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PRE—EMPLOYMENT SCREENING OF EMPLOYEES

Recent media reports have shown an increase in cases of employee fraud. This may be due to the greater financial difficulties people are facing during the recession. So what can an employer do to protect their business from employee fraudsters?

One important way to reduce the risk of fraud by employees is through the pre-employment screening process. There are a number of checks that can be undertaken by an employer during the recruitment process to check out an employee's background. These include finding out if a prospective employee has a criminal record, reference checking and credit checking.

Some employees are even screening prospective employees by "googling" them or looking into their Facebook or other social networking sites. Often these can provide an insight into an employee that they may be reluctant to reveal at an interview.

It is important to comply with privacy provisions when an employer makes any background checks, however. An employee may only collect information relating to an employee/prospective employee for lawful purposes connected with the functional activity of the employer's organisation. Any information obtained cannot be used to discriminate against any prospective employees on any of the grounds set out in the Human Rights Act i.e. such as race, age, sexual orientation, or religion.

An employer can make a request under the Official Information Act for a copy of an individual's criminal convictions held on record by the Ministry of Justice. However, an individual must give written authorisation for this information to be

provided.

Accessing an employee's criminal record is a reasonable and sensible step to take, especially if the employee is applying for a key or sensitive role i.e. in finance or accounts. The purpose will be to determine if the employee has any convictions for fraud, dishonesty or any other offence which may be relevant to the job for which they are applying. An employer should also check if an employee is the subject of any criminal charges at the time of interviewing.

It is also especially important for an employer to contact a prospective employee's past employers as referees. However, again an employer is required under the Privacy Act to obtain prior consent from a prospective employee before they contact the referees. It is generally accepted that consent has been given to contact referees if the referees are listed by the candidate on their application or CV.

As for checking qualifications, a sensible approach is to ensure that an original academic transcript is obtained or viewed when an employee's qualifications are relevant to the job they are applying for. If there is any doubt, it is also wise to check with the relevant institution who issued the qualifications.

Should you require any assistance with pre-employment screening, feel free to contact us.

- **Next Issue—Payment Claim—Construction Contracts Act by Michael Moohan**