

Title

Criminal Records Bureau Usage Policy

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Employment Policy

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All managers and staff via SBC Insite and Schools

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**Contact for
guidance**

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CRB Usage Policy

Policy Statement

Slough Borough Council is committed to ensuring safe recruitment and best practice to fulfil its safeguarding commitments to children, young people and vulnerable adults.

The Council is committed to the principles of the Rehabilitation of Offenders Act 1974 and will make every effort to prevent unfair discrimination against ex-offenders who work for the Council

1. INTRODUCTION

- 1.1 The Criminal Records Bureau is an executive arm of the Home Office. The Criminal Records Bureau (CRB) was introduced in April 2002 and was set up to provide a thorough vetting service for organisations.
- 1.2 The CRB provides access to information held on the Police National Computer (PNC), information held by local police forces, as well as lists held by the DoH and DCSF. The purpose being that the disclosure service enables organisations to make safer and more informed checks therefore aiding the recruitment decision.
- 1.3 Slough Borough Council is a Registered Body of the CRB.

2. SCOPE

- 2.1 This policy applies to all employees of Slough Borough Council including school-based staff who use Slough Borough Council as the recognised Registered Body. Agency workers not employed by Slough Borough Council are exempt from this policy and would be subject to their employers' requirements. Whilst the Council will specify the clearances it requires it is the agency, as the employer, that must obtain these.

3. KEY PRINCIPLES

- 3.1 Managers are expected to:
 - ensure that CRB disclosures are undertaken for all suitable posts
 - ensure applications are completed in a timely fashion and before the three year expiry date
 - consider each request on its own merit and seek advice from HR where appropriate
- 3.2 Employees are expected to:
 - complete disclosure applications and provide associated evidence, as required upon offer of employment
 - comply with the requirement to undertake a three year renewal of their disclosure

4. THE LEVELS OF DISCLOSURE

- 4.1 There are two levels of Disclosure that are provided by the CRB, either Standard or Enhanced.
- 4.2 The level of Disclosure required will depend upon the type of work involved/undertaken. The HR system records the level of disclosure (if required) against the position details.
- 4.3 HR hold a list of CRB countersignatories within the organisation.
- 4.4 A **Standard Disclosure** applies to posts exempted under the Rehabilitation of Offenders Act and relates particularly to certain sensitive areas of employment, such as jobs involving **regular contact** with children and vulnerable adults. A Standard Disclosure contains details of both spent and unspent convictions, as well as cautions, reprimands and final warnings held on the Police National Computer. If the post involves working with children or vulnerable adults, the lists held by other government departments of those banned from, or restricted in, working with these groups are also searched.
- An **Enhanced Disclosure** applies to posts involving **greater contact** with children or vulnerable adults (for example, jobs involving caring for, supervising, training or being in sole charge of children and vulnerable adults). An Enhanced Disclosure contains the same information as the Standard Disclosure but **also includes non-conviction information from local police records if it is thought to be relevant to the position being applied for**. Examples include Teachers, Scout or Guide leaders, Social Workers, Home Care Assistants, Youth & Community Workers etc.
- 4.5 Anyone working/volunteering within a school environment will be subject to an enhanced check. (This includes School Governors)
- 4.6 For members of staff employed within the LEA already subject to a CRB check as part of their paid employment, a further CRB check is required for their volunteer role (this includes the role of School Governor).
- 4.7 All positions requiring the access of ContactPoint are designated at an Enhanced level.
- 4.8 Recruiting managers may decide that where there is access to sensitive data pertaining to Children ie (Section 12 of the Children Act 2004) or vulnerable adults that a suitable check be undertaken.
- 4.9 There are however exempt positions, as set out in the Exceptions order to the Rehabilitation of Offenders Act 1974, further information can be found by reference to the Council's Employment of Rehabilitation of Offenders Policy or by contacting the CRB on 0870 9090811 or by visiting the Disclosure website at www.disclosure.gov.uk

5. RECRUITMENT

- 5.1 The Council is committed to employing from a wide-ranging labour pool. It will make every effort to prevent unfair discrimination against ex-offenders who work for the Council or who may be job applicants or volunteers.
- 5.2 The Council is committed to the principles of the Rehabilitation of Offenders Act 1974, whereby certain convictions are considered 'spent' after a stipulated period of time. To this end, candidates for some jobs do not have to disclose convictions once they are spent. When a person applies for a job with the Council, the Council in most cases will not take into account previous time-expired convictions as laid down in the Rehabilitation of

Offenders Act 1974 (ROA 1974) unless the job requires that all convictions be disclosed, as set out in 5.3.

- 5.3 Criminal Records Bureau (CRB) checks are required for all posts, which require applicants to disclose their convictions even if they would otherwise be considered 'spent'. Such jobs include those where the potential employees will have access to vulnerable members of the community such as the young, elderly and those with disabilities and professions such as accountants and lawyers. This applies both to paid work and voluntary work.

The definition of a 'Volunteer' as set out in the Police Act 1997 (Criminal Records) Regulations 2002 is:

'Any person engaged in an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than or in addition to a close relative'

- 5.4 Applicants for jobs which fall into the exempt category (posts working with anyone dealing with the young and or vulnerable adults) will be advised as part of the recruitment process that they will be required to complete a Disclosure of Criminal Background form. All applicants are provided with Disclosure guidance and explanatory notes. Copies are available in application packs and on SBC Insite.
- 5.5 The Council will undertake its own Criminal Records Bureau check where an applicant is successful in applying for an 'excepted' job or profession.
- 5.6 In the event that a disclosure reveals any cautions or convictions, an assessment will be made as to the candidate's suitability for employment. The process to be followed is outlined in the Council's Recruitment and Selection Manual.
- 5.7 The Council's Rehabilitation of Offenders Policy is available on SBC Insite.
- 5.8 For CRB designated posts, employment will be offered subject to the receipt of a satisfactory disclosure from the CRB. Start dates will not be confirmed until satisfactory clearance of the Council's CRB check is received.
- 5.9 The Recruitment and Selection Manual provides guidance on action taken in the event that an unsatisfactory check is returned.
- 5.10 Separate arrangements exist for the 'Self Employed' and Agency/Per temps staff. Confirmation of CRB is required if applicable to the post. Managers are advised to check with the agency worker for sight of a valid CRB disclosure.

6. PORTABILITY

- 6.1 With effect 1 April 2006, the CRB withdrew its endorsement of portability. The decision was taken as a direct result of the inherent risks associated with the re-use of a disclosure.

However, should a teacher transfer from one school to another, within the same LEA, the CRB check will be considered valid. If there are any breaks of service for longer than three months, it is advised that a new check is undertaken.

7. RENEWALS

- 7.1 The Council requires that all staff subject to CRB checks will be renewed on a three year basis. Failure of the employee to provide an up to date check may result in potential disciplinary action being taken.

8. EXTERNAL GUIDANCE

- 8.1 The Commission for Social Care Inspection (CSCI) advise that if any member of staff requires a CRB check for their work in an establishment or agency registered or inspected by the CSCI, then they must by law have one.
- 8.2 By law, all school staff employed from 12 May 2006 must have Enhanced CRB clearance.
- 8.3 All recruiting managers must ensure compliance with this policy. Any failure to comply will be considered a breach of conduct and subject to potential disciplinary action.

9. CONTACTPOINT

9.1 For staff accessing ContactPoint, the enhanced CRB disclosure must make explicit mention on the Disclosure application form that the disclosure is required for access to ContactPoint as well as their primary role. This will be entered in Part B of the "position applied for", for example "SESCO + ContactPoint"

9.2 An existing CRB disclosure is an CRB disclosure which:

- A person has produced in support of their application for access to ContactPoint, and;
- Is less than 3 years old, and;
- Does not make explicit mention on the CRB disclosure application form that the disclosure was required for access to ContactPoint.

To utilise an existing CRB disclosure, please see **Annex A** attached.

9.3 A new CRB disclosure is a CRB disclosure that was either:

- Applied for at the time that the person first applied for access to ContactPoint; or
- Applied for by an existing ContactPoint User because their existing disclosure was about to expire (a renewal).

To assist with consideration of suitability of employee to access ContactPoint, please see **Annex B** attached.

9.4 If the employee, in making their application to become a ContactPoint user, provides an CRB disclosure that is a year old, the employee will be asked to declare if they have committed or been convicted of any offences in the period since the disclosure was made. The employee will be asked to provide details of any new offences and sign a statement to that effect as part of the ContactPoint user application process. Please see ContactPoint usage policy.

10. COSTS

10.1 Fees are set by the Disclosure service. The administration charge remains Slough Borough Council's decision. The current administration charge per application including volunteer organisation, independent schools and Academies is £10.00. (Please note that Slough Schools are exempt from this charge).

10.2 Further information can be obtained from your HR Business Partner Team on 01753 875726.

Annex A

Additional information to support with ContactPoint

Example guidelines for local partner organisations

Existing eCRB (enhanced) Disclosures

An existing eCRB Disclosure is an eCRB Disclosure which:

- a person has produced in support of their application for access to ContactPoint, and;
- is less than three years old, and;
- does not make explicit mention on the eCRB Disclosure application form that the Disclosure was required for access to ContactPoint.

The following example provides guidelines for use by local partner organisations when assessing an existing eCRB Disclosure as part of an application for access to ContactPoint:

Ensuring the Disclosure is valid

1. Has the applicant provided an original CRB Disclosure?

An original CRB check contains a number of security features to prevent tampering or forgery¹. A photocopy is not acceptable.

- 2 Is the Disclosure less than three years old?
- 3 Is the level of the CRB Disclosure 'enhanced'?
- 4 Is the applicant still working for the same organisation/employer as they were when the Disclosure was originally made?

If you have answered no to any of questions 1-4 or you have any doubts about the suitability of the applicant or the validity of the disclosure, the applicant must apply for a new eCRB Disclosure.

If you have answered yes to all of questions 1-4, go to question 5.

Confirming the applicant's identity

- 5 Have you validated and authenticated the applicant's identity to ensure that the person presenting the eCRB Disclosure is the person to whom the Disclosure relates?
- 6 For instance, have you seen a range of identity documents that confirm their name, address, date and place of birth?²

If you have answered no to question 5, the applicant must apply for a new eCRB Disclosure.

If you have answered yes to question 5, go to question 6.

Ensuring you have all the relevant information

7. Has the applicant recently moved to the UK or been out of the UK for any significant period of time?

¹ Information on these security features is available from www.crb.gov.uk

² *Best Practice Process 2: Manage Users* and the CRB website contain further guidance on how to verify the applicant's identity as part of an application for access to ContactPoint.

If you have answered no to question 6 go to question 7.

If you have answered yes to question 6 please refer to guidance provided by CRB on how you can get further information from overseas countries in order to help you get a complete picture of an applicant's background³. You should take any information gathered from overseas countries into consideration at question 8.

Note - there is no standard definition of a "significant period of time" so you must be satisfied that you have all the information you need.

Assessing the information provided in the Disclosure

8. Is there any evidence of offences committed against children and/or under the Computer Misuse Act 1990 and/or the Data Protection Act 1998?

The checks that may be shown on the Disclosure are as follows, and will depend on the kind of work carried out by the applicant:

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

BOX 2 - Protection of Children Act (PoCA) List information;

BOX 3 - Protection of Vulnerable Adults (PoVA) List information;

BOX 4 - Information from the list held under Section 142 of the Education Act 2002;

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

If the Disclosure states 'none recorded', the check was carried out and no information was found. If the Disclosure states 'not requested' the check was not made. The checks that have been completed will be those relevant to the applicant's job or role. For example, a check of the PoVA list will not be completed for a primary school teacher, and a check of the PoCA list will not be completed for a carer working with 18-25 year olds.

It is possible for an individual to be included in the PoVA list following a referral from the PoCA list if they are also deemed to be unsuitable to work with vulnerable adults. A person could also be included on the PoCA list following a referral from the PoVA list where they are deemed unsuitable to work with children.

When assessing any offences listed on the Disclosure, please refer to *Employing ex-offenders: A practical guide*⁴ published by the Chartered Institute of Personnel and Development (CIPD) and the Criminal Records Bureau (CRB).

If you have answered yes to question 7, you need to carefully consider the offences, convictions and/or non-conviction information listed and decide whether you wish to continue to recommend the applicant as suitable for access to ContactPoint.

In all cases, go to question 8.

9. Are you satisfied that there is nothing in the Disclosure (and, where appropriate, any additional information provided with the disclosure) that should prevent the applicant having access to ContactPoint?

If you have considered any offences, convictions and/or non-conviction information and wish to continue to recommend the applicant as suitable for access to ContactPoint, you should provide the ContactPoint management team with written confirmation that the applicant has an enhanced Disclosure which is less than three years old and that the eCRB Disclosure contains no information that makes the applicant unsuitable as a ContactPoint User. This confirmation should be provided

³ <http://www.crb.gov.uk/Default.aspx?page=2243>

⁴ Available from the CRB website (www.crb.gov.uk)

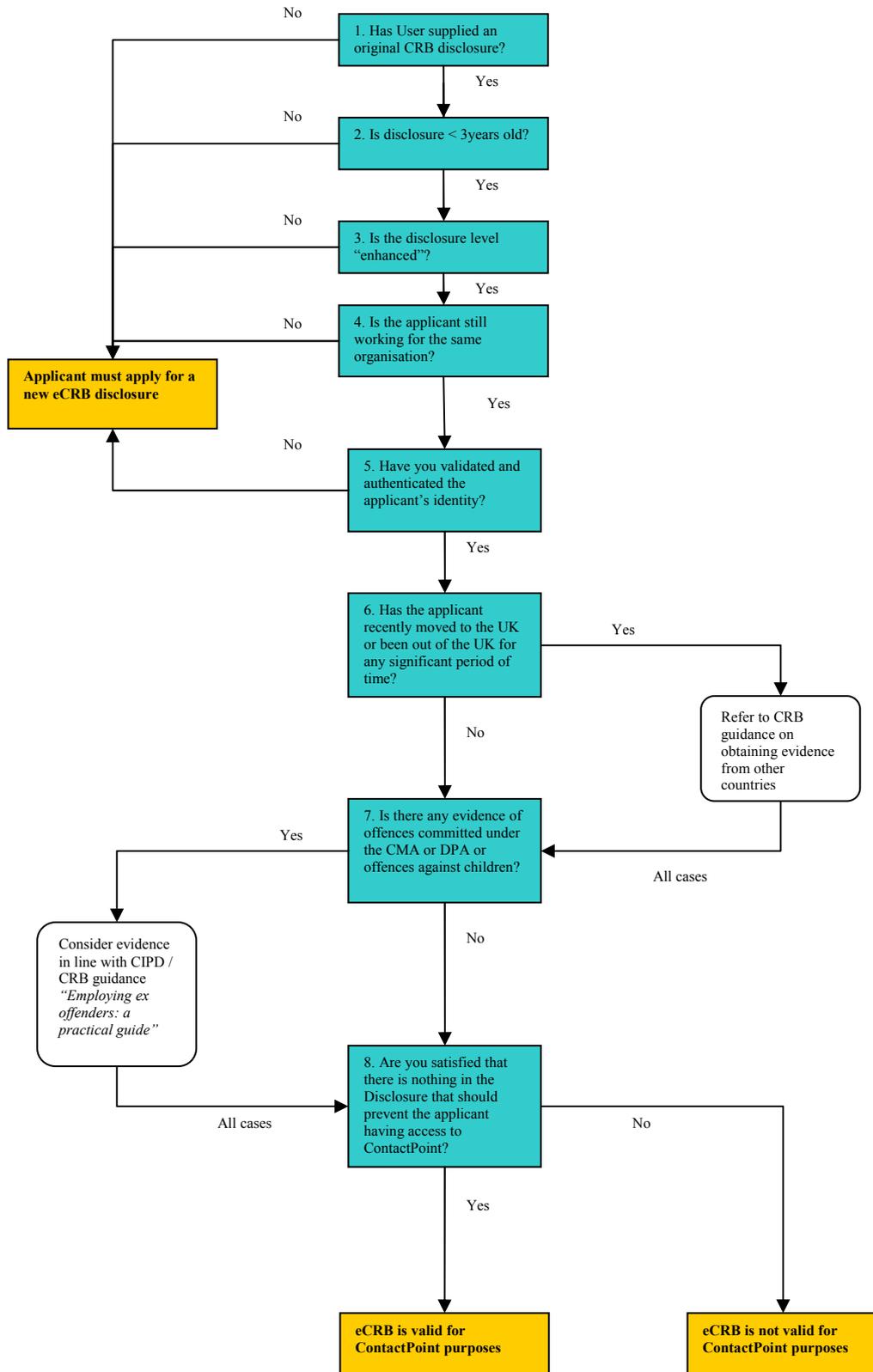
in section B3 of the Access Application Form as part of the ContactPoint access application process.

When providing the written confirmation the partner organisation must not reveal any information from the Disclosure to the ContactPoint management team except for the Disclosure number and date.

If you have considered any offences, convictions and/or non-conviction information and do not think you should recommend the applicant as suitable for access to ContactPoint, you should inform the applicant that their eCRB Disclosure is not valid for ContactPoint purposes.

If you are unsure whether the information in the Disclosure might prevent the applicant from being a ContactPoint User, seek the advice of your line manager and / or the ContactPoint Management Team.

Flowchart - Existing eCRB Disclosures



Annex B:

Example guidelines for local partner organisations - New eCRB Disclosures

A new eCRB Disclosure is an eCRB Disclosure that was either:

- applied for at the time that the person first applied for access to ContactPoint; or
- applied for by an existing ContactPoint User because their existing Disclosure was about to expire

The following example provides guidelines for use by local partner organisations when assessing a new enhanced CRB Disclosure:

Ensuring the Disclosure is valid

1. Is the Disclosure an original, received directly from the Criminal Records Bureau?

An original eCRB check contains a number of security features to prevent tampering or forgery⁵. A photocopy is not acceptable.

2. Is the level of the CRB Disclosure 'enhanced'?
3. Were all the relevant checks carried out when the Disclosure was made?

The checks that may be shown on the Disclosure are as follows, and will depend on the kind of work carried out by the applicant:

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;

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

If the Disclosure states 'none recorded', the check was carried out and no information was found. If the Disclosure states 'not requested' the check was not made. The checks that have been completed must be those relevant to the applicant's job or role. For example, a check of the PoVA list will not be completed for a primary school teacher, and a check of the PoCA list will not be completed for a carer working with 18-25 year olds.

It is possible for an individual to be included in the PoVA list following a referral from the PoCA list if they are also deemed to be unsuitable to work with vulnerable adults. A person could also be included on the PoCA list following a referral from the PoVA list where they are deemed unsuitable to work with children.

If you have answered "no" to any of questions 1-3, the applicant must re-apply for a new CRB Disclosure, requesting the level of Disclosure is enhanced and that all the relevant checks are made.

If you have answered "yes" to all of questions 1-3, go to question 4.

Confirming the applicant's identity

4. Have you validated and authenticated the applicant's identity to ensure that the person presenting the eCRB Disclosure is the person to whom the Disclosure relates?

⁵ Information on these security features is available from www.crb.gov.uk

For instance, have you seen a range of identity documents that confirm their name, address, date and place of birth?⁶

If you have answered “yes” to question 4, go to question 5.

If you have answered “no” to question 4 the applicant must apply for a new eCRB Disclosure.

Ensuring you have all the relevant information

5. Has the applicant recently moved to the UK or has been away from the UK for any significant amount of time?

If you have answered “no” to question 5 go to question 6

If you have answered “yes” to question 5 please refer to guidance provided by CRB on how you can get further information from overseas countries in order to help you get a complete picture of an applicant’s background⁷. You should take any information gathered from overseas countries into consideration at question 7.

NB there is no standard definition of a “significant amount of time”, so you must be satisfied that you have all the information you need.

Assessing the information provided in the Disclosure

- 6 Does the Disclosure (and, where appropriate, any additional information provided) reveal that the applicant has committed any offence against children and/or under the Computer Misuse Act 1990 and/or the Data Protection Act 1998?

Enhanced Disclosures 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 Countersignatory’s copy in the box entitled ‘Other relevant information disclosed at the Chief Police Officer(s) discretion’.

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 Countersignatory’s copy will contain the following words ‘Please refer to letter sent under separate cover’, printed under the date of issue on the Disclosure. The additional information contained in the letter must be taken into consideration at question 8.

The information in the letter must not be passed on to the applicant. To do so would be an offence under the Police Act 1997

When assessing any offences listed on the Disclosure, please refer to *Employing ex-offenders: A practical guide*⁸ published by the Chartered Institute of Personnel and Development (CIPD) and the Criminal Records Bureau (CRB).

If you have answered “yes” to question 6 – you need to consider the offences, convictions and/or non-conviction information provided carefully and decide whether you wish to continue to recommend the applicant as suitable for access to ContactPoint.

In all cases go to question 7.

7. Are you satisfied that there is nothing in the Disclosure (and, where appropriate, any

⁶ *Best Practice Process 2: Manage Users* and the CRB website contain further guidance on how to verify the applicant’s identity.

⁷ <http://www.crb.gov.uk/Default.aspx?page=2243>

⁸ Available from the CRB website (www.crb.gov.uk)

additional information provided with the disclosure) that should prevent the applicant having access to ContactPoint?

If you have considered any offences, convictions and/or non-conviction information and wish to continue to recommend the applicant as suitable for access to ContactPoint, you must provide the ContactPoint management team with written confirmation that the applicant has an enhanced Disclosure which is less than three years old and that the eCRB Disclosure contains no information that makes the applicant unsuitable as a ContactPoint User. This confirmation should be provided in section B3 of the Access Application Form as part of the ContactPoint access application process.

When providing the written confirmation the partner organisation must not reveal any information from the Disclosure to the ContactPoint management team except for the Disclosure number and date.

If you have considered any offences, convictions and/or non-conviction information and do not think you should recommend the applicant as suitable for access to ContactPoint, you should inform the applicant that their eCRB Disclosure is not valid for ContactPoint purposes.

If you are unsure whether the information in the Disclosure might prevent the applicant from being a ContactPoint User, seek the advice of your line manager and / or the ContactPoint Management Team.

Flowchart - New eCRB Disclosures

