



## DBS checks: eligibility guidance

Under the Rehabilitation of Offenders Act 1974, a person with a criminal record is not required to disclose any spent convictions unless the position they are applying for, or are currently undertaking, is listed as an exception under the act.

### Your Legal Responsibility

Before an organisation considers asking a person to make an application for a Disclosure and Barring Service (DBS) check, they are legally responsible for ensuring that they are entitled to ask that person to reveal their conviction history.

The information below 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. This is not an exhaustive list as some roles included in the list of exceptions obtain conviction information via other means.

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. There are a small number of other positions for which you can also request list checks.

### Using the reference numbers

The reference numbers in the tables below are used by DBS as a reference point only for dealing with enquiries about DBS check eligibility. If you are contacted to confirm eligibility for a position you must provide full details of the job role and explain how the relevant legislation supports the application for a DBS check. It is not sufficient to provide a reference number without supporting evidence.

**Please note, as a result of the changes introduced in September 2012, by the Protection of Freedoms Act 2012, the reference numbers have changed significantly.**

### Where to find further guidance



## Disclosure & Barring Service

If you are unsure about whether a position is eligible for a DBS check you should refer to any guidance provided for the job sector, consider obtaining legal advice on the requirements to obtain criminal records checks.

You can also contact the DBS for further advice via email at [customerservices@dbs.gsi.gov.uk](mailto:customerservices@dbs.gsi.gov.uk); please include the job specification and the roles and duties of the position.

<b>Positions eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
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 10 <sup>th</sup> 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 10 <sup>th</sup> 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.	03
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.	04
Any work in a further education institution or 16 to 19 Academy where the normal duties of that work involve regular contact with children.	05
Any position which otherwise involves regularly caring for, training, supervising or being solely in charge of children.	06
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.	07

<b>Professions eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
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.	08
Barrister (in England and Wales), solicitor.	09
Chartered accountant, certified accountant.	10



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<b>Professions eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
Veterinary surgeon	11
Actuary	12
Registered foreign lawyer	13
Legal executive	14
Receiver appointed by the Court of Protection	15

<b>Offices, employments and works eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
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"> <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>	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
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> <li>• a young offenders institution</li> <li>• members of boards of visitors (England &amp; Wales)</li> </ul>	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: <ul style="list-style-type: none"> <li>• Directors and managers</li> </ul>	27



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Offices, employments 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"> <li>• Holders of qualifying holdings</li> <li>• Controllers of the Authorised Payment Institution</li> </ul>	
<p>Any occupation which is:</p> <ul style="list-style-type: none"> <li>• 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,</li> <li>• 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.</li> </ul>	28
<p>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.</p>	29
<p>Any office or employment in the Serious Fraud Office.</p>	30
<p>Any office or employment in the Serious Organised Crime Agency (SOCA).</p>	31
<ul style="list-style-type: none"> <li>• The Commissioners for Her Majesty's Revenue and Customs and any office or employment in their services</li> <li>• The Director and any office or employment in the Revenue and Customs Prosecutions Office</li> </ul>	32
<p>Any employment which is concerned with the monitoring, for the purposes of child protection, of communications by means of the internet.</p>	33
<p>An individual designated under section 2 of the Traffic Management Act 2004.</p>	34
<p>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> </ul> <p>The following persons:</p> <ol style="list-style-type: none"> <li>a) Court officers who execute county court warrants</li> <li>b) High Court enforcement officers</li> <li>c) Sheriffs and under-sheriffs</li> <li>d) Tipstaffs</li> <li>e) Any other persons who execute High Court writs or warrants who act under the authority of a person listed at (a) to (d)</li> <li>f) Persons who execute writs of sequestration</li> </ol>	35



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<b>Offices, employments and works eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
<p>g) Civilian enforcement officers as defined in section 125A of the Magistrates' Courts Act 1980</p> <p>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</p> <p>i) Persons who execute clamping orders, as defined in paragraph 38(2) of Schedule 5 of the Courts Act 2003(d)</p> <ul style="list-style-type: none"> <li>• the Official Solicitor and his deputy</li> <li>• Persons appointed to the office of Public Trustee or deputy Public Trustee, and officers of the Public Trustee</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 contractors who receive payment in pursuance of a conviction or order of a magistrates' court</li> </ul>	
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
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

<b>Other activities eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
A person living at the premises where a childminding or day care service is provided or who regularly works on the premises at a time when the childminding takes place	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
<p>Any employment or other work where the normal duties</p> <p>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</p> <p>b) include supervising or managing a person employed or working in a capacity referred to in paragraph (a).</p>	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



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<b>Other activities eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
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: <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>	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
<b>Licences eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975</b>	<b>Ref No</b>
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
Police and Crime Commissioners	58