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# Verifile newsletter

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Welcome to our February 2019 edition of our newsletter which contains important news and updates from us.



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## Verifile News

- Our CEO recently shared his thoughts on accreditations, quality data, client experience and, of course, what we're about as a firm with Risk Xtra magazine. Read all about it [here](#).
- Verifile is growing! Whilst our existing office has served us well, to cope with increasing demand and expedient growth, Verifile has expanded to the building next door. Our referencing and processing teams have moved to this new building. We now have extra space to house all our new recruits.
- In our latest product update, our candidate portal now has up to a 40% improvement in loading times and form dynamics, helping improve candidate experience.

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## UK Criminal Checks

### Important Process Change – Disclosure Scotland

Recent changes implemented by Disclosure Scotland could result in substantially increased turnaround times for any businesses that order their criminal record checks incorrectly.

As recently as 2017, applicants anywhere in the country could apply for a Basic criminal record check via Disclosure Scotland. This ended once the Disclosure and Barring Service (DBS) began offering a Basic check which was to be used for all checks in England, Wales, the Channel Islands and the Isle of Man. Most companies adjusted their processes accordingly at the time. However, some confusion evidently still remains - which Disclosure Scotland are now trying to combat.

Therefore, to push employers to order the correct check, Disclosure Scotland will now request further documentation if the home address of an individual being checked is not in Scotland.

Please be aware that we will have to ask you to provide this documentation if we are asked to do so by Disclosure Scotland. This will likely increase turnaround times and add to your administrative burden so we strongly advise that you order the correct check.

### Clearing up the confusion

As many employers will know, ordering the right criminal check can be a confusing undertaking – so we thought we'd take the opportunity to clear this all up.

There are three different levels of criminal records disclosure certificates in the UK – Basic, Standard and Enhanced.

The Basic check is generally available for any purpose and will reveal whether an individual holds any unspent convictions. Cautions and certain convictions become 'spent' after a specified period of time known as the rehabilitation period; the length of which is determined by several factors outlined in the Rehabilitation of Offenders Act 1974. Spent convictions will not be revealed on a Basic level check.

The Act **contains a list of professions and activities** within which individuals are eligible for a Standard check. These include people working with children or vulnerable adults as well as legal, financial and medical professionals. Unlike the Basic check, spent convictions will be revealed on a Standard check.

An Enhanced check goes further still, revealing any relevant information held by local police authorities on the individual in question. Employers also have the option of adding a **barred list** check here, if legally permitted; checking whether an individual appears on any list barring them from working with children or vulnerable adults. Eligibility for an Enhanced check depends on a role or activity being included in both the Rehabilitation of Offenders Act and the various **Police Act 1997 (Criminal Records)** regulations.

In Scotland, a further Protection of Vulnerable Groups check is mandatory for anyone working with children or protected adults.

These checks are overseen by three different government agencies. DBS is responsible for England, Wales, the Channel Islands and the Isle of Man; Disclosure Scotland is responsible for Scotland; while Access NI is responsible for Northern Ireland.

It's important that any checks are ordered from the correct agency. When checks are requested for personal reasons (i.e. in support of anything unrelated to employment or volunteering), a person's place of residence will determine which agency they should apply to. However, for checks ordered for employment purposes, the place of work is the location that determines the correct agency.

If an individual works in two UK jurisdictions, then the jurisdiction in which the recruitment decision was made (or will be made) should determine the check.

Choosing the correct agency and level of check is essential. The legislation is different across the three jurisdictions so ordering the check from the correct agency is necessary to ensure the right information is provided.

If you order the wrong check - and the Rehabilitation of Offenders Act that applies in that jurisdiction does not apply to the position applied for – you could receive more information than you are legally entitled to. If that extra information results in someone being refused employment, the implications could extend as far as criminal proceedings being brought against you.

An alternative scenario here is that ordering the wrong check could result in you not receiving as much information as you are entitled to; something which could also have damaging implications for the integrity of your screening process.

For individuals working or volunteering in the United Kingdom, the checks process is conducted as follows:

<b>Working or volunteering in:</b>	<b>Should have:</b>	<b>The process is:</b>
England and Wales	Criminal record checks via	Online, using Verifile's

	the Disclosure and Barring Service (DBS)	portal.
Scotland	Criminal record checks via Disclosure Scotland	Online, using Verifile's portal, for Basic disclosure. Paper forms for all other checks.
Northern Ireland	Criminal record checks via AccessNI	Online, using AccessNI's portal.
Guernsey	Please contact us for further information.	
Jersey		
Isle of Man		

Remembering that the choice of agency is determined by either the employer's location or an individual's place of residency, the process can become more complicated when a check is required (a) for someone working or volunteering outside the UK; or (b) for personal purposes by someone living outside the UK.

In such instances, applications can be made via any of the three national agencies, as above. However, our recommendation is to make such applications via Disclosure Scotland as this provides the most conviction information and is the simplest process to navigate.

### Checks in Northern Ireland via AccessNI

For Enhanced checks and when a role includes regulated activity with children, AccessNI routinely requests information on foreign nationals from a number of EU Member States. Offered free of charge, this is part of their service to provide a more comprehensive picture of an individual's criminal background; something that can prove useful when dealing with individuals who have so far spent little time within the UK.

As of December 3<sup>rd</sup> last year, AccessNI added Bulgaria, Hungary and Latvia to its list of countries from which it will request criminal record information. However, they have also informed us that Poland and Romania remain suspended from their list, due to ongoing delays in obtaining information from these countries.

Securing a comprehensive understanding of an individual's criminal records across multiple countries is a valuable undertaking. Verifile can do exactly that, for any role, across a large number of countries, both in Europe and further afield. Please do contact us for further information on this service.

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## FCA References

We have recently reviewed our processes for requesting, chasing and receiving references for individuals going into roles regulated by the Financial Conduct Authority (FCA). Feedback from clients has been extremely helpful during this review.

As a result, we have improved how we request references from organisations regulated by the FCA and how we check the references received back from those organisations. We have also enhanced how we display results within the final report by adding a list of employers from which we have sought references, whether the employer is regulated by the FCA and whether we received a 'regulated reference' from them. This list is located after the contents section of the final report (see below example).

### Additional Information

Firm name - Regulated firm: Yes, Regulated reference received: Yes

When you place your order, to help us fulfil your requirements correctly, please do continue to tick the FCA references box on step 1 (see below).

FCA/PRA approved person?

FCA references will only be sought if you have a package of background checks agreed with Verifile that includes FCA references. To set up a package or for any further information, please contact your Account Manager.

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## Verifile International Product Changes

We would like to bring the following changes to our international product offering to your attention. If you would like us to send you current documentation for any of the checks listed, please request via [service@verifile.co.uk](mailto:service@verifile.co.uk).

- **Canada Criminal Record Check**  
A new instruction is in place to reflect simplified requirements.
- **Venezuela Criminal Litigation Search**  
We are no longer offering the Criminal litigation Search from Venezuela as the Supreme Court of Justice no longer provide this information.
- **Malaysia Certificate of Good Conduct**  
A new instruction is now in place containing a new website link for the official online form.
- **Spain Criminal Record Extract**  
This search is no longer available. This check is now only available as a Subject Access Request.
- **Botswana Police Certificate**  
This search is no longer available. This check is now only available as a Subject Access Request.
- **Lesotho Police Certificate**  
This search is no longer available. This check is now only available as a Subject Access Request.
- **Swaziland Police Certificate**  
This search is no longer available. This check is now only available as a Subject Access Request.
- **Tanzania Police Certificate**  
This search is no longer available. This check is now only available as a Subject Access Request.
- **Uganda Police Certificate**  
This search is no longer available. This check is now only available as a Subject Access Request.
- **Zambia Police Certificate**  
This search is no longer available. This check is now only available as a Subject Access Request.

Worldwide

Africa and Middle East

Egypt

[Read more](#)

- Data Privacy and Security Requirements Starting to Make their Way into Egyptian Laws

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## Zimbabwe

[Read more](#)

- Zimbabwe is in the Process of Creating a Criminal Digital Fingerprint Database

## Asia Pacific

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### Australia

[Read more](#)

- Singapore airlines Pilot Fails Alcohol Breath Test

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### China

[Read more](#)

- Busting the Myth: Compliance with the 'Gold Standard' of the GDPR Does Not Buy You a 'Free Pass' Under China's New Personal Information Guidelines
- Collection, Storage and Transfer of Data in China

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### Indonesia

[Read more](#)

- Indonesia Proposes Amendments to Its Data Localisation Requirement

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### Japan

[Read more](#)

- Japan's Data Protection Framework is Not Yet Adequate, Say EU Legislators

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### Malaysia

[Read more](#)

- University Consortium Set Up to Authenticate Degrees Using Blockchain Technology

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### Philippines

[Read more](#)

- NPC to Intensify Monitoring of Data Privacy Act Compliance

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### South Korea

[Read more](#)

- South Korea Passes Bill Legalizing Cannabis for Medical Purposes

## Europe

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### Europe

[Read more](#)

- GDPR: New Guidelines On Territorial Scope
  - No Application of the GDPR in B2B
  - When Does GDPR Apply to a Non-EU Entity? EDPB Provides Guidance
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## Austria

[Read more](#)

- Austrian DPA Issues Blacklist
  - First Supreme Court Decision on GDPR: Austrian Supreme Court Rules on Prohibition of Consent
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## Belgium

[Read more](#)

- Belgian DPA Provides First Status Update After Six Months of GDPR
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## Germany

[Read more](#)

- First Data Protection Authority Issues GDPR Fine
  - Data Protection authority of Bavaria, Germany, Intensifies GDPR Compliance Monitoring
- 

## Hungary

[Read more](#)

- The Hungarian DPA Issues Data Protection Impact Assessment Blacklist
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## Ireland

[Read more](#)

- Data Protection Commission Confirms List of Processing Operations Requiring a DPIA
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## Italy

[Read more](#)

- The Italian Data Protection Authority has Drafted the List of Processing Operations Subject to a DPIA - Practical Implications and Accountability Considerations
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## Luxembourg

[Read more](#)

- New Law on Monitoring at the Workplace
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## Serbia

[Read more](#)

- Serbia Catches Up with the GDPR: New Data Protection Law Adopted
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## Spain

[Read more](#)

- Spanish Senate Signs-Off New GDPR-Compliant Data Protection Act
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## Turkey

[Read more](#)

- Turkey DPA Announces Starting Dates for Registration Obligation
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## United Kingdom

[Read more](#)

- Careers of People Working with Children Being Destroyed By 'Misleading Police

- Checks', Teachers Warn
- Guide to the General Data Protection Regulation (GDPR): Controllers and Processors
- UK Government Issues Data Protection Guidance in the Event UK Leaves EU with "No Deal"
- Third in HR Fail to Delete Personal Data
- Why it's Important to Check New Recruits' References

## North America and Caribbean

### Canada

[Read more](#)

- How to Test Employees for Cannabis Impairment
- Saying No to Cannabis
- The Human Rights Tribunal of Ontario Dismisses Discrimination Claim Made by Medical Pot User
- Legalization of Cannabis: A Guide for Employers
- Five Steps to Compliance with Privacy Consent Guidelines
- GDPR Territorial Scope - Draft Guidelines Released that May Help Canadians Established Outside the EU Understand Whether They Must Comply
- The 5 Hottest Human Resources Questions About Cannabis

### Cayman Islands

[Read more](#)

- Cayman Islands Data Protection Law Update

### United States

[Read more](#)

#### LEGAL

- Black, Latino Drivers Sue Amazon Over Firings Based on Background Checks
- Reminder: Confusing Background Check Disclosures can get an Employer in FCRA Hot Water!
- Court Grants Final Approval of 41.2M FCRA Class Action Settlement Against PETCO
- Some Clarity: Court Holds Screening Reports on Independent Contractors Not Subject to the FCRA Employment Purpose Requirements
- How to Ward Off the Rising Number of Background Check Class Actions Summary
- Social Security Administration 'No Match' Letters to Employers Make Another Comeback
- Can an Outside Investigation Constitute a "Consumer report" Under FCRA? The Seventh Circuit Appears Skeptical
- Eastern District of Pennsylvania Dismisses FCRA Claims for Lack of Standing
- FCRA Disclosures: Too Much Information, Not Enough or Just Right?
- University Faculty Background Checks to be Reviewed by Court
- Vermont AG Issues Guidance on New Data Broker Regulation

#### DATA PROTECTION AND PRIVACY

- Department of Commerce Updates Privacy Shield FAQs to Clarify Applicability to UK Personal Data
- Eu-US Privacy Shield undergoes Second Review by EU Commission and (Re)Passes the Test - For Certifying Companies, Santa Has Come to Town

#### SALARY HISTORY

- New Suffolk County, NY, Bill Bans Inquiry into Salary History

#### IMMIGRATION STATUS

- Surge in I.C.E. Immigration Enforcement is Wake-Up Call to U.S. Employers

## DRUG SCREENING

- 9th Cir: Montana Law Doesn't Prevent Employers from Banning Marijuana
- Marijuana Sows Seeds of Conflict for San Francisco employers, But Maybe Not for Utah Employers
- Say What? The Employee Who Failed His Post-Accident Drug Test Gets Workers' Comp.?

## South America

### Argentine

[Read more](#)

- Argentine DPA Approves Guidelines for Binding Corporate Rules