

Guidance on DBS checks for PSV drivers

- There are 4 types of DBS criminal records check, Basic, Standard, Enhanced and Enhanced with Barred List(s) Check, each with differing levels of disclosure.
 - Basic checks disclose all unspent convictions and cautions.
 - Standard checks disclose unspent and spent convictions and cautions, subject to filtering rules.
 - Enhanced checks disclose the same as Standard checks with the addition of police information if considered relevant and proportionate to disclose.
 - Enhanced check with check of the barred list(s): Same as Enhanced check but also including check of the adults' and/or children's barred list(s).
- The legislation⁽¹⁾ relating to DBS checks sets out the appropriate circumstances (role, workforce, settings, activities) when each type of check may be undertaken. For example, where an individual is seeking to work in roles that require a high level of public trust or involve special risks and sensitivities, such as working closely with children or vulnerable adults, an employer may request that they obtain either a standard or enhanced criminal record certificate from the DBS. An employer is not legally obliged to undertake a check but there is clearly a sound justification for doing so and a local authority's contract may require it. The local authority may require sight of a DBS certificate as part of its contract with the operator. The roles and activities that are eligible for standard and enhanced criminal record checks are set out in legislation. Those who work in 'regulated activity' with children and/or adults are eligible for an enhanced with a children's and/or adults' barred list check. It is unlawful to undertake a check at a level above that which the employer is entitled to see for the role.
- Drivers' eligibility for DBS checks is based on the purpose and the recipients of the transport service and thus may change should that vary. For example:
 - Drivers providing a service for schools only, which is not accessible to the general public would be eligible for an enhanced DBS check including a check of the children's barred list. (Children's workforce) ⁽²⁾
 - Drivers providing a service conveying vulnerable adults to medical care settings would be eligible for an enhanced DBS check including a check of the adults' barred list. (Adults' workforce)

- Drivers on a school bus route, which can be used by members of the general public would be eligible for a basic DBS check only.
- The first two examples above are roles which involve “regulated activity”, i.e. working closely with children and/or vulnerable adults. The enhanced DBS check with a check of the barred list(s) is the highest level of DBS check available and is usually reserved for roles in regulated activity. “Regulated activity” is defined in legislation. It is a criminal offence to work in “regulated activity” if you are on the barred list for that workforce (i.e. adults, children or both). If an employer knows that an individual is barred and employs them in regulated activity with that group, then they are also committing a criminal offence.
- If an employer is engaging someone for a role as driver which is eligible for the same type of check as one currently held by the individual (i.e. same level and same workforce), they are legally entitled to see the information on that check, with the individual's permission. So, in the example of an employer in one LA requiring a DBS check for a prospective driver for a school bus service (no public), the former can view any disclosure on the driver's current enhanced check including the children's barred list check, which the latter obtained due to being in regulated activity in the children's workforce in another LA. Sectors or employers are free to set their own policy in relation to accepting previously-issued DBS checks, as long as eligibility for the check is for the same level and workforce.
- There is no expiry date for a DBS criminal record check; information disclosed will be accurate on the date that the certificate is issued. Where the sector has no set requirements around periodic checking of criminal records, the frequency of DBS checks may be for each individual organisation to determine.
- DBS does provide the Update Service, an online service which individuals are able to join for a fee of £13 shortly after a standard or enhanced DBS check has been undertaken (not Basic). This enables registrants to take their DBS certificate from role to role if applying for a position within the same workforce (e.g. child or adult), where the same type and level of check is required (e.g. standard or enhanced). The Update Service allows employers to check an applicant's certificate online. They can carry out instant online status checks on DBS certificates that are linked to an applicant's subscription, if they are legally entitled and have the consent of the applicant. There is also guidance on gov.uk for employers on its use, including how to interpret

status check results e.g. if a result indicates that i) the certificate reveals no information about someone and the original certificate can be taken as current and valid, ii) the certificate reveals information about someone but no new information since issue and can therefore be accepted as still current and valid or, iii) new information has come to light since the certificate was issued and the employer will need to ask the employee to apply for a new DBS check to see this new information.

It should be noted that DBS certificates should not be retained by employers for longer than is necessary – never more than six months. However, employers should record the certificate number as part of their personnel management systems.

Recommendations

Where a role involves regulated activity, the appropriate level (& workforce type) of check should always be undertaken as part of the recruitment process. However, CPT and ATCO recommend that operators recruiting staff for any public-facing role undertake at least a Basic Check as part of the recruitment process. Employers must not require a check of a higher level than is necessary. In particular, individuals who only ever drive services that are open to the public should only be subject to a Basic Check.

CPT and ATCO recommend that operators encourage employees who engage in regulated activity to consider signing up to the DBS Update Service and that employers consider paying the fee on behalf of the employee. This should overcome most issues associated with requirements to undertake multiple checks.

It is up to individual employers and LAs to decide the frequency at which a DBS check is reviewed. However, where an individual is not subscribed to the Update Service, CPT and ATCO recommend that LAs accept a previous DBS check when an individual commences regulated activity under a contract to it, as long as:

- (a) The previous check is of the correct level/the correct workforce
- (b) The previous check was undertaken within the period that it has set for reviews.

For example, if an individual engaged in regulated activity on behalf of LA 1 and had an Enhanced Check in respect of that activity but is now commencing regulated activity on behalf of LA 2, this second authority would allow the individual to undertake the work without a further check [as long as criteria (a) & (b) above are met] until the point at which a re-check

would be due if the previous check had been completed in respect of its own contract(s).

Where checks flag any potential issues with an individual, these will need to be assessed with a decision made at the appropriate level. It is important that operators and authorities have suitable processes in place ⁽³⁾ to make decisions without unnecessary delay.

Further actions

CPT will include a DBS awareness section in future operational briefing sessions, review the information contained in its member Compliance Manual, and issue communications about DBS based on the above.

Notes:

- (1) The relevant legislation includes the Rehabilitation of Offenders Act 1974 (as amended) <https://www.legislation.gov.uk/ukpga/1974/53/contents> and the Police Act 1997 <https://www.legislation.gov.uk/ukpga/1997/50/contents>
<https://www.legislation.gov.uk/ukpga/1997/50/contents>
It may also be useful to refer to the DBS Code of Practice <https://www.gov.uk/government/publications/dbs-code-of-practice>
- (2) The actual workforce can be difficult to determine. For example, a contracted SEN minibus taking clients to school/college may be carrying passengers aged over 18. In such cases, a check of the adult's barred list should also be undertaken.
- (3) These should include a formal policy on the recruitment of ex-offenders.

CPT is the Confederation of Passenger Transport – the leading UK trade association for the bus and coach sector
<https://www.cpt-uk.org/>

ATCO is the Association of Transport Co-ordinating Officers, bringing together local authority officers and all transport professionals
<https://www.atco.website/>