



Background screening is becoming increasingly commonplace in Ireland although it is recommended that checks conducted are relevant to the position being filled.

Legal Landscape

Ireland is a member state of the European Union and as such is responsible for compliance with regulations and directives. A regulation is a binding act that must be uniformly applied across all member states within the EU, whereas a directive establishes a legislative goal that each member state must implement with their own laws. Laws implementing a directive must be at least as strict but can impose additional requirements. The European Commission is responsible for ensuring each member state properly applies EU law.

Capital	Dublin
Currency	Euro (€) (EUR)
Population	4,761,865
Area	70,273 km ²
Language	Irish English
Time Zone	UTC +0(1 summer)
Calling Code	+353

Data Privacy

Historically data protection has been controlled by the Data Protection Act 1988 and the Data Protection (Amendment) Act 2003. These laws outline eight principles of data protection that must be adhered to when collecting and processing personal data.

Personal data is defined broadly as data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or is likely to come into, the possession of the data controller, and sensitive personal data includes criminal convictions or the alleged commission of an offense. Importantly, there must be transparency with the data subject which includes ensuring the data subject understands who is receiving, collecting and/or processing the personal data and why. Data must be kept safe and secure, accurate, complete and up-to-date, and must be retained for only so long as necessary for the processing purpose(s).

Additionally, the data subject must provide consent for personal data processing that is specific, freely given and informed. Many experts believe that consent as it relates to employment can never truly be “freely given” so employers should consult with a qualified legal expert to determine what steps should be taken if an individual were to refuse consent to a background check. Explicit consent must be given for the processing of sensitive personal data (which includes “the commission or alleged commission of any offence”). Further, personal data should be collected and processed for one specific and legitimate purpose and should not be retained for longer than necessary.

Employers should understand that it is illegal to force an individual to make a data protection access request (otherwise referred to as an “enforced subject access request”). Essentially this means that employers cannot require applicants or employees to request copies of personal data (such as a criminal record certificate) and then provide that information to the employer.



It is also important to note that the data privacy landscape throughout the European Union is shifting due to the passage of the General Data Protection Regulation (GDPR) which goes into effect May 25, 2018. As noted in the introductory notes of the legislation, the fragmented nature of data privacy across member states created significant challenges to businesses in terms of compliance and presented different rights for individuals depending on where they resided. Instead, the GDPR will represent a uniform law that all impacted companies must adhere to. The GDPR presents strengthened protections for data subjects as well including a “right to be forgotten”, easier access to their data and stronger enforcement of the rules.

The EU-US Privacy Shield presents one method for lawful data transfers from Ireland (or any other member state) to the United States. The Privacy Shield is the result of an agreement between the European Commission and the US following the invalidation of the US-EU Safe Harbor Framework in October 2015. Info Cubic self-certifies compliance with the EU-US Privacy Shield as set forth by the U.S. Department of Commerce regarding the collection, use and transfer of personal data from the European Union member states to the United States. More information about this program may be found here: <https://www.privacyshield.gov/welcome> and a list of active and inactive organizations, including Info Cubic’s certification, may be found here: <https://www.privacyshield.gov/list>.

Discrimination Protections

Full-time and part-time employees and job applicants in the private and public sectors are protected from direct and indirect discrimination by the Employment Equality Acts 1998 to 2015. Protected classes under the law includes: gender, sexual orientation, disability, civil status, religious belief, race, color, nationality or national origins, family status, age or membership of the Traveller community. Employers should be cognizant of these protections throughout the hiring process such as ensuring job advertisements do not infringe on one of these protected classes.

Background Screening – Available Checks

Bankruptcy Records

Civil Records

Credit Check

Directorship

Education

Employment

Global Monitor Check

Motor Vehicle Records

Passport Check

Criminal Prohibited Activity Database

Professional License Verification

References



In general, the most commonly conducted checks in Ireland include reviewing an individual's past education and employment history, in addition to conducting a professional reference check.

Education

In Ireland it is common to verify the highest degree obtained by a candidate. Educational institutions will be contacted to verify dates of attendance, graduation date and degree information.

Employment

It is common to verify the last seven years of employment for candidates. Employers will be contacted to verify the individual's title, dates of employment and if the candidate is eligible for rehire. Current employers will only be contacted with express consent from the applicant.

Credit Check

The individual credit report provides a summary of an individual's credit history. Other information provided in the report may include information on the individual's bad debt and collections, trade account information, bankruptcies and court liens or judgments.

According to the Data Protection Commissioner, employers seeking access to credit information may or may not have data protection concerns. Any requirement for employees/applicants to provide this information for employment screening may run afoul of the Data Protection Act (see section on "enforced subject access request" in the Country Overview).

Prohibited Activity Database

Info Cubic offers Prohibited Activity Database search in lieu of a traditional criminal search as one is not available in Ireland. This proprietary database will pull information from various sources that are publicly available. While this search will provide insight into an individual's past, it should not be considered a true, comprehensive criminal history review.

According to the Data Protection Commissioner, employers are entitled to ask individuals if they have previous criminal convictions. However, only those criminal convictions that are related to the job in question should be considered. Companies that hire individuals working with children or vulnerable adults must be vetted by the National Vetting Bureau of the Garda Síochána (formerly the Garda Central Vetting Unit) pursuant to the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012-2016 (effective April 2016). These requirements have also been extended to employees covered by the Private Security Services Act 2004 (nightclub security staff, bouncers, etc.). For all other employees, the Garda vetting services are not available.

Miscellaneous

Other searches in Ireland include: Bankruptcy Records, Civil Records, Directorship Search, Motor Vehicle Records (validation of the individual's driver's license), Passport Check, Global Search (sanctions and watch lists), Professional License Verification and Professional References.



*The preceding is offered as general educational information and is not intended to constitute legal advice.
Given the intricacies of the pertinent laws and regulations, consultation with qualified legal counsel is
recommended.*