

FREEDOM OF INFORMATION ACT 2000

Your request for information has now been considered and the Council's response to your questions is shown below.

You asked:

This question relates to potential employees and volunteers who seek to engage in providing services to children and vulnerable adults. Please provide your policy and practice guidance on vetting and debarring including provisions concerning certificates of good conduct (CGC).

ANSWER:

Please find attached Leicester City Council's Recruitment Policy: this makes it clear that "relevant checks will be carried out prior to employment, including additional checks to safeguard children and vulnerable adults when recruiting to relevant jobs". Whilst this does not list each and every vetting check, overseas criminal record checks are classed as a "relevant check" for applicants who declare an overseas address.

With respect to the vetting of prospective school-based staff, the following guidance is provided to recruiters:

"Overseas Criminal Record Checks: The Disclosure and Barring Service (DBS) cannot access criminal records held overseas, therefore where you have identified an overseas address detailed on a DBS application form, you should contact the embassy or High Commission of the country in question to ascertain whether the country has the infrastructure to disclose such criminal record information (embassy and High Commission contact details can be located via an internet search for the relevant country). In addition, KPMG have produced comprehensive information for individual countries which you may find useful, this can be accessed via the following link and by selecting the appropriate a-z guide: <http://www.cpni.gov.uk/advice/Personnel-security1/Overseas-criminal-record-checks/>"

With respect to the vetting of volunteers within schools please find attached: The Volunteer Toolkit, section 5.1 of which states: "Where you have volunteers from overseas and you have decided that a DBS Check (previously known as a CRB Check) is required, you should also attempt to obtain a good conduct certificate (similar to that of a DBS Check, obtained from the relevant country/countries). Further guidance on overseas checks are available on the Extranet via the following link:

<http://schools.leicester.gov.uk/EasySiteWeb/GatewayLink.aspx?allId=97111>"

CGCs.

What is the legal basis for requesting them?

They are only requested for posts which are exempt from the provisions of the Rehabilitation of Offenders Act 1974. Leicester City Council would seek a complete criminal record history for all successful candidates for such posts

(paid or otherwise), both those who have lived within the UK and those who have lived overseas.

Who applies and pays for them? In relation to some countries individuals can give others a power of attorney.

Leicester City Council pays for them. It is often dependent on the individual to apply for the check, depending on the arrangements for the Country.

A government-commissioned report suggests that for some countries CGC information may be unreliable. What steps do you take to verify it if the person to whom it relates challenges it?

Should this happen we would seek advice on the next steps from the appropriate source.

How do you ensure that CGCs obtained from overseas are consistent with the provisions of the Rehabilitation of Offenders Act and don't include, for example, convictions for matters that would not be a crime in the UK or would be considered spent under the Rehabilitation of Offenders Act?

Leicester City Council would only seek CGCs for applicants for roles which are exempt from the provisions of the ROA so the issue regarding spent convictions is not relevant. The format of the Good Conduct Certificate is dictated by the country of origin. We would have to disregard information relating to a matter that is not a crime in the UK.

I refer to Article 8 of the Human Rights Act and the recent case of (R(T) v Chief Constable of Greater Manchester and Others [2013] EWCA) concerning the right to privacy. What steps have you taken or do you intend to take and to what effect to amend your policies concerning vetting and debarring and certificates of good conduct in light of this ruling?

We understand that the Home Office and the Ministry of Justice have lodged an application to appeal the judgment. We also understand that they have now started the legislative process (subject to agreement by Parliament) so that certain old and minor convictions and cautions will no longer be disclosed on a DBS Certificate. However, these changes will not come into force until after the legislation has completed its passage through Parliament. We will review our policies and practices as appropriate prior to implementation of any new or updated legislation.

Your Local Authority is known to employ a significant number of social workers who trained outside of the UK (information provided before its demise by the General Social Care Council) and came to you as foreign nationals; others may have taken up British citizenship since then. Where such persons take leave of absence (e.g. maternity leave,

extended sick leave)for a period of time what steps are taken to ascertain whether they have left the UK perhaps to return to their home country and what steps are taken to require such persons to provide a police check/certificate of good conduct to cover the period for which they have left the UK?

Any employee could spend time overseas during periods of leave of varying types. Leave such as maternity leave or sick leave would not usually be classed as a break in service and therefore no vetting checks would be undertaken prior to the individual's return to work. However, Leicester City Council includes a clause in its contracts of employment requiring employees to self-declare any arrests, cautions, convictions, etc during the course of employment.

How many prospective volunteers have been required to provide a certificate of good conduct for the last 12 month period for which information is available and in how many such cases did disclosures on the certificate contribute to them not taking up such a role?

We do not formally monitor how many certificates of good conduct have been obtained for volunteers and so are unable to provide this information.

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If you are dissatisfied with the handling of your request please write to:

Information Governance Manager
Information and Support
Leicester City Council
FREEPOST (LE985/33)
New Walk Centre
LEICESTER LE1 6ZG
e-mail: FOIA@leicester.gov.uk

Your request for internal review should be submitted to the above address within 40 (forty) working days of receipt by you of this response. Any such request received after this time will only be considered at the Council's absolute discretion.

You can also complain to the Information Commissioner at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow SK9 5AF

Telephone: 01625 545 700

www.informationcommissioner.gov.uk

Please be aware that the Information Commissioner does not normally consider appeals or complaints until the internal appeals and complaints processes of the public authority which is answering the request have been exhausted. You are therefore advised to complain or appeal to the Information Governance Manager before contacting the Commissioner.