

# HR & OD POLICIES

human resources and organisational development



## Overseas Criminal Records Check Procedure

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## 1. INTRODUCTION

This procedure is about conducting criminal record and related background checks for preferred candidates/potential volunteers who have spent time abroad.

This procedure applies where a Standard, Enhanced Disclosure Scotland Check or a Protection of Vulnerable Groups (PVG) Scheme Record is required for the post or volunteer role. It does not apply for posts or volunteer roles requiring a Basic Disclosure Scotland check.

## 2. SCOPE OF POLICY

Aberdeenshire Council requires an Overseas Criminal Record Check to be provided where an individual is recruited to work in a post or volunteer role which requires a Standard or Enhanced Disclosure check or Protection of Vulnerable Groups Scheme Record, and they have spent a continuous period of three calendar months or more in an overseas country within the last five years. This only applies where the applicant has lived continuously in at least one country for three calendar months or longer. This check is in addition to a Disclosure Scotland Check.

Where the procedure refers to individuals, this means both prospective employees including relief employees and prospective volunteers. Where this procedure refers to work, this means both paid employment and volunteering.

The same requirements and standards should also be used for workers on contract for services and sole traders. This procedure does not apply retrospectively

## 3. APPLICATIONS FROM FOREIGN NATIONALS AND PEOPLE WHO HAVE LIVED ABROAD

Applications from suitably qualified individuals who are from or have lived abroad are encouraged.

Eligibility to work in the UK should always be verified, in accordance with the Council's [Eligibility to Work in the UK](#) Procedure. Permission to work in the UK, however, does not mean that the person is suitable to work with protected groups and therefore there is always the need for criminal conviction checking, which is a separate process.

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## 4. PROFESSIONAL REGISTRATION

It should not be assumed that because an individual has a UK professional registration, i.e. SSSC or GTCS registration that the person has also obtained a satisfactory Overseas Criminal Record Check for that registration.

## 5. PROCEDURE

At the outset of the process individuals should be advised if the post/volunteer role they are applying for will require a UK criminal conviction checks and that if successful, appointment will be subject to a satisfactory Disclosure Scotland Check and where the criteria applies an Overseas Criminal Record Check. Please also refer to the [Disclosure Scotland Procedure](#).

The following information should be provided to the individual where an Overseas Check is required along with an extract from the Home Office/CPNI text for that country/countries.

- [Information for Applicants](#)

It is the responsibility of the individual to provide the Overseas Criminal Record Check. The check should come from the police or judicial authority, Government department or Home Embassy of the country or countries concerned and be an official statement confirming that the individual does not have any history of or pending criminal record proceedings. Individuals should be advised that checks may be carried out to authenticate any documents.

The Overseas Criminal Record Check must cover the entire period the applicant was out of the country.

A period of four to six weeks should be allowed for the required information to be obtained, if it is not already available.

The Council appreciates that obtaining an Overseas Criminal Record Check can be difficult and that the type and quality of information differs from country to country.

### **Where Check/s can be obtained**

Where the individual is having difficulties, or the time to obtain the check for that country is identified to be lengthy.

At six weeks should no update information be provided by the individual, then the situation should be assessed and consideration given whether to:

- Allow more time
- Reject the applicant.

When deciding how to proceed consideration should be given as to what action has been taken to try and obtain the check. Failure to provide an Overseas Criminal Record Check or only partial information will not result in automatic rejection of the applicant.

In exceptional operational circumstances, the line manager can consider whether they wish to request temporary dispensation from the Panel. This request should not be made to speed up the recruitment process and the line manager will be required to submit a robust case on a Request for Temporary Dispensation form. This case will require to evidence the circumstances as to why the Temporary Dispensation panel should consider the request. The line manager must include proposed risk mitigation factors that will be put in place. The Temporary Dispensation Panel comprises the Director of Education & Children's services, the Chief Social Worker and the Head of HR & OD.

The request for temporary dispensation form should advise of what action has been taken to try and obtain the check, including the dates the actions were taken, and copies of any correspondence received in relation to the matter. To make a request, contact the HR recruitment administrator for the vacancy.

### **Where a check/s cannot be obtained**

In some cases it will prove impossible for an individual to obtain the required statement, particularly where the country is experiencing political difficulties. Political refugees will either find it very difficult to obtain the required information, the accuracy of the information received might be questionable and there is the concern that such a request could put the individual's personal safety in jeopardy.

In circumstances where an applicant is unable to provide the required Overseas Criminal Record Check, then sufficient additional assurances would require to be obtained. In addition to the standard reference checking, that should be completed in accordance with the Council's [Recruitment and Selection Procedure](#), additional reference checking may be appropriate for applicants who have spent three months or more abroad, particularly where no Overseas Criminal Record Check can be obtained. Examples of additional reference checking that would be appropriate might include seeking a reference from an academic institution if the individual claims to have been studying abroad or a further character reference from their last employer or voluntary organization.

The line manager can consider whether they wish to request dispensation from the Panel on the Request for Dispensation form to evidence the circumstances as to why the panel should consider their request.

The request for dispensation form should confirm that a check from that country can indeed not be obtained with this evidenced from the Home Office/CPNI or any other relevant website. In addition, the additional assurances as outlined above should be presented to the panel for their consideration.

If sufficient assurance of suitability cannot be gained by other means, it may not be possible to confirm the employment. The reasons should be discussed with the individual.

### **Check is obtained however requires risk assessing**

Where there are concerns regarding the information revealed, the case will be considered by the Senior Manager of the service, with advice from HR & OD & Legal & Governance.

In exceptional cases of a sensitive nature, it may be appropriate to refer the case to the determination panel.

## **6. ABERDEENSHIRE DETERMINATION PANEL**

It is particularly important that decisions taken on the suitability of individuals to join the workforce, are consistent and risks are managed.

Senior Managers with advice and support from the HR & OD & Legal Service are in the majority of cases equipped to effectively assess and determine the suitability of individuals.

However, there are infrequent exceptional cases which require specialist consideration, given their sensitive nature and the potential implications. The Council has therefore, introduced a Determination Panel to assist, where necessary, in the vetting process of applicants and existing employees. [Proforma report to Determination Panel](#). To be completed by the Senior Manager in conjunction with an HR Officer.

The Determination Panel consists of the Heads of Service for HR & OD, Social Work and Education.

The Determination Panel should be involved in the following circumstances:

- Where convictions are considered relevant to the post/role and on assessment there are serious concerns about the candidate's suitability. It is expected that

most cases referred will be in connection with sexual offences, recent serious violent crimes and/or supply of drugs.

In determining suitability the Determination Panel will consider:

- The Overseas Criminal Record check/s
- Record of the Candidate conversation
- HR & OD/ Legal and Governance's advice and recommendations.
- Related Aberdeenshire Council Policies and Procedures.
- Relevant Legislation.

The Determination Panel will advise the senior manager of the decision reached and the individual will be notified accordingly of the outcome.

A record of the key information must be kept by HR & OD.

## 7. TRANSLATION

The Authority requires that all Overseas Criminal Record Checks and references be translated into English by a recognized translation body.

## 8. REIMBURSEMENT OF COSTS

Paying for checks and certificates is the responsibility of the applicant. Where costs are incurred the following nominal payments will be offered:

- Maximum of £25 where one check is required
- Maximum of £50 where multiple checks are required.

Costs incurred above the nominal payments offered will not be reimbursed. The applicant is expected to meet these costs themselves given that checks obtained remain the property of the individual and can be used for future employment purposes.

Reimbursement of these costs can be made through the submission of a Travel and Subsistence claim form (receipt or evidence of payment will be required). However, if the offer of employment is withdrawn this will not be applicable.

## 9. USEFUL CONTACTS FOR OBTAINING INFORMATION

The Home Office provides information on how to apply and contact details:

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

National Protective Security Authority (NPSA) is another source:

<https://www.npsa.gov.uk/resources/how-obtain-overseas-criminal-records-check>

For further advice and guidance on any of the above please contact [Human Resources & Organizational Development](#)



# Overseas Criminal Records Check

## Index of Documents

### Procedure

| Revision Date | Previous Revision Date | Summary of Changes                         |
|---------------|------------------------|--|
| 01-11-2008    |                        | Creation of all Documents                  |
| 01-06-2012    | 01-11-2008             | PVG Legislation Update                     |
| 18-08-2015    | 01-06-2012             | Format Update                              |
| 01-08-2016    | 18-01-2015             | Minor Amendments                           |
| 08-09-2016    | 01-08-2016             | Minor Amendments                           |
| 30-05-2017    | 08-09-2016             | Updated link to Criminal Record Check Form |
| 16-09-2018    | 30-05-2017             | Internal Audit Recommendation              |