



ABERDEEN
CITY COUNCIL

FOREIGN CRIMINAL HISTORY CHECKS

GUIDANCE

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Contents

Introduction

When is a Foreign Criminal History Check required?

Procedure for Obtaining a Foreign Criminal History Check

Professional Registration

Tier 2 Visas

Costs

Translation

Useful Resources

Introduction

The purpose of this guidance is to outline the procedure for obtaining a Foreign Criminal History Check for preferred candidates and existing employees as well as when this type of check is required.

When is a Foreign Criminal History Check required?

Recruitment

The Council will require a Foreign Criminal History Check for all preferred candidates who are recruited to a post which is subject to a higher level disclosure (PVG, Standard Disclosure or Enhanced Disclosure) where the candidate has spent a continuous period of three months or more in one overseas country within the last five years. If more than one overseas country has been lived in for a continuous period of 3 months or more within the last 5 years a check would be needed for each of these countries.

The Foreign Criminal History Check is in addition to the higher level disclosure as Disclosure Scotland cannot access certain overseas criminal records as part of their services.

Foreign Criminal History Checks are also required for individuals who undertake volunteer work with the Council as well as any casual and supply workers.

Current Employees

Foreign Criminal History Checks are applicable for any current employee on, and please note that this list is not exhaustive,

- a career break or,
- unpaid leave or,
- Maternity Leave or,
- Parental Leave or
- Employee exchange programme e.g. Teacher exchange

and in a post that requires a higher level disclosure and who has spent a continuous period of three months or more in one overseas country during the period of their career break. To assist in their prompt return to work employees, who have spent a continuous period of three months or more in one overseas country during the period of their break from work, should obtain a Criminal History Check from that country prior to their return to post for submission to the Council.

If the employee has spent a continuous period of three months or more in more than one overseas country during their career break a check would be needed for each of these countries.

Failure to obtain a Criminal History Check may prevent the employee from returning to employment.

Nationals from Certain EU Countries

As a pilot exercise in the period between May 2017 and May 2018, Disclosure Scotland will carry out country of origin criminal history checks for Protecting Vulnerable Groups and Enhanced Level Police Act applications from people who originate from the following EU countries - **France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Netherlands, Poland, Portugal, Romania and Spain.** This will **only** affect those EU nationals who have applied to join the PVG scheme for **Children** for the first time, or those requiring an enhanced disclosure for a specific role with children. Disclosure Scotland will take the responsibility away from the employee to source a criminal history check and Disclosure Scotland will provide this to the Council.

However, where a candidate from one of the aforementioned EU countries has lived in an overseas country, other than their country of origin, for a continuous period of 3 months or more within the last 5 years a check would be needed for each of these countries. These checks would need to be sourced and provided to the Council by the applicant.

Where an applicant from the EU countries listed above applies to join the PVG scheme for a post where they are working with **vulnerable adults**, it will be the responsibility of the applicant to provide the foreign criminal history check

themselves, if they meet the criteria of having spent a continuous period of three months or more in one overseas country within the last five years.

Procedure for obtaining a Foreign Criminal History Check

As part of the application process candidates are made aware that the post that they are applying for will require them to obtain a Foreign Criminal History Check should they become a preferred candidate and have spent a continuous period of three months or more in one overseas country within the last five years.

The letter that is sent to a preferred candidate also includes details about the requirement of a Foreign Criminal History Check if it is applicable to them.

Other than where the check is carried out by Disclosure Scotland as part of the EU nationals' pilot scheme, it is the responsibility of the candidate to provide the Council with the Foreign Criminal History Check. This should be an official statement from the police or judicial authority, Government department or Home Embassy of the country or countries concerned confirming that the individual does not have any history of or pending criminal record proceedings. The Foreign Criminal History Check should cover the entire period that the candidate was in the country or countries concerned.

The Council can undertake checks of any documents provided to authenticate and validate them.

What if a candidate cannot obtain a Foreign Criminal History Check?

It is not always possible to obtain a Foreign Criminal History Check from countries that either do not have a functioning criminal record system or refuse to provide these to anyone other than their own citizens. In these situations, the candidate must provide a letter which details their attempts to obtain a check and confirms why this is not possible. To compensate for this, the recruiting service can request additional information such as a further reference prior to making an offer of employment.

The above is not applicable to situations where a Foreign Criminal History Check takes a long period of time to obtain from the issuing country. The recruiting service,

taking advice from HR, will need to decide how long they can reasonably wait for a check to be obtained. If the agreed timescale is not met, a formal offer of employment may not be made and the preferred candidate's status may be revoked.

For posts where an employee requires registration with a professional body, and this registration is dependent on the receipt of a suitable PVG check, if no suitable PVG check is provided then the candidate cannot be offered the post in any circumstances.

What if the Foreign Criminal History Check comes back with a list of offences?

The recruiting service, with advice from HR, will make a determination as to the relevance of the convictions listed against the nature of the work the job-holder will undertake and the circumstances in which the work is carried out. The service will then make the decision of whether or not to make an offer of employment.

Professional Registration

Where an employee's ability to work is dependent on retaining their professional registration with their regulatory body, e.g. GTCs, failure to provide a required Foreign Criminal History Check may result in the employee losing this registration. If this results in the employee not being able to fulfil the duties of their post it may prevent the employee returning to employment.

Tier 2 Visas

Certain Tier 2 visa applicants may be required to obtain a Foreign Criminal History Check for any country they have lived in for 12 months or more in the past 10 years. Recruiting managers should seek further advice from HR if their candidate will be sponsored on a Tier 2 visa.

Costs

Paying for any Foreign Criminal History Checks remains the responsibility of the candidate. This is due to the fact that the checks remain the property of the candidate and can be used for future employment purposes.

Translation

The Council requires that all Foreign Criminal History Checks are received in English. Therefore, the candidate should take reasonable steps to provide the official translation of any documents into English. However, the Council can use its own Translation Service, InterTrans.

Email: InterTrans@aberdeencity.gov.uk

Telephone: (01224) 523542

Useful Resources

The Home Office and Disclosure and Barring Service provide details on obtaining Foreign Criminal History Checks from a number of countries in their guidance documents:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

The London Diplomatic List on the Foreign and Commonwealth Office provides a list of embassies and countries:

<https://www.gov.uk/government/publications/foreign-embassies-in-the-uk>