



**CRIMINAL RECORDS BUREAU
INCREASE IN DISCLOSURE FEES**

**REGULATORY IMPACT
ASSESSMENT**

June 2003



Regulatory Impact Assessment

Title of proposal

Increase in Disclosure fees under Part 5 of the Police Act 1997.

Purpose and intended effect of the measure

2. The Criminal Records Bureau (CRB) was established in response to demands for a more comprehensive and effective means by which employers, voluntary organisations and others could obtain access to an applicant's criminal record details (if any) when assessing their suitability for employment or voluntary work. The CRB's purpose is to provide accurate criminal record information on applicants for relevant work in England and Wales in the most effective and efficient way.
3. The CRB "went live" in March 2002 with the launch of its higher level Disclosure service. Two levels of criminal record check are currently available - Standard and Enhanced Disclosure. Both provide information on an individual's current and spent¹ convictions. Enhanced Disclosures also contain any relevant additional information which may be held on the individual in police records.
4. These Disclosures are aimed in particular at those applying for, or occupying, posts involving work with children and or vulnerable adults - eg. teaching, nursing, care homes, fostering and adoption and so forth. But they are also required in respect of barristers and other members of the legal professions including judges, vets, accountants and certain other positions of trust. The need to protect the public and in particular children and vulnerable adults from those who might do them harm justifies, in the Government's view, the disclosure of information which could prove prejudicial to an applicant's chances of obtaining, or retaining, the work in question.
5. Part 5 itself imposes no legal obligation for checks to be carried out by the CRB. However, other legislation, notably the Protection of Children Act 1999 and the Care Standards Act 2000, require checks to be carried out in certain persons working with children and vulnerable adults.
6. Ministers made it clear when the original £12 fee (for both Standard and Enhanced Disclosures) was announced that the CRB was expected to be self-financing through fee income in the medium term. That remains the Government's objective. However, in the short term, the costs of the CRB will continue to be met by a combination of fee receipts and contributions from the Home Office, the Department of Health and the Department for Education and Skills. As the CRB moves towards full cost recovery it is necessary to increase the Disclosure fees. From 1 July 2003 the fee for a Standard Disclosure will be £24 and that for an Enhanced Disclosure will be £29. Volunteers will continue to receive free Disclosures.

Objective

7. As part of a phased move towards achieving full cost recovery, to recover a higher proportion of the CRB's costs through fee income while continuing to provide free Disclosures for volunteers.

Risk assessment

8. If the fees are set too high, there is a risk that some employers, particularly small businesses, may opt

¹ Spent convictions: a rehabilitation period is attached to a sentence passed by a court. The length of the period can vary from 6 months to 10 years depending on the age of the offender on conviction and the length and nature of the sentence passed. During the "rehabilitation period" an individual must disclose his/her convictions when asked to do so by his/her (potential) employer. Provided he/she is not reconvicted during the rehabilitation period, his/her conviction will, at the end of the rehabilitation period, be regarded as spent. As such it will not, save in exceptional circumstances, be required thereafter to be disclosed. This scheme does not apply to any offence where the sentence passed was for more than 30 months custody.

out of making a check in cases where it would be appropriate and prudent to do so, but where there is no legal requirement for such a check to be made.

9. If the fee is set too low, the CRB will continue to run up a significant operating deficit which would have to be born by the Home Office and other Government departments (and ultimately taxpayers), thereby putting at risk other Government programmes for reducing crime and raising standards in education and the health service.

Options

10. Three options have been identified:

Option 1 – leave the fee unchanged at £12

Option 2 – increase fees to the level necessary to achieve full cost recovery in 2003/04, namely £34 for an Enhanced Disclosure and £29 for a Standard Disclosure (assuming a fee increase from 1 April).

Option 3 – make significant progress towards full cost recovery by increasing the fees to £29 for an Enhanced Disclosure and £24 for a Standard Disclosure.

Costs, benefits and disadvantages

Option 1

11. There would be no fee increase for users of the Disclosure service and therefore no impact on business, typically independent schools, private care homes and taxi firms. But the CRB would recover only £26.5 million of its £75 million costs in 2003/04 leaving the Government, and ultimately the taxpayer, to fund the resulting £48.5 million deficit.

Option 2

12. The CRB would achieve its objective of full-cost recovery and in so doing place the CRB on a sound financial footing, better positioned to meet future challenges as the demand for its services continue to grow. However, the increase in fees would be £22 in the case of an application for an Enhanced Disclosure and £17 in the case of a Standard Disclosure. It is for individual applicants to meet the cost of the Disclosure, unless the employer chooses to pay. The increase in fee is therefore not a burden on business but on individuals who are asked/required to obtain a Disclosure. Where employers choose to pay the Disclosure fee on behalf of their employees, the increase will be an indirect cost to business. On the basis of an estimated demand for 2.6 million Disclosures (some 15% of which will be issued free to volunteers), the total additional cost to individuals and/or employers would be £48.5 million. The majority of these costs would fall to the public sector; the maximum cost to business/voluntary organisations is therefore £24 million but is likely to be significantly less than this. Fees at this level are more likely to discourage applications for Disclosures where there is no mandatory requirement for one.

Option 3

13. The CRB would recover a significantly greater proportion of its costs through fee income and therefore position the CRB to achieve full cost recovery within two years. On the basis of an estimated demand for 2.6 million Disclosures (some 15% of which will be issued free to volunteers), income through fees at £29 and £24 would be £56 million (on the basis of a fee increase from 1 July). This would leave a deficit of £19 million to be covered by the Home Office, Department of Health and Department for Education and Skills. The increase in fees would be £17 in the case of an application for an Enhanced Disclosure and £12 in the case of a Standard Disclosure. The total additional cost to individuals and/or employers would be £29.5 million. The majority of these costs would fall to the public sector; the maximum cost to business/voluntary organisations is therefore £15 million but is likely to be significantly less than this. The more measured increase as compared to option 2 would reduce the risk that an employer would not apply for a Disclosure in an appropriate case.

Impact on small businesses

14. Given that liability for meeting the costs of the CRB checks rests with the individual applicant, we do not expect the fee increase to impact disproportionately on small businesses. Where a small business elects to meet the cost of Disclosures for its new recruits the additional cost of 20 Enhanced Disclosures under option 2 would be £440 and £340 under option 3.

Competition assessment

15. The increased charges would be unlikely to affect the competitive process.

Consultation

16. In the early part of 2001, the Home Office consulted extensively on the determination of the appropriate fee structure for the CRB, and an interim version of a Regulatory Impact Assessment on the CRB was circulated to interested parties in the public, private and voluntary sectors in May 2001, inviting further comments. In view of the need to maintain an even as possible demand for the Disclosure service it has not been possible to consult on the fee increase in advance of the regulations being laid before Parliament.

Summary and recommendation

17. This RIA sets out 3 options, as follows:

Option	Costs	Disadvantages	Benefits
No fee increase (fee remains at £12)	No additional cost for business	CRB continues to operate a substantial deficit of £48m to be born by the taxpayer	Users of the Disclosure service continue to benefit from heavily subsidised service.
Standard Disclosures £29, Enhanced £34	Additional cost to employees (or employers where they choose to pay the fee) £48.5m, majority will fall to public sector; or some £440 to a business recruiting 20 new employees a year.	Significant increase in fees of £22 and £17 for Enhanced and Standard Disclosures.	CRB achieves full cost recovery ahead of plan and in so doing placed on sound financial footing.
Standard Disclosures £24, Enhanced £29	Additional cost to employees (or employers where they choose to pay the fee) £29.5m, majority will fall to public sector; or some £340 to a business recruiting 20 new employees a year.	Fees increases of £17 and £12 for Enhanced and Standard Disclosures. Continued requirement for taxpayer to meet part of the cost of the service.	Fee increase is tempered while putting CRB well on the road to full cost recovery.

18. Option 3 makes a significant advance in the direction of the Government's objective of securing full cost recovery for the CRB while tempering the scale of the fee increase. It is therefore the Government's preferred option.

Enforcement

19. The Disclosure fee is payable on application to the CRB.



Contact point

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