



## MS Society Disclosure policy (England and Wales)

Policy Name:	Disclosure Policy (England and Wales)
Purpose	<p>The objectives of this policy are to ensure that:</p> <ul style="list-style-type: none"> <li>• anyone involved in regulated activity has an appropriate disclosure check,</li> <li>• we make safe recruitment decisions about staff and volunteers,</li> <li>• we have effective procedures for processing disclosure checks and dealing with issues relating to them,</li> <li>• we treat all employees and volunteers fairly, transparently and consistently,</li> <li>• all employees, volunteers and individual service providers are clear about their responsibilities around disclosure checks, and</li> <li>• we comply with all legislation in England and Wales that relates to disclosure checks.</li> </ul>
Region	England and Wales
Scope	MS Society staff and volunteers
Lead Officer	Head of Volunteering
Responsible Directors	Executive Director of People
Key Consultation	<p>Executive Director of Services and Support          Director, MS Society Cymru          Head of Local Networks          Quality and Safeguarding Manager</p>
Approver	Executive Group
Last Review	February 2018
Review Cycle	Every three years
Key Words	<p>Disclosure          Safeguarding          DBS</p>

## 1. Purpose and scope

- 1.1. This policy and procedure is to be read in conjunction with our Recruitment of ex-offenders policy and procedure, and Safeguarding adults (England and Wales) policy and procedure.
- 1.2. This policy and procedure applies to all MS Society volunteers, employees and individual service providers in England and Wales. We have separate disclosure policies and procedures for Northern Ireland and Scotland. If you are uncertain which policy and procedure applies, contact the Human Resources Team (HR) or Volunteering Team for advice.

## 2. Definitions

### 2.1. **Disclosure and Barring Service**

In England and Wales, disclosure checks are administered by the Disclosure and Barring Service (DBS). This replaced the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA) in 2012.

### 2.2. **Regulated activity involving adults**

The Safeguarding Vulnerable Groups Act 2006 (SVGA) and as amended by the Protection of Freedoms Act 2012 (PoFA) does not label adults as 'vulnerable'. Instead any individuals who are involved in 'regulated activity' will require a disclosure check, regardless of the location or number of times an activity is carried out.

The SVGA defines six categories of regulated activity:

- Providing health care
- Providing personal care, including assisting an adult with eating, drinking, toileting, washing, bathing, dressing, oral care, care of the skin, hair, nails or teaching someone to do one of these
- Providing social work
- Assistance with cash, bills and/or shopping
- Assistance in the conduct of a person's own affairs eg enduring powers of attorney
- Conveying someone to or from their place of residence and a place where they have received or will receive health care, personal care or social care.

Regulated activity excludes any activity done in the course of a family relationship, and personal, non-commercial relationships.

Any person engaged in regulated activity for people aged 18 years or over in England or Wales (and anyone who provides day to day management or supervision of those people) is required to have an enhanced DBS check with barred lists check.

### 2.3. **Barred lists**

The DBS holds two lists of people barred from working or volunteering in regulated activity; one relating to children and one relating to adults.

It is a legal offence for the MS Society to knowingly allow a barred person to engage in regulated activity. Any individual seeking to engage in regulated activity with a group from which they are barred will be breaking the law.

We have a legal duty to refer any person who is removed from regulated activity, or leaves in anticipation of being removed, because they harmed, or pose a future risk of harm to vulnerable groups, to the DBS for barring.

## 3. Policy principles

### 3.1. The following principles underpin this policy and procedure:

- As part of our wider commitment to safeguarding, people in particular jobs and roles at the MS Society will be required to have a disclosure check as part of their recruitment process.
- Volunteers must not start in a role requiring a disclosure check until the process has been completed.
- We are committed to complying with the Rehabilitation of Offenders Act and will not automatically prevent anyone with a criminal record from taking on a job or role.
- All information relating to disclosure checks, disclosure certificates and convictions will be kept confidential and stored and destroyed in line with the Data Protection Act 1998 and relevant Code of Practice (revised November 2015).
- Our Disclosure policies and procedures are to be considered within the context of our wider recruitment and safeguarding processes and potential risks.
- When we create a new job or role, we will consider whether a disclosure check is required, and at what level.
- We are committed to keeping up to date with changes in law and best practice regarding accepting previous disclosures and will ensure our processes meet current requirements.
- This policy relates to safeguarding adults, not working or volunteering with children.
- All employees, volunteers and service providers will have access to this policy and procedure.

## 4. Advice and support

- 4.1. Induction for employees and volunteers will include guidance on implementing our policies and procedures that help to keep people safe.
- 4.2. Employees and volunteers who have responsibilities under our Disclosure policies and procedures will have access to appropriate guidance and support.
- 4.3. Our HR Team is available to employees for support and procedural guidance throughout the disclosure process by phone on 020 8438 0988 or by email at HR@mssociety.org.uk.
- 4.4. Our Disclosure Team is available to volunteers and individual service providers for support and procedural guidance throughout the disclosure process by phone on 0203 828 6861 or by email at disclosure@mssociety.org.uk.

## 5. Cost

- 5.1. There is no cost to our employees or volunteers to have a disclosure check.
- 5.2. Individuals who receive payment for providing a service for an MS Society volunteer-led group which requires a disclosure check ('individual service providers') are responsible for the cost of that check. This cost is the fee charged by the DBS for processing the form. However, a local group may choose to cover this fee if they wish to do so.

# Disclosure procedure

## 6. Recruitment

- 6.1. We have identified the jobs and roles that require a disclosure check and at what level (see appendix 1 for a current list). This list will be reviewed regularly and amended as necessary by the Executive Director of People, but it is not exhaustive and there may be jobs and roles not included that require a disclosure check, depending on the circumstances in which they operate.
- 6.2. Decisions relating to which staff jobs and volunteer roles require a check are the responsibility of the relevant Executive Director.
- 6.3. All new starters and individuals moving into a job or role requiring a disclosure check must be checked.

- 6.4. Where a disclosure check is needed, this will be clearly stated in recruitment literature, including job or role descriptions.
- 6.5. Employees and volunteers will not be asked to apply for a disclosure check during the initial recruitment process. If an offer is made, we will send a disclosure application form and guidance to the individual. The job or role offer is subject to the results of this disclosure check.
- 6.6. All employees, volunteers and individual service providers whose job, role or service has been identified as needing a disclosure check, must go through the process.
- 6.7. Any employee, volunteer or individual service provider who has lived for significant periods of time outside the UK must follow the process detailed in the guidance that accompanies the disclosure application form.
- 6.8. We are responsible for making sure that any disclosure check that is carried out relates to the right person. As part of this process, anyone applying for a check must prove their identity by showing a number of documents to an appropriate MS Society representative. Details of acceptable documents are included in the guidance that accompanies the application form.
- 6.9. Copies of disclosure certificates are only sent to the applicant. All employees, volunteers and individual service providers must present or send in the results of their disclosure check to the HR/Disclosure Team when they are requested to do so.
- 6.10. A new volunteer must not start in their role until the disclosure process is complete. All certificates must be returned. If a certificate is returned with a disclosure on it, the process is not complete until the volunteer has sent in, and we have received, their disclosure certificate and completed any necessary risk assessment.
- 6.11. In certain circumstances, there may be external requirements or legislation that means an employee is not permitted to start doing a job before their disclosure check has been received. We will comply fully with these requirements.
- 6.12. We reserve the right to refuse permission for an employee to take up employment until their disclosure check is complete.
- 6.13. Where an employee starts without a completed disclosure check, their duties will be limited, and a risk assessment must be carried out by their line manager. The employee must be supervised at all times by someone who has an up to date disclosure check.

## 7. Accepting previous disclosure checks

- 7.1. The DBS Update Service allows individuals to keep their disclosure certificate up to date and take it with them between different organisations.
- 7.2. This is an optional service and it is the decision of the individual whether they register or not.
- 7.3. Where a new employee, volunteer or individual service provider is a member of the Update Service and provides a certificate for a previous role, we will ensure that:
  - the certificate is the right level for the job or role applied for,
  - the individual's identity matches the certificate, and
  - the individual's certificate is up to date.
- 7.4. We will obtain written or verbal consent from the individual before applying for a Status Check to confirm this.
- 7.5. If we are unable to accept a previous disclosure from the Update Service, the individual must apply for a new DBS check.
- 7.6. We cannot accept previous disclosure checks from organisations that are not part of the Update Service.
- 7.7. Existing staff and volunteers may use the Update Service for DBS renewal checks if they are registered with this service.

## 8. Retrospective checks

- 8.1. In order to meet our legal obligations, we may need to carry out retrospective disclosure checks.
- 8.2. Before these checks are carried out, the reasons for requiring a disclosure check will be clearly explained with reference made to our Disclosure policy and procedure.
- 8.3. If an employee or volunteer is found to be under investigation by the DBS, we will discuss this issue with the person and carry out a risk assessment to determine the most appropriate course of action. It may be that the person is moved to other duties or suspended pending the outcome of the investigation.

## 9. Renewing checks

- 9.1. We require DBS checks to be renewed every three years for individuals in jobs and roles requiring them. This may be done through the Update Service (see 5. Accepting previous disclosure checks above).

## 10. Refusals to complete a disclosure check or renewal

- 10.1. If an existing employee does not complete a disclosure check when required to do so, we may refer to our Disciplinary policy and procedure.
- 10.2. If a volunteer does not complete a disclosure check for a new role requiring one, they will be unable to start in the volunteer role.
- 10.3. If an existing volunteer does not complete a disclosure renewal when required to do so, they will be unable to continue in that volunteer role.
- 10.4. Authority to remove someone from a volunteer role for non-completion of a disclosure check is delegated to the Head of Volunteering, or to relevant Directors.

## 11. Individuals with a criminal history

- 11.1. We are committed to complying with the Rehabilitation of Offenders Act and will not automatically prevent anyone with a criminal history from taking on a role.
- 11.2. Employees and volunteers, including volunteer service providers, are required to self-declare any convictions or cautions which would not be filtered in line with current guidance.
- 11.3. Where a disclosure certificate is returned with a record, a risk assessment will be carried out by a panel to decide whether the individual can start (or continue) in that particular job or role. The decision of the panel is final and cannot be appealed for three years, or until relevant convictions are spent, whichever is sooner.
- 11.4. See our Recruitment of ex-offenders policy and procedure for full details, including our risk assessment process.

## 12. Convictions received or revealed while in role

- 12.1. Employees, volunteers and service providers in jobs and roles requiring a disclosure check must inform the HR/Disclosure Team if they are convicted of a criminal offence.

12.2. If a staff member or volunteer becomes aware of a conviction or criminal history of another individual, the Head of Volunteering / HR should be informed as soon as possible. This applies whether or not the individual is in a role that requires a disclosure check.

12.3. Where the MS Society:

- becomes aware of a change to an individual's criminal record while in role, or
- a criminal history is revealed outside of the DBS process,

we will carry out a risk assessment. The person may be moved to other duties or suspended pending the outcome of the risk assessment.

### 13. Removal from job or role by the MS Society

13.1. If we dismiss or remove someone from regulated activity - or would have done so had the person not already left - because:

- they harmed, or
- pose a future risk of harm to vulnerable groups

we are legally required to forward information about that person to the relevant disclosure service. This may result in an individual being included on barred lists.

### 14. Storage and handling of disclosure information

14.1. All information (both paper and electronic) relating to the disclosure process will be kept confidential. We recognise that it is a criminal offence to:

- pass on disclosure information to anyone who is not authorised to receive it, without the consent of the individual, and
- knowingly make a false statement for the purpose of obtaining or enabling another person to obtain a disclosure certificate.

14.2. All information will be stored securely or destroyed in line with the Data Protection Act and relevant Codes of Practice. We will ensure that no reproductions of disclosure information are made, including photocopies or scanned images, unless we have obtained agreement from the relevant disclosure service.

14.3. We will not keep information relating to disclosures for any longer than is necessary, in line with our data retention schedule (from May 2018).



## 15. Other relevant policies

Policies relating to staff can be found on our intranet. Policies relating to volunteers can be found on our [volunteer website policies page](#).

- Code of Conduct
- Data protection policy
- Disciplinary policy and procedure
- Personal care policy
- Recruitment of ex-offenders policy and procedure
- Resolving volunteer issues and concerns policy
- Safeguarding adults policy and procedure (England & Wales)

## 16. Relevant legislation and information

- [Department of Health: 'Regulated activity \(adults\); The definition of 'regulated activity' \(adults\) as defined by the Safeguarding Vulnerable Groups Act 2006 from 10<sup>th</sup> September 2012'](#)
- Rehabilitation of Offenders Act 1974
- Police Act 1997
- Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012
- Data Protection Act 1998

## 17. Appendices

Appendix 1 – Roles that require a disclosure check

Appendix 2 – Disclosure process for new volunteers and self-employed individuals in groups

Appendix 3 – Disclosure process for employees

Policy agreed by EG	March 2018
Policy to be reviewed	

# Appendix 1 – Roles that require a disclosure check in England and Wales

## Volunteer roles

Volunteer role	Type of disclosure check
Trustee	Enhanced
Group Coordinator	Enhanced & Barred list
Driver	Enhanced & Barred list
Passenger Assistant	Enhanced & Barred list
Transport Volunteer	Enhanced & Barred list
Lead/ Support Volunteer	Enhanced & Barred list
IAA Volunteer (Wales)	Enhanced & Barred list

## Individuals who provide a service for a group

Anyone providing a service for a group which constitutes Regulated Activity will require a DBS check. This includes, but is not limited to:

- Counsellors
- Therapists
- Physiotherapists

If you are unsure if a service provider should have a disclosure check, please contact the Disclosure Team to check.

## Employee roles

- Transport Manager
- Drivers
- Centre Coordinators based in our local centres and managed by volunteer group coordinator

## Wales only

- Information, Advice and Advocacy Manager
- Information, Advice and Advocacy Officers

## UK wide role (post holder based in Scotland)

Engagement, Involvement and Empowerment Manager