

Witness Name: Adele Downey

Statement No.: 2

Exhibits:

Dated:

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**THE INDEPENDENT INQUIRY INTO CHILD SEXUAL ABUSE**

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**Witness Statement of Adele Downey**

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I, Adele Downey, will say as follows in response to the Rule 9 Request for written statement from Disclosure and Barring Service (DBS) dated XX November 2018:-

1. DBS operates disclosure functions for England, Wales, Jersey, Guernsey and the Isle of Man, and barring functions for England, Wales and Northern Ireland.
2. The legislation covering the disclosure of criminal record information is set out in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, and Part V of the Police Act 1997, as amended. Section 113A and 113B of the Police Act 1997 provide eligibility for checks to be carried out in relation to individuals and on behalf of organisations based in England and Wales.
3. 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. DBS only has jurisdiction for England and Wales, Disclosure Scotland covers Scotland and AccessNI covers Northern Ireland.
4. When a Registered Body applies to DBS for a criminal record certificate, the Registered Body must take all reasonable steps to ensure that it submits only eligible and lawful checks, and 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.
5. DBS does not ask where the role will be based as part of the application form so I am unable to advise what proportion of DBS checks relate to work abroad.
6. Where an employer based in England and Wales decides the role abroad meets the definition of Regulated Activity and applies for an enhanced DBS check with children's



barred list they will also have a duty to refer to DBS where they subsequently withdraw permission to work in regulated activity because the individual engaged in relevant conduct or satisfied the harm test or received a caution for, or have been convicted of a relevant offence. DBS will consider whether the individual should be added to the relevant barred list.

7. However, where an employer is not based in England and Wales but employs a British national the employer does not have a duty to refer to DBS if they subsequently remove them from the role as our legislation would not apply.
8. I am not aware if any countries have a criminal offence of employing an individual who is barred by DBS other than the UK.
9. The Police National Computer (PNC) is the central database for convictions, cautions, reprimands and warnings across the UK. PNC also contains details of UK nationals convicted of criminal offences in other EU countries. These are translated and, where appropriate, updated on PNC. I understand this is done through the ACRO Criminal Records Office acting as the UK Central Authority under an EU Council Framework Decision 2009/315/JHA. This is designed to provide EU Member States a full record of the offending history of their citizens. ACRO Criminal Records Office would need to advise how well other EU countries comply with this framework.
10. DBS uses the Police National Computer to identify convictions, cautions, reprimands and warnings for disclosure to employers following receipt of an application for an enhanced certificate. DBS then applies the filtering rules as per para 4.4 of my previous statement to the inquiry dated 26 January 2018.
11. Where an enhanced DBS check identifies relevant criminality including offences committed abroad then we will consider whether the individual should be added to one or other of the barred lists.
12. Employers based abroad would need to consider whether they could request an International Child Protection Certificate provided by the ACRO Criminal Records Office or a Certificate of Good Conduct from the prospective employee's country of origin.
13. The table below shows what I understand to be the differences between the information disclosed on an enhanced DBS check and an International Child Protection Certificate. This information comes from the ACRO website. I am informed that there are two main differences:
  1. the International Child Protection Certificate does not show if an individual has been barred by DBS
  2. the rules to remove old and minor convictions differ between the two certificates – filtering for DBS Enhanced Check and step-down for International Child Protection Certificate

<b>DBS Enhanced Check</b>	<b>International Child Protection Certificate</b>
Convictions, cautions, reprimands and warnings subject to filtering	Convictions, impending prosecutions, cautions, reprimands, warnings and current



	investigations held on UK police databases in accordance with the ACRO step-down model [AD24:DBS000024]
Relevant police intelligence	Any information deemed relevant for disclosure by NCA-CEOP in the interests of child protection.
Adults' and / or children's barred list dependent on the role	

13. I am not aware as to how ACRO Criminal Records Office decides which organisations can register to gain access to International Child Protection Certificates.
14. Feedback from employers is that they find the landscape complex, they need to understand what level of check can be applied for, which organisation to apply to and what information can be disclosed on a certificate. Should an employer remove an individual the employer needs to understand their responsibilities about who to refer to so that the individual can be considered for barring and prevented from working in Regulated Activity in the UK.
15. It would seem sensible for employers to have a one stop shop for all checks relating to UK nationals and UK residents regardless of whether the employer has a base in England and Wales and that the same information is disclosed to employers regardless of their location.

**Statement of Truth**

I believe that the facts stated in this witness statement are true.

Signed: \_\_\_\_\_ **DPA** \_\_\_\_\_

Dated: 14.11.18



Witness Name:

Statement No.:

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**EXHIBIT [ ] / 1**  
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