

Trevor Rowell  
Chair  
Council of British International Schools (COBIS)  
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Reference: TRO/0011486/18

7 August 2018

Dear Mr Rowell

Thank you for your letter of 23 July to the Home Secretary about the issue of criminal record certificates by the Disclosure and Barring Service (DBS) for those employed by British International Schools. I have been asked to reply.

You are concerned that you are no longer able to request enhanced criminal record certificates from the DBS and believe this is due to action by the Home Office. The DBS is a non-departmental public body sponsored by the Home Office, and the Government of the day is responsible for enacting the legislation and setting the policies under which the DBS operates. Disclosure Scotland and Access NI perform a similar role where employers are based in Scotland and Northern Ireland respectively.

It is important to point out from the outset that nothing has changed in relation to eligibility and the Home Office has not changed legislation or its policy around criminal records checks. In your circumstances, I understand that in routine discussions with your organisation it became clear to the DBS that some ineligible applications were being made. I believe the DBS has made the position regarding eligibility clear to your organisation and asked that you ensure that only eligible checks are submitted in future.

You may find it helpful if I explain the legislative basis for eligibility for DBS checks. The legislation covering the disclosure of criminal record information is set out in Part V of the Police Act 1997, as amended. Section 113B provides eligibility for checks to be carried out in relation to individuals and on behalf of organisations based in England and Wales. I can confirm that there have been no recent changes to this legislation or the policies under which the DBS operates

The DBS can only issue certificates where the role being applied for meets the eligibility criteria, and the employment decision is being made in England or Wales. When a Registered Body applies to the DBS for a criminal record certificate, it must take all reasonable steps to ensure that it submits only eligible and lawful checks. The Registered Body is responsible for signing the declaration of eligibility. To be eligible to request a criminal record certificate from the DBS the employer must be based in England or Wales, our legislation does not extend to situations where the prospective employer is based abroad and no employment decision is being made in England or Wales.

Guidance issued by the Department for Education in relation to British schools overseas, requires the Chair of such schools to undertake checks to meet all local requirements; this includes confirming the prospective employee's identity, their right to work in the host country, and suitability to work with children. Where applicable this will include obtaining an enhanced criminal record certificate. If this is not possible Chair should consider obtaining criminal record information from the relevant embassies or police forces of all countries in which the applicant has resided. The guidance issued by the Department for Education can be accessed via the following link: <https://www.gov.uk/government/publications/british-schools-overseas-standards-for-schools>

Criminal record information for British citizens or foreign nationals who have resided in the UK who wish to work abroad can be obtained from ACRO and information on this can be accessed via the following link: [https://www.acro.police.uk/police\\_certificates.aspx](https://www.acro.police.uk/police_certificates.aspx). In addition, you may find it helpful to read guidance issued by the DBS on how to obtain criminal record information for applicants from overseas: <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Where the DBS identifies that a Registered Body has made requests for criminal record certificates which do not meet the eligibility criteria, it will suspend or withdraw specific applications and hold compliance discussions with the Registered Body involved.

Legislation is subject to periodical reviews but there are currently no plans to amend the eligibility criteria for the disclosure of criminal records.

I hope this explanation sets out clearly the position regarding eligibility.

Yours sincerely

**DPA**

**Irrelevant**

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