

# READING VOLUNTARY ACTION

## Criminal records checks and the Disclosure and Barring Service (DBS)

A Guide for Voluntary and Community Groups

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Author: Herjeet Randhawa, Reading Voluntary Action

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### PART 1: Introduction

**This guide has been prepared to help voluntary and community groups to: -**

- Understand the DBS process as one part of good safeguarding practice
- Identify when a DBS check is needed for their staff or volunteers
- Identify the correct level of check and whether it is for working with children, adults or both
- Further resources of guidance and help

**Why does your organisation need to know this?**

- So you can be sure you are fulfilling your duty to safeguard the people who you provide services or activities to.
- You are only permitted to ask for criminal record checks on volunteers or paid staff in certain circumstances.
- You will commit an offence if you allow someone to carry out certain activities if they are barred from doing so.

- You have a legal duty to refer someone to the DBS Service if you remove someone from carrying out certain activities because you believe they may have caused harm or could potentially cause harm.

### **What to do after reading this guide:**

- a) Review role descriptions
  - Do they reflect the activity that is actually being done?
  - Identify the type of check needed for that specific role (e.g. if someone needs an Enhanced and Barring List check against the children's barred list, say so specifically on the role description).
  - If the post holder will be working with children on a supervised basis, specifically mention what the supervision arrangements will be.
  - Review role descriptions annually and when restructuring or recruiting.
- b) Agree how you will manage the DBS checking process
  - Who will be responsible for co-ordinating the checking process in your organisation and have they had updated training/ read this guidance?
  - How will you decide if someone's criminal history is acceptable for a role?
  - How will you store an individual's online code for the Update Service?
  - Who will have authority for the online checking and how often will they check?
- c) Review your safeguarding policy
  - Make sure it reflects your DBS requirements and addresses the above questions.
  - Make sure that all managers, supervisors and coordinators are aware of their responsibilities.

## **PART 2: When do you need to carry out a DBS check and at what level?**

The DBS service offers **four different** levels of a Disclosure Check (DBS check). Therefore, when you identify that a role needs a DBS check, you should also identify the level of that DBS check.

### **1) Basic Disclosure Checks**

#### **Which roles:**

As the name suggest, this is the most basic check and anyone can apply for this, even someone applying in relation to themselves, or an organisation can apply for someone where the higher levels of checks below are not permitted.

#### **What is disclosed:**

The information disclosed it very limited: only unspent convictions and conditional cautions are disclosed.

## 2) Standard Disclosure Checks

### Which roles:

When an individual is taking on a role or engaging in activities that are specifically mentioned in the *Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975*. These are very specific roles and activities and often won't apply to voluntary and community organisations. Examples include: medical practitioners, barristers, solicitors, chartered accountants, dentists and vets. It is unlikely your organisations role will involve this activity, but if it does you could request a standard check if the higher levels of check are not permitted.

### What is disclosed:

More detailed than above:

- Spent and unspent convictions, cautions, warnings and reprimands

## 3) Enhanced Disclosure Checks

### Which roles:

Roles that fit under the definition 'work with adults' or 'work with children'. This is explained in detail below. This is one of the common levels of check for voluntary and community groups if you satisfy the definitions (see Part 4 below)

### What is disclosed:

More detailed than above:

- Spent and unspent convictions, cautions, warnings and reprimands; **and**
- Other relevant non-conviction information that is held by the local police.

NB: It's important to identify the 'workforce' and role correctly. For example: 'work with children' and a driver role. Then you will receive all relevant information.

## 4) Enhanced Disclosure with Barring List Checks

### Which roles:

Where the role fits the definition of 'regulated activity'. This is very specific and there are different definitions for regulated activity with children and for regulated activity with adults (see Part 3 below).

### What is disclosed:

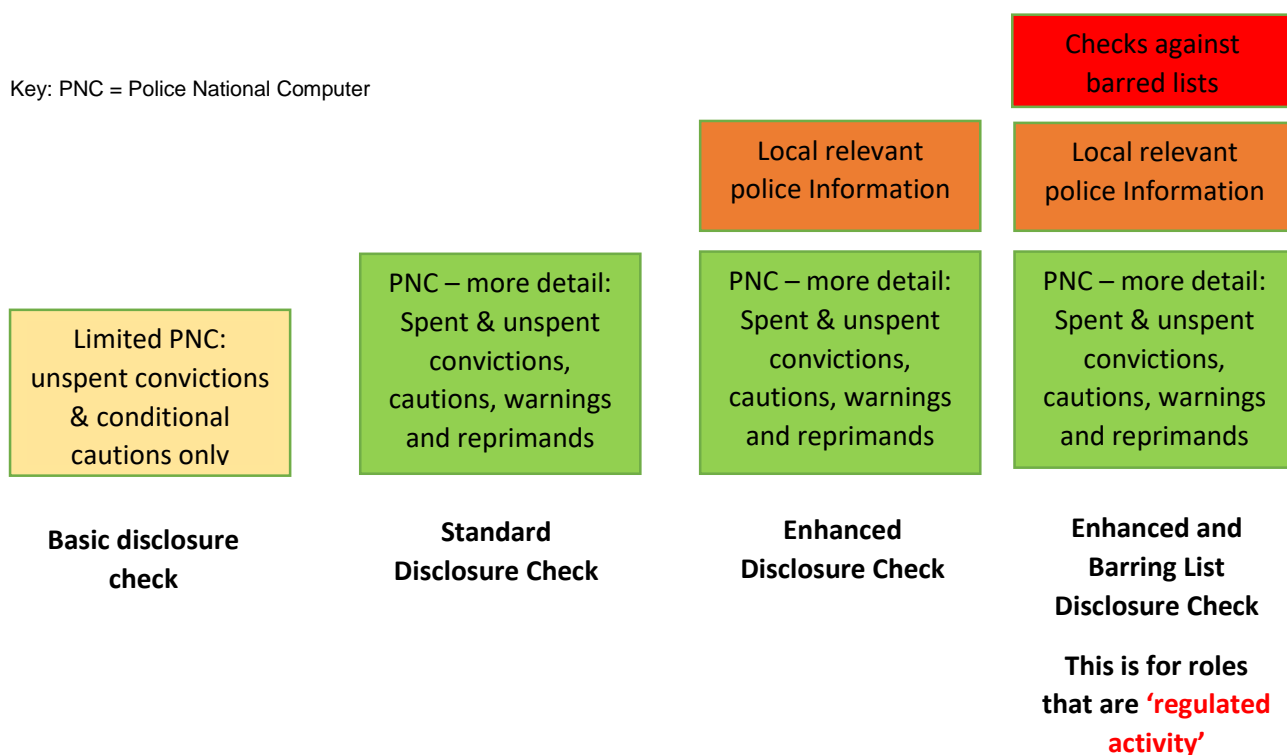
This discloses the highest level of information:

- Spent and unspent convictions, cautions, warnings and reprimands; **and**
- Other relevant non-conviction information that is held by the local police; **and**
- Whether that individual is barred from working with children, or barred from working with adults

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

IMPORTANT: it is illegal to allow someone to engage in an activity or role that fits the definition of ‘regulated activity’ if they are barred from doing so. It is also illegal for them. Both the organisation and the individual would be committing a criminal offence.

**Diagram to illustrate the levels of DBS check and what information you will receive:**



## PART 3: What is ‘Regulated Activity’ and when **must** you obtain an Enhanced Disclosure with Barring List Checks?

Why is this important?

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.

NOTE: it is a criminal offence for anyone on a barred list to engage in regulated activity, or to even apply for the role, it’s also a criminal offence for you to allow them to. Both are punishable by up to 5 years’ imprisonment and/or fine.

TIP: Always state on role descriptions if the role is regulated activity.

There are different definitions of regulated activity for working with children and working with adults. These are now defined below.

### Regulated activity with Children

For DBS purposes, Children are those aged under 18 years.

Note: the activity is not regulated activity if it is in relation to 16 or 17 year olds who are volunteers or employees within your organisation.

Regulated activity with children may fall into **any one of the following**:

- Activities that are Regulated Activity even if done just once
  - ✓ Any personal care (dressing, toileting, washing, feeding, prompting)
  - ✓ Healthcare by or supervised by a health care professional
  - ✓ Registered child minder
  - ✓ Foster carer
- Activities that are Regulated Activity if done more than three times in any 30-day period **or** at any time between 2am – 6am (with the opportunity for face to face contact with children):
  - ✓ Teaching, training or instructing children unsupervised
  - ✓ Caring for or supervising children unsupervised
  - ✓ Advice and guidance to children on emotional, educational or physical well-being
- Activities that are Regulated Activity if carried out more than three times in any 30-day period:
  - ✓ Moderating an internet chat room wholly or mainly used by children

- ✓ Driving a vehicle only for children (even if they are accompanied by someone who supervises/ cares for them as part of a third party arrangement)
- Other activities that are performed in specified establishments and meet certain additional criteria:
  - ✓ School/ full-time educational establishment
  - ✓ Pupil referral unit
  - ✓ Nursery
  - ✓ Detention centre
  - ✓ Children's home
  - ✓ Children's centre providing early years' provision
  - ✓ Childcare premises

If they also meet all the following criteria:

- Volunteer/work there more than three times in a 30-day period, or overnight between 2am-6am with the opportunity for face to face contact with children; and
- They have the opportunity, because of their job/role, to have contact with the children in the establishment; and
- They work there for the purposes of the establishment; and
- It is not temporary or occasional work; and
- If they are a volunteer, they are unsupervised. If they are paid staff, this condition does not apply, it is still regulated activity even if supervised.

NOTE: Anyone who supervises someone engaging in any of the above is also in regulated activity.

If the activities do not fit in any of the above, you may still be able to obtain an Enhanced DBS Disclosure Check for 'work with children' – please see section 4 below for more information.

### **What is satisfactory supervision?**

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

- There must be supervision by a person who is in a regulated activity post (i.e. the supervisor has an appropriate Enhanced and Barring List Check DBS certificate);
- 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 level of supervision that is appropriate will depend on the:

- Ages of the children

- Number of children
- Number of other workers (if any)
- Nature of the work/activity
- Vulnerability of the children
- Number of workers who are being supervised by the supervisor
- Level of protection needed for the worker

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

## Regulated activity with Adults

The following activities are all regulated activity with adults, regardless of how often they are carried out (i.e. even if done just once) and even if they are supervised:

- **Healthcare** by healthcare professional.
  - Whether related to physical, mental or palliative care.
  - Includes psychotherapy or counselling if referred by healthcare practitioner.
  - Doesn't normally include workplace first aid, only if provided by a response service such as St John's Ambulance or Community First Responders.
  - Doesn't normally include peer support groups, such as Alcoholics Anonymous.
  
- **Personal care as a result of age, illness or disability**
  - Assistance with feeding, washing, going to the toilet, oral care or care of skin, hair or nails, or prompting someone to do any of these things. But not hairdressing generally.
    - E.g. A care assistant in a care home who cuts and files an adult's nails to keep the nails short and safe, because the adult cannot do it themselves (for example, because they cannot see well enough) would be engaging in regulated activity.
    - E.g. A beauty therapist who attends a day care centre once a week and provides manicures for anyone who would like one, instead of for people who need them because of their age, illness or disability, is not engaging in regulated activity.
    - E.g. A worker in a lunch club, who reminds a person with dementia to eat their lunch, and ensures they do so is in regulated activity.
  
- **Social work** (i.e. by regulated social work practitioners).
- **Assistance with general household matters because of age, illness or disability**
  - Managing the person's cash;
  - Paying the person's bills;

- Shopping on their behalf.
  - E.g. A volunteer who collects shopping lists and the cash from the adult to do their shopping for them and pay for it would be engaging in regulated activity.
  - E.g. A befriender who helps a disabled person compile their weekly shopping list is not in regulated activity (but may be eligible for an Enhanced Disclosure Check, see Part 4 below).
  
- **Assistance with conducting an adult's own affairs**
  - Lasting Power of Attorney
  - Enduring Power of Attorney
  - Appointed by Court of Protection Order
  - Mental health or mental capacity advocate,
  - Independent advocate
  - Appointed to receive someone else's benefits for them.
  
- **Transporting adults for reasons of age, illness or disability** from or to healthcare, personal care or social work
  - Whether you are the driver or the assistant.
  - Hospital porters
  - Patient transport service drivers.
  - Does not include taxi's.
  - Does not include leisure or social trips.
    - E.g.** A person who volunteers to take an adult to and from their GP appointment on behalf of a community group is in regulated activity. (It would not matter if that person knows, or is friends with, the adult they were taking to the appointment if the conveying is on behalf of the group).
    - E.g.** A friend who takes their neighbour to a hospital appointment would not be in regulated activity, as this is a personal relationship and not part of a volunteer role with an organisation. TIP if they volunteer with you and this is not part of their role, be clear in your description of the boundaries of their role otherwise they could inadvertently be engaging in regulated activity thinking it's okay to do this as part of their role.
  
- Anyone who supervises someone engaging in any of the above is also in regulated activity.

If the above do not apply, still check whether you can obtain an Enhanced Disclosure Check (but without Barring List Checks) detailed below in Part 4.



## PART 4: Enhanced Disclosure Checks in more detail – when can you obtain these?

If the role is not ‘regulated activity’ as described above at Part 3, then you should still check whether it is a role that is eligible for an Enhanced Disclosure Check.

In order to qualify for an Enhanced Disclosure Check, the role/activity needs to fit the definition of either ‘work with adults’ or ‘work with children’, or both. These will now be defined below with examples.

NOTE: The Charity Commission guidance is that where a charity’s staff or volunteers work with children or adults under the definitions below or in regulated activity, then it is good practice for the Trustees of that charity to obtain an Enhanced Disclosure Check for their trustee role (NB: if they also deliver services directly, this needs to be assessed separately as you would with any other volunteer, so they may also be in regulated activity).

### ‘Work with Children’

First take a look at ‘regulated activity’ in relation to children above in Part 3.

If you have determined that the activity/role would have been regulated activity had it been more regular/unsupervised, then you can still obtain an Enhanced Disclosure Check (just without the Barring List Checks).

For specific examples in different settings see this [DBS guide for working with children in the charity sector](#).

If a role would have fit the definition of regulated activity pre the changes in 2012, then you can still obtain an Enhanced Disclosure (e.g. trustees, governors).

### ‘Work with Adults’

For DBS purposes, an adult is someone who is 18 years or over.

There are **3 steps** you need to take to determine whether the role/activity fits this definition.

1. Who will the volunteer/staff member be volunteering/working with?

2. What activity will they be providing?
3. Will it be done often enough?

You need to establish all three before you can apply for an Enhanced Disclosure Check for work with adults. These will now be explained:

**1. Step 1: Who will the volunteer/staff member be volunteering/working with?**

This is all about the service user(s) that the volunteer/staff will be volunteering/working with. The service user(s) must already fit into one of the two categories below (this isn't necessarily about the activity you will provide, but about the service user themselves at this stage):

- a. The service user is in receipt of health or social care services as defined in Paragraph 9 of Police Act 1997 (Criminal Records) Regulations 2006

This includes where service users are:

- in residential accommodation,
- sheltered housing,
- in receipt of care or assistance in their home provided because of their age, health or disability
- any form of health care, including treatment, therapy or palliative care,
- support, assistance or advice to help them live independently
- receiving services because of their age or disability (physical or mental illness) with certain exceptions<sup>i</sup>
- a pregnant or nursing mother, who is in residential accommodation

If YES – go to Step 2

If NO – does (b) apply?

- b. The service user is in receipt of any activity as defined in Paragraph 10 of the Police Act 1997 (Criminal Records) Regulations 2006

This includes where service users are:

- Various types of detention e.g. prison, remand centre, removal centre
- Subject to a Supervision Order by a Court Order
- In need of assistance to manage their own affairs, e.g. Lasting Power of Attorney, Enduring Power of Attorney, Court of Protection Order, Independent Mental Capacity Advocate, Representative who receives their social security for them.
- In receipt of Direct Payments under the Social Care Act 2001 or NHS Act 2006

IF YES – go to Step 2

IF NO – you cannot obtain an Enhanced Disclosure for the staff/volunteer, only a Basic Disclosure.

## **2. Step 2: What type of activity will the volunteer be doing?**

This is about the role/activity that the volunteer/staff will be doing while volunteering/working for your organisation.

This must be one of the activities listed under Paragraph 6 of the Police Act 1997 (Criminal Records) Regulations 2006:

- Care or supervision
- Treatment or therapy
- Any form of training, teaching, instructing, assisting, advising or guiding
- Moderating a public electronic forum/service
- Any form of work in a care home if they have the chance to have contact with the residents
- Representing individuals or advocacy
- Transporting your service users (whether the service user is alone or accompanied by someone caring for them).

IF YES – Go to Step 3

IF NO – you cannot obtain an Enhanced Disclosure for the staff/volunteer, only a Basic Disclosure.

## **3. Step 3: Will it be done often enough?**

It is regular enough if it fits one of the following:

- Once a week on an ongoing basis, or
- At least 4 times in a 30-day period, or
- At any time between 2am – 6am (even if just once) and the person has the opportunity to have face to face contact with the service user.

IF YES – Apply for Enhanced Disclosure Check for the volunteer/staff

If NO – you cannot obtain an Enhanced Disclosure for the staff/volunteer, only a Basic Disclosure.

## PART 5: Fees for obtaining a DBS check

<b>Basic DBS check</b>	<b>£23</b> (including for volunteers)
<b>Standard DBS check:</b>	<b>£23</b>
<b>Enhanced DBS check:</b>	<b>£40</b>
<b>Enhanced &amp; barring List Check</b>	<b>£40</b>

The DBS Service does not charge for volunteer checks but the umbrella body will charge an admin fee of £10 - £20 per person.

NOTE: To obtain a DBS check you need to apply through an umbrella service – see contact details below in Part 6.

### Online update service

Registration lasts for 1 year and costs £13 per year (payable by debit or credit card only), free for volunteers.

When you join the update service, the person who has a check gets an online account that lets them:

- Take your certificate from one job to the next/ from one volunteer role to the next if it matches level and who they are working with (children/adults) stays the same.
- Give employers permission to check your certificate online, and see who has checked it. This means you don't need to keep getting new certificates but so long as the level of check and who they are working with (children/adults) stays the same, you can simply check the status of the certificate online, say every 6 or 12 months.

## PART 6: Further resources

[DBS Guide: working with children in the charity sector](#) – includes more examples

[DBS Guide: working with adults in the charity sector](#) – includes more examples

### DBS Customer Services

Tel: 03000 200 190

Email: [customerservices@dbs.gsi.gov.uk](mailto: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>

### Reading umbrella body – Barnabas Fellowship of Churches (BFOC)

Janet Barfoot

Tel: 0118 941 5557

You can also search for online providers but make sure that you understand what level of check you need and also that you know the difference between Enhanced check and Enhanced and Barring List Check, some online providers do not differentiate easily.

### **Reading Voluntary Action – Advice Service**

Herjeet Randhawa

RVA Advice Worker      Tel: 0118 937 2273      Email: [advice@rva.org.uk](mailto:advice@rva.org.uk)

### **RVA Knowledgebase**

<http://rva.org.uk/knowledge-base/safeguarding-knowledge/>

This includes local safeguarding contact numbers

### **Safeguarding Training**

See the RVA Training page for local sessions through RVA and partners. If you cannot find what you are looking for, contact the RVA Advice Service.

<http://rva.org.uk/training/>

### **Safe and Sound Accreditation**

Safeguarding is one of the key areas of the Safe and Sound good governance award. Your charity or community group may wish to work towards this standard and receive assistance and reassurance that you have good safeguarding practices in place, as well as be recognised for this. More info here:

<http://rva.org.uk/safe-and-sound/>

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<sup>i</sup> Exceptions include: dyslexia, dyspraxia, dyscalculia, irlen syndrome, alexia, auditory processing disorder, dysgraphia