

**WRITTEN QUESTION TO THE MINISTER FOR CHILDREN AND EDUCATION
BY DEPUTY R.J. WARD OF ST. HELIER CENTRAL
QUESTION SUBMITTED ON MONDAY 17th JULY 2023
ANSWER TO BE TABLED ON MONDAY 24th JULY 2023**

Question

“Will the Minister advise what objective criteria or guidance the Jersey Designated Officer works to when determining that an allegation substantiated at the end of a disciplinary process is serious enough to refer onto the Disclosure and Barring Service (in light of the Service’s ability to bar an individual from working in any capacity, paid or voluntary, with young people or in other professions with vulnerable adults)?”

Answer

All allegations relating to a person who works with children, where there is risk of harm to a child / children or where they may have behaved in a way that indicates that they may not be suitable to work with children, need to be referred to the Jersey Designated Officer. Details for the referral are explained in the guidance (below), as set out in the ‘Managing Allegations Framework : Multi-agency arrangements for managing allegations against people who work with children or those who are in a position of trust’:

If an allegation is substantiated and the person is no longer working in their position (either through dismissal or resignation or some other means), the Designated Officer should discuss with the employer whether a referral should be made to the DBS.

The duty to make a referral to the DBS may not be triggered by temporary suspension, it depends on if there is sufficient information to meet the referral duty criteria. Following investigation, if the person is returned to a position working in regulated activity with children or vulnerable adults then there may not be a legal duty to make a referral. But, if a decision is made to dismiss the person or remove them from working in regulated activity, a referral needs to be made.

You must make a referral when both of the following conditions have been met:

Condition 1

You withdraw permission for a person to engage in regulated activity with children and/or vulnerable adults. Or you move the person to another area of work that isn’t regulated activity.

This includes situations when you would have taken the above action, but the person was re-deployed, resigned, retired, or left. For example, a teacher resigns when an allegation of harm to a student is first made.

Condition 2

You think the person has carried out one of the following:

- Engaged in relevant conduct in relation to children and/or adults.
- An action or inaction has harmed a child or vulnerable adult or put them at risk or harm; or

- Satisfied the harm test in relation to children and / or vulnerable adults, e.g., there has been no relevant conduct but a risk of harm to a child or vulnerable still exists; or
- Been cautioned or convicted of a relevant (automatic barring either with or without the right to make representations) offence

Relevant conduct for children is:

- endangers a child or is likely to endanger a child
- if repeated against or in relation to a child would endanger the child or be likely to endanger the child
- involves sexual material relating to children (including possession of such material)
- involves sexually explicit images depicting violence against human beings (including possession of such images)
- is of a sexual nature involving a child.

A person's conduct endangers a child if they:

- harm a child
- cause a child to be harmed
- put a child at risk of harm
- attempt to harm a child
- incite another to harm a child