

## Exceptions Order 1975 and Disclosure Eligibility

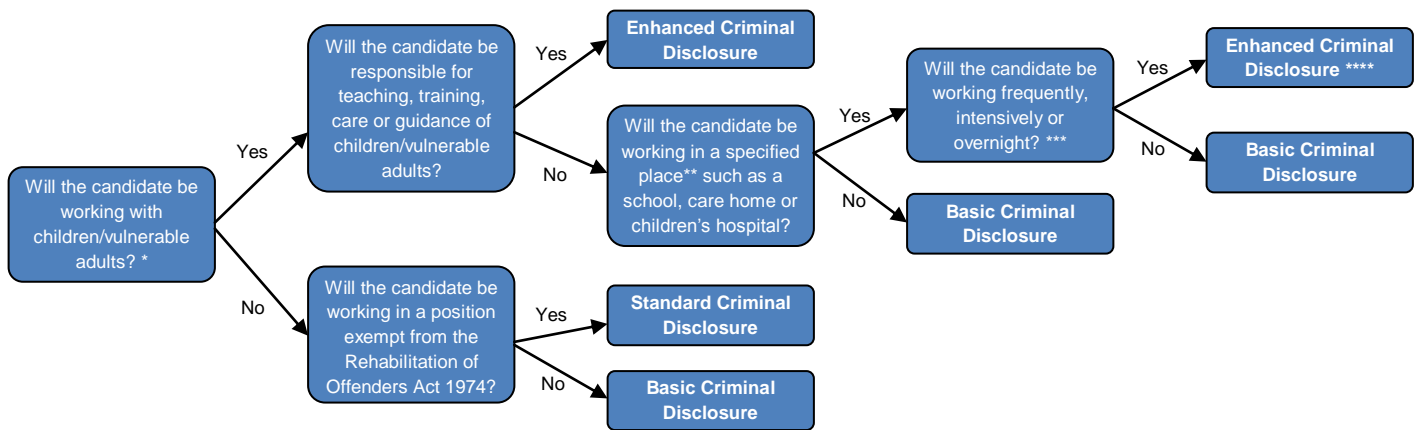
The Exceptions Order to the Rehabilitation of Offenders Act 1974 (ROA) sets out those occupations and positions exempt from the provision of the ROA. These are generally positions of trust where there is a valid need to see a person's full criminal history in order to assess their suitability for a position.

The information on this page is intended as a general guide only and should not be regarded as definitive interpretation of the Act. If an individual's job role is not directly included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 then it would not be automatically eligible for Disclosure.

### Criminal Disclosure Eligibility in England, Wales & Northern Ireland

Under the Rehabilitation of Offenders Act 1974, a person with a criminal record is not required to disclose any spent convictions unless the position they are applying for, or are currently undertaking, is listed as an exception under the Act. Before an organisation considers asking a person to make an application for a Standard or Enhanced Criminal Disclosure, they are legally responsible for ensuring that they are entitled to ask that person to reveal their conviction history.

The flowchart below serves to act as a guide towards determining the eligibility of a candidate for a Standard or Enhanced Disclosure.



\* Children are defined as anybody under 18. A vulnerable adult is defined as a person who is aged 18 years or over and who:

- is living in residential accommodation, such as a care home or a residential special school
- is living in sheltered housing
- is receiving domiciliary care in their own home
- is receiving any form of healthcare
- is detained in lawful custody (in a prison, remand centre, young offender institution, secure training centre or attendance centre, or under the powers of the Immigration and Asylum Act 1999)
- is under the supervision of the probation services
- is receiving a specified welfare service, namely the provision of support, assistance or advice by any person, the purpose of which is to develop an individual's capacity to live independently in accommodation or support their capacity to do so
- is receiving a service or participating in an activity for people who have particular needs because of their age or who have any form of disability
- is an expectant or nursing mother living in residential care
- is receiving direct payments from a local authority or health and social care trust in lieu of social care services, or requires assistance in the conduct of their own affairs.

\*\* Full list of specified places:

Schools; Pupil referral units; Childcare premises (including nurseries); Children's homes; Children's hospitals (hospitals exclusively or mainly for the reception and treatment of children); Institutions exclusively or mainly for the detention of children; Children's centres in England; Adult care homes in England and Wales and Residential care or Nursing homes in Northern Ireland.

\*\*\* **Frequently** is classed as once a week or more (once a month for health and personal care services).

**Intensively** is classed as four or more days in a 30 day period.

**Overnight** is classed as anytime between 10pm and 6am.

\*\*\*\* However, an Enhanced Criminal Disclosure is only required if the frequent and intensive activity is in a single specified setting. Those who only go into different specified settings are not eligible. So, for example, maintenance contractors who visit different care homes, schools or children's hospitals will not meet the frequent or intensive tests if they visit several different such settings but do not work frequently in the same one.

**For any additional queries regarding eligibility, please contact BackCheck on 0800 072 7048.**