

Subject:

Disclosure of Criminal Background of Persons with Access to Children

Circular Number:

1990/28

Date of Issue:

22 August 1990

Target Audience:

- Education and Library Boards;
 - Association of Governing Bodies of Grammar Schools;
 - Council for Catholic Maintained Schools;
 - Boards of Governors and Principals of Grant-Aided Schools;
 - Universities;
 - Colleges of Education;
 - Teacher Unions;
 - NI Association for Special Education;
 - Sports Council for Northern Ireland;
 - AECP&T Staffs Council;
 - A&G Negotiating Committee;
- Proprietors of Independent Schools.

Summary of Contents:

This Circular introduces new procedures to enable employers to check with the Police if applicants who wish to work with children have a criminal background.

Enquiries:

Any enquiries about the contents of this Circular should be addressed to:

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Governor Awareness:

Status of Contents:

Advice

Related Documents:

None

Superseded Documents:

None

Expiry Date:

Not Applicable

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Education and Library Boards;
Association of Governing Bodies of
Grammar Schools; Council for
Catholic Maintained Schools; Boards of
Governors and Principals of Grant-Aided
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22 August 1990

DISCLOSURE OF CRIMINAL BACKGROUND OF PERSONS WITH ACCESS TO CHILDREN

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INTRODUCTION

1. This Circular introduces new procedures to enable employers to check with the Police whether persons who apply to work with children whether as employees or those directly engaged as volunteers have a criminal background.

2. The Circular implements recommendations made in the Report of the Inter-Departmental Working Party on Disclosure of Criminal Background of Persons Seeking Access to Children, published in March 1988. The Working Party was appointed following the publication in 1985 of a Home Office Steering Group Report, which recommended the introduction of a comprehensive vetting system in England and Wales to enable employers in the statutory sector to check for any criminal background of persons seeking to work with children, whether as employees or volunteers, in the education services, social services, the probation service, local authority leisure and recreational facilities and certain health service facilities. The Working Party's terms of reference required it to devise checking arrangements for Northern Ireland to parallel those recommended for England and Wales.

THE NEW ARRANGEMENTS

WHEN CHECKS SHOULD BE REQUESTED

3. A check as to the existence and content of a criminal record should generally be requested after a person has been selected, but before he or she is appointed to a position giving substantial access to children. This applies to prospective employees and volunteers, whether full-time or part-time. A child should generally be taken to mean someone under the age of 16, but this does not exclude older children and in particular would include children up to the age of 19 who have special educational needs. A check should also be made by an employer where a person already employed in another area of work moves to a post giving substantial access to children.

4. Where a Police check is likely to be required in relation to a position covered by the terms of this Circular, each applicant should be asked to list, as part of the recruitment procedures, any convictions, cautions or bind-over orders. At the same time, attention should be drawn to the provisions of the Rehabilitation of Offenders (Exceptions) Order (NI) 1979 as amended by the Rehabilitation of Offenders (Exceptions) (Amendment) Order (NI) 1987, which provide that

convictions that are spent under the terms of the Rehabilitation of Offenders Order (NI) 1978, must be disclosed if the individual will be working with children or other vulnerable groups and which allow employers to take spent convictions into account in deciding whether to engage the applicant. Applicants, therefore, may properly be required to list **all** convictions. Each applicant must give written permission for a Police check to be carried out, in the event of this being required and it should be pointed out that refusal could prevent further consideration of the application.

5. It is important that the most efficient and economical use is made of the arrangements. Requests for checks should not, therefore, be made when interview short-lists are being drawn up, but only when the final candidate has been selected and in respect of that candidate alone. To check a number of candidates for each position could entail long and unacceptable delays and could greatly overload the capacity of the Police checking system. This is particularly important because the new arrangements extend not only to the whole of the education sector but also to Health and Social Services Boards and to certain services provided by District Councils. Nor should the Police be asked to confirm criminal records where an applicant has admitted a conviction which would clearly render him or her unsuitable for work giving access to those covered by the terms of this Circular.

6. Police checks should not take the place of normal recruitment procedures, such as the seeking and taking up of references and ensuring that any unexplained gaps in employment are satisfactorily accounted for. The new arrangements are to be used as an addition to these procedures.

PERSONS ON WHOM CHECKS SHOULD BE REQUESTED

7. Criminal record checks should be requested for the following groups, prior to appointment, where the position would give substantial access to children:-

All staff (professional, ancillary, administrative and clerical) to be employed in:

All grant-aided schools and institutions of further education

Independent schools

Educational guidance centres

Educational psychologists

Professional staff employed in Education and Library Boards Advisory and Curriculum Support Services

Peripatetic, supply and home tuition teachers

Professional staff employed in the Youth Service, Music Service and Education Welfare Service

Youth workers employed by Education and Library Boards and the Education and Library Board and Sports Council staff in residential and outdoor pursuits centres

Drivers and escorts engaged in transporting children

School crossing patrols

Volunteers working for Education and Library Boards in the above areas

Checks are not required to be made in respect of maintenance staff employed by Boards

TEMPORARY STAFF

8. Temporary staff filling posts giving substantial access to children may also be checked where full-time or part-time appointees would be checked. In emergency situations, however, it is accepted that the post may have to be filled before a check can be carried out. It may not, furthermore, be practical to request a check where the placement is for a short period of, say, less than 10 working days. It would not normally be necessary to request checks on a teacher who is employed in a temporary capacity on a regular basis.

9. Employers should use the arrangements to check only those persons who are included in the groups listed above or covered by paragraph 10.

STAFF EMPLOYED BY PRIVATE CONTRACTORS

10. Where Boards contract out services to the private sector, criminal records checks should be carried out on staff employed by private contractors, to provide ancillary services, ie domestic, catering and laundry, where those staff will be working on a long-term basis in situations which would give substantial access to children and where a Board appointee would be checked.

11. In such circumstances, the Boards should at tender stage make it clear to private contractors that criminal records checks will be carried out after a contract is awarded but before any work is undertaken. At the same time, the Board should advise contractors that an employee may be refused entry to the Board's premises where that employee has been convicted of an offence and the Board considers that the offence would render that employee unsuitable for the intended duties.

12. In such cases, the contractor should be asked to provide the Board with the names and other necessary identification details (including all convictions, cautions and bind-overs) of persons who will be deployed on duties which would provide substantial access to children. The contractor should be asked to inform the employees concerned that a criminal records check will be carried out and to obtain their agreement to this. Requests for checks of criminal background should be sent to the RUC in accordance with the arrangements described in paragraphs 15 to 18. The information obtained from the Police checks **must not** be passed on to the contractor. If the information indicates that a particular person is not suitable for the intended duties, then the contractor should simply be told that the individual concerned cannot undertake that work. Where an employee complains about this decision, any discrepancy between the information provided by the Police and that provided by the contractor should be discussed with the employee. Where there is disagreement, the advice given in paragraphs 21 and 22 applies.

SUBSTANTIAL ACCESS

13. The majority of those listed above will generally have substantial access to children and should, therefore, be checked through the new system. In some instances, however, the situation may be less clear, for example, in relation to volunteers or ancillary/clerical posts. In these cases, a judgement

must be made on whether the amount of access can be regarded as substantial and therefore, whether it is necessary to request a check. To help in reaching decisions in such circumstances, the following points should be considered.

a. **Does the position involve one-to-one contact?**

If it does, and such contact is likely to take place away from the home or separate from others, then access should be regarded as substantial.

b. **Is the position supervised?**

It is possible for a person to spend considerable amounts of time with children, but under close supervision. This might not necessarily be regarded as substantial access; though the scope for developing relationships which could be exploited outside working hours should be kept in mind.

c. **Is the situation an isolated one?**

There is a greater risk to a child who is living away from home, for example, in residential care, possibly for lengthy periods, and the risks may increase the further the person is from the parental home, or where parental visits are infrequent. A similar situation could arise where there is opportunity to take children singly, or in a group, away from family surroundings (for example, on holiday).

d. **Is there frequent contact?**

The more frequent the contact with the same client or group of clients, the greater the opportunity to put the child at risk. This is especially so if the contact is unsupervised, or occurs away from other clients.

e. **If the post gives access to children are they particularly vulnerable?**

It may be considered that younger children are more vulnerable than older children and generally less able to protect themselves, but the nature of the risk must also be considered. Younger children may be more at risk of sexual abuse, older children from drugs. More particularly, children with a physical or mental handicap, or who have social or behavioural problems are likely to be more vulnerable than those whose health is sound and/or who come from a stable home background.

EXISTING EMPLOYEES

14. Checks with the Police should not generally be carried out on existing employees or volunteers unless they transfer from other work to positions which provide opportunity for substantial access to children. In the case of a teacher transferring to a school without a break in employment a check will not normally be necessary. If, exceptionally, serious allegations are made against a person already working with children, or previously unrevealed information comes to light, a check may, however, be made. This must **not** be done without the knowledge of the individual concerned, who must be given an opportunity to discuss any information revealed by the check, as in paragraph 21. Subsequent action as a result of such a check is a matter for the employer in the light of all the circumstances.

HOW CHECKS ARE TO BE REQUESTED

15. Education and Library Boards should submit their requests for criminal records checks direct to the Criminal Records Office (CRO) at RUC Headquarters. The Council for Catholic Maintained Schools will fulfil a similar role in respect of teaching appointments to Catholic maintained schools. Requests for checks in respect of all appointments to all other voluntary schools (including voluntary grammar) and independent schools **should be channelled to CRO by the individual school through the Department of Education.**

16. Student teachers should **not** usually be subject to a police check, unless other evidence available to a Teacher Training Institution suggests that there may be cause for concern in a particular case. Checks on these people will be carried out when they obtain their first full-time employment as teachers. Where a University or College of Education has cause for concern in respect of any particular student wishing to undergo a course of initial teacher training, a request for a criminal record check should be submitted to CRO through the Department of Education.

17. Each body submitting requests for information direct to CRO should nominate a senior officer and a deputy to be responsible for requesting and receiving the results of criminal records checks, and the names of the officers so nominated should be conveyed to the RUC. He or she will be personally responsible for overseeing the operation of the checking procedure and for ensuring that any information revealed by the Police check is release only to those who need to see it.

18. All requests for checks will be the responsibility of the nominated officer who will decide whether a check is necessary and justified under the terms of this Circular, and if so, make the formal request to CRO. A specimen form for this purpose is attached at Appendix A. Only one copy of the form need be sent. Request forms which have not been signed by the nominated officer or deputy will not be accepted by the Police. The form should be completed in full. If all details are not available from the candidate's application form, he/she should be asked to supply the missing information. After carrying out a check of their records, the Police will send the results back to the requesting officer. The form attached at Appendix B is for use by school authorities where requests are submitted to CRO through the Department. Two copies should be completed and sent to the Department. One will be held by the Department for record purposes until the results of the check are forwarded to the school which made the request.

INFORMATION GIVEN IN RESPONSE TO A CHECKING REQUEST

19. The Police will reply showing either that there is no trace of the person concerned on the details supplied or giving full details including cautions and bind-over orders. It is for the employer to make a judgement as to the candidate's suitability taking into account only those offences which may be relevant to the particular job or situation in question. The fact that a person has a criminal record does not automatically render him or her unsuitable for work with children. A person's suitability should be looked at as a whole in the light of **all** the information available.

20. In deciding the relevance of any convictions, the following points should be considered:

- a. **The nature of the conviction**

In general, convictions for sexual, violent or drug offences will be particularly strong contra-indications for work with children.

b. The nature of the appointment

Often, the nature of the appointment will be helpful in assessing the relevance of the conviction. For example, offences involving sexual abuses, violence or the misuse of drugs would give rise to particular concern where the position was one of providing care; offences involving dishonesty would be particularly relevant where the position was one involving the handling of clients' money: those involving drunkenness or driving convictions would be of concern in situations involving transport of clients.

c. When the offence occurred

Offences which took place many years in the past may often have less relevance than recent offences. However, convictions for violent or sexual offences are more likely to give cause for continuing concern than others for, say, dishonesty.

d. Frequency of offence

A pattern of unrelated or similar offences over a period of years is more likely to give cause for concern than an isolated minor conviction.

DISCREPANCIES AND DISAGREEMENTS

21. Where the information provided by the Police differs with that provided by the candidate, the employer must, before taking a final decision on the appointment, discuss the discrepancy with the candidate. Where there is disagreement, the candidate should have the opportunity to see the information provided by the Police. A candidate who believes that the information is incorrect and wishes to make representations to the Police should do so in the first instance through the nominated officer. Thereafter, if still dissatisfied, he/she should be advised to pursue the matter with the Police direct.

22. If the dispute continues, it is for the employer to decide whether or not to proceed with the appointment, taking into account the nature of the offence(s) to which the disputed information relates.

SAFEKEEPING OF INFORMATION

23. The information which the Police will provide is of a confidential nature. It must be used only to judge the suitability or otherwise of a candidate for the position in question and it must be kept securely while the judgement is being made. Once this has been done, the information should be destroyed, with due regard to its confidentiality. An indication on the records that a Police check has been carried out may be made, but this should not refer to any specific offences.

CHECKS WITH OTHER POLICE FORCES

24. Where the candidate lives or has lived in another part of the United Kingdom or in the Republic of Ireland, the RUC Criminal Records Office will make enquiries as to the existence of a criminal

record with the relevant Police Force. The RUC is also able to check through Interpol the criminal background of applicants who live or have lived abroad (ie any countries outside the United Kingdom or the Republic of Ireland), provided such checks come within the terms of this Circular and the applicant's permission has been obtained. Such checks will of course take longer to process.

DENI RECORDING SYSTEM

25. The Department of Education for Northern Ireland has a system for recording cases of misconduct by teachers. Under this system, the Department receives information from the Police upon conviction, from employers where there has been a dismissal (or a resignation in circumstances where there would otherwise have been a dismissal) and from press reports. Where there has been misconduct, the Department has a statutory duty to consider the need to withdraw recognition from the teacher concerned. Where the misconduct is of a minor nature, a warning letter would usually be issued, but where the offence is serious, the Department may decide that recognition should be withdrawn.

26. In connection with the appointment of full-time and part-time teachers to grant-aided schools and of full-time teachers to institutions of further education, the Department carries out a check to ensure that recognition has not been previously withdrawn. In doing so, the Department consults not only its own records, but also lists of debarred teachers maintained by the Department of Education and Science and the Scottish Education Department. The Department will continue to carry out this check for teachers alongside the criminal records checks being carried out under this Circular.

REPORTING OF CONVICTIONS OF STAFF DURING EMPLOYMENT

27. The Police already report new convictions of certain staff to their employers or professional bodies. These arrangements will continue. In addition, where the Police are aware that the individual convicted has substantial access to children as a result of holding a position in any of the groups listed in paragraph 7, they will in future forward a report of the conviction to the relevant nominated officer. Only relevant convictions will be reported, ie those involving indecency, dishonesty, violence, drink or drugs. If the Police are in any doubt as to the identity of the employer, they will send the report to the Department's nominated officer who will forward it to the relevant employer.

28. Action to be taken on receipt of such a report is a matter for the employer concerned, but the subject of the report should be informed of its receipt and given the opportunity to confirm its accuracy.

POLICE INDEMNITY

29. The Police will require to be indemnified by employers against any liability incurred as a result of the provision of information in response to requests made under the new arrangements and the reporting of convictions. The indemnity required will be in the following form:-

“ undertakes to indemnify the Police against any liability or civil claim which may be incurred by any serving or former Police Officer or serving or former member of Police civil staff as a result of the provision by the Police to of reports of convictions, cautions or bind-over orders.”

ACTION TO BE TAKEN BY EMPLOYERS

30. The new checking arrangements should be brought into operation from the 1990/91 school year. Each employer who will be making requests direct to the Police should select their “nominated officer”, and a deputy, and provide the Police with the names and specimen signatures, so that they can compile a list of those authorised to request and receive information about criminal records. Notifications should be sent to:- The Chief Constable, Crime Branch, C3 (Criminal Records Office), RUC, Brooklyn, Knock Road, Belfast BT5 6LE.

31. At the same time each such employer should arrange to draw up a written indemnity in the form set out in paragraph 29 and forward this to:- The Chief Constable, Crime Branch, C3 (Criminal Records Office) at the address above.

ENQUIRIES

32. Any enquiries relating to the arrangements set out in this Circular should be made to the Department (Bangor (0247) 270077 Ext 2408 or 2409). Enquiries about specific requests for criminal background checks submitted to the Department should be made to the appropriate Branch of the Department.

S PEOVER
Assistant Secretary

**SPECIMEN FORM FOR REQUESTING A CRIMINAL RECORDS CHECK
EDUCATION AND LIBRARY BOARDS/CCMS**

IN CONFIDENCE

To: The Chief Constable
Criminal Records Office
Royal Ulster Constabulary
Brooklyn
Knock Road
BELFAST BT5 6LE

From:
.....
Tel No:
Ref No:
Date:

Under the provisions of Circular 1990/28 it is requested that a check for any record of convictions, cautions or bind-over orders be carried out in respect of the undernoted, who will have substantial access to children in the capacity of at

COMPLETE IN BLOCK CAPITALS

Mr/Mrs/Miss/Dr (Delete as appropriate)	Date of Birth:
Surname:	Place of Birth:
Christian Names:	
Maiden Name:	Any other previous surnames:
Address:	Previous address:
.....	(within the last 5 years)
.....
Any other identifying particulars:	
Convictions/cautions declared <input type="checkbox"/> Yes	<input type="checkbox"/> No

I am satisfied that the particulars given above are accurate and that the above-named person has given written permission for the check to be made and is aware that any spent convictions will be disclosed.

I further declare that any information given will be treated in strict confidence and used only in accordance with the Circular.

SIGNED: **POSITION:**

Name in Capitals:
(Nominated Officer/Deputy Nominated Officer)

TO BE COMPLETED BY POLICE AND WHOLE FORM RETURNED

No trace on the details supplied

The subject may be identical with the person whose record of convictions is attached

SIGNED: **RANK:** **DATE:**

SPECIMEN FORM FOR REQUESTING A CRIMINAL RECORDS CHECK

(2 COPIES OF THIS FORM SHOULD BE SENT)

For use by Voluntary Schools (other than Catholic Maintained Schools), Independent Schools, Grant-maintained Integrated Schools, Teacher Training Institutions, the Sports Council

IN CONFIDENCE

To: Department of Education

Name and address of employer:

.....
.....
.....

Tel No: **Ext:**

Date:

For referral to:-

.....

...

RUC CRIMINAL RECORDS OFFICE

Under the provisions of Circular 1990/28 it is requested that a check for any record of convictions, cautions or bind-over orders be carried out in respect of the undernoted, who will have access to children in the capacity of

.....

COMPLETE IN BLOCK CAPITALS

Mr/Mrs/Miss/Dr (Delete as appropriate)	Date of Birth:
Surname:	Place of Birth:
Christian Names:	
Maiden Name:	Any other previous surnames:
Address:	Previous address:
.....	(within the last 5 years)
.....
Any other identifying particulars:	
Convictions/cautions declared <input type="checkbox"/> Yes	<input type="checkbox"/> No

I am satisfied that the particulars given above are accurate and that the above-named person has given written permission for the check to be made and is aware that any spent convictions will be disclosed.

I further declare that any information given will be treated in strict confidence and used only in accordance with the Department's instructions.

SIGNED:

POSITION:

Name in Capitals:

(Nominated Officer/Deputy Nominated Officer)

TO BE COMPLETED BY POLICE AND WHOLE FORM RETURNED

<input type="checkbox"/> No trace on the details supplied	<input type="checkbox"/> The subject may be identical with the person whose record of convictions is attached
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SIGNED: **RANK:** **DATE:**

DENI RESPONSE

<input type="checkbox"/> No observations	<input type="checkbox"/> Record of convictions attached
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ADDENDUM TO CIRCULAR 1990/28

PARAGRAPH 24 - CHECKS WITH OTHER POLICE FORCES

This addendum draws attention to further advice received from the RUC about the extent to which checks of criminal background can be made on applicants who live abroad.

It has now been established that certain countries are not prepared to carry out such checks and that others require certain conditions to be met before they will agree to do so. The countries concerned are as follows:-

Austria, Belgium, France, Holland and Japan will not accept requests for checks of criminal background and the RUC should not, therefore, be asked to check applicants from these particular countries.

Norway and Sweden require an authorisation, signed by the subject, to be supplied when a criminal record check is requested. If requesting a check on an applicant from one of these countries the form must, therefore, be accompanied by the subject's authorisation.

Saudi Arabia, Trinidad and Pakistan require the subject's fingerprints and passport details to be supplied before they will respond to a request for a check of criminal background. It would not, therefore, be practical to request criminal records checks on applicants from these countries.

DENI

22 August 1990