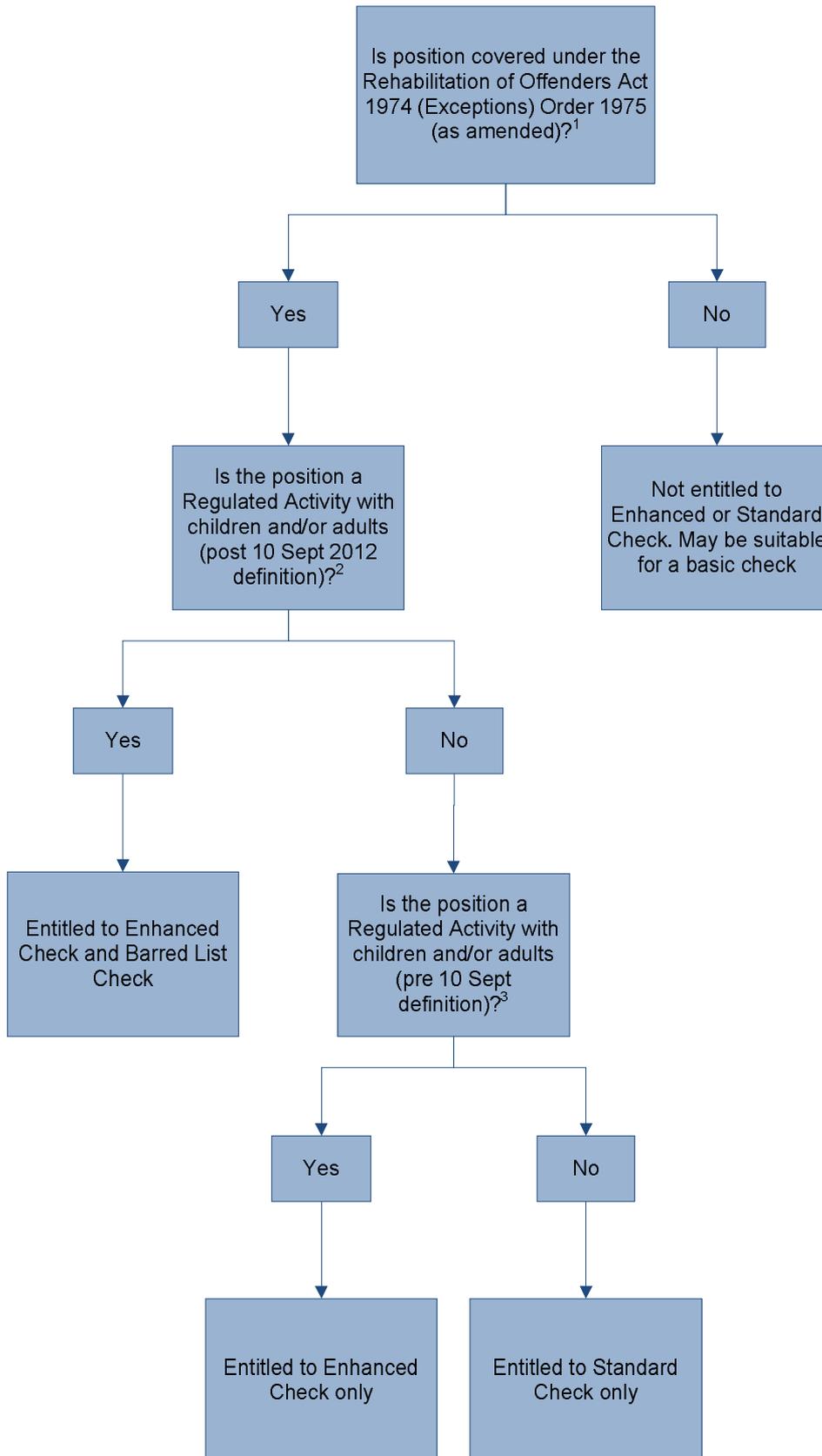


# DBS Flowchart



1. Please see Appendix A  
2. Please see Appendix B  
3. Please see Appendix C

### Introduction

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.

Before an organisation considers asking a person to apply for a criminal record check through the Disclosure & Barring Service (DBS), they are legally responsible for ensuring that they are entitled to submit an application for the job role.

The information below 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.

### Positions, Professions, Employment, Offices and Works included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

- ❖ Any work defined as regulated activity relating to children within the meaning of Schedule 4 Part 1 of the Safeguarding Vulnerable Groups Act 2006
- ❖ Any work defined as 'work with children' in regulation 5C of the Police Act 1997 (Criminal Records) Regulation 2002
- ❖ Any work defined as regulated activity relating to adults within the meaning of Schedule 4 Part 1 of the Safeguarding Vulnerable Groups Act 2006
- ❖ Any work defined as 'work with adults' in regulation 5B of the Police Act 1997 (Criminal Records) Regulation 2002
- ❖ Any office or employment which is concerned with:
  - the provision of care services to vulnerable adults
  - 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.
- ❖ Any work in a further education institution or 16 to 19 Academy where the normal duties of that work involve regular contact with children.
- ❖ Healthcare 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.
- ❖ Barrister (in England and Wales), solicitor - on entry into the profession only
- ❖ Chartered accountant, certified accountant - on entry into the profession only
- ❖ Veterinary surgeon - on entry into the profession only
- ❖ Actuary - on entry into the profession only
- ❖ Registered foreign lawyer - on entry into the profession only
- ❖ Legal executive - on entry into the profession only
- ❖ Judicial appointments
- ❖ The Director of Public Prosecutions and any office or employment in the Crown Prosecution Service.
- ❖ Designated officers for:
  - magistrates' courts
  - justices of the peace
  - local justice areas
  - justices' clerks
  - assistants to justices' clerks

- ❖ Persons employed for the purposes of assisting constables of a Police Force established under any enactment
- ❖ Any employment within the precincts of:
  - a prison
  - a remand centre
  - a removal centre
  - a short term holding facility
  - a detention centre
  - a Borstal institution
  - a young offenders institution
  - members of boards of visitors (England & Wales)
- ❖ Traffic wardens
- ❖ Probation officers
- ❖ 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.
- ❖ Financial Services position – This means all positions for which the Financial Conduct Authority or the competent authority for listings are entitled to ask exempted questions to fulfill their obligations under the Financial Services and Markets Act 2000.
- ❖ Those working within an Authorised Payment Institution as:
  - Directors and managers
  - Holders of qualifying holdings
  - Controllers of the Authorised Payment Institution
- ❖ Any employment in the Royal Society for the Prevention of Cruelty to Animals (RSPCA) where the person employed or working, as part of this duties, may carry out humane killing of animals
- ❖ The Commissioners for Her Majesty's Revenue and Customs and any office or employment in their services
- ❖ The Director and any office or employment in the Revenue and Customs Prosecutions Office
- ❖ Any employment which is concerned with the monitoring, for the purposes of child protection, of communications by means of the internet.
- ❖ An individual designated under section 2 of the Traffic Management Act 2004.
- ❖ The following Court Positions:
  - Judges' clerks, secretaries and legal secretaries within the meaning of section 98 of the Supreme Court Act 1981 (c)
  - 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
  - Persons who in the course of their work have regular access to personal information relating to an identified or identifiable member of the judiciary
  - Court officers and court contractors who, in the course of their work, attend either the Royal Courts of Justice or the Central Criminal Court
  - Court security officers and tribunal security officers
  - 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
  - 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.
- 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
- The following persons:
  - Court officers who execute county court warrants
  - High Court enforcement officers
  - Sheriffs and under-sheriffs
  - Tipstaffs
  - Any other persons who execute High Court writs or warrants who act under the authority of a person listed above
  - Persons who execute writs of sequestration
  - Civilian enforcement officers as defined in section 125A of the Magistrates' Courts Act 1980
  - 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
  - Persons who execute clamping orders, as defined in paragraph 38(2) of Schedule 5 of the Courts Act 2003(d)
- ❖ Individuals seeking to carry, acquire or transfer prohibited weapons or ammunition under section 5 of the Firearms Act 1968(c) – Maritime armed guards
- ❖ 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.
- ❖ Any employment or other work where the normal duties:
  - 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
  - include supervising or managing a person employed or working in a capacity referred to in the paragraph above.
- ❖ 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
- ❖ A person living in the same household as a person whose suitability is being assessed to work in:
  - Regulated activity with children
  - What would have been regulated activity with children before 10<sup>th</sup> September 2012
  - An FE institution or 16-19 Academy where the normal duties of that work involve regular contact with childrenand who lives on the same premises where the work would normally take place
- ❖ Applications for prospective adopters, special guardians or anyone who lives in the adoption or special guardian household in England and Wales
- ❖ Applications for prospective foster carers, prospective private foster carers or anyone who lives in the fostering household in England and Wales
- ❖ Individuals seeking authorisation from the Secretary Of State for the Home Department to become authorised search officers.
- ❖ 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).

- ❖ Football Stewards, supervisors or managers of football stewards.
- ❖ Approved Legal Services Body Manager
- ❖ Those working for Alternative Business Structures as:
  - Head of Finance and Administration of a licensed body approved under schedule 11 of the Legal Services Act 2007
  - Head of Legal Practice of a licensed body approved under schedule 11 of the Legal Services Act 2007
  - Owners of a licensed body approved under schedule 13 of the Legal Services Act 2007
- ❖ 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.
- ❖ Any person who has applied to be granted membership of the Master Locksmith Association.
- ❖ 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.
- ❖ Commissioners for the Gambling Commission and any office or employment in their service.
- ❖ Police and Crime Commissioners

### **Licenses included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975**

- ❖ For Taxi Driver and Private Hire Vehicle licensing purposes
- ❖ For National Lottery licensing purposes
- ❖ 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).
- ❖ For licences issued under Section 8 of the Private Security Industry Act 2001
- ❖ For obtaining or holding a personal or operating licence under Part 5 or Part 6 of the Gambling Act 2005
- ❖ For obtaining or holding 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 article 6(1) of Regulations 2005/111/EC(c).

# Appendix B – Regulated Activity Post-10<sup>th</sup> September 2012

Below are the definitions of Regulated Activity (post 10<sup>th</sup> September 2012) in relation to children.

## **Unsupervised\* Activities**

- Teach
- Train
- Instruct
- Care
- Supervise
- Provide advice/guidance on well-being
- Drive a vehicle (specifically for children)
- Moderating

## **AND**

## **Frequency**

- Once a week or more or;
- 4 days or more in 30 day period or;
- Overnight between 2am and 6am with the opportunity for face to face contact

## **OR**

## **Specified Establishments (not work by supervised volunteers or contractors)**

- Education institutes exclusively or mainly for the provision of full time education to children
- Alternative Provision Academy
- Pupil Referral Units
- Childcare premises (including nurseries)
- Residential children's care homes
- Children's detention centres
- Children's centres in England

## **AND**

## **Frequency**

## **AND**

## **Opportunity**

The opportunity, in consequence of anything the individual is permitted or required to do in connection with the activity to have contact with children.

## **OR**

## **Healthcare**

- Provided by any health care professional or under the direction or supervision of one.

## **Personal Care**

- Washing and eating, eating and drinking and toileting

## **Registered Childminders and Foster Carers (even if only once)**

# Appendix B – Regulated Activity Post-10<sup>th</sup> September 2012

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## Welsh Office Holders

### \*Supervision

If the activity is supervised and if it were not, it would be classed as regulated activity, then the following criteria must apply for the supervised activity not to be classed as regulated activity:

- Supervision must be carried out by a person who is in regulated activity
- Supervision must be regular, day to day and on an ongoing basis
- Supervision must be reasonable in all the circumstances to ensure the protection of children

**Below are the definitions of Regulated Activity (post 10<sup>th</sup> September 2012) in relation to adults.**

### Healthcare

- Provided by any health care professional or under the direction or supervision of one

### Personal Care

- Washing and dressing, eating and drinking, toileting

### Social Work

- In relation to adults who are clients or potential clients, includes assessing/reviewing the need for health or social care services and providing on-going support to clients.

### Assistance with the Conduct of Affairs

- Provides day to day assistance to an adult because of their age/illness/disability where it includes managing the person's cash, paying their bills or shopping on their behalf

### Conveying an Adult

- For health, personal or social care due to age/illness/disability. Includes hospital porters, Patient Transport Service, ambulance technicians and emergency care assistants.

### Healthcare Professionals

- Anyone required to be registered with any of the following bodies:
  - General Medical Council
  - General Dental Council
  - General Optical Council
  - General Osteopathic Council
  - General Chiropractic Council
  - General Pharmaceutical Council
  - Nursing and Midwifery Council
  - Health Professions Council

### Healthcare

- Healthcare is defined as:
  - All forms of health care – physical or mental care – and includes palliative care.
  - Includes diagnostic tests and investigative procedures.

# Appendix B – Regulated Activity Post-10<sup>th</sup> September 2012

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- Includes procedures that are similar to forms or medical or surgical care that are not provided in connection with a medical condition (e.g. taking blood from a donor/cosmetic surgery).
- Includes psychotherapy and counselling related to healthcare the adult is receiving (including over the phone). Life coaching is not included.
- First Aid is included where the individual is doing so on behalf of an organisation established for the purpose of providing first aid (e.g. St John's Ambulance)

# Appendix C

## Regulated Activity

### Pre-10th September 2012

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#### **Specified Nature (wholly or mainly for children and/or vulnerable adults\*)**

- Teaching
- Training (e.g. dance instructor for child's class = yes, dance instructor for a free for all class = no – incidental contact)
- Supervision (e.g. OFSTED inspectors inspecting people in regulated activity)
- Advice (e.g. Childline volunteer = yes, NHS Direct = no)
- Treatment (e.g. doctors, dentists, pharmacists, ambulance drivers, etc.)
- Transport (e.g. School/Nursing Home bus driver = yes, normal bus driver = no – incidental contact)

#### **AND**

#### **Frequency**

- Once a week for most services, but once a month for health and social care services involving personal care or;
- Takes place on 4 days or more in one month or;
- Overnight between 2am and 6am

#### **OR**

#### **Specified Place**

- Schools (nurseries, primary and secondary schools)
- Pupil Referral Units
- Childcare premises (including nurseries)
- Residential children's care homes
- Children's hospitals (general hospitals are not included)
- Children's detention centres
- Children's centres in England
- Adult care homes

#### **AND**

#### **Frequency**

#### **AND**

#### **Opportunity**

The opportunity, in consequence of anything the individual is permitted or required to do in connection with the activity to have contact with children and/or vulnerable adults.

#### **OR**

#### **Specified Role**

- Teachers
- All school staff
- GPs
- Nurses
- Dentists

# Appendix C

## Regulated Activity

### Pre-10th September 2012

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- All children's hospital staff
- Care workers
- Childcare workers
- Some charity trustees
- Prison Workers
- Some sports coaches
- Opticians

#### **\*Vulnerable adult**

The core definition of "vulnerable adult" from the 1997 Consultation "Who Decides?" issued by the Lord Chancellor's Department, is a person:

"Who is or may be in need of community care services by reason of disability, age or illness; and is or may be unable to take care of unable to protect him or herself against significant harm or exploitation".

This definition of an Adult covers all people over 18 years of age.