

PORTABILITY OF CRB DISCLOSURES

The Statutory DfES guidance on 'Safeguarding Children and Safer Recruitment in Education' which came into force on the 1st January 2007 and supersedes previous guidance, is that a new CRB Disclosure is not required when someone moves school, local authority or FE college. A new CRB Disclosure is only required if an individual has not worked, within the three months before his or her appointment, in either:

- a school in a post which brought him or her into regular contact with children (or any post in a school since 12 May 2006); or
- a FE college

the new appointment will be one providing education and regularly caring for, training, or being in sole charge of children or young people under the age of 18.

However, employers are reminded that they must ensure that all the other recommended and mandatory pre-recruitment checks are carried out, including List 99, as set out in the DfES guidance which can be found at:

<http://www.everychildmatters.gov.uk/resources-and-practice/IG00175/>

When accepting a Disclosure as portable the risks should be considered according to the CRB guidance below.

PORTABILITY FRAMEWORK

The CRB no longer facilitates portability, organisations that choose to accept a previously issued Disclosure do so at their own risk (see limitations and risks below).

What is portability?

Portability refers to the re-use of a CRB check (Disclosure), obtained for a position in one organisation and later used for another position in another organisation.

How can portability work?

If you ask an individual to be CRB checked and they tell you that they already have a CRB check, you can:

Ask the individual to show you their copy of the CRB check.

Contact the Countersignatory named on the front of the CRB check and confirm that the reference number and identity details match.

Ask if the Countersignatory received any additional information - the Countersignatory can only confirm or otherwise the existence of such information – but not the content of the information.

If there is no additional information, carry out a formal risk assessment to decide whether to accept the CRB check (see guidance below).

If there was additional information, you are strongly advised to ask the individual to apply for a fresh check.

Those who move frequently between short-term appointments may not wish to apply for a fresh CRB check each time they seek a new position, especially if this occurs every few days. Similarly, those who take up two positions that both require a CRB check (for example, a full-time job and a weekend or voluntary position) may be able to avoid making two applications to the CRB – but read the limitations below and carry out a full risk assessment.

Limitations:

The CRB check may not be at the level you require - there are two different levels of check: Standard & Enhanced. If an Enhanced check is needed do not accept a ported Standard check.

The CRB check may not have included a check of List 99, Protection of Children Act List (PoCA) and/or the Protection of Vulnerable Adults List Act (POVA).

A CRB check carries no formal period of validity and the older a check the less reliable the information, as the information the check contains may not be up to date. The date of the issue (on the individual's copy) should be used as a guide as to when to request a new CRB check.

Information revealed through a CRB check always reflects the information that was available at the time of its issue.

You may be required by law to carry out a fresh check with List 99, POCA and/or POVA. In certain circumstances, portability cannot be used e.g. care workers need a new POVA check each time they change employment.

An original CRB check, not a photocopy, contains a number of security features to prevent tampering or forgery.

You need to understand the meaning of the wording that appears in the information boxes on a Disclosure. 'None recorded' means no information was found, 'Not requested' means that that check was not done.

BOX 1 - Police Records of Convictions, Cautions, Reprimands and Warnings

BOX 2 - Protection of Children Act List information

BOX 3 - Protection of Vulnerable Adults List information

BOX 4 - Information from the list held under Section 142 of the Education Act 2002 (i.e. List 99)

BOX 5 - Other relevant information disclosed at the Chief Police Officer(s) discretion

Once a recruitment decision (or other relevant decision – e.g. for regulatory or licensing purposes) has been made, a recipient of a Disclosure must not retain it, or any associated correspondence, for longer than is necessary for the particular purpose. In general, this should be for a maximum of 6 months. However:

If you need to show it to the Commission for Social Care Inspection (CSCI) e.g. Residential Special Schools, you can keep it until the next inspection, then it should be destroyed.

If you are a teaching supply/recruitment agency you can retain CRB checks for up to 3 years.

Risks

Using a previously issued CRB check does not constitute a fresh CRB check – the person's criminal record or other relevant information may have changed since its issue.

Registered Bodies are responsible for the accuracy of the information provided to the CRB and on which it carries out its checks. By accepting a previously issued CRB check you are accepting the risk that the previous Registered Body provided the CRB with a fully validated applicant's identity on which to carry out its checks.

Enhanced checks may contain 'approved' non-conviction information provided by the police from their local records. In the majority of cases, the CRB will print this information on both the applicant's and Registered Body's copy in the box entitled 'Other relevant information disclosed at the Chief Police Officer(s) discretion'.

However, occasionally the Chief Police Officer may, if thought necessary in the interests of the prevention or detection of crime, withhold this information from the applicant's copy. The Registered Body's copy will contain the following words 'Please refer to letter sent under separate cover', printed under the date of issue on the Disclosure. If you choose to accept the applicant's copy you will need to find out from the previous Countersignatory if such information was revealed in a separate letter.

Risk Assessment Framework

If you are considering accepting a previously issued CRB check you should carry out a full risk assessment. You may also wish to take further independent advice. Any risk assessment should take into account the following:

Are you required by law to get a new check?

Is the level of CRB check the same as the level you need?

How old is the CRB check?

Is the position for which the previously issued CRB check was obtained similar to the position for which you need a CRB check?

Have all checks that you need been carried out?

Have you validated and authenticated the person's identity to ensure that the person presenting the CRB check is the person on whom the check was done? For instance, have you seen a range of identity documents that confirm their name, address, date and place of birth?

Is the applicant still living at the same address as the one printed on the CRB check?

If it is an Enhanced check, have you confirmed from the previous Countersignatory if any additional information was released by way of a separate letter?

Have you obtained the consent of the applicant to approach the other organisation?

The CRB's Code of Practice sets out the circumstances when the details of a CRB check can be passed to a third party. The Code states that information revealed through a CRB check can only be passed to individuals who need to see it as part of the recruitment decision, for which the CRB check was requested. This also applies to any additional information provided by the police under cover of a separate letter. If you are contacted by another organisation about a previously issued CRB check, you can only:

Confirm or not, whether the information provided reflects that which appears on your copy of the CRB check.

State if the police did or did not issue additional information issued under cover of a separate letter.

On 1 September 2006, regulations were introduced which allow the passing of CRB checks between agencies supplying staff to schools or further education institutions and those schools or institutions themselves.

If you are in any doubt about whether to accept a check as portable then you are advised to require the employee to apply for a new Disclosure.