



# Safer recruitment: seeking and providing reliable employment references

# Outline

This session will explore:

- what the Children's Home Regulations 2015 require in relation to gathering employer references
- verifying the candidate's integrity and suitability
- providing references - legal and statutory responsibilities
- key points in the DBS / Better Hiring Institute 'effective references' toolkit

# Know your statutory framework!

## Children's Home Regulations:

- No requirement to take up references before interview
- Must have two satisfactory employer references before the person commences in post
- Should contact all previous children's / vulnerable adults workforce employers to ascertain the person's integrity, suitability & reason for leaving



If you cannot get this information, keep clear records of everything you have tried to do!

# Other requirements

## Children's homes:

- Cannot undertake a stand-alone barred list check – you must always wait for the paper DBS certificate
- Must ask the person whether they know of any reason why they would be disqualified from caring for children
- Must ensure that the individual is mentally and physically fit for the purposes of the work they will perform

There is no requirement to gather character references in addition to employer references!

# Disqualification from caring for children Regulations 2002

This is different to Disqualification under the Childcare Act 2006.

Applies to:

- Staff employed to work in children's homes
- Private / public foster carers
- Social workers

It does not apply to care staff in residential special schools

# Disqualification

Who is disqualified?

- People convicted of certain violent and sexual offences against children
- People who are included on the children's barred list
- Where there are grounds relating to care of their own child
- People who have previously been prevented from running or being employed in a children's home or private fostering

# Recruiting staff: fitness of workers

3. The registered person can only employ someone if they are satisfied that:

- a) the individual is of integrity and good character;
- b) the individual has the appropriate experience, qualification and skills for the work that the individual is to perform;
- c) the individual is mentally and physically fit for the purposes of the work that the individual is to perform; and
- d) full and satisfactory information is available in relation to the individual in respect of each of the matters in Schedule 2

# Schedule 2

1. Proof of identity including a recent photograph.
2. Enhanced DBS certificate (with children's barred list check if in regulated activity)
3. Two written references, including a reference from the person's most recent employer, if any
4. If a person has previously worked in a position involving work with children or vulnerable adults, verification so far as reasonably practicable of the reason why the employment or position ended.
5. Documentary evidence of any qualifications which the person considers relevant for the position
6. A full employment history, together with a satisfactory explanation of any gaps in employment, in writing



# Recruiting staff: fitness of workers

The registered person may permit an individual to start work at the home despite the fact that the requirement in paragraph (3)(d) has not been met if—

- a) You have taken all reasonable steps to obtain full information about each of the matters in Schedule 2 in respect of the individual, but the enquiries in relation to any of the matters in paragraphs 3 to 6 of Schedule 2 are incomplete;
- b) full and satisfactory information in respect of the individual has been obtained in relation to the matters in paragraphs 1 and 2 of Schedule 2;
- c) you consider that the circumstances are exceptional; and
- d) you ensure that the individual is appropriately supervised while carrying out their duties

# When you cannot get a reference ...

.... despite your best efforts:

- If a company is refusing to provide a written reference, a telephone call is worth trying – record who you spoke to and what was said
- If a registered setting or school / college, remind them of their statutory & legal duty to share information that may be relevant to suitability
- Most businesses that are no longer trading can be verified on Companies House website
- Registered settings that have closed down can be verified on Ofsted website
- Ask applicant to provide bank statements or HMRC records showing the relevant employer's name
- If employer is in children's care / education, written appraisal records may also be relied upon to indicate the employer's view of the employee's conduct

# Other legislation

- Safeguarding Vulnerable Groups Act 2006
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

# References

## A basic reference:

Standard employment verification only; for example, confirms dates of employment and job role held but does not contain conduct information.

## An effective reference:

Detailed, timely, full and frank and includes conduct information. Goes beyond standard employment verification (basic reference)

When **sharing** safeguarding related concerns with other organisations, employers can rely on 'substantial public interest' as the processing condition – *safeguarding of children and individuals at risk*

When **obtaining** a reference, employers may consider using 'legitimate interest' as their legal basis. Social care providers and education settings may also rely on 'legal obligation' to obtain/ provide a reference

# Sharing Effective References and Conduct Information

## A Better Hiring Toolkit

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In collaboration with:



The Safer Recruitment Consortium



# References

**It's good practice to make sure the referee is aware that...**

- an employer may be failing in its duty of care (to applicant and/or prospective employer) by failing to give a reference
- they have a responsibility to make sure any reference provided is accurate, dependable and does not contain any material misstatement or omission
- if they are not satisfied the person is suitable to work with adults at risk and/or children they should provide specific details of their concerns
- relevant factual content of the reference may be discussed with the applicant unless it is a confidential reference, in which case it wouldn't be shared but could be subject to disclosure in an employment tribunal or county court claim.

## **Volunteer references**

Social Care employers have the same legal and safeguarding responsibilities for volunteers as they do for paid staff. So, you should seek volunteering references in the same way. Where applicants have stated they have undertaken voluntary work, you should seek references from the relevant organisation, but it may be difficult to obtain a reference if the applicant has carried out voluntary care work with relatives and friends. In these cases, request a reference from healthcare professionals involved in the individual's care.

# Sharing conduct information in a reference

Evidence of conduct should:	Evidence of conduct should not:
be factual and have evidence to back up what has been stated	contain opinions or claims which have no evidence to back up what has been stated
contain all relevant information – there are no omissions or misstatements	omit or misstate relevant information
share information about any physical or mental health conditions which are relevant to the person's capability (after reasonable adjustments are made) to properly perform tasks intrinsic to their employment.	share personal information or special category/protected characteristics data which may be irrelevant for the position applied.

As long as a reference is fair and accurate, it can show that a person is not suitable for a job. For example, a reference can show the person does not have enough experience for a job, or it can highlight that they were dismissed, or that the previous employer was considering dismissing them. This also includes sharing that a referral has been made to the DBS or the Local Authority in relation to safeguarding as this is a statement of fact.

The previous employer must be able to back up the reference, such as by supplying examples of warning or dismissal letters.



# Gather, record, share

 Stage of the employee journey	 How to GATHER conduct information	 How to RECORD conduct information	 How to SHARE conduct information
<b>Planning to Recruit</b> Ensuring the organisation has a safeguarding mindset when planning recruitment and requesting conduct information	<ul style="list-style-type: none"> <li>Request a reference based on a review and risk assessment of the essential characteristics and conduct required in the role.</li> <li>Applicants complete self-disclosure forms</li> </ul>	<ul style="list-style-type: none"> <li>Use specific reference request forms</li> <li>On your organisational Recruitment /HR System record from whom, what and when was information requested and received</li> </ul>	Externally - share what information is needed to know about the person's conduct from referees to get the most relevant and detailed reference from them.
<b>Recruitment and Vetting</b> Using a range of different vetting and recruitment tools alongside of references to gather conduct information and ensure the organisation can make the safest and fairest recruitment decisions	<ul style="list-style-type: none"> <li>Review and risk assess information received on a reference, and other vetting checks and recruitment activities.</li> <li>Follow up any concerns or gaps in information with the referee</li> </ul>	<ul style="list-style-type: none"> <li>Use the <a href="#">safer recruitment checklist</a> and the <a href="#">pre-employment risk assessment form</a> to document information received and risk assessed decisions.</li> </ul>	<ul style="list-style-type: none"> <li>Internally - share evidence with recruiting managers to make fair and safe recruitment decisions.</li> <li>Externally- refer any safeguarding concerns uncovered in the recruitment process to the Local Authority/ Police or relevant agency.</li> </ul>
<b>Induction and Probation</b> Ensuring new staff are clear what is expected of them in terms of their conduct, the standards they must meet, and how information about their conduct and performance will be managed, recorded and used	<ul style="list-style-type: none"> <li>Observations of conduct during induction, including service user feedback.</li> <li>Probationary reviews of conduct and performance.</li> </ul>	<ul style="list-style-type: none"> <li>On induction checklists or induction observations documents.</li> <li>On probationary review forms.</li> </ul>	<ul style="list-style-type: none"> <li>Externally - share reasons for dismissal in the probationary period in a reference.</li> <li>Externally - make a referral to external bodies e.g., DBS, Local Authority, if conduct meets their threshold</li> </ul>
<b>Supervision and Management</b> Supporting, developing, and holding employees to account for their conduct and performance when carrying out their roles safely and effectively	<ul style="list-style-type: none"> <li>Regular supervision meetings and informal one to ones.</li> <li>Structured Performance Development Reviews/ Appraisals.</li> </ul>	<ul style="list-style-type: none"> <li>On a supervision record form.</li> <li>On a PDR/ Appraisal form.</li> </ul>	<ul style="list-style-type: none"> <li>Externally - evidence of concerns and conduct from supervision and appraisal can be shared in references and other external referrals</li> </ul>
<b>Identify and Manage Concerns</b> Establishing an open culture where any concerns about conduct are shared and appropriately managed	<ul style="list-style-type: none"> <li>Open culture of staff and service users raising concerns - Allegations, Low Level Concerns, Whistleblowing, complaints.</li> <li>Effective investigation and disciplinary processes for managing concerns.</li> </ul>	<ul style="list-style-type: none"> <li>On a recording concerns form and an organisational recording concerns system/ spreadsheet.</li> <li>In investigation and disciplinary procedures file notes.</li> </ul>	<ul style="list-style-type: none"> <li>Externally - evidence of concerns and conduct from investigations and disciplinarys can be shared in references.</li> <li>Externally - allegations and patterns of low-level concerns may be shared with the Local Authority and referred to other relevant organisations.</li> </ul>
<b>Managing leavers and Referring Information</b> Collating and reviewing all information about an individual's performance and conduct during their employment in a format where it can be effectively shared in a reference and with other relevant organisations	Exit interviews and exit recording process to review and collate all information relating to the conduct and performance of an individual during their employment.	<ul style="list-style-type: none"> <li>On the <a href="#">exit record form</a>.</li> </ul>	<ul style="list-style-type: none"> <li>Externally - the evidenced and recorded conduct and performance of all staff can be shared in a reference.</li> <li>Externally - make a referral to external bodies e.g., DBS, Local Authority, if conduct meets their threshold</li> </ul>





**THE  
LUCY FAITHFULL  
FOUNDATION**

Working to protect children



National Association of Special  
Schools (NASS)  
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# The Safer Recruitment Consortium

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