

# A guide to eligibility for criminal record checks

The Disclosure and Barring Service (DBS) carries out criminal record checks for specific positions, professions, employment, offices, works and licences included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

**Individuals and the self-employed cannot apply for a check directly to the DBS.**

A DBS certificate will be requested as part of an organisation's pre-recruitment checks following an offer of employment, including volunteering roles and applications for specific licences. If you have been asked to apply for a, or provide a DBS certificate and are unsure how to obtain one, please speak to the organisation making the request.

DBS [remove certain specified old and minor offences from DBS certificates](#) in line with legislation introduced in May 2013. Please note, because of changes to legislation the reference numbers in the Annex have been amended and will be subject to further changes in the future.

## Legal responsibilities

Before an organisation considers asking a person to apply for a criminal record check through DBS, they are legally responsible for ensuring that they are entitled to submit an application for the job role. This means that if you are a countersigning officer you must satisfy yourself that the position is eligible under the current legal provisions before you countersign each application form.

The Annex describes the most commonly submitted positions and duties that are known as the exceptions to the Rehabilitation of Offenders Act 1974. It should be noted that this is not an exhaustive list.

### Levels of criminal record check available

- **standard checks** – To be eligible for a standard level DBS certificate, 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 certificate, the position **must** be included in both the ROA Exceptions Order **and** in the Police Act 1997 (Criminal Records) 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** be eligible for an enhanced level DBS certificate as above **and** be specifically listed in the Police Act 1997 (Criminal Records) regulations as able to check the appropriate barred list(s).

You can access the various Police Act 1997 (Criminal Records) regulations by searching for them on [legislation.gov.uk](http://legislation.gov.uk). This will not provide a list of job roles – such a list does not exist. Instead each regulation can be opened to identify what roles, duties or activities have been included from the date that the regulation was brought in. It is important to note that the regulations can also remove roles, duties or activities.

## Applicant eligibility enquiries

If you have submitted an application form for a criminal record check through DBS following a request from a current or prospective employer/voluntary organisation but are unsure that the position you have applied for is eligible for a criminal record check, you can contact us to investigate.

Please send an email [DBS customer services](#) with the title **Application eligibility enquiry – urgent** giving your full name, date of birth, the name of organisation who asked you to get or provide a DBS certificate, details of the position applied for, and the form application number as well as the reasons why you are unsure that your position is eligible.



To carry out a full investigation into the eligibility of your position we may have to contact the organisation concerned to ask them to explain their reasons for requiring you to submit a DBS application. If you provide your consent, we can refer to your specific application to enable us to discuss the eligibility issue with the organisation. However, we can also contact the organisation to discuss the submitted application without reference to your enquiry if you would prefer.

You have the right to request the DBS to prevent the processing of your application under the Data Protection Act 1998, principle 6 "*Personal Data should be processed in accordance with an individual's rights*". However, we cannot guarantee that we will be able to stop the application before it is issued as it may have already have reached the certificate printing stage

### Using the annex

This annex has been designed for use in conjunction with legislation.

We use the numbers in the annex as a reference point for dealing with enquiries about eligibility. If your organisation is contacted to confirm eligibility for a position, you **must** provide full details of the job role and explain how the relevant legislation supports the eligibility of the position applied for. It is not sufficient to provide the reference number without supporting evidence.

The annex will not advise whether any specific role must have a DBS certificate. Any mandatory requirements will exist in legislation and guidance specific to your employment sector and you will need to explore this independently.

The annex will not advise what level of criminal record check any specific role is eligible for. This can be established by referring to the Police Act 1997 (Criminal Records) regulations referred to previously.

If you remain unsure about whether a position in your organisation is eligible for a criminal record check through DBS, you may want to consider obtaining legal advice. You can also email our [customer services](#) team for further advice; please include the job specification and the roles and duties of the position. DBS customer services may not always be in a position to provide you with a definitive answer about eligibility but will provide you with references to help you to make an informed decision about the role.

Your responsibility is to ensure that the decision that eligibility for a criminal record check through DBS exists is based on the legislation that enables the check to be carried out for the activities and duties of the specific position.

From June 2013 you have been required to complete the DBS application form indicating which workforce the applicant will be working in. We have produced guidance to assist you with this, please click [here](#) to read these documents.

You may also find the following links useful:

[Home - The Department for Education](#)

[Department of Health - GOV.UK](#)

[Ofsted | Home page](#)

[Care Quality Commission | Homepage](#)

## Annex

<b>Positions, Professions, Employment, Offices and Works included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
Any work 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 defined as “work with children” in regulation 5C of the Police Act 1997 (Criminal Records) Regulations 2002	02
Any work 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 defined as “work with adults” in regulation 5B of the Police Act 1997 (Criminal Records) Regulations 2002	04
Any office or employment which is concerned with: <ul style="list-style-type: none"> <li>• the provision of care services to vulnerable adults; or</li> <li>• 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;</li> </ul> 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 further education institution or 16 to 19 Academy where the normal duties of that work involve regular contact with children	06
Health care professional (regulated by a body mentioned in subsection (3) of section 25 of the National Health Service Reform and Health Care Professions Act 2002) – on entry into the profession only	07
Barrister (in England and Wales), solicitor – on entry into the profession only	08
Chartered accountant, certified accountant – on entry into the profession only	09
Veterinary surgeon – on entry into the profession only	10
Actuary – on entry into the profession only	11
Registered foreign lawyer – on entry into the profession only	12
Chartered Legal Executive or other Chartered Institute of Legal Executive (CILEx) authorised person – on entry into the profession only	13
Judicial appointments	14
The Director of Public Prosecutions and any office or employment in the Crown Prosecution Service	15
Designated officers for: <ul style="list-style-type: none"> <li>• magistrates’ courts</li> <li>• justices of the peace</li> <li>• local justice areas</li> <li>• justices’ clerks</li> <li>• assistants to justices’ clerks</li> </ul>	16
Persons employed for the purposes of assisting constables of a Police Force established under any enactment	17
Any employment within the precincts of: <ul style="list-style-type: none"> <li>• a prison</li> <li>• a remand centre</li> <li>• a removal centre</li> <li>• a short term holding facility</li> <li>• a detention centre</li> <li>• a Borstal institution</li> </ul>	18

<b>Positions, Professions, Employment, Offices and Works included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
<ul style="list-style-type: none"> <li>• a young offenders institution</li> <li>• members of boards of visitors (England &amp; Wales)</li> </ul>	
Traffic wardens	19
Officers of providers of Probation services as defined in section 9 of the Offenders Management Act 2007	20
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	21
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	22
<p>Those working within an Authorised Payment Institution as:</p> <ul style="list-style-type: none"> <li>• Directors and managers</li> <li>• Holders of qualifying holdings</li> <li>• Controllers of the Authorised Payment Institution</li> </ul>	23
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	24
The Commissioners for Her Majesty's Revenue and Customs (HMRC) and any office or employment in their services	25
The Director and any office or employment in the Revenue and Customs Prosecutions Office	26
Any employment which is concerned with the monitoring, for the purposes of child protection, of communications by means of the internet	27
An individual designated under section 2 of the Traffic Management Act 2004	28
<p>The following Court Positions:</p> <ul style="list-style-type: none"> <li>• Judges' clerks, secretaries and legal secretaries within the meaning of section 98 of the Supreme Court Act 1981(c)</li> <li>• Court officers and court contractors who, in the course of their work, have face to face contact with judges of the Supreme Court, or access to such judges' lodgings</li> <li>• Persons who in the course of their work have regular access to personal information relating to an identified or identifiable member of the judiciary</li> <li>• Court officers and court contractors who, in the course of their work, attend either the Royal Courts of Justice or the Central Criminal Court</li> <li>• Court security officers and tribunal security officers</li> <li>• Court contractors who, in the course of their work, have unsupervised access to court-houses, offices and other accommodation used in relation to the courts</li> <li>• Contractors, sub-contractors, and any person acting under the authority of such a contractor or sub-contractor, who, in the course of their work, have unsupervised access to tribunal buildings, offices and other accommodation used in relation to tribunals</li> <li>• 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</li> </ul>	29

<b>Positions, Professions, Employment, Offices and Works included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
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"> <li>• Court officers who execute county court warrants</li> <li>• High Court enforcement officers</li> <li>• Sheriffs and under-sheriffs</li> <li>• Tipstaffs</li> <li>• Any other persons who execute High Court writs or warrants who act under the authority of a person listed at (a) to (d)</li> <li>• Persons who execute writs of sequestration</li> <li>• Civilian enforcement officers as defined in section 125A of the Magistrates' Courts Act 1980</li> <li>• 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</li> <li>• Persons who execute clamping orders, as defined in paragraph 38(2) of Schedule 5 of the Courts Act 2003(d)</li> </ul>	30
Individuals seeking to carry, acquire or transfer prohibited weapons or ammunition under section 5 of the Firearms Act 1968(c) – Maritime armed guards	31
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	32
<p>Any employment or other work where the normal duties:</p> <ol style="list-style-type: none"> <li>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</li> <li>b) include supervising or managing a person employed or working in a capacity referred to in paragraph (a)</li> </ol>	33
Registration as a childminder agency	34
Any employment or office involved in the management of a childminder agency	35
<p>A person working for a childminder agency who is required to enter day care or childminding premises for quality assurance purposes and, in the course of their normal duties, has</p> <ul style="list-style-type: none"> <li>• contact with the children there; or</li> <li>• access to sensitive or personal information about the children there</li> </ul>	36
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	37
<p>A person living in the same household as a person whose suitability is being assessed to work in</p> <ul style="list-style-type: none"> <li>• regulated activity with children</li> <li>• what would have been regulated activity with children before 10<sup>th</sup> September 2012</li> <li>• an FE institution or 16-19 Academy where the normal duties of that work involve regular contact with children</li> </ul> <p>and who lives on the same premises where the work would normally take place</p>	38
Applications for prospective adopters, special guardians or anyone who lives in the adoption or special guardian household in England and Wales	39
Applications for prospective foster carers, prospective private foster carers or anyone who lives in the fostering household in England and Wales	40



<b>Positions, Professions, Employment, Offices and Works included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
Any employment or work in <ul style="list-style-type: none"> <li>• a children's home</li> <li>• a residential family centre</li> </ul>	41
Any employment or work for the purposes of <ul style="list-style-type: none"> <li>• an adoption service</li> <li>• an adoption support agency</li> <li>• a voluntary adoption agency</li> <li>• a fostering service</li> <li>• a fostering agency</li> </ul> which is of such a kind as to enable a person, in the course of his normal duties, to have contact with children or access to sensitive or personal information about children	42
Individuals seeking authorisation from the Secretary of State for the Home Department to become authorised search officers	43
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)	44
Football Stewards, supervisors or managers of football stewards	45
Approved Legal Services Body Manager	46
CILEx approved manager	47
Those working for Alternative Business Structures as: <ul style="list-style-type: none"> <li>• Head of Finance and Administration of a licensed body approved under schedule 11 of the Legal Services Act 2007</li> <li>• Head of Legal Practice of a licensed body approved under schedule 11 of the Legal Services Act 2007</li> <li>• Owners of a licensed body approved under schedule 13 of the Legal Services Act 2007</li> </ul>	48
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	49
Any office or employment which relates to the purposes of National Security	50
Any person who has applied to be granted membership of the Master Locksmiths Association	51
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	52
Commissioners for the Gambling Commission and any office or employment in their service	53
Police and Crime Commissioners	54

<b>Licences included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
For Taxi Driver and Private Hire Vehicle licensing purposes	55
For National Lottery licensing purposes	56
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)	57
For licences issued under Section 8 of the Private Security Industry Act 2001	58
For obtaining or holding a personal or operating licence under Part 5 or Part 6 of the	59



<b>Licences included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
Gambling Act 2005	
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)	60