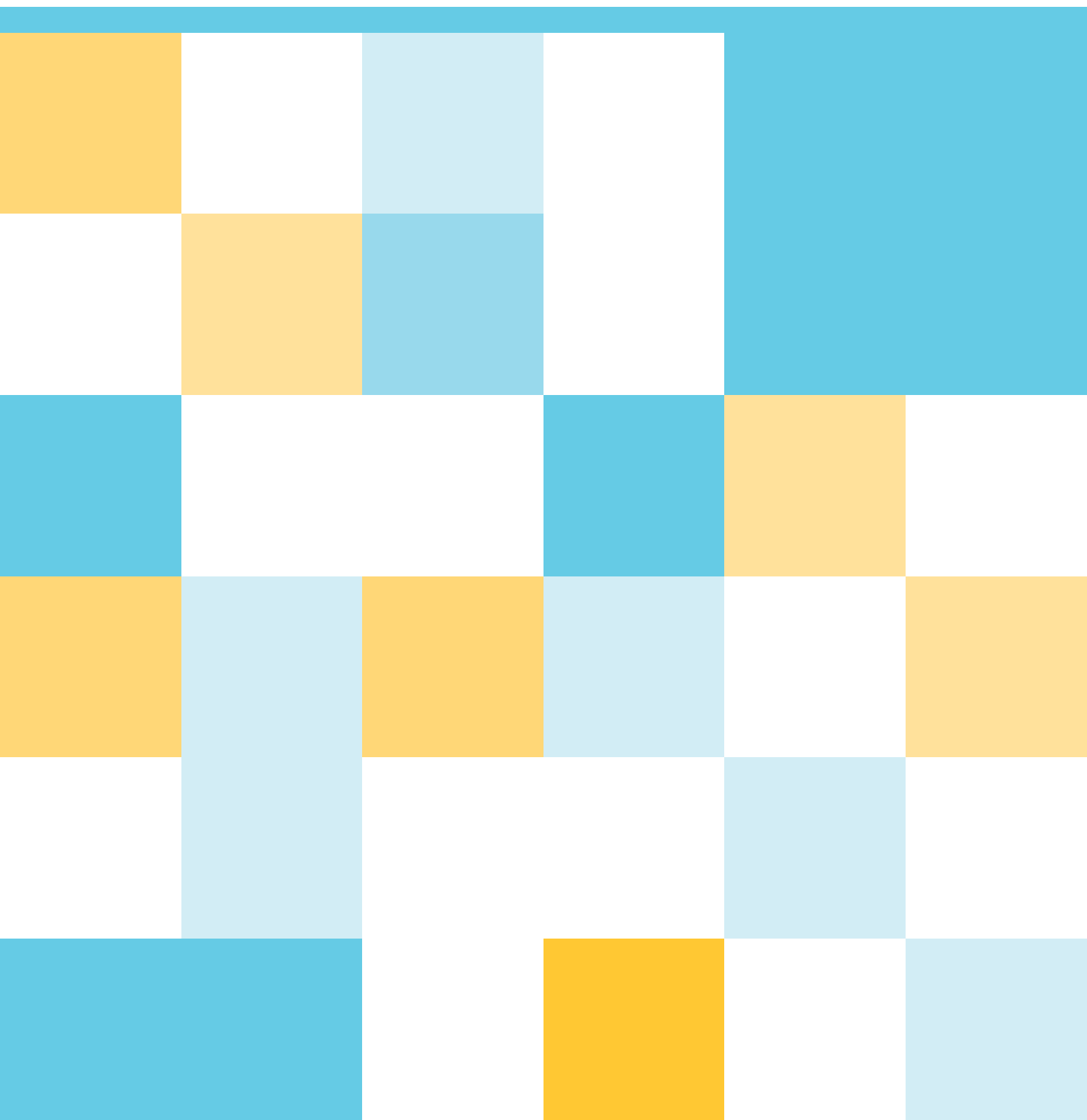


Criminal Records Bureau checks Guidance for volunteering



Criminal Records Bureau (CRB) checks and volunteers

Introduction to guidance

The Commission on the Future of Volunteering was set up by the England Volunteering Development Council after the 2005 Year of the Volunteer. The Commission was set up to look at how the third sector, Government and the private sector could work together to create a long-term culture of volunteering.

The Commission set out a number of recommendations for how this culture could be built. It also identified barriers that may prevent this culture being created. One of these barriers was considered to be the inappropriate and often unnecessary application of Criminal Records Bureau (CRB) checks by organisations that involve volunteers

The Commission found evidence that organisations felt unclear about the circumstances in which checks can, should or must be carried out and that the complexity of the process of applying for checks acted as a barrier to potential volunteers.

The Commission recommended that Government address this issue and the Government's response is this guidance. It is aimed at volunteer involving organisations, in the public, private and third sector. This includes National Health Service organisations, Local Authority Schools, Local authority and privately run Care homes, as well as Third Sector organisations.

The guidance has two aims:

1. To establish good practice in the application of CRB checks.
2. To ensure that there is the correct balance between the need to protect vulnerable groups and the need to take a proportionate approach to risk management, of which CRB checks are just one part.

The guidance draws on existing advice on this issue from the CRB, NHS Employers and the Department for Children Families and Schools. Importantly it also draws on the experience and guidance from organisations that support volunteering, such as Volunteering England.

The guidance is aimed primarily at organisations that are familiar with the process of applying for CRB checks. There is a range of information from other sources, particularly the CRB, Volunteering England and Wales Council for Voluntary Action (WCVA) that explain the process of applying for checks in more detail.

This guidance will be updated in October 2009 when the Independent Safeguarding Authority Scheme (explained on page 16) is in operation.

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Section 1: Criminal Records Bureau checks – an introduction

Criminal Record checks were introduced following the 1997 Police Act. Part v of the Act relates to Certificates of Criminal Records. The Criminal Records Bureau (the CRB) is an Executive Agency of the Home Office. The CRB was launched in March 2002 and provides access to criminal record and other information.

The purpose of checks

The CRB assists organisations such as employers, volunteer involving organisations and licensing bodies, by identifying candidates and/or volunteers that may be unsuitable for certain kinds of work. This enables these organisations to make more informed recruitment and licensing decisions.

Types of check

Organisations wishing to use the CRB service can ask for one of two types of check. The type of check required will depend upon the nature of the position. The two checks are called Enhanced and Standard checks, both require a fee but are free of charge to volunteers.

Standard checks

These contain details of all current and spent convictions, as well as details of any cautions, reprimands or warnings held on the Police National Computer. They also include where relevant, details from the:

- Protection of Children Act (POCA) List, (under the Protection Of Children Act)
- Protection of Vulnerable Adults (POVA) list (under the Care Standards Act)
- Information that is held under section 142 of the Education Act 2002 (formerly known as List 99)

Further information on these lists can be found in Annex A.

Standard checks are only available for people working or volunteering with children or vulnerable adults, as well as some positions within the health, pharmacy, legal, banking, financial and other professions.

Enhanced checks

These contain the same information as Standard checks, but can also include any information held by local police forces that a Chief Constable considers relevant to the position applied for. This information, referred to as “approved information”, will normally be disclosed to both the applicant and the employer. However, in exceptional circumstances, the information may be provided in a separate letter issued to the employer or volunteer involving organisation only and is referred to as “additional information”.

Enhanced checks are available for those who are regularly caring for, training, supervising or in sole charge of children or vulnerable adults. They are also available for certain licensing purposes and judicial appointments.

Vulnerable adults

A Standard check is available for any employment or volunteering which would enable someone to have access to a vulnerable adult or adults in the course of their normal duties.

An Enhanced check is available for any employment or volunteering which involves regularly caring for, training, supervising or being in sole charge of a vulnerable adult or adults.

A vulnerable adult is defined as a person aged 18 years or over who has a specified condition and as a result of this condition is in receipt of a specified service.

The Conditions and Services are as follows:

- Condition
 - A learning or physical disability,
 - A physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs; or
 - A reduction in physical or mental capacity.

AND (FOR ENTITLEMENT TO AN ENHANCED CHECK ONLY)

- Has a dependency upon others in the performance of, or a requirement for assistance in the performance of, basic physical functions,
- Has severe impairment in the ability to communicate with others, or
- Has impairment in a person's ability to protect him or herself from assault, abuse or neglect.

- Services
 - Accommodation and nursing or personal care in a care home,
 - Social care services; or
 - Any services provided in an establishment catering for a person with learning difficulties
 - Personal care or support to live independently in his or her own home,

AND (FOR ENTITLEMENT TO AN ENHANCED CHECK ONLY)

- Any services provided by an independent hospital, independent clinic, independent medical agency or National Health Service body,

- The representation of, or advocacy services as approved by the Secretary of State.

CRB checks and ex-offenders

CRB checks are only available in cases where an organisation is entitled to ask "exempted questions" under the Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974. This Act applies to England, Scotland and Wales. The Act is aimed at helping people who have been convicted of a criminal offence and who have not re-offended since. The Act does this by enabling some criminal convictions to become 'spent', or ignored, after a 'rehabilitation period'. After this period an ex-offender is not normally obliged to mention a conviction when applying for a job or obtaining insurance, or when involved in criminal or civil proceedings.

There are exceptions to this and these are listed in Exceptions Order of the Act. The two main exceptions relate to roles that involve regular contact with children or vulnerable adults. If a person wants to apply for a position that involves working or volunteering with children or vulnerable adults they are required to reveal all convictions, both spent and unspent.

It is important to remember that the revelation of past convictions should not automatically prevent someone from volunteering or employment and organisations should bear in mind their responsibilities under the Rehabilitation of Offenders Act (ROA) 1974.

Organisations that intend to use CRB checks as part of their recruitment process must have in place a policy on the recruitment of ex-offenders as part of their compliance with the CRB legislative Code of Practice and the ROA Act. This policy should set out how your organisation will ensure that people with criminal records are treated fairly. Sample policies are available on the CRB web-site at www.crb.gov.uk/PDF/CRB_DIP011-Policy-Statement_Ex-offenders_Eng.pdf

How do individuals apply for a check?

Guidance on the process of applying for a check can be found on the CRB website. The website contains a film that explains the application process in full – www.crb.gov.uk/movie.

Section 2: Volunteers and CRB checks

Since 2002 the CRB has provided both Standard and Enhanced checks for volunteers free of charge. In 2007/08 this represented a saving of around £26.6 million to volunteer involving organisations.

What is a volunteer?

A volunteer, in this instance is:

‘a person who performs any activity which involves spending time, unpaid (except for travelling and other out-of-pocket expenses), doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives’.

This definition is taken from the 1997 Police Act (Criminal Records) Regulations 2002 and is used by the CRB to decide whether a check should be free or paid for. Organisations involving volunteers should be careful to ensure that CRB checks that they submit as “volunteer” fulfil this criteria or the CRB may charge you for the check.

Special categories

Full-time volunteers

Full-time volunteers, those involved in programmes that last around 35 hours per week will be treated as all other volunteers by the CRB, providing that they are only reimbursed or receive an allowance that covers actual expenses.

Students undertaking volunteering as part of a course

Students on some courses are required to undertake a work placement to obtain a qualification. Such activities are often described as ‘volunteering’, a better description would be work experience or a work placement, particularly as the student is doing the activity solely for their own benefit. Where an individual is undertaking a placement of this type as a requirement for a course, they would not be eligible for a free CRB check. This does not include volunteering to obtain an award, such as a Duke of Edinburgh Award.

Volunteers from overseas

There are two main barriers to obtaining CRB checks for individuals from overseas. In some cases a person’s relatively short time in this country will mean that a CRB check is unlikely to reveal any conviction information that satisfies the need for organisations to reassure themselves that a potential volunteer is appropriate for a role. The second is that they may not have the necessary identification documents to apply for a CRB check.

There are organisations that have found ways of addressing these barriers.

Volunteer Centre Sheffield

Volunteer Centre Sheffield runs a Refugee and Asylum Seeker project. The project helps refugee and asylum seekers to find volunteering opportunities. The Volunteer Centre found that obtaining CRB checks was particularly challenging because refugees and asylum seekers did not always have the relevant or sufficient identification documents to apply for the check.

Volunteer Centre Sheffield has produced a pro-forma letter (available to download at: www.vas.org.uk/volunteering) that can be used with any volunteer who does not have a passport or other documents needed to apply for a CRB check. Using this pro-forma will result in the CRB requesting that the volunteers go to the police station to get their fingerprints taken, but it does mean that a CRB check is still possible.

On their website Volunteer Centre Sheffield also suggest ways in which organisations can involve refugees and asylum seekers in volunteering opportunities whilst they wait for CRB checks to be processed.

More information is available from: www.vas.org.uk

The CRB also offers advice on seeking information from an individual's home country for 22 countries. These are:

1. Australia
2. Canada
3. Cyprus
4. Czech Republic
5. Denmark
6. Finland
7. France
8. Germany
9. Hungary
10. Irish Republic
11. Italy (excluding Vatican City)
12. Jamaica
13. Latvia
14. Malaysia
15. Malta
16. Netherlands
17. New Zealand
18. Philippines
19. Poland
20. South Africa
21. Spain
22. Sweden

Further details are available on the CRB website www.crb.gov.uk/overseas.

Administration fees

CRB checks are free for volunteers at the point at which the CRB process the check. The checks are administered locally by what are known as Registered or Umbrella Bodies. Registered Bodies are organisations that have registered directly with the CRB to use its services for their own purpose. Umbrella Bodies offer access to CRB checks to other organisations. In many cases in volunteering the Umbrella Body will be an organisation such as a Volunteer Centre or a Council for Voluntary Service. These organisations will often charge an administration fee for processing checks for other organisations. The fee can range from £5-£15, but could be higher and is used by the Umbrella Body to cover their costs administering the application process. There may be organisations that provide the Umbrella Body service free of charge in your area and these are listed on the CRB website in the Umbrella Bodies search section www.crb.gov.uk/ubsearch.

Additionally, for those UK organisations that have representation in Wales, the Welsh Assembly Government has funded a Criminal Records Unit within Wales Council for Voluntary Action to provide free access to CRB checks for volunteer positions based in Wales. Further information: www.wcva-cru.org.uk

Section 3: The use of CRB checks

The legal basis

The basic eligibility rules for CRB checks are set out in section 1. The legal requirement to carry out a CRB check is often set in legislation. The Protection of Children Act (POCA) legally obliges organisations to obtain a CRB check for certain staff and volunteers. The Care Standards Act and regulations made under it set out requirements for CRB checks in the adult social care sector. In addition inspection organisations such as OFSTED and Commission for Social Care Inspection may also have a requirement for CRB checks in their inspection regimes.

In general terms however, there is no legal requirement to CRB check volunteers. Unless this volunteering is in a 'regulated' setting such as a care home or a school and even then only when the volunteer has regular contact with either vulnerable adults or children.

As well as legal requirements to check in some circumstances, there are roles in which there is no legal requirement to check, but there is a legal 'entitlement' for organisations to request a check. This means an organisation is legally allowed, but not required, to request a CRB check for that role.

Disclosure Access Codes

There is a list of codes that explains the roles in which organisations can carry out a CRB check. These are called Disclosure Access Codes and the CRB website contains a list of these. The list is available at: www.crb.gov.uk/default.aspx?page=1855.

Trustees

Not all trustees can be CRB checked just because they are a trustee, however the law does allow Standard CRB checks for certain trustee positions.

These are:

- governors of independent schools;
- trustees of childrens' charities where the normal duties of the trustee involve regular contact with people aged under 18.
- trustees of charities that work with vulnerable adults AND who personally provide care to these adults.

Even when a CRB check is not required, it may be available, and indeed advisable, in certain circumstances. The Charity Commission will ask organisations wishing to register as charities to confirm whether CRB checks have been obtained for any trustees who are legally required to be CRB checked, before they register the organisation. The Charity Commission have produced helpful guidance on this issue in the document (CC30) "Finding new trustees – What charities need to know". This is available on the Charity Commission website. www.charity-commission.gov.uk/publications/cc30.asp.

Section 4: Good and bad practice

Bad practice

There is anecdotal evidence that a minority of organisations are undertaking CRB checks on all volunteers without properly evaluating risk, and where there is no legal or other reason to do so. This approach itself carries two risks. Firstly, that potential volunteers, particularly those with past convictions, may be put off from volunteering with an organisation that they believe is taking a disproportionate approach to CRB checks. Secondly, organisations may be in breach of the CRB Code of Practice and liable to possible sanctions, which could include deregistration. They may also be invoiced retrospectively for volunteer checks. The CRB carries out random audits of checks that are marked as 'volunteer' to ensure that they are within the definition of volunteering described in Section 2 and that there is a rationale for undertaking the check.

Good practice

Employers and volunteer involving organisations may only request a CRB check where there is a legal entitlement to do so. There are cases in which CRB checks are carried out on individuals where there is a legal entitlement but no legal requirement to do so. In these circumstances, the decision whether to make a CRB check is a matter for the employer.

This decision is generally taken as part of an overall risk management process in which an organisation has taken a considered decision that they are entitled to check an individual even if there is no legal requirement to do so. The decision should, however, be made carefully and the decision to check individuals made because there is a strong and demonstrable reason for doing so and not 'just in case'.

An example might be a volunteer fund-raiser. As a fund-raiser alone there is no legal basis to carry out a check. If, however, the fund-raising activities involved volunteering with children or vulnerable adults you may be entitled to a CRB check.

Further examples of good practice are in the 'CRB checks in practice' section on page 17.

CRB checks as part of risk management

The key to making a decision on when to check an individual is properly evaluating the risks associated with the activities your organisation carries out. CRB checks are just one part of an organisation's approach to this and to ensuring the safety of volunteers and those being volunteered with.

Volunteering England has particularly good guidance on recruiting and screening volunteers. This stresses that CRB checks are just one part of the volunteer recruitment process and the process of finding out if someone is suitable for volunteering. Obtaining references, interviewing volunteers and having thorough training and induction processes are just as important. This guidance document supports this approach.

Risk management is often associated with bureaucracy and red tape, but there are a number of guides for organisations that provide easy to use guidance on how to manage risk.

Risk toolkit: How to take care of risk in volunteering, a guide for organisations.

This Risk toolkit draws on the results of research carried out by the Institute for Volunteering Research (IVR) with funding from government. IVR surveyed organisations that involve volunteers and found that a third said they found the language and terminology of risk management baffling and that 98 per cent were interested in a good practice guide.

The Risk toolkit responded to these findings by explaining the risks associated with volunteers and proposing how to deal with them. It is a resource for any organisation that involves volunteers – whether in the voluntary, statutory or private sector – and aims to simplify risk management for organisations just getting to grips with risk. It offers:

- Information: the main risks, legal liabilities, insurance.
- Advice and guidance: setting up and implementing systems.
- Methods and templates: techniques, tools and forms.
- Case studies: examples of organisations' good practice.
- Further sources: places to find out more.

Importantly the toolkit emphasises that 'risk' is not inherently bad and that risk-taking is an essential part of volunteering. However, it also states that when it comes to involving volunteers' things can go wrong and these may be preventable.

The Risk Toolkit is available free of charge on Volunteering England's website:
www.volunteering.org.uk/risk

Section 5: The portability of CRB checks

Section 3 sets out the legal entitlements and requirements for CRB checks. One of the main considerations in deciding when to carry out a CRB check on an individual is when an individual has been checked for a previous paid or unpaid role.

When to carry out a new CRB check

The CRB does not facilitate the portability of checks, but it does offer guidance to organisations that recruit individuals that have had a previous check. This guidance can be found on the CRB website at www.crb.gov.uk/portability. It suggests how organisations might reduce the need to re-check individuals and helps those who wish to use a previously issued CRB check. This guidance has been used to develop a simple eight point check list to help organisations to evaluate whether they should apply for a new CRB Check.

Eight point check list

Question	Yes/No
1. Are you required by law to get a check? <i>See section 3 The legal basis for CRB checks.</i>	
2. Is the level of CRB check (enhanced or standard) the same as the level you need?	
3. Is the position for which the previously issued CRB check was obtained similar to the position for which you need a CRB check?	
4. Have all the checks you need been carried out? <i>These would include taking references and interviewing potential volunteers</i>	
5. Have you validated and authenticated the person's identity to ensure that the person presenting the CRB check is the person on whom the check was done? <i>For instance, have you seen a range of identity documents that confirm their name, address, date and place of birth?</i>	
6. Is the applicant still living at the same address as the one printed on the CRB check?	
7. Have you obtained the consent of the applicant to approach the organisation that carried out the previous check?	
8. Has the CRB check been undertaken in the last six months?	

The decision to recheck rests with the organisation that is accepting the new volunteer. If, however, the organisation has answered yes to all of the questions on the check list, it would be good practice to consider using the previous CRB check.

Going through this check list may seem time consuming and it may seem easier to simply submit a new CRB application. The checklist could, however, save the organisation the administrative and financial burden (if using an Umbrella Body) of having to submit an application for a new CRB check. It could also mean that the potential volunteer will not lose interest in volunteering as the process of using this checklist is likely to be quicker than applying for a new check.

Sharing information on CRB checks

In some cases organisations will take the step of rechecking a new volunteer as a formal policy. This may be unnecessary and instead organisations could:

- Ask the individual to show their copy of the CRB check.
- Contact the Countersignatory named on the front of the CRB to check and confirm that the reference number and identity details match; and
- Ask if the Countersignatory received any additional information – the Countersignatory can only confirm or otherwise the existence of such information – but not the content of the information.

Volunteering organisations in an area could also consider joining together together to reduce the number of individuals being re- checked. This could involve having an agreement between organisations to share limited information on CRB checks to prevent individuals having to be checked multiple times for different organisations in the same area. The CRB's Code of Practice sets out the circumstances when the details of a CRB check can be passed to a third party.

The Code states that information revealed through a CRB check can only be passed to individuals who need to see it as part of the recruitment decision, for which the CRB check was requested. This also applies to any additional information provided by the police.

If you are contacted by or contact another organisation about a previously issued CRB check, you/they can only:

- Confirm or not, whether the information provided by the person reflects that which appears on your copy of the CRB check; and
- State if the police did or did not issue additional information in a separate letter.

For further details of the CRB Code of Practice please visit the CRB website at www.crb.gov.uk/code.

Risks and limitations

If you are considering accepting a previously issued CRB check you should be aware of the limitations and risks associated with portability.

Risks

The two main risks with portability are:

1. Using a previously issued CRB check does not constitute a fresh CRB check – the person's criminal record or other relevant information may have changed since the previous check was issued.
2. Registered Bodies are responsible for the accuracy of the information provided to the CRB and on which it carries out its checks. By accepting a previously issued CRB check you are accepting the risk that the previous Registered Body provided the CRB with a fully validated applicant's identity on which to carry out its checks.

Limitations

You may be required by law to carry out a fresh check, particularly if the role relates to positions that are included in the Protection of Children Act (POCA) List, Section 142 of the Education Act or Protection of Vulnerable Adults (POVA) scheme (see Annex A).

There are also particular limitations in the portability of Enhanced checks. If an organisation states that additional information was provided in a separate letter with a previously issued Enhanced check, the organisation wishing to apply portability will not be able to see this additional information. They will, therefore, have to apply for a new Enhanced check to find out what the additional information was and whether this should stop someone from volunteering. It may be difficult for an organisation to explain to a volunteer why they are asking for a new check in these circumstances, because they will not be allowed to tell the volunteer that 'additional information' is held on them.

Section 6: Volunteering in the public sector

There is a long tradition of volunteer involvement in the public sector. In schools and hospitals for example thousands of volunteers are involved in a range of roles which support the work of paid staff.

Additional guidance in the public sector

As highlighted in the introduction, the principles in this guidance are aimed at all organisations that involve volunteers. Organisations using volunteers in public sector areas should also be careful to ensure that they check specific guidance or regulations for that area. This guidance is often set by a government department or agency.

NHS Employers have produced guidance on CRB Checks in the NHS, it is called "Criminal Records checks" and was published in March 2008. This is available electronically from the NHS Employers website:
www.nhsemployers.org/primary/primary-3524.cfm.

The Department of Children, Schools and Families (DCSF) (when it was the Department for Education and Skills) has also produced guidance for education environments, this is called "Safeguarding Children and Safer Recruitment in Education (January 2007)" and it is available electronically at publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=spectrum&ProductId=DFES-04217-2006&

These two pieces of guidance recommend a proportionate approach to CRB checks and provide clear guidance on when checks should and should not be used. The standards published by NHS employers is particularly clear with regard to CRB checks for volunteers, it states clearly that:

"Not all volunteers will need a CRB check but where they have significant and regular contact with vulnerable people in the course of their normal duties, employers should undertake the

same criminal record checks as they would when employing paid staff."

The role of regulators

Section 3 makes reference to the role of public sector regulators in deciding when CRB checks should be used.

In schools this responsibility lies with OFSTED (Office for Standards in Education). In social care the responsibility lies with the Commission for Social Care Inspection. In hospitals responsibility rests with the Healthcare Commission. Organisations operating in these areas should make sure that they are aware of these organisations and their requirements for CRB checks.

Section 7: Arrangements in Scotland, Wales and Northern Ireland

The CRB covers England and Wales. Safeguarding in Scotland is undertaken by Disclosure Scotland and by AccessNI in Northern Ireland. Therefore this guidance applies to England and Wales only, there is, in addition to this document, information on the arrangements within Wales. This is available from the Wales Council for Voluntary Action: www.wcva-cru.org.uk.

There is also guidance for Scotland and Northern Ireland available from:
www.disclosurescotland.co.uk and www.accessni.gov.uk.

Section 8: Independent Safeguarding Authority

Background

Following the murders of Jessica Chapman and Holly Wells by Ian Huntley in 2002, the Richard Inquiry was commissioned. One of the issues this inquiry looked at was the way employers and volunteer involving organisations recruit people to work with children and vulnerable adults.

One of the inquiry's recommendations led to the Safeguarding Vulnerable Groups Act 2006. The Act recognised the need for a single agency to vet and register all individuals who want to work or volunteer with vulnerable people. This will be a legal requirement.

This agency is called the Independent Safeguarding Authority (ISA) and will work across England, Wales and Northern Ireland. Scotland is developing its own similar system, which will work closely with the ISA. You can find more information about the development of the Scottish scheme on the Scottish Executive website: www.scotland.gov.uk/Topics/People/Young-People/children-families/pvglegislation

The launch of the ISA service in 2009 will enhance further the current levels of protection afforded by CRB checks.

The ISA will remove the most dangerous people from the children and vulnerable adults' workforce and the CRB will continue to provide employers with an individual's criminal record and other relevant information.

Volunteers and the Independent Safeguarding Authority

The cost for registering with the ISA scheme will be £64 per person. Volunteers can register for free, but there may be administration costs, similar to those for CRB checks to consider.

The fee will cover the following administrative and operational costs:

- the application and registration processes;
- the online checking system; and
- continuous monitoring and updating of individuals' status.

It is important to remember that ISA registration will be transferable. If a person were to change jobs or take up a new voluntary activity, they would not need to apply again. If, however, an individual moves from a volunteer role into paid employment that requires ISA registration, a fee would need to be paid.

The ISA Scheme will go live on 12 October 2009 and further information can be found at www.isa-gov.org.uk. The requirement to register all employees and volunteers working with vulnerable people will be phased in over a period of years.

It is important that volunteer involving organisations make sure that they are aware of the effect that the ISA will have on the way that they recruit volunteers. Volunteering England has produced a useful briefing sheet about the Independent Safeguarding Authority, which can be found at www.volunteering.org.uk/information sheets.

The launch of the ISA will mean that parts of this guidance will change from autumn 2009. The Government will review and update this guidance at this time.

Section 9: CRB checks in practice – scenarios

Hospital example

1. Wasim applies to volunteer in his local hospital, volunteering in a hospital garden in which he will not have access to patients, but may have to walk through several wards to get to his volunteering placement. Can and should a CRB check be requested?

No – Although Wasim has access to patients, his role is not covered by any Disclosure Access Category code and there is no legal requirement for a check. His contact with patients is also not in the course of his normal duties.

School reading example

2. Sophie is involved in reading to children in schools in London and applies through the school or local authority for an Enhanced check. Seven months after starting this role she would like to carry out the same role in a school in a neighbouring local authority. Does she require another check?

Yes – Given the length of time between the two checks, it would be sensible, and may be mandatory, for the new organisation to request a new check. Department for Children Schools and Families guidance also stipulates that in the case of teaching staff a period of absence of more than 3 months requires a new CRB check.

Social care example

3. Maneesha has volunteered to regularly visit a care home for older people and assist with providing activities. Can and should a CRB check be obtained?

Yes – It is a legal requirement for Maneesha to have a CRB check. In addition, a check should be made against the Protection of Vulnerable Adults list.

Student volunteering example

4. Phil is a student working towards obtaining a Diploma in Childcare. As part of the course, he is required to do 1 day's work experience in a local school. Is he entitled to a free of charge CRB check?

No – He is a student who will benefit directly from the Diploma he is studying for. He is taking part in the work experience as part of his course, this means he does not meet the CRB's definition of a volunteer.

Section 10: Sources of further information

Safeguarding organisations

- Access NI – www.accessni.gov.uk
- Criminal Records Bureau – www.crb.gov.uk.
CRB general enquiry line 0870 90 90 811
- Disclosure Scotland –
www.disclosurescotland.co.uk
- Independent Safeguarding Authority –
www.isa.gov.org
- Wales Council for Voluntary Action –
www.wcva-cru.org.uk.

Government Departments/agencies

- Commission for Social Care Inspection –
www.csci.org.uk
- Department for Children, Schools and Families –
www.dcsf.gov.uk
- Department of Health – www.dh.gov.uk
- National Assembly for Wales – www.wales.gov.uk
- Office of the Third Sector –
www.cabinetoffice.gov.uk/thirdsector
- OFSTED – www.ofsted.gov.uk
- The Charity Commission –
www.charity-commission.gov.uk
- The Healthcare Commission –
www.healthcarecommission.org.uk

Third Sector organisations/bodies

- Child Protection in Sport Unit
– www.thecpsu.org.uk
- Commission on the Future of Volunteering –
www.volcomm.org.uk
- NSPCC – www.nspcc.org.uk
- Volunteer Development Scotland –
www.vds.org.uk
- Volunteer Development Agency Northern Ireland –
www.volunteering-ni.org
- Volunteering England – www.volunteering.org.uk
- Volunteering England Information Line –
0800 028 3304 (Monday to Friday 10.30-12.30 &
14.00-16.00)

Annex A: Legislation related to CRB checks

THE PROTECTION OF CHILDREN ACT (POCA) 1999

The Protection of Children Act (POCA) 1999 is the key legislative provision seeking to ensure protection to children when within the control or care of public/private institutions and their employees.

Part V, Police Act 1997 connects to POCA 1999 in the following manner:

- Section 113(c) (3) of the Police Act 1997 refers to the specific list maintained under POCA 1999 (and Scottish and Northern Ireland equivalents). Persons are placed on the POCA list by the Department for Health (DOH). The List excludes individuals from working with children in relevant positions or employment.
- Section 113(c)(7)(a) of the Police Act 1997 refers to POCA in respect of directions under the Education Act 2002 or other directions of the Secretary of State regarding a child care position as defined under POCA.
- Section 113(c) (2) (c) of the Police Act 1997 refers to the Children Act 1989 in respect of special guardians under that Act.
- Section 113(f) (1) of the Police Act 1997 deals with part 10A of the Children Act 1989 in respect of child minding positions where children are under the age of eight years.
- The Protection of Children Act (POCA) (1999) establishes the duty of the Secretary of State to maintain a list (the POCA List) of persons unsuitable to work with children where referrals are made by a child care organisation or other organisation in cases where:
 - An individual has resigned or been dismissed, suspended or transferred from their duties on the grounds of misconduct which harmed a child or placed a child at risk of harm and/or
 - The organisation would have taken such action on the basis of latter acquired information; this includes employment agencies supplying nurses refusing to find him or provide him for further employment in a child care position.
- The Secretary Of State may also include in any list the details of a person named as guilty of relevant misconduct as the result of a relevant inquiry.
- Certain authorities have the power to refer individuals to the Secretary Of State for inclusion in the list established under POCA where they have not already been referred and where details of relevant misconduct are before them under the Care Standards Act 2000 or the Children Act 1989. Those authorities are listed within POCA 1999 and include the Commission for Social Care Inspection (CSCI) and the Chief Inspector of Schools.
- Section 7 of POCA defines the duties on organisations to undertake relevant checks as part of employment vetting for their organisation. That is they must check List 99 (managed by DFES) and ensure that there is no direction under section 142 of Education Act 2002 stating that the person is unsuitable to work with children.

THE PROTECTION OF VULNERABLE ADULTS (LIST)

Protection of Vulnerable Adults Act (PoVA)

Section 7 of the Care Standards Act 2000 established a duty of the Secretary of State to maintain a list (the POVA list) of persons unsuitable to work with vulnerable adults. It came into force in July 2004 and covers regulated social care services, which are care homes, domiciliary care agencies and adult placement schemes. The POVA scheme extends across England and Wales.

Workers in care positions must undergo a check to determine they are not on the PoVA list before they start work. A POVA check can only be made obtaining a CRB check.

Employers in the regulated social care sector have a duty to refer information to the scheme in the case of an individual who has been dismissed, suspended or otherwise left employment following misconduct which harmed a vulnerable adult or placed them at risk of harm.

The regulator, the Commission for Social Care Inspection can refer individuals to the POVA list. In addition, the Secretary Of State may also include in any list the details of a person named as guilty of relevant misconduct as the result of a relevant inquiry.

The POVA provisions in the Care Standards Act allow cross referral from the POVA list to the Protection of Children Act list (POCA) where an individual is also considered a risk of harm to children. Individuals may also be cross referred from the POCA list to the POVA list.

Individuals on the PoVA list are automatically barred from working in the regulated adult social care sector for 10 years. Barred individuals are also liable to

prosecution of they knowingly seek employment in a care position.

THE EDUCATION ACT 2002 (LIST 99)

Section 142 establishes the power of the Secretary of State to:


Direct that a person may not carry out work to which this section applies, or direct that such work be carried out only in specified circumstances, or direct that such work only be carried out with certain conditions are satisfied.

The types of work referred to are:

- Providing education at a school
- Providing education at a further educational institution
- Providing education in a contract with an Local Education Authority (LEA) or a person exercising a function on behalf of an LEA
- Taking part in the management of an independent school
- Work that involves regular contact with children
- Work at the request of a relevant employer (e.g. a school/LEA)

The Secretary of State may so direct when a person is included in the POCA List on the grounds relevant to inclusion in that List (misconduct/health/unsuitability/professional competence).

A person may appeal under section 144 of the Act to the appropriate Tribunal against a decision to make such a Direction or to refuse to vary or revoke such a Direction.



The Direction may be revoked if the Tribunal is satisfied that the person is no longer unsuitable to work with children (always on the presumption that the appellant has not been convicted of an offence which would make revocation unfeasible).

This List is now managed by the Department for Children, Schools and Families.

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