

Employment history and reference checks

September 2012

About the NHS Employment Check Standards

This document outlines the employment history and reference checks that NHS organisations (across England) must be aware of, and act on, in the appointment of individuals in the NHS, and follows recommended good practice guidance issued by the Chartered Institute of Personnel Development (CIPD). It is one of a set of six documents that make up the *NHS Employment Check Standards*.

The NHS Employers organisation has developed these standards with the Department of Health and employers in the NHS. The standards include those that are required by law, those that are Department of Health (DH) policy and those that are required for access to the NHS Care Record Service.

These standards replace all previous guidance issued by NHS Employers on safer recruitment and include the employment checks that NHS organisations must carry out to meet the Government's core standards, outlined within the *Standards for Better Health*. Since April 2010, all NHS providers (whether NHS organisations or private providers) have been required to register with the Care Quality Commission (CQC). Organisations registered with the CQC are required to comply with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 and the Care Quality Commission (Registration) Regulations 2009, in particular, the requirements relating to the recruitment of staff. NHS providers should show evidence of compliance with the *NHS Employment Check Standards* as part of the CQC's annual regulatory framework.

Failure to comply with these standards could potentially put the safety and even the lives of patients, staff and the public at risk.

The NHS Employment Check standards apply to all applicants for NHS positions (prospective employees) and staff in ongoing NHS employment. This includes permanent staff, staff on fixed-term contracts, volunteers, students, trainees, contractors, highly mobile staff and staff supplied by an agency. Trusts using agency, contractor or other external bodies to provide NHS services must ensure, through regular audit and monitoring, that their providers comply with these standards.

Avoiding discrimination

Employers must not unlawfully discriminate in their recruitment processes on the grounds of ethnicity, disability, age, gender, religion and belief, or sexual orientation. To avoid discrimination employers must treat all job applicants in the same way at each stage of their recruitment process.

Recording and protecting data

NHS employers must carry out all checks in compliance with the Data Protection Act 1998. Information should only be obtained where it is essential to the recruitment decision and kept in accordance with the Act. Employers must record the outcome of all pre-employment checks, using the Electronic Staff Record (ESR), where available, or an alternative HR management system. These checks are also part of the information governance and assurance standards linked to the use of the NHS Care Record Service (NHS CRS). For more details visit www.connectingforhealth.nhs.uk/systemsandservices/scr

Contents

| | |
|--|----------|
| Introduction | 4 |
| Minimum requirements | 4 |
| Advice for employers | 5 |
| Other types of reference | 6 |
| Executive and other senior appointments | 6 |
| Overseas employment or training | 6 |
| Doubts on authenticity of information | 7 |
| Further information | 7 |

Introduction

Previous employment history must be checked before an unconditional offer of employment is made to a prospective employee. References and application forms should be cross-checked as part of this process.

References serve two purposes for the NHS. They allow organisations to check the accuracy of a prospective employee's previous employment and training history. They can also provide assurance of an individual's qualifications, integrity and track record. For the purposes of these standards we are only concerned with the former.

The Electronic Staff Record (ESR) makes the process easier for checking employment details of staff who have already been employed in the NHS, such as verifying dates of employment. Where employment has been outside the NHS or overseas then the use of references is critical in establishing employment history.

Employers must make it clear to prospective employees, in writing, that any confirmed offer of appointment is subject to satisfactory pre-employment checks and that any information disclosed on the application form will be checked.

It should also be made clear to prospective employees that any offer of appointment may be subsequently withdrawn if they knowingly withhold information, or provide false or misleading information. Employers must have procedures in place for dealing with the withdrawal of provisional arrangements.

This document only covers employment history and reference checks and should be read in conjunction with the *Registration and qualification checks* document of the *NHS Employment Check Standards*.

Minimum requirements

Employers must:

- ask applicants to provide details of their full employment and/or training history
- seek references to validate at least three years of previous employment and/or training. Ideally you should aim to check a period which covers two separate employers (where possible), one of which should be from the applicant's current or most recent employer. Where an individual has been with one employer for three years or more, one reference may be sufficient
- always obtain references in writing (ie company letter via post or email, or by using a standardised form), although it may be necessary to further clarify information with the referee over the phone. Electronic references received via the NHS Jobs reference request tool may be accepted providing the reference is from a bona fide company email address and contains an electronic signature (name and position of the referee, company switchboard number and company address).

Employers, including agencies, must make all reasonable efforts to check that referees are bona fide and references are genuine. This could include checking that the organisation exists (using the phone book, internet or business directories), and phoning or emailing the HR department to verify employment dates and information are correct. All hard copy references should be on headed company paper or, where emailed, should be from an authenticated company email address. All references must include the referee's name, job title, a mainline switchboard number, the referee's signature and, where using a standardised form, should also include the referee's company stamp.

For the purposes of checking employment history, references must provide details on dates of employment and the position held. It is also good practice to ask for details on the duties the person carried out and on the skills and personal qualities that might be deemed relevant to the position being applied for. However, employers should bear in mind that any comments on personal qualities may be highly subjective.

Any gaps in employment history will need to be carefully explored with the applicant at interview.

All requests for references should be requested through the applicant's line manager or other relevant department manager. However, it is recommended that employment dates are verified through the organisation's HR department or other relevant recruitment function. If the applicant is already working within the NHS, this information may be verified using the Electronic Staff Record, where available, or an alternative HR management system.

For healthcare professionals, references should be obtained from their clinical line manager, medical director, or supervising consultant. Where this is not possible, references should be obtained from their post graduate dean, educational supervisor, or other relevant professional lead.

Advice for employers

Information obtained through references should only be used to confirm a recruitment decision. Therefore, it is good practice for references to be sought after a provisional offer has been made. Where employers take up references earlier, they should make this clear to the applicant. Employers should always seek the applicant's prior consent before approaching their current employer. References should not be used for the purpose of shortlisting.

Where the applicant has had more than two employers in the preceding three years, employers should seek additional references if this will help to support the application.

Employers should use their discretion as to how many references are required for volunteers, work experience placements, student placements and existing staff who are changing positions within the same organisation.

Doctors on rotational training programmes are considered as being in continuous employment throughout the period of their training. The frequency and number of references required when seeking ongoing assurances of conduct for doctors should always be proportionate to risk. Employers may also find it useful to obtain a copy of their most recent Record of In-Training, Assessment (RITA) or Annual Review of Competence Progression (ARCP).

Employers may wish to consider using a standardised form when obtaining employer references. Standard templates can help identify relevant information, which minimises the effort involved and prompts a quick response from referees.

Other types of reference

Depending on the individual's circumstances, other types of references may also be required if:

- employer references are not available, two personal references should be obtained from referees of some standing in the community who have known the individual for at least three years (for instance a doctor, lawyer or MP)
- they have been overseas for a single spell of three months or more, or a cumulative total of six months or more. In this case, every effort should be made to obtain a relevant reference from overseas (see below)
- they have been in full-time education in the last five years. In this case, a reference should be obtained from the relevant school, college or university
- they have served in the Armed Forces or Civil Service during the previous three years. Employer's references should be obtained from the relevant service or department
- the applicant has been self-employed. Evidence should be obtained (for example, from HM Revenue & Customs, bankers, accountants, solicitors, client references, etc), to confirm that the individual's business was properly conducted and the applicant's involvement in the business was terminated satisfactorily.

Executive and other senior appointments

Employers must pay special attention to confirming appropriate employer references for these positions. It is up to the employer to determine the most appropriate referees for the position they are offering and the level of checks required. This may include using an external agency to investigate the prospective employee's previous employment history and their reasons for leaving previous posts.

Employers may wish to undertake financial security checks as a matter of good governance. However, we would recommend that these would only be justifiable where appointing individuals into a position of trust, for example chief executive, board director, or a position that involves the management and handling of organisational budgets. It is important to note that interpreting the implications of financial information is not straightforward and is not seen as a core aspect of pre-employment screening. It will require a far greater degree of judgement than the other pre-employment checks outlined within the NHS Employment Check Standards and should be dealt with more fully under your security policy and practices. Further information on financial security checks, including frequently asked questions, can be found at:

www.nhsemployers.org/RecruitmentAndRetention/Employment-checks/Employment-Check-Standards/Pages/Employmenthistoryandreferencechecks.aspx.

Overseas employment or training

Prospective employees will need to give a reasonable account of any significant periods of time spent overseas (three months or more).

The following documentation can be requested as an assurance of time spent overseas:

- proof of residence for time spent abroad
- overseas employer or academic references
- references from UK departments and agencies based overseas, for example the Foreign and Commonwealth Office (FCO), missions, British Council, non-government departments and agencies.

Information on time spent overseas should always be requested early, to prevent unnecessary delays in the recruitment process. Confirmation of dates should be cross-referenced with passports, work permits and so on, or by contacting embassies and consulates where appropriate. UK representatives for overseas countries can be found on the Foreign and Commonwealth Office website, www.fco.gov.uk, or by phone on 020 7008 1500.

Every effort should be made to obtain references from overseas employers or training providers. Always ensure that you independently confirm the details of the candidate's previous employer and check reference details in the same way as you would check local references. It is up to the employer to determine the level of checks suitable for the position.

Employers may want to consider using an external screening service to carry out overseas checks. This has a number of advantages, such as understanding foreign languages, knowledge of the country's legislation and a good understanding of the reliability of information from the specific country.

Where an applicant has not been able to provide sufficient documentary evidence of their time spent abroad, employers will need to consider what additional assurances may be gained at interview, or through evidence of other relevant training and experience in the UK.

Doubts on authenticity of information

Your checks may return information that contradicts the details provided by the applicant and raises concerns. In this situation you should:

- proceed in a sensitive manner. There is often a reasonable explanation for apparent inconsistencies
- attempt to address your concerns directly with the applicant. You may wish to call them back for a second interview, so that you can follow up with the relevant sources.

In exceptional circumstances, where your checks reveal substantial misdirection, you may feel it would be appropriate to report your concerns to NHS Protect (Tel: 0207 895 4500, Weston House, 246 High Holborn, London, WV1V 7EX), or report it to the local police.

Further information

This document uses information from the Centre for the Protection of National Infrastructure (CPNI), www.cpni.gov.uk and the Chartered Institute of Personnel and Development (CIPD) www.cipd.co.uk.

Every effort is made to ensure that the requirements within these standards are updated in line with new legislation and DH policy as it comes into force. Where employers choose to download hard copies of the standards, it is essential that they regularly refer to the NHS Employers website to ensure that they are fully compliant with any updated legal and mandated requirements. Alerts to any changes to these standards are published in the NHS Workforce Bulletin, which you can download or subscribe to at: www.nhsemployers.org/workforcebulletin.

Visit www.nhsemployers.org/EmploymentChecks

Email employmentchecks@nhsemployers.org

NHS Employers

The NHS Employers organisation is the voice of employers in the NHS, supporting them to put patients first. Our vision is to be the authoritative voice of workforce leaders, experts in HR, negotiating fairly to get the best deal for patients.

We work with employers in the NHS to reflect their views and act on their behalf in four priority areas:

1. pay and negotiations
2. recruitment and planning the workforce
3. healthy and productive workplaces
4. employment policy and practice.

The NHS Employers organisation is part of the NHS Confederation.

Contact us

For more information on how to become involved in our work, email getinvolved@nhsemployers.org

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