

HOW TO...OVERSEAS CRIMINAL RECORD CHECKS

Applications are welcome from suitably qualified UK citizens and foreign nationals who have lived overseas. Eligibility to work in the UK should always be verified (see [Check a Job Applicant's Right to Work](#)).

Permission to work in the UK does not mean that the person is suitable to work with protected groups. Where regulated work is to be carried out, a two-step criminal conviction history check is required. One check from within the UK and a further check from the country, or countries, that the applicant has previously lived in.

When should this guidance be applied?

This guidance should be applied where:

A Disclosure Scotland Level 2, Level 2 with barred list or PVG (Protection of Vulnerable Groups) Scheme membership is required for the post

and

The applicant has lived overseas for a period of 12 months or more (whether continuous or in total), within the 10 years before their application, while aged 18 or over.

or

Where a Level 1 Disclosure check is required, an overseas criminal history check will be required for applicants who have lived overseas for 12 months or more (whether continuous or in total), up to 5 years before their application, while aged 18 or over.

NB: Applicant can mean both prospective employee or prospective volunteer. Work refers to both paid employment and voluntary work. This Guidance applies to casual/relief/supply workers, including teachers and may apply to existing staff in certain circumstances (see [Existing Employees](#)).

CRIMINAL RECORD AND RELATED BACKGROUND CHECKS

1. [Overseas Criminal Record Checks](#)
2. [PVG Membership/Disclosure Checks](#)
3. [Professional Registration Checks](#)
4. [References](#)
5. [Existing Employees](#)

1. OVERSEAS CRIMINAL RECORD CHECKS

Advising the Applicant

At the outset of the recruitment process applicants are advised in the advert if the post they are applying for requires criminal conviction information to be obtained.

Where applicable, and at the stage of a successful applicant having been identified, it should be explained to the applicant:

- that as part of the Council's safer recruitment practices, the information is required to ensure there is no conviction history that might indicate unsuitability for the work,
- that the applicant will be asked to obtain a certificate or similar document indicating criminal conviction status, using the procedures that apply in the country of origin,
- that the information will be kept confidential and assessed by authorised senior management, along with information from Disclosure Scotland, to determine the suitability of the applicant,
- where to source more information, for example, the [Disclosure Scotland](#) web site,
- that having a conviction will not necessarily prevent them from being appointed, and,
- that the Council may not be able to offer employment if insufficient information is available or information is received that might make them unsuitable for the role.

Obtaining Information

It is the responsibility of the applicant to provide an overseas criminal record check. The check should come from the police or judicial authority, government department, or embassy of the country or countries concerned and be an official statement confirming any existing criminal history or pending criminal record proceedings relating to the applicant.

As part of our pre-employment checks, a template letter will be provided to the applicant stating our reasons for requesting this check and to provide to the relevant authority.

The process, issuing authority, and costs incurred vary from country to country. Applicants should be advised that checks may be carried out to authenticate any documents. As part of the EU Framework Directive 2011/93, Disclosure Scotland will carry out criminal history checks from 12 EU member states, for EU nationals who are applying to join the PVG scheme to work with **children** for the first time, or those requiring an Level 2/Level 2 with barred list check for specific roles with **children**. The

12 EU member states who will share information as part of this Directive can be found at [Disclosure Scotland](#) (EU nationals applying for roles with children). No overseas criminal history check will be required if the applicant has only lived or worked in these 12 member states.

See the UK Government's guidance which explains the application process for obtaining [overseas criminality information for applicants](#) to provide to employers in the UK. Only in exceptional circumstances, which can be evidenced, will information be accepted from a third party provider.

Time Scale and Recruitment Decisions

Where possible, a reasonable period should be allowed to obtain the information. After eight weeks, if no information has been obtained consider whether to:

- allow more time,
- undertake a risk assessment on the partial information already obtained, or,
- withdraw the offer of employment.

It is acknowledged that obtaining an overseas criminal record check can be difficult and differs from country to country and in some cases, may prove impossible, particularly where the country is experiencing political unrest. The accuracy of the information received may not always be reliable. There should also be an awareness, that in some circumstances, such a request could put the individual's personal safety in jeopardy.

Where no overseas criminal record check or only partial checks have been obtained this should not be a reason to automatically withdraw an offer.

When deciding how to proceed consider what action has been taken to try and obtain the check, the reasons why the applicant states they have been unable to obtain the information and whether other information, such as information from references ([see reference section](#)), means that the lack of a comprehensive authenticated criminal record check is less important. Consider this evidence along with anecdotal information such as whether similar difficulties have been encountered by other applicants applying to the same country. Seek evidence of the dates and actions the applicant has taken. Obtain details of any costs incurred and copies of any correspondence received about the checks. It may be useful to contact HR@pkc.gov.uk, who can liaise with either the Disclosure Panel or Disclosure Scotland.

In such circumstances, the final decision on whether to confirm employment should be verified by the Council's Disclosure Panel. The assessment of suitability should consider the completeness, quality and authenticity of evidence provided. It is important that decisions taken about the suitability of individuals to do regulated work, are consistent and that risks are managed to protect our vulnerable citizens.

If the check reveals a criminal record this should be assessed using the same risk assessment criteria that would be applied to similar information from Disclosure Scotland and be considered by the Disclosure Panel.

When considering overseas convictions, offences in different jurisdictions may not be directly comparable to offences committed in Scotland. This means that certain crimes may be described or categorised differently. In addition, the record may include convictions for activities that would not be regarded as crimes in Scotland and vice versa.

Where criminal conviction history has been identified or where there is insufficient information, the recruiting manager should discuss with the applicant to give them the opportunity to provide additional information around the circumstances. This information will then be shared with the Disclosure Panel in accordance with the Disclosure process.

When considering overseas criminal conviction information, the Disclosure Panel may seek advice from Police Scotland or any other relevant body.

Translation

Some countries offer a certificate in English or the option of a translated duplicate. Many countries do not. If a translation is required this must be in line with the Council's [Translation and Interpretation Guidance and Standards](#).

This also applies to references. It should not be assumed that referees can read English; in some circumstances it may be necessary to send a translation of the reference request letter or form. Where necessary, Recruitment will arrange this.

Costs

Paying for checks and certificates and translations is the responsibility of the applicant.

Certificates and other original documents obtained remain the property of the individual as they may be used for future employment purposes. No copies of criminal history checks will be stored on personal files, however the outcome of the checks will be recorded electronically in accordance with GDPR.

2. PVG MEMBERSHIP AND DISCLOSURE CHECKS

Where a post requires PVG membership, Level 2 or Level 2 with barred list check, this will be obtained from Disclosure Scotland as part of the pre-employment checks. This will be done even if the applicant claims never to have lived in the UK before. There may be occasions where an overseas applicant has visited the UK on holiday and may have committed an offence. PVG Scheme membership ensures ongoing monitoring of vetting information by Disclosure Scotland and means that the Council will be informed if the person is being considered for or becomes unsuitable for regulated work in the future.

NB: PVG membership/Disclosure Scotland certificate cannot be used to confirm eligibility to work in the UK see [Check a Job Applicant's Right to Work](#).

3. PROFESSIONAL REGISTRATION CHECKS

An applicant who has a UK professional registration will not necessarily have had an overseas criminal record check. A professional registration may, however, be a factor to consider as part of a risk assessment if it has not been possible to obtain an overseas criminal records check.

For jobs where no professional registration is required this should be considered as part of a risk assessment.

Additional care should be taken when verifying qualifications and educational certificates not issued within the UK.

4. REFERENCES

In addition to the standard reference checking required for all applicants, there may be circumstances where additional professional references should be sought. If considered appropriate to request additional references, permission should be sought from the applicant. Although refusal may raise suspicions this should not be a reason to automatically withdraw the offer without further discussion for the refusal.

When it has not been possible to obtain an overseas criminal conviction check, additional references may be useful in assessing an applicant's suitability for a post.

Examples of additional reference checking that may be appropriate could include:

- seeking a reference from an academic institution if an applicant states they have been studying abroad, or
- seeking references from the last employer where the applicant has practiced within the profession that they are applying to work, as well as seeking references from the most recent employer in the UK.

When checking these additional references, there may be some circumstances where contact by email or talking to the referee over the telephone will be acceptable. It is the recruiting manager's responsibility to ensure that the method of communication is robust, that the source is verified, and that appropriate evidence is kept.

Scrutiny

Extra care should be taken when checking documentation, the dates of previous employment and any other biographical information supplied by the applicant, should be cross referenced and checked for consistency between information in the passport, work permits, references, and work history in the application form. Inspect closely the overseas documents produced for issue date, certificate numbers, photographs and similar official identification devices to ensure they are authentic.

Original documents are required. If a translation has been provided, ensure that the original document and the translation are inspected.

While you are not expected to be an expert in recognising forged documents, check for evidence of tampering. Be suspicious of plausible explanations for missing or damaged originals e.g. where the applicant claims a document has been damaged by liquid spillage or has accidentally been laundered. Further guidance can be found in the Fair Selection & Recruitment e-learning module in [PKC Learn](#) and in the Government [Guidance on examining identity documents](#).

Verification of authenticity of certificates provided may be available from the embassy or consulate of the country of origin. A foreign public document may be legalised by a consular officer for the country which issued the document. This may be referred to as "obtaining an apostle".

5. EXISTING EMPLOYEES

There are some situations where existing employees may spend time abroad before returning to work with the Council. Some examples are given below.

- Special leave, career break or sabbatical e.g. to undertake voluntary work, travel or for personal reasons.
- Secondment to an organisation where the workplace is outside the UK.
- International exchange — i.e. teachers' exchanges.

Before agreeing to an arrangement, the employee should be advised of the need for re-checking of criminal conviction status upon return and how this will be done. In some situations, e.g. exchanges, or secondment, it may be sufficient to agree with the host organisation that the employee will remain bound by the Council's disciplinary procedure and that arrest, charge, or conviction while abroad should be made known to the Council. Other approaches include:

- Seeking a reference from the host organisation upon return.
- Making it a condition of permission to take leave that the employee should obtain an overseas criminal conviction check upon return.
- Seeking a report on the employee's performance during secondment from the host organisation.

If an employee is about to return from work overseas and these arrangements have not been agreed in advance please contact HR@pkc.gov.uk for further advice.

Useful Contacts

A list of useful sources is given below. The list was correct at the time of writing. Note that these external resources may change or move unexpectedly.

The Disclosure Scotland web site is a useful source for many of these links and other relevant advice.

What	Web site or page
Disclosure Scotland	Disclosure Scotland - mygov.scot
Criminal Records Bureau (CRB)	www.gov.uk/dbs-check-applicant-criminal-record
Criminal Records Bureau (CRB): other countries information	https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants-for-overseas-applicants
Foreign and Commonwealth Office (FCO)	https://www.gov.uk/fco
Foreign and Commonwealth Office (FCO) London Diplomatic List	www.fco.gov.uk/en/ (follow quicklinks "Foreign Embassies in the UK" link from this home page)
Apex Scotland	www.apexscotland.org.uk
Centre for the Protection of National Infrastructure (CPNI)	www.cpni.gov.uk
External resources from Disclosure Scotland web site	www.disclosurescotland.co.uk/publications/
Australian government	www.homeaffairs.gov.au
UK Borders Agency	UK Visas and Immigration - GOV.UK (www.gov.uk)
UK Borders Agency: voluntary workers rules	https://www.gov.uk/tier-5-temporary-worker-charity-worker-visa