

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.

In order to be eligible for a Standard or Enhanced Disclosure, an individual must be involved in working with children or vulnerable adults and meet one or more of the below provisions. Please note that in order for individuals to qualify for a Standard or Enhanced Disclosure, it is not sufficient for these individuals to simply have access to or contact with children or vulnerable adults. Further, to qualify for an Enhanced Disclosure, staff would need to be working in a position which involved regularly caring for, training, supervising, or being in sole charge of children or, a person aged 18 or over or who fits the CRB definition of a vulnerable adult.)

To qualify for a Disclosure when working with Vulnerable Adults, the following criteria must be met:

Enhanced Disclosure

A person who regularly cares for, trains, supervises or is in sole charge of vulnerable adults of the following description is entitled to an Enhanced Disclosure.

A vulnerable adult for the purposes of an Enhanced Check is a person aged 18 or over who receives services of a type listed in paragraph 1) below and in consequence of a condition of a type listed in paragraph 2) below, has a disability for at type listed at paragraph 3) below.

1) The services are:

- a) accommodation and nursing or personal care in a care home,
- b) personal care or support to live independently in his or her own home,
- c) any services provided by an independent hospital, independent clinic, independent medical agency or National Health Service body,
- d) social care services; or
- e) any services provided in an establishment catering for a person with learning difficulties.

2) The conditions are:

- a) a learning or physical disability,
- b) a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs; or
- c) a reduction in physical or mental capacity.

3) The disabilities are:

- a) a dependency upon others in the performance of, or a requirement for assistance in the performance of, basic physical functions.
- b) severe impairment in the ability to communicate with others, or
- c) impairment in a person's ability to protect him or herself from assault, abuse or neglect.

Standard Disclosure

Any employment or other work which is concerned with the provision of care services (2) to vulnerable adults (3) and which is of such a kind to enable the holder of that employment or the person engaged in that work to have access to vulnerable adults in receipt of such services in the course of his normal duties.

2 "Care services" means

- i) accommodation and nursing or personal care in a care home (where "care home" has the same meanings as in the Care Standards Act 2000);
- ii) personal care or nursing or support for a person to live independently in his own home;
- iii) social care services; or

iv) any services provided in an establishment catering for a person with learning difficulties.

3 "Vulnerable adult", in the context of a Standard check, means a person aged 18 or over who has a condition of the following type:

- i) a learning or physical disability;
- ii) a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs; or
- iii) a reduction in physical or mental capacity.

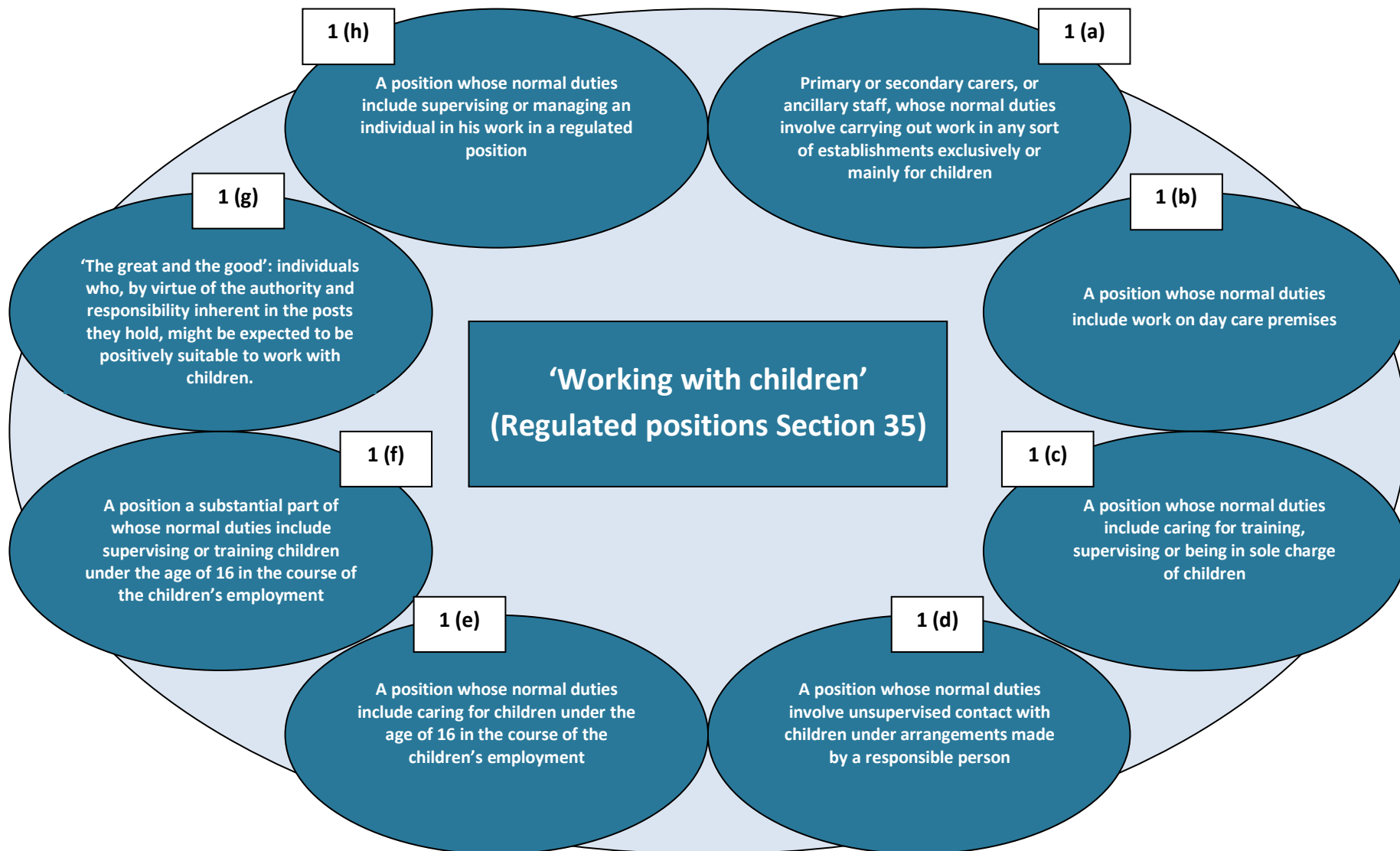
Staff must be working in a '**regulated position**' as defined by **section 36 (1) (c) of the Criminal Justice and Court Services Act (CJCSA) 2000**, i.e. a position whose normal duties involve caring for, training, supervising or being in sole charge of children.

The eight activities which would constitute a 'regulated position' are outlined below:

1. A position whose normal duties include work in the following establishments exclusively or mainly for children:
 - an institution which is exclusively or mainly for the detention of children,
 - a hospital which is exclusively or mainly for the reception and treatment of children,
 - a care home, residential care home, nursing home or private hospital which is exclusively or mainly for children,
 - an educational institution,
 - a children's home or voluntary home or a home provided under section 82(5) of the Children Act 1989.
2. A position whose normal duties include work on day care premises.
3. A position whose normal duties include caring for, training, supervising or being in sole charge of children.
4. A position whose normal duties involve unsupervised contact with children under arrangements made by a responsible person.
5. A position whose normal duties include caring for children under the age of 16 in the course of the children's employment.
6. A position a substantial part of whose normal duties includes supervising or training children under the age of 16 in the course of the children's employment.
7. The "great and the good". A position which, by virtue of its responsibility is one for which the post-holder would be expected to be positively suitable to work with children. The positions concerned are:
 - a member of the governing body of an educational institution,
 - a member of a relevant local government body,
 - a director of social services of a local authority,
 - a chief education officer of a local education authority,
 - a charity trustee of a children's charity,
 - a member of the Youth Justice Board for England and Wales,
 - the Children's Commissioner for Wales or deputy or
 - a member or chief executive of the Children and family Court Advisory and Support Service (CAFCASS).

For these purposes, a person is a member of a relevant local government body if a) he/she is a member of, or of an executive of, a local authority and discharges any education functions, or social services functions of a local authority, b) he/she is a member of an executive of a local authority which discharges any such functions, c) he/she is a member of a committee of an executive of a local authority or area committee or any other committee of a local authority which discharges any such functions.

8. A position whose normal duties include supervising or managing an individual in his work in a regulated position. This relates to the immediate supervisor or manager only.



The above diagram is adapted from P.24 of the Criminal Justice and Court Services Act 2000 Protection of Children Guidance published by the Home Office