Legislative Requirements and Criminal Records Bureau Checks

Some legal requirements and Criminal Records Bureau (CRB) checks are not applicable outside of the UK. Please check legal requirements carefully in the country in which the research is being undertaken.

A) Relevant Legislation

You need to observe relevant legislation and policies. Most applicable to research practice are:


If you are in any doubt about implications that arise from legislation you should contact your C-REC representative.

Data Protection Act 1998

Summary on www.materialprotection.gov.uk

The Data Protection Act 1998 stipulates that people are entitled to know how and why their personal material are being stored. It applies to all types of material (not just electronically held). It enables material to be used for secondary analysis not just for the purposes for which they were originally collected with consequent implications for informed consent.

Freedom of Information Act 2000

Summary at http://www.jisclegal.ac.uk/publicationspage.htm

The Freedom of Information Act 2000 came into force on 1st January 2005. It gives a general right of public access (with some exemptions) to all types of 'recorded' information held by 'public authorities' including universities. The Act covers visual, audio and document-based information, as well as information stored on computers. The Act could be relevant in terms of public access to material obtained by staff in the course of research and information contained in students' work.

Human Rights Act 1998

Summary on www.homeoffice.gov.uk/hract

The Human Rights Act 1998, which came into force in October 2000, applies to public authorities. Research carried out on behalf of a government department would be included in this definition. However, the Social Research Association suggests that it is as yet unclear what the implications are for social science research.

Convention on the Rights of the Child (UNCRC) 1989

Summary on www.unicef.org/crc

Children's rights are protected through the United Nations Convention on the Rights of the Child (UNCRC) in 1989. The UK Government ratified the UNCRC in 1991 and has to report regularly to the UN on progress in implementing the UNCRC. A key right is article 12 which provides for children's rights to express their views on all matters that affect them, including being facilitated to give informed consent. Many of the UNCRC 54 articles are about respecting and including children. Research ethics guidelines produced by other organisations suggest that the spirit of this Act should apply to research contexts involving young people and vulnerable adults involved in research.
Disability Discrimination Act 1995, 2005

Summary on www.disability.gov.uk

The Disability Discrimination Acts 1995 and 2005 make it unlawful to discriminate against disabled people. Adjustments should be made to ensure access. Within the research context, the Acts are relevant to issues of sampling, access to material collection methods and feedback (through, for example, amplification, signing, Braille, etc.) and presentation of research.

Mental Capacity Act 2005


The Mental Capacity Act 2005 concerns decision-making processes for people unable to make decisions for themselves. It includes new rules to govern research involving people who lack capacity and provides for new independent mental capacity advocates to represent and provide support to such people in relation to certain decisions.

Race Relations (Amendment) Act 2000

Summary on www.racialjustice.org.uk

The Act places a general duty on public authorities to ensure that that they consult ethnic minority representatives take account of and review the potential impact of policies on ethnic minorities. In research terms, the Act is relevant in particular to issues of sampling and presentation of research findings.

Sex Discrimination Act 1975, and Amendment 2003

Summary on www.opsi.gov.uk

The Sex Discrimination Act 1975 and subsequent Amendment 2003 make it unlawful for public bodies (and employers) to discriminate on ground of sex or sexual orientation. For research purposes it is particularly relevant for issues of sampling and presentation of research findings; establishing a commission with the function of working towards the elimination of such discrimination and promoting equality of opportunity between men and women generally; and for related purposes.

B) Criminal Records Bureau Enhanced Check


i) Requirement for Enhanced Disclosure

It is an essential requirement under the Exceptions Order to the Rehabilitation of Offenders Act that all those undertaking work, including research, with children or vulnerable adults undertake an Enhanced Disclosure with the Criminal Record Bureau (CRB).

The Enhanced Disclosure is the highest level of check available to anyone working with children or vulnerable adults. At the lower level, the Standard Disclosure shows current and spent convictions, cautions, reprimands and warnings held on:

- Protection of Children Act (POCA) List
- Protection of Vulnerable Adults (POVA) List
- Information that is held under Section 142 of the Education Act 2002 (formerly known as List 99)

Enhanced Disclosures contain the same information as Standard Disclosures, with the addition of any relevant and proportionate information held by the local police forces.

ii) Who counts as a child or vulnerable adult?

For the purposes of Enhanced CRB checks:

- A child is defined as someone who is under 18 (under 16 if the child is employed).
- A vulnerable adult is a person aged 18 or over who receives services of a type listed in paragraph 1) below and in consequence of a condition of a type listed in paragraph 2) below, has a disability of a type listed at 3) below.
1) The services are:

a) accommodation and nursing or personal care in a care home
b) personal care or support to live independently in his or her own home
c) any services provided by an independent hospital, independent clinic, independent medical agency
or National Health Service body
d) social care services
e) any services provided in an establishment catering for a person with learning difficulties.

2) The conditions are:

a) a learning or physical disability
b) a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs
c) a reduction in physical or mental capacity.

3) The disabilities are:

a) a dependency upon others in the performance of, or a requirement for assistance in the performance of, basic physical functions
b) severe impairment in the ability to communicate with others
c) impairment in a person's ability to protect him or herself from assault, abuse or neglect.

iii) Procedures for undertaking Enhanced Disclosure
CRB checks concerning all research undertaken as part of staff/students' work at the University of Sussex are dealt with through the University as the Registered Body for CRB purposes.
If you are planning to undertake research involving children or vulnerable adults, please contact the Human Resources Manager, Personnel Section, Human Resources Division (ext. 7606) for Enhanced CRB Disclosure application details.
The CRB recognizes that the Standard and Enhanced Disclosure information can be extremely sensitive and personal. It has published a Code of Practice and employers' guidance for recipients of Disclosures to ensure they are handled fairly and used properly. This is available through the website cited above. A copy of the Standard or Enhanced Disclosure will be sent out to the applicant as well as the University (Registered Body).