

**Verification of Criminal record and barring checks**

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A criminal record check relates to the data held about a person's criminal history. The information included in a criminal record may vary between countries, and even between jurisdictions within the same country.

In most cases, a check will include criminal convictions, cautions and other similar offences, such as traffic offences for speeding and drink-driving. In some countries the record is limited to actual convictions issued by a court of law, while others will include arrests, charges, charges missed or pending, and even charges of which the individual has been acquitted.

This document describes the legislative requirements for employers that apply to England only.

### **Importance of a criminal record check**

Carrying out a criminal record check can help to ensure unsuitable people are prevented from entering the workforce and gaining access to individuals who may be more vulnerable because they are receiving health care or services.

While this type of check can provide a level of assurance about a person's suitability it should not be relied on in isolation. Employers should consider criminal record information alongside the wider range of evidence gathered at the application, interview, and pre-employment checking stages. Employers should request or check criminal record information at the end of the recruitment process to help ensure the candidate is assessed on their merits and without prejudice. It also helps to remove any risks of unfairly ruling out those who may have made mistakes in their life but who would otherwise meet all other essential criteria for the role in question and are safe and suitable for employment.

Where individuals are subscribed to the DBS update service, One Call 24 will need to check the individual's criminal record status online. One Call 24 must seek the individual's permission to access their information online and ask them to present their original disclosure certificate.

One Call 24 must be able to demonstrate that we are only asking for information that is strictly necessary for us to gain assurance of an individual's suitability for the role they are recruiting to. This is of utmost importance to ensure compliance with the General Data Protection Regulation (GDPR).

One Call 24 makes clear the type of checks that will be undertaken as part of the recruitment process allows individuals to make an informed decision about whether to apply for certain roles.

Being clear about automatic exclusions that apply to regulated activity i.e. if they appear on the adults or children's barred list(s), will be helpful to ensure time and resources are not wasted on requiring individuals to go through an interview process, only for their application to be rejected further down the line. One Call 24 provides candidates with a single point of contact should they have any questions about the recruitment process.

If information about an applicant's criminal record is discussed verbally, this is carefully recorded and stored separately and securely on the applicant's file in line with GDPR guidelines. This is in case of any challenge about the recruitment process or final recruitment decision is raised later down the line.

### ***Where to obtain a criminal record check***

In the UK, criminal record checks should be obtained through:

- the Disclosure and Barring Service (England and Wales)
- Disclosure Scotland (Scotland)
- Access NI (Northern Ireland).

Employers must obtain checks from the relevant body for their geographical location. This is because of variances in how legislation operates in different parts of the country. For instance, certain offences may be regarded differently from one part of the country to another, or different periods of rehabilitation may be imposed therefore affecting the type of criminal record information employers need to consider. All three agencies referenced above have reciprocal arrangements in place to share criminal record information where offences are considered the same in that country.

### ***Verification of Criminal record and barring checks***

One Call 24 understands the importance of a current and valid DBS when placing a worker into a clinical setting. As such, a robust process is in place which irradiates the possibility of a candidate being placed into such a setting without the necessary documentation obtained.

One Call 24 will at all times comply with the latest NHS Employers Check Standards.

At point of recruitment, a candidate will be asked as to whether they have any criminal convictions (spent/unspent in line with the rehab of offenders' act). This will be checked over by the recruiter upon completion. If the candidate indicates that they do indeed have convictions/cautions – a full statement will be obtained, to include such information as:

- Date of Conviction/Caution
- Name/title/code of the conviction
- Fines
- Circumstances
- Outcomes

One Call 24 always verifies the authenticity of disclosure certificates by checking there is:

- a 'crown seal' watermark repeated down the right-hand side of the disclosure, which is visible both on the surface and when holding the disclosure up to light
- a background design incorporating the word 'disclosure', which appears in a wave-like pattern across both sides of the document. The colour of this pattern is uniform across the front of the disclosure but alternates between pink and green on the reverse
- fluorescent inks and fibres that are visible under UV light • ink and paper that will change colour in the presence of water or solvent-based liquid.

### ***Types of Checks***

#### ***Basic check***

Basic checks may be obtained for positions that are covered by the Rehabilitation of Offenders Act 1974, referred to within legislation as non-exempt positions. A basic check provides information about conditional cautions and convictions that are unspent only. This is because the Act allows for certain offences to become legally ignored or spent after a specified rehabilitation period. The length of any rehabilitation period is determined by the sentence or out-of-court disposal received. Once the rehabilitation period has elapsed and if the individual has not been reconvicted at any time during this period, their record becomes spent and they will not be required to declare these offences, nor are employers permitted to consider this type of information in their assessment of suitability for the position. When recruiting for a non-exempt position, employers must ensure they do not ask for information they are not legally permitted to consider as part of their assessment of suitability.

Basic checks may be considered for any NHS position that would not normally be eligible for a standard or enhanced check. We would suggest that this level of check applies to roles which have a higher level of responsibility, accountability, or trust and where such a check would be considered proportionate to any associated risks. Employers can either ask for an applicant's consent to obtain a basic disclosure on their behalf or require applicants to apply for one directly. All applications for a basic disclosure should be made through the online facility on the DBS website.

#### ***Standard check***

Standard checks must only be obtained for professions or positions which are listed as exempt under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended).

A standard check provides information about spent and unspent criminal convictions, cautions and other such offences that are not protected (i.e. eligible for filtering). This may also include information about any offences committed in Scotland and Northern Ireland that may equally be regarded as an offence under English law.

To meet eligibility for a standard check, the position must require the individual in that role to be involved in the provision of a health service which would also give them access to persons in receipt of health services as part of their normal duties.

We would advise that access to persons in receipt of health services should exclude roles where this is limited or incidental i.e. no more than a visitor to a hospital site. For example, when working or volunteering in public areas where persons in receipt of health services may also be present or when needing to pass through areas where persons are in receipt of health services to get to their normal place of work.

#### ***Enhanced check without barred list information.***

To be eligible to request an enhanced check, the position must be listed as exempt under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) and, in addition, be listed in the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013 as work with adults and/or work with children.

The enhanced check will provide the same information as a standard check. In addition, it will also include any other relevant information that may be held on local police databases which the chief officer reasonably believes should be disclosed and considered by an employer. Including cautions or convictions that may be protected.

#### ***Enhanced check with barred list information***

Barred list information is not routinely provided in an enhanced check. To be eligible to request information held against the adults and/or children's barred list(s), the position must involve a regulated activity as stipulated within the Safeguarding Vulnerable Groups Act 2006 (amended by Protection of Freedoms Act in 2012).

The Department of Health and Social Care and Department of Education have produced two factual notes which employers will find helpful to use when considering which NHS positions might fall eligible under regulated activity:

- Regulated activity with adults
- Regulated activity with children

This level of check will include the same information as the enhanced disclosure. It will also outline whether the person is barred from carrying out certain activities with children and/or adults, as may be applicable to the role.

Employers should note that it is unlawful for them to knowingly allow an individual to engage in a regulated activity with the group(s) they are barred from working or volunteering with.

Individuals are also committing a criminal offence if they apply for/or engage in any form of regulated activity with the group(s) from which they are barred. Where such cases become evident, employers must be clear about their legal obligations to make a referral to the DBS.

### ***DBS Adult First service – regulated activity***

The Adult First Service enables employers to obtain a fast-track check against the adults barred list. This check does not remove the need to obtain a full enhanced disclosure, but it can help to mitigate risk where any delay to recruitment would have a significant impact on the provision of services and/or patient safety. For example, this might be during the winter period when there is an increased pressure on NHS services.

If the check confirms that the individual is not barred from working with adults, and all other recruitment criteria has been met, employers can allow them to start work under supervision while waiting for the outcome of the full enhanced disclosure. The precise nature and level of supervision will vary from case to case. Employers must ensure that the supervision in place is sufficient, in their judgement, to provide reasonable assurance for the protection of adult persons in receipt of health services.

It is important to be mindful that the full enhanced disclosure may include additional information which will need to be considered before any unconditional offer can be confirmed. Employers must make it clear to individuals that any appointment remains conditional until the full enhanced disclosure has been received, regardless of any fast-track check against the adults barred list.

There is no equivalent fast track service which enables a check against the children's barred list. Where individuals are working with children as well as adults or working with children only, employers will need to wait to receive the full enhanced disclosure to confirm they are not barred before allowing individuals to start work.

### ***DBS Certificates with cautions and convictions***

Once the DBS application has been returned by the One Call 24 if any cautions, convictions or reprimands have been advised, and we have not already received a statement in relation to the caution/conviction or reprimand (previously or in relation to this DBS renewal), one must be requested from the candidate.

Once the statement has been received if the information provided is unacceptable and we do not wish to proceed with the candidate, then they are advised that they have been archived.

There are a number of opportunities for a candidate to inform One Call 24 of any convictions have, whether 'spent' or 'unspent' under the Rehabilitation of Offenders Act.

Opportunities include:

- Application Form
- Interview
- DBS Disclosure Form

Within the above, the agency worker will be required to complete the Rehab of Offenders Declaration and Fitness to Practice Declaration, which are to be signed and dated accordingly.

When a disclosure contains information that an employee is in possession of a conviction or indication of any other matter, One Call 24 will not automatically debar an employee or applicant from the role.

One Call 24 will take into account a number of factors before reaching a decision in respect of the disclosure such as:

- Whether the conviction or other matter revealed is relevant to the role applied for
- The seriousness of any offence contained on the disclosure
- The length of time since the offence or other matter occurred
- Whether the individual has a pattern of offending behaviour or other relevant matters
- Whether the individual's circumstances have changed since this date

One Call 24 undertakes to discuss any matter revealed in a disclosure with the individual prior to any decision being reached. In all cases, the Authority is notified and written sign off received of acceptance of candidate into booking. Our recruiter system is updated to which alerts internal staff as to whether there is any information that prevents the candidate from working in particular settings or, requires further action before they can be deployed into the provision of the service. Once written confirmation is received by the authority, these are uploaded to the recruiter system to confirm that the information has been presented to the authority and signed-off. Below is a screenshot of how the system appears when in receipt of authorisation which is then uploaded to the recruiter system.

The candidate will also be asked as to whether they hold a current Enhanced DBS. If so, the original copy will be obtained from the agency and scanned – signed and dated as originally seen. All information present on the certificate will be checked to ensure it reads true and correct against other documentation supplied throughout the recruitment process, including:

- Full Names checked (including any previous, maiden and/or middle names)
- Date of Birth
- Gender
- Place of Birth
- Relevant Checks completed against the Adults/Children's Barred Lists

*(Any discrepancies will be followed up with the candidate and if necessary, a new DBS applied for).*

### **DBS Update Service**

One Call 24 will then establish as to whether the DBS can be used in conjunction with a placement. In order for the DBS issued by another body to be accepted by One Call 24, the worker must have registered with the DBS Update Service within 19 days of the DBS Certificate being issued. If the candidate has indeed signed up to the DBS Update Service, One Call 24 will obtain written consent to complete an Update Service Check. Once in receipt of this, the disclosure number will be checked

on the DBS Update Service website. A copy of the search and its results will be retained in the worker's file.

There are 4 different status results and depending on this will depend on whether the DBS supplied by the candidate can be used. These are:

1. This DBS certificate did not reveal any information and remains current as no further information has been identified since its issue.
2. This DBS certificate remains current as no further information has been identified since its issue.
3. This DBS certificate is no longer current. Please apply for a new DBS check to get the most up-to-date information
4. The details entered do not match those held on our system. Please check and try again.

If result '1' is returned, the DBS can be used – evidence of DBS and Update Service Checks will be retained on file.

If result '2' is returned, One Call 24 will ensure that full details are held on file of the nature of the conviction/caution. Depending on the information obtained will affect whether the convictions get escalated to the client. Written client authorisation will be needed based on the information detailed on the DBS Certificate before a candidate can be deployed into the provision of the services. This information will be made readily available to the auditors during any audit undertaken.

If either result '3' or '4' are returned, then the DBS supplied cannot be used as part of the recruitment/placement process.

If a valid DBS is supplied, One Call 24 will complete an Update Service check prior to the assignment start date and every 3 months thereafter and on the annual expiry of the DBS certificate.

In the case of a candidate not having a current/Valid DBS, One Call 24 will apply for a new Enhanced disclosure. The applicants are sent the necessary guidance in order to complete the application online and in order to understand what information is required by One Call 24 in order to ID verify their DBS application and complete the application process.

One Call 24 will ensure that a satisfactory returned DBS is in place prior to the assignment start date, with a new DBS applied for annually thereafter (if the worker does not sign up to the update service).

Where information is present, One Call 24 will ensure that full details are obtained from the worker and retained on file in relation to the information observed on the DBS.

All workers who obtain a DBS via One Call 24 are encouraged to sign up to the update service. A check will be carried out by One Call 24 the first 2 weeks of a DBS being issued in order to ascertain as to whether the worker has indeed signed up for the update service or not. Prompt will be provided where necessary.



One Call 24 will ensure that <https://www.gov.uk/dbs-update-service> is followed for updates and prompts for further information where necessary.

All DBS certificates are retained on a secure online system with access restricted to authorised personnel only.

All candidates will be required to provide consent for the following:

- Consent for One Call 24 to complete a DBS check
- Consent for One Call 24 to retain a copy of the DBS on file
- Consent to do DBS Update Service Checks
- Consent to share their DBS and information for recruitment and auditing purposes

DBS information is detailed on Placement Checklists issued to our clients, to include the following information:

- DBS Disclosure Number
- DBS Name of Employer
- DBS Disclosure Type
- Date DBS issued

In order to ensure that a candidate's DBS remains current and valid throughout their recruitment and placement, our recruiter is set up to track the validity of a candidate's DBS. This in turn alerts the business of any documents nearing their expiry – where follow up action will be required (i.e. New DBS / Update Service Check).

### ***Determining eligibility for a check***

One Call 24 must undertake an eligibility assessment to determine whether a check needs to be carried out and if so, the correct type and level of check required for the role in question. Not all NHS positions will be eligible for a DBS check. The trigger for a check and the level of check required is determined by the type of activities the individual in that role will be required to undertake and the level of access this will give them to persons in receipt of health services. One Call 24 uses the online DBS eligibility tool to determine whether an NHS position meets the criteria for a DBS check.

### ***Overseas Police Checks***

Overseas police checks must be in accordance with the relevant country's justice system. Some police authorities overseas will only provide a certificate of good conduct or standing. Any such certificates issued by a police authority are valid and can be accepted. A certificate of good standing issued by an overseas regulator is not equivalent to a police check but may still be helpful to inform the overall assessment of suitability for a role.

Any overseas police certificates should be verified in the exact same way as all other official documentary evidence to ensure they are legitimate and relate to the person presenting themselves. If employers are unsure of the authenticity of the documents, they should contact the relevant country's embassy in the UK for advice.

Individuals applying for a visa to work in the UK in health, social care and education sectors must provide an overseas police check as part of their visa application.

Certificates must be provided for any country (excluding the UK) in which they have resided in for 12 months or more (whether continuously or in total) in the last 10 years, while aged 18 or over.

Employers are recommended to inform applicants of this requirement as early in the recruitment process as possible, for example when assigning a Certificate of Sponsorship (CoS). It should also be made clear that a translated copy must be provided where the certificate is not issued in English.

A certificate from an applicant's most recent country of residence will normally only be considered valid if it has been issued no earlier than six months before their visa application date. If the applicant has resided in another country or countries within the last 10 years, certificates obtained from the relevant authority for that country will be considered valid indefinitely.

For visa purposes, the Home Office will accept a photocopy or scanned copy of the original police certificate. However, employers should make it clear to the applicant that they will need to present their original certificate for employment checking purposes.

In addition to any overseas police check, the Home Office recommends that employers should obtain a DBS check to assure themselves that the person does not have a criminal record in the UK; and, where relevant to the role, is not barred from working with children and/or adults.

In some cases, the DBS may have information sharing arrangements with certain overseas countries and therefore this may further help to validate any information provided in the overseas police check.

DBS checks should be obtained as soon as practical, i.e. when the applicant can be reasonably expected to provide the necessary documentation required in the DBS identity checking guidelines for a check to be processed.

Where recruiting individuals who have spent time overseas, employers should consider whether an overseas police check may be required. This applies where applicants declare they have spent a significant period overseas within the last five years. We would suggest that a significant period should be considered as any period of six months or more (whether continuously or in total) within the last five years.

We also undertake checks whereby the agency worker has entered the UK or become resident within the UK for less than six (6) months prior to recruitment.

Not all countries have reciprocal arrangements to share information about a person's criminal record history for employment purposes. If the country concerned is not listed in Home Office guidance, employers should instruct individuals to contact the Embassy or High Commission in the relevant country for advice on what to do. Contact details can be found on the gov.uk website.

Employers should ask applicants to show any attempt made to seek an overseas police check and any reasons given as to why one could not be obtained. Where it is genuinely not possible to obtain an overseas police check, employers will need to base their recruitment decision on the wider range of evidence presented to them as part of the recruitment process, including character and other references.

One Call 24 will obtain only original documentation relating to the worker's Overseas Police Check, signing and dating the item to that effect and retaining it in the worker's file.

Where the Overseas Police Check is not supplied within the English language, One Call 24 will ensure the document is sufficiently translated by a professional translation company.

One Call 24 will allow candidates to submit an application, before providing them with an Overseas Police Check (where applicable). This will enable One Call 24 to begin processing the application sooner; however, no decision will be made on the worker's application until a satisfactory Overseas Police Check has been received from the worker.

One Call 24 will ensure that all Overseas Police Checks are:

- Verified with originator
- Obtained in conjunction with an Enhanced DBS.

Regardless of the work history presented to [insert supplier name], or the information supplied on the agency worker's application form, [insert supplier name] will ensure that an Enhanced DBS check is obtained for each worker prior to their deployment within the provision of the services.

If an unsatisfactory response is received for the Overseas Police Check, [insert supplier name] will refer to their 'traffic light' system to confirm whether the information supplied needs to be notified to the authority. (Please refer to the traffic light system for further clarification on this).

If information is present on an Overseas Police Check, [insert supplier name] will ensure that the worker has correctly completed the registration form, and furthermore – supplied a full statement detailing the circumstances leading up to the information provided on the Overseas Police Check.

For England and Wales a Disclosure and Barring Service (DBS) with adult and child barred list or a Disclosure Scotland PVG check for applicants living and working in Scotland or an enhanced Access NI check for any applicants living and working in Northern Ireland will be obtained.

### ***Positive Disclosure***

#### ***Overview***

- There are several types of DBS Certificate available. One Call 24 always applies for Enhanced checks with POCA/ POVA checks
- All DBS Certificates expire after 12 months.
- All candidates that work for One Call 24 must have an Enhanced DBS Certificate, issued by One Call 24 and it must be less than 12 months old. Certificates are renewed annually before the current certificate expires.
- It normally takes 2-9 weeks for an Enhanced DBS Certificate to be returned from the Bureau.
- One Call 24 are regularly asked to email the candidate's DBS Certificates to clients – which One Call 24 can do with the candidate's permission.

- One Call 24 applies for all DBS Certificates via Capita's online system. The candidates are sent a link to access the system and enter their details. One Call 24 then logs in to the Capita online system and verifies the information given and performs the necessary I.D checks.
- Once completed, the DBS Certificates are sent via post directly to the candidate. Once received, the candidate must produce the original, so that a verified copy can be taken and held securely on file. One Call 24 are able to download an online snapshot version of the certificate which is placed in the worker's file.
- Due to the confidentiality of the DBS information - only a limited number of staff at One Call 24 have the permission to handle DBS applications and DBS Certificates.

### ***Portable DBSs Overview***

For an annual subscription, candidates can have their DBS Certificate kept up-to-date and take it with them from role to role, within the same workforce, where the same type and level of check is required.

When candidates are recruited, they are asked if they are a member of the update service. If they are, One Call 24 can with their permission, use their current DBS Certificate and carry out a free, instant online Status Check to see if any new information has come to light since its issue.

By entering the organization name, employee's forename and surname in conjunction with the DBS certificate number, the current surname of DBS certificate holder and date of birth of DBS certificate holder, One Call 24 can obtain an instant Status Check.

This check must be printed off and held in addition to the DBS check it was performed on originally. The online check must be carried out every 12 months.

If the check shows that new information has been added to the certificate since the original DBS certificate was issued, a new DBS certificate will need to be applied for to receive the most up to date information.

### ***Handling and retention of criminal record information***

One Call 24 has a written security policy covering the correct handling and safekeeping of criminal record information.

One Call 24 ensures that information is kept securely in lockable, non-portable container with access strictly controlled and limited to persons who need to have access to this information in the course of their duties. This information is only used for the specific purpose it was requested for and with the applicant's full consent. Section 124 of the Police Act 1997 makes clear that it is a criminal offence to share criminal record information with any individual who is not entitled to receive it. However, if the applicant freely gives their consent to the sharing of this information, then an offence has not been committed.

One Call 24 keeps an electronic version of each DBS. These are stored in PDF format so that they may not be altered. The top part of the DBS is kept as evidence for Audit purposes and may be kept indefinitely

If the Enhanced Disclosure contains an indication of “Additional Information” to follow or if convictional/non-convictional information has been deleted on the reverse side, the full Enhanced Disclosure is kept until an audit of such has been undertaken but is destroyed post-audit or destroyed within 6 months of issue whichever is sooner.

Criminal record information is not retained for any longer than necessary. Once a decision has been made as to whether to appoint or not, it should be kept for no longer than six months from appointment, and six months from where the applicant has been unsuccessful, to allow for the consideration and resolution of any disputes or complaints.

One Call 24 has a robust policy in place when recruiting people with convictions or offences in line with the Equality Act. This policy is outlined in One Call 24 application form and provides assurances to the applicant that fair consideration will be given against their skills and ability to do the job being offered.