

# Maidenhead Lions Club CIO

## Duty to Refer Policy

### Introduction

Under the Safeguarding Vulnerable Groups Act 2006 and the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, the following groups have a legal duty to refer:

- Regulated activity providers; and
- Personnel suppliers.

A regulated activity provider is an organisation or individual responsible for the management or control of regulated activity (paid or unpaid) and makes arrangements for people to work in that activity. This will usually be an employer or a voluntary organisation. A regulated activity provider can also be a person who manages volunteers in a regulated activity position, such as a scout leader or as part of a charitable organisation.

Personnel suppliers are organisations that supply people to work in regulated activity (either paid or voluntary) in a variety of settings and can include employment agencies, businesses and relevant educational institutions.

- An employment agency makes arrangements to either find a person employment with a hirer or to supply them to a hirer to employ.  
An employment business engages a person and supplies them to a hirer to work under a hirer's control.
- An educational institution is a Personnel Supplier if it makes arrangements to supply a student following a course at the institution to a regulated activity provider such as a school.

### Duty to Refer

Employers and service providers must refer information to the DBS (formerly the ISA) when they have dismissed an individual, or an individual resigns, because they harmed, or may harm, a child or vulnerable adult.

Where a person/organisation has a legal duty to refer there are two main conditions which should be met for a referral to be made, these are:

- They have permanently removed a person from 'regulated activity' through dismissal or permanent transfer from 'regulated activity' (or would have if the person had not left or resigned); and
- They believe the person has :
  - a) Engaged in 'relevant conduct' . 'Relevant conduct' is an action or inaction that has harmed or placed a child or vulnerable adult at risk of harm (see Annex "A.2" for a fuller explanation;
  - b) Satisfied the 'harm test' (i.e. no action or inaction occurred but the present risk that it could was significant). To satisfy the 'harm test' there needs to be credible evidence of a risk of harm to children or vulnerable adults such as statements made by an individual regarding conduct/behaviour, etc. (see Annex "A.1" for a fuller explanation);  
or
  - c) Received a caution or conviction for a 'relevant offence'.

A referral should not be made when an allegation is first made. An investigation and evidence gathering should be first undertaken by the person or organisation that would normally refer to the DBS. This is in order to establish if the allegation has foundation. Without evidence or substance to the claims many allegations will be quickly closed down as there will be no foundation on which the DBS can proceed.

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In practical terms it is likely that any such circumstances where Lions have to refer a Lion to the DBS would involve other agencies under safeguarding procedures. These agencies are primarily the Safeguarding Boards and the police.

Whilst the other agencies would take over the investigation and they will make their own referrals, this does not remove our obligation.

However when making a referral it is important that we provide the DBS with as much evidence as possible, this may be interview notes, statements taken from other Lions etc. It is therefore important that all Lions understand that any statements they make will be used in this way.

There may be circumstances where we as an organisation have taken action against a Lion for something like theft from the club. We would not be legally obliged to make any referral in these circumstances; however we may consider that such a referral is appropriate. The reasoning being that the person may be likely to cause harm to a child or vulnerable person in the future. It would be unlikely that any such referral would result in that person being placed on a barred list but the information would be retained by the DBS for a period of 10 years, before being reviewed if that person does not come to their notice again. Any such referral would be notified to the person, with the origin of that referral. Again we would need to provide as much evidence as possible.

Lions Clubs International Multiple District 105 (as our organisation is registered by the DBS (formerly the CRB) need to meet their legal obligations but must also have policies in place to prevent unauthorised referrals being made which may cause disrepute to the organisation. It would seem appropriate for the Multiple District to take on this responsibility rather than the individual Clubs.

In the case of where we are legally obliged to make a referral or where a referral is being made outside those obligations, then the District Governor for the District concerned will provide details to the Multiple District Vulnerable Persons Officer. The Multiple District Vulnerable Persons Officer will complete the referral form and collate any evidence. The submission of the form will be authorised by the Review Panel (consisting of the Multiple District Legal Adviser, Insurance Adviser, Council Secretary and the Vulnerable Persons Officer).

The principles of Data Protection and Human Rights legislation should be observed at all times.

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### **Annex A Glossary of Terms**

A.1 'Harm test' is satisfied if the relevant person believes that an individual may:

- Harm a child or vulnerable adult;
- Cause a child or vulnerable adult to be harmed;
- Put a child or vulnerable adult at risk of harm;
- Attempt to harm a child or vulnerable adult; or
- Incite another to harm a child or vulnerable adult

A.2 'Relevant conduct' is any conduct:

- That endangers a child or vulnerable adult or is likely to endanger a child or vulnerable adult;
- If repeated against or in relation to a child or vulnerable adult, would endanger them or would be likely to endanger them;
- That involves sexual material relating to children (including possession of such material);
- That involves sexually explicit images depicting violence against human beings (including possession of such images), if it appears to DBS that the conduct is inappropriate; or
- Of a sexual nature involving a child or vulnerable adult, if it appears to DBS that the conduct is inappropriate.