



# **CRIMINAL RECORDS BUREAU**

## **REGULATORY IMPACT ASSESSMENT**

**January 2002**





## **PREFACE**

This Regulatory Impact Assessment reflects work in the early part of 2001, in connection with the determination of the appropriate fee structure for Disclosures issued by the Criminal Records Bureau. This work involved quite extensive consultations.

The RIA was produced in interim form and circulated to interested parties in the public, private and voluntary sectors on 9 May 2001 inviting further comments.

No need to amend the substance has arisen from responses to the interim version. This final form of the RIA, produced to coincide with the laying of Regulations covering the operation of the Bureau in relation to Standard and Enhanced Disclosures, includes minor updating amendments.

## **NOTE**

Part V of the Police Act 1997 provides for the issue of 3 levels of documents:

- criminal conviction certificates
- criminal record certificates
- enhanced record certificates

But the RIA adopts the terminology that will be employed by the Criminal Records Bureau, ie Basic Disclosures, Standard Disclosures, and Enhanced Disclosures respectively.

# REGULATORY IMPACT ASSESSMENT (Final)

## CRIMINAL RECORDS BUREAU

### 1. Title

Implementation of fees under Part V of the Police Act 1997

### 2. Purpose and Intended Effect of the Measure

#### (i) Issue:

Establishing the Criminal Records Bureau (CRB) is not in itself a regulatory measure, or indeed one that imposes any obligation on any person, but entails the provision of a new service to help employers and voluntary organisations make safer recruitment decisions. Present arrangements for obtaining information on this are inadequate. In practice, staff employed in local authority posts (and to a lesser extent the NHS) involving substantial unsupervised access to children are subject to police checks. But, although there are some ad-hoc local arrangements, many people working with children and the vulnerable are not, and most employers and voluntary organisations do not routinely have access to police checks. The lack of any comprehensive system of making checks has led to abuse of the subject access rights available to individuals under the Data Protection Acts 1984 and 1998 when employers or others require individuals to apply to the police for a copy of the information held on them on the Police National Computer.

The CRB service, called Disclosure, will allow checks to be made on criminal records and other relevant information held by the police and other government departments. Three different levels of check, and related certificates, will be available. They are:

- A Basic Disclosure (BD) which will be issued only to people applying on their own behalf and who will be able to choose whether to show it to others, including employers, on request. The BD will show convictions held in national records but, in accordance with the Rehabilitation of Offenders Act 1974, will not include convictions which are 'spent' nor will it include cautions.
- A Standard Disclosure (SD) which will be available to people working in positions exempted under the Rehabilitation of Offenders Act. This will include people who have regular contact with those aged under 18 or those of all ages who may be vulnerable for other reasons. The SD will also be relevant for people entering certain occupations and professions such as barristers, vets and accountants. It will contain all convictions on record including 'spent' convictions and, in addition, details of any cautions, reprimands or warnings held on the Police National Computer. If a job or voluntary position involves regular contact with children or vulnerable adults in education or healthcare, an SD will also give information on government department lists of those unsuitable to work with children or vulnerable adults in these areas. These lists are held by the Department of Health and the Department for Education and Skills.
- An Enhanced Disclosure (ED) which will be available for people in posts involving greater contact with children or vulnerable adults. Such work involves regularly caring for, training, supervising or being in sole charge of people in these categories. They will also be issued for various others such as applicants for gaming and similar licences. As well as all the information that would be on an SD, EDs may also contain information that is held locally by the police, including relevant non-conviction information.

Part V itself imposes no legal obligation for checks to be carried out by the CRB. However, the Protection of Children Act 1999 requires specified categories of child care organisations to carry out checks of the DoH list of persons considered unsuitable to work with children. And the Care Standards Act 2000 will introduce a new list of people considered unsuitable to work with certain vulnerable people, and will require checks to be made of that list.

Under one-stop shop arrangements that will begin to take effect when the CRB becomes operational, checks of these lists (and of the DfES's list of people barred from working in schools) will be accessible only via a CRB check.

The purpose of this Assessment is to consider the impact of differing levels of fees to be charged by the CRB on the various sectors which will make up its client base, and to make a recommendation as to the best arrangement consistent with the resources available to the CRB.

(ii) *Objectives:*

The CRB's primary purpose is to:

- help protect the vulnerable
- provide information that can facilitate safer recruitment decisions in both the paid employment and voluntary sectors by helping organisations identify prospective candidates who may be unsuitable for work involving contact with children or other vulnerable members of the community
- ensure that relevant information is available to both prospective employers and job candidates of all kinds

The CRB will bring about:

- a faster service; among those who are currently able to make checks, 61% expressed dissatisfaction<sup>i</sup> at the time it can take to obtain the information – a period of 3 months is not unusual
- a more comprehensive service; the CRB will be a one-stop shop for checks. Organisations will no longer have to contact the three main current sources – the police, the Department of Health and the Department for Education and Skills – separately.

(iii) *Risk Assessment:*

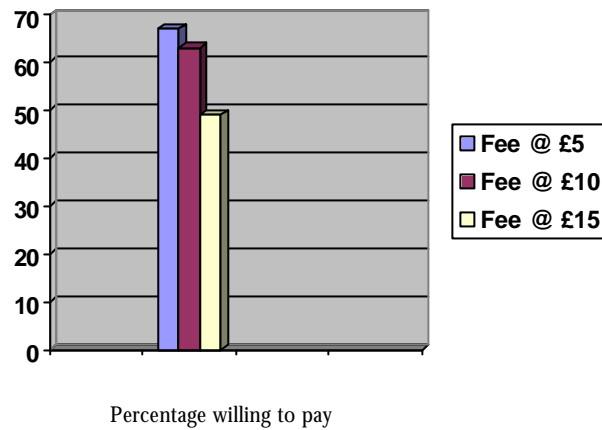
Risks in relation to the setting of fees are two-fold –

A. If the fees are set too high

- voluntary organisations might find it difficult to meet the costs. In a survey<sup>i</sup> of organisations involving 'sensitive' occupations (details are at Annex A) 32% strongly agreed and 32% tended to agree.

In a separate market survey<sup>ii</sup> of private citizens, respondents were asked whether they were prepared to pay £10 for a certificate if they were invited to do so for different case scenarios. Those who said yes were then asked if they would be prepared to pay £15 for the same case scenarios and those who said no were asked whether they would be prepared to pay £5. At a cost of £10, the results showed that people were most prepared to pay £10 if they were to do voluntary work involving vulnerable adults (63%) and child care (60%). Only 24% of people, by contrast, thought that a check on the criminal record in connection with renting a car would be worth £10.

However, for voluntary work with vulnerable people, the responses varied dependent on the level at which the fee would be set. The chart below shows the variation:



- the costs could dissuade people from coming forward in the voluntary sector. In the same survey<sup>i</sup>, 13% strongly agreed with this and 35% tended to agree. If volunteers were deterred there may be a need to replace them with paid staff in a number of instances
- some child minders could be adversely affected due to the need for checks also to be conducted in relation to any other adult living on the premises. A survey<sup>iii</sup> showed that the average hourly rate, for a childminding placement during normal working hours, is £2.15, gross. Regulations prevent them from looking after more than a small number of children, including their own. The proposed maximum is 6 children, of whom no more than three can be under 5 and no more than two under 2. The current average is 3.4 children. There are some 85,000 registered<sup>iv</sup> childminders in England and Wales and at present local authorities and police forces carry out checks on these people free of charge.
- employers in the private sector, and in particular small businesses, and voluntary organisations, may opt out of making a check in cases when it would have been appropriate and prudent to do so

B. If the fees are too low or Disclosures are free

- requests for checks will increase – perhaps by as much as 50%.
- there would be the possibility of abuse of the system. Employers might be more tempted to seek Disclosures as part of the initial sifting rather than at the point of offering a job. Apart from leading to a significant increase in demand, this could actually lead to increased costs to potential applicants, since there would be no guarantee that the same Disclosure could be re-used. A survey<sup>ii</sup> of the private sector showed that, for most types of job in the business sector, there were on average 15 applications per job.
- similarly, employers may be more inclined to seek Disclosures even where there is no sensitivity to the job which justifies a check and this could be to the disadvantage of candidates with previous convictions. The same survey<sup>ii</sup> showed that just under 40% in both the ‘sensitive’ occupations sector and the private sector thought this might be the case.

### 3. Demand Projections

Based on recent market research <sup>ii</sup> and data provided by other Government Departments the likely demand, in a 12-month period, for certificates is assessed as:

SECTOR	ED	SD	BD	TOTAL
Private Sector	1,134,000	210,000	2,834,000	4,178,000
Public Sector	1,283,000	515,000	292,000	2,090,000
Voluntary Sector	1,250,000	52,000	1,372,000	2,674,000
Total	3,667,000	777,000	4,498,000	8,942,000

### 4. Options

Four options are described below:

- OPTION 1 - Full cost recovery over 4 years through charging fees. Charges would be set for each type of Disclosure according to the costs involved.
- OPTION 2 - Exchequer funded. This reflects the opposite end of the spectrum. All Disclosures would be free, with the Exchequer, ie the taxpayer, meeting the entire cost of the Bureau
- OPTION 3 - ED and SD Disclosures provided free of charge to volunteers with a standard charge of £12 for EDs and SDs to others and for all BDs.
- OPTION 4 - Full cost recovery over 11 years, charging fees in all cases and with a standard rate for all types of Disclosure.

### 5. Costs, Benefits and Disadvantages

#### EXISTING COSTS

Respondents to a survey <sup>v</sup> on voluntary organisations were asked if they currently made checks, and, if so, what the cost was. Only 50% said that they did (another survey <sup>i</sup> had suggested that 71% of organisations involved in 'sensitive' occupations checked with police to verify previous convictions). Slightly less than half of those currently receiving checks said that they incurred costs. These were in the range £2.50 to £22.50 per case. The majority gave a cost of £8 to £10 per case.

A similar research exercise <sup>v</sup> was conducted with a representative sample of small businesses. When comparing the cost of fees for checks with their annual income, the proportion was consistently below 0.05%. Of those surveyed, 5 out of 8 said that they requested potential employees to apply for subject access to their Police National Computer records. In future, when the CRB was fully operational, 80% of their requests would be for BDs

The research also suggested that 75% of voluntary organisations involved in 'sensitive' occupations would reimburse staff for the cost of CRB checks, as would 83% in the private sector excluding small businesses who indicated it would only be 25%.

## OPTION 1

Under this option, the target would be to break even (ie to recover CRB start-up and operating costs, including deficits in the early years) after 4 years. On the best estimates available and based on the projections above, the ED would cost £17 - £18 each and the SD and BD £11 - £12 each.

In further research<sup>v</sup>, drawing on information from a sample of organisations in the voluntary sector, the impact on those organisations was examined, modelling the effect of different levels of Disclosure fees for their predicted number of requests for all three types of Disclosure for both employees and volunteers. It was assumed that this would be new expenditure. The total cost in year 1 and subsequent years was compared to annual income. The results gave no uniform pattern. A (predictable) conclusion was that organisations whose income was low and who relied heavily on volunteers were worse affected – in one exceptional case, if the organisation carried the full cost, it would (at a fee of £18) amount to 125% of their current income. The majority, however, were in the range 0.02% to 26% and in this group the proportion of cost of fees to income was less than 1% in 58% of cases.

By way of illustration, some examples are:

The Shaftesbury Society 50.5 % of annual income

Amateur Athletics Association 44.6% of annual income

National Association of Clubs for Young People 20.9% of annual income

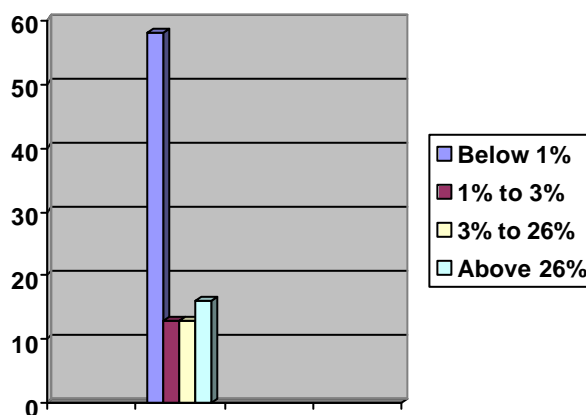
The Scout Association 11.9% of annual income

Boys Brigade 2.9% of annual income

Home-Start 0.4% of annual income

The Prince's Trust 0.1% of annual income

The following chart shows the overall range:



Fees as a percentage of annual income

On the basis of the information available, the following is a comparison, by sector, of CRB check costs and current costs in a 12-month period:

Estimated Total Cost of CRB checks (ED @ £18; SD & BD @ £12)	Sector	Estimated Total Cost of Current Checks
£29.20m	<b>Voluntary Sector</b>	Range £8.01m - £14.22m
£9.73m	<b>Individual Volunteers</b> <sup>v</sup>	Range £2.67m - £4.74m
£32.76	<b>Public Sector</b> <sup>vi</sup>	-
£25.93m	<b>Private Sector</b> <sup>vii</sup>	£11.90m
£5.31m	<b>Individuals Employed in Private Sector</b>	£2.44m
£6.39m	<b>Small Businesses</b> <sup>viii</sup>	£2.93m
£19.17m	<b>Individuals Employed in Small Businesses</b>	£8.79m

It is inevitable - given the new service the CRB will be offering - that there will be increased costs. But the conclusion is that charging fees as above would have virtually no impact on the private sector, including small businesses, when viewed in the context of the net cost of fees compared to annual turnover. There would be some effect on a sizeable number of individuals in the small business sector however. And for those in small businesses who are not currently charged for police checks (which, it is understood, includes childminders arranging checks through the local authority) the implications of CRB checks will be greater. In the voluntary sector, the impact would be minimal for about two-thirds of organisations but for some at the opposite end of the spectrum it would be difficult to severe. More than half of potential volunteers would be less willing to put themselves forward (as shown in the chart on page 3). The public sector would experience the greatest impact.

## OPTION 2

Under this option, the offer of free Disclosures would add to demand by an estimated 50% and significantly increase the Bureau's costs. Taking into account the higher volume, the cost to the Exchequer would amount to £424 million over the first 4 years of operations.

Removing any restraint on demand that charges might bring about, should ensure maximum take-up of CRB's services and thus reduce any risk of employers engaging staff or volunteers without making adequate enquiries first. But it could lead to abuse - for example, an employer or voluntary organisation adopting a policy of regularly re-checking every employee more often than was justified on the merits.

Other possible instances of abuse of the system are discussed under the *Risk Assessment* section (2 (iii) above).

### OPTION 3

Under Option 3 high-level Disclosures ( the ED and the SD) would be issued free to all volunteers and all Disclosures attracting a charge would be at a standard fee of £12. There would be an increase in demand, albeit on a smaller scale than in Option2. Taking this into account, it is anticipated that CRB operations would break even in year 5.

The beneficiaries would be voluntary organisations, and other organisations in the education and social care fields using volunteers. Accordingly the objective of protection of the vulnerable would be more likely to be achieved.

The following is a comparison of the cost in a 12- month period of CRB checks and the cost of current checks for the various sectors:

Estimated Total Cost of CRB Checks ED & SD (volunteers) £0 ED & SD (others), BD £12	Sector	Estimated Total Cost of Current Checks
£12.33m	<b>Voluntary Sector</b>	Range £8.01m - £14.22m
£4.16m	<b>Individual Volunteers</b>	Range £2.67m - £4.74m
£25.08m	<b>Public Sector</b>	-
£22.84m	<b>Private Sector</b>	£11.90m
£4.68m	<b>Individuals Employed in the Private Sector</b>	£2.44m
£5.62m	<b>Small Businesses</b>	£2.93m
£16.89m	<b>Individuals Employed in Small Businesses</b>	£8.79m

There would again be very limited impact on the private sector, including small businesses, although there would still be some effect on a large number of individuals in the latter case. There would be no clear financial impact in the voluntary sector compared with existing arrangements. Also, offering the higher level Disclosures free to all volunteers would be consistent with Government initiatives to encourage volunteering. The impact would be greatest on the public sector, albeit less than under Option 1.

## OPTION 4

Under this option, fees for all categories of Disclosures would be set at the same level of £8, and full recovery of costs would be achieved over a period of 10/11 years. While this would take considerably longer to recover full costs, it would enable a reduction in fees for all categories. There would be minimal, if any, effect on demand.

The effect on the voluntary sector would clearly be more favourable than Option 1. Based on the research<sup>ii</sup> undertaken, the majority of individual, potential volunteers would find a fee set at £8 as acceptable.

This option, however, with such a lengthy recovery period, is very heavily dependent on the reliability of current estimates of demand and costs. Furthermore, such a long 'break even' period would not represent sound business or economic practice.

The impact on the private sector is an improvement over Options 1 and 3. The comparative total costs in a 12-month period between CRB fees and current checks are:

Estimated Total Cost of CRB Checks (ED, SD & BD @ £8)	Sector	Estimated Total Cost of Current Checks
£15.72m	<b>Voluntary Sector</b>	Range £8.01m - £14.22m
£5.24m	<b>Individual Volunteers</b>	Range £2.67m - £4.74m
£16.72m	<b>Public Sector</b>	-
£15.23m	<b>Private Sector</b>	£11.90m
£3.11m	<b>Individuals Employed in the Private Sector</b>	£2.44m
£3.76m	<b>Small Businesses</b>	£2.93m
£11.26m	<b>Individuals Employed in Small Businesses</b>	£8.79m

The financial impact across the board would be relatively small compared with other options, except for the public sector and for individuals employed in small businesses.

## **6. Other Costs**

### *Registration and Handling*

Applications for an Enhanced Disclosure and a Standard Disclosure will need to be endorsed by a person or body registered in advance with the CRB. Some employers and voluntary organisations will wish to be registered. Others will group together or utilise the facilities of an 'umbrella' organisation to submit applications. It has been announced that the intention is to charge a one-off fee of £300, plus £5 per additional counter-signatory. It is anticipated that around 2,500 will register, with perhaps as many as 90,000 counter-signatories. Based on the first

year's demand alone, the cost equates to around 25p per application, but that cost would be far smaller when computed across a number of years.

There are also other potential costs to organisations in handling and checking Disclosures. Enquiries of organisations in the voluntary sector and local authorities confirmed that these can be expected to vary according to circumstances.

One major voluntary organisation, with long experience in clearance procedures, has estimated that the additional handling cost would be just over £1.50 per case. Where smaller employers and organisations need to make use of the services of an 'umbrella' registered body, two very experienced voluntary organisations estimated that the cost of the registered body should be around £3 - £4 per case. Another large voluntary organisation which is planning to act as an 'umbrella' organisation to process applications for affiliated bodies has estimated that the cost will be around £9.

The handling of Disclosures will normally be a natural part of the HR function in organisations and will be only one of the many aspects of the cost of recruitment. It will, of course, only be additional where fewer checks are made under existing arrangements. From information from a survey<sup>v</sup> of small businesses and voluntary organisations, the cost of recruitment for each paid employee or volunteer varied enormously. However, even at an estimated £8 handling cost per case, on average this would add 0.2% to the cost of recruiting an employee in the voluntary sector, 1.2% an employee in the small businesses sector and 0.9% a volunteer in the voluntary sector.

In the small business sector this, on average, would equate to less than £50 per annum. For the majority of voluntary organisations it will also be less than £50 annually but for some it could be substantially higher. But these costs would be offset by the savings offered through the CRB being a one-stop shop and voluntary organisations no longer having to contact the police, DfES and DoH separately. Moreover, a fairly substantial number will incur no handling costs: for example, in the case of registered child care workers, these costs will be carried by OFSTED as part of their regulatory work.

## **7. Consultation With Small Business : 'The Litmus Test'**

The service which the CRB will offer, potentially, encompasses every business in England and Wales – there are an estimated 3.4 million, of which 98% are Small and Medium Enterprises (SME). However, around 2.3 million have no employees – they are self-employed or partnerships – and would not seek Disclosures.

With over a million businesses of all types who might take up the service, it was not possible to have a totally exhaustive consultation but the Surveys referred to above included the small business sector and covered the range of employment categories defined by Standard Industrial Classification codes. The findings mentioned earlier reflect the collective views, which in the main were positive towards the Bureau, subject to any fees being set at a reasonable level. In addition, soundings were taken in a number of specialist areas. These included childminders (who are specifically referred to at the second bullet point at page 3 above) and Independent Schools. Of the latter, there are around 2,200 in England and Wales, employing some 58,000 teachers. This piece of consultation was with the umbrella group, the Independent Schools Council, who viewed the one-stop shop CRB service as beneficial, not least because of the need for checks they anticipated following implementation of the Care Standards Act. It was further considered that, for people working with children, a potential fee in the range £8 to £18 (as described in the Options above) was not unreasonable, given the security and level of confidence that checks would bring.

The Small Business Service has been fully consulted in the course of preparing this document.

## 8. Summary and Recommendation

	<b>Option 1 Expected Costs</b>	<b>Option 2 Expected Costs</b>	<b>Option 3 Expected Costs</b>	<b>Option 4 Expected Costs</b>
<b>Voluntary Sector</b>	Overall a net increase (ie cost of CRB checks less cost of current checks) estimated at between £14.98m and £21.19m. The effect however would be minimal for around 60% of the organisations but severe for about 15%	None	An estimated net difference would be in the range plus £4.32m to minus £1.89m	An estimated net increase of between £1.50m and £7.71m
<b>Individual Volunteers</b>	An estimated net increase of between £4.99 and £7.06m	None	An estimated net difference in the range plus £1.49m to minus £0.58m	An estimated net increase of between £0.50m and £2.57m
<b>Small Businesses</b>	An overall net increase estimated at £3.46m	None	An overall net increase estimated at £2.69m	An overall net increase estimated at £0.83m
<b>Private Sector</b> (ex Small Business)	An overall net increase estimated at £14.03m	None	An overall increase estimated at £10.94m	An overall net increase estimated at £3.33m
<b>Public Sector</b>	An overall increase estimated at £32.76m	£424m to the Exchequer in total over 4 years	An overall increase estimated at £25.08m	An overall increase estimated at £16.72m
<b>Individuals</b> (in small businesses or employed in the private sector)	An overall net increase estimated at £13.25m	None	An overall net increase estimated at £10.34m	An overall net increase estimated at £3.14m

Option 3 has clear advantages in responding positively to concerns within the voluntary sector about possible implications of charges for volunteers, while offering Disclosures to others at a reasonable fee level through some extension of the period within which full CRB cost recovery is to be achieved. For this reason, Option 3 is the recommended Option.

## 9. Contact point

Enquiries should be addressed to the Criminal Records Section, Action Against Crime and Disorder Unit, Room 654, Horseferry House, Dean Ryle Street, London SW1P 2AW, where the contact point is Michael Brett-Pitt (telephone 020-7-217.8769; fax 020-7-217.8710; e-mail Michael.Brett-Pitt@homeoffice.gsi.gov.uk).

January 2002

## ANNEX A

***The following organisations described as ‘sensitive’ Occupations were included in a survey carried out by Sample Surveys Ltd (see endnote i)***

- Health Authorities
- Social Services & Welfare
- Government Offices
- Local Government
- LEAs
- Voluntary Sector
- Playgroups
  - Nursery Schools
  - Schools and Colleges
- Nursing Homes
  - Residential/Retirement Homes

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i Survey carried out by Sample Surveys Ltd December 2000

ii Research carried out by Accent Marketing & Research February 2000

iii A survey carried out by the National Childminding Association in 2000

iv Registered childminders are self employed, home based day care workers who are registered by the local authority, under the Children Act 1989

v Home Office January 2001

vi Includes NHS, Social Services and Education

vii Excludes the small business category

viii Assumed to be 45% of the total private sector workforce (source Small Business Service)