

# Local Friends Policies

## DBS Checks

### Introduction

*Local Friends* operates as a trusted third party to enable medical professionals to refer people to a Pastoral Care Team in their local community. *Local Friends* provides guidelines and standards which are both public and shared across the various local schemes, although additional guidelines and standards can be agreed locally as required.

The Pastoral Care Team will belong to a church or group of churches or other faith communities; and membership of this team is determined by each local scheme, as are any conditions for membership.

### Summary

A Disclosure and Barring Service ('DBS') check is required if someone undertakes one or more regulated activities as defined by current legislation. A DBS check must be undertaken if the check is legally required, and cannot be undertaken otherwise: these checks are never optional. DBS checks replace the Criminal Records Bureau ('CRB') checks, which are now no longer available.

*Local Friends* does not require that the members of the Pastoral Care Team have DBS checks because the activity undertaken by the members as *Local Friends* volunteers is not a regulated activity as defined in the legislation. However, the local scheme may require volunteers to be DBS checked due to the nature of the other activities the volunteers undertake.

Where a DBS check is required, this will be requested and administered by the body providing volunteers for the local scheme; *Local Friends* will be notified that a check has been undertaken, but will not receive any details of or information about the results of the check: these remain confidential within the local scheme. *Local Friends* can advise on the administration of DBS checks, including security and confidentiality, but the local scheme remains responsible for undertaking this activity and complying with the relevant standards.

*Local Friends* operates on the basis of trust, establishing both a network of trusted relationships within the local community and also a mechanism for quickly responding to any concerns, criticisms or complaints which may be voiced as a result of our activities. DBS checks will not establish trust, but the correct, transparent, honest and prompt management of the checks, where they are undertaken, can help to establish an environment in which trust is encouraged and strengthened.

## Background

A Disclosure and Barring Service ('DBS') check is required if someone undertakes one or more regulated activities as defined by current legislation. There have been a couple of significant changes to the meaning of 'regulated activity' since the term was introduced.

Firstly, the definition of regulated activity for adults now identifies the activities which, if any adult requires them, will mean that the adult will be considered vulnerable *at the time at which that activity is provided*. In contrast to the earlier situation, the Safeguarding Vulnerable Groups Act 2006 ('SVGA') does not label adults as 'vulnerable' either because of the setting in which the activity is received, or because of the personal characteristics or circumstances of the adult receiving the activities.

This means, for example, that anyone providing an adult with 'personal care' (a technical term explained below) is in regulated activity – irrespective of whether that care is given in, for example, a hospital, a care home, a day care centre, a prison or sheltered housing. It also means that anyone visiting a lonely person at home may be in a regulated activity but, if they are, it is not because they are visiting the person at home, and it is not because that person is lonely: neither of those activities is regulated.

Secondly, there is no longer a requirement for a person to carry out the activities a certain number of times before they are engaging in regulated activity. Any time a person engages in one of the activities identified in the legislation, they are engaging in regulated activity.

Three levels of criminal record check are available: the 'standard check' and two more exhaustive checks. To be eligible for a standard level DBS check, the position must be included in the *Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975* as amended by subsequent legislation.

Checking the exact wording of the legislation is not straightforward, as you need to start with the *Rehabilitation of Offenders Act 1974* and then modify it according to the *Exceptions Order 1975* and the *Safeguarding Vulnerable Groups Act 2006* and the *Legal Aid, Sentencing and Punishment of Offenders Act 2012* (which came into effect on 10 March 2014, so it is sometimes referred to as 'the 2014 legislation').

A position only requires a more exhaustive check if it requires a standard level check and then fulfils other conditions as well. This means in practice that *Local Friends* only needs to consider whether a standard check is required: if this is the case, then the person responsible for requesting the check must consider whether one of the other levels of check is appropriate.

## Regulated Activity

Because *Local Friends* only works with adults – individuals over 18 years of age – and does not work with children, no activity will fall within the definition of 'regulated activity' (children).

It is probable that no *Local Friends* activity comes within the definition of regulated activity. According to the Department of Health guidelines, *Regulated activity (adults)*, regulated activity continues to exclude any activity carried out in the course of personal, non-commercial relationships. “Personal, non commercial relationships are arrangements where either no money changes hands, or any money that does change hands is not part of a commercial relationship (for example, gifting a friend money for petrol after they have driven you to the hospital), and the arrangement is made between friends or family friends.”

We do not wish to rely on this blanket exclusion because, if the question were to be tested in court, it is possible that we would be arguing about whether the Local Friends volunteer was acting as a genuine friend or as the representative of an organisation aiming to provide friendship, and this is not the sort of territory we wish to explore. So we need to consider the criteria in more detail.

There are six categories within the definition of regulated activity.

1. Providing Health Care
2. Providing Personal Care
3. Providing Social Work
4. Assistance with general household matters
5. Assistance in the conduct of a person’s own affairs
6. Conveying

Let us consider each one in turn – remembering, in each case, that we are only considering whether the work being undertaken as a *Local Friends* activity falls within the scope of regulated activity. The volunteer may be a trained psychotherapist, but as a *Local Friends* volunteer they are not providing either psychotherapy or counselling.

### *Providing Health Care*

“Individuals who provide health care to adults, either as a health care professional or under the direction or supervision of a health care professional. This includes providing psychotherapy and counselling and also covers first aiders where they provide this through an organisation set up specifically for the purposes of providing first aid, e.g. St John Ambulance and community first responders.”

*Local Friends* volunteers are not engaging in a regulated activity under this heading:

- they are not providing health care;
- they are not providing psychotherapy or counselling – even if the conversations could be understood as a form of counselling, this is not being provided by someone acting as a health care official or under the direction or supervision of, a health care professional;
- a visit might sometimes be regarded as Life Coaching or a form of Peer Support Group, but neither of these is a regulated activity; and

- a volunteer may occasionally provide First Aid, but they are not doing so on behalf of an organisation established for the purpose of providing First Aid.

### *Providing Personal Care*

“Individuals who provide personal care to adults. This includes physically assisting adults, prompting and then supervising adults, or training, instructing or providing advice or guidance to adults on eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails and this is done because of the adult’s age, illness or disability”

*Local Friends* volunteers are not engaging in a regulated activity under this heading:

- they do not provide personal care such as providing physical assistance with eating or drinking or going to the toilet;
- eating together, even if you prepare and serve the food, is not a regulated activity.

### *Providing Social Work*

“Individuals who are regulated social workers providing social work to adults who are clients or potential clients. This includes assessing or reviewing the need for health or social care services, and providing ongoing support to clients.”

*Local Friends* volunteers are not engaging in a regulated activity under this heading:

- they are not social workers;
- they are not helping adults who are social work clients or potential clients .

### *Assistance with general household matters*

“Individuals who provide day to day help to adults with running their homes because their age, illness or disability means they need this help, and where it includes at least one of the following: managing their cash, paying their bills, or doing their shopping.”

*Local Friends* volunteers are not engaging in a regulated activity under this heading:

- they do not provide day to day help;
- they do not provide any help because the age, illness or disability of the person being visited means they need this help – if they do provide help, it is because the person being visited is lonely and unhappy (or, during the Covid-19 lockdown, because the person being visited has been told to stay at home).

## *Assistance in the conduct of a person's own affairs*

“Individuals who provide assistance to adults in conducting their own affairs under any of the following arrangements: lasting power of attorney under the *Mental Capacity Act 2005*, enduring power of attorney within the meaning of the *Mental Capacity Act 2005*, being appointed as the adult's deputy under the *Mental Capacity Act 2005*, being an Independent Mental Health Advocate, being an Independent Mental Capacity Advocate, providing independent advocacy services under the *National Health Service Act 2006* or *National Health Service (Wales) Act 2006*, or receiving payments on behalf of that person under the *Social Security Administration Act 1992*.”

*Local Friends* volunteers are not engaging in a regulated activity under this heading:

- they do not provide assistance in the conduct of the personal affairs of the individual they are visiting;
- they do not engage in financial transactions with the people they are visiting or participate in a lasting power of attorney or enduring power of attorney within the meaning of the *Mental Capacity Act 2005*.

## *Conveying*

“Individuals who convey adults to or from anywhere they would be receiving health care, personal care or social work. This includes drivers and assistants (except taxi drivers and private hire drivers), hospital porters, patient transport service drivers and assistants, ambulance technicians and emergency care assistants”

And, finally, *Local Friends* volunteers are not engaging in a regulated activity under this heading:

- they do not transport people to or from health care appointments;
- offering or receiving lifts to or from social activities is not a regulated activity.

## Volunteer recruitment and training

In the initial stages, the *Local Friends* volunteers will all be members of the Pastoral Care Team (whatever name it goes by), providing pastoral care to members of the local church or churches. The volunteers will have all been vetted, recruited and trained by a local church, they will all be known to the leadership and trusted by them, and they will all be operating as members of their local church.

When acting as *Local Friends* volunteers, these people will be providing the same pastoral care to members of the wider community that they have been providing to members of the local church. The main difference is that the people they are providing pastoral care to have been referred to them by a medical professional when they are operating as *Local Friends* volunteers, rather than being referred to them by a leader in that church.

*Local Friends* provides initial training, to ensure that the volunteers have a shared understanding of the aims, methods, principles and core guidelines, including issues such as boundaries and confidentiality. Subsequent training reinforces these key messages and aims to build on core competencies such as working with people who are depressed, grieving or suicidal.

There are several levels of safeguard built into this process.

- The local church leaders know these people and trust them enough to provide pastoral care for their own members.
- The volunteers know each other and function within a community, building relationships with each other and the wider community. The aim of broadening and sharing relationships cuts across any attempt to hide possible problems.
- *Local Friends* provides both support and an accountability framework as well as guidelines and training.
- Finally, if the person being visited is not happy about any aspect of the experience, they can tell the medical professional who referred them and the issue can be addressed through that route.

As the scheme develops, the plan is to draw in new volunteers through the relationships which are being developed. Obviously, not all the new contacts will be able, willing or suitable to join the scheme, but the hope and expectation is that some will be.

When this happens, additional checks will need to be put into place, as the scheme coordinator will not have the same depth of relationship with the new people as they had with the original volunteers. We will take advice on developing a draft application form and application process (including references) which the local scheme can use if they do not already have a system in place. As previously noted, we can advise on the administration of DBS checks; we can also advise on how to interpret and respond to the information contained in the references and the details returned by the DBS checks.

## Further details

Further details and references to the sources of this material can be found in the 'Resources and References' document on the 'Our Documents' page of the website:

- <https://localfriends.org.uk/docs/>