

Types of criminal record check

2.1 Basic check

2.1.1 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.

2.1.2 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 role. When recruiting to 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.

2.1.3 Basic checks may be considered for any NHS role 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.

2.1.4 Employers can either ask for an individual's consent to obtain a basic disclosure on their behalf or require them to apply for one directly. All applications for a basic disclosure should be made through the [online facility](#) on the DBS website.

2.2 Standard check

2.2.1 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).

2.2.2 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. Further information about offences that are protected under the DBS filtering rules can be found in **Appendix 2**.

2.2.3 To meet eligibility for a standard check, the role 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.

2.2.4 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.

2.3 Enhanced check without barred list information

2.3.1 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. Eligibility guidance is available on the [gov.uk website](https://www.gov.uk).

2.3.2 The enhanced check will provide the same information as a standard check. In addition, it will 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 by the DBS filtering rules.

2.4 Enhanced check with barred list information

2.4.1 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).

2.4.2 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 roles might fall eligible under regulated activity:

- Regulated activity with adults.
- Regulated activity with children.

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

2.4.4 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.

2.5 DBS Adult First service – regulated activity

2.5.1 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.

2.5.2 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.

2.5.3 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.

2.5.4 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.

2.6 DBS update service

2.6.1 The update service is available for prospective and existing employees to subscribe to when an application for a DBS check is made. Subscription to the service allows for standard or enhanced certificates to be updated and allows employers to mitigate risk by carrying out a quick check online instead of requiring individuals to have a new DBS check each time they change roles and where the new role does not alter the type or level of check required.

2.6.2 Employers should ask individuals if they are already subscribed to the service as part of the recruitment process and seek their permission to access their information online. If not already subscribed, employers may wish to consider whether it would be beneficial for them to encourage applicants to subscribe when a DBS check is obtained.

2.6.3 If encouraging subscription to the update service, employers should make it expressly clear that individuals have a personal responsibility to ensure their account details remain accurate, up to date and subscription fees are paid on time for the full term of their employment. Any lapse in subscription will mean automatic updates on their criminal record status will cease and a new check will be required for them to resubscribe. Employers may wish to consider putting mechanisms in place to prompt staff to periodically check that their name, address and bank details remain correct (for example through ESR or other similar system). This will be particularly important for individuals who have opted in for automatic renewal of their subscription, as they may assume no further action is required.

2.6.3 See further information in our employer's guide to the [DBS update service](#).