from 5 yearly enhanced DBS rechecks to 3 yearly rechecks take effect?</p>	<p>From 4th January 2022:</p> <ul style="list-style-type: none">a) all new appointments andb) those whose enhanced DBS is due a recheck from that point onwards should have their DBS recheck carried out and then be put on the new 3 year recheck cycle. <p>By 4th January 2022: Church Bodies must have assessed all other individuals who do not fall into categories a & b above, but whose DBS is more than 3 years old and put a plan in place to ensure that all those individuals have a DBS no older than 3 years by 3rd January 2024 and after that, ensure they are also on the new 3 year recheck cycle.</p> <p>This means all Church Bodies have a 2 year period from 4th January 2022 to 3rd January 2024 to carry out the rechecks needed.</p> <p>By 3rd January 2024 all those requiring enhanced DBS (with/without Barred List) checks have a DBS certificate that is 3 years or less and will be on a 3 yearly re-check cycle.</p>
<p>Can we use the DBS Update Service for clergy?</p>	<p>As described in an FAQ further above, whilst it may be the case that <i>most</i> clergy will fall into the category of home-based working, it is perfectly possible that some clergy are not "home based" and there might also be clergy who are "home based" but have no one aged 16 years or over living there. In these cases the DBS Update Service can be used.</p>