

Advice and Information

Operational

Criminal Record Checks

Contents

Introduction	England and Wales
Defining 'regulated activity'	Northern Ireland
For adults	Scotland
For children	Training
Levels of criminal record check	More information

Introduction

This advice leaflet looks to inform community transport operators of the need for criminal records checks and when driving roles may require the driver to complete a criminal record check before they can deliver services. When considering whether drivers require a criminal record check, organisations need to know if their drivers will be undertaking duties which are termed as a '**regulated activity**'. If they are, it is highly likely that they will require a check, and what the driver is contracted to do for the organisation may decide what sort of check that should be.

The definition of '**regulated activity**' differs in each country of the UK. Organisations should review the rules for the country in which they are operating to ensure they are satisfied that they both understand and comply with local legislation.

[Back up](#)

Defining 'regulated activity'

For adults

In England, Wales and Northern Ireland, the definition of regulated activity for adults no longer labels adults as 'vulnerable'. Instead, the definition identifies the activities that lead to that adult being considered vulnerable at that particular time. This means that the focus is on the activities/services required by the adult, and not on the setting in which the activity/service is received, or the personal characteristics or circumstances of the adult receiving the activities. There is also no longer a requirement for a person to do the activities a certain number of times before they are engaging in regulated activity.

There are six categories of activities that fall within the definition of regulated activity. The one which will probably apply to drivers is 'conveying'. This will also apply to passenger assistants as well as anyone who provides day-to-day management or supervision of those people.

Conveying applies to anyone who transports an adult (including any carer) because of their age, illness or disability to or from places where they have received, or will be receiving, health care, relevant personal care or relevant social work, for the purpose of enabling the adult to receive that health care, personal care or social work.

It does not matter if the driver knows the passenger socially or as a friend; it is the fact that the transport is being provided by an organisation and not as a personal favour that makes the difference.

For children

A child, for this purpose, is a person aged under 18 years old. When it comes to transporting children, in Northern Ireland school transport is specifically referenced as a regulated activity, while in England and Wales conveying is defined as: Driving a vehicle being used only for conveying children and their carers or supervisors under a contract or similar arrangement when carried out by the same person frequently.

'Frequently' means once a week or more or four or more times in any 30-day period.

[Back up](#)

Levels of criminal record check

The following is a quick guide to the levels of criminal record check that are available. An employer can only ask for a barred list check for specific roles and it is a criminal offence to ask for a check for any other roles. Employers should check with their own provider of criminal records checks to confirm the level of check required.

There are a number of umbrella bodies registered with the relevant regulators who can undertake criminal record checks on behalf of organisations.

England and Wales

In England and Wales there are three levels of check available via the Disclosure and Barring Service (DBS):

1. A Standard check discloses spent and unspent convictions, cautions, reprimands and final warnings.
2. An Enhanced check includes the same as the standard check plus any additional information held by local police that is reasonably considered relevant to the workforce being applied for (adult, child or 'other' workforce).

'Other' workforce means those who don't work with children or adults specifically, but potentially both, for example, drivers. In this case, the police will only release information that's relevant to the post being applied for.

3. An Enhanced check with Barred list, which could be the most appropriate for community transport drivers; this is like the enhanced check, but includes a check of the DBS barred lists.

An Update Service now allows people to reuse their DBS certificates when applying for similar jobs. If an individual subscribes to the Update Service, their employer can go online – with their consent – and carry out a free, instant check to find out if the information released on the DBS certificate is current and up-to-date.

Northern Ireland

In Northern Ireland there are four levels of check via Access NI:

1. A Basic check confirms the identity of the applicant. Note: individuals must have their identity verified at a police station, forward the completed application and pay the fee directly to AccessNI. This level of check is required as part of the application process for a PCV D, D1 or taxi licence.
2. A Standard check discloses an individual's criminal record, giving spent and unspent convictions.
3. An Enhanced check discloses an individual's full criminal record, including all spent and unspent convictions and any other information as recorded by police.
4. An Enhanced check with Barred List (this is either the children's list, adult's list or both).

For both Standard and Enhanced checks (with or without the Barred List check) the applications must be processed through a registered or umbrella body.

Scotland

The process in Scotland is different, as a decision was made to look more at the condition of the passenger rather than the reason for the journey. Information can be found on the Disclosure Scotland website under the Protecting Vulnerable Groups (PVG) scheme. When the PVG scheme was introduced, representatives of Disclosure Scotland attended one of the CTA Scotland committee meetings. They admitted that transport was a tricky area but emphasised that, unless the activity was a 'regulated activity', it was not necessary to carry out checks on drivers, even for vulnerable adults. The advice was that a driver would not normally need to be checked but if, for example, they were to

go into a regulated care home and then into somebody's room to take them in a wheelchair to the vehicle, in that instance they are impinging on regulated activity within the care home, and so would need to be checked. However, the driving itself is not a regulated activity.

The CTA in Scotland advises its members to discuss the matter with the Disclosure service within Volunteer Scotland.

Transport of children, however, is a regulated activity.

Training

One thing that CTA would advise all community transport organisations to consider is sending their staff, drivers and others on safeguarding training. (These are usually known as something like 'child protection and protection of vulnerable adults'.)

This will ensure that everyone is aware of the signs of potential abuse, and will know how and to whom they should report it. Community transport organisations should also ensure that there are robust reporting mechanisms in place, with everyone aware of their responsibilities. Back up

[Back up](#)

More information

The Disclosure and Barring Service for England and Wales: www.gov.uk/disclosure-barring-service-check/overview

Wales Council for Voluntary Action Criminal Records Unit: www.wcva-cru.org.uk

The DBS Update Service: www.gov.uk/government/publications/dbs-update-service-applicant-guide

Access NI: www.nidirect.gov.uk/index/information-and-services/crime-justice-and-the-law/accessni-criminal-record-checks/accessni-individuals.htm

Disclosure Scotland: www.disclosurescotland.co.uk

[Back up](#)

About the Community Transport Association

The Community Transport Association is a national charity that represents and supports providers of community transport: thousands of other local charities and community groups across the UK that all provide transport services that fulfil a social purpose and community benefit. We are for, and about, accessible and inclusive transport.

We help our members remain relevant and responsive to key areas of public policy and to make a big difference for the people and families in the communities in which they work. Our vision is of a world where people can shape and create their own accessible and inclusive transport solutions and our mission is to achieve this through championing accessible and inclusive transport, connecting people and ideas and by strengthening our members and raising standards.

Keep up to date with CTA via our website or by signing up to our monthly [News Brief](#).

About CTA's Advice Service

The CTA's Advice Service is available to CTA members, community and other voluntary groups, local authorities and other statutory bodies. It offers information and support on any aspect of non-profit transport operations. The CTA's Advice Service covers the whole of the UK and is supported by national governments. We will only ever explain the most accurate and commonly accepted interpretation of regulations and best practice. We do this by providing support and information on a wide range of community transport related topics such as permits and licensing regulations and by signposting to other agencies. The Advice Service does not exist to provide legal advice on any topics. If you are still unsure you will need to seek [legal advice](#).

For more information, contact

advice@ctauk.org | 0345 130 6195 | www.ctauk.org

This leaflet has been primarily produced for members of the CTA. If your organisation has benefited from using it but isn't a member please consider joining us, for more details please see: <https://ctauk.org/why-become-a-cta-member>.

Disclaimer:

The Community Transport Association has made every effort to ensure the accuracy of the information contained in this leaflet, but it should be noted that this is only a guide, and should be treated as such.