Working **together** for
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AccessNI checks: Working with children in the charity/voluntary sector

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This guidance provides information on criminal record checks in Northern Ireland only.

Department of Justice
An Roinn Dlí agus Cirt
Männystrie O tha Laa

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Introduction

The voluntary/community/charity sector plays an important role in life in Northern Ireland. Over 25% of the population indicate they undertake voluntary work at any one time, and it is estimated there are over 25,000 people directly engaged in that sector.

Many of those volunteering and employed may work with children. One of the key elements of safeguarding children is an AccessNI check providing criminal history and other relevant information to enable organisations to make safer recruitment decisions.

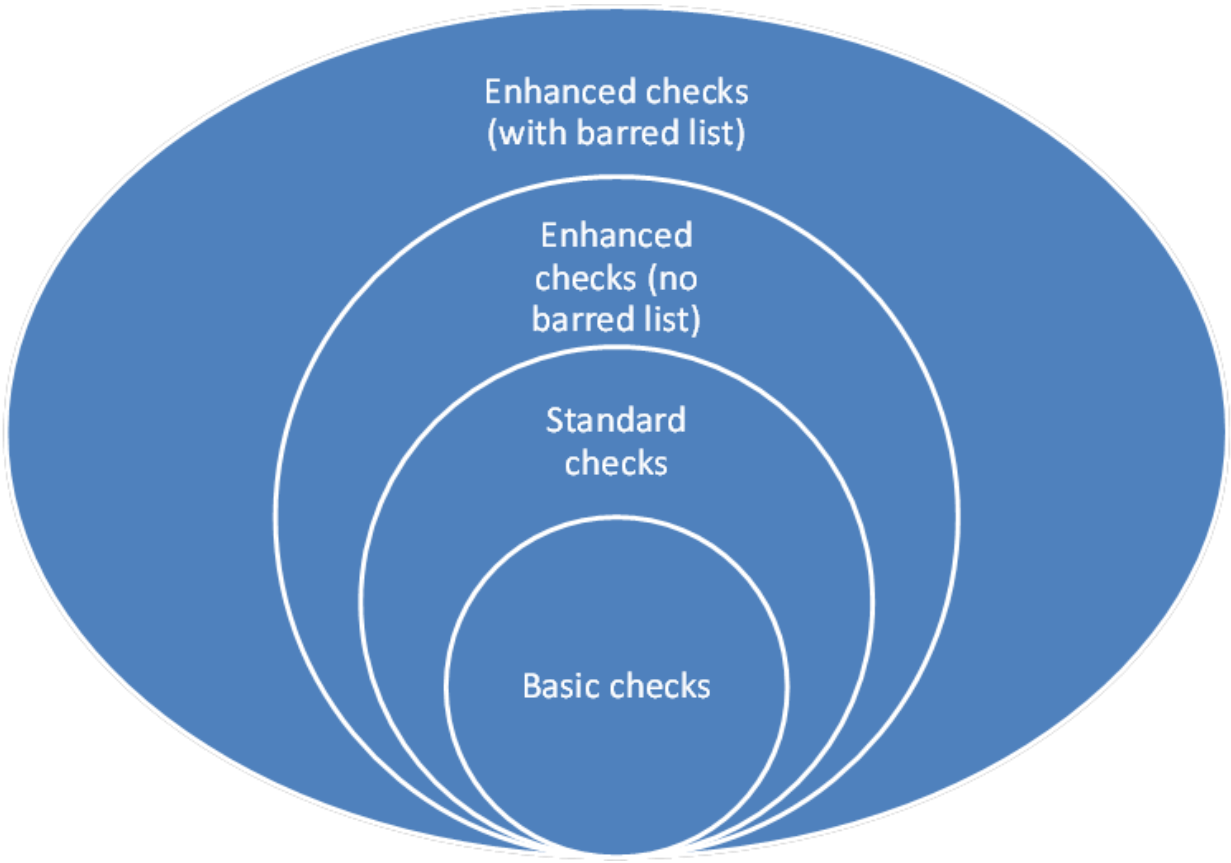
Charities and other groups sometimes find it difficult to understand whether volunteers or employees require, or are eligible for, a check. The purpose of this guide is to help those in the voluntary/community/charity sector to determine what type of check they can and should get, and in what circumstances they might do so.

While this guidance is primarily about AccessNI checks, wider guidance and advice about the safeguarding of children is available at:

Volunteer Now - Keeping Children Safe - Our Duty of Care

AccessNI checks

AccessNI offers four different types of Disclosure check (certificate):



- **Basic checks** disclose unspent convictions. Anyone over 16 years old can apply for a Basic check either directly through nidirect or a Responsible/Umbrella body. All Basic checks require a fee to be paid even where the applicant is a volunteer.

- **Standard checks** disclose spent and unspent convictions, cautions, informed warnings and diversionary youth conferences (and reprimands and warnings in England and Wales and equivalent Scottish disposals). An applicant can only apply for a Standard check where the role is identified in the Rehabilitation of Offenders (Exceptions) (NI) Order 1979, known as the 'Exceptions Order'. All applications for a Standard check must be made through a Registered Body. Standard checks normally require a fee to be paid but they are free of charge for volunteers.

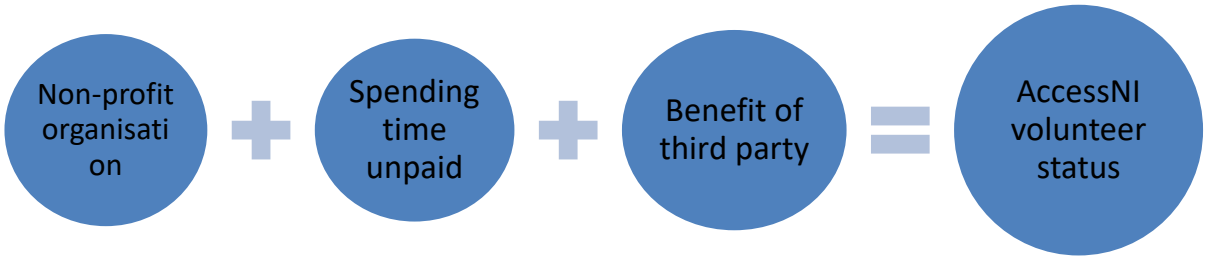
- **Enhanced checks** disclose the same information as a Standard check but can include relevant non-conviction information that the police believe should be disclosed for the role identified in the application. An applicant can only apply for an Enhanced check where the role is identified in paragraph 9 of The Police Act 1997 (Criminal Records) (Disclosure) Regulations (Northern Ireland) 2008 (as amended), known as the 'Disclosure Regulations'. Enhanced checks require a fee to be paid but are free of charge for volunteers.

- **Enhanced checks with barred list checks** disclose the same information as an Enhanced check but includes a check of the lists of those persons across the UK not allowed to work with children or vulnerable adults, dependent on the group the applicant plans to work with. Barred lists checks are only available where the applicant is undertaking some of the roles that are identified within the Regulations.

Volunteers - Definition of a volunteer

For AccessNI purposes, the definition of a **volunteer** is set out in legislation as follows.

> "***a person engaged, or to be engaged, in an activity for a non-profit organisation or person which involves spending time unpaid (except for travel and other approved out-of-pocket expenses) doing something which amounts to a benefit to some third party other than, or in addition to, a close relative***."



A **non-profit organisation** or person is defined as;

> "***an organisation or person which does not distribute its surplus funds to owners or shareholders***"

AccessNI does not consider that undertaking the following activities as acting as a volunteer:

- Volunteering for a statutory organisation eg a school;
- Carrying out unpaid work as part of course of study that would lead to a qualification; or
- Work experience intended to make someone more employable.

Eligibility

Eligibility for AccessNI checks

Eligibility for Standard and Enhanced checks is strictly controlled by the law. Such checks should only be applied for when someone is carrying out an activity that would make them eligible for a check. Not all roles working or volunteering for a voluntary organisation will be eligible for a check, even where there is some level of contact with children.

Standard checks

An individual is eligible for a Standard check where the position is exempt from the Rehabilitation of Offenders (NI) Order 1978. In this way, AccessNI can provide information about convictions that would normally be regarded as spent or rehabilitated. The list of positions that are exempt is set out in the Rehabilitation of Offenders (Exceptions) (NI) Order 1979.

Enhanced checks

An individual is entitled to an Enhanced check if the position is included within the Criminal Records (Disclosure) Regulations 2008. There are two types of Enhanced check, either with, or without, a barred list check.

An individual is eligible for an Enhanced check with a barred list check if the position is for a purpose prescribed in the Disclosure Regulations. **Regulated activity** is amongst those purposes (and includes child-minding, fostering or adoption). It also applies to any work undertaken frequently in certain establishments provided there is an opportunity for contact with children. You can access guides to regulated activity here and here.

It is a criminal offence to apply for or countersign an AccessNI application for an Enhanced check, where a person knows there is no eligibility for such a check.

In broad terms, while working or volunteering for a charity an individual may find themselves in regulated activity with children when undertaking one of the following activities;

Teaching, training, instructing, caring for or supervising children , frequently or four times per month	Providing advice or guidance on wellbeing for children frequently, face to face, by telephone or on-line including chat rooms, or the moderating of chat rooms
Providing health care by a healthcare professional (or under their supervision) or providing personal care (once or more)	Driving a vehicle frequently for children.

The above activities must be undertaken frequently or meet the period condition (4 times or more in a 30-day period) or overnight.

Enhanced with a barred list check

Here are some examples where individuals will be eligible for an **Enhanced check with a barred list check** for working with children.

Case study 1

Amanda volunteers twice a week for a “Mums and Tots” group run by a local community group. She has responsibility for supervising children who attend. Parents/guardians leave their children for 1½ hours at this group. Amanda is in regulated activity and eligible for an Enhanced disclosure with a children’s barred list check. Anne also volunteers in a similar role with another Mums and Tots group but has no supervisory responsibility as in this group the parents remain with their children

the entire time. This is not regulated activity and there is no eligibility for anything other than a Basic check.

Case study 2

Bridget volunteers once a week for an after-school club, attended by under-16's run by a voluntary organisation and has supervisory responsibility for four children. Bridget is in regulated activity and eligible for an Enhanced disclosure with a children's barred list check.

Case study 3

Colin volunteers once a week in a church youth club and has supervisory responsibility for the children attending. Colin is in regulated activity and eligible for an Enhanced disclosure with a children's barred list check.

Case study 4

Damien helps coach children twice a week in a football club. Even though he himself is supervised by another coach, both coaches are in regulated activity and are eligible for an Enhanced disclosure with a children's barred list check.

Case study 5

Edward is a volunteer in a charity shop. His shift coincides with that of two 16-year-old children from the local post-primary school that help in the shop. Edward is not in regulated activity and is not eligible for anything other than a basic check. If the children were 15 years old and Edward had specific responsibility for training and instructing the children in their duties, he would be in regulated activity and eligible for an Enhanced disclosure with a children's barred list check. If he had no specific responsibility for training the children he would not be eligible for an Enhanced check, even where the children are 15 years; he is eligible for a Basic check.

Case study 6

Fiona works for a charity and provides a mentoring service to the same child once a week for six weeks. Fiona is in regulated activity and eligible for an Enhanced disclosure with a children's barred list check. Fiona's direct manager is Fintan. He is also in regulated activity and eligible for an Enhanced check with a children's barred list check.

Case study 7

George works for a charity that has won a contract to undertake survey work with children in a school. Depending on whether the service he is providing can be regarded as “temporary”, he may be in regulated activity and eligible for an Enhanced disclosure with a children’s barred list check, as schools are regarded as ‘specified places’. Organisations should check with the Education Authority as to the level of check required, if any.

Enhanced without a barred list check

Where the position does not involve regulated activity, it may still be eligible for an Enhanced disclosure (but without a check of the barred lists), if it falls within the definitions of regulated or controlled activity that existed prior to 2012. A copy of this guidance is available here.

Here are some examples of persons working with children who are eligible for an **Enhanced disclosure but without a barred list check**.

Case study 1

Ian is the trustee of a children's charity that is, a charity that carries out work specifically targeted at children. He does not undertake any role with the children. Ian is eligible for an Enhanced without a barred list check.

Case study 2

James works as a hospital volunteer and is on the wards more than once a week with access to patients including those under 18 years old. James is eligible for an Enhanced disclosure without a barred list check. If James is providing specific advice to those under 18 years about their physical, educational or emotional well-being he is in regulated activity and eligible for a children's barred list check.

Controlled activity applies to;

- Work which is frequent or intensive and provides the opportunity for contact with children in health, social care or further educations setting; and
- Work which is frequent or intensive and provides the opportunity to have access to education, health or social service records in specified bodies

Controlled activity is most usually found in employment and the opportunity for charities to be involved in this type of work is limited. Any queries about controlled activity should be directed to AccessNI.

No eligibility for a Standard or Enhanced check

Here are some examples where there is contact with children but **no eligibility for a Standard or Enhanced disclosure**.

Case study 1

Katrina is a volunteer for a children's charity and assists with fundraising. She organises a fun run for parents and children assisted by the charity. She is not eligible for anything other than a Basic disclosure. If the fun run was for children only and Katrina supervises at the event, she may still not be eligible for an Enhanced disclosure as she is not carrying out the activity frequently.

Case study 2

Liam takes his six year old child to a dance class organised by a charity along with other parents. As there are other children present, the charity asks him to complete an AccessNI Enhanced disclosure. This is not regulated activity as parents remain with their children and Liam has no responsibility for anyone other than his own child so there is no eligibility for an Enhanced disclosure.

Case study 3

Mairead works for a charity that has a children's day care facility in the same building in which she works as a volunteer support worker and she uses the same entrance as the children and parents. While Mairead is working in the same premises as the day care facility, she is not involved directly with it and has no opportunity for contact with the children, so no eligibility exists for an Enhanced or Standard disclosure.

Case study 4

Noleen is a volunteer who is on a rota to work once a month in a crèche run by a charity for its staff. Noleen is not in regulated activity as she does not do this activity sufficiently frequently and is not therefore eligible for an Enhanced disclosure. However, if Noleen provides personal care to any child at any time, for example, changing a nappy, she is then in regulated activity and eligible for an Enhanced disclosure with a children's barred list check.