



Diogelu Gwent
Gwent Safeguarding

Multi-Agency Practice Guidance for Safe
Recruitment & Safe Employment



Contents

	Page No
Introduction	3
Task framework to safer recruitment	4
• Recruitment and selection policy	5
• Safeguarding policy	5
• Job description and person specification	5
• Advertising posts	6
• Candidate information pack	6
• Scrutiny of applications	8
• Invitation to interview	11
• Interviews	12
• Specific questions	12
• Demonstration of suitability	14
• Offer of employment	14
Vetting and Checking Candidates	14
• Types of DBS check	16
• Advertising posts that require disclosure	16
• Appointing to a post which requires disclosure	17
• Requesting disclosure	17
• Starting work prior to receipt of a DBS check	17
• Record keeping of disclosures	18
• Dealing with disclosures on a returned certificate	19
• Making a Referral to DBS where a Risk of Harm is Identified	22
• Withdrawing an offer employment	23
• Volunteers	23
• Overseas Candidates and people who have lived outside the UK	23
• Fraudulent applications	24
Following commencement of employment	24
• Prosecution during the course of working	24
• Maintaining a safer culture	25
References	26

INTRODUCTION

People who work with children, young people and adults at risk undertake numerous and diverse roles in a variety of settings and organisations. All the organisations and individuals who work with, or provide services to, children, young people or adults at risk, have a duty to safeguard and promote their welfare.

One of the ways of undertaking this duty is to ensure that these organisations have appropriate recruitment and selection procedures and checks in place to prevent unsuitable persons from gaining access to children, young people and adults at risk.

The Gwent Safeguarding Board has developed this guidance in accordance with **Safeguarding Children: Working Together Under the Children Act 2004**, (Welsh Assembly Government 2006, and **Disclosure and Barring Scheme (DBS) Guidance**.

This guidance is not intended to replace any organisation's existing recruitment and selection processes as many organisations already have robust procedures in place. This guidance should be read in conjunction with your organisation's own recruitment and safeguarding policies. Nonetheless, this document does provide guidance for best practice that all organisations should have in place.

This document draws on current legislative requirements and summarises the recommended practices and procedures. The intention is to be helpful to the broadest range of organisations and to support their efforts to make recruitment and employment practices and processes safer. The document is intended for:

- Staff and managers who take part in recruiting and selecting people to work in organisations working with children and adults at risk.
- People and organisations who provide human resources advice to those organisations.
- Employment agencies and businesses that provide temporary, interim and other staff to work in organisations working with children and adults at risk.
- Non child-focused organisations that contract with organisations working with children and adults at risk.

The guidance applies to permanent, temporary and agency staff, and those recruited from overseas, and to everyone employed in a role (paid or unpaid), within an organisation working with children and adults at risk, who is likely to be regarded by children or adults at risk as a safe and trustworthy adult or anyone else who comes into contact with children or adults at risk, for example, administrators, cleaners, caterers. They may not have direct contact with children and adults, yet are just as likely to be thought of as safe and trustworthy. These people may have access to personal or sensitive data relating to children and adults at risk or direct access to the children and adults themselves. Relevant links are included where appropriate to support decision making regarding the level of check required according to role and work undertaken.

Please note:

1. In this document all references to 'children' relates to children and young people under 18.
2. In this document all references to adults refers to adults at risk. The Safeguarding Vulnerable Groups Act refers to 'vulnerable adults' which has the same meaning as an 'adults at risk'.
3. References to staff or employees includes permanent, temporary, fixed term, bank and agency staff in addition to honorary contract holders, secondees, work experience and volunteers.
4. This document does not set out the action that should be taken by an individual who suspects a child may be being abused or harmed, as that is set out in the Wales Safeguarding Procedures.

TASK FRAMEWORK TO SAFER RECRUITMENT	
Before releasing the post:	
1	Ensure that there is an up-to-date recruitment and selection policy in place that describes the process and roles before doing anything else.
2	Ensure that the organisation has a Safeguarding Policy, and that a statement about the organisation's commitment to safeguarding is included in all recruitment and selection materials.
3	Ensure that there is an up-to date specific job description and person specification for the role(s) to be filled, and that these have been agreed with the recruiting manager in addition to the level of DBS check eligible for.
4	Ensure an appropriate advertisement is prepared containing all necessary information about the role, timetable for recruitment and the commitment to safeguarding.
5	Ensure that suitable candidate information containing all the required information is available. This should include reference to the level of DBS check required and, where applicable, make clear that it is criminal offence to apply for a post if subject to the DBS barred list. (please see DBS Checks section below).
Before interviewing:	
6	Ensure that each application received is scrutinised in a systematic way by the shortlisting panel in order to agree the shortlist before selection.
7	Ensure that all shortlisted candidates receive the same letter of invitation to interview, supplying them with all the necessary information.
Before selecting the preferred candidate:	
8	Ensure that a face-to face interview is conducted for ALL shortlisted candidates based on an objective assessment of the candidate's ability to meet the person specification and job description.
9	Ensure that all specific questions designed to gain required information about each candidate's suitability have been asked, including those

	needed to address any gaps in information supplied in the application form.
Before appointing:	
10	Ensure that it is possible to make a confident selection of a preferred candidate based upon their demonstration of suitability for the role.
11	Ensure that the preferred candidate is informed that the offer of employment (including volunteer positions), is conditional on receiving satisfactory information from all necessary checks including DBS and references.

Based on **Recruiting Safely** Children's Workforce Development Council 2009:6

Task 1: Ensure that there is an up-to-date RECRUITMENT AND SELECTION POLICY in place that describes the process and roles before doing anything else.

It is important that the organisation has a clear written **Recruitment and Selection Policy** statement and procedures that comply with this guidance. The policy statement should detail all aspects of the process and should include a **clear statement about the organisation's commitment to safeguarding and promoting the welfare of children and adults.**

Task 2: Ensure that the organisation has a SAFEGUARDING POLICY, and that a STATEMENT ABOUT THE ORGANISATION'S COMMITMENT TO SAFEGUARDING is included in all recruitment and selection materials.

The organisation should also have a Safeguarding Policy and Procedure that provides clear information on how the organisation values how it will safeguard and promote their welfare, what they will do when they are concerned about a child or adult, who the local authority designated officer is and how they can be contacted etc. Organisations seeking support to develop their Safeguarding Policy and Procedures can contact the Safeguarding Board for advice and guidance. Voluntary organisations may also wish to seek advice and guidance from WCVA (Wales Council for Voluntary Action).

Task 3: Ensure that there is an UP-TO DATE SPECIFIC JOB DESCRIPTION and PERSON SPECIFICATION for the role(s) to be filled, and they have been agreed with the recruiting manager along with agreed level of DBS check.

Job descriptions are important in the recruitment process and the subsequent management of safe practice following appointment.

All job descriptions should be completed in a recognised and consistent template, clearly state basic information and include

- The overall purpose of the post.
- The main duties and responsibilities of the post.

- **The individual's responsibility for promoting and safeguarding the welfare of children, young people and adults at risk where s/he has responsibility or contact.**

As with the **job description**, the person specification should be completed using a consistent template and should explain that if the applicant is shortlisted any relevant issues arising from his/her references will be taken up at interview, and clearly state:

- The skills and abilities, knowledge, experience and qualifications needed to perform the role in relation to working with children and/or an adult at risk.
- The essential competences and qualities that the successful candidate must be able to demonstrate (including at a minimum the understanding to safeguard the welfare of children or adults at risk).
- Any other desirable competencies and qualities that may not be essential but would help someone perform the role.
- How these requirements will be tested and assessed during the selection process, e.g. In addition to assessing the candidate's ability to perform the duties of the post, the interview will also explore issues relating to safeguarding and promoting the welfare of children and adults at risk, such as:
 - Motivation to work with children, young people, and/or adults at risk.
 - Ability to form and maintain appropriate relationships and professional boundaries with children, young people, and adults at risk.
 - Emotional resilience in working with challenging behaviours.
 - Attitudes to use of authority and maintaining discipline.
 - Reporting of any safeguarding concerns.

Task 4: Ensure an appropriate ADVERTISEMENT is prepared containing all necessary information about the role, timetable for recruitment and THE COMMITMENT TO SAFEGUARDING.

A safeguarding statement should be included in the job advertisement demonstrating the organisation's commitment to the safeguarding of children and adults at risk. The advert will also need to state that the successful applicant will be subject to a **DBS check** (this may be an enhanced check depending on the role) and is exempt from the Rehabilitation of Offenders Act (1974). Suggested wording is as follows:

This post is exempt from Rehabilitation of Offenders Act (1974). A comprehensive screening process will be undertaken on all applicants, which will include a check with the Disclosure and Barring Service (DBS).

Task 5: Ensure that a suitable CANDIDATE INFORMATION PACK is compiled containing all the required information about the organisation, the role, the recruitment timetable, SAFEGUARDING POLICY/STATEMENT and the application form.

The candidate information pack should **always** include the organisation's **child/adult protection or safeguarding policy and procedure**.

Make sure all applicants fully complete a **standard application form** – make it clear that a stand-alone curriculum vitae is not acceptable. This is because a curriculum vitae allows candidates to share only what they choose to share, thereby potentially leaving out important bits of information.

A standard application form needs to include (in addition to basic information):

- A statement of any academic and/or vocational qualifications the applicant has obtained that are relevant to the position for which s/he is applying with details of the awarding body and date of award.
- Relevant registration information and reference numbers for posts requiring professional registration (e.g., Social Care Wales).
- A full career and education history in chronological order since leaving secondary education, including periods of any post-secondary education or training, part-time and voluntary work, as well as full-time employment, with start and end dates, explanations for periods not in employment, education or training, and the reasons for leaving employment.
- Details of present/ last employer, education and/or voluntary work, if not currently employed.
- Previous roles held, detailing the organisation, nature of the role(s), dates, reason(s) for leaving and final salary.
- Experience: relating to the **person specification** including knowledge, skills and experience relevant to the post gained inside and outside of a work environment in support of the application.
- A declaration of any family or close relationship to existing employees or employers (including councillors, company directors or trustees).
- **References** – See task 7.
- **Rehabilitation of Offenders statement** providing an explanation of why the post is covered by the Rehabilitation of Offenders (Exemption) Act, 1974 and 2000 together with appropriate notes of guidance for information on the Rehabilitation of Offenders and rehabilitation periods. If the declaration is

positive, details must be provided on the application form. See **GUIDANCE NOTE RE APPOINTING PEOPLE WITH CRIMINAL OR POLICE RECORDS on page 17 of this document.**

- Information sheet stating that whether a DBS check is required for the role and at what level.
- A signed statement that the candidate is not disqualified from working with children or adults at risk, or subject to sanctions imposed by a regulatory or professional body, e.g., Ofsted/Estyn, Social Work England/Social Care Wales or the General Medical Council and that the information provided on the form is complete and accurate.
- Details of time not covered by education or work.
- A note to the effect that providing false information is an offence and could result in the application being rejected, or summary dismissal if the applicant has been selected and possible referral to the Police and/or other agencies (e.g., Welsh Government, DBS). For example, it is a criminal offence to apply for a post working in regulated activity if you are subject to the Barred List so this information would need to be shared with the police. See below for further information.

Task 6: Ensure that each application received is SCRUTINISED in a systematic way by the short-listing panel in order to agree the shortlist before sending invitations to interview.

It is good practice for the interview panel to have a minimum of two interviewers and in some cases, (e.g., for senior or specialist posts), a larger panel with specialist expertise might be appropriate. Panel members should:

- Have the necessary authority to make decisions about appointment, and
- Be appropriately experienced or trained in safer recruitment (including having had basic child/adult protection training – this is provided by most agencies in house but can be accessed via the Board. The basic training must include identifying and reporting concerns about children, young people and adults at risk).

A panel of at least two persons allows one member to observe and assess the candidate and make notes, while the other asks questions. Having a minimum of two interviewers also reduces the possibility of later disputes about what was, or was not said, during the interview.

Following the closing date and having received the completed application forms, the individuals who will be the **interview panel** should meet to undertake the following tasks –

- To decide which applicants to interview on the basis of their ability to meet the criteria within the **person specification**, and therefore create a **short-list**, and
- To **scrutinise** and compare all application forms and **references**, ensuring that there are satisfactory explanations for anything that does not match up and **any gaps in an applicants' career or personal history** (it is essential that the reasons for any gaps are thoroughly explored with the individual).

The panel needs to make sure that each application –

- Is fully and properly completed,
- That the information provided is consistent, does not contain any discrepancies and that any gaps in employment are identified.

Ideally, interviewers would shortlist independently and then get together to compare and agree the short-list.

Any applications that are significantly incomplete should not be accepted or short-listed. Any anomalies, discrepancies or gaps in employment identified under scrutiny should be taken into account when considering whether to short-list the applicant. As well as reasons for obvious gaps in employment, the reasons for a history of repeated changes of employment without any clear career or salary progression, or a mid-career move from a permanent post to agency, freelance or temporary work, need to be further explored and explained.

Following the above checks, the panel should assess each application that is received in relation to whether the required criteria have been demonstrably met by the applicant.

Panel members should have familiarised themselves with the candidates' application forms prior to commencing any interviews and should have met before the interviews to:

- Reach agreement about the required standard (or scoring threshold if being used) for the job to which they are appointing.
- Consider the issues to be explored with each candidate and who will ask about each of those.
- Agree their selection criteria in accordance with the person specification, the method of assessment they will use and the standards that will apply.
- To agree a set of questions they will ask all candidates relating to the requirements of the post and the issues they will explore with each based on the information provided in the applications and references (if available).

All members of the **interview panel** should be involved in the process of deciding and writing the questions (including questions about applicants' attitudes towards children), or any other exercises as part of the interview. It may be helpful to have a pre-populated template of the criteria and interview questions to aid the process, maintain consistency of approach, and be available later as evidence of the rationale behind the panel's decisions. Questions and exercises should be designed to help the candidate demonstrate their ability to meet the **person specification** criteria.

How the panel assess and follow-up a question or issue at interview will depend on the candidates' responses. Where possible it is best to avoid hypothetical questions because these allow theoretical answers. It is better to ask competence or value-based questions that require a candidate to relate how they responded to, or dealt with, an actual situation, or questions that test their attitudes and understanding of issues. Interviewers can ask follow-up or more probing questions if further information is required from a candidate.

References

The purpose of seeking references is to obtain objective and factual information to support appointment decisions. They should **always** be sought and **obtained directly from the referee** and not through a third party or the candidate themselves.

All posts should be subject to the taking up of references as this is an indispensable tool within the safer recruitment process. In all cases the recruiting organisation should obtain at least two references to provide both professional and personal perspectives on the candidate and his/her ability, motivation and aptitude for the post.

It is good practice to follow the receipt of a written reference with a telephone call to confirm authenticity.

It has become increasingly common for organisations to provide a minimum of information e.g., dates of employment, sickness absence etc and yet not provide any further information about their performance/suitability. This is legal, however the person seeking the information should stress to the organisation that this information is required in order to ensure that children, young people and adults at risk are safe from harm. They can also seek advice from their legal department/Human Resources department in respect of these situations.

When speaking to the referee, it is recommended that you ask questions that will enable you to make a decision about suitability. This is particularly important when the reference only contains basic information about the candidate. Examples of questions you could ask referees include:

- Do you have any concerns about this person working with vulnerable groups such as children, young people or adults at risk?
- Would you employ this person again?

- Were any concerns about suitability raised when this person was employed in their organisation? If so, what were the concerns?

Task 7: Ensure that all shortlisted candidates receive the same LETTER OF INVITATION to interview, supplying them with all the necessary information.

There are a number of matters to consider when undertaking interviews. The letter inviting candidates to interview should be written clearly and in addition to providing practical information should also include:

- Membership of the interview panel.
- Any specific task that has been set to assist in the selection process and the time/method allocated for this.
- The selection process (i.e., an objective scoring system based on the criteria within the person specification).
- **Information about any specific areas of exploration, including suitability to work with children or adults at risk, and any issues arising from the candidate's references or disclosure of criminal background.**

The invitation should also stress that the organisation will need to check and confirm the identity of the successful candidate thoroughly to ensure the person is who s/he claims to be.

Where a DBS Check is appropriate, the organisation may wish to ask the candidate to complete an application for this.

The recruiting organisation should ask all candidates to bring with them documentary evidence of their identity (a current driving licence or passport including a photograph, or a full birth certificate, plus a document such as a utility bill or financial statement that shows the candidate's current name and address), and, where appropriate, change of name documentation.

If it has been specified that candidates need to hold specific qualifications for the post, ask them to bring any documents confirming relevant educational or professional qualifications, e.g., the original or a certified copy of a certificate, diploma or degree or a letter of confirmation from the awarding body.

Note:

If the successful candidate cannot produce original documents or certified copies, written confirmation of his or her relevant qualifications must be obtained from the awarding body.

A copy of the documents used to verify the successful candidate's identity and qualifications must be kept for Human Resource records.

Task 8: Ensure that a FACE-TO FACE INTERVIEW is conducted for ALL shortlisted candidates based on an OBJECTIVE ASSESSMENT of the candidate's ability to meet the person specification and job description.

The interview should assess each candidate against the selection criteria derived from the job description and person specification and explore their suitability to work with children or an adult at risk.

The selection process for people who will work with children should **always** include a face-to-face interview even if there is only one candidate.

Task 9: Ensure that ALL SPECIFIC QUESTIONS designed to gain required information about each candidate's suitability have been asked, including those needed to address any gaps in information supplied in the application form.

Specific questions

The interview panel should also explore:

- The candidate's attitude towards children, young people or adults at risk.
- His or her ability to support the organisation's commitment to safeguarding and promoting the welfare of children or adults at risk.
- Gaps in the candidate's employment history.
- Concerns or discrepancies arising from the information provided by the candidate and/or a referee.
- Issues arising from any disclosure of a criminal record by the applicant.

The panel should also ask the candidate if they wish to add anything to the declaration on their application form in light of the requirement for a DBS check.

If, for whatever reason, the organisation has not been able to obtain references before the interview, the candidate should also be asked at interview if there is anything s/he wishes to declare or discuss in light of the questions that have been (or will be) put to the referees. It is vital to obtain and scrutinise the references and resolve any issues satisfactorily before confirming appointment.

A number of organisations use value based questions to identify suitability of the candidate. We have included examples of the kind of questions that you could use below:

Example Safeguarding Interview Questions

Questions probing knowledge of policy and procedure:

- What have you done in the last twelve months to improve safeguarding of children or adults at risk in the workplace?
- Describe to us the key aspects of the safeguarding policy in your workplace?
- Give me an example of when you have had a safeguarding concern about a child/adult? What happened?
- Tell us about a time when you have had to challenge the views of someone more senior than yourself in relation to safeguarding concerns. What was the outcome?

Questions probing values and ethics:

- How do you feel when someone holds an opinion that differs from your own? How do you behave in that situation?
- What are your attitudes to child or adult protection? How have these developed over time?
- What are your feelings about children or adults who make allegations against staff?
- Have you ever had concerns about a colleague with regards to his or her behaviour or attitude towards the children or adults at risk in his or her care? How did you deal with this?

Questions probing emotional maturity and resilience:

- Tell us about a person with whom you have had particular difficulty in dealing. What made it difficult? How did you manage the situation?
- Tell us about a time when you have been working with children or an adult at risk and your authority was seriously challenged. How did you react? What strategies did you employ to bring things back on course? With hindsight, how might you have improved your response?

Questions probing motivation for working with children:

- What do you feel are the main reasons that have led you to want to work with children or adults at risk?
- What has working with young people/children/adults at risk taught you about yourself?

Not only when asking questions about safeguarding, but throughout the interview process, be attuned to answers that are vague or unrealistic. In particular, interviewers should look out for answers that show no or little understanding or appreciation of children's/adults needs or expectations; that fail to recognise the particular vulnerabilities of children from troubled backgrounds; inappropriate language about children or adults at risk; unclear boundaries with children or adults at risk; and answers that imply adults and children are equal. It can be particularly difficult for an inexperienced staff member to maintain proper boundaries where the age differential between staff and service user is small, for example, as a playworker with young people. It may be worth designing a question around this issue if it is relevant for your setting.

These are examples and not an exhaustive list. You may wish to tailor questions to your particular setting.

Task 10: Ensure that it is possible to make a confident selection of a preferred candidate based upon their DEMONSTRATION OF SUITABILITY for the role.

The interview panel should consider all the information received from the applicant via the application form and interview, including any disclosure of criminal convictions, previous allegations etc and the references (if they have been received prior to interview) before making a decision about offering the post to the successful candidate.

Task 11: Ensure that the preferred candidate is informed that the offer of employment (including volunteer positions), is CONDITIONAL on receiving satisfactory information from all necessary checks, including DBS and references.

Make it clear to the preferred candidate that the offer of employment or voluntary work is subject to the satisfactory completion of all appropriate checks such as DBS check and any outstanding references/information.

Complete the appropriate checks **before** they are allowed to start work.

VETTING AND CHECKING CANDIDATES

This section provides guidance on the recruitment and vetting checks to be carried out on staff, paid and unpaid, including trustees and others concerned with governance before an offer of appointment is made. It also advises on the records that need be kept of those checks.

It is strongly recommended that organisations undertake all the checks described in this section on people they propose to appoint to work directly with children, young people, or adults at risk.

Identity

A person's identity must always be verified i.e., passport, birth certificate, any documentation regarding a change of name e.g., marriage certificate.

References

Two references should always be requested (non family members). On receipt, the organisation should check all references to ensure that all specific questions have been answered satisfactorily. If all questions have not been answered or the reference is vague or unspecific, the organisation should contact the referee (preferably by telephone) and ask them to provide answers or clarification as appropriate. The information given should be recorded and compared with the application form to ensure consistency. Any discrepancy in the information should be taken up with the applicant.

Any information about past disciplinary action or allegations should be considered in the circumstances of the individual case. Cases in which an issue was satisfactorily resolved some time ago, or an allegation was determined to be unfounded or did not require formal disciplinary sanctions and in which no further issues have been raised, may not cause the organisation concern. More serious or recent concerns, or issues that were not resolved satisfactorily are more likely to give rise to concern. A history of repeated concerns or allegations over time is also likely to give cause for concern. The organisation must exercise discretion and independent judgement in such cases.

There is no legal obligation to provide a reference. Some employers have a policy of not providing references or only supplying standard references with factual information, rather than an opinion on for example the employee's performance. This may confirm dates the individual was employed, the post title, salary and sickness absence. However, all attempts must be made to encourage the employer to provide as much information as possible about the person's suitability to work with children or adults at risk. If a current employer declines to provide a reference it is possible that an employee could complain that the employer is breaching their "duty of care" in not, at least, confirming the work history of an employee.

Agreed references, whether drawn up as a result of a settlement agreement or otherwise, may be accepted. However, settlement agreements are not permissible where the job applicant has been dismissed or would have been dismissed had they not resigned while disciplinary procedures were pending, and the allegations related to gross misconduct and involved issues of a child/adult protection nature – in these cases a prospective employer must not accept the reference.

Types of DBS Check

It is strongly recommended that organisations are aware of their regulatory requirements and obtain the appropriate level of check where needed. Where no regulatory requirement exists, you are still advised to apply for the eligible level of check in the interests of safeguarding.

There are different levels of DBS check available, each providing different types of information. The level of check required will vary according to the nature of the work undertaken. The levels of check are as follows:

1. Basic – shows unspent convictions and conditional cautions
2. Standard – shows spent and unspent convictions, cautions, reprimands and final warnings
3. Enhanced without barred list check – shows the same as a standard check plus any information held by Police that is considered to be relevant to the role.
4. Enhanced with adult/children's/both barred list check – shows the same as enhanced check plus whether the applicant is on the adults barred list, children's barred list, or both. .

Further guidance on DBS eligibility criteria can be found at [DBS checks: guidance for employers - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/guidance/db-checks-guidance-for-employers)

Eligibility for Standard, Enhanced, and Enhanced with Barred Lists DBS checks is prescribed in legislation. Recruiters should only request a DBS check on an individual when they are legally allowed to do so – they must be entitled by law to ask an individual to reveal their full criminal history. This is known as asking 'an exempted question.'

An exempted question applies when the individual will be working in specific occupations, for certain licences and specified positions. These are covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

The minimum age at which someone can be asked to apply for a criminal record check is 16 years old.

Advertising Posts which Require Disclosure

Disclosure checks will be required for all posts where, in order to undertake their role, the staff member will have access to children, young people, or adults at risk. In such cases this should be clearly stated in any job advertisement. Individual organisations policies must be clear as to who is responsible for determining the need for a DBS check and the level required for each individual post [Eligibility guidance for enhanced DBS checks - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/guidance/db-checks-guidance-for-employers)

A statement should be added to the advert to make applicants aware that the post is subject to the Rehabilitation of Offenders Act (Exceptions Order) 1974 and as such it will be necessary for an application to be made to the Disclosure and Barring Service to check for any previous criminal convictions. It should also be made clear that it is a criminal offence for a person subject to the barred list to apply for a post involving regulated activity with children and/or adults at risk, where applicable.

Appointing to a Post which Requires Disclosure

The interview panel should remind candidates during the interview process that any subsequent appointment is subject to a satisfactory Disclosure Barring Check where applicable. They should also ask the candidate if they are aware of any legal reason they cannot undertake the role e.g. they have any criminal convictions, cautions,

reprimands or other disposals that would be highlighted in a DBS check.

Requesting Disclosure

Where an offer of employment is made that is conditional upon receipt of a satisfactory DBS check, this should be outlined in the offer letter and a link should be included to the e-DBS system and/or details of documentation required in order to process a DBS check for attendance at pre-appointment meetings included. <https://www.gov.uk/government/publications/dbs-identity-checking-guidelines>

Starting Work Prior to Receipt of DBS Check

In **exceptional circumstances** a member of staff may be allowed to commence employment prior to receipt of their DBS check. In order to do so a risk assessment must be completed and recorded by each individual organisation.

There are 5 steps which can be followed when carrying out a risk assessment that helps to safeguard and promote the welfare of children or adults at risk:

- Identify the hazards i.e., anything that may cause them harm,
- Decide who may be harmed and how,
- Assess the risks and take action,
- Make a record of the findings and
- Review to ensure that safe working practices continue to be applied and take account of any changes that may have been implemented.

The bullet points below provide some guidance as to the issues to consider within the risk assessment process. The list is not exhaustive and should be considered as a guide only. It is also important to note that appointment prior to receipt of a DBS check should only be considered in exceptional circumstances.

- What is the nature of the post and what level of DBS check is required?
- Have all required references been sought and obtained and were any concerns identified?
- Did the applicant declare any criminal convictions, cautions, bind-overs on their application form and if so, are they relevant to the role they would be undertaking?
- Is there a recent DBS check available?
- Does the post involve work with children and/or adults at risk, and could this allow for an opportunity for harm to be caused?
- What is the nature and severity of the potential harm that could be caused and are you satisfied that sufficient steps can be put in place to mitigate any risk (for example, ensuring no unsupervised contact with children or adults at risk, and that the prospective employee should only work where they can be observed).

The risk assessment needs to be robust and carried out by the responsible manager. The recommendation is that the employee will **always** be supervised whilst working with children and/or adults at risk pending the return of the DBS check and that they are not subject to the Barred list.

There are exceptional circumstances where information regarding the Barred list can be obtained prior to receipt of a DBS check, through the DBS Adult First Service. An Adult First Check applies to settings such as care homes, domiciliary care agencies and adult placement schemes where regulatory requirements may apply. It can enable a person to take up a role prior to receipt of a full DBS certificate, providing the check is clear. However, the person can then only take up the role under supervision.

The Adult First Service is not a substitute for the DBS certificate and as mentioned above, any recruitment decisions made prior to receipt of a full DBS certificate should be carefully considered, risk assessed and supported by other safe recruitment practices, such as obtaining references.

Where a role involves working with both adults at risk and children, the Adult First Service **does not** apply. Those working with both groups will require a full DBS certificate and a check of the children's barred list. Please note there is no equivalent quick check of the children's barred list. Further information regarding the DBS Adult First Service can be accessed via the following link:

<https://www.gov.uk/government/publications/accessibility-statement-for-dbs-adult-first-check-service>

Record Keeping of Disclosures

In addition to the various staff records that are kept as part of normal business, it is good practice for the organisation to keep and maintain a single central record of recruitment and vetting checks undertaken. This should include dates and whether results were positive or satisfactory but cannot record specific details of any offences.

The organisation should have a record of the following people:

- All staff who are employed to work at the establishment or organisation.
- All volunteers.
- All staff who are employed through an agency.
- Where possible, any staff who are employed by a contractor working on site.

The record should also include all others who have been chosen to work in regular contact with children or adults at risk. This will cover volunteers, trustees who also work as volunteers within the establishment and people brought in to provide additional care or support for children, young people or adults at risk but who are not staff members, e.g., activities coordinators, coaches or theatrical workers.

For the purposes of creating the record of checks for staff provided through an agency or employed by a contractor, the organisation will need written confirmation from the agency or contractor that satisfactory checks have been completed. The organisation

does not need to carry out or see the check itself except where there is information contained in the DBS check. Individual organisations are responsible for determining the acceptable timeframe between the date of issues of the certificate and the date of commencement of employment. However, identity checks **must** be carried out to confirm that the individual arriving is the individual that the agency or contractor intended.

Note:

If the DBS check refers to the existence of information additional to that on the face of the original check (soft information), an agency or contractor cannot pass this information on to an establishment and the organisation will need to get a fresh check.

Before a check is destroyed, it is a requirement that a record be added to the central record detailing the date the disclosure was obtained, who obtained it, the level of the disclosure and its unique reference number.

The central record must indicate whether the following have been completed:

- Identity checks.
- Qualification checks for any qualifications legally required for the job.
- Checks of right to work in the United Kingdom.
- DBS checks.
- Further overseas records checks, where appropriate.

The record must show the date on which each check was completed or the relevant certificate obtained and should show who carried out the check. It also needs to show whether the person's position involves regularly caring for, training, supervising, or being in sole charge of children or adults at risk.

Dealing with Disclosures on a Returned Certificate

Under the Rehabilitation of Offenders Act 1974, following a specified period of time which varies according to the disposal administered or sentence passed, cautions and convictions (except those resulting in prison sentences of over four years and all public protection sentences) may become spent. As a result, the offender is regarded as rehabilitated and may not be obliged to disclose their convictions when applying for a job. However, there are exceptions to this, as set out in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, where there is a valid need to see a person's full criminal record, (including 'spent' convictions), in order to assess their suitability for a position. These are called 'exempted' posts. This includes:

- Any work concerned with the provision of care services to adults at risk.
- Any work in a 'regulated activity' as defined in the Disclosure and Barring

scheme guidance <https://www.gov.uk/government/publications/dbs-workforce-guidance>

- Any work in a further education institution where the normal duties of that work involve regular contact with children or young persons under 18.

Further guidance in relation to the Rehabilitation of Offenders Act 1974 is available here <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974> .

Filtering rules were introduced in May 2013 and updated in November 2020; these are similar to the principle of spent convictions under the Rehabilitation of Offenders Act 1974 however, instead of establishing what is 'spent', and therefore not disclosed on a basic check, 'filtering' establishes what would not be disclosed on a standard or enhanced DBS check. Information that is filtered will be removed from a DBS check automatically at the point you apply for one. These impact upon what an employer can ask an individual in relation to a caution or conviction (for example, a self-declaration on an application form). Further guidance is available here <https://www.gov.uk/government/publications/filtering-rules-for-criminal-record-check-certificates>

Applicants are encouraged to provide details of their criminal record on application forms. Job application forms relating to positions that are eligible for Standard or Enhanced DBS check will need to reflect the filtering rules so that:

- Employers ask the right questions, and
- Applicants/employees give the right (legally accurate) answer

We suggest that you use the following questions as a template in your own recruitment processes:

- Do you have any unspent conditional cautions or convictions under the Rehabilitation of Offenders Act 1974 (Y/N)?
- Do you have any adult cautions (simple or conditional) or spent convictions that are not protected as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2020 (Y/N)?

If a candidate is successful in their application for a position, they will be required to complete the appropriate documentation so that the organisation can apply for a Disclosure of Information from the DBS.

Failure by an applicant to reveal information that is directly relevant to the position sought may lead to withdrawal of an offer on the grounds of failing to declare the

conviction or that the conviction is too serious to consider. In this situation the individual should be invited to a meeting to discuss the issue and provide an explanation. If no satisfactory explanation is given as to why this information has been withheld, consideration should be given as to whether the offer will be withdrawn.

A DBS disclosure will reveal a criminal record, including details of convictions, cautions, reprimands, or warnings, and if applicable, details of offences and sentences subject to filtering. However, it will not provide any context. A criminal conviction in and of itself does not automatically preclude a person from obtaining employment, although it is a criminal offence for someone who is barred to engage in regulated activity.

Having a criminal record will not necessarily bar an individual from being appointed unless it is considered that the conviction renders that person unsuitable for the position or is in breach of regulatory requirements. This will depend upon the nature of the position and the circumstances and background of the offences. In the event of offences being disclosed, it is for the organisation to make a judgment as to the suitability of the individual for the position, with due consideration of their responsibility to protect children or adults at risk.

In determining an applicant's suitability for a position, the following factors must be taken into account:

- Whether the conviction or other matter revealed is relevant to the position.
- The seriousness or gravity of any information revealed.
- Length of time since the offence or other matter occurred.
- Whether the applicant has a pattern of offending behaviour or other relevant matters.
- What the circumstances around the information are and whether the applicant's circumstances have changed since the offending behaviour.
- Nature of the role.
- What country the conviction was made in (offences vary in different countries).

Organisations will need to determine who has responsibility in their organisation for dealing with disclosures on a DBS certificate. It is recommended that these are initially handled by a designated person with child protection responsibilities who, after undertaking initial checks, will take a final decision in conjunction with a senior member of the organisation. Where there is information on the disclosure that is cause for concern, applicants should first be written to and asked if the information is correct and if it is, what the circumstances around the information are. If any additional information is needed, it should be discussed with the applicant before a decision is made. It is recommended that this information be discussed by inviting the applicant to a meeting with a senior officer of the organisation.

Where information received from the DBS contradicts that provided by the applicant, the designated officer(s) must discuss any matter revealed in the check with the candidate before a decision is made regarding the withdrawal of a conditional offer of appointment.

If an applicant believes the information provided by the DBS is incorrect, they are entitled to dispute. For further guidance see [DBS certificate dispute and fingerprint consent form guidance - GOV.UK \(www.gov.uk\)](http://www.gov.uk). Where this occurs, the employing organisation should consider whether the conditional offer of appointment will remain, pending a response from the DBS. A decision will be made on the basis of this information as to whether the offer will be withdrawn or whether the person will be given a period of time in which to provide information from the DBS that the information supplied was in fact incorrect. A written record of the decision, reasons for the decision and any discussions that have taken place should be retained on the candidate/employee's personnel file. This will enable the organisation to provide clear reasons for its decision in the event that this is challenged. This information must be stored securely.

The organisation needs to ensure that individuals involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences and are aware of the relevant legislation relating to the employment of ex-offenders. It is recommended that decisions taken concerning appointment where information revealed on a disclosure is of serious concern be made by at least two people who have a knowledge and understanding of this area of legislation.

Making a Referral to DBS where a Risk of Harm is Identified (including when there is a legal duty to refer)

A referral is information about a person. It tells DBS of concerns that an individual may have harmed a child or vulnerable adult, or put a child or vulnerable adult at risk of harm.

The referral duty doesn't apply to family or personal arrangements, parents or members of the public. If a parent or member of the public has a safeguarding concern, they should contact the police, social services or the person's employer.

These agencies can then investigate the allegation and if appropriate make a referral to the DBS.

[Making barring referrals to the DBS - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Withdrawing an Offer of Employment

If it is decided that the information contained within the DBS check is such that it renders the individual unsuitable for the post, they should be informed of this in writing and it should be stated that the withdrawal of the offer of employment is as a result of the information contained within the DBS check.

An applicant or employee has the right of appeal if they disagree with the decision. An appeal must be undertaken by someone who is independent to the original decision

and the reasons for the appeal should be given in writing within agreed timelines to the appropriate designated officer. The decision of the appeal will be final.

There may be other circumstances where an offer of employment is withdrawn e.g., following receipt of information shared via the professional concerns strategy meeting process.

Contractors/Agency Staff

Standards in relation to agency workers or contractors should be no less rigorous than those applied to employees. Employers of workers employed by an agency or contractors who work regularly with children or adults at risk will be required to confirm the suitability of the worker to be with children or adults at risk prior to the work starting. This will include confirmation of a satisfactory check at a level appropriate to the work and evidence of sound child/adult protection, DBS and recruitment procedures. Failure to provide the required information will result in that person not being allowed to work in the organisation until such time as the requirement can be met.

Volunteers

- Volunteers make up a substantial part of the workforce and are regarded by children and adults at risk as safe and trustworthy adults. If an organisation is actively seeking volunteers and is considering candidates about whom it knows little, it should adopt the same recruitment measures as it would for paid staff.
- Where an organisation approaches a person who is well known to them to take on particular role, a shorter procedure could be adopted, but it should still include obtaining **references**, checking to ensure that others in the community have no concerns and can make a positive recommendation, conducting an informal interview to be clear about the person's suitability, and obtaining a DBS check. Organisations may also wish to consider the completion of a risk assessment as a matter of good practice in such cases.
- Where a volunteer's role will be a one-off, such as accompanying staff and children or adults at risk on a day outing, or helping at an event, these measures would be unnecessary **provided that the person is not left alone or unsupervised in charge of children or adults at risk at any time.**

Overseas Candidates and People Who Have Lived Outside the UK

All prospective employees need to be checked to confirm eligibility to work and live in the UK. In accordance with the **Asylum and Nationality Act 1996**, employers have a duty to check this, and additionally, all overseas candidates and people who have lived outside the UK must undergo the same checks as all other candidates – including DBS checks. Criminal records information, (or certificates of good conduct), should be sought from countries where those individuals have worked or lived. There may be further necessary checks because DBS checks will not usually show offences committed by individuals whilst living abroad. However, in a small number of cases

overseas criminal records are also held on the Police National Computer and these would be revealed as part of the check. The DBS does however provide an overseas information service that provides customers with information on how to obtain details of an overseas criminal record. When overseas applicants are invited to interview, they should be asked to bring with them evidence of their eligibility to work in the UK. Further advice and guidance regarding overseas applicants can be obtained from the following link. <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Where an applicant is from or has lived in a country where criminal records checks for child/adult protection purposes cannot be pursued, or where the applicant is a refugee with leave to remain in the UK and has no means of obtaining relevant information, extra care should be exercised in taking up **references** and carrying out other background checks. For example, additional references should be sought, and references provided should be followed up by phone as well as letter.

It is a criminal offence to employ a person who does not have permission to live and work within the UK. The employer or other person(s) making the appointment would be liable to prosecution in such cases. It should be noted that asylum seekers are allowed to volunteer as long as they are carrying out work on behalf of a registered charity, voluntary organisation or body that raises funds for either, but any voluntary activity undertaken should not amount to either employment or job substitution.

Fraudulent Applications

Serious, deliberate fraud or deception in connection with an application for employment may amount to a criminal offence – **Obtaining Pecuniary Advantage by Deception**. If this occurs, the employing organisation may instigate disciplinary proceedings, but should also consider reporting the matter to the police.

FOLLOWING COMMENCEMENT OF EMPLOYMENT

Prosecution during the course of working

If an employee is prosecuted during the course of their work and convicted of a criminal offence or cautioned, this must be declared to their manager. A meeting will be arranged to discuss the information and its relevance to the post the employee holds. If there is an allegation or conviction relating to child or adult protection, it should immediately be referred to the local Social Services Department so that a multi-agency view can be taken as to what, if any, further action needs to be taken. This may include invoking the disciplinary procedure, a police investigation, obtaining social services reports and/or referral to the DBS, or the Welsh Government.

Maintaining a safer culture

The content and nature of the induction and probation process will vary according to the role and previous experience of the new member of staff or volunteer, but as far as safeguarding and promoting the welfare of children or adults at risk is concerned, the induction and probation programme must include:

- Policies and procedures in relation to safeguarding and promoting welfare e.g., child/adult protection, anti-bullying, anti-racism, physical intervention or restraint, intimate care, health and safety, internet safety and any Safeguarding Board child/adult protection and safeguarding procedures.
- Safe practice and the standards of conduct and behaviour expected of staff, children and other service users in the establishment.
- How and with whom any concerns about those issues should be raised.
- Other relevant personnel procedures e.g., disciplinary, capability and whistleblowing, managing allegations against staff, information sharing etc.

Child/adult protection training appropriate to the role should also be provided to all new staff as a mandatory element of the induction and probation programme for those working with children or adults at risk. See the Social Care Wales National Safeguarding Training, Learning and Development Standards for further information on what training is appropriate for what role and how this can be accessed if not available within your organisation's training programme. [National safeguarding training, learning and... | Social Care Wales](#). Ongoing training is essential to maintain a safe workforce. Further information can be found on the Board's website [Welcome to the Gwent Safeguarding website - Gwent Safeguarding](#)

References and Further information

- The United Nations Convention concerning the Rights of the Child – [Convention on the Rights of the Child | OHCHR](#)
- **The Children Act 1989** - [Children Act 1989 \(legislation.gov.uk\)](#)
- **Welsh Assembly Government** (2002) [Circular 34/2002: Child protection: Preventing Unsuitable People from working with children and Young persons in the Education Service](#)
- **The Education Act 2002** [Education Act 2002 \(legislation.gov.uk\)](#)
- **Welsh Assembly Government** (2003) [Circular 02/2003: Criminal Records Bureau: Checks on Volunteers](#)
- **The Education (Supply of information)(Wales) Regulations 2003** [The Education \(Supply of Information\) \(Wales\) Regulations 2003 \(legislation.gov.uk\)](#)
- **The Children Act 2004** [Children Act 2004 \(legislation.gov.uk\)](#)
- **The Rehabilitation of Offenders Act 1974** [Rehabilitation of Offenders Act 1974 \(legislation.gov.uk\)](#) and **Exceptions Order** [The Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975 \(legislation.gov.uk\)](#)
- **Welsh Assembly Government** (2004) [Circular 03/2004 School Governing Bodies Complaint Procedures](#)
- **Welsh Assembly Government** (2004) [Circular 45/2004: Staff Disciplinary Procedures in Schools](#)
- **Welsh Assembly Government** (2005) Circular 33/2005: [Reporting cases of Misconduct or Professional Incompetence in the Education Service.](#)
- **Welsh Assembly Government** (2006) [Circular 039/2006: Guidance for School Governing Bodies on Procedures for Complaints involving Pupils](#)
- **Welsh Assembly Government** (2006) [Circular 047/2006: Guidance: Inclusion and Pupil Support](#)
- **Welsh Assembly Government** (2007) [Circular 012/2007: Safeguarding Children: Working together under the Children Act 2004.](#)
- **Welsh Assembly Government** (2007) [Circular 36/2007: Procedures for whistleblowing in schools and model policy](#)
- **Welsh Assembly Government** (2007) *The Children and Young People's Plan (Wales) Regulations*

- **Welsh Assembly Government** (2008) Circular 005/2008: Safeguarding Children in Education
- Children's Commissioner for Wales: Clywch Report of the examination of the Children's Commissioner for Wales into allegations of child sexual abuse in a school setting
- Disclosure and Barring Service
www.homeoffice.gov.uk/agencies-public-bodies/dbs/
- **Children's Workforce Development Council** (2009) Recruiting Safely: Summary safer recruitment guidance to keep children and young people safe.
www.cwdcouncil.org.uk
- **Caerphilly Safeguarding Children Board** (2011) Safe Recruitment Guidance
- **ACAS National (Advisory, Conciliation and Arbitration Service)**
Head Office
8th Flor Windsor House
50 Victoria Street
London
SW1H 0TL

Helpline

0300 123 1100

Text Relay

18001 123 1100

Accessible Contact

accessibleservices@acas.org.uk