

Safer Recruitment Guidance

(Version 5 – December 2021)



Essex Safeguarding
Adults Board



Document Control Sheet

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| Title: | Safer recruitment guidance |
| Purpose: | To provide guidance on safer recruitment for the management of staff working with adults with care and support needs. |
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| Target Audience: | Anyone who is involved in the recruitment or management of staff working with adults with care and support needs. |
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| This replaces: | ESAB Safer recruitment policy V.4 |
| This should be read alongside: | SET safeguarding adult guidelines |
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Scope

All statutory or voluntary agencies that employ staff or volunteers to work with adults should ensure their recruitment and vetting procedures are sufficiently stringent and robust to ensure employees are appropriately qualified and personally suitable for the responsibilities of the role.

These recommendations are not exhaustive, and as such advises all responsible professionals to ensure the staff within their organisation who have responsibility for hiring are familiar with new legislation, government guidance, training and advice for good practice in safer recruitment. Larger organisations may use an external recruitment provider who would undertake some of the tasks within the policy.

Safer recruitment should include all staff including; support staff, agency staff, and subcontractors with indirect or limited contact with adults. The principles of safer recruitment should appear in all contracts including subcontractors, agencies, and secondary providers, ensuring they will adhere to stated policy and use approved guidelines when recruiting any additional personnel.

Definition

Safer recruitment is applicable to roles specifically involving several tasks described as 'regulated activities' in the [Safeguarding Vulnerable Adults Act \(2006\), as amended by the Protection of Freedoms Act 2012, s.66](#)) Under the act, an adult is any person over 18 years of age, and regulated activity excludes any actions that form part of a family or personal relationship. For safeguarding and recruitment purposes, 'regulated activities' is defined as:

1. Each of the following is a regulated activity relating to vulnerable adults—
 - a) the provision to an adult of health care by, or under the direction or supervision of, a health care professional,
 - b) the provision to an adult of relevant personal care,
 - c) the provision by a social care worker of relevant social work to an adult who is a client or potential client,
 - d) the provision of assistance in relation to general household matters to an adult who is in need of it by reason of age, illness or disability,
 - e) any relevant assistance in the conduct of an adult's own affairs,
 - f) the conveying by persons of a prescribed description in such circumstances as may be prescribed of adults who need to be conveyed by reason of age, illness or disability,
 - g) such activities—

- i. involving, or connected with, the provision of health care or relevant personal care to adults, and
 - ii. not falling within any of the above paragraphs,as are of a prescribed description.
2. Health care includes all forms of health care provided for individuals, whether relating to physical or mental health and also includes palliative care and procedures that are similar to forms of medical or surgical care but are not provided in connection with a medical condition.
3. A health care professional is a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002.

Legislation/guidance

The [Safeguarding Vulnerable Groups Act 2006](#) set out the scope and operation of the vetting and barring scheme.

The Criminal Records Bureau was established under [Part V of the Police Act 1997](#).

[Part 5 of the Protection of Freedoms Act 2012](#) covers the reduction in scope of the definition of regulated activity, new services provided by the DBS, and disregarding convictions and cautions for consensual gay sex.

[The Criminal Justice and Court Services Act \(2000\)](#) – The Act makes it a criminal offence for anyone to seek or accept work in a regulated position knowing that they are barred from working with children, and for an employer to offer work to, or employ, a person in a regulated position knowing that the person is barred from working with children.

[Disclosure and Barring Service](#) - The Disclosure and Barring Service (DBS) was established in 2012 and carries out the functions previously undertaken by the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA). They help to prevent unsuitable people from working with vulnerable groups, including children.

[Disclosure and Barring Service Update Service](#) - An online Update Service was introduced in June 2013 and is operated by the Disclosure and Barring Service (DBS). Subscription to the Update Service means that the employer can check a registered individual's status (online and free). A new DBS check will only be necessary if the status check indicates a change in the individual's status (because new information has been added).

Advertisements and information for applicants

Organisations should ensure all recruitment advertising material contains a safeguarding adults policy statement. The information should include that the successful candidates' identity will need to be checked thoroughly, and whether a Disclosure and Barring Service (DBS) check is required. The job description should set out the extent of the relationship with, and the degree of responsibility for, adults with whom the person will have contact.

References

The application form should request both professional and character references from the two most recent employers and three years history. Additional references may be asked for where appropriate; for instance, if an applicant's most recent employment was outside of the field, the former employer most relevant to the role may also be approached for a reference.

Safer recruitment means that all applications should be:

- Checked to ensure that they are fully and properly completed. Incomplete applications should not be accepted and should be returned to the candidate for completion.
- Scrutinised for any anomalies or discrepancies in the information provided.
- Considered with regard to any history of gaps, or repeated changes, in employment, or moves to supply work, without clear and verifiable reasons.

Interviewing candidates

The candidate's attitude and commitment to safeguarding and promoting the welfare of adults should be tested. Any gaps and changes in employment history should be fully explored during the interview, as should any discrepancies arising from information supplied by the candidate or by the referee.

All candidates should bring with them to interview documentary evidence of their identity, either a full birth certificate, passport, or photo card driving licence, and additionally a document such as a utility bill that verifies the candidate's name and address. Where appropriate, change of name documentation must also be brought to the interview. Candidates should also be asked to bring original documents confirming any necessary or relevant educational and professional qualifications. If the successful candidate cannot produce original documents or certified copies written confirmation of his/her relevant qualifications must be obtained from the awarding body.

Pre-employment checks

An offer of appointment must be conditional upon pre-employment checks being satisfactorily completed, including:

- Receipt of two satisfactory references;
- Verification of the candidate's identity;
- A Disclosure and Barring Service Disclosure appropriate to the role;
- Verification of the candidate's medical fitness;
- Verification of any relevant qualifications and professional status and whether any restrictions have been imposed by a regulatory body such as the General Medical Council;
- Evidence of right to work in the UK for those who are not nationals of a European Economic Area country.

All checks should be verified, confirmed in writing, documented and retained on the personnel file. All employers should also keep and maintain a single central record of recruitment and vetting checks of staff and volunteers.

Starting without a DBS

Ideally, where a DBS Disclosure is required, it should be obtained before the new starter begins work. It must in any case be obtained as soon as practicable after the individual's appointment and the request for a DBS Disclosure should be submitted in advance of the individual starting work. There is discretion to allow an individual to begin work pending receipt of the DBS Disclosure. However, in such cases, a risk assessment must be completed and signed off by a senior manager, the individual must be appropriately supervised and all other checks, including the [DBS's Adult First Check of the Barred List](#), have been completed.

For those who start work prior to the result of the DBS Disclosure being received, appropriate supervision for individuals needs to reflect what is known about the person concerned, their experience, the nature of their duties and the level of responsibility they will carry. For those with limited experience and where references have provided limited information the level of supervision required may be high. For those with more experience and where the references are detailed and provide strong evidence of good conduct in previous relevant work a lower level of supervision may be appropriate.

For all staff without completed DBS Disclosures it should be made clear that they are subject to this additional supervision. The nature of the supervision should be specified and the roles of staff in undertaking the supervision spelt out. The arrangements should be reviewed regularly at least every two weeks until the DBS Disclosure is received.

Where a DBS Disclosure indicates cause for concern for agency or directly employed staff, the member of staff must immediately be withdrawn pending the completion of a risk assessment signed off by a senior manager.

Overseas workers

Employers will also need to carry out criminal record checks when recruiting staff from abroad. Where the position meets the criteria for a disclosure, even if the applicant claims they have never lived in the UK before, a DBS disclosure should still be obtained in addition to the individual's overseas criminal records. As disclosures may not provide information on people convicted abroad and with respect to individuals who have little residence in the UK, caution must be exercised.

Where an applicant has worked or been resident overseas for a period of 12 months or more in the previous five years, the employer should where possible obtain a check of the applicant's criminal record from the relevant authority in that country. Not all countries, however, provide this service. All overseas police checks must be in accordance with that country's justice system and UK requirements.

Some foreign embassies and high commissions in the UK initiate requests on behalf of applicants and liaise with the relevant issuing authority abroad. In cases where candidates have to apply to the issuing authority directly, the relevant UK-based embassy or high commission may still be able to provide advice on what to expect. If there is any doubt about the record produced, they may also be able to authenticate the search results. Guidance can be found on the Home Office website ([Guidance on the application process for criminal record checks overseas](#))

Evaluation and Management of Disclosure Information

The police have to apply a rigorous test before deciding whether to disclose information. They will include it if they 'reasonably believe it to be relevant' and consider that it ought to be disclosed. Occasionally, an enhanced disclosure check may result in the local police disclosing non-conviction information to the registered body only and not to the applicant e.g. a current investigation about the individual. Such information must not be passed on to the applicant. Whilst this provision will no longer exist in the Police Act, the police may choose to use common law powers to provide information directly to employers in cases where this is necessary in order to prevent crime or personal harm.

Where information is disclosed, employers must carry out an initial evaluation and make a judgment about the person's suitability to enter employment, taking into account only those offences that may be relevant to the post in question. As the employer no longer receives a copy of the DBS certificate where there is a trace found, the employer will need to see the candidate's certificate. Where information is

disclosed, employers must carry out an initial evaluation and make a judgement about the person's suitability to assume the role, taking into account only those offences that may be relevant to the post in question. Where further information is required, the applicants consent must be sought and the information should be obtained by a person with an understanding of safeguarding matters.

In deciding the relevance of disclosure information, the following should be considered:

- The nature of the appointment;
- The nature and circumstances of the offence;
- The age at which the offence took place;
- The frequency of the offence.

Induction and supervision of newly appointed staff

The induction of all newly appointed staff should include:

- an introduction to the organisation's safeguarding policies and procedures
- the identity and responsibilities of those staff with designated safeguarding responsibilities
- information about safe practice
- a full explanation of their role and responsibilities and the standard of conduct and behaviour expected
- the organisation's personnel procedures relating to disciplinary issues and
- the relevant whistle blowing policy
- attendance at safeguarding training at a level appropriate to the member of staff's stated duties.

Senior managers should ensure that their staffs are adequately and appropriately supervised and that they have ready access to advice, expertise and management support in all matters relating to safeguarding.

Any concerns that arise through the process of continuing supervision, which call into question the person's suitability to continue in the responsibilities of their role, should be managed according to local procedures such as capability assessments, disciplinary proceedings, and/or the procedures for the management of allegations against staff (including volunteers).

Employer concerns about a staff member

Employers have a duty to make referrals to the DBS if they believe an employee has caused harm, or pose a future risk of harm, to adults or children. Making a referral is appropriate when an employee has been dismissed or removed, or has instead resigned, because they have:

- been cautioned or convicted for a relevant offence, a list of which can be viewed on the DBS website;
- engaged in an action (or inaction) that has harmed an adult or child or put them at risk of harm;
- been identified as posing a risk of harm even though no such conduct has occurred.

Prior to making a referral to the DBS, the employer must take time to investigate and gather evidence in order to determine the validity of the allegation. Where it is appropriate, the employer should contact the police, although it is possible for the DBS to bar an individual with them having first been convicted of an offence.

The DBS has no investigatory powers and is unable to bar an individual without examining the supporting evidence, and referrals submitted without supporting material - such as minutes of disciplinary hearings, witness statements, dismissal letters, recorded interviews, CCTV footage, or records of police involvement - will not be pursued.

Where there is an ongoing risk of that person in a position of trust causing harm to other adults or children consideration should be given to contacting the LADO (children or adult) in the appropriate local authority, so that they can assess the need for further action.