

## **Information Sheet Summary**

A Criminal Records Bureau (CRB) check is a process for gathering information about someone's criminal convictions and other cautions, reprimands and final warnings given by the Police. If you are new to this subject, we suggest that you read our Information Sheet "An introduction to Criminal Record Bureau Checks".

This Information Sheet covers the following specific questions:

- When you can or should request a CRB check
- Who is legally defined as a "vulnerable person"?
- Which volunteers (or volunteer roles) can be checked?
- The Rehabilitation of Offenders Act
- Future developments - the Independent Safeguarding Authority

Readers may also be interested to read our other information sheets about CRB checks and related matters, which are listed at the end of this webpage.

## **WORKING WITH VOLUNTEERS**

### **Is your organisation allowed to get CRB checks for your volunteers and do you need to?**

Not all organisations will need to get a CRB check for their volunteers. It depends entirely on two factors:

1. Will the volunteer be working with clients or service users who are legally defined as "vulnerable"?
2. What is the nature of this contact and will it be a regular part of the volunteer's role?

The legal obligations around CRB checks will change in October 2009 when the Independent Safeguarding Authority is expected to begin operating. This Information Sheet explains the current situation in detail. For simplicity, we have briefly explained the future situation and suggested sources of further information at the end of this document.

### **The current situation**

Firstly, organisations which fall under the remit of the Care Standards Act or are 'Childcare organisations' under the definition in the Protection of Children Act are legally obliged to get CRB checks for certain staff or volunteers.

Secondly, organisations which aren't covered by these Acts can still choose to use CRB checks as part of meeting their legal 'duty of care' towards the people they work with. This 'duty of care' requires that you do everything 'reasonable' within your power to protect others from harm. If your organisation has volunteers who work with vulnerable people, it could be

argued that part of your duty of care involves checking whether they have any relevant criminal convictions.

Organisations need to look carefully at their legal responsibilities, and at their client group and volunteer roles to decide whether a CRB check is necessary. A risk assessment should be done to decide whether clients are at risk if a volunteer does not undergo a CRB check. In some situations, organisations may decide that even if their client group is vulnerable, the risks are significantly reduced because of other working or safeguarding practices. (For further information on this topic, please read Volunteering England's Information Sheet on "[Screening Volunteers](#)".)

### **The legal definition of a “vulnerable person”**

There are currently two categories of ‘vulnerable person’:

- children and young people under age 18 and
- adults aged over 18 who fit the definition provided in the Police Act.

A vulnerable adult is described in the Police Act as a person “aged 18 or over who has a condition of the following type:

- i) a learning or physical disability;
- ii) a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs; or
- iii) a reduction in physical or mental capacity.”

### **Which volunteer roles need a CRB check?**

Organisations are only allowed to request a CRB check for a volunteer who comes into regular contact with vulnerable clients (as defined above).

- The contact must be regular or part of the volunteer’s “normal duties”.
- Very occasional or one-off contact between a volunteer and your vulnerable clients is not likely to justify a CRB check.

One example of a role that can be checked is where a volunteer will be caring for, supervising, training or in sole charge of people aged under 18. For volunteers working with vulnerable adults, the threshold is whether the individual is providing ‘care services’ to them. ‘Care services’ does include social care, but again this does not mean that occasional contact with a vulnerable person justifies carrying out a CRB check.

The legal definition provided in the Police Act means that groups such as homeless people, older people or asylum seekers do not automatically fit the legal definition of a ‘vulnerable adult’. It also means that contact with the general public does not automatically require a CRB check.

### **The Rehabilitation of Offenders Act (The ROA)**

This Act was introduced in 1974 to ensure that ex-offenders who have not re-offended for a period of time since the date of their conviction are not

discriminated against when applying for work, (whether paid or unpaid). If an individual does not commit an offence during the rehabilitation period, they may afterwards be regarded as a 'rehabilitated person' and the conviction will be 'spent'. When a conviction is spent, an individual doesn't usually have to declare it when applying to work or volunteer.

However, work with vulnerable adults or young people is seen as an exception to this rule, and this kind of work is listed in The Exceptions Order to the Rehabilitation of Offenders Act. This is what gives an organisation the right to request a CRB check and therefore see an individual's full criminal record including any spent convictions.

If you are unsure whether a particular volunteer role is eligible for a CRB check, you should check [the list of 'disclosure access category codes' on the CRB website](#). If an application for a CRB check is not justified, you could be breaking the CRB's Code of Practice or breaking the law.

For more information about spent and unspent convictions, please refer to the publication "Involving Ex-Offenders in Volunteering", listed in the 'Further information' section of this Information Sheet.

## **Future developments**

### **The Independent Safeguarding Authority**

A new Independent Safeguarding Authority (ISA) has been launched and will take responsibility for vetting and barring from October 2009. Its introduction follows the Bichard Enquiry which was set up following the Soham murders in 2002 to review how CRB checks are carried out.

This scheme will apply to all types of organisation. The legal requirement to check someone's background will be solely based on the type of contact which they will have with children or vulnerable adults, and not partly based on whether the organisation is under statutory obligations to do so.

CRB checks will still exist, but the new ISA scheme for vetting and barring will aim to help organisations increase protection of children and vulnerable adults, by improving the current provisions for screening potential (and current) volunteers and employees. It plans to do this through a registration system, stopping people who the scheme decides are unsuitable from volunteering (or trying to volunteer) with children and vulnerable adults.

The Independent Safeguarding Authority will take responsibility for making barring decisions. The application processes for vetting and barring decisions will be run by the Criminal Records Bureau (CRB).

For further information, please visit the ISA's website at <http://www.isa.gov.org.uk> or the 'Every Child Matters' website at <http://www.everychildmatters.gov.uk/vettingandbarring/>

Volunteering England has also written an [Information Briefing](#) which describes the new scheme from the point of view of volunteer-involving organisations.

### **Further information**

#### **Criminal Records Bureau**

Website: <http://www.crb.gov.uk>

Information line: 0870 90 90 811

#### **"Criminal Records Bureau Checks: guidance for volunteering"**

The Office of the Third Sector has published this guidance to help organisations that use volunteers to be clear about when they do and don't need to carry out CRB checks on volunteers.

[Available to download or order from the Office of the Third Sector website](#)

#### **Involving Ex-offenders in Volunteering**

A free good practice guide co-published by Volunteering England and Nacro, with funding from the Volunteering Hub.

[Available as a free download](#)

#### **Volunteers and the Law**

In particular, read chapter 3 on "safety and security"

A readable guide to legal issues for volunteer managers.

This publication is free to download, thanks to funding from the Cabinet Office.

<http://www.volunteering.org.uk/law>

#### **Volunteering England Information Sheets and Briefings**

["An Introduction to Criminal Records Bureau Checks"](#)

["Screening Volunteers"](#)

["Recruiting Ex-Offenders"](#)

["Independent Safeguarding Authority Briefing"](#)

## WHO SHOULD HAVE A CRB CHECK?

The categories listed below represent the professions, offices, employments, work and occupations that are known as the exceptions to the Rehabilitation of Offenders Act 1974. Organisations registered with the CRB can only apply for a CRB Disclosure if the position is included in this list.

The Registered Body should indicate which category they are applying under on the Disclosure application form, by quoting one category code in Section Y5 of the application form. If the position relates to more than one code, for example, 02, 'work on day care premises' and 16, 'nursing', please complete only the first code in the list that applies. In this case, it will be category code 02, 'work on day care premises'.

### 'Working with children':

For the purpose of the ROA 1974 (Exceptions) Order 1975, the definition of 'working with children' includes any work that is:

- work in a regulated position
- work in a further education institution where the normal duties of that work involve regular contact with persons aged under 18

The regulated positions are specified by category codes 01 to 09 below. You should select the code that most clearly identifies the position for which you are asking an exempted question and require a Disclosure.

Category type	Category Code
A position whose normal duties include work in one of the following establishments: i. an institution which is exclusively or mainly for the detention of children ii. a hospital which is exclusively or mainly for the reception and treatment of children iii. a care home, residential care home, nursing home or private hospital which is exclusively or mainly for children iv. an educational institution exclusively or mainly for children (under 18's) v. a children's home or voluntary home a home provided under 82(5) of the Children Act 1989	01
A position whose normal duties include work on a day care premises	02
A position whose normal duties include caring for, training, supervising or being in sole charge of children.	03
A position whose normal duties involve unsupervised contact	04

Category type	Category Code
with children under arrangements made by a responsible person.	
A position whose normal duties include caring for children under the age of 16 in the course of the child's employment.	05
A position whose substantial part of normal duties includes supervising or training children under the age of 16 in the course of the child's employment.	06
<p>One of the following positions:</p> <ul style="list-style-type: none"> <li>• member of the governing body of an educational institution</li> <li>• member of a relevant local government body</li> <li>• director of social services of a local authority</li> <li>• chief education officer of a local education authority</li> <li>• charity trustee of a children's charity</li> <li>• member of the Youth Justice Board for England and Wales</li> <li>• Children's Commissioner for Wales or deputy Children's Commissioner for Wales</li> <li>• member or chief executive of the Children and Family Court Advisory and Support Service (CAFCASS)</li> </ul> <p>For these purposes, a person is a member of a relevant local government body if:</p> <ul style="list-style-type: none"> <li>• he/she is a member of a local authority, or a member of an executive of a local authority, and is involved in discharging any education functions or social service functions of a local authority</li> <li>• he/she is a member of an executive of a local authority which discharges any such functions</li> <li>• he/she is a member of: <ul style="list-style-type: none"> <li>- a committee of an executive of a local authority, or</li> <li>- an area committee or any other committee of a local authority which discharges any such function</li> </ul> </li> </ul>	07
A position whose normal duties include supervising or managing an individual in his work in a regulated position.	08
Work in a further education institution where the normal duties of that work involve regular contact with persons aged under 18.	09

**'Working with vulnerable adults':**

<b>Category type</b>	<b>Category Code</b>
<p>For the purpose of the ROA 1974 (Exceptions) Order 1975, a person who regularly cares for, trains, supervises or is in sole charge of vulnerable adults of the following description is entitled to an <b>ENHANCED DISCLOSURE</b>. A vulnerable adult for the purposes of an Enhanced Disclosure is a person aged 18 or over who receives services of a type listed in paragraph 1) below and in consequence of a condition of a type listed in paragraph 2) below, has a disability of a type listed at 3) below:</p> <p>1. The services are: a) accommodation and nursing or personal care in a care home, b) personal care or support to live independently in his or her own home, c) any services provided by an independent hospital, independent clinic, independent medical agency or National Health Service body, d) social care services, or e) any services provided in an establishment catering for a person with learning difficulties.</p> <p>2. The conditions are: a) a learning or physical disability, b) a physical or mental illness, chronic or otherwise including an addiction to alcohol or drugs, or c) a reduction in physical or mental capacity.</p> <p>3. The disabilities are: a) a dependency upon others in the performance of, or a requirement for assistance in the performance of, basic physical functions, b) severe impairment in the ability to communicate with others, or c) impairment in a person's ability to protect him or herself from assault, abuse or neglect.</p> <p>Or</p> <p>Any office or employment which is concerned with the representation of, or advocacy services for, vulnerable adults by a service that has been approved by the Secretary of State or created under any enactment; and which is of such a kind as to enable a person, in the course of his normal duties, to have access to vulnerable adults in receipt of such services</p>	<p><b>10</b></p>

Category type	Category Code
<p>The following type of position attracts a <b>STANDARD DISCLOSURE</b>:</p> <p>Work which is concerned with the provision of care services (1) to vulnerable adults (2) and which is of such a kind to enable the holder of that employment or the person engaged in that work to have access to vulnerable adults in receipt of such services in the course of his normal duties.</p> <p>(1) "Care services" means i) accommodation and nursing or personal care in a care home (where "care home" has the same meaning as in the Care Standards Act 2000); ii) personal care or nursing or support for a person to live independently in his own home; iii) social care services; or iv) any services provided in an establishment catering for a person with learning difficulties.</p> <p>(2) "Vulnerable adult", means a person aged 18 or over who has a condition of the following type: i) a learning or physical disability; ii) a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs; or iii) a reduction in physical or mental capacity.</p>	

**Category codes 11 to 28 refer to all professions that are exempt from the provisions of the ROA.**

Category type	Category Code
Medical Practitioner.	11
Barrister (in England and Wales), advocate (in Scotland), solicitor.	12
Chartered accountant, certified accountant.	13
Dentist, dental hygienist, dental auxiliary.	14
Veterinary surgeon.	15
Nurse, midwife.	16
Ophthalmic optician, dispensing optician.	17
Pharmaceutical chemist.	18
Registered teacher (in Scotland).	19
Any profession to which the Professions Supplementary to Medicine Act 1960 applies and which is undertaken following registration under that Act.	20



<b>Category type</b>	<b>Category Code</b>
Registered osteopath.	<b>21</b>
Registered chiropractor.	<b>22</b>
Chartered psychologist.	<b>23</b>
Actuary.	<b>24</b>
Registered foreign lawyer.	<b>25</b>
Legal executive.	<b>26</b>
Receiver appointed by the Court of Protection.	<b>27</b>
Home Inspector	<b>28</b>

**Category codes 29 to 58 refer to all offices, employments and work that are exempt from the provisions of the ROA 1974.**

<b>Category type</b>	<b>Category Code</b>
Judicial appointment.	<b>29</b>
The Director of Public Prosecutions and any employment in the Crown Prosecution Service.	<b>30</b>
Justices' chief executives, justices' clerks and their assistants.	<b>31</b>
Clerks (including deputy and assistant clerks) and officers of the High Court of Justiciary, the Court of Session and the district court, sheriff clerks (including sheriff clerks deputy) and their clerks and assistants.	<b>32</b>
Police constables or police cadets.	<b>33</b>
Employment within the precincts of a prison, remand centre, detention centre, Borstal institution or young offenders institution, and members of boards of visitors (England & Wales) or of visiting committees (Scotland).	<b>34</b>
Traffic wardens.	<b>35</b>
Probation officers.	<b>36</b>
Any employment or other work which is concerned with the provision of health services and which is of such a kind as to enable the holder to have access to persons in receipt of such services in the course of his normal duties.	<b>37</b>
Any occupation in respect of which an application to the Gaming	<b>38</b>

Category type	Category Code
Board for Great Britain for a licence, certificate or registration is required by or under any enactment.	
Financial Services position – This means all positions for which the Financial Services Authority or the competent authority for listings are entitled to ask exempted questions to fulfil their obligations under the Financial Services and Markets Act 2000.	<b>39</b>
Any occupation which is concerned with the management of a place in respect of which the approval of the Secretary of State is required by section 1 of the Abortion Act 1967.	<b>40</b>
<p>Any occupation which is concerned with:</p> <ul style="list-style-type: none"> <li>• in England and Wales, carrying on a nursing home in respect of which registration is required by Section 187 of the Public Health Act 1936 or Section 14 of the Mental Health Act 1959, or</li> <li>• in Scotland, carrying on a nursing home in respect of which registration is required under Section 1 of the Nursing Homes Registration (Scotland) Act 1938 or a private hospital in respect of which registration is required under Section 15 of the Mental Health (Scotland) Act 1960.</li> </ul>	<b>41</b>
Any occupation which is concerned with carrying on an establishment in respect of which registration is required by Section 37 of the National Assistance Act 1948 or Section 61 of the Social Work (Scotland) Act 1968.	<b>42</b>
Any occupation in respect of which the holder, as occupier of premises on which explosives are kept, is required by any Order in Council made under section 43 of the Explosives Act 1875 to obtain from the police or a court of summary jurisdiction a certificate as to his fitness to keep the explosives.	<b>43</b>
Inspectors and other staff working for the Royal Society for the Prevention of Cruelty to Animals (the RSPCA) who, as part of their duties, may carry out humane killing of animals.	<b>44</b>
Any office or employment or other work in the Serious Fraud Office.	<b>45</b>
Any office or employment in the National Crime Squad or the National Criminal Intelligence Service	<b>46</b>
The Commissioners for Her Majesty's Revenue and Customs and any office or employment in their services. The Director and any office or employment in the Revenue and Customs	<b>47</b>

Category type	Category Code
Prosecutions Office.	
Any employment or other work concerned with the supervision of electronic communications with or between children for the purpose of child protection.	48
An individual designated under section 2 of the Traffic Management Act 2004	49
<p data-bbox="297 539 505 569">Court Positions</p> <ul data-bbox="342 611 1159 1289" style="list-style-type: none"> <li data-bbox="342 611 1159 674">• Judges' clerks, secretaries and legal secretaries within the meaning of section 98 of the Supreme Court Act 1981(c)</li> <li data-bbox="342 674 1159 779">• Court officers and court contractors, who in the course of their work, have face to face contact with judges of the Supreme Court, or access to such judges' lodgings</li> <li data-bbox="342 779 1159 884">• Persons who in the course of their work have regular access to personal information relating to an identified or identifiable member of the judiciary</li> <li data-bbox="342 884 1159 989">• Court officers and court contractors, who, in the course of their work. Attend either the Royal Courts of Justice or the Central Criminal Court</li> <li data-bbox="342 989 1159 1020">• Court security officers, and tribunal security officers</li> <li data-bbox="342 1020 1159 1125">• Court contractors, who, in the course of their work, have unsupervised access to court-houses, offices and other accommodation used in relation to the courts</li> <li data-bbox="342 1125 1159 1289">• Contractors, sub-contractors, and any person acting under the authority of such a contractor or sub-contractor, who, in the course of their work, have unsupervised access to tribunal buildings, offices and other accommodation used in relation to tribunals</li> </ul> <p data-bbox="297 1367 615 1396">The following persons –</p> <ol data-bbox="297 1438 1159 1709" style="list-style-type: none"> <li data-bbox="297 1438 984 1467">a) Court officers who execute county court warrants</li> <li data-bbox="297 1472 756 1501">b) High Court enforcement officers</li> <li data-bbox="297 1505 678 1535">c) sheriffs and under-sheriffs</li> <li data-bbox="297 1539 440 1568">d) tipstuffs</li> <li data-bbox="297 1572 1130 1635">e) any other persons who execute High Court writs or warrants who act under the authority of a person listed at (a) to (d)</li> <li data-bbox="297 1640 1159 1709">f) persons who execute clamping orders, as defined in paragraph 38(2) of Schedule 5 of the Courts Act 2003(d)</li> </ol> <ul data-bbox="342 1745 1130 1879" style="list-style-type: none"> <li data-bbox="342 1745 854 1774">• The Official Solicitor and his deputy</li> <li data-bbox="342 1778 1130 1841">• Persons appointed to the office of Public Trustee or deputy Public Trustee, and officers of the Public Trustee</li> <li data-bbox="342 1845 1032 1875">• Court officers and court contractors who exercise</li> </ul>	50

Category type	Category Code
functions in connection with the administration and management of funds in court including the deposit, payment, delivery and transfer in, into and out of any court of funds in court and regulating the evidence of such deposit, payment, delivery or transfer and court officers and court contractors, who receive payment in pursuance of a conviction or order of a magistrates' court.	
People working in the Department of Children, Schools and Families (formally Department for Education and Skills), the Office for Standards in Education, Children's Services and Skills or in the Government Offices for the English Regions with access to sensitive or personal information about children or vulnerable adults.	<b>51</b>
Any office, employment or other work which is concerned with the establishment or operation of a database under section 12 of the Children Act 2004 , and which is of such a kind as to enable the holder of that office or employment, or the person engaged in that work, to have access to information included in the database.	<b>52</b>
Any office, employment or other work which is of such a kind that the person is or may be permitted or required to be given access to a database under section 12 of Children Act 2004.	<b>53</b>
Any work which is normally concerned with the provision of any form of information, advice or guidance wholly or mainly to children which relates to their physical, emotional or educational well-being and is provided by means of telephone or other form of electronic communication including the internet and mobile telephone text messaging.	<b>54</b>
The Chairman, other members, and members of staff (including any person seconded to serve as a member of staff) of the Independent Safeguarding Authority (formally Independent Barring Board).	<b>55</b>
Staff working within the Public Guardianship Office (to be known as the Office of the Public Guardian from October 2007) with access to data relating to children and vulnerable adults.	<b>56</b>
The Commissioners for the Gambling Commission and any office or employment in their services.	<b>57</b>
Any employment or other work, where normal duties (a) involve caring for, training, supervising, or being solely in charge of, persons aged under 18 serving in the naval, military or air forces of the Crown; or	<b>58</b>

<b>Category type</b>	<b>Category Code</b>
(b) include supervising or managing a person employed or working in a capacity referred to in paragraph (a).	

**Category codes 59 to 68 refer to other activities for which you are entitled to ask a question that is exempted from the provisions of the ROA 1974**

<b>Category type</b>	<b>Category Code</b>
A person living at the premises where a childminding or day care service is provided or who regularly works on the premises at a time when the childminding takes place.	<b>59</b>
A person living in the same household as a person whose suitability is being assessed for a position working with children and who lives on the same premises where their work with children would normally take place.	<b>60</b>
For National Lottery licensing purposes.	<b>61</b>
For the purpose of licensing hackney carriage or private hire vehicle drivers.	<b>62</b>
For the purpose of safeguarding national security.	<b>63</b>
For adoption purposes.	<b>64</b>
For foster caring purposes.	<b>65</b>
For the purpose of licensing under Section 8 of the Private Security Industry Act 2001.	<b>66</b>
For the award of public works contracts, public supply contracts and public service contracts in accordance with Directive 2004/17/EC and 2004/17/EC of the European Parliament and of the Council of March 2004(a)	<b>67</b>
Football Stewards, supervisors or managers of football stewards	<b>68</b>