

## CRB checks

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Every child and vulnerable adult deserves to be happy and secure in their activities. If your organisation works with children or vulnerable adults, there is a legal duty to protect them by putting safeguards in place. It is unlawful to offer paid or unpaid work in a regulated activity to a person barred from working with children or a vulnerable adult. A CRB check is currently the only way to find out if a person is barred.

The planned **vetting and barring scheme**, due to start in July 2010, has been put on hold and will be reviewed by the new government. The Independent Safeguarding Authority (ISA) will continue to maintain the two lists of people barred from working with children and with vulnerable adults. The other elements of the vetting and barring scheme that started in October 2009 will continue, including the requirement for employers to tell the ISA about individuals they have moved or removed because they have harmed, or there is a risk of harm, to a member of a vulnerable group. It also remains a criminal offence for barred individuals to apply to work with children or vulnerable adults in a wide range of posts and for employers to knowingly employ a barred individual in these posts. To find out more visit [www.isa-gov.org.uk](http://www.isa-gov.org.uk)

Your organisation needs to make sure it is recruiting safely and a CRB check is only one part of this process. A CRB check should never be used as a substitute for proper recruitment, selection, induction and supervision processes. And proper processes like these can never give a guarantee that children or vulnerable adults will not be harmed when in the care of your organisation but showing that they are in place and they are followed will show your organisation has complied with its duty of care. See our information sheet *Safeguarding children and young people*.

This information sheet outlines the CRB check process and gives some definitions to help you decide if you need to carry out CRB checks on your staff, volunteers and management committee members or trustees.

### What levels of CRB checks are available?

There are two levels of disclosure (CRB checks) – standard and enhanced.

✓ **Standard disclosures**

Standard checks no longer check the old or new barred lists so all volunteers or employees who work with children or vulnerable adults must apply for an enhanced disclosure and not a standard one. Standard CRB checks are for people entering certain professions, such as members of the legal and accountancy professions, and lists spent and unspent convictions, cautions, reprimands and warnings

✓ **Enhanced disclosures**

This is the highest level of disclosure and, as of 12 October 2009, all disclosures for regulated activities with children and vulnerable must be enhanced. If a person is barred from working with one or more of these groups it is shown in the disclosure. An enhanced disclosure includes all the information in a standard disclosure plus other information from local police records considered by the chief police officer to be relevant to the work carried out by the person. Enhanced disclosures cost £36.00 for paid workers, but are free for volunteers including management committee members or trustees

**How do you apply for a disclosure?**

The Criminal Records Bureau (CRB) gives advice on their website on how to apply for disclosures, including guidance on how to complete application forms.

The individual – prospective employee, volunteer or management committee member – applies for a disclosure. The application form must be countersigned by an organisation registered with the CRB, which might be the organisation itself, or a CRB umbrella body. The CRB can provide details of local umbrella bodies. The CRB will send the disclosure certificate to the individual plus a copy to the countersigning organisation. Umbrella bodies usually charge a fee to cover the cost of administration even for checks on volunteers, which are free.

Organisations should make sure that all job applicants are made aware early on in the recruitment process that the successful candidate will be asked to apply for a disclosure. This might be in the job advert or application pack. An organisation should also tell prospective volunteers and management committees members that they will be asked to apply for a disclosure for their role. There should also be a statement to the effect that a criminal record will not necessarily be a bar to obtaining the position.

**How long should you keep a disclosure?**

Most disclosures can be kept for only six months and must then be securely disposed of because they contain very sensitive information. Before disposing of the disclosure, you should make a note of the date and reference number of it to record that the disclosure has been carried out. You might find it useful to set up a disclosure register. If you are regulated by a regulatory body such as Ofsted or the Care Quality Commission, you should check whether they need to see the original disclosure certificate.

**How long does a disclosure last?**

Each disclosure is a snapshot of a person's recorded convictions on the date of issue so it could change the following day. There is no time limit on disclosures but the closer to the date it was issued the more reliable it is. Your organisation needs to decide how often you need new CRB checks to be carried out for example some organisations decide to recheck people every three years.

**Can a disclosure be used more than once?**

You can choose to do this however the person's criminal record may have changed since the last check and the disclosure might not be at the right level for the new position. Using a CRB disclosure for one position that has been used for another position in another organisation is called portability. The Criminal Records Bureau does not support portability. Don't forget that it is unlawful to offer paid or unpaid work in a regulated activity to a person barred from working with children or vulnerable adults so you need to be confident that someone is not barred.

**How can you comply with the CRB code of practice?**

Organisations using the disclosure service must comply with the CRB code of practice, which aims to make sure the whole process works fairly and that any information revealed is treated fairly and securely. The code of practice requires organisations to have written procedures on the recruitment on ex-offenders; to store CRB checks securely in a lockable, non-portable storage container such as a filing cabinet; to dispose of checks properly; and, to think carefully about using the information in a CRB check to assess a person's suitability for work so that people with convictions are not unfairly excluded from employment or volunteer opportunities. Information provided through a

CRB check is sensitive personal data under the Data Protection Act 1998 and can only be given to a person who has a right to know it.

### **Can any voluntary or community organisation carry out CRB checks on their staff and volunteers?**

No, only those voluntary organisations that have paid or unpaid work in regulated or controlled activities with children and vulnerable adults can request a CRB check. This is because these positions, along with some others, are exempt from the Rehabilitation of Offenders Act 1974. You cannot request a CRB check for people whose posts involve unsupervised access to money or going into people's homes where there are no children or vulnerable adults. The Criminal Records Bureau provides guidance on when a check should be made.

### **So, who should be checked?**

The short answer is that all staff, volunteers and management committee members who work with children or vulnerable adults should be checked.

### **What is the definition of a child?**

A child is legally defined as anyone under the age of 18.

### **What is the definition of a vulnerable adult?**

The Safeguarding Vulnerable Groups Act 2006 defines a vulnerable adult as a person who is aged 18 years or older and is

- ✓ living in residential accommodation, such as a care home or a residential special school
- ✓ living in sheltered housing
- ✓ receiving domiciliary care in his or her own home
- ✓ receiving any form of health care treatment, therapy or palliative care
- ✓ detained in prison, remand centre, young offender institution, secure training centre or attendance centre or under the powers of the Immigration and Asylum Act 1999
- ✓ in contact with probation services
- ✓ receiving a welfare service such as support, assistance, advice or counselling including where its purpose is to develop or sustain a person's capacity to live independently
- ✓ receiving a service or participating in an activity which is specifically targeted at people with age-related needs, disabilities or prescribed physical or mental health conditions or expectant or nursing mothers living in residential care (age-related needs includes needs associated with frailty, illness, disability or mental capacity)
- ✓ receiving direct payments from a local authority/HSS body in lieu of social care services
- ✓ in need of assistance in the conduct of his or her own affairs

### **What is regulated activity?**

As of 12 October 2009, most work with children and vulnerable adults is regulated activity. Regulated activity covers anyone working closely with children or vulnerable adults, either paid or unpaid, on a frequent, intensive or overnight basis but does not include family or personal arrangements. Frequent means once a week or more (except in health or personal care services where frequent means once a month or more); intensive means on four days or more in a single month.

### Regulated activity includes

- ✓ teaching, training or instruction, care or supervision of children or vulnerable adults
- ✓ providing advice or guidance wholly or mainly for children, which relates to their physical, emotional or educational wellbeing
- ✓ providing advice, guidance or assistance wholly or mainly for vulnerable adults
- ✓ any form of treatment or therapy provided to children or vulnerable adults
- ✓ driving a vehicle that is being used only for the purpose of conveying children or vulnerable adults and their carers
- ✓ moderating internet chatrooms or similar likely to be wholly or mainly used by children and vulnerable adults
- ✓ any work in establishments that are mainly or only for children such as schools, children's hospitals or homes, and childcare or day premises plus adult care home
- ✓ day to day management or supervision of a person carrying out the above activities is also regulated

Being a trustee of a children's or vulnerable adults' charity, is a regulated activity so you must be checked. A children's or vulnerable adults' charity is one whose staff and volunteers normally work in regulated activity with children and vulnerable adults. However, if the work is incidental to the purposes of the charity, it is not classed as a children's or vulnerable adults' charity and being a trustee is not a regulated activity. This is also good practice for children's or vulnerable adults' voluntary and community organisations that are not charities or not yet registered as a charity.

### What is controlled activity?

Controlled activity is work that is not regulated activity but work that gives opportunities for contact with children or vulnerable adults, or opportunities to access education records (for children only) or health or social services records about children or vulnerable adults. It also includes the day-to-day management and supervision of staff carrying out controlled activity. Employers will be able to employ someone barred from regulated activity to carry out controlled activity, provided they put in place appropriate safeguards. The definition of a controlled activity is currently being reviewed.

### To find out more...

- ✓ Criminal Records Bureau [www.crb.gov.uk](http://www.crb.gov.uk) or phone 0870 90 90 811
- ✓ Vetting and barring scheme [www.isa.gov.org.uk](http://www.isa.gov.org.uk)
- ✓ Safe Network - for information and advice around safeguarding children and young people [www.safenetwork.org.uk](http://www.safenetwork.org.uk) or phone 0116 234 7217

Sources of information *Russell-Cooke Voluntary Sector Legal Handbook* published by DSC in 2009

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