



Criminal record checks: frequently asked questions

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1. What is a "Criminal Record Check"?

Individuals wishing to hold a permanent restricted zone pass will have to provide evidence of their criminal record. The criminal record check will be in the form of a *basic disclosure certificate*. All employers are entitled to ask prospective employees to obtain a basic disclosure certificate. The basic disclosure certificate will show all convictions held, which are *unspent* as defined by the Rehabilitation of Offenders Act 1974.

2. Who needs a basic disclosure certificate?

All new and existing staff requiring a permanent pass to the restricted zone of an airport must produce a basic disclosure certificate.

3. Who provides the basic disclosure certificate?

Disclosure Scotland can provide the basic disclosure certificate. For Northern Ireland-based staff basic disclosures are provided by Access NI. The Criminal Records Bureau is not in a position to provide basic disclosures at this time.

4. How do individuals apply?

Applications are made to Disclosure Scotland or Access NI. There are slightly different process for each provider. An online application facility is now available via the Disclosure Scotland website. Details can be found on the Disclosure Scotland page.

5. Who sends the application to Disclosure Scotland or Access NI?

The individual can send their application to Disclosure Scotland/Access NI or it can be sent as a batch from the employer provided the applicant has given permission for this to be done. .

6. To whom will the basic disclosure be returned?

Applications are returned to the applicant in one of two ways. Either direct to their home address, or again with their specific permission, the applicant can agree to their certificate being returned to them at their employer's address. In this case, the envelope will be addressed to the applicant and identify them using their date of birth. If the second option is used, the applicant **must** open the returned basic disclosure envelope. The employer **must not** open the envelope in which the certificate is sent. Any employer who contravenes this will have this facility removed and all disclosures will be sent directly to the applicants at their home address.

7. Who can see the basic disclosure?

The applicant can pass the basic disclosure certificate to anyone they choose. The employer will need to request the disclosure certificate from the applicant and obtain permission from the applicant to pass it to the aerodrome manager if appropriate.

8. What are the disqualifying criteria?

The list of disqualifying criteria has been drawn up in consultation with the aviation industry and Police. It is not desirable or practical to refuse a restricted zone pass to anyone with a criminal record and this would be illegal under the Rehabilitation of Offenders Act 1974.

Disqualifying criteria relate **only to unspent convictions**. The disqualifying criteria list details those offences, which, if unspent, would prevent the issue of a restricted zone pass. The criteria cover the following:

- Offences against the person
- Theft
- Sex offences
- Harmful or dangerous drugs
- Criminal damage
- Terrorism
- Aviation
- Maritime
- Channel Tunnel
- Railways
- Firearms
- Immigration
- Evasion of liability
- Bomb threats and bomb hoaxes
- Offensive weapons
- Protection of children and vulnerable adults

A full listing of the offences can be found on the Disqualifying Offences pages.

9. How does this requirement affect Counter Terrorist Checks (CTCs) for security staff?

The disqualifying criteria that applies in the criminal record check process is a minimum test for the CTC process. This may result in some CTCs not being renewed.

10. Can the information on the basic disclosure certificate be used for any other purpose

Not without the consent of the applicant.

11. How long will it take to obtain a basic disclosure?

Both Disclosure Scotland and Access NI generally return basic disclosure certificates in response to a fully valid application within 10 working days.

12. How much will it cost?

Disclosure Scotland currently charges Â£20 for a basic disclosure certificate and Access NI charges Â£26.

13. Who pays for the disclosure?

The cost of basic disclosure is borne by the applicant; however, an employer can decide to pay for the disclosure if it wishes. To discuss invoicing arrangements employers should contact Disclosure Scotland or Access NI directly.

The Finance Officer

Disclosure Scotland
SCRO
1 Pacific Quay
Glasgow
G51 1YU
Tel: 0870 609 9006

Access NI

Brooklyn
65 Knock Road
Belfast
BT5 6LE
Tel: 02890 259100

14. Who owns the basic disclosure certificate?

The basic disclosure certificate remains the property of the applicant and cannot be destroyed without their permission.

15. Can a copy of the basic disclosure be retained?

The disclosure is the property of the applicant and as such can be retained by the applicant for as long as the applicant wants. The applicant can give permission for the employer to retain the disclosure or a copy of it. It is key that the applicant must agree for this to be the case. The disclosure would have to be retained in a secure environment to ensure that only those with a legitimate reason to see the disclosure can do so. If a copy of the disclosure is not retained the employer must record the disclosure number (at the top of the certificate) and the date of issue.

16. How often can a disclosure be applied for?

There is no limit on how often a basic disclosure can be applied for. Each individual application attracts the full fee.

17. How long is the disclosure valid?

The disclosure contains information, which is valid only on the day of issue. Disclosures do not carry a pre-determined period of validity because a conviction or other matter could be recorded against the subject of the disclosure at any time after it is issued e.g. the following day. Although the basic disclosure does not have a period of validity clearly it would be meaningless if obtained too far in advance of pass issue. Therefore basic disclosure certificates should not be dated more than 10 weeks before pass application.

18. When does it have to be renewed?

A basic disclosure will require renewal at the time the restricted zone pass is renewed, currently not exceeding a period of every 5 years (the length of validity of a restricted zone pass is determined by the aerodrome manager).

19. Will employers be informed if, after receiving a disclosure, an employee commits a disqualifying offence?

No. There is no warning system in place to notify offences post disclosure. The Department recommends that employers consider entering a requirement into contracts that it is incumbent upon individuals to inform their employer if they commit a disqualifying offence between disclosures. Some suggested wording is as follows: (companies should obtain their own legal advice on such wording):

"Within [] days of any conviction for a disqualifying offence the employee must notify the employer of his conviction. [Disqualifying offences will need to be defined somewhere in the employment contract.] Failure to do so will be a disciplinary offence and dealt with in accordance with [enter company's disciplinary procedure here]."

Employers should note that the aerodrome manager is required, under SDAM 1/2006 para 71(a) to *withdraw any pass issued by him to any person where he is no longer satisfied that that person is suitable to hold that pass.*

20. What happens if a disqualifying criterion is met?

A restricted zone pass can not be issued. The inability of an employee to gain a restricted zone pass may mean that they can no longer carry out the task for which they were employed.

21. Should anything be taken into account relating to CRCs when recruiting?

The DfT advises that during recruitment individuals are made aware that a satisfactory basic disclosure will be required should they be successful during recruitment. A suggested form of words are: (again companies should obtain their own legal advice on such wording)

"This offer of employment is subject to the following conditions:

- you must apply for a basic disclosure certificate: and
- you must provide us with a copy of the basic disclosure certificate: and
- you must not have any of the following convictions on your basic disclosure certificate (need to include the list of convictions).

22. Is there right of appeal for applicants?

There are several options for appeal, depending on the circumstances, for example, the disclosure is incorrect, a pass issuer has misinterpreted a disclosure or the disclosure is correct but the applicant feels that his or her conviction should not prevent the issue of a restricted zone pass. Details of the appeal routes can be found at: <http://www.dft.gov.uk/pgr/security/crc/appealprocedure>

23. Does the DfT monitor the criminal record checking process?

Yes. It is be part of the regular inspection process.

24. Does this requirement apply to foreign workers?

Yes - it applies to anybody holding an RZ pass for a UK airport, regardless of their nationality. A check of overseas records is not currently required due to issues about the extreme variability of legal systems and the availability of criminal record information around the world.

25. Are there any exemptions from the requirement for the production of a basic disclosure check for a permanent pass to the RZ?

Yes. Those requesting a permanent RZ pass who have a valid CTC (or higher level of security clearance) will be exempt. Further advice will follow concerning any exemptions for diplomatic staff.

26. What happens if an individual needs to apply to more than one airport for a restricted zone pass?

Each application will be treated individually. It will be necessary to produce a basic disclosure for each application. This can be the same disclosure certificate provided it is presented within the required timeframe of 10 weeks from the date of issue.