

Safer recruitment principles and guidance

Key Points

This guide applies to **all people** working with children and vulnerable adults whether employed directly, or engaged as agency workers, volunteers, contractors etc. It does not provide comprehensive processes across the whole range of recruitment and selection but rather emphasises important principles and activities to be put in place to satisfy safeguarding expectations.

It is applicable to **all agencies**, whether within the statutory or voluntary sector, but it is recognised that most larger organisations have dedicated HR departments responsible for the recruitment of staff. Some of the HR managers from such organisations working across the three boroughs have helped to agree these recommendations, accepting that there are learning points and areas of good practice which they can use in their processes. It is hoped that these guidelines will be most beneficial to smaller agencies recruiting staff.

This guidance is about reducing risk by putting in place clear standards and robust practices to protect vulnerable people of whatever age. This means deterring and preventing unsuitable people being put in positions where they can cause harm. Recent national cases have also highlighted the damage to the reputations of organisations caused by placing unsuitable staff in caring roles, commonly known as 'corporate risk'. Whilst it is accepted that robust recruitment procedures can be seen to be expensive and bureaucratic, serious consideration needs to be given to the cost of 'getting it wrong'.

At the heart of the guidance is the role of an Appointing Manager and their specific responsibilities for managing the process, risk assessment and 'sign off' of all appointments / placements.

The Disclosure and Barring Service (DBS) is responsible for processing the checks on candidates to regulated posts. It manages the police check process and the two lists of barred people. It is a requirement that those recruited to regulated posts have a DBS check. Specifically:

- All job descriptions, person specifications and selection criteria must be reviewed by the Appointing Manager prior to advertisement. This will include ensuring that documentation clearly states whether it is a regulated post.
- Appropriate selection and testing methods should be drawn up that cover all criteria relevant for the job. This should form the basis of the selection decision. Selection panel members must be suitably trained.
- A range of specific and detailed checks must be undertaken before appointment begins: DBS, barring list, references, qualifications verification, identity verification, medical fitness. All checks must be signed off by the Appointing Manager.

The appendices detail model checklists; these can be adopted / adapted by organisations for their own use.

1. Legal Responsibilities for Engagement & Hiring

The Protection of Freedoms Act 2012, created the **Disclosure and Barring Service** (DBS). This is a public body, sponsored by the Home Office, which acts in respect of decisions to bar certain people from working with children or adults requiring medical or social care. It maintains the two barred lists which relate to work with adults and work with children whilst managing the process for police checks. Checks of these lists are made as part of an Enhanced DBS disclosure **for regulated posts only.**

Classification of Posts

Posts are classified according to the type of work or where this is undertaken. Classifications apply to employees, agency workers and some volunteers and contractors. All posts or roles classified as "Regulated." under the Protection of Freedoms Act will require both an enhanced DBS disclosure and a check against the DBS barred lists (adults and children's).

Regulated activity – Broad definitions

Regulated activity is any activity which involves contact with children or adults; this could be paid or voluntary work. There is a real emphasis on employers making their own judgements about which posts are regulated and about the nature of supervision. An initial review of all posts in the organisation will be necessary to recategorise roles and to ensure that appropriate checks are made when a post becomes vacant. Categorisation should be reconsidered at regular intervals.

For Adults' services

- All health care professionals providing health care to adults or provider of health care under supervision of a professional
- Providers of personal care
- Those instructing or advising giving guidance in personal care to adults
- Providers of Social Work
- Assisting with cash, bills or shopping
- Assisting in conducting personal affairs
- Transporting adults to places where they receive health care, personal care or social care
- Those who supervise all the above

No "frequency" test applies to the above so there is no need to determine how often the individual is undertaking such duties.

<https://www.gov.uk/government/publications/disclosure-and-barring-service>

2. Safer Selection – Guidelines for Checking / Screening Staff

Unsafe selection can have serious implications for the safety and security of vulnerable adults and children and potentially be extremely damaging to the child or adult. It can prove costly in real terms and extremely damaging to the employer's reputation and standing.

It is relatively easy for an organisation to make clear to applicants in its policy statements and staff selection procedures that the organisation has robust processes to research offending history where relevant to the application. This actively discourages offenders. The best safeguard is a high standard of management practice and quality control consistently applied at recruitment and selection and subsequently through induction, performance management, appraisal, supervision and monitoring.

All job descriptions, person specifications and selection criteria must be reviewed by the Appointing Manager prior to advertisement. This will include ensuring that documentation clearly states that it is a regulated post and if so, the requirement for a DBS check and any professional registration requirements. Applicants should be required to make a self-declaration whether they are on a barred list. Any disclosures should be considered at interview stage or through a separate discussion.

Appropriate selection and testing methods should be drawn up that cover all criteria. The aim of the selection process is to obtain key relevant and comprehensive information on all candidates by applying consistent procedures. Suitable probing during interview questioning is essential in order to elicit complete responses but this must be concerning the criteria specified. Probing applicants regarding their motivation to do the work, how they deal with difficult issues and how they maintain safe and appropriate boundaries through professional working relationships will be part of the interview for all regulated posts.

Selection panel members should be suitably competent. Ideally at least one member should have received safer recruitment training or at least attended an awareness course. It is recognised that in smaller organisations such training may not be readily available but the onus is on the panel chair to ensure that at least one member has these skills.

Relevant information for candidates

Applicants for regulated posts should be advised that:

- We will ask whether they are a barred person as per the DBS requirements and we will conduct a DBS check.
- We reserve the right to approach any current or previous employer for a reference.
- We will ask about disciplinary offences, including those that have expired.
- The Rehabilitation of Offenders Exceptions Order applies so we will ask about 'spent' convictions.

- We will ask you why did you leave your last employment?
- Providing false information will lead to no appointment or dismissal.
- Failing to declare conviction, caution or pending police action **could** disqualify the applicant for employment.
- They may be required to participate in appropriate testing e.g. group exercise, competency interview, verbal and numerical reasoning tests, Occupational/ Personality Questionnaire etc. as relevant to the post.
- Offers but not appointments are 'subject to satisfactory checks' i.e. no waivers and no unsupervised access to children until all appropriate checks carried out.

Recruitment and Selection Checks Overview

To increase the threshold of protection, a combination of positive selection steps should be implemented. Key ones are:

I. All candidates must complete a written declaration on whether they are a barred person, (normally as part of the application form).

II. Reserve the right to approach any previous employer (take up all relevant care and other references over the last 3 to 5 years). It is essential to cover gaps in CV / employment history (and check dates against references, pensions, reasons previous employment ended, continuous service etc. information) so there is a complete history on file. The Appointing Manager to identify who should be approached for references and identify any extra questions.

III. Ensure that references are read and cleared by the Appointing Manager.

IV. Do not commence staff without references or any other essential check. If there is an urgent need to put staff in place before all checks are made, first conduct a written risk assessment and only employ on the basis that the applicant knows that their employment will cease if the safeguarding checks are not satisfactory in any way once they are received.

V. Confirm person's identity through official documents (birth certificate, passport etc.). **Make sure the person who starts work is the same person who attended for interview and assessments.**

V1. Employers are required by law to satisfy themselves as to the applicant's right to work in the UK. Best practice from the NHS is the use of scanners to examine the documents presented by the applicants to ensure their authenticity.

VII. When working in an off-site unit, ensure that identity is verified; a photograph ID card is the best method. Managers should ask for evidence of photo identity for agency workers to ensure they are the same person hired for placement. More advice on identity checks is available on the DBS web site

<http://www.homeoffice.gov.uk/agencies-public-bodies/dbs/>

VIII. Verify the authenticity of qualifications and references directly (e.g. telephone contact, website information, check referee is legitimate, headed paper etc.). Insist on original documents (check registration details online). HR/support staff must scan / photocopy for file and record who saw the original and when.

IX. The Appointing Manager is the key decision-maker who 'signs off' the documentation and clears the appointment. Where there are gaps in employment history or matters of judgement the Appointing Manager will undertake a risk assessment and identify follow-up action, e.g. more references, further interviewing, temporary restrictions on duties etc. Any such risk management decision must be written and properly and fully recorded by the Appointing Manager.

X. Rigorous management of all appointments to work with children and vulnerable adults is essential. This must include internal transfers and promotions.

Risk Assessment

Where there are gaps in information, concerns or matters of judgement, the Appointing Manager will undertake a risk assessment to determine whether the appointment should proceed or the offer is withdrawn. The Appointing Manager will weigh up the information available and consider whether further information / advice is required, whether the safety risk is small or can be mitigated by temporary work restrictions. Advice from HR should be sought on potential employment rights matters (for example if a temporary contract is envisaged).

As a rule of thumb, any risk must be judged by a sense of reasonable action to avoid the risk arising and should be mitigated so it becomes negligible. Generally risks should be avoided, and never be unmanaged.

All risk assessments should clearly identify necessary actions, be time-bound and reviewed by the Appointing Manager within the period identified.

The Appointing Manager must 'sign off' the documentation and clear the appointment for processing. The Appointing Manager will be held accountable for this decision.

References; extra advice

The minimum requirement is for at least two relevant references (not friends or relatives). Key reference to be from the last employer or one most relevant for position (as a general rule, check for regulated posts working with young people or adults over the last 3 to 5 years). If there are concerns about past employment record, any number of previous employers should be contacted for reference. Notes of any telephone discussions should be kept and filed / scanned on relevant personal/recruitment files.

Care should always be exercised in reading references – some of which may be 'agreed' following Employment Tribunal decisions or as "Compromise Agreements"; some may be evasive and not addressing contentious issues; and some may not be from authorised sources. Always seek further information if it is felt questions have not been answered.

Important points to bear in mind when receiving or giving references:

- The Appointing Manager should agree (with HR/support staff) who should be approached for references having regard to any gaps in employment or issues arising from interview, that need further enquiry
- Personal references are of limited value and should be treated with caution. They should not substitute for minimum two work references.
- Managers are entitled to make appropriate enquiries about anything in a reference that requires investigation (e.g. ambiguities or unguarded comments) and to take this into account when making decisions on employment. If necessary, customise reference requests to deal with particular issues.
- No inhibition exists to restrain the employer from making further and appropriate enquiries of the provider of a reference, the applicant for the job or anyone else deemed relevant.
- A key lesson from experience (Richard Inquiry) is that Managers should not accept open or 'To whom it may concern' references.
- All contacts should be documented and held on file, to which the employee or prospective employee has access.
- References should be checked against application forms to verify dates of employment.
- The reference request should clearly identify that the applicant is to work with children or adults in a regulated capacity and should ask directly if the referee knows of any reason why they should not do so.
- References must be signed by the author. E-mail references may be accepted but sender e-mail address must tie up with the person providing the reference and be from a verifiable source, e.g. from a local authority /company e-mail address not a personal e-mail account.

3. Other considerations

Overseas workers

Extra care needs to be taken where candidates are from overseas as detailed verification may be difficult to obtain and where they are new arrivals they have no track record of relevant employment.

These workers must still be checked in accordance with DBS requirements and utilise all available avenues to check candidate's background: the DBS website details the availability of criminal records from overseas.

The DBS also provides an Overseas Information Service, which will provide employers with details of the information that applicants may be able to obtain from their country of origin. This may involve obtaining a translation of the information that comes back.

The Health Care Professional Council (HCPC) www.hpc-uk.org has an international application pack to consider applications for registration for social care and health workers.

Special efforts need to be made to ensure that reference sources are reliable, employment history is break-free or explained, and supplementary references should be obtained in order to produce a proper historical work, training, etc.

For potential appointments the Appointing Officer must take care to ensure sufficient breadth and depth of information is available to make a safe decision.

Agency Workers / Contractors

Recruitment processes should be rigorous for all who work with children and adults for health or social care purposes; this includes all agency and temporary staff, volunteers, escort and transport agencies, students on placement. Other people who may be on the premises and who have access to children e.g. consultants, independent visitors, contractors and Councillors, may require a DBS disclosure, but only where they meet the criteria for regulated posts (See section 1).

In using agency staff, managers are relying on the agencies to apply the proper selection and checking arrangements on their behalf. Passing responsibility on in this way, entails risk and organisations need to ensure they use agencies who have rigorous processes in place and that these are audited to ensure compliance in all cases.

Best practice from the three boroughs and the NHS has minimised this risk by using the approved agency service providers who is contractually responsible for vetting candidates to high-risk positions and auditing vendor agencies. This will include ensuring that agencies check whether an agency worker is a barred person under DBS requirements. All vendor agencies providing social care, and other staff with access to children and vulnerable adults, will have a specific service agreement, which outlines their responsibilities and the expectations placed upon them when proposing workers for placement.

Failure to reach quality standards will result in removal from the approved list of suppliers. The service provider will monitor / audit these agencies quarterly to ensure quality standards are maintained. Corporate HR will review and periodically check the audit reports for agency screening / checking arrangements.

Some job types will be identified as 'high risk' posts (i.e. those with direct care responsibilities). In those cases the Service Provider will undertake sight of documentation before workers will be put forward for selection. Documents include:

- Professional references – two minimum (not 'To Whom It May Concern')
- Identity checks
- Professional registration checks
- Qualification checks necessary for the job
- Enhanced DBS check
- Overseas police check where appropriate
- Medical clearance

The Service Provider will hold documents and supply them as requested. Normally this will include uploading documents for hiring managers to scrutinise and the hiring manager is responsible for ensuring that they have satisfied themselves that the documentation meets requirements. Where necessary hiring managers must undertake a risk assessment where there is an urgent need to secure agency staff before all checks are in place. The risk assessment should be kept regularly under review at minimum monthly.

Through procurement rules, all contractors who provide services which would fall under the safeguarding umbrella must be required to follow appropriate checking procedures. As contracts are renewed, these requirements need to be written into contract documentation. Where services are being subcontracted, managers need to be confident that safeguarding principles are being upheld throughout the provided service.

Post recruitment responsibilities

Employers retain responsibility post recruitment to ensure that people are eligible to practice and that periodic checks are made via DBS routes. Checks on professional registration and the frequency of DBS re-checks will be determined in accordance with the relevant professional body.

Staff should be told that any police or criminal law related activity that occurs during employment should be reported to their manager at the earliest opportunity so that the potential risk posed can be assessed and any management action which may be necessary considered. This will include police arrest, charge, caution, conviction or bind over.

Details of discussions with staff about criminal or other declarations must be retained on personal files confidentially.

All other applicant related documents should be retained on personal files.

Sources of additional information

Home office

<http://www.homeoffice.gov.uk/agencies-public-bodies/dbs/>

Department of Health

<http://www.nhsemployers.org/your-workforce/recruit/employment-checks/nhs-employment-check-standards>

Department for Education

<http://www.education.gov.uk/childrenandyoungpeople/safeguardingchildren/a00209802/disclosure-barring>

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