

NACCOM Guidance on the use of DBS (Disclosure and Barring Service) checks on staff and Volunteers

Introduction

There has been much discussion within the NACCOM network as to whether or not Enhanced DBS (Disclosure and Barring Service) testing should be required of staff and volunteers serving within member projects and indeed over the legality of Enhanced DBS testing where there is no requirement under the law.

This question often appears to be driven by a genuine desire to be thorough and “cover all bases” or perhaps to satisfy funders and other stakeholders who have a particular view as to what constitutes a ‘vulnerable adult’. It is especially pertinent in view of the fact that all NACCOM’s full members are involved with accommodating people who are deemed vulnerable because they have no recourse to public funding, are homeless, are not allowed to work and are perhaps unable to speak English etc.

Policies and Procedures

Every organisation, charity or project has a legal obligation to safeguard the health and wellbeing of everyone it comes into contact with.

NACCOM recommends that robust policies and procedures are produced by members covering Health and Safety, and Safeguarding (including children and vulnerable adults). These should set out in detail how members will approach the vetting of both staff and volunteers.

Vetting Staff and Volunteers

Whether you need to do **Enhanced DBS** (Disclosure and Barring Service) checks or not will depend on whether any of those accommodated or otherwise supported are classed as a vulnerable adult under the relevant legislation. The term ‘**vulnerable adult**’ describes people ***“over the age of eighteen, towards whom the state has specific safeguarding responsibilities, because of their age or mental capacity, or because they are receiving certain types of health and social care”***. This is unlikely to apply to asylum seekers and refugees accommodated by NACCOM members.

For more guidance on DBS testing and Vulnerability see also Appendix 1

NACCOM Recommends

1. That in accordance with individual Member’s adopted policies and procedures all staff and volunteers undergo a background check, as part of their selection process, to ensure suitability for the role, and provide reassurance to clients and referrers.

2. That members use the Governments on line **DBS eligibility tool** (which lists the types of work paid or voluntary for which DBS checks should be done) to determine whether an Enhanced DBS test is required.
3. Where staff or volunteer roles do not qualify for Enhanced DBS checks, NACCOM recommends that members require all their volunteers and staff to provide evidence of a criminal record check by undertaking a **Basic DBS Check**, as well as providing two-character references (one a work reference in the case of salaried Staff). Character references are important because a DBS test will only disclose criminal activity in the past.

Some Other Questions about Basic DBS Tests

What is a Basic DBS Check?

- A Basic DBS Check contains details of current unspent criminal convictions.

Why do Basic DBS Checks rather than Enhanced DBS checks?

- If an enhanced DBS check is sought on roles which are not eligible, then NACCOM members are breaking the law and could face prosecution.

How does someone get a Basic DBS check?

- These can be obtained online from <https://www.gov.uk/request-copy-criminal-record>.
- Although a NACCOM member may require all volunteers to provide evidence of a Basic DBS check, the document itself remains the property of the person who applied for it.

What info or ID is need to complete the application for a Basic DBS check?

- The Government website provides detailed guidance on this here: <https://www.gov.uk/request-copy-criminal-record>.
- For many people three of the following items of ID will be sufficient
 - a driver's license,
 - a passport,
 - a utility bill or
 - a bank statement.
- If the applicant does not have these items, then other ID can be used.
- A detailed history of addresses over the last 5 years together with a National Insurance number will also be required.
- If the application is made online then digital copies of the applicant's ID documents will be required (e.g. a high-quality digital photo/scan of them).

The applicant already has a DBS check that is dated within the last 2 years – will this do instead?

- If the check was undertaken by the NACCOM member organisation then yes, it will. If it is not, then the member organisation will need to complete its own Basic DBS check. DBS checks are not automatically transferable between organisations.

- The above said if both the applicant and the organisation requiring the test are both registered with the DBS update service then depending on the circumstances it is possible for some DBS checks to be updated and transferred. Here is the Government Guidance on this <https://www.gov.uk/dbs-update-service> . The website explains that the update and transfer system applies to standard and enhanced DBS checks only. Where a basic disclosure (which might be the only type you can lawfully obtain) is required then a fresh application will be required.

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Appendix 1 - Guidance from DBS

Guidance has been issued to help employers decide which roles require which level of check is required for which role.

What are the levels of Criminal records/DBS checks are available?

Summary of Information searched for each type Criminal Record Check:

Information Searched	Type of Criminal Record Check			
	Basic	Standard DBS	Enhanced DBS	Enhanced DBS (incl. barred list check)
Unspent convictions	Yes	Yes	Yes	Yes
Spent convictions	No	Yes	Yes	Yes
Cautions, Warnings, Reprimands	No	Yes	Yes	Yes
Other relevant police info.	No	No	Yes	Yes
Childrens or Adults barred list	No	No	No	Yes

[According to Care Act Guidance 2014](#) s14.229, in addition to the Basic Criminal Records check, "there are three levels of a Disclosure and Barring Service (DBS) check. Each contains different information and the eligibility for each check is set out in law.

They are:

- **Standard check:** This allows employers to access the criminal record history of people working, or seeking to work, in certain positions, especially those that involve working with children or adults in specific situations. A standard check discloses details of an individual's convictions, cautions, reprimands and warnings recorded on police systems and includes both 'spent' and 'unspent' convictions.
- **Enhanced checks:** This discloses the same information provided on a Standard certificate, together with any local police information that the police believe is relevant and ought to be disclosed.
- **Enhanced with barred list checks:** This check includes the same level of disclosure as the enhanced check, plus a check of the appropriate barred lists. An individual may only be checked against the children's and adults' barred lists if their job falls within the definition of 'regulated activity' with children and/or adults under the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012."

For staff/volunteers to qualify for a Standard DBS check, an organisation must demonstrate that

- the roles included in the [Rehabilitation of Offenders Act 1974 \(Exceptions\) order 1975](#) *and*
- the activities they undertake (or manage) fall under the definition of a "[regulated activity](#)" according to the Safeguarding Vulnerable Groups Act 2006, *and*

- Regulated activities are [listed by the act](#) as those given to a "vulnerable adult".
- The [definition of "vulnerable adult" used by the Safeguarding Vulnerable Groups 2006 act](#) is quite specific - and defined as someone in receipt of health and social and welfare services, which are defined in greater detail at Sections 9 & 10.
 - Section 9 relates to people whose age, health or disability means they receive services (and so fall under the definition of "vulnerable")
 - Section 10 covers people who are vulnerable because they "require assistance in the conduct of their affairs." However these are defined as people who (legally) lack capacity, or who have appointed attorneys to act on their behalf.

For staff/volunteers to qualify for an Enhanced DBS check, an organisation must demonstrate that

- the roles included in the Rehabilitation of Offenders Act 1974 (Exceptions) order 1975 **and**
- the activities they undertake (or manage) are "regulated activities" **and**
- the activities fall under the definition of work defined as "work with adults" in [regulation 5B of the Police Act 1997 \(Criminal Records\) Regulations 2002](#).
 - Regulation 5B, states that individuals must be involved in providing one of the following activities at least once a week on an on-going basis, i.e. more than four days in any 30-day period, or at any time between the hours of 2am and 6am:
 - care or supervision
 - treatment or therapy
 - teaching, training instruction, assistance, advice or guidance on emotional, physical or educational well-being - wholly or mainly for children or adults in receipt of a health or local authority social care service
 - the management of people engaging in any of the above activities on a day to day basis