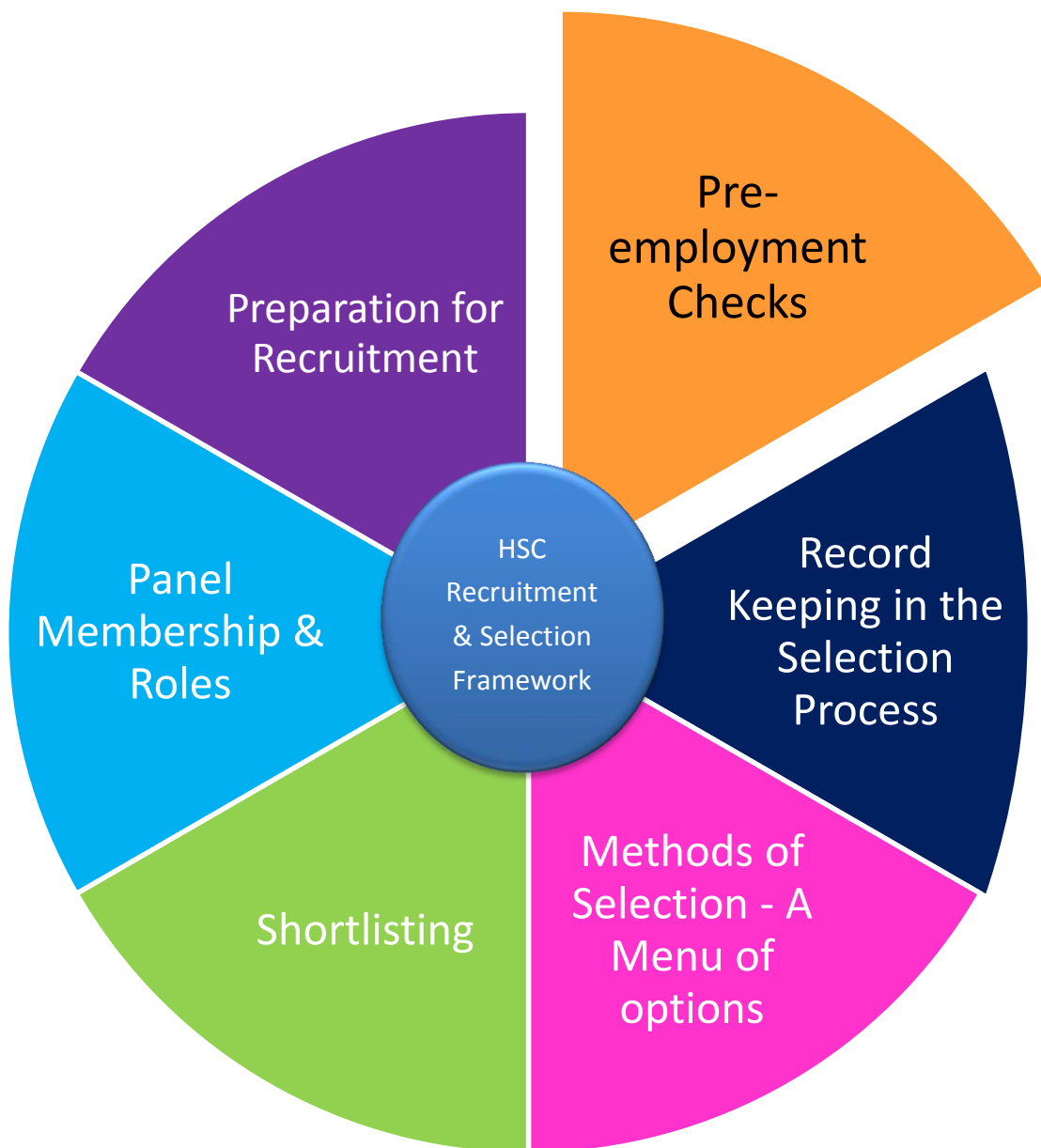


# Managers Guide to Pre-Employment Checks

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# Introduction

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Following the selection process, the successful applicant (s) will receive a letter of conditional offer. Whilst all appointments to the Health & Social Care service (HSC) are subject to satisfactory pre-employment checks, special arrangements exist for staff currently employed in the HSC regarding the processing of the checks.

Although the principles remain the same, managers should be aware there may be nuances to be applied if the appointee is an existing member of staff.

The Recruitment Shared Service Centre (RSSC) is responsible for undertaking the pre-employment checks which will include:

- i Identity Check
- ii Eligibility to Work in the UK
- iii References
- iv Disclosure Certificates & Personal Declarations
- v Occupational Health Assessments
- vi Qualification & Professional Registration (*where appropriate*)
- vii Driving Licence (*where appropriate*)

Should any issues of concern arise during the checks process, the RSSC will collate the information and share this with the Manager for their decision. Typically areas requiring consideration relate to References, Sickness Absence and Disclosures; however failure to satisfactorily complete any of the checks will lead to the withdrawal of a conditional offer of employment.

The aim of this guide is to provide broad guidance based on common issues which arise. Managers may also seek advice from their local Human Resources Department.

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# REFERENCES

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References are a valuable tool in determining the suitability of an applicant. They provide information on the reliability, character and experience of an individual as witnessed by a former employer, education authority or other suitable professional. While there is no legal requirement for employers to provide references about people who are or were in their employment, HSC Trusts/organisations have a duty of care to both patients and staff to ensure that all reasonable checks are undertaken to ascertain a person's suitability for any given role. For this reason all appointments to the HSC are made subject to satisfactory references<sup>1</sup> being received.

Data protection laws have had a significant impact on the type of information employers are likely to agree to provide in response to a reference request. Employers have a duty of care to all current and former employees to ensure that any information they share about them is a fair and true reflection of their performance and suitability. References should not include personal opinions or views which may be regarded as subjective.

References should never be used as the sole grounds for assessing an applicant's suitability for a post. Any decision to appoint should be made based on the wide range of information gathered as part of the selection process.

## **Obtaining the Reference**

The RSSC will be responsible for collecting references as part of the conditional offer process. Reference requests will be made to those nominated on the application form unless RSSC are advised otherwise. Should those nominated not satisfy the requirement for at least one reference to be the current or most recent line manager, RSSC will contact the successful applicant to request a further nomination. This would also occur if the appointee is not currently a HSC / NHS employee but has had previous such experience.

## **Assessing the Reference**

On receipt References will be reviewed by RSSC staff and cross referenced with the Application form / Personal Declaration form.

- Any information not matching the Application / Personal Declaration form; sickness records demonstrating: three episodes of absence within a 12 month

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<sup>1</sup> Normally two references will be obtained including one from the current or most recent line manager. Where an appointee is not currently working in the HSC / NHS but has previous work experience in either setting a reference should always be obtained from the most recent of such employment.

rolling period; or Two periods of absence totalling 10 working days or 2 calendar weeks within a 12 month rolling period; or one period of 10 days within a 12 month rolling period; or one period of 20 days or more; or any question answered in the negative will be a trigger for the RSSC to share the reference with the manager for further consideration.

If there are no issues of discrepancy or concern the RSSC will sign off on the reference without further recourse to the panel chairperson / hiring manager. If however there are any issues which are a cause for concern, RSSC will share the reference for further review / decision as to how the manager wishes to proceed. As this could lead to a withdrawal of offer, the agreed process for withdrawal of conditional offers will be applied.

When a reference is referred to a Manager it is important that they consider the issues raised in the context of the overall pre-employment check process. Managers should ensure that any decisions made are based on factual information and not opinion.

Where a referee responds in the negative to any question, the RSSC will, prior to referral, contact the referee to explore this further. Any information provided will be shared with the Panel Chair / Recruiting manager for consideration in full. This may include:

- Whether or not all information has been fully declared – if not is there an issue of honesty and integrity?
- Whether any of the information provided would impact on the suitability of the candidate for appointment to the post
- Whether any of the information provided suggests the candidate would not be in a position to provide regular and reliable service.

Further contact with the referee may be required to obtain an overview of the individual's performance, reliability or general suitability for the post.

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# Sickness Absence

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Sickness absence is frequently an issue which requires consideration. All HSC employers operate a strict sickness absence policy for staff so it is important to ensure that those being appointed have an acceptable sickness absence record. Essentially in this area the Panel Chair / Recruiting Manager is determining whether or not the candidate is in a position to provide regular and reliable service. Here are some factors to consider:

1. Has the applicant disclosed a full and accurate account of their sickness history?

Where there are any discrepancies / omissions this will initially be explored with the candidate / referee by RSSC staff providing the opportunity to explain any non-disclosure. This information will be shared with the Manager other than in instances where the discrepancy is a clear oversight and easily explained.

2. Are any of the absences disability related?

If this is possible / declared, it is advisable to discuss the sickness absence with the candidate to understand whether or not reasonable adjustments are required and the perspective of the candidate to provide regular and reliable service. This is likely to require further discussion with Occupational Health, particularly in relation to potential reasonable adjustments required. It is also advisable to consult your local HR Department for guidance.

3. Are any of the absences pregnancy related?

Sickness absences due to maternity leave or pregnancy related illness should not be counted for purposes of considering the sickness absence record.

4. What is the level / pattern of sickness absence?

The level, pattern and nature of the sickness absences during the 2 year period requested should be considered in line with the employing authority's 'triggers'. Decisions not to appoint due to absence records need to be in line with the standards applied from the Trust/HSC Organisation's Managing Attendance protocol to existing staff.

Recruiting managers should carefully consider the extent of any such breaches with particular consideration given to the level of absence in the most recent 12

month period and whether the triggers have been breached in more than one of the two years declared.

**Example 1-** An applicant may have had a concerning level of sickness absence in one year but the next year shows an improvement in attendance. In such cases the Recruiting Manager can look favourably on this verified improvement.

**Example 2 –** An applicant may have had a concerning pattern of sickness across the period. In such cases it is reasonable for the Recruiting Manager to consider whether this individual is likely to be able to provide regular and reliable service. The Recruiting Manager may wish to meet with the applicant to discuss his/her level of absence before reaching a decision on whether or not to withdraw the conditional offer. During the meeting the Recruiting Manager should establish if there are any exceptional or mitigating circumstances and consider any assurances of improvement which the applicant may provide.

5. What did Occupational Health say?

Any advice from the Occupational Health assessment, in particular any recommendations made for reasonable adjustments in the instance of disability or any restrictions which the appointee may have.

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# Disclosure Information

## Personal Declarations

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All candidates under conditional offer are asked to complete a Personal Declaration. Some of this is information which used to be sought on the application form and includes details of:

- Sickness Absences
- Disability Status / Reasonable adjustments required
- Disciplinary Record
- Criminal Record / Any other Offences
- Professional Registration status

The candidate is expected to provide full and accurate responses to all questions. Any issue of discrepancy / missing information such as unexplained gaps in employment or reasons for leaving previous employment would be a 'trigger' for review. RSSC staff will seek any necessary clarification and highlight any such matters to the Panel Chair / Recruiting Manager.

Managers should consider the information and determine whether or not there are any issues which would call into question the suitability of the candidate for appointment:

- Has all the information been declared or is there an issue of honesty and integrity?
- Is there a criminal record declared which is materially relevant to the post in question?
- Is there a sickness absence record which would call into question the candidates ability to provide regular and reliable service?
- Is any reasonable adjustment required for reasons of a disability?

A discussion may be required to with the candidate to clarify and fully consider any or all of the above questions.

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# Disclosure Information

## Access NI Disclosure Certificates

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If a post is eligible for an Access NI check an application will be made. When a disclosure is made, RSSC will seek a copy of the certificate as issued and cross reference with the Personal Declaration form. In all instances any disclosure of criminal records will be shared with the Panel Chair / Recruiting Manager for a decision on the suitability of the candidate.

The HSC is committed to the equality of opportunity for all applicants, including those with criminal convictions. While the disclosure of information does not automatically debar an individual from employment, it is essential that all convictions are disclosed and duly considered.

When it has been identified through pre-employment checks that a candidate with a conditional offer of employment has a criminal conviction, a meeting should be set up by the Panel Chair / Recruiting Manager to facilitate a discussion about the disclosure. Prior to the meeting the Panel Chair / Recruiting Manager should ensure that they have all the necessary paperwork available to refer to, i.e. Application Form, Personal Declaration Form and Access NI Disclosure Certificate.

Before the meeting begins the Panel Chair / Recruiting Manager should review all of the documentation and consider if the candidate declared any / all offences on their Personal Declaration Form. If any offence was not declared as required this is treated as a failure to disclose. The candidate should be asked to explain their specific reasons why they have not fully disclosed all of the relevant information and this should be taken into consideration when making the final decision on whether to proceed with the offer of employment.

Please remember it is not sufficient for a candidate to say that they did not realise they had to disclose a conviction. The instruction to applicants is clear that all convictions must be declared no matter how long ago they occurred or how minor they were.

If meeting the candidate, the Panel Chair / Recruiting Manager should explain the purpose of the meeting at the outset and ensure there is clarity about the requirement to disclose all information albeit that such does not debar the candidate from appointment unless it is materially relevant to the post which they are under a conditional offer for.

### **Key Points to Consider During / Following Meeting**

- Is the caution or conviction a one-off or one of several? Is it old or recent? Was it committed when the person was a juvenile or adult?
- Is the type of offence materially relevant to the job?



- Is the behaviour that constituted the offence(s) a particular cause for concern (e.g. for sexual offences, was it a teenager sleeping with his under aged girlfriend or something more serious; for drug offences, was it possession of a small amount of cannabis for own use or possession of a class A drug with intent to supply)?
- Is the context behind that behaviour a cause for concern (e.g. was the conviction for violence a result of someone in great fear hitting an assailant or a premeditated violent attack)?
- Were there particular circumstances at the time that led to the offending behaviour (e.g. dysfunctional family, acutely strained financial circumstances) which have now changed?
- What evidence is there for change (e.g. job, family, mortgage)?
- What is the person's attitude to the offence or offences? Is it one of remorse? Do they take responsibility for it, recognise the harm they caused?
- Has the person had sustainable employment since, shown good character?

If the answers to these questions indicate that the offences are not relevant and/ or the applicant has put their past behind them, then the presumption may be that the applicant is not a risk.

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| Disclosure confirms information provided by applicant   | Risk Assessment undertaken by Retained HR and Chairperson/ Lead Recruiter regarding relevance of convictions to the job applied for.<br><br><b>Decide if suitable/not suitable</b>   |
| Disclosure reveals new information about a criminal record<br><br>i.e. applicant disclosed some but not all convictions<br><br>OR<br><br>Did not disclose any convictions | 1.Candidate confirms information is correct on the disclosure but the discrepancy was not serious or the applicant was able to provide a satisfactory explanation as to their failure to disclose – <b>confirm appointment</b><br><br>Candidate confirms information is correct on the disclosure but record is too serious or there is more than one discrepancy and candidate was not able to provide a satisfactory explanation as to their failure to disclose – <b>withdraw offer of employment</b> |