

This month we would like to share with you, a few facts, figures and guidelines around the use of UK criminal records checks, in addition to our usual round up of news from around the world. In addition we are extremely excited about a major system release which offers a new way of checking identity in the UK.

### **UK Identity Checks**

Last week we released a new service on our online platform. The new service offers a new way to instantly validate identity online. A number of our clients already use this service as part of their packages and screening policies but so far it was delivered offline with a delayed response. Now the check is fully integrated within our platform so clients can order it as part of their package and get the results with all other checks. Clients who order this check as a standalone will get the response on their screen within seconds. Such instant results open new possibilities such as checking the identity even before an interview is arranged. Those whose identity hasn't been confirmed online could then be asked to bring additional documentation to the interview. Focusing on getting the identity right from the start of the process can help save a lot of time and money later on.

Unfortunately some candidates do use forged documents to prove that they have the right to work in the UK. If an online identity check finds no trace of the candidate, it raises questions about why there was no trace. The online identity check uses a wide range of databases to establish if the candidate's identity is used in the UK. Here are some of them:

- Electoral roll
- Telephone directory
- Court and insolvency records
- Bank accounts, credit cards and other lenders
- Fraud database
- Deceased register

We offer the check in two formats: Standard and AML (Anti-Money Laundering). The main difference between these two options is the use of the full electoral roll under the AML version. The price is the same but to be able to use the AML version the client must be subject to Anti-Money Laundering legislation. As a result of this, clients that also need to verify their own clients' identity such as lawyers and accountants can use this service with this aim in mind and not just for employment purposes. If you wish to use the AML version please get in touch and ask for it as we will only make it available to those clients that have legal justification.

Clients who currently do not have this check as part of their package are welcome to get in touch and ask us to incorporate it into their package. A sample report for this check can be seen [here](#).

### **UK Criminal Records Checks**

We have analysed all the orders we processed for UK criminal



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records in 2014, across all 3 levels and found the following conviction rates and turnaround times:

	No. of candidates with conviction(s) (%)	With conviction(s) (actual days)		Without conviction(s) (actual days)	
		Average	Median	Average	Median
Basic level (Disclosure Scotland)	1.8%	11.6	8.0	8.8	8.5
Standard level (DBS)	4.0%	6.6	5.5	3.8	1.5
Enhanced level (DBS)	6.1%	37.8	27.0	9.3	7.5

The turnaround time was calculated from the moment the relevant government agency accepted the order (i.e. DBS or DS).

As some of you know and may have experienced first-hand, DBS is putting ever increasing pressure on us as an Umbrella Body to reduce the number of applications our clients make for the regulated levels, Standard and Enhanced. This is a government policy which DBS are executing.

The roles that are eligible for the Standard level are well defined. The biggest area of difficulty is with the Enhanced level. The rules allowing the Enhanced level are open to interpretation. We hope the guidance in this email will assist some clients going forward.

The Enhanced level can be ordered in one of four ways:

- Enhanced with adult barred list (people barred from working with vulnerable adults)
- Enhanced with children barred list (people barred from working with children)
- Enhanced with both barred lists
- Enhanced without any barred lists

The Enhanced level can only be ordered for roles that relate to vulnerable adults (Adult Workforce), children (Child Workforce) or both. These are roles which give the opportunity to interact with these vulnerable groups or require a direct relationship with them.

We appreciate that many clients get confused by the legal terminology and as a result we are working on a new system enhancement which will allow us to review each job description and record it on our system. When a client places an order, they will be able to choose one of the pre-defined roles (for which we previously reviewed a job description) as the base for the DBS check. The system will already have the correct check configuration for this role (eg. the correct barred list etc.) and the process will go smoothly to the DBS without the need for any delay. It means that we will not need to review every single order and check its eligibility. Even if DBS will query the order later on, because we will have the job description on file, it will be easier and quicker for us to respond to them and assist in getting the check through. We hope to be able to release this new feature over the coming weeks as it is being developed with high priority.

To be able to order the barred lists as part of the Enhanced level, the role has to include regulated activity. Here are the definitions for a role with regulated activity:

#### **Regulated activity for vulnerable adults**

Those who provide:

- Healthcare: if they are a regulated health care professional or are acting under the direction or supervision of one, for example

- doctors, nurses, healthcare assistants and physiotherapists.
- Personal care: assistance with washing and dressing, eating, drinking and toileting or teaching someone to do one of those tasks.
- Social work: provision by a social care worker of social work which is required in connection with any health services or social services.
- Assistance with a person's cash, bills or shopping because of their age, illness or disability.
- Assistance with the conduct of an adult's own affairs, for example, lasting or enduring powers of attorney, or deputies appointed under the Mental Health Act.
- Conveying: conveying adults for reasons of age, illness or disability to, from or between places where they receive healthcare, personal care or social work. This would not include friends or family or taxi drivers.

### **Regulated activity for children - Activities**

The new definition of regulated activity relating to children comprises only:

(i) Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children;

(ii) Work for a limited range of establishments ('specified places'), with opportunity for contact: for example, schools, children's homes, childcare premises. Not work by supervised volunteers;

(iii) Relevant personal care, for example washing or dressing; or health care by or supervised by a professional;

- Healthcare: if they are a regulated health care professional or are acting under the direction or supervision of one, for example doctors, nurses, health care assistants and physiotherapists
- Personal care: assistance with washing and dressing, eating, drinking and toileting or teaching someone to do one of these tasks

(iv) Registered childminding; and foster-carers;

(v) Moderating a public electronic interactive communication service likely to be used wholly or mainly by children, carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period.

Work under (i) or (ii) is regulated activity only if done regularly i.e. carried out by the same person frequently (once a week or more often), or on 4 or more days within a 30-day period, or overnight.

Definition of "overnight": In relation to teaching, training or instruction; care or supervision; or advice or guidance, it is also regulated activity if carried out (even once) at any time between 2am and 6am and with an opportunity for face-to-face contact with children.

A manager/supervisor of a person who is undertaking regulated activity, (or an activity which would be considered regulated activity if they were not adequately supervised), would also be regulated activity, if they manage/supervise the individual on a regular basis.

The following types of care for children, (even if done only once) are also regulated activity:

#### Relevant personal care

- (a) Physical help in connection with eating or drinking, for reasons of illness or disability;
- (b) Physical help for reasons of age, illness, or disability, in connection with:

- (i) toileting (including re menstruation)
- (ii) washing, bathing, or dressing;
- (c)-(d) Prompting with supervision, in relation to (a)-(b), where the child is otherwise unable to decide to do this without prompting or supervision;
- (e)-(f) Other training or advice in relation to (a)-(b).

### Health care

All forms of health care relating to physical or mental health including palliative care and procedures similar to medical or surgical care by, or directed or supervised by, a health care professional, This includes health care provided to a child by any person acting on behalf of an organisation established for the purposes of providing first aid.

### **Regulated activity in relation to children - Establishments**

An activity is regulated activity in relation to children if carried out (subject to exceptions) in one of the following establishments:

- (a) Schools (including Academies) (all or mainly full time, for children);
- (aa) Pupil referral units (also known as Short Stay Schools) not falling within the above;
- (b) Nursery schools;
- (d) Institutions for the detention of children;
- (e) & (f) Children's homes;
- (fa) Children's centres in England;
- (g) Childcare premises (including nurseries)

### The activity must be carried out:

- Frequently (once a week or more often), or on 4 or more days in a 30-day period;
- By the same person, engaged in work for or in connection with the purposes of the establishment; and
- Gives the person the opportunity, in their work, to have contact with children. Day to day management or supervision on a regular basis of a person providing the above regulated activity, (or an activity which would be considered regulated activity if they were not adequately supervised) for children is regulated activity for children.

Exceptions for regulated activity in relation to children - establishments (these are not regulated activities and would therefore not qualify for the children barred list)

- Activity by a person contracted (or volunteering) to provide occasional or temporary services (not teaching, training or supervision of children).
- Volunteering, under day to day supervision of another person engaging in regulated activity.
- Activity by a person in a group assisting or acting on behalf of, or under direction of another person engaging in regulated activity.
- Childcare premises which are the home of a parent etc. of at least one child to whom the childcare or child minding is provided.
- For activity undertaken regularly in a number of different establishments, but only infrequently in each: each establishment is only arranging the activity infrequently, so each establishment is not a regulated activity provider in relation to that activity.

Supervision means day to day supervision as is reasonable in all the circumstances for the purpose of protecting any children concerned. The Department for Education have provided Statutory Guidance to describe the considerations an organisation should make when determining whether or not an individual is supervised to a reasonable level for the role.

### Enhanced without any barred lists

To be able to order Enhanced level without the barred lists, the role has to offer the opportunity to be alone with the vulnerable groups even if it is not regulated by itself. Here are the definitions for such roles that offer the opportunity with vulnerable adults:

The provision of any form of teaching, training, instruction, assistance, advice or guidance provided wholly or mainly for adults who receive a health or social care service or a specified activity in line with the period condition (once a week or more or 4 times a month or more or overnight).

A health or social care service is defined as:

- a) residential accommodation provided for an adult in connection with any care or nursing he requires;
- b) accommodation provided for an adult who is or has been a pupil attending a residential special school, where that school is-
  - (i) a special school within the meaning of section 337 of the Education Act 1996;
  - (ii) an independent school within the meaning of section 463 of that Act which is in England and is specially organised to make special educational provision for pupils with special educational needs (within the meaning of section 312 of that Act) or is in Wales and is approved by the Welsh Ministers under section 347 of that Act;
  - (iii) an independent school within the meaning of section 463 of that Act not falling within sub-paragraph (b)(ii) which, with the consent of the Welsh Ministers, given under section 347(5)(b) of that Act, provides places for children with special educational needs (within the meaning of section 312 of that Act);
  - (iv) an institution within the further education section (within the meaning of section 91 of the Further and Higher Education Act 1992) which provides accommodation for children; or
  - (v) a 16 to 19 Academy, within the meaning of section 1B of the Academies Act 2010, which provides accommodation for children;
- c) sheltered housing;
- d) care of any description or assistance provided to an adult by reason of his age, health or any disability he has, which is provided to the adult in the place where he is, for the time being, living, whether provided continuously or not;
- e) any form of health care, including treatment, therapy or palliative care of any description;
- f) support, assistance or advice for the purpose of developing an adult's capacity to live independently in accommodation, or sustaining their capacity to do so;
- g) any service provided specifically for adults because of their age, any disability, physical or mental illness, excluding a service provided specifically for an adult, with one or more of the following disabilities (unless that person has another disability)-
  - (i) dyslexia;
  - (ii) dyscalculia;

- (iii) dyspraxia;
- (iv) Irlen syndrome;
- (v) alexia;
- (vi) auditory processing disorder;
- (vii) dysgraphia;

h) any service provided specifically to an expectant or nursing mother in receipt of residential accommodation pursuant to arrangements made under section 21(1)(aa) of the National Assistance Act 1948 or care pursuant to paragraph 1 of Schedule 20 to the National Health Service Act 2006.

A specified activity is defined as:

a) the detention of an adult in lawful custody in a prison (within the meaning of the Prison Act 1952), a remand centre, young offender institution or a secure training centre (as mentioned in section 43 of that Act) or an attendance centre (within the meaning of section 53(1) of that Act);

b) the detention of a detained person (within the meaning of Part 8 of the Immigration and Asylum Act 1999) who is detained in a removal centre or short-term holding facility (within the meaning of that Part) or in pursuance of escort arrangements made under section 156 of that Act;

c) the supervision of an adult by virtue of an order of a court by a person exercising functions for the purposes of Part 1 of the Criminal Justice and Court Services Act 2000;

d) the supervision of an adult by a person acting for the purposes mentioned in section 1(1) of the Offender Management Act 2007;

e) the provision to an adult of assistance with the conduct of their affairs in situations where-

(i) a lasting power of attorney is created in respect of the adult in accordance with section 9 of the Mental Capacity Act 2005 or an application is made under paragraph 4 of Schedule 1 to that Act for the registration of an instrument intended to create a lasting power of attorney in respect of the adult;

(ii) an enduring power of attorney (within the meaning of Schedule 4 to that Act) in respect of the adult is registered in accordance with that Schedule or an application is made under that Schedule for the registration of an enduring power of attorney in respect of the adult;

(iii) an order under section 16 of that Act has been made by the Court of Protection in relation to the making of decisions on the adult's behalf, or such an order has been applied for;

(iv) an independent mental capacity advocate is or is to be appointed in respect of the adult in pursuance of arrangements under section 35 of that Act;

(v) independent advocacy services (within the meaning of section 248 of the National Health Service Act 2006 or section 187 of the National Health Service (Wales) Act 2006) are or are to be provided in respect of the adult;

or

(vi) a representative is or is to be appointed to receive payments on the adult's behalf in pursuance of regulations made under the Social Security Administration Act 1992;

f) payments are made to the adult or to another person on the adult's behalf under arrangements made under section 57 of the Health and Social Care Act 2001;

g) payments are made to the adult or to another person on the adult's behalf under section 12A(1) or under regulations made under section 12A(a) of the National Health Service Act 2006 or under regulations made under section 12A(4) of that Act.

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