

EMPLOYMENT CHECKS POLICY AND PROCEDURE

Summary

This policy and procedure describes the underlying principles and procedure for undertaking employment checks. A clear policy and procedure for employment checks will support the health and safety of patients and staff and help contribute to high quality of patient care. The document applies to all prospective new employees, temporary workers (bank and agency), and existing staff members. This document includes the process for monitoring policy compliance.

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1. POLICY STATEMENT AND LINK TO STRATEGY/TRUST'S OBJECTIVES

- 1.1 Ensuring that satisfactory pre and post employment checks are undertaken will directly support the safety of patients and the quality of care they receive and the Trust's vision for excellence in all it does.
- 1.2 The Royal Marsden NHS Foundation Trust (hereinafter called The Trust) is committed to ensuring the highest standards of patient care and safety. This policy and procedure will support these principles by ensuring safe recruitment and employment practices that minimise any possible adverse risk to patient care and safety.
- 1.3 The policy and procedure complies with NHS Employers standards for employment checks.
- 1.4 All employment checks are made in compliance with the Therefore employment checks are usually only made after a conditional offer of employment.

2. PURPOSE AND SCOPE

- 2.1 The purpose of the policy and procedure is to set out arrangements for employment checking which comply with NHS Employers standards for pre- and post employment checks.
- 2.2 The aim of the policy and procedure is to ensure that employment checks are completed fairly and promptly following best practice guidelines.
- 2.3 This policy and procedure apply to all employees of the Trust and to bank and agency workers.
- 2.4 The Trust believes in providing equity in its services, in treating people fairly with respect and dignity and in valuing diversity both as an employer. These principles will be followed when applying this policy and procedure.

3. GENERAL PRINCIPLES

- 3.1 The Trust follows the NHS Employers' Employment Check Standards in relation to the type of checks required before and during employment and/or before undertaking temporary work with the Trust.
- 3.2 Completion of the required checks to a satisfactory standard is a prerequisite of initial and ongoing employment/temporary work with the Trust. The Trust reserves the right to withdraw offers of employment or registration on the staff bank if checks have not been satisfactorily completed.
- 3.3 For Trust employees and temporary workers (bank) the outcome of Right to work, professional clinical registration and criminal record checks will also be recorded on the Electronic Staff Record (ESR) on appointment and monitored via ESR reports for rechecking as required.
- 3.4 For temporary workers (agency) an agency worker checklist is completed by the agency which confirms satisfactory employment checks have been undertaken.

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3.5 Rechecking during employment may be required for right to work check, professional clinical registration and criminal records check, depending on the role that is undertaken. The same applies to ongoing registration with the Trust staff bank. If the required checks are not satisfactorily met by an employee of the Trust or bank worker the Trust's Disciplinary Policy and Procedure may be followed. For bank workers, further work will not be assigned until the matter is resolved and registration with the bank may be terminated. More information about following up those who fail to satisfy the checking requirements is detailed within each of the employment checks sections in this document.

4. ROLES AND RESPONSIBILITIES

4.1 Duties for making sure that all relevant employment checks are undertaken for all staff:

Human Resources

- Ensuring employment checks procedures are in place, that they are accessible to all staff and are up to date with latest legislative requirements.
- Carrying out employment checks as outlined in the policy and procedure during the recruitment of new employees/bank workers and then during employment.
- Giving advice and support to managers, employees and prospective new employees on employment checks during the recruitment of new employees/bank workers and then employment.
- Monitoring and receiving assurance that employment checks are being carried out by external agencies to the required standard.
- Monitoring the policy compliance of employment checks, developing recommendations and actions plans where appropriate and then implementing any subsequent changes.
- Regularly checking for updates on changes in process or legislation from third parties e.g. DBS, Home Office etc. in relation to employment checks and updating policies and procedure as appropriate.
- Recording and monitoring the outcome of employment checks, and keeping right to work information on existing employees accurate and up to date on ESR.
- Checking documents received at recruitment stage or from current staff members, validating the authenticity of the documents and then copying and storing them in central HR filing as per UK Visa and Immigration (UKVI) and NHS Employers requirements.

Manager:

- Supporting Human Resources in carrying out employment checks as outlined in this policy and the accompanying procedure during recruitment of new employees:
 - Checking and verifying identity at interview
 - Identifying the level of criminal record and barring check required for posts in their establishment
 - Exploring gaps in employment history with the candidate at interview

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- Exploring relevance of any criminal convictions declared by the candidate at interview after taking advice from Human Resources
- Offering employment verbally after selection subject to satisfactory pre-employment checks
- Checking that references are appropriate and then accepting or declining as satisfactory. When there are concerns discussing these with the recruitment team leader and then agreeing the next course of action
- Seeking support and advice from Occupational Health Department in relation to work health assessments as and when necessary
- Remaining in contact with the prospective new employee during the employment check phase
- Not allowing new members of staff or bank workers to start employment/undertake bank work or (in case of internal candidates) start in a new post before all required checks have been completed and formal confirmation of this has been received from Human Resources
- During employment, following up those staff who fail to satisfy employment checks and taking appropriate action to ensure the safety of staff and patients

Occupational Health Department is responsible for undertaking pre-employment health screening where necessary and post-employment immunisation programmes and for providing specialist confidential advice to the employer and applicant.

Employee / Bank worker:

- Informing their line manager of any criminal allegations, convictions or cautions they receive whilst employed with the Trust. In the case of bank workers, the bank worker should inform the Temporary Staffing Manager of any criminal allegations, convictions or cautions they receive whilst registered with the Trust bank.
- Informing their line manager of any changes to their immigration status, and if their employment is subject to a work permit/Certificate of Sponsorship, maintaining the conditions of their immigration status (as defined by the UKVI).
- Promptly providing any documentation requested for employment checks prior to and during their employment/registration with staff bank.

4.2 The overall responsibility for this policy and procedure rests with the Director of Workforce.

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5. TYPES OF CHECKS REQUIRED

5.1 The Trust follows the NHS Employers' Employment Checks Standards in relation to the type of checks required before and during employment and/or before undertaking temporary work with the Trust, these are:

1. Identity checks (see section 9)
2. Right to work in the UK checks (section 10)
3. Professional clinical registration and qualification checks (including alert letters) (section 12)
4. Employment history and reference checks (section 13)
5. Work Health assessments (section 14)
6. Criminal Record and Barring checks (section 15)

Directors must satisfy all the requirements set and be declared fit and proper persons. Individuals must be: of good character, have the necessary qualifications, competence, skills and experience for their role, have the appropriate level of physical and mental fitness, have not been party to any serious misconduct or mismanagement in the course of carrying on a regulated activity, and not be deemed unfit.

For details on each check please see sections in this document as indicated above.

Monitoring against this policy is detailed in **Appendix 1**.

6. CHECKING PROCESS DURING RECRUITMENT: PROSPECTIVE EMPLOYEES

6.1 The employment checking process for prospective employees/bank workers and then during employment/bank registration is detailed in **Appendix 2**.

6.2 Main principles:

- Following the recruitment and selection process, posts are offered subject to satisfactory completion of the employment checks listed in section 5 the level of check varies depending on the role being offered.
- Any offer of appointment may be withdrawn if the candidate knowingly withholds information, or provides false or misleading information. Employment may be terminated should this come to light once the candidate has started in post.
- Completed checks that contain information that contradicts the details provided by the candidate and raises concern are dealt with in a sensitive manner and on an individual basis. The Trust will endeavour to resolve any discrepancies with the candidate, however, the Trust reserves the right to report to or consult with appropriate external bodies such as the local police, UK Visa and Immigration Agency or NHS Counter Fraud and Security Management Services, as required.
- The recruiting manager must first discuss with the recruitment team leader any concerns should they wish to withdraw an offer of employment.
- The outcome of employment checks will be recorded on ESR.

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7. CHECKING PROCESS DURING RECRUITMENT: BANK WORKERS

- 7.1 The checking process for bank workers follows the process set out in section 5. However, reference to employment / appointment is removed. Instead reference is made to registration on the staff bank.

8. CHECKING PROCESS FOR TEMPORARY (AGENCY) WORKERS

- 8.1 This section describes the process the Trust has adopted for monitoring/receiving assurance that the required employment checks, including professional clinical registration checks, are being carried out by all external agencies used by the organisation.
- 8.2 Agency workers are only used from agencies who have undertaken appropriate pre-employment checks which are in line with this policy and procedure, i.e. Framework agencies. Where in exceptional circumstances non framework agencies have to be used to ensure patient safety and service provision assurance will be gained from the agency that pre and post employment checks are undertaken in line with this policy and procedure. All agencies that the Trust uses will be given a copy of this document and reminded that the Trust requires them to comply with these checks.
- 8.3 When an agency worker first undertakes work at the Trust the agency will be asked to forward a completed checklist see (**Appendix 3**) to confirm all pre-employment checks have been undertaken in line with this policy and procedure. The Trust requires the agency worker to bring a photographic ID on their first shift and show it to the shift manager so that it is confirmed that they are who they say they are.
- 8.4 The Human Resources Department will internally audit agency workers against the received agency worker checklists to ensure they have had the relevant pre-employment checks. Where possible, as an additional source of assurance, the Trust will also request agencies to confirm that they follow the Trust policy on employment checks.

9. EMPLOYMENT CHECK 1: VERIFICATION OF IDENTITY

- 9.1 Verification of identity checks are designed to determine that the identity is genuine and relates to a real person, and establish that the individual owns and is rightfully using that identity. It should be the first check performed as any other checks will be invalid if the person's identity cannot be proven. Identity checks are designed to:
- determine that the identity is genuine and relates to a real person
 - establish that the individual owns and is rightfully using that identity.

The process involves checking two elements of a person's identity:

- Attributable – the evidence of a person's identity that they are given at birth (including their name, date and place of birth) and any subsequent change(s) of name.
- Biographical – a person's personal history including education and qualifications, addresses, electoral register information and employment history.

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- 9.2 For a list of acceptable documents see **Appendix 4**. Documents must be valid, current and original, and can be a combination of;
- Two forms of photographic personal identification and one document confirming their address; or
 - One form of photographic personal identification and two documents confirming their address.

The Trust uses three methods for verifying identity:

- receiving original documents
 - checking document authenticity
 - validating an individual's personal details against external reliable sources, including information held by previous employers (subject to the individual providing relevant consent that such information can be accessed).
- 9.3 Where individual's genuinely cannot provide original documentation, employers must make a risk based judgment against the job role being applied for and what documentary evidence they require to seek appropriate assurances. It is perfectly acceptable to require applicants to obtain official statements from banks or utility providers and these are easily obtainable on request.
- 9.4 For certain positions, where the element of risk is lower, employers may accept bank and utility documents which have been downloaded from the internet, where the applicant is able to access their internet account at a meeting with that employer.
- 9.5 Where identity documents have been provided in a foreign language, an independently verified translation must be obtained. Unless otherwise specified, for documents that are listed as 'UK' on the approved lists, you must not accept a foreign equivalent of this document.
- 9.6 In all cases, a photocopy (or scanned copy) of each of the documents presented to you and retain these on file. All photocopies (or scanned copies) should be signed, dated and certified by the person taking the copy.
- 9.7 Where possible, identity documents should be scanned using the Trust ID document scanner. However, it is important to highlight that scanners are only an aid to detecting fraudulent documents and should not to be used in place of the manual checks outlined within this document.
- 9.8 Efforts will be made to check the authenticity of identity documents. When there are doubts on authenticity of information the recruitment team will escalate appropriately. In exceptional circumstances, the Trust may report concerns to the local police. For guidance on checking document authenticity and validity see **Appendix5**.

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9.9 Who should have their identity checked and when?

Identity checks should be undertaken on all prospective employees (regardless of their term of contract) prior to allowing that individual to commence activities in their organisation.

10. EMPLOYMENT CHECK 2: RIGHT TO WORK IN THE UK

10.1 Changes to the Immigration, Asylum and Nationality Act 2006 (amended by the Immigration Act 2016), (as amended in 2014) introduced a tough new criminal offence for employers who knowingly employ illegal migrant workers and a continuing responsibility for employers of migrant workers to check their ongoing entitlement to work in the UK. The Trust will take every effort to follow due process in accordance with the regulations.

10.2 Historically, employers have had to carry out a physical check of documentation, although from the end of January 2019, employers have been able to check documentation online in real time. This facility requires applicants to confirm their right to work with the home office online before providing their new employer with an access code

10.3 No assumption will be made about a person's right to work or immigration status on the basis of their colour, race, nationality, ethnic or national origins, or the length of time they have been in the UK.

10.4 Three steps are taken to confirm a prospective employee has the right to work in the UK: (1) request person's original right to work documents, (2) validate the documents, (3) make a clear copy of all documentary evidence and record date of the check.

10.5 A list of valid, current and original acceptable documentation confirming the right to work in the UK is as per NHS employers check standard on right to work checks (listed in **Appendix 6**). Guidance on checking the validity and authenticity of the documents can be found in **Appendix 5**. Information about the immigration system and different nationals' right to work in the UK is in **Appendix 6**.

10.6 All documents provided are scanned/photocopied and retained on file to provide an ongoing defence against a penalty. For passports and travel documents, a copy is taken of the document's front cover and any page containing the holder's personal details and any page containing U.K. Government endorsements. Other documents are scanned/copied in their entirety. The person taking the copy signs and dates the copy to show it has been certified.

10.7 If, after carrying out these checks, it is established that the applicant is not, and will not after an acceptable time period such as within three weeks, be permitted to work in the UK, then the offer of employment is withdrawn. Continued employment is subject to the employee's right to work in the UK and this is stipulated in the terms and conditions of employment. The same principles apply for registration with the Trust staff bank.

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- 10.7 The Trust regularly checks the UK Visa and Immigration website for the latest information and may use the Employer Checking Service to gain information on candidates', workers' and employees' right to work in the UK. **CHECKING RIGHT TO WORK IN THE UK DURING EMPLOYMENT / BANK REGISTRATION**
- 11.1 Those employees and bank workers with limited leave to remain in the UK may be requested to provide their right to work documentation annually for their central personnel file as per UK Visa and Immigration Agency requirements.
- 11.2 All employees and bank workers with some kind of limited leave in the UK will be entered onto the ESR with information on the end date of their visa. Human Resources will run monthly reports to check the status of employees who are subject to time-limited immigration status to ensure that action is taken as appropriate.
- 11.3 Should these permanent employees fail to provide the requested documentation their employment with the Trust may be at risk, as it is subject to right to work in the UK. Employees are informed of this in their terms and conditions of employment. Bank workers who are unable to provide documentation for their ongoing right to work in the UK will immediately be blocked from working further shifts with the Trust.
- 11.4 The Trust follows UK Visa and immigration Agency's requirements and processes, and is required to inform the Agency of any concerns, changes to employment or circumstances of those members of staff who the Trust has sponsored to work in the UK with a Certificate of Sponsorship.

12. EMPLOYMENT CHECKS 3: PROFESSIONAL CLINICAL REGISTRATION AND QUALIFICATIONS INCLUDING ALERT LETTERS

- 12.1 The purpose of registration and qualification checks is to ensure that a prospective and current employee is recognised by the appropriate regulatory body and that they have the right qualifications to do the job they are applying for.
- 12.2 All job offers given are provisional subject to satisfactory registration and qualification check, as appropriate. It is a 'contractual condition of employment' that the healthcare professional has registration throughout their employment. In the event that an individual's registration is suspended, the Trust will treat this as an exclusion from work, the work for which the registration is required and will manage accordingly.

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- 12.3 Professional registration checks for health professionals are made with the relevant regulatory body. Where the Trust has checked and confirmed the registration with the relevant regulatory body it is not necessary to verify qualifications separately. Professional registration bodies are:
1. General Medical Council (GMC)
 2. Nursing & Midwifery Council (NMC)
 3. Health and Care Professions Council (HCPC)
 4. General Pharmaceutical Council (GPhC)
 5. General Dental Council (GDC)
 6. General Optical Council (GOC)
 7. General Osteopathic Council (GOSC)
 8. General Chiropractic Council (GCC)
- 12.4 Before the Trust appoints any health professional it will check the following three areas: (1) that the applicant is registered to carry out the proposed role, (2) whether the registration is subject to any current restrictions that might affect the duties proposed, and (3) if the applicant has investigations against them about their fitness to practice that the regulatory body has a duty to disclose.
- 12.5 The Trust also checks Alert notices prior to recruiting an individual as per the Healthcare Professionals Alert Notices Directions 2006. When alert notices are issued Human Resources check the name against the ESR, Bank Staff Management System (BSMS), and the TRAC Recruitment Management System for possible matches with current permanent or temporary workers and prospective employees. HR keeps a central log on the current and withdrawn alert notices.
- 12.6 For non-clinical staff, if a qualification is essential for the position, the Trust requests original certificates and takes copies and checks that the details on certificates match those the prospective employee provides as part of their application. Employers have the discretion to accept other qualifications or experience which may be equivalent to any predefined requirements
- 12.7 If the prospective employee has gained their qualification overseas, the Trust will check that the qualification exists, that it is equivalent to UK qualification and that prospective employee does, in fact, hold the qualification. These checks should be carried out directly by the awarding institution, where possible. Where that is not possible advice should be sought from the relevant country's UK embassy, consulate or high commission.

13. EMPLOYMENT CHECK 4: EMPLOYMENT HISTORY AND REFERENCE CHECK

- 13.1 Previous employment history is checked before an unconditional offer of employment is made to a prospective employee and once a provisional offer has been made. References and application forms are cross-checked as part of this process. References allow the Trust to check the accuracy of a prospective employee's previous employment and training history and they are used to confirm a recruitment decision. Prior to this, the recruiting manager should carefully explore any gaps in employment history with the applicant at interview and if concerned discuss their concerns with the recruitment team leader.

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- 13.2 The primary purpose of a reference check is to obtain information about an applicant's employment or training history in order to ascertain whether or not a candidate is suitable for employment. The Trust has a duty of care to patients and staff to ensure that all reasonable checks are undertaken to identify any reason that, if known, would result in an individual not being employed or appointed to undertake any activity on its behalf.
- 13.3 The secondary purpose is to cross-reference information gained through the reference with the information provided by the candidate as part of their application. Any gaps or discrepancies in employment or training history should be further investigated at interview so that the Trust can make an informed view as to the probity of the individual. Where there are gaps in employment or training history, the Trust will need to obtain suitable character references.
- 13.4 It is essential that managers do not solely rely on reference checks to confirm the suitability of the candidate for the role, and that any decision to recruit is made based on all information gathered as part of the recruitment process.
- 13.5 All Employees/Bank Workers new to the NHS:
Seek to validate a minimum of three years continuous employment and/or training including details of any gaps of service. Where an individual has been with one employer for three years or more, one confirmation of employment/training is sufficient, provided that all requested details have been confirmed by the previous employer. Where a prospective employee has changed employment frequently within the last three years, a sufficient number of confirmations must be obtained to cover the continuous three years history.
- 13.6 For employees/workers who are moving from another NHS organisation or another staff bank:
- Seek references from the candidate's current/last employer. Employers must assess whether any additional references are required to provide adequate assurances.
 - Check discrepancies between information provided by the candidate as part of their application. If any discrepancies are found, this should be sensitively questioned with the candidate.
 - Where a gap in employment history or training has been identified, the candidate will be requested to provide further information.
- 13.7 Doctors on rotational training programmes are considered as being in continuous employment throughout the full period of their training. The frequency and number of references required when seeking ongoing assurances of conduct for doctors during their period of training should always be proportionate to risk.
- 13.8 Internal candidates where an individual applies for a new position within the Trust, or is moving from a bank worker to an employee, all efforts should be made to ensure risk is minimised or eliminated. Recruiting managers can contact Human Resources to verify that all details recorded on ESR are up to date, and that there is no relevant information on the individual's personnel record which should be considered before an appointment is made. Should the recruiting manager wish to

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seek additional information about the individual's suitability for the new role, information should be obtained from the line manager.

13.9 Other types of reference may be required depending on the individual's circumstances. This includes:

- Not working or been in full time education within the last three years preceding the application. In such cases, in addition to asking for a personal statement from the applicant, HR will request two references from someone of standing in their community who have known the applicant for the last three years.
- Persons of standing may include a GP, lawyer, MP or minister of religion etc. The personal reference should clearly state the referee's name, job title, company, address and length of time the individual has been known to them.
- Been in full time education in the last three years. In this case, a reference should be obtained from the relevant school, college or university.
- Serviced in the armed forces of civil service during the previous three years. In this case, a reference should be obtained from the relevant service or department.
- The applicant has been self employed. Evidence should be obtained (for example HM Revenue 7 Customs, bankers, accountants, solicitors etc) to confirm dates of employment.

13.10 Overseas employment or training

Prospective employees will need to give a reasonable account of any significant periods of the time spent overseas (for the purpose of these standards this should be where they have spent a continuous period of three months or more).

13.11 The Trust also have a duty to staff and former employees under the Data Protection Act to ensure that when providing personal data within a reference, that this information is true, accurate, fair and can be justified. Any statement made in a reference which is untrue is likely to bring with it a claim for defamation. It is therefore Trust Policy to provide only factual information about an individual's employment with them in order to prevent any misunderstanding that this is intended as a negative reference.

As a minimum, the following information should be obtained and verified:

- where the individual has been employed/studied
- dates employed/studied
- position held/course undertaken
- recent or ongoing disciplinary action or referrals.

13.12 The request for references should be directed to the Human Resources. This is to avoid the applicant directing the employer to obtain information from somebody else who may provide inaccurate or fraudulent information.

13.13 Should the recruiting manager require additional information regarding the candidate's skills and experience due to the nature of the job being applied for, it is

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acceptable for him/her to directly contact the candidate's previous line manager to seek clarification.

13.14 Employers, particularly those outside the NHS, are increasingly taking a cautious approach when giving references and will only provide basic factual information to confirm periods of an individual's employment and position held while avoiding answering subjective questions on skills and personal qualities. It is therefore crucial for employers to use all the appropriate selection tools available to them as part of the recruitment process, such as the application process assessments/ psychometric tests, and face to face interviews in order to assess a candidate's suitability for a particular role.

14. EMPLOYMENT CHECK 5: WORK HEALTH ASSESSMENTS

14.1 The purpose of a health assessment is to assess whether new employees:

- have a health condition or disability that requires adjustments in the workplace to enable them to undertake the post offered; or
- have a health condition or disability that requires restrictions to their role (e.g. Exposure Prone Procedures (EPP) workers with a blood-borne virus).

14.2 All checks must take into account the requirements of the Disability Discrimination Act 1995 (DDA) and reasonable adjustments must be made to ensure that people can work in the NHS regardless of physical impairment or learning disabilities.

14.3 All work health assessments must take into account the requirements of the disability provisions within the Equality Act 2010 and reasonable adjustments must be made to ensure that people can work in the NHS regardless of physical impairment or learning disabilities.

14.4 A health assessment must only be made once a job offer has been made. It must be clear to prospective employees that any offer of appointment is conditional pending the successful completion of pre-employment checks, including a health assessment.

14.5 Work health assessments are undertaken when a member of staff: takes up their first post with the Trust including any training, transfers to a new employer in the NHS or changes jobs, where this involves a significant change of duties.

14.6 The Trust no longer issues applicants with pre-employment health questionnaires (PEHQ) as part of the pre-employment checks (unless working in an exposure prone areas EPP). In their place the Trust invites prospective employees to indicate which of the following statements apply to them i.e. tick either statement A or B:

A. I am not aware that I have a health condition or disability that might impair my ability to undertake effectively the duties of the position that I have been offered.

B. I do have a health condition or disability that might affect my work and may require special adjustments to my work or my place of work.

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These two statements are included as part of the conditional offer letter issued by Human Resources outlining their conditional offer of appointment.

14.7 No applicant should be refused employment on health grounds unless:

- expert occupational medical advice has been sought
- the applicant has had the opportunity to discuss issues raised with an occupational health professional, or
- the employing manager has given full consideration to all of the facts.

15. EMPLOYMENT CHECK 6: CRIMINAL RECORD AND BARRING CHECKS

15.1 Criminal Records Check

Criminal record and barring checks are designed to help prevent unsuitable people from entering the NHS workforce and gaining access to vulnerable groups.

A criminal record check relates to data held about an individual's criminal history. In the majority of cases a check will include all criminal offences (including convictions, cautions, reprimands and warnings). It may also include traffic offences such as speeding and drink-driving.

15.2 Disclosure and Barring Service (DBS)

The Disclosure and Barring Service provides criminal record and barring functions to help employers make safe recruitment decisions.

The criminal record checking service allows employers to access the criminal record history of people working or seeking work in certain positions, especially those that involve working with vulnerable groups.

15.3 Who can we request a DBS checks for?

Not all individuals being appointed into positions within the NHS are eligible for criminal record or barring checks. Employers must be clear when they may legally obtain a check as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and, in certain circumstances, the Police Act 1997 (Criminal Records) Regulations 2002.

The need for a check and level of check is determined by the activities and the type of access to patients they will have as part of a particular role. See Appendix 10 for a grid of posts and the level of DBS check required.

Having a criminal record does not automatically make candidates unsuitable for positions at the Trust. The Trust has a Policy Statement on the Recruitment of Ex-Offenders (**Appendix 7**) and decisions on the relevance of any convictions are made in jointly between Recruiting/Line Managers and Human Resources.

Any failure to disclose convictions or cautions on any of the following application forms may result in an offer of employment being withdrawn. Where a DBS Disclosure shows convictions or cautions that were not declared at application, and

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the person has already commenced employment, disciplinary action up to and including dismissal may be taken.

The Trust may, in exceptional circumstances, make a risk-based decision to allow individuals to take up their appointment before the outcome of their DBS check is known by undertaking a DBS risk assessment form.

15.4 Types of DBS checks and eligibility

There are three levels of check currently available through the Disclosure and Barring Service (DBS). The three levels include:

- Standard check
- Enhanced check without barred list information
- Enhanced with barred list information - where the position is eligible, and the Trust indicates the type of access to vulnerable groups, this will include:
 - an adults barred list check
 - a children's barred list check
 - an adults and children's barred list check

For a more detailed explanation of the levels of DBS check required by staff group please refer to **Appendix 8 For a definition of regulated activity and eligibility against the barred list please refer to Appendix 10.**

15.5 When should a criminal record check be requested?

Where employers are entitled to request a DBS check, it is common to undertake checks once a provisional offer of appointment has been made. Any offer of appointment and/or contract of employment are conditional on satisfactory employment checks being carried out and verified, including undertaking an appropriate DBS check.

DBS disclosure certificates carry no formal period of validity. Employers may therefore wish to consider undertaking periodic checks during employment.

15.6 Applicant self-disclosure (Model declaration forms)

The Trust request that applicants complete a self-declaration form where this can be justified in terms of the role being offered.

A self-declaration relies on the honesty of the individual to provide complete and accurate information. For reasons of transparency, the Trust should make clear to applicants that in completing and signing the self-declaration form, they are giving their consent for the information provided to be verified by obtaining an appropriate criminal record check.

Where the position is listed as exempt under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, it is essential that you make sure the applicant is fully aware that you are entitled to seek information about both spent and unspent convictions and that any information disclosed will be verified by obtain a standard or enhanced DBS check.

The Trust uses Model Declaration form B for the purpose of obtaining unspent

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convictions only and Model Declaration form A for the purpose of obtaining spent and unspent convictions.

15.7 Obtaining overseas criminal record checks

The Security Industry Authority (SIA) recommend that employers should request a certificate of good conduct or overseas criminal record check where foreign nationals or UK applicants have disclosed that they have spent a cumulative period of six months or more abroad during the last five years.

Currently, the DBS cannot access criminal records held overseas. However, in a small number of cases, overseas criminal records are also held on the Police National Computer (PNC) and these would be revealed as part of a criminal record check. It is important that employers obtain overseas criminal record information as early as possible and additional time is factored into recruitment processes to avoid any unnecessary delays in making the appointment.

Where the position meets the criteria for a criminal records check, even if applicants claims that they have never lived in the UK before, a check should still be obtained, in addition to the individual's overseas criminal records.

15.8 Portability

The DBS define 'portability' as meaning the re-use of a disclosure obtained for a position in one organisation and later used for another organisation.

Information included as part of a disclosure certificate has no term of validity and it only provides information in relation to what is known about the individual up to the point of its issue. The Trust may accept a previously issued disclosure, but must have robust recruitment processes in place to make an informed judgement about whether to accept an existing disclosure rather than requiring a new check.

Some of the key factors that need to be considered are:

- the possibility that the applicant's criminal record or other relevant information may have changed since its original issue. It is important to note that criminal record checks only ever provide a snap-shot in time and will not cover any investigations, court proceedings/charges, or surveillance in process or issued on, or after, the date the DBS certificate was issued
- any additional information provided by the Chief of Police, will have been issued where it was deemed relevant to the position for which the criminal record check was originally applied for, and therefore no assumption should be made that no other intelligence would be disclosed for a different position
- the information revealed was based on the identity of the applicant, which was validated by another registered body at that point in time. Therefore, employers should ensure that they verify details on the certificate match those of the applicant and other documentary evidence provided as part of the recruitment process.

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Where accepting pre-disclosed information, an employer must be satisfied that they can evidence that a check has been done. This can be done in a number of ways including:

- Electronic transfer of data
- Hard copy of previously issued certificate
- Verification by previous employer via confirmation of employment

When receiving pre-disclosed information the Trust must be satisfied that the information can be authenticated and is genuine.

Where the new position requires a different level of clearance i.e. they are moving into regulated activity for the first time, or where they were previously working with a different vulnerable group, then a new DBS check must always be undertaken.

The Trust will only accept original copies of the DBS certificate. Photocopies should not be accepted.

15.9 Starting work prior to receipt of a Criminal Record Check

Staff that are new to the NHS

Where individuals take up appointment with the Trust for the first time, we will issue a conditional offer of employment before receiving the result of a DBS check however, it is important to emphasise that the Trust will be committing an offence if we knowingly permit a person to engage in regulated activity from which the person is barred. In these circumstances the Trust requires managers to complete a DBS risk assessment form please see **Appendix 9**.

The individual will also be committing a criminal offence where they engage in a regulated activity for which they are barred. It is therefore strongly recommended that individuals are not permitted to undertake any form of regulated activity, until the outcome of any barred list check is known.

Employers may, in exceptional circumstances, make a risk-based decision to appoint applicants while they are awaiting the outcomes of a DBS check for the purpose of undertaking induction training; or to undertake other duties which would not include them engaging in any form of regulated activity. In any such cases, the recruiting manager should ensure:

- an appropriate DBS check has been applied for; and
- safeguards are put in place to manage that individual i.e. supervision, restricted duties and access to patients, until the disclosure has been obtained

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15.10 Assessing information in a positive disclosure

Having a criminal record does not automatically mean that an individual cannot work for the Trust. The Trust must make a fair, non-discriminatory assessment based on the individual's skills and experience and suitability for the post. The decision always rests with the Trust as to whether to allow a person whose criminal record check reveals a conviction, caution or other information to be appointed into a position. The information obtained should be carefully considered in the light of the circumstances and judged on a case-by-case basis.

Where the disclosure indicates that the DBS has made a barring decision against one or both of the barred lists, it is illegal for the Trust to allow them to engage in a regulated activity from which they are barred. It is also a criminal offence for a barred person to apply for work or to engage in a regulated activity.

A criminal record disclosure will only reveal the basic facts about criminal offences, warning and reprimands, such as the name and date of the offence and, if applicable, details of any sentences/charges. It will not put this into any context. The Line Manager, supported by HR, should carefully consider the situation before offering any appointment to individuals who are:

- on probation (in a legal sense)
- under a suspended prison sentence
- released from prison on parole
- still under a conditional discharge
- subject to Terrorism Prevention and Investigation Measures.

When considering disclosure information the Trust must be mindful of:

- any legal or regulatory requirements
- the seriousness of the offence – certain specified offences, because of their nature will always be included in a DBS disclosure regardless as to whether they are spent or unspent, therefore employers will be required to assess relevancy to the post being applied for and evaluate the risk
- the length and type of sentence issued
- whether the applicant has a pattern of offending behaviour. If there are multiple offences, regardless of their seriousness or whether they are spent or unspent, these will always be included in a DBS disclosure. People who have a pattern of offending right up to the present date have clearly not put their offending behind them. Those people with gambling, drink or drugs related convictions in particular may remain a risk unless there is evidence of a clear break in the pattern of their offending
- the circumstances surrounding the offending behaviour and the explanation offered by the individual. An explanation of the circumstances surrounding an offence will often be plausible and reassuring for example, if the individual explains that, in fear and panic, they ended up assaulting someone who was threatening them, may not be as culpable as an individual who caused serious injury with intent.

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15.11 Post-employment checks

It is a contractual requirement that employees are to disclose criminal convictions acquired during employment. The disclosure should be made in confidence for the employer to consider the effect of the offence on the employee's post. Temporary workers are obliged to make similar disclosure.

Existing staff may be subject to disciplinary action and possible dismissal if they knowingly fail to disclose relevant information in relation to their criminal record or barred list status. It is a criminal offence to knowingly allow an individual to continue to engage in a regulated activity when they are barred from that activity. It is also a criminal offence for that individual to apply for, or to engage in, regulated activity when are barred from undertaking that activity.

15.12 Existing staff changing jobs within the same organisation

A new criminal record check is not normally required where an existing member of staff has had a DBS check and moves internally to a new job and stays in the same department (as a promotion) or remains in the same specialty elsewhere in the organisation. The trigger for a new check is where:

- they have never had a criminal record check before and are moving to a position that now requires them to have a check
- the new position significantly changes their roles, responsibilities, involvement in regulated activity and level of contact with vulnerable groups and requires a higher level of check, or a check against one or both barred lists.

15.13 Easements

Whilst the legislation does not explicitly refer to employers relying on checks completed by previous employers or other organisations, it can be argued that NHS trusts and foundation trusts all form part of the NHS. As such it is considered reasonable that NHS organisations co-operate to minimise the risk of employing a person that is barred from a regulated activity or has a criminal record that might result in a person being unsuitable to employ or engage in certain or any activities.

Easements are relevant where certain staff groups operate either under education programmes that mean that they move from employer to employer frequently or employees that might otherwise work for more than one organisation at the same time, including through agencies, and therefore only one organisation need be responsible for obtaining relevant checks. The employing organisation should seek written assurances from that organisation that appropriate clearances have been obtained and that individual is not barred from engaging in a regulated activity.

A number of specified easements have been put in place for certain highly mobile staff. This is because the frequency that they are required to move from position to position far outweighs the risk, so the trigger for criminal record checks to be carried out each and every time they change positions has been relaxed – see further guidelines in the section below.

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15.14 Doctors in training

Doctors on educationally-approved rotational training are regarded as being in continuous employment during the full term of their training and are therefore required to have a criminal record check, as a minimum, once every three years, rather than each time they change rotation.

HR will seek written / electronic assurances from the host/previous employer that appropriate clearances have been obtained within the last three years. Trusts may undertake criminal record checks more frequently, but any additional checks must be proportionate to risk. For example, where assurances cannot be obtained or where there is a specific concern about the individual's practice or criminal behaviour.

Where it is highly likely that the individual will be working in regulated activity with both children and adults at an early stage in their training programme, it is strongly recommended that checks are made against both barred lists.

15.15 Temporary workers supplied by an agency

Temporary workers supplied by an agency are recommended to have criminal record checks at least once a year.

The Trust will seek assure itself that appropriate criminal record checks have been obtained within the last 12 months by seeking and evidencing assurances from the agency. Employers may require more frequent checks i.e. where any such assurances have not been provided by the agency, or a new post changes the level of check required, or where there is a concern about an individual's criminal status.

The recommendation for annual checks does not apply to individuals who are working for a trust bank or are registered with NHS Professionals, where they are working in this capacity *and* hold a substantive NHS contract. The contracting organisation should seek written assurances that the substantive employer has carried out appropriate checks at the correct level when they were first appointed. If however, the individual leaves their substantive post, or where there is a break in service of three months or more prior to them applying to a trust bank or NHS Professionals, then a new criminal record check should always be requested.

15.16 Staff providing emergency services or training

Staff who are highly mobile, such as doctors or senior clinicians who hold a substantive post within one trust but are required to provide support with emergency or complex cases, often at very short notice, or to provide speciality training in another NHS organisation, are also regarded as being in continuous employment and do not require a new DBS check.

HR will seek confirmation from the individual's substantive employer that appropriate checks have been carried out at the correct level by obtaining an original copy of the criminal record certificate and verifying information held on ESR. Only where such assurances cannot be given, should a further check be required.

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15.17 Periodic checks

Periodic checking means the checking of staff and other workers at particular intervals during their term of employment. It is recommended that NHS organisations carry out periodic checks to minimise risks to patients and staff.

There is no legal requirement to carry out periodic DBS checks on staff that are already in the Trusts workforce and are not changing positions. However the in order to ensure patient safety the Trust will implement a 3 year periodic check for those staff whose clinical duties involve direct care and safekeeping of children within Paediatrics, Community Services and the trust Children's Nursery. Specialist and standalone roles identified within other departments as being in direct contact and care of children, will also be subject to periodic checks.

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Appendix 1 Monitoring tables

Professional Clinical Registration

Element monitored	Lead	Tool	Frequency	Reporting and action plan monitoring arrangements	Acting on recommendations	Change in practice and lessons to be shared
<p>Your documented process must include:</p> <p>a) duties, both on initial appointment and on an ongoing basis</p> <p>Section 4 Pages 3-4</p>	<p>Head of Recruitment (on initial appointment)</p> <p>Workforce Planning and Systems Manager (existing staff)</p>	Review of Employment Checks Policy	Annually	Workforce and Education Committee (WEC)	WDG with relevant stakeholders	Recruitment, Temporary Staffing, Workforce, Managers and Staff
<p>b) how the organisation checks registration with the relevant professional body, in accordance with their recommendations, for all directly employed clinical staff, both on initial appointment and on an ongoing basis</p> <p>Sections 13, 14 Pages 10-13</p>	<p>Head of Recruitment (on initial appointment)</p> <p>Workforce Planning and Systems Manager (existing staff)</p>	<p><u>On initial appointment:</u> Audit: 80 of new starter employee files to check professional registration check have been undertaken and recorded appropriately.</p> <p><u>Ongoing during employment:</u> Annual Audit sample of 30% of total registrations due to be renewed</p>	Annually	Workforce and Education Committee (WEC)	WDG with relevant stakeholders	Recruitment, Temporary Staffing, Workforce, Managers and Staff
<p>c) how the organisation makes sure that registration checks are being carried out by all external agencies (such as NHS Professionals, recruitment agencies, etc.) used by the organisation in respect of all clinical staff</p>	TSO Team Leader	<p>Audit on the following:</p> <p>(1) A sample of 50 Agency Worker records to ensure receipt of agency worker checklist (AWC) checklists confirming professional clinical registration checks have been made.</p>	Annually	Workforce and Education Committee (WEC)	WDG with relevant stakeholders	Temporary Staffing and relevant stakeholders

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Section 8 Page 6		(2) Contact agencies for confirmation they are following the trusts employment checks and professional registration checks policy.	Annually			
d) how the organisation follows up those directly employed clinical staff who do not satisfy the validation of registration process Section 14.4 Page 13	Workforce Manager	Annual audit of 30% of total registrations due to be renewed and check if escalation process was followed as outlined in policy.	Annually	Workforce and Education Committee (WEC)	WDG with relevant stakeholders	Recruitment, Temporary Staffing, Workforce, Managers and Staff

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Employment Checks

Element monitored	Lead	Tool	Frequency	Reporting and action plan monitoring arrangements	Acting on recommendations	Change in practice and lessons to be shared
Your documented process must include: a) duties/responsibility Section 4 Pages 3-4	Head of Recruitment	Review of Employment Checks Policy	Annually	Workforce Delivery Group (WDG)	WDG with relevant stakeholders	Recruitment, Temporary Staffing, Workforce, Managers and Staff
b) types of check required Section 6 Page 5	Recruitment Team Leader	Audit: 80 of new starter employee files to check the following pre-employment checks have been undertaken: Verification of ID, Right to work, professional registration & qualifications, employment history & references, OH & Criminal record checks.	Annually	Workforce Delivery Group (WDG)	Resourcing Manager with relevant stakeholders	Recruitment, Temporary Staffing, Workforce, and Managers
c) how checks are made Section 7-15 Pages 5-20	Recruitment Team Leader	Audit: 80 of new starter employee files to check the following pre-employment checks have been undertaken: Verification of ID, Right to work, professional registration & qualifications, employment history & references, OH & Criminal record checks.	Annually	Workforce Delivery Group (WDG)	Resourcing Manager with relevant stakeholders	Recruitment, Temporary Staffing, Workforce, and Managers
d) how the organisation follows up those staff who do not satisfy the checking arrangements Section 3 Pages 2-3	Head of Recruitment (on initial appointment)	<u>On initial appointment:</u> All withdrawals of conditional offers of employment go through the Recruitment Team Leaders (RTL). RTL maintain a list of all withdrawals of employment due to unsatisfactory employment checks.	Annually	Workforce Delivery Group (WDG)	Resourcing Manager with relevant stakeholders	Recruitment, Temporary Staffing, Workforce, and Managers

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	Workforce Planning and Systems Manager (existing staff)	<u>Ongoing during employment:</u> Monthly log of all work permits and visas due to expire is maintained centrally and monitored accordingly.				
e) how the organisation makes sure that checks are being carried out by all external agencies (such as NHS Professionals, recruitment agencies, etc.) used by the organisation in respect of all staff Section 9 Page 6-7	TSO Team Leader	Audit on the following: (1) A sample of 50 Agency Worker records to ensure receipt of agency worker checklist (AWC) checklists confirming pre-employment checks have been made. (2) Contact agencies for confirmation they are following the Trust's employment checks and professional registration checks policy.	Annually Annually	Workforce Delivery Group (WDG)	Resourcing Manager with relevant stakeholders	Temporary Staffing and relevant stakeholders

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Appendix 2 Flowchart for the checking process during recruitment

Selection takes place and manager offers position to the successful candidate verbally subject to employment checks

Human Resources issues a conditional offer letter.
In the letter, candidate is informed that:

- Appointment is conditional on satisfactory employment checks, and that any information disclosed on the application form will be checked
- Any offer of appointment may be withdrawn if they knowingly withhold information, or provide false or misleading information, and that employment may be terminated should any subsequent information come to light once they have been appointed

Human Resources completes employment checks with the support of the candidate and Recruiting Manager

Are all checks satisfactory?

Yes

No

Human Resources informs manager and candidate that checks have been completed and start date can be agreed

Recruiting Manager is to seek advice from Human Resources before withdrawing any conditional offers of employment

The checks may return information that contradicts the details provided by the applicant and raises concerns:

- Proceed in a sensitive manner – there is often a reasonable explanation for apparent inconsistencies
- Attempt to address concerns directly with the candidate

In exceptional circumstances, where checks reveal substantial misdirection, the Trust may report concerns to the local police or the NHS Counter Fraud and Security Management Services, as appropriate

Are all or some of the checks still unsatisfactory?

No

Yes

Manager verbally informs the candidate that conditional offer of employment is withdrawn and the reason(s) for it

Human Resources issues a withdrawal letter

Outcome of right to work, professional registration and CRB checks to be recorded on ESR

End of process

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Appendix 3 Agency Worker Compliance Checklist

This form will need to be completed for all agency workers prior to their first assignment with the Royal Marsden NHS Foundation Trust. The agency should inform the worker that it is our intention to record this information on the Royal Marsden NHS Foundation Trust Bank Staff Management System.

Worker Details					
Name of Agency →					
Full Name of agency worker →					
Date worker commenced registration with the agency	Date of birth				
Professional registration number	Professional registration expiry date				
Date of last mandatory training	Expiry date of mandatory training				
Date of last DBS	Level of DBS Check and Expiry Date				
Right to work Check (i.e. Student visa, dependent visa etc)	Right to Work Expiry Date				
Date of Occupational Health Clearance	References (covering 3 years of employment and where possible from 2 separate employers)				
Safeguarding Children Date & Level of training:	Expiry date:				
Proof of Identity Checked and type	What grade/band.				
Specialist in what area if any	Qualifications verified				
Inclusive Hourly Charge Rate	Day	Sat	Sun	Night	B/Hol
Once completed please forward this form to the Royal Marsden NHS Foundation Trust Temporary Staffing office.					
Address The Royal Marsden NHS Foundation Trust Fulham Road London SW3 6JJ	E-mail temporarystaffingoffice@rmh.nhs.uk		Fax 0207 811 8246		
Form Completed by:	On Behalf of:				

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Appendix 4

List of acceptable documents for identity check and right to work checks

IDENTITY CHECK

Documents required are one of the following combinations:

Two forms of photographic personal identification and one document confirming their address; or

One form of photographic personal identification and two documents confirming their address.

All documents identified in the lists below must be:

- original
- from a trustworthy and reliable source
- valid, dated and current
- ideally one which would be difficult to forge.

Acceptable documentary evidence for proof of identity

List 1: Acceptable photographic personal identification:

In the first instance, always try to obtain photographic documents to verify a person's identity and this should be compared with the applicant's likeness by conducting a face-to-face meeting. Acceptable documents of photographic personal identification include:

- UK (Channel Islands, Isle of Man or Irish) passport or EU/other nationalities passport
- passports of non-EU nationals and other valid evidence relating to their immigration status and permission to work*
- UK full or provisional photo-card driving licence (must include counterpart, except Jersey)
- EU/other nationalities photo-card driving licence (valid up to 12 months up to the date of when the individual entered the UK and providing that the person checking is confident that non-UK photo-card driving licences are bona fide)
- Biometric Residence Permit (formerly known as identity cards for foreign nationals) (UK)*
- HM Armed Forces Identity card
- UK ID cards carrying the PASS accreditation logo, for example a UK Citizen ID card. This card can be applied for by residents of the UK and is verifiable with similar security marks to UK passports and driving licences.

Any other document that is not listed above, for example organisational ID cards, must not be accepted.

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What to do if no acceptable photographic personal identification documents are available:

If an individual genuinely cannot provide any form of acceptable photographic personal identification as outlined within List 1 above, then the following combination of documentary evidence should be requested:

- two documents confirming their current address from List 2
- two forms of non-photographic personal identity from List 3; and
- a passport sized photograph of themselves.

Each of the documents provided should be from a different source and photographs must be endorsed on the back with the signature of a person of some standing in their community. A person of some standing in their community may be a magistrate, medical practitioner, officer of the armed forces, teacher, lawyer, bank manager or civil servant who has known them for at least three years.

The photograph should be accompanied with a signed statement from that person, stating the period of time they have known the applicant. Always check that signature provided in the statement matches the one on the back of the photograph, and that it contains a legible name, address and telephone number so that information can be verified.

List 2: Acceptable confirmation of address documents:

Acceptable documents for confirmation of address include:

- utility bill (gas, water, electricity or land-line telephone), or a certificate from a utility supplier confirming the arrangement to pay for the services on pre-payment terms at a fixed address. More than one utility bill may be accepted if these are from two different suppliers. Utility bills in joint names are also permissible (UK)*
- local authority tax statement – for example, a council tax statement (UK and Channel Islands)**
- UK full or provisional driving licence (must include paper counterpart) – if not already presented as a personal photographic identity
- UK full driving licence (old-style paper version), old-style provisional driving licences are not acceptable
- most recent HM Revenue & Customs tax notification (i.e. tax assessment, statement of account, notice of coding but not a P45 or P60)**
- financial statement such as bank, building society, or credit card statement* (UK and EEA – non EEA statements must not be accepted)
- credit union statement (UK)*
- mortgage statement from a recognised lender** (UK and EEA – non EEA statements must not be accepted)
- local council rent card or tenancy agreement*
- benefit statement, book or card; or original notification letter from the Department of Work and Pensions (DWP) confirming the rights to benefit – for example, child allowance, pension (UK)**

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- confirmation from an electoral register search that a person of that name lives at the claimed address**
- Providing documentary evidence for previous addresses may be difficult if your check covers a long period of time, therefore you may wish to carry out an electronic identity database search, for example a check against the electoral register.
- Any gaps in residence details should be handled sensitively and probed at the interview stage. There may be many reasons as to why this cannot be accounted for, such as foreign residence or travel.
- Consider the time period – if less than three months you may decide that it is unnecessary or disproportionate to confirm activities during that period.

If a gap in residency is more than a period of three consecutive months or a period of six cumulative months, you should ask the individual to provide relevant documentation to cover the period in question, for example checking the individual's passport or other documentation to prove their stay in those countries. If the individual has been living abroad, ask them to provide confirmation of address such as a tenancy agreement or a bank statement

List 3: Acceptable non-photographic proof of personal identification documents:

Acceptable non-photographic documents include:

- full birth certificate (UK and Channel Islands) issued after the date of birth by the General Register Office or other relevant authority, for example registrars
- full birth certificate issued by UK authorities overseas, such as embassies, high commissions and HM Forces
- UK full old-style paper driving licence – old-style provisional driving licences are not acceptable
- work permit/residency permit (UK) valid up to the expiry date
- adoption certificate (UK and Channel Islands)
- marriage or civil partnership certificate (UK and Channel Islands)
- divorce, dissolution or annulment papers (UK and Channel Islands)
- gender recognition certificate
- deed poll certificate
- firearms certificate/licence (UK, Channel Islands and Isle of Man)
- police registration document
- certificate of employment in the HM Forces (UK)
- benefit statement, book or card or original notification letter from the Department of Work and Pensions (DWP) confirming the legal right to benefit for example, child allowance, pension**
- a document from a local/central government authority or local authority giving entitlement such as Employment Services, Job Centre, Social Security Services (UK and Channel Islands)*
- most recent tax notification from HM Revenue and Customs (i.e. tax assessment, statement of account, notice of coding, P45 or P60 (UK and Channel Islands).**

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* All documents must be dated within the last three months, unless there is good reason for it not to be, for example where there is clear evidence that the individual was not living in the UK for three months or more. These documents must contain the name and address of the applicant.

** All documents must be dated within the last 12 months.

Acceptable documents for those who have recently left full time education (16 to 19 year-olds).

When appointing someone who has recently left full-time education you should ask for one piece of personal photographic evidence; or where this is genuinely not possible, a passport sized photograph which is endorsed by a person of some standing in their community as indicated in the section above; and a combination of two of the documents listed below:

- a grant or student loan agreement from a local education authority (UK)
- full birth certificate (UK and Channel Islands) issued after the date of birth by the General Register Office or other relevant authority, for example registrars
- full birth certificate issued after the date of birth by UK authorities overseas, such as embassies, high commissions and HM Forces
- National Insurance (NI) number or proof of issue of an NI number – the majority of individuals will be automatically issued with a NI number at the age of 16 and this will be a HR requirement for employment
- a letter from their head teacher or college principal can be requested, verifying their name and other relevant information for example, address or date of birth (UK)
- a document from a local/central government authority or local authority giving entitlement such as Employment Services, Job Centre, Social Security Services (UK and Channel Islands)*
- a qualification certificate.

Acceptable documents for refugees and asylum seekers

Refugees are people who have had a positive decision on their claim for asylum under the 1951 United Nations Convention Relating to the Status of Refugees (the Refugees Convention). Individuals who do not meet the Refugee Convention's criteria for refugee status may qualify either for humanitarian protection (granted for a period of five years), or discretionary leave to remain (granted up to a period of three years). It is important for employers to refer to the Right to Work Check document of the NHS Employment Check Standards in relation to a refugee's right to work and reside freely in the UK.

Refugees will not normally have a passport and are unlikely to have copies of other official documents, such as birth certificates or photo identity cards. When granted leave to remain in the UK, a refugee will be issued with an Immigration Status Document (ISD) by the Home Office, which will indicate their refugee status. This document can be used to verify both their identity and their right to work in the UK. They may also have a travel document which can be accepted to verify their identity.

Further information on employing refugees can be found on the NHS Employers website: <http://www.nhsemployers.org/your-workforce/recruit/employer-led-recruitment/refugee-healthcare-professionals>

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Schemes which support the homeless to obtain relevant identity documents:

Providing appropriate documentation when an individual is officially recognised as homeless it is a challenge as they don't have any fixed abode and therefore are unable to receive benefits or other accepted documents which verify their identity and social history. If you operate schemes which support the homeless is getting back into the workforce, we would recommend that you refer individuals to the charity body, Crisis, who can help them to obtain a copy of their birth certificate or apply for a passport so that they can have some form of identity. Further details can be found on the Crisis website at: www.crisis.org.uk

What to do if an individual cannot provide identity documents in their current name.

There are many legitimate reasons as to why someone might change their name. In fact, an individual may chose to change their name at any time and be known by this name without going through any official legal process.

It is important that employers only accept identity documents in the applicants' previous name, where the individual is able to provide supporting documentary evidence of their name change because of:

- marriage or civil partnership
- divorce or civil partnership dissolution
- deed poll.

Where the applicant cannot provide sufficient proof of their change of name, you will need to undertake a risk assessment as to whether to continue to consider that individual for employment or not. It is highly recommended that such a risk assessment is completed by a suitably senior representative of the employer, for example, HR director or their deputy. Any assessment or decision should be undertaken in liaison with the security department.

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Appendix 5

Checking Document Authenticity and Validity

Checking document authenticity is an integral part of the verification of identity check process. No single form of identification can be fully guaranteed as genuine and therefore the verification process must be cumulative. Employers must make clear, in writing, to all applicants that any relevant documents will be checked for authenticity by use of electronic ID document scanning devices, manually and/or through use of appropriate external experts.

Passports (UK and overseas)

- Check the general quality and condition of the passport. Look out for page substitution, incorrect numbering of pages, damage to the cover or spine of the document, poor paper and print quality.
- Check that print is clear and even – print processes are deliberately complex on genuine documents.
- Check wording, issue and expiry dates – spelling mistakes are common in forged or counterfeit documents, especially on stamps and visas. Forgers often only alter the expiry date, so ensure this corresponds with the issue date.
- Check for damage – accidental damage is often used to conceal tampering, so treat any excessive damage with caution.
- Check photographs for signs of damage or for excessive glue – this could indicate photo substitution. An excessively large photograph may be hiding another photograph underneath. There should be an embossed strip embedded into the laminate which will catch a portion of the photograph.
- Check watermarks can be clearly seen when holding the document up to the light.
- Check the name of the country of origin. Unofficial travel documents in the name of non-existent countries or countries no longer known by their original name are in circulation.

Visas

- Check for signs of alteration to the passport number or personal and issue details. Make sure details correspond with information in the individual's passport.
- Check security features, such as watermarks, are intact.
- Check the image on the visa for signs of substitution.
- Check the wording for evidence of alteration or spelling mistakes.

Biometric residence permits

Please refer to UK Visa and immigration Agency guidance at:

www.ukba.homeoffice.gov.uk/brp-information-leaflet.pdf

Photo-card driving licences

New driving licences now contain similar security features to those present in passports.

- Examine the licence carefully, looking for any damage or adjustments.
- Ensure the printed details have not been changed.
- Check watermarks and security features are intact.

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- Photographs will always be in grayscale, check this matches the applicant.
- Check the biographical details (i.e. name, date of birth) match the details of the applicant.
- Check the details on the card correspond with those on the photo-card, and compare the signature.
- Ensure the valid to date is the day before the owner's 70th birthday (if the owner is over 70 this does not apply). Cross reference the valid to date with the applicant's date of birth which appears in Section A of the counterpart document.

Old-style paper driving licences

- Remove the document from the plastic wallet and check it is printed on both sides. It should have a watermark visible by holding the licence up to the light and there should be no punctuation marks in the name or address.
- Ensure the valid to date should be the day before the bearer's 70th birthday (unless the bearer is already over 70). The valid to date can therefore be cross-referenced with the applicant's date of birth, which appears on other verification ID.

UK firearms licences

Check the licence is printed on blue security paper with a Royal crest watermark and a faint pattern stating the words 'Home Office'. Examine the licence for evidence of photo tampering or any amendment of the printed details, which should include home address and date of birth. The licence should be signed by the holder and bear the authorising signature of the chief of police for the area in which they live, or normally a person to whom his authority has been delegated.

HM Armed Forces identity cards

- Check the card for any tampering or alteration of the printed details.
- You should note that such cards must be surrendered upon leaving the Armed Forces, therefore only those individuals who are currently serving in the Armed Forces will hold such a card.

UK Citizen photo-card

- Check the card has the PASS (Proof of Age Standards Scheme) hologram. This signifies the card is genuine and is recognised as valid ID under the law.
- The colour photo confirms the person presenting the card is the lawful card holder.
- Every Citizen Card displays UV (ultra-violet) markings in the form of two '100% proof' logos.

Birth certificates

Birth certificates are not wholly reliable for the purpose of verifying a person's identity as copies may be easily obtained. Certificates that are issued shortly after the time of birth are more reliable than recently issued duplicates as these will not show if any information has been corrected or superseded by a new registration.

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Duplicate copies issued by the General Register Office will state 'certified copy' on the birth certificate.

- Check the quality of the paper used – genuine certificates use a high grade.
- When the document is held up to the light there should be a visible watermark.
- Check the certificate format used is in the format for the year of registration.
- Check the surname only is entered in upper case and not the forename(s).
- Any signs of smoothness on the surface may indicate that original text has been washed or rubbed away.
- There should be no signs of tampering changes using liquid paper, overwriting or spelling mistakes.
- Ensure the date of birth and registration/issue dates are provided. The date of birth should be shown with the day and the month in words and the year in figures.
- Check the name and date of birth given in the application for match those given in the birth certificate.

Further guidance on checking birth certificates is available on the Identity and Passport Service website: www.gov.uk.

Supporting documentation

Documents such as utility bills and bank statements support an individual's identity and proof of address but they are not identity documents in themselves. Modern IT and the internet mean that supporting documents can be easily obtained or forged and, unlike identity document, do not have many security features that you can easily check. The following checks will help to identify any inconsistencies or anomalies.

- Check documents have not been printed off from online bills or statements – most companies will provide hard copies to customers on request.
- Check the document is on original quality headed letterhead paper. Pay particular attention to the company logo, as logos lose their quality when photocopied or scanned.
- Check for even folds on original documents – the vast majority of bills are machine folded before being sent to customers.

What to do if an individual cannot provide identity documents in their current name

There are many legitimate reasons as to why someone might change their name. In fact, an individual may chose to change their name at any time and be known by this name without going through any official legal process.

It is important that employers only accept identity documents in the applicants' previous name, where the individual is able to provide supporting documentary evidence of their name change because of:

- marriage or civil partnership
- divorce or civil partnership dissolution
- deed poll.

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Where the applicant cannot provide sufficient proof of their change of name, you will need to undertake a risk assessment as to whether to continue to consider that individual for employment or not. It is highly recommended that such a risk assessment is completed by a suitably senior representative of the employer, for example, HR director or their deputy. Any assessment or decision should be undertaken in liaison with the security department.

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Appendix 6

Right to Work in the UK and the Immigration Systems

To confirm that an applicant has the legal right to work in the UK, employers must see one of the documents or combinations of documents specified in List A or one of the documents or combinations of documents specified in List B. No other documents or combinations of documents are acceptable. If a document or combination of documents is provided from List A there is no need to ask for documents from List B.

All documents must be valid, current and original. However, from 2 August 2010, following an amendment to UKBA policy, employers are able to accept evidence of indefinite leave to remain where it is produced in an expired (out of date) passport. This exception is only in relation to proof of indefinite leave to remain, employers must undertake the same checks to verify an expired passport as they would for a valid (in date) passport and copies of documentation will need to be kept on file to avoid a penalty notice. Photocopies will not be accepted. The documents must show that the holder is entitled to do the type of work being offered.

List A

- A passport showing that the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the United Kingdom and Colonies, having the right of abode in the United Kingdom.
- A passport or national identity card showing that the holder, or a person named in the passport as the child of the holder, is a national of the European Economic Area or Switzerland.
- A residence permit, registration certificate or document certifying or indicating permanent residence that has been issued by the Home Office or the UKBA to a national of a European Economic Area country or Switzerland.
- A permanent residence card issued by the Home Office or the UKBA to the family member of a national of a European Economic Area country or Switzerland.
- A Biometric Immigration Document issued by the UKBA to the holder that indicates the person named in it is allowed to stay indefinitely in the United Kingdom, or has no time limit on their stay in the United Kingdom.
- A passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom.
- An Immigration Status Document issued by the Home Office or the UKBA to the holder, with an endorsement indicating that the person named in it is allowed to stay indefinitely in the United Kingdom or has no time limit on their stay in the United Kingdom, when produced in combination with an official document issued by a Government agency or a previous employer, giving the person's permanent National Insurance number and their name.
- A full birth certificate issued in the United Kingdom, which includes the name(s) of at least one of the holder's parents, when produced in combination with an official document, issued by a Government agency or a previous employer, giving the person's permanent National Insurance number and their name.

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- A full adoption certificate issued in the United Kingdom, which includes the name(s) of at least one of the holder's adoptive parents, when produced in combination with an official document, issued by a Government agency or a previous employer, giving the person's permanent National Insurance number and their name.
- A birth certificate issued in the Channel Islands, the Isle of Man or Ireland, when produced in combination with an official document, issued by a Government agency or a previous employer, giving the person's permanent National Insurance number and their name.
- An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, when produced in combination with an official document, issued by a Government agency or a previous employer, giving the person's permanent National Insurance number and their name.
- A certificate of registration or naturalisation as a British citizen, when produced in combination with an official document, issued by a Government agency or a previous employer, giving the person's permanent National Insurance number and their name.
- A letter issued to the holder by the Home Office or the UKBA indicating that the person named in it is allowed to stay indefinitely in the United Kingdom, when produced in combination with an official document, issued by a Government agency or a previous employer, giving the person's permanent National Insurance number and their name.

List B

Only use this list if the individual can not provide documents from **List A**.

If a prospective employee shows you one of these original documents, or combinations of documents, it indicates that they only have limited leave to work in the UK. You must therefore carry out these checks at least once every 12 months and record the date on which you carried out these checks. At this point the employee must produce new documents from List A or B or leave our employment. Where the individual provides a document or documents from list A, no further checks are required for the duration of their employment.

- A passport or travel document endorsed to show that the holder is allowed to stay in the United Kingdom and is allowed to do the type of work in question, provided that it does not require the issue of a work permit.
- A Biometric Immigration Document issued by the UKBA to the holder, which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question.
- A work permit or other approval to take employment issued by the Home Office or the UKBA, when produced in combination with either a passport or another travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to do the work in question, or a letter issued by the Home Office or the UKBA to the holder or the employer or prospective employer confirming the same.
- A certificate of application that is less than six months old issued by the Home Office or the UKBA to, or for, a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment, when produced in combination with evidence of verification by the UKBA Employer Checking Service.

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- A residence card or document issued by the Home Office or the UKBA to a family member of a national of a European Economic Area country or Switzerland.
- An Application Registration Card issued by the Home Office or the UKBA stating that the holder is permitted to take employment, when produced in combination with evidence of verification by the UKBA Employer Checking Service.
- An Immigration Status Document issued to the holder by the Home Office or the UKBA with an endorsement indicating that the person named in it can stay in the United Kingdom and is allowed to do the type of work in question, when produced in combination with an official document issued by a Government agency or a previous employer, giving the person's permanent National Insurance number and their name.
- A letter issued to the holder or the employer or prospective employer by the Home Office or the UKBA, indicating that the person named in it can stay in the United Kingdom and is allowed to do the work in question, when produced in combination with an official document issued by a Government agency or a previous employer, giving the person's permanent National Insurance number and their name.

CHANGE OF NAME

If the applicant has changed their name recently and cannot provide ID documents in this new name, documentary evidence of the recent name change will be required, i.e.:

- Marriage/civil partnership (i.e. marriage/civil partnership certificate),
- Divorce/civil partnership dissolution (i.e. decree absolute/civil partnership dissolution certificate), or
- Deed poll (i.e. deed poll certificate).

Employing EEA Nationals

Nationals from European Economic Area (EEA) countries and Switzerland can enter and work in the UK without any restrictions. Nationals from all EEA countries and Switzerland must produce a document showing their nationality from List A (Appendix 4). Nationals from the EEA countries can enter and work freely in the UK without restriction. Their immediate family members are also able to work freely in the UK while their adult EEA family member is legally residing and working here. However, their documents are still checked to demonstrate this entitlement.

Austria*
 Belgium*
 Cyprus*
 Czech Republic**
 Denmark *
 Estonia**
 France*
 Finland*
 Greece*
 Germany*
 Hungary**
 Iceland

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Ireland *
 Italy*
 Latvia**
 Liechtenstein
 Lithuania**
 Luxembourg*
 Malta*
 Netherlands*
 Norway
 Poland**
 Portugal*
 Slovenia**
 Slovakia**
 Spain*
 Sweden*
 UK*

Nationals from Switzerland and their family members also have the same free movement and employment rights as EEA nationals.

*Indicates that the country is also a member of the European Union.

** Indicates that nationals from these EU countries (often referred to as 'accession state workers') are no longer required to register their employment with the UK Border Agency under the Worker Registration Scheme which closed on 30 April 2011.

Bulgarian and Romanian nationals (A2 countries)

Bulgarian and Romanian national's workers are free to come to live in the UK, but may be subject to worker authorisation. Employers of A2 workers may need to apply for a work permit. If this is the case, the individual will need to wait for the UKBA to grant the work permit and issue them with a letter of approval. The individual will then use this to apply for an accession worker card. This means that they are only able to work in the UK if they hold a valid accession worker authorisation document or if they are exempt from authorisation. Once the individual has been legally working in the UK for a continuous period of 12 months the gain full rights of free movement and the Home Office restrictions no longer apply.

When employing a new employee from one of the A2 countries, they must first validate their right to work with a document from List A.

You must ensure that the perspective A2 employee is authorised to work before the employment start date, unless they are exempt. The evidence of the right to work will be a document issued by the UKBA. In the case of Bulgarian and Romanian nationals, employers may still need to apply for a work permit.

For A2 workers employers must:

- Copy and retain on file a valid accession worker authorisation document (e.g. an Accession worker card/certificate or,

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- Copy and retain on file documentation issued by the UKBA to validate that they are exempt from authorisation.

Bulgarian and Romanian nationals can enter and live in the UK without restriction but they may need to apply for UKBA permission before they can work in the country (accession worker card). In these cases the Trust follows three steps as directed by the UKBA:

1. Check whether the worker needs an accession worker card (there are some instances where the prospective employee may be exempt from this requirement), 2. Apply for a work permit (if necessary), and 3. Wait for the worker to obtain their accession worker card (if necessary)

Turkish ECAA workers

The European Community Association Agreement (ECAA) with Turkey provides Turkish nationals who are already working legally in the UK with certain rights when they need to extend their stay. Individuals will only be accepted as a Turkish ECAA worker if they meet the criteria set by the UK Border Agency (UKBA).

Once the UKBA grants permission for an individual to stay as a Turkish ECAA worker, the individual will be issued with a vignette in their passport and receive a letter confirming their status. Employers will be able to use this documentation to check a potential or existing employee's right to work in the UK. Employers will be able to use this document to check a potential or existing employee's right to.

Migrants from outside the EEA

Under the points-based system, migrants must pass the points assessment before they can get permission to enter or remain in the UK. Each of the system's five tiers has different points requirements - the number of points the migrant needs and the way the points are awarded will depend on the tier. Points are awarded to reflect the migrant's ability, experience and age - and, when appropriate, the level of need in the migrant's chosen industry.

The points-based system consists of five tiers. These are:

- Tier 1 - for highly skilled workers, such as scientists and entrepreneurs
- Tier 2 - for skilled workers with a job offer, such as teachers and nurses
- Tier 3 - for low-skilled workers filling specific temporary labour shortages, such as construction workers for a particular project
- Tier 4 - for students
- Tier 5 - for temporary workers, such as musicians coming to play in a concert, and participants in the youth mobility scheme.

Migrants in any tier except Tier 1 must be sponsored before they can apply to the UKBA. The Trust is a Level A rated Tier 2 (General) sponsor with the UK Border Agency, and within their policies and processes may be able to apply for Certificates of Sponsorship to successful candidates if appointment from the local labour market has not been possible, or to eligible existing staff members with limited leave to remain in the U.K. when employment would be continued otherwise. There is no guarantee that the Trust will be able to obtain Certificates of Sponsorship for migrants outside the EEA, and instead the final decision is with the UKBA. Further information can be sought from the Recruitment Team.

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Appendix 7**Policy Statement on the Recruitment of Ex-Offenders****THE ROYAL MARSDEN NHS FOUNDATION TRUST
POLICY STATEMENT ON THE RECRUITMENT OF EX-OFFENDERS**

1. As an organisation using the Disclosure and Barring Service (DBS) Disclosure service to assess applicants' suitability for positions of trust, The Royal Marsden NHS Foundation Trust ("the Trust") complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a disclosure on the basis of conviction or any other information revealed.
2. The Trust is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependents, age, physical/ mental disability or offending background.
3. We have a written policy statement on the recruitment of ex-offenders, which is available to all Disclosure applicants at the outset of the recruitment process.
4. We actively promote equality of opportunity for all with the right mix of talent, skills, and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications and experience.
5. All application packs adverts will contain a statement that a Disclosure will be requested in the event of the individual being offered the position.
6. Where a Disclosure is to form part of the recruitment process, we encourage all applicants called for interview to provide details of their criminal record at an early stage in the application process. We guarantee that this information is only seen by those who need to see it as part of the recruitment process.
7. Unless the nature of the position allows the trust to ask questions about your criminal record we only ask about "unspent" convictions as defined in the Rehabilitation of Offenders Act 1974.
8. We ensure that all those in the trust who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.
9. At interview, or in a separate discussion, we ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.
10. We undertake to discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of employment.

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Appendix 8**Grid of posts and the level of DBS check required**

Staff Group	Enhanced against children's and/or adults barred lists	Standard
All Medical and Dental Staff	Yes	
All Nursing Staff	Yes	
Healthcare Assistants Support Workers Housekeepers Phlebotomist	Yes	
Staff with patient contact (not unsupervised) Ward clerks Ward based administrative staff Medical Records Staff Managers with patient contact Lab staff with patient contact		Yes
Operating Theatre Practitioners Clinical Psychologists Counsellors Chaplaincy staff	Yes	
Allied Health Professionals (AHPs) Physiotherapists Speech and Language Therapists Occupational Therapists Dieticians Pharmacists Radiographers (diagnostic and therapeutic) Play therapists Art Therapists Chiropodists Prosthetists Orthoptists Audiologists Helpers Assistants	Yes	
Other staff groups- where the role includes regular patient contact Portering staff Catering staff Security staff Maintenance Staff	Yes	
Executive and Non-Executive Directors Trust Leadership Team - participating in Executive Board On Call		Yes Yes

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The following staff groups do not require a CRB Check

Laboratory, Scientific and Technical Staff

Clinical Scientists

Medical Technical Officers

Bio-medical Scientists

Technicians

Physicists

Technicians (e.g. ECG, pharmacy)

Administrative and Clerical Staff with no patient contact e.g Finance, HR and general administrative staff

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Appendix 9**DBS Risk Assessment Form****THE ROYAL MARSDEN NHS FOUNDATION TRUST****REQUEST FOR PERMISSION TO RECRUIT SUBJECT TO THE OUTCOME OF A DISCLOSURE AND BARRING CHECK**

A number of factors should be taken into consideration before a decision to confirm a start date to an appointee whose role requires that they have access to children and/or vulnerable adult. A decision will be agreed by Human Resources based upon the information provided below.

Name:	
Post offered:	
Reason for request to start pending DBS clearance:	
Proposed start date:	

Existing DBS Check or most recent; Is there an existing Criminal Records Disclosure check? Level of Check: Enhanced/Standard Checked against barred lists: Children and/or vulnerable adults	Disclosure number: Issue Date: Position Disclosure sought for: Registered Body:
Agency / Internal / External; Is this an external candidate or are they working for The Royal Marsden i.e. agency or internal candidate?	
Previous/Current Employment; Are they working in a similar environment with access to children and/or vulnerable adults?	
References; Current and valid References. Check content of references and authenticity. Is one from current employer? Have they been approved?	Ref 1: Ref 2:
Occupational Health Clearance	Date declared OH cleared:
Exception work arrangements; Please clarify what measures will be implemented to safeguard children (e.g. level of supervision, placement in a non-children area / back office etc)	

Based upon the information above it is our recommendation to authorise confirmation of start date subject to an Enhanced DBS Disclosure and the Line Manager's agreement that the individual does not have unsupervised access to children and/or vulnerable adults until one has been obtained by the Trust.

Signed and dated by General Manager (or equivalent) and HR	
Line Manager:	
Divisional Director:	
Head of Recruitment:	

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Appendix 10

Regulated activity and Barred Lists Definition

What is regulated activity?

Regulated Activity is work a person who appears on the Disclosure and Barring Service (DBS) barred lists is prohibited from doing.

Where an individual is working or engaging in Regulated Activity employers must request an Enhanced Check against the respective DBS barred list(s).

In an effort to reduce bureaucracy, the disclosure and barring system was reformed and new measures came into force from 10 September 2012. This involved reducing the scope of Regulated Activity, so that some roles that previously needed a barred list check no longer do so. However, those posts taken out of Regulated Activity may be considered against the eligibility criteria for enhanced level (without barred list) checks.

Reducing the scope of Regulated Activity has led to a re-balancing of responsibilities between the state and the employer. There is a greater responsibility on employers to assess an individual's suitability based for a particular role based on the activities and level of contact that role will allow them to have with children and adults.

As noted earlier, while important, a criminal record check is only one aspect of employment checking requirements, and employers must make decisions to appoint using the information gained as part of the wider range of checks required in the appointment of staff in the NHS, such as obtaining and following up employment history and references, checking professional registration and qualifications and undertaking face to face interviews. Only where employers take a holistic approach can they ensure effective and safe recruitment.

Eligibility for enhanced with a barred list check

Individuals seeking work in a regulated activity position must check against the ISA's barred list (this is known as a barred list check). This check is access through the process of applying for an Enhanced Disclosure.

Individuals in regulated activity are eligible for an enhanced disclosure with barred list information. It will be possible to check against the children's and/or adults' barred list(s), depending on the role under consideration.

Eligibility for enhanced without a barred list check

The number of individuals in regulated activity is being reduced by the changes to the disclosure and barring services and, as a result there will be some positions which will no longer be eligible for an enhanced disclosure with a barred list check from 10 September 2012.

Employer may continue to obtain an enhanced level check without a barred list check for positions that were previously eligible under the SVGA before 10 September 2012 but no longer fall within the new definition of regulated activity. Employers should make a risk

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based judgement against roles and responsibilities of the position when considering whether an enhanced level check would be applicable.

Regulated activity

The new definition of regulated activity relating to adults and children in the Safeguarding Vulnerable Groups Act 2006, as amended in the Protection of Freedoms Act 2012, can be summarised as follows:

Adults

An activity involving working or volunteering with **adults** that is of a **specific nature**. An adult refers to any individual who is aged 18 years or over.

There are six categories within the new definition of regulated activity, these are:

- (I) Providing healthcare
- (II) Providing personal care
- (III) Providing social work
- (IV) Assistance with cash, bills and/or shopping
- (V) Assistance in the conduct of a person's own affairs
- (VI) Conveying

Children

An activity involving working or volunteering with **children** that is of a **specified nature**:

- (i) Unsupervised activities
- (ii) Work for a limited range of establishments ('specified places') with the opportunity for contact with children.

Work under (i) or (ii) is regulated activity only if done frequently

- (iii) Providing personal care, for example washing or dressing; or healthcare by or supervised by a professional.

Healthcare or personal care activities does not need to be done frequently to be regulated activity. If they are part of a person's role, then that person is engaging in regulated and requires an enhanced criminal record check with barred list check.

- (iv) Registered child minding; and foster-caring

Individuals who will be working in Regulated Activity as defined above will be eligible for an enhanced criminal record check with barred list check

ISA barred lists: On the 12 October 2009, the three previous barred lists (PoCA, PoVA and List 99) ceased to exist and were replaced by two new barred lists administered by the Independent Safeguarding Authority (ISA): the Children's List and Vulnerable Adults List.

Where a post meets the criteria for a check against the barred lists, employers must obtain an enhanced DBS check and request any information by ticking one or both boxes (as applicable) on the DBS application form.

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It is an offence for any person who is barred from working with children and/or vulnerable adults to apply for, or engage in, regulated activity with that vulnerable group. It is also an offence for an employer to 'knowingly' offer such a person this type of work or to allow them to engage in regulated activity.

Employers must also, by law, immediately remove any existing member of staff from regulated activity where they are working or volunteering with children and/or vulnerable adults, if they subsequently discover that they are included on the ISA's barred lists.

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