



Fact Series

Child Protection & the Disclosure & Barring Service - version March 2014

CHILD PROTECTION AND THE DISCLOSURE & BARRING SERVICE

Child Protection is without doubt the most sensitive issue facing amateur theatre societies today. In an age increasingly dominated by fear of child abuse, with lurid tales of abductions and murders dominating the headlines (despite the fact that child sex abuse represents just 0.1% of recorded crime), societies are understandably anxious to ensure that any children in their care are adequately protected. This factsheet aims to throw some light on the steps societies should take and on the work of the Disclosure & Barring Service (DBS).

Under the Protection of Children Act 1999 (Protection of Children Act (Scotland) 2003) and the Criminal Justice and Court Services Act 2000, it is an offence for any organisation to offer employment (including voluntary work), that involves regular contact with young people under the age of 18, to anyone who has been convicted of certain specified offences, or is included on lists of people considered unsuitable for such work held by the Department for Education and Skills and the Department of Health. It is also an offence for people convicted of such offences to apply for work with young people. Specified offences include murder or manslaughter, rape, grievous bodily harm and a number of sexual offences involving children.

Amateur societies frequently seek advice from NODA as to how to deal with child protection issues. It is common for young people to be involved in their productions, and whether a local authority licence is required or not (see NODA factsheet *Children in Theatre*).



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Theatrical Performances), there are obligations regarding the chaperoning and welfare of young people which impose a burden of responsibility on the society. Amateur societies are, in consequence, anxious to ensure that any chaperone appointed by the society will not prove a threat to the children in their care. And many local authorities are making it a condition of licensing children, that a criminal record disclosure for all volunteers with responsibility for the children is obtained. Indeed, in many cases, the local authority will insist that it itself applies for the Disclosure and you should check their policy beforehand.

It is important to stress that the obtaining of a criminal record disclosure is **not** mandatory for organisations that are outside of the “regulated” sector – in other words, there is no legal requirement for amateur societies to carry out police checks. However, the government strongly recommends organisations access the Disclosure service on behalf of their staff, or volunteers, who work or come into regular contact with children or vulnerable adults. NODA also recommends that societies do obtain disclosures for volunteers, but note that a Disclosure only gives details of offences committed up to the date it is issued.

So as well as obtaining a Disclosure, steps should be taken to minimise risk. Does the person ever have to be in sole charge of a lone child, in which case, could another adult work alongside? Is the person already well known to you and has years of loyal service? If the chaperone is a new volunteer who is unknown to you, ask for details of any previous convictions, proof of identity and at least one reference from a person who has experience of the applicant’s work or volunteering with children. If the references suggest the person has an unblemished record, use your judgement to decide whether that is sufficient. You could also make the position conditional on the successful completion of a probationary period. Probationary periods are useful to terminate employment contracts. A voluntary position can be terminated at any time without liability.

At the outset, it should be made clear to the prospective chaperone that a Disclosure will be required and that a conviction will not necessarily be a bar to the position.

A Disclosure is a document containing information held by the police and government departments. It can be used by employers and voluntary organisations to make safer recruitment decisions. Disclosures are provided by the Criminal Records Bureau (CRB), an executive agency of the Home Office. From April 2002, the Disclosure service made police checks for prospective employees/volunteers available to those organisations which did not previously have access. It should be noted that the CRB will not reveal overseas convictions, only those that have been recorded in the UK. The CRB does however, provide an overseas information service that provides customers with information on how to obtain this information.

The Disclosure service offers organisations a means to check the background of job or volunteer applicants, to ensure that they do not have a history that would make them

unsuitable for the posts they are trying to fill. Disclosures will provide details of a person's criminal record including convictions, cautions, reprimands and warnings held on the Police National Computer. If the position involves working with children, Disclosures will also contain details from lists held by the Department of Health and the Department for Education and Skills, of those considered unsuitable for this type of work. Depending upon the level of Disclosure, it might also contain information held by local police forces.

There are three levels of Disclosure: *Enhanced, Standard and Basic*. NODA believes that in most cases, due to the degree of unsupervised contact between the Chaperone and the children, the level that will be required by the society is *Enhanced*. If contact is always supervised, a Standard disclosure should be sufficient. The Criminal Records Bureau (CRB) have announced that it is proposing to reduce its fee for Standard Disclosures by £5.00 from 1 October 2009. The fee for Enhanced Disclosures is unchanged at the 2006/07 level. (CRB press release 15 July 2009)

NODA is registered with the CRB as an umbrella body. This means it has the power to countersign applications for disclosure of criminal records. Although the CRB makes no charge for Disclosures for volunteers, NODA is obliged to charge **£10** per application, to cover the cost of registration and administration. If your local authority insists that disclosure applications be made through them, there may be a higher charge, or no charge at all.

NODA is obliged to abide by the CRB's Code of Practice, which imposes a responsibility for ensuring that Disclosure information is stored and handled in such a way that it is not open to abuse. Registered bodies are also obliged to have a written policy that outlines their commitment to non-discriminatory recruitment practices and equality of opportunity for all staff and service users. NODA will expect those members who wish it to countersign Disclosure applications to implement and abide by this Code of Practice, a copy of which can be obtained from the CRB by phoning **0870 90 90 811** or from their website on **www.disclosure.gov.uk**.

It is important to stress that it is not usually the society itself that applies for the Disclosure. It is the individual about whom you wish to obtain a Disclosure who, in the first instance, has to contact the Disclosure application line on **0870 90 90 844**. The applicant will need to state the name and Registered Body number either of NODA, which can be supplied by NODA on request, or of the local authority.

The applicant will be talked through the application form and the CRB will then send the part-completed application form to the applicant for completion. The completed form needs to be countersigned by NODA, or the local authority, and sent on to the CRB. If NODA is to countersign the application, the form needs to be forwarded to the Chief Executive at NODA, marked 'Private & Confidential'.

Once the application has been processed by the CRB (normally 3 weeks), separate copies are sent to both the individual applicant and the registered body. If sent to NODA in its capacity as the registered body, NODA will inform the society that the Disclosure has been received and whether it contains any information of relevance to working with children. However, the individual may also choose to show their Disclosure certificate to the society.

It may be that the individual already has a Disclosure from a previous position, and it is up to the society to choose whether to accept this or to request an updated version, depending on how much time has elapsed since the Disclosure was issued; the level of Disclosure; the nature of the position for which the Disclosure was issued; and the nature of the position on offer (*for Scotland, see below*). However, please note that the CRB has published its Portability Framework. The effect of this has been that an increasing number of local authorities, when licensing chaperones, are refusing to accept CRB certificates obtained by societies via NODA. Instead they are demanding that the society obtains the CRB certificate directly through the local authority. It is important to check with your local authority what their policy on portability of CRB certificates is before using NODA's countersignatory service, otherwise, you may find that the certificates you have obtained via NODA are unusable.

What are the risks of portability?

Using a previously issued CRB check does not constitute a fresh CRB check – the person's criminal record or other relevant information may have changed since its issue.

Registered Bodies are responsible for the accuracy of the information provided to the CRB and on which it carries out its checks. By accepting a previously issued CRB check you are accepting the risk that the previous Registered Body provided the CRB with a fully validated applicant's identity on which to carry out its checks.

Enhanced checks may contain 'approved' non-conviction information provided by the police from their local records. In the majority of cases, the CRB will print this information on both the applicant's and Registered Body's copy in the box entitled, 'Other relevant information disclosed at the Chief Police Officer(s) discretion'. However, occasionally the Chief Police Officer may, if thought necessary in the interests of the prevention or detection of crime, withhold this information from the applicant's copy. The Registered Body's copy will contain the following words, 'Please refer to letter sent under separate cover', printed under the date of issue on the Disclosure. If you choose to accept the applicant's copy, you will need to find out from the previous countersignatory if such information was revealed in a separate letter.

The CRB's Code of Practice (bound by Part V of the Police Act 1997) sets out the circumstances when the details of a CRB check can be passed to a third party. The Code states that information revealed through a CRB check can only be passed to individuals who need to see it as part of the recruitment decision, for which the CRB check was

requested. This also applies to any additional information provided by the police under cover of a separate letter. If you are contacted by another organisation about a previously issued CRB check, you can only:

- Confirm or not, whether the information provided reflects that which appears on your copy of the CRB check.
- State if the police did or did not issue additional information issued under cover of a separate letter.
- On 1 September 2006, regulations were introduced which allow the passing of CRB checks between agencies supplying staff to schools or further education institutions and those schools or institutions themselves.

If your society does discover that one of its volunteers has harmed a child or placed a child at risk of harm, you should:

- Contact the police and inform them of your suspicions or discovery.
- Refer the name of the individual to the Home Office for inclusion in the Protection of Children Act List.
- Liaise with the Local Authority.
- Ensure that the individual has no further contact with children and vulnerable adults as part of the society's activities, at least until the circumstances are investigated.

Please note that the Home Office is keen to ensure that greater access to police records does not lead to unnecessary discrimination. You can only decide not to allow an individual to be in a position of trust with children if the details contained in the Disclosure are relevant. If, for example, the individual has a criminal record for an unrelated crime, you cannot use that information as grounds for dismissal or non-recruitment. Societies also need to be aware that the Rehabilitation of Offenders Act 1974, ensures that ex-offenders who have not re-offended for a period of time since the date of their conviction are not discriminated against.

Societies in Scotland and Northern Ireland should note that the CRB only covers England and Wales. Separate provision has been implemented in Scotland by the Scottish Criminal Records Office, and societies in Scotland should contact the **Disclosure Scotland** (CRBS) on **01786 849777**. The CRBS was established by the Scottish Executive to provide free Disclosures for volunteers working with children, young people and vulnerable adults. Organisations need to enrol with the CRBS before they can apply for disclosures. *Please note that in Scotland, Disclosure certificates are not transferable and only apply for the organisation for which the person has been checked.* Northern Ireland arrangements are handled by Access Northern Ireland (www.accessni.gov.uk). The Welsh council's unit, The Wales Council for Voluntary Action Council (www.wcva-cru.org.uk) has recently announced that it will fund a new unit to administer applications for record checks on behalf of voluntary organisations.

Attachments

- *Child Protection & Disclosure Code of Practice*, a NODA factsheet giving societies a step-by-step guide to what is involved in obtaining a Disclosure and to implementing a code of practice.

Recommended further reading

- Available from the CRB on 0870 909 0811 or www.disclosure.gov.uk
- *FIRSTCHECK* has been developed by NSPCC Consultancy in response to a steadily increasing number of requests from voluntary organisations seeking advice on child protection matters, including the development of policies and procedures. It is a step-by-step guide to understanding and developing child protection materials, placing the subject in a context that is easily understood. It provides not only the rationale for safeguarding children, but also a range of template materials such as a sample policy, sample procedures, reporting flow chart, recruitment forms and so on. For more information contact NSPCC National Training Centre, 3 Gilmour Close, Beaumont Leys, Leicester LE14 1EZ. Tel: 0116 234 7200 Fax: 0116 234 0464 www.nspcc.org.uk
- *Child Protection (Parts I and II)*, VAN Briefings, available from the Voluntary Arts Network on 02920 395295 or from www.voluntaryarts.org.

Note: Whilst every care has been taken in the preparation of this factsheet, it is not intended to be a complete guide to the law. Societies should seek appropriate advice on specific problems before any action is taken.

Child Protection & The Criminal Records Bureau, July 2009