

AccessNI Newsletter

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Welcome

Welcome to this latest AccessNI Newsletter. This an important aspect of the service we provide as it enables us to share with you important messages about our disclosure service, and provide updates on changes as they unfold.

This edition of the newsletter is no different. In particular, I would draw your attention to the first two articles which provide information about eligibility for AccessNI checks for certain groups.

From an operational perspective applications volumes are now starting to pick up again after the Christmas / New Year lull. We are in a relatively good position aside from some delays for enhanced checks that have been referred to PSNI, but that situation is improving.

Finally, for now, we hope to issue our annual Customer Survey towards the end of March. This is an important exercise as it allows us to gauge your views on how we are performing. The survey is on-line and should only take 12 minutes to complete. I would encourage each of you to take the time to provide this important feedback as it does help inform the direction of any changes we might wish to consider.

Tom Clarke
General Manager

Eligibility for AccessNI checks

A number of queries have been raised about eligibility for enhanced AccessNI checks over the last few weeks. AccessNI thought it would be useful to share this information more widely with RBs.

Charity Trustees

Any charity trustee who is engaged in regulated activity with either children and/or adults is eligible to apply for an enhanced AccessNI with a barred list check. In addition, under the provision of the previous definition of regulated activity, trustees of all charities that carry out work targeted at children, known as children's charities, are also considered to be in regulated activity. However they are only eligible for an enhanced AccessNI check, they are not eligible for a barred list check.

Qualifying charities are defined in the Safeguarding Vulnerable Groups Order (NI) 2007 legislation as follows:

"a charity is a children's charity if the individuals who are workers for the charity normally include individuals engaging in regulated activity relating to children' and 'an individual is a worker for a charity if he does work under arrangements made by the charity; but the arrangements referred to in this sub-paragraph do not include any arrangements made for purposes which are merely incidental to the purposes for which the charity is established".



Sports sector

AccessNI wish to clarify that the following persons working or volunteering and not supervised in the sports sector, are in regulated activity, provided they meet the period condition and therefore eligible for an enhanced check with a barred list check (children's list):-

- All swimming pool and beach life-guards. Those responsible for managing such staff are also eligible for a check;
- Coaches of children whose duties include teaching, training or instructing children or providing advice or guidance to children relating to their physical, emotional or educational well-being;
- Referees, umpires or other officials but only where their duties include teaching, training, instructing or being required to care for or supervise children. A referee who does no more than simply officiate at a football game would not be eligible for a check, but if his duties extend to advising children on the correct way to take a throw in or other technical aspect of the game, then regulated activity would be eligible. Similarly a sports official who was responsible for supervising children before or after a game would also be regarded as in regulated activity and eligible for a check.

Health care professionals working with children in the sports sector are also eligible for an enhanced check with a barred list check and are not required to meet the period condition. In other words, they only have to do this on a single occasion to engage in regulated activity.

Children attending organisations open to all ages

Where a person under 18 is involved in an organisation where membership is open to all members of the public, regulated activity may be engaged and eligibility created for a check. Examples of this could include sports teams, a musical band or orchestra or volunteering with a charitable organisations.

The key question is to what extent the young person (or persons) are involved in the activity? For example, if a person under 18 regularly plays for an adult team or has registered to join a music group open to all, or volunteers once a week in a charitable activity, then anyone who is specifically responsible for teaching, training, instructing or being required to care for or supervise that under 18 person would be in regulated activity, providing they meet the period condition.

In these circumstances organisations would have to determine who is acting in this role and is eligible for a check. For example it may be the captain or manager of a sports team or the conductor or lead player in a section of the music group or an individual assigned by the charity to specifically look after those under 18 volunteers that is eligible. In addition, anyone who supervises the person who is in regulated activity with those under 18 would also be in regulated activity and eligible for a check.

This should not be confused with activity where the teaching training, instructing or being required to care for or supervising children is merely incidental to the function of that role and the children are part of a mixed age group and their involvement is incidental to the purposes of the activity. To be considered incidental the activity should be designed and provided for adults rather than children. An example of this may be a guide who shows a party around a museum that has children within the group.

For ease of reference the period condition is;

- Once a week or more;
- On 4 days or more in a single month; or
- Overnight – between the hours of 2am and 6am with the opportunity for contact with children.

Any person who does not meet the period condition is not eligible for an enhanced AccessNI check. The only exception to this is where an individual only need to undertake regulated activity on a single occasion to be eligible for a check – for example providing healthcare to either adults or children.



Checks With EU Member States

Registered Bodies will be aware from Monday 3 December 2018 AccessNI extended these checks to nationals from 3 additional countries.

The full list of countries where checks are made are as follows :-

Bulgaria*	France	Germany
Hungary*	Italy	Latvia*
Lithuania	Poland	Portugal
Romania	Slovakia	Spain

*Denotes additional countries

Due to the length of time it was taking Poland and Romania to respond to requests for information AccessNI stopped making referrals to these countries from 29 October 2018. AccessNI has been liaising regularly with UK Central Authority for the exchange of criminal record information about the current situation with these countries. As the delays are continuing the suspension will remain in place until further notice. Outstanding cases continue to be returned from these countries and at present only 15 cases remain outstanding. Once these cases have been returned the relevant Signatories will be informed.

In order to prevent unnecessary delays, where an individual is seeking to work in regulated activity with children, and their nationality is listed above please ensure Town/City, Country and Nationality fields on the enhanced disclosure application form are completed accurately. In addition should further information be requested from AccessNI, in respect of such cases, please reply without delay.

AccessNI will provide further information to signatories in relation to the impact of Brexit on this project and other AccessNI work once the position becomes clearer.

Fraudulent and Ineligible Applications

In the last months of 2018 an individual was prosecuted, and successfully convicted, of the following offences in relation to the submission of an application for an AccessNI check:-

- Making a False Statement to obtain a Certificate; and
- Engaging in regulated activity from which barred

The court considered that each of these offences was sufficiently serious to be deserving of suspended prison sentences (3 years in each case).

At the crux of this matter was the fact that the individual failed to declare her maiden name when applying for her AccessNI check. This was not picked up during ID checks by the Signatory; and it was under this maiden name that she was on a barred list.

This incident serves as a timely reminder on the importance of carrying out full and thorough Identity checks when countersigning AccessNI applications. Failure to do so could result in someone working in regulated activity for your organisation who should not be doing so, or AccessNI not identifying or disclosing criminal history information that might influence your recruitment decision.





ICT Contingency

As part of our on-going work to ensure robust resilience and business continuity procedures are in place we will be undertaking a desk top test of our ICT contingency arrangements over the next couple of months. Part of this will include how we will communicate with Signatories should our IT system / network fail. To this end we have created a gmail communications account called

AccessNI.BCP@gmail.com.

In order to test this process, we will be issuing an email from this gmail account to a random selection of Signatories. We would ask that, if you receive an email from this account, you simply reply confirming receipt. Whilst hoping that we never have to use them, this is important in ensuring fall-back processes work effectively.

Digital Certificates

We have been very encouraged with the uptake in Digital Certificates since they were introduced in July 2018; most recent statistics indicate that almost 50% of all certificates are now issued digitally.

We would like to take this opportunity to remind you that applications from outside the UK will always be issued digitally if there is no information to be disclosed – this will be the case even if the applicant asks for a paper certificate. It is imperative therefore that for such applications you ensure that the applicant creates their own nidirect account and submits the application on-line. Failure to do so could result in the disclosure check being delayed.

Compliance

It has come to the attention of the Compliance Team that a number of Registered & Responsible Bodies are using their counter-signatory NIDA login details to complete on-line applications on behalf of their clients. A signatory account should NEVER be used to complete an e-application. Using a signatory's account has the potential to corrupt an RB's account and could lead to the loss of all previous information held on the RB account. If an RB continues with this practice, any cost to rectify a corrupt account will have to be met by the RB. This could be the re-registering of your organisation or re-registering all signatories.

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