



CRIMINAL RECORDS BUREAU

**REGULATIONS UNDER PART 5 OF THE POLICE
ACT 1997**

A Consultation Paper

December 2003

CRIMINAL RECORDS BUREAU: REGULATIONS UNDER THE POLICE ACT 1997 – A CONSULTATION PAPER

Introduction

1. This consultation paper invites views from Registered Bodies and other Criminal Records Bureau (CRB) stakeholders on draft regulations which the Home Secretary proposes to make under Part 5 of the Police Act 1997¹. The main focus of the regulations are to strengthen the role of Registered Bodies in the Disclosure process, in particular by making them unambiguously responsible for validating the identity of applicants for a Disclosure and for ensuring that Disclosure applications forms are fully and accurately completed.
2. The draft regulations also set out the Disclosure fees that will apply from 1 April 2004.
3. A copy of the draft Police Act 1997 (Criminal Records) (Registration) Regulations 2004 and the Police Act 1997 (Criminal Records) (Amendment) Regulations 2004, together with a partial Regulatory Impact Assessment are attached for comment.
4. Separate regulations are planned which will set out the criteria for determining which employees or volunteers are eligible for an Enhanced Disclosure. This consultation also invites views on those criteria.
5. Responses to this paper should be sent by 23 February 2004 to:

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6. It will be assumed that respondents are content for their comments to be attributed to them and made publicly available, unless they indicate to the contrary in their responses. All responses may be included in statistical summaries of comments received and views expressed.

¹ Part 5 of the Police Act 1997 has been amended by section 128 of and Schedule 35 to the Criminal Justice Act 2003

Background

7. In February 2003, the Home Office issued a consultation paper 'The Reform of the Disclosure Process'. The consultation sought views on a number of the recommendations of the Independent Review Team that had been appointed by the Home Secretary in September 2002 to take a fundamental look at the operations of the CRB. The focus of the consultation was on possible changes to the role of Registered Bodies in the Disclosure process, the introduction of an electronic application channel and the criteria for Standard and Enhanced Disclosures. A summary of the responses to the consultation was published in June and is available on the Home Office website at:

[\(\[www.homeoffice.gov.uk/inside/consults/summaries/index.html\]\(http://www.homeoffice.gov.uk/inside/consults/summaries/index.html\)\)](http://www.homeoffice.gov.uk/inside/consults/summaries/index.html)

8. The Government has considered carefully the responses to the earlier consultation and now proposes to make regulations under Part 5 of the Police Act 1997. The central aim of these regulations is to enhance the role of Registered Bodies in the Disclosure process by setting down clear performance expectations, particularly in respect of identity checking and ensuring the completeness and accuracy of application forms. In the light of the concerns expressed in response to the earlier consultation, the regulations do not set a minimum threshold for the number of Disclosures that must be processed by a Registered Body in any year, nor does the Government have any plans to make the use of an electronic application channel mandatory. Both these matters will, however, be kept under review.

The Police Act 1997 (Criminal Records) (Registration) Regulations 2004

Conditions attached to registration

9. The regulations seek to improve the efficiency and effectiveness of Registered Bodies by attaching a number of conditions to their registration. The conditions will be as follows:

A – Identity validation

Registered Bodies will be required to verify the identity of a Disclosure applicant. Correctly establishing the identity of applicants is critical to the effectiveness of the Disclosure process – a failure on this front could result in a known sex offender gaining access to children or to the inadvertent disclosure of another person's criminal records. As now, the identity check that must be undertaken by, or on behalf of, the Registered Body will entail an examination of a combination of official or other documents which will help confirm the applicant's name, date of birth and address. The number and description of the documents that must be seen by a Registered Body, or their agent, are set out in annex A. The identity check may be undertaken either by one of the Registered Body's counter-signatories or by a person authorised to act on behalf of the Registered Body. Where the function is delegated to an authorised agent, ultimate responsibility for complying with the registration condition will continue to rest with the Registered Body.

Although there will be no requirement for a face to face interview with a Disclosure applicant as part of the identity validation process, guidance to be issued by the CRB will commend such interviews as good practice.

B – Completion of Disclosure application forms

Currently 1 in 4 applications forms have to be returned to the applicant or Registered Body because the required information is missing or conflicting (for example, the passport details indicate that the applicant has a middle name which is not disclosed in section A of the form). Such errors create additional costs for both the CRB and Registered Bodies and delay the issue of a Disclosure. To address this, Registered Bodies will be placed under a duty to exercise all due diligence to ensure that all mandatory data fields on the form (these are set out in annex B) are completed and that all completed information on the form (whether mandatory or optional) is accurate.

C - Payment of Disclosure fees

We consider that the payment of Disclosure fees on account (whereby Registered Bodies are invoiced on a monthly basis for all Disclosure applications - excluding those for volunteers - counter-signed by them in the previous month) is a more efficient method of payment than sending the payment in with each separate Disclosure application. Three out of every four Registered Bodies already pay the CRB in this way. The regulations will make this method of payment standard for all Registered Bodies. To complement payment on account, the draft Police Act 1997 (Criminal Records) (Amendment) Regulations 2004 require Disclosure fees (and completed application forms) to be routed to the CRB through the Registered Body that counter-signs the application.

D – Publicising charges levied by Umbrella Registered Bodies.

Some concerns have been expressed about the fees charged by Umbrella Registered Bodies to process Disclosure applications – such fees are additional to the Disclosure fee charged by the CRB. The responses to the earlier consultation on the reform of the Disclosure process suggest that there is majority support for capping the fees charged by Umbrella Bodies. The Government believes that setting a cap could have the unintended effect of raising the average level of fees charged by Umbrella Bodies. The Government therefore proposes to impose a condition on all Registered Bodies that will require them to notify the CRB of any such charges and to publish details of the charges in any documentation the Umbrella Body publishes relating to the services it provides in connection with the processing of Disclosure applications. The CRB will additionally publicise the charges on the Disclosure website. We believe that this approach will allow market forces to operate more effectively by compelling high charging Umbrella Bodies either to reduce their fees or to de-register.

E – The Code of Practice on the use of Disclosure information

It is important that information contained in a Disclosure is used fairly and that the rights of the subject of a Disclosure are balanced against those of children or vulnerable

adults potentially at risk of abuse. Registered Bodies will be required to comply with the Code of Practice on the fair use and handling of Disclosure information which is for the time being in force under section 122 of the Police Act 1997.

F – Inspection rights for CRB staff

In order to audit compliance with the conditions attached to registration, the Code of Practice, eligibility to ask exempted questions, etc, it is necessary for CRB staff to have access to Registered Bodies' premises (that is, the registered address of a Registered Body and of any counter-signatory, if different – there will be no right of access to peoples' homes) and records. In the overwhelming majority of cases this will not be an issue, but by making the granting of access a condition in itself the CRB will be able to take action in the small number of cases where access is denied.

Limit on the number of counter-signatories.

10. There are currently some 30,000 counter-signatories. As the representatives of Registered Bodies, counter-signatories are critical to the Disclosure process. It is to them that the responsibility falls for ensuring that the identity checking of applicants is properly undertaken and that application forms are fully and accurately completed. To ensure proper accountability within Registered Bodies and to enable the build up of the necessary knowledge and experience of the Disclosure process, we believe that it is undesirable for the number of counter-signatories to continue to grow. It is proposed, therefore, to place a limit on the number of counter-signatories who may act on behalf of a Registered Body. The limit will be based on a sliding scale in recognition of the fact that a larger Registered Body, processing a high volume of Disclosure applications, may require a higher number of counter-signatories as compared with a Registered Body which countersigns relatively few applications. The limit will be as set out in the table below.

Number of Disclosures countersigned in any period of 12 months	Limit on number of counter-signatories
Less than 1,000	20
1,000 to 4,999	100
5,000 to 9,999	200
10,000 to 14,999	300
15,000 or more	300, plus 1 for every 100 Disclosures countersigned over 15,000

Vetting of counter-signatories

11. Under existing regulations, the CRB may refuse to accept or to continue to accept the nomination of a counter-signatory if they are of the opinion that the person is not a suitable person to have access to the sensitive personal information that may be contained in a Disclosure. To enable such an assessment to be made the CRB undertakes

the equivalent of an Enhanced criminal record check on prospective counter-signatories. For this check, the CRB currently charges a £5 fee as compared to the current fee of £29 for an application for an Enhanced Disclosure. As the existing fee under-recovers the cost to the CRB of vetting new counter-signatories, it is proposed to increase the fee so that it mirrors that for an Enhanced Disclosure.

12. To ensure the continued probity of counter-signatories, it is proposed to re-vet them every three years. A Registered Body will be required to apply for an Enhanced Disclosure (and pay the relevant fee) for all its counter-signatories on every third anniversary of their registration as a Registered Body. The requirement will not apply in the case of a counter-signatory added to the register less than 12 months before the relevant anniversary. Where a Registered Body fails to apply for an Enhanced Disclosure, or pay the required fee, in respect of one of its counter-signatories, the CRB may remove the counter-signatory concerned from the register.

Annual fee to be payable by Registered Bodies

13. An organisation seeking to become a Registered Body currently pays a fee of £300 with their initial application, but no other fee is payable thereafter. There are currently some 11,000 Registered Bodies and the number is growing by about a 100 a week. In becoming a Registered Body, an organisation is taking on a responsible role; to undertake their duties professionally they will need support from the CRB. The larger Registered Bodies will now have their own 'account manager' within the CRB who will be a focal point for advice and guidance. The CRB intends to build on this by putting in place a dedicated Registered Bodies assurance team which can provide the necessary support for all Registered Bodies. Such support will include periodic visits to Registered Bodies to provide on the spot advice and guidance (and to audit their procedures), training sessions for groups of counter-signatories and the provision of guidance notes and distance learning material.
14. Alongside the assurance team will be a small compliance team which will intervene where a Registered Body is failing to comply with the conditions attached to registration. The emphasis will be on supporting a Registered Body which is experiencing difficulties. Where necessary the CRB will also have the power to suspend the registration of a Registered Body for up to 6 months, or in the last resort to cancel their registration.
15. To meet the on-going cost of managing the Registered Body network and providing support to all Registered Bodies, it is proposed to charge all Registered Bodies an annual fee of £300. Payment of the fee will be an additional condition of registration. The first such annual fee would be payable in July 2004.
16. We recognise that such a fee may cause difficulties for smaller organisations. Many smaller voluntary organisations, sports bodies, care homes and others already access the Disclosure service through an Umbrella Body rather than seek to register in their own right. Other small organisations currently registered with the CRB may wish to consider whether it would be more efficient for them to access the Disclosure service either through an existing Umbrella Body or through a newly established body formed by a number of other similar organisations coming together for this purpose. By pooling

resources in this way, small Registered Bodies could achieve the benefits of economies of scale and pay only one annual fee. The CRB can offer guidance on setting up or operating through an Umbrella Body.

Other matters covered in the regulations.

17. The draft regulations also include provisions relating to the information to be included in the CRB's register of Registered Bodies and to the nomination of counter-signatories. These simply restate similar provisions in the existing Registration Regulations which will be replaced by the Police Act 1997 (Criminal Records) (Registration) Regulations 2004. The draft regulations also set out the procedure to be followed where a Registered Body is to be removed from the register in cases where criminal record information has been improperly disclosed to a person who is considered unsuitable to have access to such information. Before a Registered Body is removed from the register in such circumstances they must be given the opportunity to make representations. A similar procedure is set down in Part 5 of the Police Act 1997 (as amended by the Criminal Justice Act) in cases where a Registered Body's registration is to be suspended or revoked for breach of a condition attached to registration.

Timing

18. It is proposed to make the regulations by 1 April 2004 and bring them into force three months thereafter, that is June or July 2004.

The Police Act 1997 (Criminal Records) (Amendment) Regulations 2004

The Disclosure Fees

19. These regulations increase, from 1 April 2004, the fee for a Standard Disclosure from £24 to £28 and for an Enhanced Disclosure from £29 to £33. When the last fee increase was announced in June 2003, Ministers re-affirmed the requirement that the CRB should be self-financing in the medium term, that is from 2005/06 onwards. The CRB continues to make efficiency savings. However, as the CRB moves towards full-cost recovery, it is necessary to reduce the substantial subsidy the Bureau currently receives from the general taxpayer and make a compensating increase in the Disclosure fee. Disclosures will continue to be issued free to volunteers, saving the voluntary sector some £12 million in 2004/05. In response to concerns expressed about the timing of this year's fee increase, we are announcing now the fees to apply from April 2004 so that Registered Bodies and others have time to factor the increase into their budget planning for next year.

The Disclosure application form

20. As a consequence of moving all Registered Bodies onto payment on account it is possible to simplify further the Disclosure application form by removing the provisions

in section Y relating to the method of payment. The CRB is currently examining the feasibility of introducing a revised Disclosure application form.

Regulatory Impact Assessment

21. The attached partial Regulatory Impact Assessment summarises the expected benefits costs and disadvantages of the core provisions in the draft regulations and compares these against two alternative options (i.e. continue to rely on CRB guidance alone or seek to raise standards by concentrating the Registered Body function in far fewer umbrella organisations).

Criteria for Enhanced Disclosures

22. Amongst the changes made to Part 5 of the 1997 Police Act by the Criminal Justice Act 2003 is the repeal of those provisions which determine who qualifies for an Enhanced Disclosure. In future, the criteria determining eligibility for Enhanced Disclosures will be set down in regulations. This will make it easier to add any given occupational group or persons with particular responsibilities where a risk assessment indicates that there should be a higher level of protection afforded to children, vulnerable adults or other sectors of society. The opportunity will also be taken to clarify the circumstances where persons working or in contact with children or vulnerable adults should be eligible for an Enhanced Disclosure. As with the existing provisions in the Police Act, it is proposed that the regulations setting out the criteria will specify certain occupational groups or regulated positions that will automatically qualify for an Enhanced Disclosure. In the case of a position which is not expressly identified, the regulations will also include a description of the extent and nature of the contact with children or vulnerable adults which is necessary in order for that position to qualify for an Enhanced Disclosure. Details of the proposed criteria, and how they differ from the existing provisions in the Police Act, are set out in Annex C.

Conclusion

23. Views are invited on any aspects of the draft regulations or Regulatory Impact Assessment, but we would be particularly welcome comments on:
 - (a) The conditions to be attached to registration;
 - (b) The limit on the number of counter-signatories per Registered Body;
 - (c) The requirement for counter-signatories to be re-vetted every 3 years;
 - (d) The proposed annual fee to be payable by Registered Bodies;
 - (e) The costs, benefits and disadvantages of the proposals as set out in the Regulatory Impact Assessment;
 - (f) The Disclosure fees to take effect from April 2004; and

(g) The proposed criteria for determining who qualifies for an Enhanced Disclosure.

24. A form on which to submit your comments is attached at Annex D.

Criminal Records and Security Industry Unit
Home Office
December 2003

Annex A

Number and description of documents required to verify identity of an applicant for a Disclosure.

A Registered Body will be required to examine the originals (not photocopies) of either 3 or 5 documents from the list below. Three documents will be sufficient in any case where the applicant can produce at least one document from those listed in Group 1, in all other cases the Registered Body will be required to view 5 documents from Group 2. In all cases at least one document must show the applicant's current address and at least one document must show his or her date of birth.

Acceptable identity documents

Group 1

- Valid passport (any nationality)
- UK Driving Licence (either photocard or paper)
- Original UK Birth Certificate (issued within 12 months of date of birth) (full or short form acceptable)
- UK Firearms Licence
- Valid photo identity card (EU countries only)
- HM Forces ID Card

Group 2

- Marriage certificate
- Non-original UK birth certificate (issued after 12 months of date of birth) (full or short form acceptable)
- P45/P60 statement**
- Bank or building society statement*
- Utility bill (electricity, gas, water, telephone (inc mobile phone contract / bill)*)
- Valid TV Licence
- Credit card statement*
- Store card statement*
- Mortgage statement**
- Valid insurance certificate
- Correspondence or a document from: the Benefits Agency; the Employment Service; the Inland Revenue; or a Local Authority*
- Financial statement (e.g. pension, endowment, ISA)**
- Valid vehicle registration document
- Mail order catalogue statement*
- Court summons**
- Valid NHS Card
- Addressed payslip*

- National Insurance number card
- Exam certificate (e.g. GCSE, NVQ)
- Child benefit book**
- Connexions card
- Certificate of British nationality
- Work permit / visa**
- Council Tax statement

**documentation should be less than three months old*

*** issued within past 12 months*

Annex B

Mandatory data fields on Disclosure application form

Section of application form	Mandatory data fields
A (Applicant's details)	1 (title), 2 (surname), 3 (forename(s)), 4 (current address), 6(town/city), 8 (postcode), 9 (at current address since), 10 (date of birth) and 11(male/female)
B (Details of position for which Disclosure is being requested)	13 (position applied for) and 14 (organisation name)
C (Additional personal details)	20* (surname at birth (if different)), 21* (used until), 22* (any other surname used), 23* (used from), 24* (used to), 25* (any other forename(s) used), 26* (used from), 27* (used to) and 28 (town/city of birth)
D (Previous addresses)	36* (address), 38* (town/city), 40* (postcode), 41* (country) and 42* to 45* (period at previous address – from month/year to month/year)
H (Applicant declaration and consent)	67* (cross box if you have supplied additional information with application) and 68 (Declaration of applicant)
X (Evidence of identity seen by employer/volunteering organisation/Registered Body)	1* (Passport number), 2* (Date of birth), 3* (nationality), 4* (issued by), 5* (driving licence number), 6* (date of birth), 7* (licence type), 8* (issue date), 9* (country of issue), 10* (Birth certificate date of birth), 11* (issue date), 12* (country of issue), 13* (marriage certificate issue date), 14* (P45 or P60 national insurance number), 15 (current address details checked against documentation) and 16 (evidence seen and checked by).
Y (Statement by Registered Person)	1 (Registered Body number), 2 (counter-signatory number), 3* (the position involves working with children), 4* (the position involves regular contact with vulnerable adults), 5 (the category code for this position is), 6* (the level of criminal record check required in respect of this application is – Standard), 7* (Enhanced), 8* (Volunteer – no payment due), 9 (Declaration by registered person) and 10 (date of countersignature).

* Where applicable to the application

FUTURE CRITERIA FOR ENHANCED DISCLOSURES

Effect of the Criminal Justice Act 2003

1. The Act provides for the repeal of those provisions of section 115 of the Police Act 1997 which set the criteria for Enhanced Disclosures. In place of these provisions will be a power to set out the criteria in Regulations. This annex sets out proposals for such criteria.

Key principles

2. In considering how such criteria should be drawn, the primary concern - especially having regard to the protection of the vulnerable - has been to identify those positions which merit checks at this level, with the additional level of care, but also of intrusion, that an Enhanced Disclosure entails. There is a need to maintain the graduated approach that is a key element of the current legislation, which provides for levels of Disclosure according to perceived risk.

3. It is important to stress that the purpose is to define eligibility for Enhanced Disclosures. Circumstances in which such Disclosures should be mandatory are a separate matter.

Proposals for new criteria

Those previously covered by section 115(5)

4. It is proposed to retain the categories covered in section 115(5), namely posts where an Enhanced Disclosure is required for the purpose of:

- obtaining a certificate for the purposes of sections 19 or 27(1) or (5) of the Gaming Act 1968; a certificate of consent, or a licence, for any purpose of Schedule 2 to that Act; registration or certification under in accordance with Schedule 1A, 2 or 2A to the Lotteries and Amusements Act 1976; or a licence under section 5 or 6 of the National Lottery etc Act 1993;
- registration for child minding or providing day care under Part 10A of the Children Act 1989, or the holding of a certificate under section 79W of that Act. In addition, it is proposed that other adult members of a household resident on premises used for childminding or day care should be eligible for an Enhanced Disclosure;
- registration of an establishment or agency under Part II of the Care Standards Act 2000: as part of this, it is proposed to make specific provision that all providers and managers of care homes are eligible for Enhanced Disclosures, for the avoidance of any possible doubt;

- registration of social care workers under Part IV of the Care Standards Act 2000;
- the placing of children with foster parents under the Children Act 1989; and
- a decision by an adoption agency under the Adoption Act 1976.

As regards both fostering and adoption, it is essential that other adults who are part of the same household should continue to be eligible for Enhanced Disclosures. It is for further consideration whether staff of agencies, and possibly others concerned with the administration of fostering and adoption, should be eligible. Comments on this would be helpful, including the types of positions that should be covered, with evidence of need.

5. It is not proposed for the time being to make provision for door supervisors applying for a licence from the Security Industry Authority to be eligible for Enhanced Disclosures (currently covered by section 115(5)(ga) but not yet brought into force).

Those previously covered by section 115(6C) - (6E)

6. It is not proposed to preserve the particular provisions in section 115(6C) - (6E) in relation to general practitioners, dentists, optometrists or pharmacists for the purpose of inclusion in a list maintained by a Primary Care Trust or Health Authority. These can be covered under general provisions on health professionals (see paragraph 8 below).

Other categories - previously broadly within the scope of section 115(3) and (4)

7. In remaining cases, it is proposed to introduce more specific criteria, in order to clarify the circumstances where those working with children or vulnerable adults are eligible for an Enhanced Disclosure. The approach that has been adopted is therefore

- first, to prescribe specific professions or groups; and
- second, to draw definitions more specifically than before.

8. As to the former, the following list of regulated health professionals is proposed:

- doctors of medicine;
- nurses;
- midwives;
- dentists;
- opticians;
- pharmacists;
- health visitors;
- occupational therapists;
- physiotherapists;

- radiographers;
- paramedics;
- speech and language therapists;
- chiropodists and podiatrists;
- dieticians;
- orthoptists;
- prosthetists and orthotists; and
- arts therapists.

Provision could be included to cover any further groups of health staff that become regulated, until the Regulations themselves are amended.

9. In addition, other staff employed in the provision of health care services whose normal duties entail unsupervised one-to-one contact with children or vulnerable adults² (for example, porters taking patients from one area of a hospital to another), or opportunity for such contact, should be eligible for an Enhanced Disclosure.

10. In the care field, it is proposed that the following should be covered:

- social workers;
- inspectors of premises and services, including those acting on behalf of
 - the National Care Standards Commission (from April 2004, the Commission for Social Care Inspection),
 - the Commission for Health Improvement (from April 2004, the Commission for Healthcare Audit and Inspection),
 - Ofsted, and
 - the Care Standards Inspectorate for Wales.
- registered managers and providers of care homes, domiciliary care providers, nurses agencies and adult placement schemes;
- those who provide personal care to children or vulnerable adults in their own homes;
- those who provide personal care to children or vulnerable adults in a setting that is not their own home or a care home (for example, a day care centre);

² "Vulnerable adults" would continue to be defined in the terms set out in the Police Act 1997 (Enhanced Criminal Record Certificates) (Protection of Vulnerable Adults) Regulations 2002.

- adult placement carers, those supporting adult placement care, and other persons aged 16 years or over living in the carer's home;
- providers of education to vulnerable adults; and
- staff in care homes who provide personal care, and their supervisors.

11. In addition, as regards children, it is proposed that the following should be eligible for Enhanced Disclosures:

- staff of children's hospices; and
- all ancillary staff employed in residential care settings for children.

In addition, it would be helpful to have comments on whether Enhanced Disclosures should be available in respect of other persons (not covered elsewhere in this annex) who have statutory rights of access to premises or children, or whose position provides for such access, which either is for a purpose that entails unsupervised one-to-one contact with children, or would clearly provide opportunity for such contact. Potentially, such a criterion could be undesirably wide. If a need is seen for such a provision, it would be helpful to have specific examples of the types of positions needing to be covered.

12. Within the general field of education or training for children, it is proposed that the following should be eligible for Enhanced Disclosures:

- positions whose normal duties involve
 - teaching,
 - training,
 - lecturing,
 - tutoring,
 - coaching, or
 - mentoring

persons under the age of 18, or directly assisting in such activities – eg, teaching or classroom assistants. These should include peripatetic personnel, and should not be confined to formal schooling situations, but should include, eg, private tutors; and they should cover all kinds of establishment including, for example, unregulated language schools;

- positions that involve having unsupervised one-to-one access for the purpose of administering a test to judge skills or ability;
- other staff in schools, etc, whose normal duties entail unsupervised one-to-one contact with children, or provide opportunities for such contact - for example, caretakers;
- proprietors of independent schools;
- other adults living in boarding or residential school accommodation; and

school governors, and those in analogous positions in other establishments, whose duties entail unsupervised one-to-one contact with children, or provide opportunities for such contact.

13. Other positions working with children - including in sport, leisure and recreation activities - where the normal duties entail unsupervised one-to-one contact with children, or provide an opportunity for such contact, should be eligible.

Further categories

14. It would be helpful to receive comments on whether senior managers responsible for care or other services provided for either children or vulnerable adults, and people in similar positions (such as directors, and members of management committees), should be eligible for Enhanced Disclosures. This might be, for example, if their position entails:

- a right of access to premises, and to children or vulnerable adults, which would include unsupervised one-to-one contact or the opportunity for such contact; or
- a responsibility to visit children or vulnerable adults and to check on the care or other service to be provided; or
- making decisions on, or having influence over, the selection of staff delivering the service in question.

If such a need is seen, it would be helpful to receive views as to the nature of the risk posed, and, if possible, supporting evidence.

15. With the advent of different ways of delivering services, and of different technologies, it is proposed that Enhanced Disclosures should be available in respect of people whose duties involve:

- counselling, or providing personal advice to, children or vulnerable adults either

- directly in situations which involve unsupervised one-to-one contact, or provide the opportunity for such contact; or
- using any form of electronic communication (including telephone and internet); or
- coaching or training children or vulnerable adults using any form of electronic communication; or
- monitoring, for the purposes of the protection of children or vulnerable adults, of communications (including via chat rooms) by any form of electronic communication; or
- monitoring illegal material (including paedophile images on the internet) on any form of electronic communication system for the purpose of preventing such abuse.

Other issues

16. It is proposed that persons nominated to countersign applications on behalf of Registered Bodies should be eligible for an Enhanced Disclosure in their own right. At present, they are subject to checks equivalent to those carried out for the purpose of an Enhanced Disclosure, but no Disclosure is issued. In consequence, those whose other duties make them eligible for a Disclosure would need, in effect, to apply for a second time. We think that it is more appropriate that those nominated as a countersignatory should be issued with an Enhanced Disclosure.

17. We have received representations that all taxi drivers should be subject to Enhanced Disclosures. At present, taxi drivers (including drivers of private hire vehicles) are specifically covered by the Exceptions Order under the Rehabilitation of Offenders Act 1974 and therefore qualify for a Standard Disclosure. Those whose normal duties involve being in sole charge of either children or vulnerable adults - for example, those who, under a school contract or arrangements made by a care home, are regularly involved in transporting unaccompanied children or vulnerable adults to or from school, or medical appointments - would be eligible for Enhanced Disclosures. But the case for all taxi drivers to qualify for Enhanced Disclosures has not been made out. It appears that opinion within the industry itself is sharply divided on the issue. It is not, therefore, proposed to provide for all taxi drivers to be eligible, but further comments on the matter are invited.

18. A further group comprises those who work behind the scenes in the delivery of care and other services to children or vulnerable adults; and who, while they do not have direct contact with the client group, have access to sensitive personal information in case papers, or IT databases. It has been argued that people having access to such information (including names and addresses) might exploit it to their own ends. Naturally, such positions would be eligible for Basic Disclosures, when they become available. If it is felt that a higher level of Disclosure is required, it would be very helpful if evidence of abuse could be provided. One

option would be to include such positions in the Exceptions Order so that they qualified for a Standard Disclosure.



CRIMINAL RECORDS BUREAU

CONSULTATION ON REGISTERED BODY REGULATIONS

Consultation Response Form

The closing date for responses to this consultation is 23 February 2004

Please ensure that your comments reach us by that date.

The information sent to us will be included in statistical summaries of comments received and views expressed. It is assumed that you are content for your comments to be attributed to your organisation and made publicly available unless you specifically indicate that you want your response to be treated confidentially.

Please tick if you want this response to be kept confidential

☐

Name

Organisation

Address

Please tick **all** of the following boxes that describe the organisation you are responding on behalf of.

Registered Body

☐

Umbrella Body

☐

Education sector

☐

Health care providers

☐

Social care providers

☐

Voluntary Organisation

☐

Local Government

☐

Other (please specify)

☐

Question (a) – Do you support the introduction of quality standards for Registered Bodies by means of the attachment of conditions to registration?

Yes: ☐ No: ☐ No view: ☐

Comments:

Question (b) – Do you support the proposed conditions in respect of:

i) Identity Checking

Yes: ☐ No: ☐ No view: ☐

ii) Accurate completion of the application form

Yes: ☐ No: ☐ No view: ☐

iii) Payment of Disclosure fees on account

Yes: ☐ No: ☐ No view: ☐

iv) Publicising fees charged by Umbrella Registered Bodies

Yes: ☐ No: ☐ No view: ☐

v) Compliance with Code of Practice on use of Disclosure information

Yes: ☐ No: ☐ No view: ☐

vi) Inspection rights for CRB staff

Yes: ☐ No: ☐ No view: ☐

vii) Payment of an annual fee.

Yes: ☐ No: ☐ No view: ☐

Comments:

Question (c) – Do you support the introduction of a limit on the number of counter-signatories?

Yes:

☐

No:

☐

No view:

☐

Comments:

Question (d) – If yes do you agree with the proposed limits?

Yes:

☐

No:

☐

No view:

☐

Comments:

Question (e) – Do you agree that counter-signatories should be re-vetted every 3 years to ensure that they continue to be suitable persons to have access to Disclosure information?

Yes:

☐

No:

☐

No view:

☐

Comments:

Question (f) – Do you agree with the costs, benefits and disadvantages of the proposed regulations as set out in the partial Regulatory Impact Assessment?

Yes:

☐

No:

☐

No view:

☐

Comments:

Question (g) – If your answer to question (f) was no, explain below why you believe that the RIA does not properly reflect the true costs, benefits or disadvantages. You should justify your comments, for example if you believe that your Registered Body

will incur additional costs to the ones identified in the RIA explain the basis on which those costs have been calculated.

Comments:

Question (h) – Have you any comments on the Disclosure fees to apply from 1 April 2004?

Yes: (enter comments below) No:

☐

Comments:

Question (i) – Do you support the proposed revised criteria for determining which prospective employees/volunteers qualify for an Enhanced Disclosure?

Yes:

☐

No:

☐

No view:

☐

Comments:

Question (j) – Are there other categories of employees or volunteers that you consider should be eligible for an Enhanced Disclosure?

Yes (please specify):

☐

No:

☐

No view:

☐

Comments:

Thank you for taking the time to respond to this consultation. If you require an acknowledgement to this response, please tick the box below.

Please acknowledge this reply ☐

Completed responses can be sent by post to:

Mrs. Rosalind Greenfield
Regulations Consultation Responses
Criminal Records and Security Industry Unit
85 Buckingham Gate
London
SW1E 6PD

Or by email to:

Rosalind.Greenfield@homeoffice.gsi.gov.uk

Queries about the policy content of the consultation, or about the consultation process, may be made to the above addresses or by telephone to:

0207 411 5560