



Good Practice Guidelines

The Circle, 33 Rockingham Lane, Sheffield. S1 4FW, ☎ 0114 253 6649, vc@vas.org.uk

Criminal Records Checks

Does your organisation need to screen volunteers?

Not all organisations will need to screen volunteers. The need to screen will depend entirely on what the volunteer is doing and the client group that they are working with. Except for organisations which fall under the remit of the Care Standards Act or are 'Childcare organisations' under the definition in the Protection of Children Act, the only legal obligation that organisations have to screen their volunteers is the 'duty of care' that they have towards the people they work with. Duty of care requires that you do everything 'reasonable' within your power to protect others from harm. So if an organisation involves volunteers working with vulnerable people, it could be argued that part of their duty of care is to screen volunteers. Organisations need to look carefully at their client group and volunteer roles to decide whether screening is necessary, and a risk assessment needs to be done to decide whether clients are at risk if volunteers are not screened. In some situations, organisations may decide that even if their client group is vulnerable, the risks involved are minimal because of the way that they work. Are your volunteers working in roles where they should be screened?

Under the Rehabilitation of Offenders Act most convictions become spent (old) after a period of time. The more serious the crime, the longer the rehabilitation period. Ex-offenders normally have the right not to reveal spent (old) convictions, and in many situations, potential employers or volunteer managers do not have the right to ask.

However, the Rehabilitation of Offenders Act also says that where work involves contact with 'vulnerable' people, organisations can require applicants to declare spent convictions as well as current ones. Such types of work are defined in the 'Exceptions Order' to the Rehabilitation of Offenders Act. This means that organisations should only ask volunteers to reveal spent convictions if they are recruiting for a position which falls into the Exceptions Order.

Section 115 (4) (a) of the Police Act 1997 describes vulnerable people as:

- Anyone under the age of 18
- Anyone receiving:
 - accommodation and nursing or personal care in a care home
 - personal care in their own home through a domiciliary care agency
 - healthcare services provided by an independent hospital, independent clinic, independent medical agency or NHS body
 - services provided in an establishment catering for a person with learning difficulties
- Anyone who could be described as having:
 - a substantial learning or physical disability
 - a physical or mental illness, chronic or otherwise, including and addiction to alcohol or drugs
 - a substantial reduction in physical or mental capacity.

If people are applying for such roles, it is fairer to let them know from the outset that they will be required to reveal information about spent convictions. One form of wording is:

‘Because of the nature of the work, [befriending people with severe learning difficulties], you are required by the Rehabilitation of Offenders Act 1974 to declare all criminal convictions including those which are spent.’

You may also want to make it clear that just because someone has a conviction, it does not mean that they are automatically unsuitable. The majority of convictions would not have any bearing on someone’s suitability for volunteering. However, ex-offenders are used to being discriminated against and may well be wary about discussing their convictions with you. Anything you can do to reassure them that your organisation is fair will encourage them to be open. Remember that one in five adult men has a criminal conviction. If your organisation discriminates against ex-offenders, you could well be losing out on valuable volunteers.

The Criminal Records Bureau

The Criminal Records Bureau has been set up as a ‘one stop shop’ for criminal record checks. Prior to this access to checks for volunteers was patchy at best. The general principle of the CRB checks is that organisations have different levels of need to access information, so two levels of check have been introduced. To make the process less threatening to individuals being checked, police checks have now been re-named ‘disclosures’.

Enhanced Disclosures

For posts involving substantial contact with children or vulnerable adults regularly training, supervising or being in sole charge of individuals or groups. Also for individuals seeking gaming or lottery licences or judicial appointments. The Enhanced Disclosure would contain details of all convictions current or spent as well as details of cautions, reprimands or warnings. It would also detail inclusion on the Protection of Vulnerable Children Act and Protection of Vulnerable Adult lists. In addition, they will include any other 'relevant' information held by the police, including so-called 'soft' information. Enhanced Disclosures are free for volunteers.

Standard Disclosures

For posts involving regular contact with vulnerable people and people entering 'positions of trust' such as accountancy and veterinary professions. The Standard Disclosure will be the same as the Enhanced Disclosure but without the addition of extra 'soft' information held by the police. Standard disclosures are free for volunteers.

Applying for disclosures

In order to get Enhanced and Standard Disclosures, individuals must apply through the organisation and complete a form with personal details and list their addresses for the past five years. Applicants also have to present certain forms of proof of identity in order for the check to be processed. Disclosures are posted out both to the organisation and to the individual.

In order to process checks for potential employees or volunteers, organisations need to either become registered bodies or apply through an umbrella body. Registration forms are available from the CRB on the website or phone number below. To register, an organisation will need to:

- pay a £300 fee
- meet the threshold requirement and submit a minimum of 100 applications per year (a new rule introduced in 2006)
- satisfy the CRB that it is entitled to ask for the information under the Exceptions Order of the Rehabilitation of Offenders Act
- show that it has a code of practice vis-a-vis employing ex-offenders
- show that its confidentiality policy is clear about who will need to know information, how it will be stored, and when it will be destroyed.

If the CRB is satisfied that all this is in place, then the organisation needs to nominate a lead signatory who will have overall responsibility for checks and counter signatories. All signatories are checked by the CRB to see if they have committed any offences that would make them unsuitable to receive confidential information. All applications for Enhanced and Standard Disclosures have to be signed by a signatory and the individual being checked.

Umbrella bodies

If organisations cannot meet the above criteria to register, then it is also possible to get disclosures via an 'umbrella body'. Where appropriate, an umbrella body can register and sign on behalf of other organisations, or register them as counter-signatories. The umbrella body has ultimate responsibility for checking that members are abiding by the Code of Practice and are dealing with disclosure information strictly within the bounds of their confidentiality policy. Passing on information unless it is strictly necessary could be a criminal offence, and therefore organisations will need to think carefully about their relationship with the other organisations and the extra work involved before taking on the umbrella role. Because of all the extra administration, umbrella bodies have to charge organisations for checks. Charges do seem to vary, with some voluntary sector organisations able to process checks at a low cost, while some private companies have taken on an umbrella role and are hoping to operate at a profit. There is a database of umbrella bodies on the CRB website which organisations can search to find an umbrella body in their region or which specialises in working in relevant sectors.

For further information contact:

CRB info. line: 0870 90 90 811, Website: www.crb.gov.uk

Last updated: January 06

Volunteer Centre Sheffield has a range of resources available on different aspects of working with volunteers. Please contact the Centre if you would like additional support or advice.