

Pre-employment and vetting Policy

Our approach

For us to recruit talented individuals who are appropriate to serve our clients and become a positive team member of Life In Action we apply the pre-employment and vetting checks policy at each stage of the process. Furthermore, we believe it is an important consideration to improve retention, support the longer-term relationships our team have with the local community and the clients we serve.

In addition, our employees will support the aims and objectives of the organisation. Therefore, we have set out guidance in this policy that follows the principles of best practice and the law.

To recruit the most suitable employee we carry out appropriate and proportionate pre-employment checks to determine the suitability of the applicant. As traditional recruitment practices continue to evolve, partly driven by the development of technology, we feel we need to use a combination of methods while following pre-employment checking procedures that are both legal and ethical.

The following pre-employment checks we use are:

- right-to-work checks – the global movement of job-seekers has created an obligation on us to ensure we are not employing those who do not have permission to work in the UK, or in the particular role they are employed to undertake
- criminal record checks (DBS checks) – to comply with legal obligations, and to ensure the safeguarding of vulnerable members of the community, and Children and Young People we may be required to request records to determine whether ex-offenders are suitable for particular employment and working with us as a therapist. It is the responsibility of the applicant to pay for any checks as part of the application.
- reference checks – organisations are not usually under any legal obligation to obtain an employment reference, and there is no automatic right to receive a reference from a previous or current employer (except in certain sectors). However, it is common to request at least one reference and, as employers are under a duty of care to provide references that are accurate and not misleading, it is essential that they handle both the provision and receiving of references carefully

We ensure that the pre-employment checks are carried out in accordance with the six data protection principles, as set out within the Data Protection Act 2018.

Key legislation

Data protection legislation requires organisations to adhere to the following best practice principles, we adhere to these inline with our policy in that;

- all personal data must be processed fairly, lawfully and transparently.
- personal data must be obtained only for specific, explicit and lawful purposes and must not be processed in any manner incompatible with the purposes for which it was collected.
- Personal data must be adequate, relevant and not excessive in relation to the original purpose for which it was processed.
- personal data must be accurate, kept up to date and every reasonable step taken to ensure that any inaccurate data is erased or rectified without delay.

- personal data must not be kept for any longer than is necessary for the purpose for which it was collected.
- personal data must be processed in a manner that ensures appropriate security, using technical or organisation measures. These measures should include protection against unauthorised or unlawful processing and against accidental loss, destruction or damage. Additionally, the data controller (the organisation carrying out the pre-employment checks) must be able to demonstrate accountability, that is, they can prove they take responsibility for their actions with regards to personal data.

The purpose of pre-employment checks

Carrying out pre-employment checks, or ‘vetting’ an applicant, is an important part of the recruitment process whereby we consider whether the applicant is eligible for the job role.

With the selection of candidates focusing on their suitability for the job role, we may carry out pre-employment checks to safeguard our clients and the organisation from any negative impact caused by the recruitment of the individual. Vetting is a key part of due diligence carried out by us to ensure the candidate will not bring the company into disrepute, or cause difficulties with any colleagues, or the clients we serve.

There are also legal requirements placed on organisations to carry out certain pre-employment checks, for example checking whether candidates have a criminal record that prevents them from being employed in particular roles. In our case working with Children and Young people.

Our standard pre-employment due diligence will usually require we undertake the following checks:

- right to work in the UK
- criminal record certificates, where appropriate (DBS)
- validity of professional qualifications such as BACP membership
- obtaining references from current or previous employers and or Supervisor

The decision whether to recruit an applicant will be focused on finding the most suitable person for the job, considering all the available evidence, including that found during vetting. Negative factors that may reflect on the applicant’s suitability could include:

- Disqualification from a professional body such as the BACP or such sanction
- assault
- fraud
- failure to observe BACP ethical code
- fighting

Right-to-work checks legislation

The key piece of legislation covering illegal working and right-to-work checks is the Immigration, Asylum and Nationality Act 2006 (the 2006 Act).

This Act was amended by the more recent Immigration Act 2016 (the 2016 Act). For employment that began between 27 January 1997 and 28 February 2008, the previous statutory regime under the Asylum and Immigration Act 1996 continues to apply. Organisations are placed under a legal duty to prevent illegal working by carrying out right-to-work checks to ensure prospective employees can legally work in the UK. While failing to carry out document checks is not an offence in itself, organisations can be subjected to civil and criminal penalties for employing illegal workers.

Section 15 of the 2006 Act defines illegal workers as adults, those aged over 16, who are subject to immigration control and do not have permission to carry out the work in question because they:

- have not been granted leave to enter or remain in the UK, or
- their leave to enter or remain in the UK is invalid, no longer applies or prevents them from carrying out the particular employment.

Acceptable right-to-work documents

We are required to produce original right-to-work documents for us to check. The documents that are acceptable are set out in the Home Office guidance. These are separated into two lists:

List A documents are available to individuals who have a permanent right to work in the UK. Where organisations receive a List A document, or combination of documents, there is no requirement to carry out follow-up checks and the statutory excuse will apply for the length of the individual's employment.

These documents include a passport showing the holder is a British citizen or an EEA national, or a full birth certificate plus an official document providing the individual's National Insurance number.

List B documents are available to individuals who have a temporary or time-limited right to work in the UK. These documents are separated further into two different groups:

- Group 1 documents are time limited and the statutory excuse will apply until the individual's permission to work in the UK expires. Before expiry, organisations are required to carry out a follow-up check to determine whether the individual has a continued right to work in the UK from the date the original document expires.
- Group 2 documents require the organisation to carry out and receive a positive verification notice from the Home Office in advance of employment commencing. Receiving the positive notice will create a statutory excuse for six months, with the organisation required to carry out a follow-up check at the end of six months. Additionally, the organisation will be required to apply to the Home Office for a positive verification notice where the individual cannot produce acceptable right-to-work documents and they have:
 - an outstanding application that was submitted to the Home Office before any previous right to work expired
 - a pending appeal against a Home Office decision
 - a pending administrative review against a Home Office decision.

Criminal record checks legislation

The Rehabilitation of Offenders Act 1974 is the main piece of legislation regulating the disclosure of criminal records (ROA 1974). The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (the Exceptions Order) lists roles under which employers can require disclosure of spent convictions. The Exceptions Order was amended by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 from 29 May 2013 (the Exceptions Order 2013).

Carrying out criminal record checks

We aim to ask all applicants to voluntarily disclose their criminal record information by including a question on this issue within our application form or as part of our interview.

To receive a certificate detailing an individual's criminal record, we can carry out checks through the DBS, Disclosure Scotland.

There are three types of disclosure certificates that can be applied for, and the type of information to be disclosed is regulated by the Police Act 1997 and the Police Act 1997 (Criminal Records) Regulations 2002.

All applicants will be required as a minimum will be required to apply for a basic DBS certificate. This includes volunteers.

We will issue a copy of our privacy notice for job applicants to communicate our compliance systems when carrying out these checks and explain how data will be used. This information is available on our website.

Three levels of criminal record certificates

Basic certificate:

This certificate will contain details of unspent criminal convictions and cautions, or a statement that the individual has no such convictions or cautions on their record. These certificates are available to all applicants, regardless of which role they are applying for. To receive a basic certificate, an individual can apply using the online application service through DBS or Disclosure Scotland, so long as they are aged over 16 at the time of the application.

Standard certificate:

will contain details of all spent and unspent criminal convictions, cautions, police reprimands and warnings. This check is available for employment in certain specific professions, occupations and licences listed in the Exceptions order.

Enhanced certificate:

contains all the details included in a standard certificate plus any information held by the police which is reasonably believed to be relevant, taking into account the purpose for which the certificate is obtained. This check is available for those carrying out activities or work in regulated activity with

children or vulnerable adults, and for licences and judicial appointments listed in the Police Act 1997. For certain job roles listed in the Police Act, including those carrying out a regulated activity, an enhanced certificate with list check can be applied for. For this certificate, the DBS will carry out a check of the statutory barring lists and disclose information on whether the individual is barred from working with children and/or vulnerable adults.

In a similar process, Disclosure Scotland offers the Protecting Vulnerable Groups (PVG) scheme, which can be joined by those undertaking 'regulated work' with children or protected adults. There are three types of PVG disclosure records available that will all reveal whether the individual is named on a barred list or is under consideration for listing, that is, information has been received that means they may not be suitable for that type of work and an assessment is being undertaken to decide whether to list them.

Obtaining employment references

We will request at least one reference from the individual's current or most recent employer, or current supervisor (if in practice)

If the prospective employee cannot provide two employment references, we will accept an educational reference or a character reference to avoid placing the individual at a disadvantage.

Job offers will be made conditional on receipt of a satisfactory reference, allowing us to withdraw the employment offer if the references are not deemed satisfactory.

We will not allow applicants to work with any clients before we have received all relevant references and checks.