

**WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 17th APRIL 2012**

Question

Will the Minister:

1. publish figures for the number of police checks made on individuals seeking employment from all sources since the introduction of the Rehabilitation of Offenders (Jersey) Law 2001?
2. provide a breakdown of these figures indicating –
 - (a) those checks made by firms directly and by individuals personally;
 - (b) the position or employment for which the information was being sought.

Will the Minister outline whether there are any Eastern Europe countries from which Jersey does not obtain background check information regarding criminal records and, if so, explain whether this is because of lack of agreements with those countries or their inability to provide the information?

Answer

Answer to Paragraph 1 of the Question

‘Publish figures for the number of police checks made on individuals seeking employment from all sources since the introduction of the Rehabilitation of Offenders (Jersey) Law, 2001’

1. The Rehabilitation of Offenders (Jersey) Law, 2001 was enacted on 1st. December, 2002. Information detailing total numbers of police checks, relevant to this question, is therefore available for the years 2003 to 2011. The figures reflect requests made to the States of Jersey Police under several areas of legislation which provide a legal basis for both the requestor and responder to conduct such checks.
2. In general terms the requests made to the force predominately originate from States of Jersey Departments and Agencies relating to employment vetting, regulatory and licensing purposes. The primary legal basis for enabling these procedures is the Rehabilitation of Offenders (Exceptions) (Jersey) regulations 2002. It has not been possible, without review of each single request, to specifically extract the information for numbers of checks solely relating to employment vetting purposes.
3. In addition the totals also include requests which are received from external agencies such as the ‘Criminal Records Bureau’ of England and Wales and the equivalent service in Scotland of ‘Disclosure Scotland.’ It should therefore be further noted that such requests may not necessarily relate to vetting procedures within Jersey, being requests for

disclosure of States of Jersey Police information for consideration within the United Kingdom procedures.

4. In providing the information for 'Total Checks' there is also included a further figure to differentiate the volume of the annual total which consist of 'Subject Access Requests' made to the States of Jersey Police by individuals exercising a legal right under Article 7 of the Data Protection (Jersey) Law, 2005. This article of law enables an individual the right to request a 'Data Controller' to inform them of whether any 'Personal Data' of which they are subject is being processed. This process is frequently utilised by individuals seeking access to their own local, and national, criminal conviction information, however the process does not require an applicant to declare their reason for making the request. It is to be noted that the subset of subject access information is not available for 2003 due to the then, manual, records for that year being no longer available.

Total Annual Checks:- Year	Total Checks	Nos. of Subject Access
2003	6384	(Not available)
2004	6675	644
2005	7780	776
2006	8242	1029
2007	9723	1541
2008	9109	1314
2009	8273	1219
2010	7885	1329
2011	6805	1170

Answer to Paragraph 2 of the Question

'Provide a breakdown of these figures indicating-

- (a) **Those checks made by firms directly and by individuals personally;**
 5. In terms of employment vetting procedures conducted under the subordinate Exceptions Regulations to the Rehabilitation of Offenders (Jersey) Law, 2001, there has been no legal basis for a private firm or company to legally request such a check. All checks are undertaken by States Departments, Agencies, Regulatory or Licensing Bodies. (e.g. Jersey Financial Service Commission, Parish Licensing Authorities.)
 6. However since March 2011, when Jersey employers, gained direct access to mainland Criminal Records Bureau vetting procedures, the Home Affairs Department, in

conjunction with the Law Officer's Department and States Police have been researching the need to enable checks on behalf of some private employers providing educational activities and similar services involving children or vulnerable adults. Work in this area continues, not as a means of enabling private firms to conduct general checks of staff, but to fully integrate safeguarding checks of persons required for activities involving children and/or vulnerable adults.

7. In terms of general vetting, an individual cannot directly request any form of check through the Criminal Records Bureau or local States of Jersey Police procedures for employment, regulatory or licensing purposes. However in making this statement the question may highlight the frequent confusion in distinguishing between the Data Protection Subject Access Request procedures, which is frequently misused for employment purposes, and the legally based and restricted access employment vetting within local Rehabilitation legislation.

‘(b) the position or employment for which the information was being sought’

8. Assuming that sub-paragraphs (a) and (b) of the question are connected to the inability of ‘firms directly and by individuals personally’ to access vetting procedures results in such information not being held. However, in order to cover the possibility of the question relating to misuse of the Subject Access provisions then the fact that there is no requirement to declare reasons for making an application would also result in information being unavailable.

‘Will the Minister Outline whether there are any Eastern Europe countries from which Jersey does not obtain background check information regarding criminal records and, if so, explain whether this is because of lack of agreements with those countries or their inability to provide the information?’

9. There is currently no existing agreement under which Jersey, or the United Kingdom, can access criminal conviction information from EU Member States or indeed from other countries around the world. The States of Jersey Police can however access such information for specific purposes related to ongoing police prosecutions or investigations.
10. However, in May, 2008, the European Commission adopted a wide range of proposals to promote a ‘European Justice Area’ part of which includes creation of a European Criminal Records Information System. Such a system would form technological links between the independent criminal records which are held by individual member States. A main aim of this process is to extend the sharing of criminal records for the purpose of vetting persons having access to, and working with, children and other vulnerable groups.
11. The States of Jersey Police have continuing contact with national policing and UK government agencies involved in developing proposals for EU sharing of such data.
12. In the absence of such arrangements it is still possible for foreign nationals to obtain their own criminal record disclosure from their home country. In many cases this can be sought by a third party with written evidenced consent of the individual concerned.