



## **Volunteering Management: Disclosure and Barring Service**

Criminal record checks are available from a central agency, the Disclosure and Barring Service (DBS).

Organisations that need to complete more than 100 checks a year can [register with the DBS](#) to apply for checks themselves.

Organisations that will not complete this number of checks can work with an 'umbrella body' (which usually charges a fee) to process the checks for them. A [list of umbrella bodies](#) is provided on the DBS website.

A DBS check provides information about a volunteer's criminal history at that point in time. It can help volunteer-involving organisations determine whether a person is a suitable candidate for the role for which they are applying. It forms one part of the wider volunteer safeguarding process.

Careful consideration should be given to whether it is necessary to conduct a check or whether other safeguarding measures provide adequate protection. Only certain volunteer roles and activities are eligible for checks, and it is an offence to apply for a DBS check if the role is not eligible for one. DBS checks should not be used simply as a 'just in case' box ticking exercise.

### **Technical requirements**

Not all criminal conviction information needs to be revealed on a disclosure or by a volunteer.

### **Spent and unspent convictions**

The [Rehabilitation of Offenders Act 1974](#) created the idea of 'spent' convictions so ex-offenders had a better chance of finding work. After a period of time most convictions become spent and do not have to be revealed to potential employers. More serious crimes take longer to become spent than less serious crimes.

Convictions for which a person has received a custodial sentence of more than 30 months can never become spent.



The [Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975](#) says organisations can ask about spent convictions for some roles in organisations that involve people working with children or vulnerable adults, as well as in the health, pharmacy, legal, banking and financial professions.

This means that unless organisations are recruiting for a role that falls into the Exceptions Order, they can only ask volunteers to reveal unspent convictions. They cannot apply for standard or enhanced DBS disclosures, because these reveal spent convictions and other information that most organisations do not have the right to see. Standard and Enhanced DBS disclosures reveal both spent and unspent convictions.

### **Filtering**

Some minor offences may be removed from a person's criminal record, including from enhanced disclosures. These must be the only offence that the person has committed, which resulted in a non-custodial sentence. If a person was under 18 at the time of a criminal conviction, it is 'filtered' after six years (or after two years for a caution). For adults it takes 11 years for a conviction to be filtered and 5.5 years for a caution. Some offences, including those of a violent or sexual nature, will never be filtered.

Organisations that ask about convictions or do criminal record checks should make sure they think about rehabilitation of ex-offenders. Convictions should only be taken into account if they are relevant, and any information must be treated in the strictest confidence and the Data Protection Act 1998 (and any subsequent legislation) should be followed. Anyone who receives disclosures from DBS must follow with the [DBS code of practice](#) on how the information is used, stored and destroyed.

It is an offence to apply for a check unless the role is eligible for one. You must also tell the volunteer why they are being checked.

There are four levels of check or 'disclosures' that are available.

### **Basic disclosure**

[DBS England and Wales](#) provides a Basic check service if the individual is living or working in England or Wales.

Basic checks provide details of unspent convictions only (after a period of time some convictions can be considered 'spent' – that is, they can effectively be ignored after a specified amount of time and do not have to be revealed to an employer). Any volunteers can be checked, as the Rehabilitation of Offenders Act 1974 says that all employers can ask about unspent convictions.

Organisations should think about whether they need to get these details about volunteers. Generally, people are happy to have criminal record checks if they will be working with children or vulnerable adults, but it may put people off general roles. The cost of a basic disclosure in England and Wales is £18.

### **Standard disclosure**

Standard disclosures contain details of all convictions (spent and unspent) as well as details of any cautions, reprimands or warnings. They are only available for roles listed in the [Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975](#) (as amended).

### **Enhanced disclosures without a barred list check**

Enhanced disclosures contain the same details as standard disclosures, but if there is more information from the local police force that is relevant to the role, this will be included. This extra information is sometimes called 'soft information' and can include:

- Fixed Penalty Notices
- Penalty Notices for Disorder
- findings of innocence
- acquittals
- cautions and convictions of people that the person lives with
- unproven allegations.

Enhanced disclosures are only available for roles listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and the purpose of the check must be one of those included in regulation 5A of the [Police Act 1997 \(Criminal Records\) Regulations 2002](#), which includes considering the applicant's suitability in the circumstances set out in regulations 5C and 5B.

### **Enhanced disclosure with a barred list check**

These enhanced disclosures include the same information as an enhanced disclosure without a barred list check. In addition, it includes a check of the list of people barred from working with children and/or vulnerable adults depending on the role.

The positions that can be checked at this level must be eligible for an enhanced disclosure as above and be listed in Regulation 5 or 6 of the [Police Act 1997 \(Criminal Record\) \(No 2\) Regulations 2009](#). This includes applications made for the purposes of considering the applicant's suitability to engage in any activity which is a 'regulated activity' in relation to children or vulnerable adults within the meaning Schedule 4 to the SVGA 2006.

### **What is Regulated Activity?**

Regulated Activity is work a person who appears on the Disclosure and Barring Service (DBS) barred lists is prohibited from doing. This includes work that involves close and unsupervised contact with vulnerable groups, including children. There are two types of Regulated Activity; Regulated Activity relating to Children and Regulated Activity relating to Adults. If the tasks undertaken by a volunteer fall within either of these categories an organisation may request an Enhanced Check and a check against the respective DBS barred list.

It is against the law for organisations to employ someone or allow them to volunteer for this kind of work if they know they're on the relevant barred list.

The reforms introduced by the [Protection of Freedoms Act 2012](#) reduced the scope of Regulated Activity, so that some roles that previously needed a barred list check no longer do so. However, those posts taken out of Regulated Activity remain eligible for Enhanced Checks.

#### **a) Is the volunteer engaged in Regulated Activity with Children?**

NCVO has a user-friendly guide to help determine whether a volunteer's role is classified as Regulated Activity relating to Children. This should be read in conjunction with the full guidance from the [Department for Education](#).

Activities that place a volunteer in Regulated Activity with Children include:

- teaching, training, instructing, caring for or supervising children if the person is unsupervised, or providing any form of advice or guidance on well-being; moderating a public electronic interactive communication service (e.g. an online

forum) which is likely to be used wholly or mainly by children; or driving a vehicle only for children; or

- work for a limited range of establishments ('specified places'), with opportunity for contact with children: for example, schools, children's homes, childcare premises. Not work by supervised volunteers
- relevant personal care, for example washing or dressing; or health care by or supervised by a professional, even if done once.
- registered child minding; and foster-carers.

Work under (1) or (2) is Regulated Activity only if done regularly. 'Regularly' means carried out by the same person frequently (once a week or more) or on three or more days in a 30-day period (or in some cases overnight).

Activity under (3) and (4) does not have a frequency restriction and is Regulated Activity even if performed only once.

Broadly speaking the new definition of Regulated Activity relating to children no longer includes certain activities done on an irregular or ad-hoc basis or some activities properly supervised by someone who themselves is in Regulated Activity. It is important organisations understand the distinction between supervised and unsupervised by referring to the [Department for Education's guidance on supervision](#).

A person whose role includes the day to day management or supervision of any person who is engaging in Regulated Activity, is also in Regulated Activity.

### **b) Is the volunteer engaged in Regulated Activity with Adults?**

NCVO has a user-friendly guide to help determine whether a volunteer's role is classified as Regulated Activity relating to Adults. This should be read in conjunction with the full guidance from the [Department for Health](#).

Activities that place a volunteer in Regulated Activity with Adults:

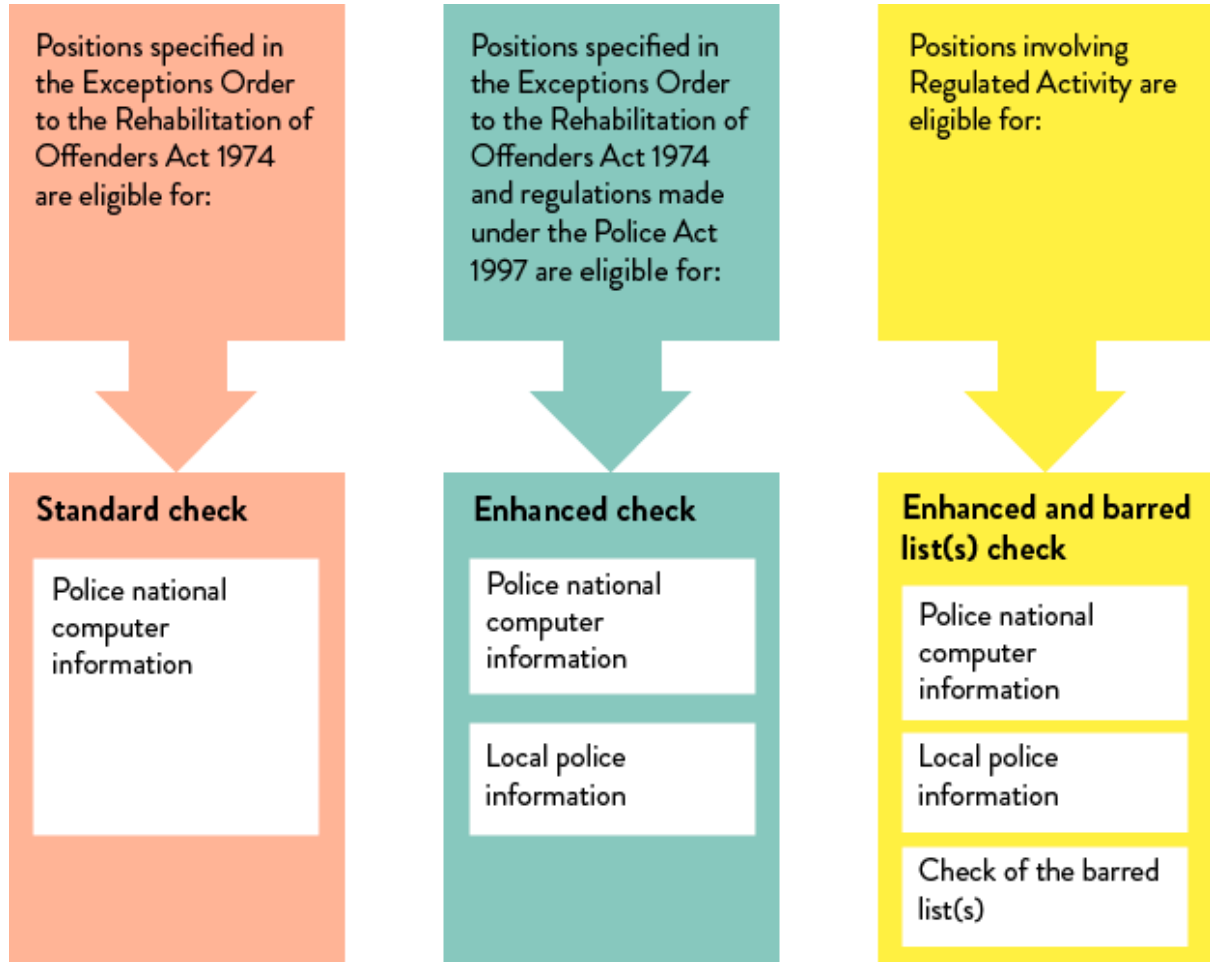
- Healthcare: if they are a regulated health care professional or are acting under the direction or supervision of one (eg doctors, nurses, physiotherapists).
- Personal care: assistance with washing and dressing, eating, drinking and toileting or teaching or prompting someone to do one of these tasks.
- Social work: provision by a social care worker of social work which is required in connection with any health services or social services.

- Assistance with a person's cash, bills or shopping because of their age, illness or disability.
- Assistance with the conduct of an adult's own affairs, eg lasting or enduring powers of attorney, or deputies appointed under the Mental Health Act.
- Conveying adults for reasons of age, illness or disability to, from or between places where they receive healthcare, personal care or social work (excludes friends, family or taxi drivers).

Regulated Activity relating to adults identifies the activities which lead to an adult being considered vulnerable at that particular time. As such the setting of the activity and the personal characteristics of the adult are extraneous. There is no requirement for a person to do the activities a certain number of times before they are engaging in Regulated Activity in relation to adults.

A person whose role includes the day to day management or supervision of any person who is engaging in Regulated Activity with Adults, is also engaged in Regulated Activity with Adults.

## Available routes for checking volunteers



### Available routes for checking volunteers

