

**WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 28th APRIL 2015**

Question

With regard to criminal record checks, will the Minister:

- (a) advise members which countries routinely share and do not share information with the States of Jersey Police and what steps are being taken to obtain information from those who do not share information;
- (b) advise members whether it is the case that Jersey-born persons with spent convictions, or convictions which are not spent but of a historical nature (other than sexual offences), can be denied employment, whereas people from countries which do not supply criminal records information could be employed even though they may have committed very serious offences in their home country?

Answer

Answer (a)

The States of Jersey Police do not deal directly with other countries outside the UK when requesting criminal records data held on individuals. All international agreements for sharing criminal record data are made through the UK Home Office. The States of Jersey Police are able to share conviction information with all European Union Member states when foreign nationals are charged to appear before Jersey courts. This is done via the UK Central Authority at ACRO. Similarly, information is shared for court purposes with countries outside the EU through Interpol but again via ACRO.

Information can be shared for public protection matters by the same method, but only in limited circumstances. This is only a recent development and is EU-wide for employment checks regarding Regulated Activities with Children. Not all countries will respond to requests for convictions for EU nationals working with vulnerable adults. Denmark, Hungary, Ireland, Luxembourg and Portugal do not have legislation which allows them to share information for these purposes. This issue is an EU-wide problem, not just a Jersey one.

Answer (b)

Deputy Higgins raises a valid concern by highlighting the discrepancy between the information readily available on all UK nationals (including Jersey born) and those who were born elsewhere.

To obtain a criminal conviction certificate for employment in Jersey, the prospective employer must submit a request through the Jersey Vetting Bureau (JVB). The JVB verifies the form is for a post that permits such a check and sends it to the UK Disclosure and Barring Service (DBS). These checks are only provided to persons seeking employment in Regulated Activity (working with children or vulnerable adults) or for roles exempted from the Rehabilitation of Offenders (Jersey) Law 2001.

The separate 'Disclosure Arm' of the JVB then receives a request from the DBS for any relevant local convictions or other information held by police to complete the certificate. The DBS then send the completed certificate to the prospective employee. The DBS does not at present routinely request conviction details of non-UK nationals from their countries of birth for their disclosure certificates.

It is not the police service that denies an individual employment; it is for the employer to decide on production of the certificate by the prospective employee. The current practice within the UK and Jersey is to issue a statement on the certificate where the subject is a foreign national, which puts the onus on the employer to ensure the prospective employee provides a certificate of good character from their country of birth. An example is shown below:

***Please Note:** The disclosure has been produced in accordance with the Rehabilitation of Offenders (Jersey) Law 2001 and the Data Protection (Jersey) Law 2005. Checks have been conducted of Police records only, including the UK Police National Computer, and using the personal details supplied (see above). Jersey Police are unable to check the existence of a Police record outside the United Kingdom, the Channel Isles and the Isle of Man. Foreign Police Disclosures may be obtained by the applicant via the disclosure and/or criminal record screening facilities in place in that country.*

The UK and EU are currently in the process of addressing the issue. ACRO have followed an EU framework decision (93-2011 Child Exploitation) and have secured agreements with all EU countries to allow criminal record checks to be carried out for vetting purposes by the DBS. This is near conclusion and the first two countries, Latvia and Holland are to be involved in a Pilot Scheme from July 2015 to April 2016. They will have their nationals checked by ACRO and the details forwarded to the DBS via the Police National Computer (PNC). This will still only apply when individuals apply for roles in Regulated Activity, working with children, not vulnerable adults. The Home office and EU fear the burden of numbers would make the latter prohibitive. There are approximately 200,000 EU nationals applying for work in Regulated Activity annually in the UK.

In the meantime, the situation is as Deputy Higgins suggests unless the employer insists on the prospective employee obtaining a criminal conviction certificate from their own country.