

# Pre-employment Checking - Guidance for Managers

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# Introduction

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1. This document is for managers and officers responsible for recruiting workers and volunteers to the council.
2. Recruiting managers are responsible for ensuring all pre-employment vetting and checks, relevant to the role, are satisfactory and in place before individuals start work.
3. Pre-employment checks help recruiting managers make safe recruitment decisions; verify candidates' suitability to carry out the role and ensure they have the legal right to work in the UK and are suitably qualified prior to appointment.
4. Checks must be carried out for permanent and temporary appointments, casual workers and volunteers. Certain checks are also required for council staff moving to different roles.
5. Offers of employment are conditional on receiving all satisfactory pre-employment checks.
6. Pre-employment vetting of agency workers is the responsibility of the recruitment agency but recruiting managers must verify that these checks have been carried out and examine references and original DBS certificates (where applicable) before the worker starts.

## Pre-employment checks explained

7. The pre-employment checks required vary depending on the role and may include:
  - Proof of Right to Work in the UK (including proof of identity)
  - Verification of qualifications
  - Medical Clearance
  - References
  - DBS and Barred list Checks
  - Overseas Criminal Record Checks
  - Professional Registration
  - Disqualification from Caring
  - Disqualification for Caring for Children (Education)
  - Prohibition from Teaching
  - Non police personnel vetting
8. More information about these checks is provided below.

## Right to Work in the UK (including proof of identity)

9. It is unlawful for the council to recruit anyone without first establishing their right to work in the UK. Employers who do not carry out the appropriate checks face potential penalties including significant fines.
10. Recruiting managers must examine originals and take copies of certain documents in order to verify the identity of the candidate and establish their right to work in the UK. Candidates are asked to bring these documents to their interview. Use the online tool at [Gov.Uk Check if someone can work in the UK](#) which includes a list of documents you must examine.
11. For certain occupations, where recruiting managers wish to appoint a non-EU national who does not hold certain types of visa, it may be possible for the council to provide sponsorship for them to be given permission to take up the role. Email [county.hr@oxfordshire.gov.uk](mailto:county.hr@oxfordshire.gov.uk) with enquiries.

## Verifying of qualifications

12. Recruiting managers must examine and take copies of original qualification certificates relevant to the role, to verify that candidates hold the essential qualifications required for the job.

## Medical Clearance

13. Following a conditional offer of employment, medical clearance is required for all individuals joining the council, to verify their mental and physical fitness for the job.
14. Medical clearance is also required for internal appointments, where the mental and physical demands of the new job are different from the employee's current role. This can be processed by the IBC recruitment team at the recruiting manager's request.
15. Appointees are asked to fill in an online fitness questionnaire providing information about their health. If concerns are identified the candidate may be asked to provide more information and attend a medical assessment with the council's Occupational Health Service.

## References

### External Candidates

16. For external candidates the council requires:
- two satisfactory references
  - one of these references must be from their current/ most recent line manager/employer
  - for those applying for social care roles they must also provide their last social care employer, if this is not their current employer
  - for individuals who have worked for Oxfordshire County Council previously, a reference from their OCC line manager is required. Where this person is no longer working for the council the reference request must be sent to the council's HR team.

### Internal candidates

17. Where employees and casual workers are moving to different jobs in the council they must provide:
- one reference from their current line manager and,
  - ideally a second reference from their previous employer where one is not held on their central personnel record.
18. Two references are required by law/inspection standards for internal candidates applying to work in:
- Children's homes
  - Fostering and Adoption Services
  - SENS
19. References must be validated by contacting the referee and discussing the reference with them. If you have any questions relating to the reference you need to discuss it with them.
20. One reference must be from the internal candidate's current line manager. The second reference can be (with the applicant's agreement):
- a previous employment reference held on their personnel file from their original recruitment
  - another referee as agreed between the candidate and the recruiting manager.
21. For all other internal moves, two references are recommended where the individual is not known to the service or where the applicant has only been working for the

council for a short period. Recruiting managers can choose to ask for a second reference where they require more background information for the candidate to determine their suitability.

22. The recruiting manager must confirm to the recruitment team if two references are required for a specific appointment.

## Criminal Record (DBS) Checks

23. Criminal record (DBS) checks are required for certain roles - see [Criminal Record Checking Policy](#) for full details. For some roles this includes a check against the Adults or Children's Barred List.

## Overseas Criminal Record Check

24. Overseas Criminal Record checks (referred to as "Good Character" checks by some countries), are required for roles that are eligible for DBS checks, where the individual has spent over three months abroad (in one country), within the last five years and they were over age 16.
25. The individual is responsible for applying for this check. See [GOV.UK Criminal records checks for overseas applicants](#) for information on how to apply.
26. Overseas clearances issued before the individual came to the UK may be accepted in some circumstances.

## Professional Registration

27. Evidence of professional registration is required for certain professions such as:
  - Social Workers and Occupational Therapists
  - Solicitors
  - Accountants
  - Public Health Consultants

## HCPC Registration for Social Workers and Occupational Therapists

28. If an individual is not HCPC registered, it is unlawful for them to use a protected job title such as Social Worker or Occupational Therapist. Verification of HCPC registration is required by checking:
  - that the individual is listed on the HCPC - Online Register and,
  - the individual holds a HCPC certificate or registration card (a letter from the HCPC confirming registration may be accepted);

- the individual's identity must also be verified.

## Disqualification from Caring

29. Section 65 of the Children Act 1989 states that a person disqualified under section 68 of that Act will be disqualified from the management of, having a financial interest in, or working at a children's home, including as a volunteer, where they are:
  - subject to any order relating to the care of children;
  - subject to the following by a specified regulatory body: cancellation of a registration; refusal of registration; or refusal of approval for that individual to care for, foster or look after children;
  - convicted of particular offences;
  - convicted of any offence, which involved bodily injury to, or death of, a child.
30. Managers should always seek legal advice when determining whether a person is disqualified as the legislation governing disqualification is complex.
31. Applicants for children's homes are asked by the IBC Recruitment Team to complete a declaration form as part of the application process.

## Disqualification for Caring for Children (Education)

32. The Childcare Act 2006 and the Childcare (Disqualification) Regulations 2009 apply to any member of staff who works in a 'childcare' role.
33. Staff are considered as working in a 'childcare' role if they provide early years childcare or later years childcare. This is defined as:
  - **Early years' provision** - staff who provide any care for a child up to and including reception age. This includes education in nursery and reception classes and/or any supervised activity (such as breakfast clubs, lunchtime supervision and after school care provided by the school) both during and outside of school hours for children in the early years age range; and
  - **Later years provision (for children under 8)** - staff who are employed to work in childcare provided by the school outside of school hours for children who are above reception age but who have not attained the age of 8. This does not include education or supervised activity for children above reception age during school hours (including extended school hours for co-curricular learning activities, such as the school's choir or sports teams) but it does include before school settings, such as breakfast clubs, and after school provision.

34. The statutory guidance refers to a member of staff as any individual who is employed by a school or local authority, those undertaking training in schools (both salaried and unsalaried), casual workers and volunteers.
35. All staff (paid and unpaid) who work in the above settings, including staff who are directly concerned in the management of such early or later years provision, are required to complete and sign a declaration regarding their suitability to work with children in these settings, either directly or 'by association'.
36. There are a number of reasons that a person may be disqualified from working with children, under the Childcare Act 2006. These may be grouped under the following general headings:
  - Grounds relating to the care of children
  - Offences against children
  - Offences against adults
  - Inclusion on the list held by the Disclosure and Barring Service.
37. Living on or working on premises where a disqualified person lives or where a disqualified person is employed. (this is known as 'disqualification by association')
38. Having registration refused or cancelled (this does not apply to a person whose registration as a childminder or childcare provider is cancelled in England for non-payment of fee after 1 September 2008)
39. Offences include those committed overseas that, had the offence been committed in the UK, would disqualify that person from registration, regardless of how the offence is described in the law of the other country.
40. Further guidance see the DfE [Disqualification under the Childcare Act 2006 - Publications - GOV.UK](#).

## Prohibition from Teaching

41. Teacher Services should be contacted before appointing a teacher to check for:
  - the award of qualified teacher status (QTS)
  - completion of teacher induction
  - prohibitions, sanctions and restrictions that might prevent the individual from taking part in certain activities or working in specific positions.
42. This is a free service and is accessed via the DfE's [Secure Access](#)

## Non Police Personnel Vetting (NPPV)

43. Certain positions that are based in premises that belong to Oxfordshire Constabulary may be subject to Non Police Personnel Vetting. The police service will carry out 'vetting checks' with the view to minimise the risk of sensitive information the employee may have access to being misused. The vetting process involves various checks against a number of police systems with a view to assessing whether the individual poses an unmanageable risk to access police systems.
44. The check will be carried out by the Oxfordshire Constabulary and the recruiting manager will liaise with the police and the individual to have this check completed. The appointee must not start in the role prior to the vetting being issued.

## Starting new recruits before pre-employment checks are in place

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45. Under no circumstances can candidates start work before the following checks have been carried out:
  - Right to Work in the UK and proof of identity
  - Adults or Children's Barred list check for individuals being employed to carry out ["Regulated Activity"](#).
  - Non police personnel vetting
  - Disqualification for Caring for children
  - Prohibition Teacher's list
  - Disqualification for Caring for Children (Education)
46. For other pre-employment checks, in exceptional circumstances, where there are immediate, critical service needs, recruiting managers may seek approval from their Service Manager (Tier 3 managers), for a candidate to start work, only if certain criteria are met - see details below.

## Verification of qualifications

47. Where an individual is not able to produce their qualification certificate/s, recruiting managers can decide to waive this requirement for all qualifications apart from those that are essential for the job or that are required by regulation, such as professional qualifications for Social Workers, Solicitors, Occupational Therapists, Teachers, and Educational Psychologists.

48. In these circumstances, recruiting managers can seek approval from their Tier 3 manager, for the candidate to start work, before the qualification has been verified, only if:

- Evidence of professional registration has been received (where applicable);
- Alternative evidence of qualification has been explored and obtained wherever possible;
- The recruiting manager can demonstrate the risk is low and measures can be put in place to mitigate any risks identified;
- The recruiting manager agrees to obtain evidence of qualification within **one month** of the worker starting.

**ACTION:** Where these criteria are met, recruiting managers can apply to their Service Manager (Tier 3), for approval for the worker to start via the *online risk assessment/application*.

## Medical Clearance

49. Recruiting managers can apply to their Service Manager (Tier 3), for approval for an individual to start work before medical clearance has been received, only if:

- Absence history has been discussed with the applicant;
- Full, satisfactory references have been received;
- The role does not involve driving council vehicles and/or passengers;
- Candidates have completed the first health questionnaire and where they have been asked to complete the Fit 4 Jobs questionnaire and confirmation has been obtained that they have submitted the form.

**ACTION:** Where these criteria are met, recruiting managers can apply to their Service Manager (Tier 3), for approval for the worker to start via the *online risk assessment/application*.

## References

50. Where there is a delay in receiving the second reference, and the recruiting manager can demonstrate that a further delay in the appointment will cause serious disruption to the service, the recruiting manager can apply to their Service Manager (Tier 3), for approval for the individual to start work, only if:

- One satisfactory reference has been received;

- The recruiting manager has made attempts to obtain a verbal reference from the second referee;
- The candidate is not able to provide an alternative referee that meets OCC's requirements (see above);
- The recruiting manager can demonstrate the risk is low and measures can be put in place to mitigate any risks identified;
- The recruiting manager agrees to continue to chase the second reference and ensure it is obtained within **one month** of the worker starting work.

**ACTION:** Where these criteria are met, recruiting managers can apply to their Service Manager (Tier 3), for approval for the worker to start via the *online risk assessment/application*.

## Criminal Record (DBS) Checking

51. Where a Standard DBS Check or Enhanced DBS check (without a Barred List check) is required, recruiting managers may apply to their Service Manager (Tier 3), for approval for an individual to start work before a the DBS has been received, only if all the following criteria can be met:
- The work does not involve working in one to one situations, in residential settings (or similar) in SENS or other high risk environments such as fostering.
  - The individual has filled in a job application form, giving details about any unspent or spent criminal convictions.
  - All other pre-employment checks must be in place.
  - The recruiting manager has initiated the DBS check.
  - The IBC confirms that the candidate has completed their DBS application and sufficient number of documents to support it.
  - The recruiting manager assesses the risks to be low and is able to put satisfactory measures in place to reduce any risk identified e.g. restricting duties.
  - The expected time delay in waiting for the DBS Certificate is likely to cause serious disruption to the service.

**ACTION:** Where these criteria are met, recruiting managers can apply to their Service Manager (Tier 3), for approval for the worker to start via the *online risk assessment/application*..

## Follow Up Action for Recruiting Manager

52. Where authority is given for an individual to start work, before the DBS check has been received, the DBS check will continue to be processed and the manager will

receive an email, from the DBS check team, when the DBS certificate is issued to the employee. The recruiting manager will be informed if the certificate discloses any relevant information or criminal convictions. Where relevant information or criminal offences are disclosed, the manager must act promptly and assess the risk that this presents by following the council's risk assessment process and guidance - [Criminal Conviction Risk Assessment Guidance](#). In some cases, depending on the relevant information or conviction, the individual may need to be suspended with full pay until the risk assessment has been completed and a decision has been made about their suitability for the role.

## Overseas Criminal Record Check

53. Recruiting managers can apply to their Service Manager (Tier 3), for approval for an individual to start work before an Overseas Criminal Record check has been received, only if:

- The role does not involve working in one to one situations, in residential settings (or similar) in SENS or other high risk environments such as fostering.
- The individual has filled in a job application form, giving details of any unspent or spent convictions for the UK or abroad.
- All other pre-employment checks must be in place and must be satisfactory.
- The individual can provide evidence that they have applied for an Overseas Criminal Record Check.
- The recruiting manager has assessed the risks to be low and is able to put satisfactory measures in place to reduce any risk identified e.g. restricting duties.
- The recruiting manager must be able to demonstrate that the expected time delay in waiting for the Overseas Criminal Record check will cause serious disruption to the service.
- The recruiting manager agrees to monitor and chase this check and ensure it is in place within **one month of appointment**.

54. It is acknowledged that it is not always possible to obtain a criminal record check from some countries. In these circumstances individuals must provide written confirmation of their attempts to obtain a certificate and why this has not been possible. They may also be required to provide a written account of their time spent abroad e.g. studying, holiday to be submitted to the Service Manager (Tier 3).

**ACTION:** Where these criteria are met, recruiting managers can apply to their Service Manager (Tier 3), for approval for the worker to start via the *online risk assessment/application*.

## Professional Registration

55. Where an individual cannot produce the required evidence of registration and the recruiting manager can demonstrate that a delay in their appointment would cause a serious disruption to the service, the recruiting manager can apply to their Service Manager (Tier 3), for approval for the individual to start work, only if the following criteria can be met:
- Where an applicant is awaiting registration or renewal of their registration, they must provide evidence that they have made an application.
  - Professional qualifications have been verified.
  - HCPC registrants, not able to produce a certificate or registration card, must be registered online and their identity must be verified. They must also show they have taken steps to apply for replacement documentation.
  - For roles with protected titles such as Social Workers and Occupational Therapists, recruiting managers must confirm that the individual will be given restricted duties until registration is confirmed.
  - Managers must agree to ensure verification is obtained before restrictions on working is lifted and within **one month of appointment**.

**ACTION:** Where these criteria are met, recruiting managers can apply to their Service Manager (Tier 3), for approval for the worker to start via the *online risk assessment/application*.

## Related Policies

[DBS - Criminal Record Checking Policy](#)

Steve Munn, Director of Human Resources, October 2016 (amended Feb 2017)