

UK CRIMINAL RECORDS DISCLOSURE CHECK TERMS AND CONDITIONS

1. Purpose of the Terms. Service Provider is a Registered/Responsible and/or Umbrella Body for the Disclosure & Barring Service ("DBS") in England and Wales, Access Northern Ireland ("AccessNI") in Northern Ireland, and Disclosure Scotland in Scotland, and is authorised by such entities to process Basic, Standard and Enhanced Checks on behalf of businesses and organisations. Client is an employer requesting Basic, Standard and/or Enhanced Checks in the United Kingdom to evaluate an Applicant for employment purposes. Both parties desire to establish their respective obligations with respect to the Services hereunder. These Terms will govern the parties' compliance when handling personal information during the disclosure process.

2. Definitions and Interpretation.

2.1. Terms not defined herein shall have the same meaning as set forth in the Agreement, unless otherwise specified:

- 2.1.1. **AccessNI** means the government agency known as AccessNI or Access Northern Ireland from which Basic, Standard or Enhanced Checks are available for individuals who will be placed to work in Northern Ireland and/or individuals who will be working outside the UK;
- 2.1.2. **Applicant** means the Data Subject which is the subject of the Basic, Standard or Enhanced Check;
- 2.1.3. **Application Form** means the formal and official application form issued by Service Provider to Client and which is to be completed and signed by the Applicant or (if online) the online application form which is to be completed and the relevant declaration;
- 2.1.4. **Basic Check** – a criminal records check which can be used for any position or purpose; will include "unspent" convictions. A Basic Check is available from any of the Government Agencies, depending on the location of the Applicant's role;
- 2.1.5. **Code of Practice** means the official published Code of Practice of the Government Agency;
- 2.1.6. **Data Controller** means as ascribed in the Act and subject to subsection 4 of the Act, a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any Personal Data are, or are to be processed;
- 2.1.7. **Data Processor** means as ascribed in the Act, in relation to Personal Data, any person (other than an employee of the data controller) who processes the data on behalf of the Data Controller;
- 2.1.8. **Data Subject** means as ascribed in the Act, an individual who is the subject of Personal Data;
- 2.1.9. **DBS** means the UK Disclosure and Barring Service from which Basic, Standard or Enhanced Checks are available for individuals who will be placed to work in England or Wales;
- 2.1.10. **Disclosure Scotland** means the government agency known as Disclosure Scotland from which Basic, Standard or Enhanced Checks are available for individuals who will be placed to work in Scotland and/or individuals who will be working outside the UK;
- 2.1.11. **Exempt Question** means eligibility to ask by law an individual to reveal their full criminal history, including spent convictions – this excludes protected cautions and convictions that will be filtered from a criminal record check. An exempted question applies when the individual will be working in specific occupations, for certain licenses and specified positions.
- 2.1.12. **Enhanced Check** – A type of higher level disclosure available from the DBS, AccessNI or Disclosure Scotland *for which eligibility requirements must be met* which vary among each country in the UK; links to eligibility guidance are provided in Annex A;
- 2.1.13. **Government Agency** means AccessNI, DBS or Disclosure Scotland, as the case may be;
- 2.1.14. **Personal Data** has the meaning as set forth in the GDPR and the Data Protection Act 2018;
- 2.1.15. **Privacy and Data Protection Requirements** means the Data Protection Act 2018, the European General Data Protection Regulation (EU) 2016/679 (GDPR) and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner or any other supervisory authority, and the equivalent of any of the foregoing in any relevant jurisdiction;
- 2.1.16. **Filtering** refers to legislation that came into force on the 29 May 2013, which allows certain old and minor cautions and convictions to no longer be subject to disclosure. The appropriate Rehabilitation Period is applied by AccessNI under the ROA for Northern Ireland, Disclosure Scotland for the ROA for Scotland and the DBS under the ROA for England and Wales.
- 2.1.17. **ROA** means the Rehabilitation of Offenders Act 1974, or Rehabilitation of Offenders (Exceptions) Order (NI) 1978, as such and to the extent that either law is applied by each country in the UK;
- 2.1.18. **Services** means the UK criminal disclosure check services, including Basic, Standard and/or Enhanced Checks;
- 2.1.19. **Standard Check** – a type of higher level disclosure available from the DBS, AccessNI or Disclosure Scotland *for which eligibility requirements must be met* which vary among each country in the UK; links to eligibility guidance are provided in Annex A.

2.2. Reference to any statute or statutory provision shall include a reference to any statute or statutory provision which amends, extends, consolidates or replaces the same (save to the extent that any amendment, extension, consolidation or replacement would impose more onerous obligations than otherwise exist at the date of this Addendum) or which has been amended, extended, consolidated or replaced by the same and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant statute or statutory provision.

2.3. The singular includes the plural and vice versa and any gender includes all genders.

3. Provision of the Services.

3.1. Service Provider shall:

- 3.1.1. Undertake the Services in relation to each package selected by the Client and ensure there is a legal entitlement for the type of disclosure requested by the Applicant;
- 3.1.2. Assist Client with the disclosure process, including providing (where applicable) any required PIN number for Applicants to enable them to use online application processes;
- 3.1.3. Comply with the Code(s) of Practice of the Government Agencies and all relevant guidance and directives applicable to Registered and Umbrella Bodies;
- 3.1.4. Make available such Codes of Practice to the Client;

- 3.1.5. Ensure disclosure applications are countersigned properly;
- 3.1.6. Verify that the identity of Applicants is verified or that the ID validation form has been completed by Client;
- 3.1.7. Be the first point of contact with the Government Agencies on matters relating to disclosure applications submitted through them;
- 3.1.8. Gather any additional information the Government Agencies request by either directly contacting the Client or the Data Subject;
- 3.1.9. Where applicable, notify Client that:
 - 3.1.9.1. A disclosure certificate has been issued by a Government Agency; and
 - 3.1.9.2. There is no information on the disclosure certificate; or
 - 3.1.9.3. Information has been disclosed on the disclosure certificate. Where information has been disclosed the Client is advised to request the Applicant to provide the Client with a copy of the disclosure certificate in order to view the information and take a recruitment decision.
- 3.1.10. Provide Client with available guidance on the secure handling and storage of information;
- 3.1.11. Monitor that Client is complying with the Government Agencies' Codes of Practice.

3.2. Service Provider shall not be responsible for the decisions that the Client makes as a result of the information, Services, or reports that Service Provider provides to Client hereunder.

4. Client Obligations.

- 4.1. The Client agrees, in fulfilling its obligations hereunder or receiving, administering or using any disclosure or disclosure certificate information hereunder, that it shall:
 - 4.1.1. Provide any information requested by Service Provider that the position applied for meets the necessary legal entitlements for the type of disclosure requested. By requesting Service Provider to perform a Standard or Enhanced Check on a particular Applicant, the Client agrees that the job position of the Applicant meets the relevant Government Agency's eligibility requirements and that the Client is entitled to ask exempt questions.
 - 4.1.2. Adhere to and comply with the Code(s) of Practice of the Government Agencies, as updated from time to time;
 - 4.1.3. Ensure that each Applicant completes all mandatory details on the Application Form. The Client shall procure that its nominated representative(s) check each Application Form and/or data entry for accuracy and completeness prior to submission to Service Provider;
 - 4.1.4. Ensure that the appropriate PIN number is supplied to the Applicant to complete an online Application Form;
 - 4.1.5. Endeavour as far as possible to use the online application process if available but where a paper Application Form is completed to ensure that all mandatory fields are fully and accurately completed;
 - 4.1.6. Undertake a right to work check in line with the relevant Government Agency guidelines as listed in Annex A and the appropriate identity checks on Applicants, using the methodology determined by the relevant Government Agency, where the identity check is not done in person, keep a record of the reason(s) for the option selected by the Client for conducting the identify check, complete the necessary notification and ID validation forms where applicable, and keep a record of the documents used to validate each identity for a minimum of two (2) years;
 - 4.1.7. If appropriate, pass the PIN Notification and ID validation form to Service Provider, along with a copy of the ID documents and disclosure Application Form;
 - 4.1.8. Adhere and comply with all applicable laws, regulations and rules as well as all published Government Agency requirements, guidelines or stipulations;
 - 4.1.9. Comply with a Policy on Secure Storage, Handling, Use, Retention and Disposal of Disclosure and Disclosure Information in accordance with the relevant Government Agency's guidance, a sample of which is available in Annex A, and ensure that disclosure information is not passed to persons not authorized to receive it;
 - 4.1.10. Establish a policy on employing ex-offenders (samples are provided in Annex A which may be edited for the Client's organisation); and
 - 4.1.11. Comply with recommendations made by the Service Provider;
 - 4.1.12. Client shall provide the Applicants with a link to or a copy of the policies listed in Sections 4.1.9 and 4.1.10 above.
- 4.2. In order to comply with all applicable laws and contractual obligations with AccessNI, DBS and Disclosure Scotland, Service Provider, or its designee, may conduct periodic reviews of Client's use of the Services through written requests for information and may, upon reasonable notice and during Client's regular business hours, no more than once annually unless required by AccessNI, DBS and Disclosure Scotland, audit Client's records, processes and procedures related to Client's use, storage and disposal of those Services and information received therefrom, including performing site visits at Client's premises if necessary. Client agrees to cooperate fully with all audits and to respond to any audit or information inquiry within ten (10) business days, unless an expedited response is required.

5. Recommendations.

- 5.1. Per the Government Agency's guidelines and requirements, it is recommended that Client undertake the following actions with respect to the disclosure process:
 - 5.1.1. Edit the sample Policies on Secure Storage, Handling, Use, Retention and Disposal of Disclosure and Disclosure Information (as made available by the Government Agencies) as appropriate for its organisation and inform Applicants how to obtain a copy;
 - 5.1.2. Advise Applicants that a policy on the Recruitment of Ex-Offenders is available in their recruitment materials, and show it to any Applicant who requests it;
 - 5.1.3. Include in its job advertisements or application material that a disclosure will be requested as part of the recruitment process; and
 - 5.1.4. Include in its recruitment material a statement notifying Applicants of the possible effects of a criminal record history on the recruitment and selection process and any recruitment decision and include a statement to the effect that a criminal record will not necessarily be a bar to an Applicant obtaining a position with the Client's organisation.

6. Data Protection.

- 6.1. Each party warrants that it will comply with its respective obligations under the Privacy and Data Protection Requirements.
- 6.2. The Parties acknowledge that for the purposes of these terms and conditions, the Client will be the Data Controller and Service Provider will be the Data Processor as defined under the Privacy and Data Protection Requirements. Client acknowledges that Service Provider will rely on the information and instructions provided by Client when processing Personal Data hereunder.

ANNEX A
DATA SOURCE
POLICIES, FORMS AND GUIDELINES

A. Disclosure & Barring Service

- 1) DBS Code of Practice: <https://www.gov.uk/government/publications/dbs-code-of-practice>
- 2) Guide to Eligibility for Standard certificates: [Eligibility guidance for standard DBS checks - GOV.UK](https://www.gov.uk/government/publications/eligibility-guidance-for-standard-dbs-checks) and [Standards_eligibility_guide_002.pdf](https://www.gov.uk/government/publications/standards-eligibility-guide-002.pdf)
- 3) Guide to Eligibility for Enhanced Certificates: <https://www.gov.uk/government/publications/dbs-workforce-guidance>
- 4) Identity Checking Guidelines for Basic Checks: <https://www.gov.uk/government/publications/basic-check-guidance-and-policies/basic-check-id-checking-guidelines-from-22-april-2025>
- 5) Identity Checking Guidelines for Standard & Enhanced Checks: [ID checking guidelines for Standard/Enhanced DBS check applications from 22 April 2025 - GOV.UK](https://www.gov.uk/government/publications/id-checking-guidelines-for-standard-enhanced-dbs-check-applications-from-22-april-2025)
- 6) Processing Guidelines for Basic Checks: All Applicants for a DBS basic check should be made aware of these standards and be provided with a copy upon request. [Basic check: Processing standards - GOV.UK](https://www.gov.uk/government/publications/basic-check-processing-standards)
- 7) Sample Policy on the Recruitment of Ex-Offenders: All employers must treat Disclosure and Barring Service (DBS) check Applicants who have a criminal record fairly and should not discriminate because of a conviction or other information revealed. The DBS has produced this sample policy statement which can be used or adapted for this purpose. <https://www.gov.uk/government/publications/dbs-sample-policy-on-the-recruitment-of-ex-offenders/sample-policy-on-the-recruitment-of-ex-offenders>
- 8) Sample Policy on the Handling of DBS Certificate Information: <https://www.gov.uk/government/publications/handling-of-dbs-certificate-information/handling-of-dbs-certificate-information>

B. Disclosure Scotland

- 1) Disclosure Scotland Code of Practice: [Disclosure Scotland Code of Practice - mygov.scot](https://www.gov.scot/consultations/disclosure-scotland-code-of-practice)
- 2) Identity Checking guidelines: See Code of Practice [Disclosure Scotland Code of Practice - mygov.scot](https://www.gov.scot/consultations/disclosure-scotland-code-of-practice)
- 3) Guidance for Level 2 (former Standard Disclosure) Eligibility: [Apply for a Level 2 disclosure - mygov.scot](https://www.gov.scot/consultations/apply-for-a-level-2-disclosure)
- 4) Guidance for Level 2 with barred list check (former) Enhanced Disclosure Eligibility: [Apply for a Level 2 with barred list check - mygov.scot](https://www.gov.scot/consultations/apply-for-a-level-2-with-barred-list-check)

C. Access Northern Ireland

- 1) AccessNI Code of Practice: [AccessNI Code of Practice | nidirect](https://www.nidirect.gov.uk/-/media/assets/ni-police/ni-police-recruitment-and-employment/ni-police-recruitment-and-employment-accessni-code-of-practice)
- 2) Eligibility for Standard or Enhanced Checks: See Code of Practice "Eligibility" / [General information for AccessNI employers | nidirect](https://www.nidirect.gov.uk/-/media/assets/ni-police/ni-police-recruitment-and-employment/ni-police-recruitment-and-employment-accessni-employers)
- 3) ID Validation Form: See Code of Practice "Verification of Identity"
- 4) Sample Policy on the Recruitment of Ex-Offenders: [Sample policy on recruitment of ex-offenders | nidirect](https://www.nidirect.gov.uk/-/media/assets/ni-police/ni-police-recruitment-and-employment/ni-police-recruitment-and-employment-accessni-sample-policy-statement)
- 5) Sample Policy on Secure Storage, Handling, Use, Retention and Disposal of Disclosure and Disclosure Information: [AccessNI sample policy statement | nidirect](https://www.nidirect.gov.uk/-/media/assets/ni-police/ni-police-recruitment-and-employment/ni-police-recruitment-and-employment-accessni-sample-policy-statement)
- 6) Executive Office Guidance in relation to Conflict Related Convictions: [Employers' guidance on recruiting people with conflict-related convictions | The Executive Office](https://www.nidirect.gov.uk/-/media/assets/ni-police/ni-police-recruitment-and-employment/ni-police-recruitment-and-employment-accessni-employers)