

Criminal records checks and the Disclosure and Barring Service (DBS) Update for Voluntary Organisations



Note: There are regulations and requirements for specific sectors. This guidance is for general purposes for charities and voluntary groups.

Purpose of this Guide

The purpose of this guide is to help voluntary organisations to:

- Implement changes in their organisations to comply with the requirements of the legislation
- Identify which volunteer and paid posts require the post holder to be checked, at what level and for which workforce i.e. children or adults
- Find additional sources of guidance and help

Why you need to know this information and make these changes

- You are only permitted to ask for criminal record checks on volunteers and paid staff if they will be carrying out certain activities
- You will commit an offence if you allow someone to carry out certain activities when they are barred from doing so
- You have a legal duty to refer someone to the Disclosure & Barring Service (DBS) if you remove someone from carrying out certain activities because you believe they may have caused harm or could potentially cause harm in the future
- To ensure you are fulfilling your duty to safeguard the people in your care

How to decide whether a check is needed and at what level

Please see **Appendix 1** which explains the types of DBS checks, what is regulated activity and how this differs for children and vulnerable adults

Next Steps

After reading this guide we suggest the following actions:

1. Review role descriptions
2. Agree how you will manage the checking process
3. Review your safeguarding policy

1. Review role descriptions

- a) Make sure they reflect the activity that is actually being done.
- b) Identify what type of check is needed for each post e.g. enhanced check with children's barred list check (We suggest you write it on the role description).
- c) If the post holder will be working with children say whether or not the post will be supervised and if so what the supervision arrangements will be?
- d) Review the description annually or when restructuring or recruiting.

2. Agree how you will manage the checking process

- a) Who will be responsible for coordinating the checking process
- b) How will you decide if someone's criminal history is acceptable?
- c) How will you store an individual's online code?
- d) Who will have the authority to do the online checking and how often will they check?

For more information on the checking service see **Appendix 2**

3. Review your safeguarding policy

- a) Make sure it reflects the DBS requirements. Does it resolve the points above?
- b) Make sure all managers, supervisors & coordinators are aware of their responsibilities.

Sources of help and information

DBS Customer Services

Tel: 0870 9090811 or Email: customerservices@dbs.gsi.gov.uk

Information about the process itself is available on the DBS website at:

<https://www.gov.uk/disclosure-barring-service-check/overview>

Appendix 1

How to Decide whether a check is needed and at what level

There are three types of DBS Check:

1. Standard
2. Enhanced
3. Enhanced and Barring List check

A DBS Standard Check is generally for specific roles and is unlikely to be relevant for your group.

If you were entitled to request an enhanced check for a post before the new regulations then you still can.

If someone will be carrying out regulated activity (see definition further below) you must also get barring list check.

You will be asked to specify whether the post holder only works with adults or only works with children or will be working with both adults and children. This is because different information is revealed depending on the workforce and an individual may be barred from working with one group but not the other.

Note - if someone moves from working with children to adults or vice versa you will have to acquire the additional check for the different workforce.

Standard checks

Tend to be specified roles & not likely to be relevant for your organisation.

Official definition- positions listed in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.

Enhanced checks

If a position was eligible for an enhanced check before then you are still eligible to request one.

Official definition positions listed in both the ROA Exceptions Order and in the Police Act 1997 (Criminal Records) Regulations.

Enhanced checks with children's and/or adult's barring list check(s)

Anyone doing regulated activity see below.

Official definition as enhanced above plus be specifically listed in the Police Act 1997 (Criminal Record)

What is regulated activity?

The definition of regulated activity is important because it determines:

- Who you should check against the barring lists.
- How you manage and staff your activities.
- How you administer the process in your organisation.
- In what circumstances you may have a duty to refer an individual to the DBS.

For Children

What is regulated activity relating to Children (0-18 years)?

There are two types of regulated activity for children:

- Activities that are only regulated if they are regular and unsupervised.
- Activities that are always regulated even if they are only done once.

Activities that are only regulated if they are regular and unsupervised.

The new definition of regulated activity no longer includes certain activities carried out on an irregular (see below) or ad-hoc basis, or activities properly supervised (see below) by someone.

The following activities are regulated activity if carried out frequently, intensively and/or overnight and are unsupervised.

- Teach
- Instruct
- Care for or supervise children
- Provide advice/guidance on well being
- Drive a vehicle only for children
- Work in specified places with opportunity for contact i.e. schools, children's homes, childcare premises

How often is regular?

If it is:

- Frequently: once a week or more
- Intensively: 4 or more days in a 30-day period
- Overnight: 2am - 6am

What is satisfactory supervision?

The guidance puts the onus on organisations to determine what a reasonable level of supervision is but does specify the following requirements:

- There must be supervision by a person who is in a regulated activity post
- The supervision must be regular, day-to-day and maintained. This means it cannot lessen over time, whatever supervision arrangements are agreed and put in place they must always be in place
- The supervision must be reasonable in all the circumstances to ensure the protection of children

The guidance also specifies what factors should be considered when making supervision arrangements:

- Ages of the children
- Number of children
- Number of other workers (if any)
- The nature of the work/activity
- The vulnerability of the children
- How many workers are being supervised by that person
- Protecting the worker

Note use the factors above to justify your decision and keep filed.

Activities that are always regulated even if they are done only once and even if supervised.

The following activities are always regulated activity and you must not allow them to be done by anyone without first seeing their Enhanced DBS and barred list check.

- Any relevant personal care, washing, dressing
- Healthcare by or supervised by a professional.
- Registered child-minders and foster carers

Examples of regulated activity in relation to children

Note - These scenarios are very simplified. You will need to consider the role in entirety before making a decision.

1. The worker at a local community centre who helps the young children with going to the toilet?

Yes - this is regulated activity even if only done once.

2. Sunday school worker is on a rota and looks after a group of 7-9 year olds unsupervised every month?

No - this is not regulated activity because of the frequency. It would be regulated activity if every week.

3. The Treasurer of a local youth club who attends monthly committee meetings in the evening?

No - but the Charity Commission would expect an enhanced DBS check as best practice.

'The position of trustee of a children or vulnerable adult's charity is no longer a regulated activity in itself. It is only if trustees have close and unsupervised contact with beneficiaries that they would fall within the scope of regulated activity and be eligible to obtain an enhanced DBS and barred list check. However, because everybody within the pre-September definition of regulated activity will remain eligible for enhanced DBS checks, a trustee of a charity who no longer falls within the new definition would still be eligible to obtain an enhanced DBS check, (but without a barred list check). We recommend that trustees always obtain a DBS check when they can as it an important tool in ensuring that the person is suitable to act.' Charity Commission

4. Volunteer Co-coordinator who supervises a 16 year old volunteer who is working on reception?

No - people managing or supervising young people between the ages of 16-18 years, in a work capacity, are not carrying out regulated activity.

5. A reading support volunteer who listens to children read every week in the classroom next to the teacher?

No although this activity is happening frequently it is being appropriately supervised at all times.

6. A painter and decorator who paints the kitchen of the local school over 2 days?

No this is no longer a regulated activity.

For Adults

Regulated activity and adults (18+)

The new definition of Regulated Activity identifies the activities which lead to an adult being considered vulnerable.

The setting of the activity and the personal characteristics no longer applies.

There is no frequency test for Adult Regulated Activity or supervision opt out.

You need to make sure you have sight of someone's DBS enhanced and barred list check before allowing them to carry out any of these activities, even if only done once and no matter how well supervised.

- Healthcare
- Personal care washing, toileting & feeding etc.
- Social work
- Assistance with cash because of age, illness or disability e.g. shopping or paying bills
- Assistance with conducting an adult's own affairs i.e. Power of Attorney
- Transporting adults for reasons of age, illness or disability from or to healthcare, personal care or social work.

Examples of regulated activity in relation to adults.

Note - These scenarios are very simplified. You will need to consider the role in entirety before making a decision.

1. A befriender visits housebound people and on occasion is asked by the homeowner to do some shopping or pay a bill on their behalf?

Yes assistance with cash because of disability or age is always regulated activity even if only done once.

2. A volunteer driver takes people to their GP and hospital appointments?

Yes this would be regulated activity

3. A Nepali volunteer who escorts elderly Gurkhas on the bus to the GP and to do shopping?

No. This would only be regulated activity if the volunteer drove the Gurkhas to their health appointments or took their money and did their shopping for them.

4. The Chair of a community elderly befriending organisation who attends weekly meetings with the manager once the service has closed?

No - but the Charity Commission would expect an enhanced DBS check as best practice.

'The position of trustee of a children or vulnerable adult's charity is no longer a regulated activity in itself. It is only if trustees have close and unsupervised contact with beneficiaries that they would fall within the scope of regulated activity and be eligible to obtain an enhanced DBS and barred list check. However, because everybody within the pre-September definition of regulated activity will remain eligible for enhanced DBS checks, a trustee of a charity who no longer falls within the new definition would still be eligible to obtain an enhanced DBS check, (but without a barred list check). We recommend that trustees always obtain a DBS check when they can as it an important tool in ensuring that the person is suitable to act.' Charity Commission

Appendix 2 Information on the DBS checking service

Umbrella Service

Checks can only be applied for via an umbrella service. In Buckinghamshire DBS checks for prospective volunteers can be actioned via Bucks CC. Enquiries should be addressed to HR Service Desk or call 01296 382233. DBS volunteer checks can also be carried out via South Bucks District Council at 01895 837363

Fees and administration charges:

Standard DBS Check: £26

Enhanced DBS Check: £44

Enhanced & barring list check: £44

DBS checks for volunteers are free but sometimes umbrella bodies will charge an admin fee of £10 - £20 per person.

Online update service

The Update Service is a valuable tool that lets you use your DBS check for multiple roles, providing that the level of DBS check is the same (i.e. Standard, Enhanced or with Barred Listing) and that you are working with the same audience (i.e. Children or Adults). Employers can use the Update Service to check your certificate online.

By joining the Update Service as an individual you can:

- Take your certificate from one job to the next
- Give employers permission to check your certificate online, and see who has checked it.
- Add or remove a certificate.

For Individuals

You are able to register with your application number, which the person carrying out the DBS checks can give you, or can you register with your DBS certificate number once this arrives.

The link for registration is <https://secure.crbonline.gov.uk/crsc/apply?execution=e4s1>

If you use your certificate number you must register within 19 days of the date on your DBS certificate. Once the 19 days have passed you will not be able to register for the Update Service.

For Volunteers

The Update Service is free for those who have a volunteer DBS check.

For an Employee/Staff Member

The Online Update Service is a paid service for those with a non-volunteering DBS check. Registration lasts for 1 year and costs £13 per year (payable by debit or credit card only).

For Employers/Volunteer Managers

With the update service you are able to check whether your volunteer has a current and relevant DBS check and, if so, you will not have to carry out another check. A DBS certificate that has been registered on the Update Service has no expiry date and will continually update itself.

We would recommend that you carry out another DBS update check for one of two reasons:

1. If a volunteer/employee changes their role in your organisation in some way, whether location, job, contact hours with adults/children etc.
2. If a volunteer/employee has remained in the same role with no changes, they should have their DBS checked at regular intervals, i.e. every 2 years.

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