

By: Head of Audit and Risk

To: Governance and Audit Committee  
20 September 2006

Subject: **Pre-Employment Checks**

Accountable Officers: Head of Audit and Risk and  
Director of Personnel & Development

Classification: Unrestricted

File Ref: AUD/AC200906

---

Summary: A report responding to queries raised by Members of the Governance and Audit Committee, at the meeting on 30 June 2006.

#### FOR INFORMATION

---

#### **Background**

1. At the Governance and Audit Committee meeting on 30 June 2006, Members received reports which prompted requests for additional information concerning the process by which Criminal Records Bureau (CRB) checks are undertaken on newly appointed staff (and potentially members) who are likely to come into contact with vulnerable clients.
2. The specific questions asked were:
  - *Is the Schools Personnel Service (SPS) being too stringent in only accepting its own CRB checks?*
  - *What is the proportion of eligible staff who have (and haven't) undergone the required checks?*
  - *Could a cut-off point be introduced after which a new staff member, who has not successfully completed a check, should be released from their contract of employment?*
  - *Is there a way of ensuring that more than one check is not undertaken on the same person who might apply for different jobs within KCC?*

#### **Response to queries**

***Is the SPS being too stringent in only accepting its own CRB checks?***

3. Current SPS advice to schools is that, for posts working with children in an education setting, they should only accept CRB disclosures processed by the SPS. This position has been supported by the Local Authority's CRB & Bichard Group. The reasons for introducing this are:
  - CRB withdrew their 'portability' service from April 2006;
  - Disclosures processed in relation to a post with a different client group/setting may not have had all relevant checks carried out by the CRB that are necessary for the school's position;
  - If an applicant subsequently commits an offence, the police will contact the organisation that processed the disclosure. If the individual is still working for that organisation they will inform the employer of the details of the offence. However, no information will be passed to the organisation if the individual is no longer working for them and information will not be passed to a new employer. For example, a teacher could be employed by a Medway school in September 2004, for which a clear CRB disclosure is processed under Medway Council. The teacher could move to a KCC school in September 2005, which accepts the CRB disclosure processed by Medway. The school could check with Medway at this time to confirm that there have been no subsequent disclosures. However, if the teacher receives a caution for an offence committed at any time after September 2005, the KCC school will not be made aware. This is because Medway Council will be contacted (as the registering body that requested the original disclosure) to inform them of the caution. On being informed that the teacher no longer works for the Medway school, the police will not disclose the information, and will not be obliged to contact KCC.
4. As a result of the process by which subsequent disclosures are made only to registering authorities, there is a risk that employees who have been appointed on the basis of portable CRB disclosures could become unsuitable for unsupervised contact with vulnerable clients. The SPS guidance recommending that KCC schools accept only SPS-processed disclosures, reduces this risk. However, headteachers are not obliged to follow this guidance.

***What is the proportion of eligible staff who have (and haven't) undergone the required checks?***

5. To calculate the proportion of school staff who have undergone SPS checks requires the following data:
  - Total number of staff employed in schools
  - Total number of staff employed in schools for whom a CRB disclosure has been undertaken
6. The total number of staff employed in schools is not readily available because Kent County Council does not provide personnel services for all schools: approximately 50 schools (8%) obtain personnel services from

other providers, or in-house. The number of staff for whom a CRB disclosure has been undertaken by SPS is recorded on a database, but there is no way of knowing how many are still employed, or the numbers who have received disclosures through other providers.

7. Further complications relate to the varying requirements for checking different types of staff and the introduction of relevant legislation. Consequently, not all school staff are required to have had checks carried out, and of the remainder, only those employed since May 2006 are required by law to have CRB disclosures which were introduced in April 2002 but were not compulsory for school staff. Less stringent 'police checks' were recommended for school staff working directly with children employed between 1991 and 2002, but other school staff were not eligible and all school staff appointed prior to this were not police checked as these were not available before 1991.
8. Given the above limitations in the quality of data, the following table provides information extracted from the personnel system (Oracle) which has been compared against the CRB database, relating to the 550 schools for which KCC provides a personnel service.

	<b>Number of records</b>
CRB checks	10,047
Police checks	6,977
No checks	13,175
<b>Total staff (550 schools)</b>	<b>30,199</b>

9. Of the 13,175 individuals for which there is no record of a CRB or police check, some will have been checked using the newly introduced Atlantic Data System, some will have had portable disclosures or checks processed through other providers and some will be in the process of being checked but these are not yet completed.. However, the majority are likely to be staff employed prior to the introduction of the legislation or in positions which were not eligible for checks at the time they were appointed.
10. Kent County Council has introduced a programme to implement the Atlantic Data System in all schools by April 2007, and undertake retrospective checking of all staff in schools that have never had either a CRB or police check. The System facilitates the process by which disclosures are submitted and returned, thereby reducing the risk that they will not be completed. To date, 150 schools have been set up, including all special schools.

***Could a cut-off point be introduced after which a new staff member, who has not successfully completed a check, should be released from their contract of employment?***

11. Kent County Council can recommend termination of a contract of employment for staff who do not successfully complete CRB checks within a specific period, but has no means to enforce it in schools without removal of delegated powers. There are many reasons for delays which are beyond the control of the new recruit. However, to prevent the individual from deliberately delaying the process, SPS is currently considering the following:

- The offer letter from the school and the employment contract should include the following words:  
*'unless you have an existing Enhanced Disclosure that has already been accepted by the headteacher as sufficient, the disclosure application form must be fully completed and returned to the school, together with the required identity documentation, before employment can commence. The date of commencement of this contract and entitlement to pay will be postponed until you have satisfied this condition. Following submission of your disclosure application, if the Criminal Records Bureau request further information from you or you dispute any information provided on the disclosure, then you must deal personally with these matters without delay. If the school has reason to believe that you are not making reasonable efforts to comply with these conditions then action will be taken to withdraw the offer of employment or, following commencement, to terminate your employment. Unless agreed otherwise, if you have not obtained a satisfactory Enhanced Disclosure within 6 months of the commencement of this contract, steps will be taken to terminate your employment.'*
- The successful appointee should be issued with a disclosure application form, or access to the on-line system, prior to commencement.
- The appointee should return the disclosure application form as per the offer letter/contract before commencement or, at the latest, bring it to the school on the first day of employment, otherwise he/she will be sent home. The expectation is that he/she will return later that day with the completed form, at which time the contract will commence.

***Is there a way of ensuring that more than one check is not undertaken on the same person who might apply for different jobs within KCC?***

12. Both SPS and Employee Services (on behalf of Adult Services) currently record details on the CRB database of all disclosures requested. Where a National Insurance number (NINO) has been provided, the database allows a search to be undertaken and issues an alert that a record already exists for the same NINO, which can prevent undertaking another disclosure. Ultimately it is the headteacher's decision for a fresh disclosure, which may be essential if the previous disclosure was for a different type of employment.

13. The on-line, Atlantic Data System does not alert the administrator that a previous application has been made, as NINO is not a required field for the disclosure application. We understand that SPS will arrange for inclusion of this field in the System for the future. In the meantime, guidance notes provided to school administrators include a recommendation to ask the applicant whether a previous disclosure application has been made for another position or whether he/she is already in possession of an Enhanced Disclosure.
14. The only other service requesting CRB checks within KCC is Commercial Services, on behalf of drivers and supply teachers. This service does not make use of the CRB database or Atlantic Data System, so there is risk of duplicating checks, at a cost of £36 each, for people who might apply within the different areas.

### **Recommendation**

15. Members are asked to note the responses to queries raised at the meeting on 30 June 2006 contained in this report.

**Christine Webster**  
**Lead Internal Audit Manager**  
Ext: 4614  
6 September 2006

**Amanda Beer**  
**Director of Personnel & Development**  
Ext: 4136  
6 September 2006