

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

19TH MARCH, 2014

REPORT OF THE DIRECTOR, LEGAL AND DEMOCRATIC SERVICES

**Author: Ms Karyl May, Democratic Services Manager
(Tel. No.01443-424045)**

ENHANCED CHECK OF ELECTED MEMBERS BY THE “DISCLOSURE AND BARRING SERVICE”

1. PURPOSE OF THE REPORT

To give consideration to the recommendations of the Overview and Scrutiny Committee following its meeting held on the 4th February, 2014 in respect of the review undertaken on the possibility of a policy being introduced whereby all elected Members of Rhondda Cynon Taf County Borough Council undergo an enhanced check by the “Disclosure and Barring Service”.

2. RECOMMENDATIONS

Members are asked to endorse the following recommendations as agreed by Members of the Overview and Scrutiny Committee at its meeting held on the 4th February, 2014 as set out in paragraph 2 of the attached report:-

- 2.1 That in view of the fact that the legislation changed in 2012 and that elected Members are not listed in the exceptions Order of the Rehabilitation of Offenders Act, which stipulates which occupations require a DBS (as shown at Appendix 1 to the attached report) other than those Members who meet the criteria set out by the DBS, a Policy be not introduced.
- 2.2 Notwithstanding 2.1 above, Members with areas of specific responsibility be given the opportunity to undergo a check by the “Disclosure and Barring Service”, subject to the DBS agreeing to provide such checks.
- 2.3 That the Democratic Services Manager be assigned as one of the lead Counter Signatories for the administrations of Disclosure and Barring Service, who will undertake the checks for eligible Members.

3. BACKGROUND

- 3.1 Members will recall that at the Council meeting held on the 15th January, 2014, the following Notice of Motion was presented:-

“Will the Council make it a Policy that from 31 March, 2014 all County Borough Councillors duly elected to this Council undergo an enhanced check by the “Disclosure and Barring Service”.

- 3.2 In accordance with paragraph 10.6 of Part 4 of the Council’s Constitution the Notice of Motion was treated as withdrawn as the Secunder was not in attendance at the Council meeting and it could therefore not be re-submitted to the Council for a period of six months.
- 3.3 Given the importance of the subject matter, it was felt appropriate to give Cabinet the opportunity to consider the matter without any further delay and at the meeting of Cabinet held on the 22nd January, 2014, consideration was given to the “urgent report” and the following was agreed:-

“That at the next meeting of the Overview and Scrutiny Committee on the 4th February, 2014, Members be requested to undertake a review on the possibility of a policy being introduced whereby all elected Members of Rhondda Cynon Taf County Borough Council undergo an enhanced check by the “Disclosure and Barring Service” and report back with recommendations to a future meeting of the Cabinet”.

- 3.4 At its meeting held on the 4th February, 2014, Members of the Overview and Scrutiny Committee gave consideration to the attached report and with the permission of the Chairman, the Proposer (County Borough Councillor L.Walker, who is not a Member of the Overview and Scrutiny Committee) to the Notice of Motion that was presented to Council on the 15th January, 2014 spoke on the matter.

- 3.5 For ease of reference, I draw Members attention to the following pertinent paragraphs within the attached report:-

- *Paragraph 4.3* – As from December, 2012, the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) merged into a single body called the Disclosure and Barring Service (DBS). CRB Checks are now called DBS Checks.
- *Paragraph 4.4* – Members may be aware that the Safeguarding Group Act, 2006 requires certain elected Members to undertake a DBS check i.e. those who are likely to have frequent **contact** with children and vulnerable adults in discharging their responsibility as a local Councillor. However, the Disclosure and Barring Service has advised that Councils are no longer permitted to undertake a **blanket approach** to these checks. Alternatively, only Members who have specific responsibilities with regards to children and vulnerable adults should have a DBS check.

- *Paragraph 4.7* – A DBS check has no official expiry date. Any information included will be accurate at the time the check was carried out.
- *Paragraph 4.12* – The Democratic Services Manager has recently contacted the DBS direct and was advised that individuals would have to be eligible for a DBS check, examples of which include, those working with children **unsupervised**, providing health care to a child or personal care, providing health care for an adult, helping an adult with dealing with their finances, taking a child or adult to medical appointments.

4. **CONCLUSION**

Taking into consideration the information contained within the attached report, Cabinet is asked to endorse the recommendations of the Overview and Scrutiny Committee as shown at paragraph 2 above.

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2013-2014

**OVERVIEW AND SCRUTINY
COMMITTEE**

4TH FEBRUARY 2014

**REPORT OF THE DIRECTOR OF
LEGAL & DEMOCRATIC SERVICES**

Agenda Item 5

**ENHANCED CHECK OF ELECTED
MEMBERS BY THE “DISCLOSURE AND
BARRING SERVICE”**

**Author: Ms Karyl May, Democratic Services Manager
Tel. No.: 01443 424045**

1.0 PURPOSE OF THE REPORT

The purpose of this report is to inform the Committee of the request of the Cabinet at its meeting held on the 22nd January, 2014 for Members of the Overview and Scrutiny Committee to undertake a review on the possibility of a policy being introduced whereby all elected Members of Rhondda Cynon Taf undergo an enhanced check by the “Disclosure and Barring Service”.

2.0 RECOMMENDATIONS

That Members recommend to the Cabinet:-

- (1) That in view of the fact that the legislation changed in 2012 and that elected Members are not listed in the exceptions Order of the Rehabilitation of Offenders Act, which stipulates which occupations require a DBS (as shown on Appendix 1 to this report) other than those Members who meet the criteria set out by the DBS, a Policy be not introduced;
- (2) Notwithstanding (1) above, Members with areas of specific responsibility be given the opportunity to undergo a check by the “Disclosure and Barring Service”, subject to the DBS agreeing to provide such checks.
- (3) That the Democratic Services Manager be assigned as one of the lead Counter Signatories for the administrations of Disclosure and Barring Service, who will undertake the checks for the eligible Members.

3.0 BACKGROUND

3.1 At the Council meeting of the 15th January, 2014, the following ‘Notice of Motion’ was presented:

“Will this Council make it a Policy that from 31 March, 2014 all County Borough Councillors duly elected to this Council undergo an enhanced check by the “Disclosure and Barring Service”.

3.2 In accordance with paragraph 10.6 of Part 4 of the Council's Constitution the Notice of Motion was treated as withdrawn as the Secunder was not in attendance at the Council meeting and it could therefore, not be re-submitted to the Council for a period of six months.

3.3 Given the importance of the subject matter it was felt appropriate to give Cabinet the opportunity to consider the matter without any further delay and at its meeting held on the 22nd January, 2014, Members of the Cabinet agreed –

“That at the next meeting of the Overview and Scrutiny Committee on the 4th February, 2014, Members be requested to undertake a review on the possibility of a policy being introduced whereby all elected Members of Rhondda Cynon Taf County Borough Council undergo an enhanced check by the “Disclosure and Barring Service” and report back with recommendations to a future meeting of the Cabinet.”

4. **DISCLOSURE & BARRING SERVICE (FORMALLY CRIMINAL RECORDS BUREAU)**

Summary of the Changes in the Criminal Record Check Procedure

4.1 From the 1st September 2012 the (CRB) introduced changes to the identification checking process to make it more difficult for individuals to conceal previous criminal records by changing their name.

4.2 With effect from the 10th September, 2012, The Protection of Freedoms Act 2012 brought in significant changes to the (CRB) process:-

- the definition of “regulated activity” has been significantly scaled back to focus on work which involves close and unsupervised contact with vulnerable groups including children;
- activities and work which are being taken out of “regulated activity” will still be eligible for Enhanced (CRB) checks but not checks against the barred lists; and
- the Council will no longer be able to apply for (CRB) checks on people under the age of 16.

4.3 As from December, 2012, The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) merged into a single body called the Disclosure and Barring Service (DBS). CRB checks are now called DBS checks.

4.4 Members may be aware that the Safeguarding Group Act 2006 requires certain elected Members to undertake a DBS check i.e. those who are likely to have frequent contact with children and vulnerable adults in discharging their responsibilities as a local Councillor. However, the Disclosure & Barring

Service has advised that Councils are no longer permitted to undertake a **'blanket' approach** to these checks. Alternatively only Members who have specific responsibilities with regard to children and vulnerable adults should have a DBS check.

- 4.5 Members are not required to have a DBS check as they are not listed in the exceptions order of the Rehabilitation of Offenders Act, which stipulates which occupations require a DBS. It is also suggested that it might be a criminal offence to carry out checks on people who do not require one and Council Service areas must adhere to the guidance in determining the appropriate type of check i.e. standard, enhanced or enhanced with list checks.

4.5.1 *Standard - £26*

This will check for spent and unspent convictions, cautions, reprimands and final warnings. To be eligible for a standard level DBS check, the position **must** be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 (takes about two weeks).

4.5.2 *Enhanced - £44*

This includes the same as the standard check plus any additional information held by local Police that's reasonably considered relevant to the workforce being applied for (adult, child or 'other' workforce). To be eligible for an enhanced level DBS check, the position **must** be included in both the ROA Exceptions Order and the Police Act, 1997 (Criminal Records) Regulations (takes about four weeks).

4.5.3 *Enhanced with list checks - £44*

This is like the enhanced check, but includes a check of the DBS barred lists. A barred list check can only be asked for specific roles. It is a criminal offence to ask for a check for any other role. To be eligible to request a check of the children's or adult's barred lists, the position **must** be eligible for an enhanced level DBS check as above and be specifically listed in the Police Act, 1997 (Criminal Records) Regulations as able to check the barred list(s) (takes about four weeks).

- 4.6 As mentioned in paragraph 4.2 above, on the 10th September, 2012, The Protection of Freedoms Act introduced new definitions of Regulated Activity. The attached document (Appendix 1) has been produced as a guide to help Members determine, whether a position requires a DBS check, and if so at what level. Also attached at Appendix 2 - (List of positions included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 and Appendix 3 – Police Act, 1997 (Criminal Records) Regulations. Members will note that Appendix 1 is a much less complicated version and more 'user friendly' than having to examine Appendices 2 and 3.

- 4.7 **A DBS check has no official expiry date. Any information included will be accurate at the time the check was carried out.**

- 4.8 All Welsh Authorities have been contacted asking whether DBS checks are made on their respective Members, to which 17 responses as shown below were received:
- 2 Authorities undertake DBS checks on all Members
 - 8 Authorities do not undertake any DBS checks.
 - 7 Authorities for Members with Specific responsibilities.
- 4.10 An interesting and patent point is that even those Members with specific roles such as a Cabinet Member responsible for child protection and/or vulnerable adults would be party to confidential information but not necessarily ever in contact with a looked after/vulnerable child/adult and should there be instances whereby, e.g. visits were to be made to residential homes or schools the Member(s) concerned would be accompanied by a suitably qualified member of staff who would be covered with an enhanced DBS check. Again, Members who receive reports containing exempt/confidential information must abide by the Code of Conduct.
- 4.11 Having trawled through the processes adopted by other authorities, should Members be mindful to recommend to the Cabinet that a selected number of Members with areas of specific responsibilities undergo DBS checks, it would be advisable (based on the experience of another authority) to seek the approval of the DBS on the potential number to be submitted as intimated throughout this report they are very strict on the criteria to be used.
- 4.12 The Democratic Services Manager has recently contacted the DBS direct and was advised that individuals would have to be eligible for a DBS check examples of which include, those working with children unsupervised, providing health care to a child or personal care, providing health care for an adult, helping an adult with dealing with their finances, taking a child or adult to medical appointments.

The Counter Signatory

- 4.13 The role of the Counter Signatory is crucial in the DBS check process, these are officers who are authorised by the Council and approved by the DBS to have access to and sight of all the personal and sensitive information contained in the disclosure certificate. Counter Signatories are the key contact with the DBS with responsibility for ensuring that the process is carried out in accordance with the guidelines and CRB Code of Practice.
- 4.14 Members may recall, and been involved in visits to the Children's Residential Homes within Rhondda Cynon Taf, which ceased in 2006 (due to new legislation) and in order to undertake this role, Members underwent CRB checks which were carried out then by the Democratic Services Manager and it is therefore suggested that should Members with specific areas of

responsibility undergo a DBS check that she continue this process only for elected Members.

5. CONCLUSION

Taking into consideration the information contained within this report, Members are asked to make recommendations to Cabinet on whether or not elected Members with specific responsibilities/roles be offered the opportunity to undergo a DBS check.

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The Protection of Freedoms Act introduced new definitions of Regulated Activity on 10 September 2012. This document has been produced as a guide to help you determine whether a position requires a DBS check, and if so, at what level

Regulated Activity for adults

The new definition of Regulated Activity for adults defines the activities provided to any adult as those which, if any adult requires them, will mean that the adult will be considered vulnerable at that particular time.

Adults will no longer be labelled as 'vulnerable' because of the setting in which the activity is received, nor because of the personal characteristics or circumstances of the adult being provided for by the activities.

There are six categories (described in detail in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006) within the new definition of Regulated Activity:

- 1. Providing healthcare** – provision by a healthcare professional or under the direction or supervision of one. This may include psychotherapy and counselling, first aid administered on behalf of an organisation established for the purposes of providing first aid. This does not include workplace first aiders, members of peer support groups or life coaching.
- 2. Providing personal care** – physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of skin, nails or hair (but not where this involves only cutting hair) because of the adult's age, illness or disability. This also includes anyone who trains, instructs or provides advice on the provision of personal care or those who prompt and then supervise an adult to do one of the above.
- 3. Providing social work.**
- 4. Assisting with general household matters** – assistance with managing a person's cash, paying a person's bills or shopping on their behalf because of the adult's age, illness or disability.
- 5. Assisting in the conduct of people's own affairs.**
- 6. Conveying adults to, from, or between places, where they receive healthcare, relevant personal care or social work because of their age, illness or disability.** This includes hospital porters, patient transport service drivers and assistants, ambulance technicians and emergency care assistants but does not include taxi or licensed private hire drivers.

Please note: An individual only needs to engage in a defined activity once to be carrying out Regulated Activity and the new definition removes the word 'vulnerable' when describing Regulated Activity relating to adults.

Certain elements of the original scope of Regulated Activity set out in the Safeguarding Vulnerable Groups Act (SVGA) 2006 will not be changed:

- An adult is a person aged 18 years or over.
- A person whose role includes the day-to-day management or supervision of any person engaging in Regulated Activity, is also in Regulated Activity.
- Regulated Activity for adults excludes activity carried out in the course of family relationships and personal, non-commercial relationships. Family relationships include close family (e.g. parents, siblings, grandparents) and the relationship between two people who live in the same household and treat each other as family.
- Personal, non-commercial relationships are arrangements where no money changes hands or if any money does change hands it is not part of a commercial relationship (e.g. giving a friend petrol money to drive you to the hospital), and the arrangement is made between friends or family friends.

Regulated Activity for children

The new definition of Regulated Activity relating to children is set out in three parts by The Protection of Freedoms Act. A person can be in Regulated Activity because of what they do (activities), where they work (establishments) or who they are (specified position).

The new definition of Regulated Activity is described in detail in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 and covers:

- **Unsupervised activities:** teach, train, instruct, care for or supervise children, or provide advice/guidance on wellbeing, moderate a public electronic interactive service or drive a vehicle only for children carried out on a frequent, intensive or overnight basis. An individual carrying out activities as above, under reasonable day-to-day supervision by another person who is also engaging in Regulated Activity is not undertaking Regulated Activity.
- **Work for a limited range of establishments** (schools, nursery schools, childcare premises, children's homes, children's centres) with the opportunity for contact with children carried out on a frequent, intensive or overnight basis. A volunteer carrying out supervised activities under reasonable day-to-day supervision by another person who is also engaging in Regulated Activity is not undertaking Regulated Activity, however a supervised paid employee working for a specified establishment does come under Regulated Activity.
- Activities by a person contracted (or volunteering) to provide occasional or temporary services (which are not teaching, training or supervision of children) is no longer Regulated Activity (e.g. maintenance contractors) but please remember, as stated above, supervised paid employees in specified establishments are in Regulated Activity.
- **Providing healthcare** – provision by a healthcare professional or under the direction or supervision of one. This may include psychotherapy and counselling, first aid administered on behalf of an organisation established for the purposes of providing first aid. This does not include workplace first aiders, members of peer support groups or life coaching.
- **Providing personal care** – physical assistance (or prompting with supervision or training or providing advice or guidance) with eating or drinking because of illness or disability, physical assistance (or prompting with supervision or training or providing advice or guidance) with going to the toilet, washing or bathing or dressing because of age, illness or disability, because of the age, illness or disability.
- **Registered childminders and foster carers**
- **Day-to-day management or supervision of individuals carrying out Regulated Activity relating to children.** For statutory guidance on supervision visit the Department of Education website.

From 10 September, the only people who will be eligible for checks against the children's barred list are:

- Those in Regulated Activity with children (the new definition).
- Actual or prospective foster parents.
- Persons aged 16 and over living in the same household as a foster or prospective foster parent.
- Persons aged 16 and over living in the same household as a foster or prospective private foster parent.
- People who provide or wish to provide childminding or day care.
- Persons aged 16 and over who have regular contact with children because they either live on the premises where day care or childminding is or will be provided, or because they work or will work on those premises at times when the day care or childminding is or will be provided.
- Persons aged 16 and over who have regular contact with children and who are members of a household of a person who is being or has been assessed for the purposes of engaging in Regulated Activity relating to children, where both individuals live on the premises where the Regulated Activity would normally take place, e.g. spouse of a boarding school manager where the manager and the spouse live on site at the school.
- Prospective adopters.
- Persons aged 18 and over living in the same household as a prospective adopter.
- Applicants for a Taxi or PHV licence.

Who can have an Adults barred list check?

Only those people who work in a Regulated Activity with adults (the new definition) or applicants for a Taxi or PHV licence can apply for an Adults barred list check. In all other cases and roles, checks of the barred lists cannot be requested.

Exceptions to the Rehabilitation of Offenders Act 1974

The following table includes the latest amendments introduced as a result of the Protection of Freedoms Act 2012 and describes occupations that are known as the exceptions to the Rehabilitation of Offenders Act 1974.

The Ministry of Justice has stated that organisations should not insist that a DBS check forms part of a recruitment exercise or bid when tendering for contracts, unless the services provided meet the criteria for an eligible DBS check as defined by the exceptions, as this would breach employment law.

Standard checks – To be eligible for a Standard level DBS check the position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.

Enhanced checks – To be eligible for an Enhanced level DBS check, the position must be included in both the ROA Exceptions Order and in Police Act Regulations.

Enhanced checks with Children's and/or Adults' Barred list check(s) – To be eligible to request a check of the Children's or Adults' Barred lists, the position must meet the new definition of Regulated Activity.

Positions eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975	Ref No
Any work which is currently defined as regulated activity relating to children within the meaning of Schedule 4 Part 1 of the Safeguarding Vulnerable Groups Act 2006.	01(a)
Any work which was defined as regulated activity relating to children within the meaning of Schedule 4 Part 1 of the Safeguarding Vulnerable Groups Act 2006 before the coming into force of section 64 of the Protection of Freedoms Act 2012 on 10th September 2012.	01(b)
Any work which is currently defined as regulated activity relating to adults within the meaning of Schedule 4 Part 2 of the Safeguarding Vulnerable Groups Act 2006.	02(a)
Any work which was defined as regulated activity relating to vulnerable adults within the meaning of Schedule 4 Part 2 of the Safeguarding Vulnerable Groups Act before the coming into force of sections 65 and 66 of the Protection of Freedoms Act 2012 on 10th September 2012.	02(b)
Any office or employment which is concerned with: a) the provision of care services to vulnerable adults. b) 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.	3
Any work in a regulated position within the meaning of Part 2 of the Criminal Justice & Court Services Act 2000. This does not include those working with 16/17 year olds on work experience.	4
Any work in a further education institution or 16 to 19 Academy where the normal duties of that work involve regular contact with children.	5
Any position which otherwise involves regularly caring for, training, supervising or being solely in charge of children.	6
Any position which otherwise involves regularly caring for, training, supervising or being solely in charge of vulnerable adults within the meaning of section 59 of the Safeguarding Vulnerable Groups Act 2006 as it had effect immediately before the coming into force of section 65 of the Protection of Freedoms Act 2012.	7

Professions eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975	Ref No
Healthcare Professional – A person who is regulated by a body mentioned in subsection (3) of section 25 of the National Health Service Reform and Health Care Professions Act 2002.	8
Barrister (in England and Wales), solicitor.	9
Chartered accountant, certified accountant.	10
Veterinary surgeon	11
Actuary	12
Registered foreign lawyer	13
Legal executive	14
Receiver appointed by the Court of Protection	15

Offices, employments and works eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975	Ref No
Judicial appointment	16
The Director of Public Prosecutions and any office or employment in the Crown Prosecution Service.	17
Designated officers for: · magistrates' courts · justices of the peace · local justice areas · justices' clerks · assistants to justices' clerks	18
Clerks (including deputy and assistant clerks) and officers of the High Court of Justiciary, the Court of Session and the district court, Sheriff's clerks (including sheriff's clerks' deputy) and their clerks and assistants.	19
Police constables or persons appointed as police cadets and persons employed for the purposes of assisting constables of a Police Force established under any enactment; naval, military and air force police.	20

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Any employment within the precincts of: · a prison · a remand centre · a removal centre · a short term holding facility · a detention centre · a Borstal institution · a young offenders institution · members of boards of visitors (England & Wales)	21
Traffic wardens	23
Probation officers	24
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 of that employment or the person engaged in that work to have access to persons in receipt of such services in the course of his normal duties.	25
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.	26
Those working within an Authorised Payment Institution as: · Directors and managers · Holders of qualifying holdings · Controllers of the Authorised Payment Institution	27
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; or, · carrying on a nursing home in England and Wales in respect of which registration is required by Section 187 of the Public Health Act 1936 or Section 14 of the Mental Health Act.	28
Any employment in the Royal Society for the Prevention of Cruelty to Animals (the RSPCA) where the person employed or working, as part of his duties, may carry out humane killing of animals.	29
Any office or employment in the Serious Fraud Office.	30
Any office or employment in the Serious Organised Crime Agency (SOCA).	31
· 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 Prosecutions Office	32
Any employment which is concerned with the monitoring, for the purposes of child protection, of communications by means of the internet.	33
An individual designated under section 2 of the Traffic Management Act 2004.	34
<p>Court Positions: · Judges' clerks, secretaries and legal secretaries within the meaning of section 98 of the Supreme Court Act 1981(c) · 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 · Persons who in the course of their work have regular access to personal information relating to an identified or identifiable member of the judiciary · Court officers and court contractors who, in the course of their work, attend either the Royal Courts of Justice or the Central Criminal Court · Court security officers and tribunal security officers · 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 · 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</p> <p>The following persons: a) Court officers who execute county court warrants b) High Court enforcement officers c) Sheriffs and under-sheriffs d) Tipstaffs e) Any other persons who execute High Court writs or warrants who act under the authority of a person listed at (a) to (d) f) Persons who execute writs of sequestration g) Civilian enforcement officers as defined in section 125A of the Magistrates' Courts Act 1980 h) Persons who are authorised to execute warrants under section 125B (1) of the Magistrates' Courts Act 1980, and any other person (other than a constable) who is authorised to execute a warrant under section 125 (2) of the 1980 Act i) Persons who execute clamping orders, as defined in paragraph 38(2) of Schedule 5 of the Courts Act 2003(d) · the Official Solicitor and his deputy · Persons appointed to the office of Public Trustee or deputy Public Trustee, and officers of the Public Trustee · Court officers and court contractors who exercise 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</p>	35
People working in the Department for Education or the Office for Standards in Education, Children's Services and Skills (Ofsted) with access to sensitive or personal information about children.	36

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A regulated immigration adviser who provides immigration advice or immigration services under Section 82(1) of the Immigration & Asylum Act 1999(a). This also applies to persons who can act on behalf of and under the supervision of such a registered person.	37
Staff working within the Office of the Public Guardian with access to data relating to children and vulnerable adults	38
The Commissioners for the Gambling Commission and any office or employment in their service.	39

Other activities eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975	Ref No
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	40
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	41
Any employment or other work where the 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) include supervising or managing a person employed or working in a capacity referred to in paragraph (a).	42
For adoption purposes	43
For foster caring purposes	44
Individuals seeking authorisation from the Secretary Of State for the Home Department to become authorised search officers.	45
For the award of public works contracts, public supply contracts and public service contracts in accordance with Directive 2004/17/EC and 2004/18/EC of the European Parliament and of the Council of March 2004(a).	46
Football Stewards, supervisors or managers of football stewards.	47
Approved Legal Services Body Manager	48
Those working for Alternative Business Structures as: · Head of Finance and Administration of a licensed body approved under schedule 11 of the Legal Services Act 2007 · Head of Legal Practice of a licensed body approved under schedule 11 of the Legal Services Act 2007· Owners of a licensed body approved under schedule 13 of the Legal Services Act 2007	49
The Commissioner for Older People in Wales, his deputy and any people appointed by the Commissioner, to assist him in the discharge of his functions or authorised to discharge his functions on his behalf.	50
Any employment or other work which is normally carried out in premises approved under section 9 of the Criminal Justice and Court Services Act 2000.	51
Any person who has applied to be granted membership of the Master Locksmiths Association.	52
For National Lottery licensing purposes	53

Licences eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975	Ref No
For the purpose of licensing hackney carriages or private hire vehicle drivers (Taxi driver licences).	54
For licences issued under Section 25 of the Children & Young Persons Act 1933 (This relates to persons under the age of 18 travelling abroad for the purpose of performing or being exhibited for profit).	55
For the purpose of licensing under Section 8 of the Private Security Industry Act 2001	56
Any person or body required to obtain or retain a licence under regulation 5 of the Misuse of Drugs Regulations 2001 (a) or under article 3(2) of Regulation 2004/273/EC (b) or under article 6(1) of Regulations 2005/111/EC(c).	57

You will now need to assess if there is a need for a disclosure against each Job Description within your team and the level of the check if necessary.

Once you have completed the assessment, you must complete the following form, and return to Emma Jones, CRB Officer (via email if possible)

CRB Position Assessment

Title of position being assessed: _____

Location of position being assessed: _____

Position Assessed by (print name): _____

Position of Assessor: _____

Signature of Assessor: _____

Date of Assessment: _____

- Please attach Job Description to Risk Assessment

Outcome:

Disclosure Required: Yes / No (delete as appropriate)

Level of Disclosure: Standard / Enhanced / Enhanced with Barred List- please state which barred list in the notes section below / Not applicable (delete as appropriate)

Notes:

HR use only

Date assessment received: _____

Job Description updated: Yes/No (delete as appropriate)

Date Job Description updated _____

Job Description updated by (print name) _____

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Disclosure &
Barring Service

Annex

Positions, Professions, Employment, Offices and Works eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975	Ref No
Any work which is currently defined as regulated activity relating to children within the meaning of Schedule 4 Part 1 of the Safeguarding Vulnerable Groups Act 2006	01
Any work which was defined as regulated activity relating to children within the meaning of Schedule 4 Part 1 of the Safeguarding Vulnerable Groups Act 2006 before the coming into force of section 64 of the Protection of Freedoms Act 2012 on 10 th September 2012	02
Any work which is currently defined as regulated activity relating to adults within the meaning of Schedule 4 Part 2 of the Safeguarding Vulnerable Groups Act 2006	03
Any work which was defined as regulated activity relating to vulnerable adults within the meaning of Schedule 4 Part 2 of the Safeguarding Vulnerable Groups Act before the coming into force of sections 65 and 66 of the Protection of Freedoms Act 2012 on 10 th September 2012	04
Any office or employment which is concerned with: <ul style="list-style-type: none"> the provision of care services to vulnerable adults; or 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	05
Any work in a regulated position within the meaning of Part 2 of the Criminal Justice & Court Services Act 2000. This does not include those working with 16/17 year olds on work experience	06
Any work in a further education institution or 16 to 19 Academy where the normal duties of that work involve regular contact with children	07
Any position which otherwise involves regularly caring for, training, supervising or being solely in charge of children	08
Healthcare Professional – A person who is regulated by a body mentioned in subsection (3) of section 25 of the National Health Service Reform and Health Care Professions Act 2002	09
Barrister (in England and Wales), solicitor	10
Chartered accountant, certified accountant	11
Veterinary surgeon	12
Actuary	13
Registered foreign lawyer	14
Legal executive	15
Judicial appointment	16
The Director of Public Prosecutions and any office or employment in the Crown Prosecution Service	17
Designated officers for: <ul style="list-style-type: none"> magistrates' courts justices of the peace local justice areas justices' clerks assistants to justices' clerks 	18



Disclosure & Barring Service

Positions, Professions, Employment, Offices and Works eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975	Ref No
Persons employed for the purposes of assisting constables of a Police Force established under any enactment	19
Any employment within the precincts of: <ul style="list-style-type: none"> • a prison • a remand centre • a removal centre • a short term holding facility • a detention centre • a Borstal institution • a young offenders institution • members of boards of visitors (England & Wales) 	20
Traffic wardens	21
Probation officers	22
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 of that employment or the person engaged in that work to have access to persons in receipt of such services in the course of his normal duties	23
Financial Services position – This means all positions for which the Financial Conduct Authority (previously 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	24
Those working within an Authorised Payment Institution as: <ul style="list-style-type: none"> • Directors and managers • Holders of qualifying holdings • Controllers of the Authorised Payment Institution 	25
Any employment in the Royal Society for the Prevention of Cruelty to Animals (RSPCA) where the person employed or working, as part of his duties, may carry out humane killing of animals	26
The Commissioners for Her Majesty’s Revenue and Customs (HMRC) and any office or employment in their services	27
The Director and any office or employment in the Revenue and Customs Prosecutions Office	28
Any employment which is concerned with the monitoring, for the purposes of child protection, of communications by means of the internet	29
An individual designated under section 2 of the Traffic Management Act 2004	30
The following Court Positions: <ul style="list-style-type: none"> • Judges’ clerks, secretaries and legal secretaries within the meaning of section 98 of the Supreme Court Act 1981(c) • 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 • Persons who in the course of their work have regular access to personal information relating to an identified or identifiable member of the judiciary • Court officers and court contractors who, in the course of their work, attend either the Royal Courts of Justice or the Central Criminal Court • Court security officers and tribunal security officers 	31



Disclosure & Barring Service

Positions, Professions, Employment, Offices and Works eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975	Ref No
<ul style="list-style-type: none"> • 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 • 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 • Court officers and court contractors who exercise 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 	
<p>The following persons:</p> <ul style="list-style-type: none"> • Court officers who execute county court warrants • High Court enforcement officers • Sheriffs and under-sheriffs • Tipstaffs • Any other persons who execute High Court writs or warrants who act under the authority of a person listed at (a) to (d) • Persons who execute writs of sequestration • Civilian enforcement officers as defined in section 125A of the Magistrates' Courts Act 1980 • Persons who are authorised to execute warrants under section 125B (1) of the Magistrates' Courts Act 1980, and any other person (other than a constable) who is authorised to execute a warrant under section 125 (2) of the 1980 Act • Persons who execute clamping orders, as defined in paragraph 38(2) of Schedule 5 of the Courts Act 2003(d) 	32
<p>Individuals seeking to carry, acquire or transfer prohibited weapons or ammunition under section 5 of the Firearms Act 1968(c) – Maritime armed guards</p>	33
<p>A regulated immigration adviser who provides immigration advice or immigration services under Section 82(1) of the Immigration & Asylum Act 1999(a). This also applies to persons who act on behalf of and are under the supervision of such a registered person</p>	34
<p>Staff working for the Office of the Public Guardian with access to data relating to vulnerable adults</p>	35
<p>Any employment or other work where the normal duties:</p> <ol style="list-style-type: none"> 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) include supervising or managing a person employed or working in a capacity referred to in paragraph (a) 	36
<p>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</p>	37
<p>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</p>	38
<p>Applications for prospective adopters, special guardians or anyone who lives in the adoption</p>	39



Disclosure & Barring Service

Positions, Professions, Employment, Offices and Works eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975	Ref No
household in England and Wales	
Applications for prospective foster carers, prospective private foster carers or anyone who lives in the fostering household in England and Wales	40
Individuals seeking authorisation from the Secretary of State for the Home Department to become authorised search officers	41
For the award of public works contracts, public supply contracts and public service contracts in accordance with Directive 2004/17/EC and 2004/18/EC of the European Parliament and of the Council of March 2004(a)	42
Football Stewards, supervisors or managers of football stewards	43
Approved Legal Services Body Manager	44
Those working for Alternative Business Structures as: <ul style="list-style-type: none"> • Head of Finance and Administration of a licensed body approved under schedule 11 of the Legal Services Act 2007 • Head of Legal Practice of a licensed body approved under schedule 11 of the Legal Services Act 2007 • Owners of a licensed body approved under schedule 13 of the Legal Services Act 2007 	45
Any employment or other work which is normally carried out in premises approved under section 9 of the Criminal Justice and Court Services Act 2000	46
Any person who has applied to be granted membership of the Master Locksmiths Association	47
The Commissioner for Older People in Wales, his deputy and any people appointed by the Commissioner, to assist him in the discharge of his functions or authorised to discharge his functions on his behalf	48
Commissioners for the Gambling Commission and any office or employment in their service	49
Police and Crime Commissioners	50

Licences eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975	Ref No
For Taxi Driver and Private Hire Vehicle licensing purposes	51
For National Lottery licensing purposes	52
For licences issued under Section 25 of the Children & Young Persons Act 1933 (This relates to persons under the age of 18 travelling abroad for the purpose of performing or being exhibited for profit)	53
For licences issued under Section 8 of the Private Security Industry Act 2001	54
For obtaining or holding a personal or operating licence under Part 5 or Part 6 of the Gambling Act 2005	55
For obtaining or holding a licence under regulation 5 of the Misuse of Drugs Regulations 2001, article 3(2) of Regulation 2004/273/EC (b) or article 6(1) of Regulations 2005/111/EC(c)	56

STATUTORY INSTRUMENTS

2013 No. 2669

POLICE, ENGLAND AND WALES

**The Police Act 1997 (Criminal Records) (Amendment No. 2)
Regulations 2013**

<i>Made</i>	- - - -	<i>15th October 2013</i>
<i>Laid before Parliament</i>		<i>22nd October 2013</i>
<i>Coming into force</i>	- -	<i>2nd December 2013</i>

The Secretary of State, in exercise of the powers conferred by sections 113B(2)(b), 113BA(1) and 125 of the Police Act 1997(a), makes the following Regulations.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police Act 1997 (Criminal Records) (Amendment No. 2) Regulations 2013 and shall come into force on 2nd December 2013.

(2) These Regulations extend to England and Wales.

Amendment of the Police Act 1997 (Criminal Records) Regulations 2002

2.—(1) The Police Act 1997 (Criminal Records) Regulations 2002(b) are amended as follows.

(2) In regulation 5A—

(a) for paragraph (a) substitute—

“(a) considering the applicant’s suitability to engage in any activity which is work with children.”;

(b) at the appropriate place insert—

“(ze) assessing the suitability of a person for any office or employment which relates to national security.”;

(c) omit the following paragraphs—

(i) paragraph (g);

(ii) paragraph (ga)(c);

(iii) paragraph (h);

(iv) paragraph (i);

(a) 1997 c. 50. Section 113B(2) was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15) and amended by section 63(1) of, and paragraph 14(1) and (3) of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006 (c. 47). Section 113BA(1) was inserted by paragraph 14 of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006.

(b) S.I. 2002/233; regulation 5A was inserted by S.I. 2006/748; relevant amending instruments are S.I. 2006/2181, 2007/1892, 2007/3224, 2008/2143, 2009/1882, 2010/577, 2010/817, 2010/1836, 2012/523, 2012/979, 2012/2114, 2012/3016 and 2013/1194.

(c) Paragraph (ga) was inserted by S.I. 2008/2143 and amended by S.I. 2009/1882.

- (v) paragraph (j);
- (vi) paragraph (k);
- (vii) paragraph (p);
- (viii) paragraph (q);
- (ix) paragraph (r);
- (x) paragraph (u);
- (xi) paragraph (za)(a);
- (xii) paragraph (zb)(b);
- (xiii) paragraph (zc)(c).

(3) After regulation 5B(d) insert the provisions set out in the Schedule to these Regulations.

Amendment of the Police Act 1997 (Criminal Records) (No. 2) Regulations 2009

3.—(1) Regulation 5 of the Police Act 1997 (Criminal Records) (No. 2) Regulations 2009(e) is amended as follows.

(2) For paragraph (e) substitute—

“(e) a decision made by an adoption agency within the meaning of section 2 of the Adoption and Children Act 2002(f), or the compiling of a report for an authority making a decision in respect of an application to be a special guardian within the meaning of section 14A of the Children Act 1989(g), as to a person’s suitability to adopt a child or be a special guardian, including obtaining information in respect of any person aged 18 years or over living in the same household as the prospective adopter or special guardian;”.

Home Office
15th October 2013

Taylor of Holbeach
Parliamentary Under-Secretary of State

SCHEDULE

Regulation 2(4)

“Definition of “work with children”

5C. For the purposes of regulation 5A(a) “work with children” means—

- (a) considering the applicant’s suitability to engage in any activity which is a regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006(h) as it had effect immediately before the coming into force of section 64 of the Protection of Freedoms Act 2012(i);

(a) Paragraph (za) was inserted by S.I. 2010/817 and amended by S.I. 2012/979.
(b) Paragraph (zb) was inserted by S.I. 2012/523.
(c) Paragraph (zc) was inserted by S.I. 2012/2114.
(d) Regulation 5B was inserted by S.I. 2013/1194.
(e) S.I. 2009/1882. Regulation 5 was substituted by S.I. 2012/2114.
(f) 2002 c. 38.
(g) 1989 c. 41. Section 14A was inserted by section 115 of the Adoption and Children Act 2002 (c. 38) and amended by section 38 of the Children and Young Persons Act 2008 (c. 23).
(h) 2006 c. 47. Part 1 of Schedule 4 was amended by paragraph 41 of Schedule 1 to the Education and Skills Act 2008 (c. 25), paragraph 1 of Schedule 10 to the Protection of Freedoms Act 2012 (c. 9) and S.I. 2009/2610.
(i) 2012 c. 9.

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- (b) considering the applicant's suitability to engage in any activity which is a regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006;
- (c) a decision made by an adoption agency within the meaning of section 2 of the Adoption and Children Act 2002(a), or the compiling of a report for the authority making a decision in respect of an application to be a special guardian within the meaning of section 14A of the Children Act 1989(b), as to a person's suitability to adopt a child or be a special guardian, including obtaining information in respect of any person aged 18 years or over living in the same household as the prospective adopter or special guardian;
- (d) registration for child minding or providing day care under Part 2 of the Children and Families (Wales) Measure 2010(c), including assessing the suitability of any person to have regular contact with a child who is—
 - (i) aged 16 or over and living on the premises at which the child minding or day care is being or is to be provided;
 - (ii) aged 16 or over and working, or who will be working, on the premises at which the child minding or day care is being or is to be provided at times when such child minding or day care is being or is to be provided;
- (e) registration under Chapters 2, 3 or 4 of Part 3 of the Childcare Act 2006(d) (regulation of provision of childcare in England), including assessing the suitability of any person to have regular contact with a child who is—
 - (i) aged 16 or over and living on the premises at which the childcare is being or is to be provided;
 - (ii) aged 16 or over and working on the premises at which the childcare is being or is to be provided at times when such childcare is being or is to be provided;
- (f) placing children with foster parents in accordance with any provision of, or made by virtue of, the Children Act 1989(e) or the Children (Northern Ireland) Order 1995(f) or the exercise of any duty under or by virtue of section 67 of that Act or Article 108 of that Order (welfare of privately fostered children), including obtaining information in respect of any person who is—
 - (i) aged 18 or over and living in the same household as a person who is, or who wishes to be approved as, a foster parent within the meaning of section 53(7)(a) or (b) of the Safeguarding Vulnerable Groups Act 2006;
 - (ii) aged 16 or over and living in the same household as a person who fosters, or intends to foster, a child privately within the meaning of section 66(1) of the Children Act 1989 or who is otherwise a private foster parent within the meaning of section 53(7)(c) and (8) of the Safeguarding Vulnerable Groups Act 2006;
- (g) obtaining information in respect of any person who is aged 16 or over and who lives in the same household as an individual who is having or who has had their suitability assessed for the purposes of—
 - (i) engaging in any activity which is regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups

(a) 2002 c. 38.

(b) 1989 c. 41. Section 14A was inserted by section 115 of the Adoption and Children Act 2002 (c. 38) and amended by section 38 of the Children and Young Persons Act 2008 (c. 23).

(c) 2010 c. 01.

(d) 2006 c. 21.

(e) 1989 c. 41. Section 66 was amended by paragraph 14 of Schedule 4 to the Care Standards Act 2000 (c. 14). Section 67 was amended by section 44 of the Children Act 2004 (c. 31).

(f) S.I 1995/755.

Act 2006(a) or as it had effect immediately before the coming into force of section 64 of the Protection of Freedoms Act 2012;

- (ii) working in a further education institution (within the meaning of section 140 of the Education Act 2002(b)) where the normal duties of that work involve regular contact with children; or
- (iii) working in a 16 to 19 Academy (within the meaning of section 1B of the Academies Act 2010(c)) where the normal duties of that work involve regular contact with children

where that individual, and the person who lives in the same household, live on the premises where that activity or work would normally take place;

- (h) considering the applicant's suitability to obtain or hold a taxi driver licence;
 - (i) work done infrequently which, if done frequently, would be regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 or as it had effect immediately before the coming into force of section 64 of the Protection of Freedoms Act 2012;
 - (j) registration under Part II of the Care Standards Act 2000(d) (establishments and agencies);
 - (k) registration under Part IV of the Care Standards Act 2000 (social care workers);
 - (l) considering the applicant's suitability for work in a further education institution (within the meaning of section 140 of the Education Act 2002) or a 16 to 19 Academy (within the meaning of section 1B of the Academies Act 2010) where the normal duties of that work involve regular contact with persons aged under 18.
- ”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police Act 1997 (Criminal Records) Regulations 2002 to substitute new prescribed purposes for which an enhanced criminal record certificate may be required in accordance with a statement made by a registered person under section 113B(2)(b) of the Police Act 1997. In particular, the new prescribed purposes include the consideration of a person's suitability to “work with children”, which is defined in new regulation 5C, and assessing the suitability of a person for any office or employment which relates to national security.

These Regulations also amend the Police Act 1997 (Criminal Records) (No. 2) Regulations 2009 to substitute a new prescribed purpose for which suitability information in relation to children must be included in an enhanced criminal record certificate.

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- (a) 2006 c. 47. Part 1 of Schedule 4 was amended by paragraph 41 of Schedule 1 to the Education and Skills Act 2008 (c. 25), paragraph 1 of Schedule 10 to the Protection of Freedoms Act 2012 (c. 9) and S.I. 2009/2610.
 - (b) 2002 c. 32. Section 32 was amended by S.I. 2010/1158.
 - (c) 2010 c. 32. Section 1B was inserted by section 53(7) of the Education Act 2011 (c. 21).
 - (d) 2000 c. 14.