

Policy Number: 542

Recruitment and Selection (including Safer Recruitment) and the employment of ex-offenders

Introduction

All organisations, which employ staff or volunteers to work with vulnerable individuals should adopt a consistent and thorough process of safer recruitment in order to ensure that people who are unsuitable to work with vulnerable individuals are prevented from doing so.

Safer recruitment should encompass the following key elements;

- Robust recruitment and selection processes
- Relevant vetting and checking processes
- Robust induction
- Good training infrastructure

Safer recruitment practice should include those persons who may not have direct contact with Children/Young People, but because of their presence and familiarity in certain settings will still be seen as safe and trustworthy. The principles of safer recruitment should be included in the terms of any contract drawn up between Phoenix and contractors or agencies that provide services for Children and Young People for whom the organisation is responsible.

Phoenix monitors compliance with the contract, which also includes a requirement that the provider will not sub-contract to any personnel who have not been part of a safer recruitment process.

Training

All Managers involved in the selection of adults to work with vulnerable individuals should ensure that all Colleagues undertake appropriate safer recruitment training. The HR Department will monitor the take up of any such training through the specification of the required course and monitor attendance via the training matrix.

Safer Recruitment Practice

Safer recruitment practice should be applied at all stages of the recruitment process including:

- Advertising and information for applicants to deter unsuitable people from applying
- Selection and interview of candidates based on job description and person specification
- Taking up full and suitable references
- DBS checks and any additional list checks (e.g. for registered occupations i.e. teachers)
- Offer of appointment to successful candidate
- Induction and supervision of newly appointed employees

Advertisements and Information for Applicants

Prior to advertising any job role, sufficient planning should be made to ensure an accurate, up-to-date job description and person specification is available.

Promotional posts will be advertised internally to every employee within the organisation unless there is an identified need to recruit specialist skills into the company.

Where an external advertisement is required, this will be arranged by members of the HR team to ensure that legislation is met and that recruitment is in-line with the safer recruitment requirements.

Phoenix will demonstrate its commitment to safeguarding and protecting Children/Young People by ensuring that all recruitment advertising material contains a policy statement to this effect. This will include the fact that the identity of the candidate, if successful, will need to be checked thoroughly, that the applicant will be required to complete an application for a DBS Disclosure to an enhanced level which includes a check on the applicable barring list (e.g. Adult and/or child and/or registered occupations list).

The job description clearly articulates the extent of the relationship with, and the degree of responsibility for, Children and Young People with whom the person will have contact. The person specification explains:

- The qualifications and experience needed for the role
- The competencies and qualities that the applicant should be able to demonstrate
- How the above factors will be tested and assessed during the selection process

The application form requests:

- Full personal information, including any former names by which the applicant has been known in the past
- A full history of employment, both paid and voluntary, since leaving school, including any periods of further education or training. This should include;
 - Start and end dates,
 - Explanations for leaving, and
 - Reasons for any gaps in employment
- Details of any relevant academic and/or vocational qualifications
- A declaration that the applicant has no convictions, cautions, or bind-overs, including those regarded as spent. This should also include referral to, or inclusion, on the DBS Children's or Adult's barred List and regulatory body restricting or preventing them from working with children or vulnerable adults. Some offences disqualify applicants from working with Young People, Children and Vulnerable adults and these can be checked via the "*Building Better Childcare*" document available through the Ofsted website
- A signed declaration of truth

Curriculum Vitae, drawn up by applicants in place of an application form are acceptable for initial interview however, because these will only contain the information the applicant wishes to present and may omit relevant details, a full application form must be completed as part of the selection process and prior to any offer of employment.

Other Checks Prior to Interview

If an applicant claims to have specific qualifications or experience relevant to working with Children and Young People, which may not be verified by a reference, the facts may be verified by making contact with the relevant body or previous employer and any discrepancy explored during a follow up interview.

Selection/Interview panels should be especially cognisant on understanding and interpreting equivalent qualifications (specifically equivalent qualifications to the L3 Diploma for Residential Childcare as required for Children's residential services) where regulators can ask for evidence how the company has deemed one qualification equivalent to another.

Selection/Interview panels should also be cognisant that the time window allowed by regulation to acquire qualifications (specifically the L3 Diploma in Residential Childcare) can have started even if prospective applicants have worked in different homes, whether in another home run by the same organisation (i.e. Phoenix) or one run by another organisation, during the grace time period.

Selection of Candidates

There are standard procedures for short listing to ensure that the best candidates are selected fairly. All applicants should be assessed equally against the criteria contained in the job description and person specification without exception or variation.

All applications will be received and collated at our Head Office or Dawlish office. Once the closing date has passed the interview panel will meet to shortlist the applicants.

Once short listing has been completed and agreed, candidates will be informed of the date of the interview and will be contacted by telephone to ascertain their availability for interview. They will then be sent an invitation to attend the interview.

Documentary Evidence to Bring to the Interview

All candidates should be instructed to bring with them documentary evidence of their identity, either a full birth certificate, passport or photo card driving licence and additionally a document such as a utility bill or bank statement that verifies the candidate's name and address. Where appropriate, change of name documentation must also be brought to the interview.

Candidates should also be asked to bring original or certified copies of documents confirming any necessary or relevant educational and professional qualifications. If the successful candidate cannot produce original documents or certified copies written confirmation of his/her relevant qualifications must be obtained from the awarding body.

All candidates should bring to interview documentary evidence as referenced in the Asylum and Immigration Act 2006 and in line with DBS requirements. The law on preventing illegal working is set out in sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006 (known as the 2006 Act). These rules came into force on 29 February 2008. Under the 2006 Act Phoenix has a duty to prevent illegal working by carrying out document checks to confirm if a person has the right to work in the UK.

The document *An employer's guide to acceptable right to work documents* published in May 2015 and available via the link below lists the documents that can be presented to verify an individual's right to work in the UK;

<https://www.gov.uk/government/publications/acceptable-right-to-work-documents-an-employers-guide>

As a Company, Phoenix need to check and keep copies of original, acceptable documents before an applicant starts working for the Company. If a person has a time limit on their stay in the UK then Phoenix should carry out repeat checks at least once every 12 months. If a person has a restriction on the type of work they can do and, or, the amount of hours they can work, then Phoenix must not employ them in breach of these restrictions.

Interviewing Short-listed Candidates

The Interview Panel will meet to prepare for the interviews where each candidate will be discussed. Interview questions should be agreed and a Chair appointed who will ensure that all the relevant documentation is completed.

There must always be a person trained in Safer Recruitment principles on the panel.

When a candidate arrives for interview they will report to the senior employee who will check their identity and ensure they are entitled to work in the UK.

Interview questions will be typed and the candidate's responses to them recorded. Each of the interview panel will have a set of interview questions so that notes can be taken during the interview.

The questions will ensure that candidates are asked about their;

- previous work experience
- knowledge, relevant skills
- evidence of ability
- attitude towards working with Children and Young People
- Commitment to safeguarding and promoting the welfare of Children/Young People

The structure of the interview process should be agreed including who will ask which questions before the actual interview.

The process will be as follows:

- Introductions
- Confirm purpose and context of the interview (role, location, number of interviews)
- Explain our Safer Recruitment process
- Brief insight into the Phoenix Learning and Care organisation by the Chairperson
- The interview questions
- Opportunity for Applicant to ask questions *
- Clarification of any issues and confirmation of current applicant position/salary/ notice period/benefits etc
- Discuss next steps
- Close

(Personal details of the Young People in our care will not be given under any circumstances).*

Once every candidate has been interviewed, the panel will meet to discuss and make selections. Applicants will only be assessed in relation to the job description and person specification, all other factors (e.g. race, gender) will be disregarded.

The Panel will produce a written record of each interview to assist in the process of the final selection. Each employee has an individual personnel file where all correspondence relating to their recruitment including application form, interview notes, references, checks and personal details will be stored throughout their employment with the Company. In the event of them leaving for any reason, their personnel file will be kept for a period of 6 years.

The candidates will be notified in writing if they are either successful or not.

Any unsuccessful candidate's personal details will be destroyed after two months.

References

The application form requests both professional and character references; Phoenix insist on three references one of which should be from the applicant's current or most recent employer any previous childcare employment and one character reference not from the applicant's relatives.

Completed references should be sent to our business addresses, not a home address.

References should contain objective, verifiable information and in order to achieve this, a reference pro-forma with questions relating to the candidate's suitability to work with Children and Young People is available.

References should include:

- length of time the person has known the applicant and in what capacity
- post held with dates , salary and reasons for leaving
- ability and suitability to work with children and young people
- skills, strengths and weaknesses and how these have been demonstrated
- any current disciplinary investigation and/or sanction
- any allegations and/or disciplinary investigations relating to the safety or welfare of children and young people and the outcome of these (including where any sanction has expired)
- details of any criminal convictions, cautions or bind-overs
- sickness record
- if the referee would re-employ the applicant and, if not, details of why
- Verification of the identity of the referee

The referee should be asked to confirm whether the applicant has been the subject of any disciplinary sanctions and whether the applicant has had any allegations made against them or concerns raised which relate to either the safety or welfare of Children and Young People or about the applicant's behaviour towards Children or Young People. Details about the outcome of any concerns or allegations should be sought.

Further additional information is sought if a candidate has previously worked in a position involving contact with Young People to ascertain the reason if any, this employment ended.

References received will be verified verbally with the originator by phone.

Open references or testimonials will not be accepted.

Offer of Appointment to Successful Candidate

Any offer of appointment should be conditional upon pre-employment checks being satisfactorily completed, including;

- An enhanced DBS check including appropriate barring list checks
- Three references of satisfactory content and verification of the originator
- Verification of the candidate's medical fitness via iHealth
- Verification of any relevant professional status and whether any restrictions have been imposed by a regulatory body such as the Teaching Agency (TA) and the General Medical Council (GMC)
- All checks should be confirmed in writing and retained on the candidate's personnel file, together with photocopies of documents used to verify his/her identity and qualifications
- Proof of identify – notably;
 - Passport/Photocard Driving License
 - Utility Bill x2, no older than 3 months
- Proof of right to work in UK

Disclosure and Barring Services

All successful applicants will undergo an Enhanced Disclosure and Barring list check. This includes the content of the standard check plus any additional information held by local police that is reasonably considered relevant to the workforce being applied for (i.e. adult, child or 'other' workforce). The barring list check also identifies whether the person is barred from working in regulated activity with the group they are applying to work for, for example, whether they are barred from working with children. Given the diverse nature of Phoenix's services we request *both* Children and Adults barred list checks.

Phoenix Learning and Care Ltd is an Umbrella Body for Disclosure and Barring Services and as such, have designated approved senior employees, who oversee all DBS disclosure checks. If a DBS disclosure certificate is submitted to us containing any cautions or convictions which the applicant has failed to disclose on the original application form, they will be called to a meeting and interviewed in connection with the disclosure report.

Under DBS regulations, DBS disclosures can usually only be kept for a period of 6 months (or in the case of CQC or Ofsted registered care establishments until the date of the next inspection), but a record will be kept of the date the disclosure was obtained and who by, the level of the disclosure and the unique reference number. Once the retention period has elapsed, we will ensure that any DBS certificate information is immediately destroyed by secure means, (i.e. by shredding, pulping or burning). While awaiting destruction, certificate information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). We will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. However, notwithstanding the above, we may keep a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, and the position for which the certificate was requested, the unique reference number of the certificates and the details of the recruitment decision taken.

Current employees are subject to a full DBS check every 3 years.

Every six months employees complete a DBS update Self-Declaration Form.

In the case of applicants who have not resided within the UK or who have not worked in the UK, the process is slightly different. Phoenix Learning and Care use an external organisation to provide international checks.

Record Keeping

A record should be kept of evidence to show that such DBS checks have been carried out in respect of temporary employees and volunteers whether recruited directly or through an agency.

Satisfactory references must be kept on the candidate's personnel file or, in the case of temporary employees or volunteers not recruited through an agency, on a central record within the organisation.

Where information gained by the employer from either references or other checks calls into question the candidate's suitability to work with children, or where the candidate has provided false information in support of the application the facts should be reported to the Police and/or the DBS as appropriate.

Induction and Supervision of Employees & Volunteers

Please refer to Group Policy 552 for arrangements related to Induction, Probation and Training and Group Policy 555 for arrangements related to Supervision and Appraisal.

Single Central Record Register (Applicable to Schools and Further Education Colleges Only)

In line with the requirement listed within; [Keeping Children Safe in Education](#) (April 2014) it is a requirement that our schools and colleges must keep a separate “Single Central Record”, referred to in the regulations as the register.

The single central record must cover the following people:

- All employees who work at the school (in Colleges this means those providing education to the Learners)
- All members of the proprietor body (i.e. statutory Directors of Phoenix Learning & Care Ltd)
- All individuals who are employed as supply staff to the school or further education college, whether employed directly by the school, college, local authority or through an agency
- Any volunteers that the school or college has recruited to work regularly with Student’s and for whom DBS checks have been requested because they are working unsupervised
- People brought into the school or college to provide regular additional teaching or instruction for Students but who are not employees; for example, a specialist sports coach or artist
- Support employees of Phoenix Learning and Care who might reasonably have access unsupervised to Children (e.g. Quality, Maintenance, IT support functions)
- Governors (include in a separate section of the register)

Generally, the information to be recorded on the above individuals is whether or not the following checks have been carried out or certificates obtained, and the date on which the checks were completed:

- **An identity check.** The check should confirm name, date of birth, address and should have been a photographic form of identity (e.g, passport). This check can also help prove the persons eligibility to work in the UK

- **A barred list check.** (formerly List 99) must be undertaken on all employees working in schools. Note; The enhanced DBS check will automatically include a check against the Children's Barred list where a check against the Children's list (previously known as POCA) is requested. On the DBS it will be listed in the section entitled; *"Information from the list held under section 142 of the Education Act 2002"*.
- **An enhanced DBS check**
- **A prohibition from teaching check*** It is a statutory requirement to check, on appointment, that a teacher is not prohibited from teaching
- **Further checks on people living or working outside the UK** Although a DBS check is required for employees that have lived overseas, it is necessary to undertake further checks with the country where they lived. These checks may include certificates of good conduct from local police forces or embassies, follow-up verification to anything that is provided should be made (e.g. call the organisation that sent the document and/or make checks through embassies etc)
- **A check of professional qualifications** Where a qualification is a requirement of the post, it must be checked and confirmed as a part of the record, this includes QTS, NPQH and registration as a teacher with the DfE.
- **A check to establish the person's right to work in the United Kingdom** Eligibility to work in the UK must be confirmed before the employee starts work. The record should indicate the document that was evidenced to confirm that right. UK and EEA nationals have that right (but must be able to prove it); individuals out side the UK/EEA will probably require a permit.

***Secretary of State Prohibition Orders**

Prohibition orders prevent a person from carrying out teaching work in schools, sixth form colleges, 16 to 19 academies, relevant youth accommodation and children's homes in England. A person who is prohibited from teaching must **not** be appointed to work as a teacher in such a setting. A check of any prohibition can be done via the National College Teaching Leadership (NCTL) website via the section referred to as "Employer Access Service" or via the following link;

<https://teacherservices.education.gov.uk/SelfService/Login>

This will identify any existing prohibitions and sanctions made by the General Teaching Council for England (GTCE) before its abolition at the end of March 2012 and provide information about any teacher qualifications held and whether induction has been passed. The service is offered free of charge to schools, local authorities and teacher supply agencies in England.

Ownership of the Single Central Record Register

The custodian of the Single Central Records lies with the Group HR Manager and the master documents are located on the T drive (T:\HR\Single Central Register\[school/college name]SCR(date).xls with local copies available to the relevant Headmaster/Principal via a shortcut link to the master file as listed above.

Disqualification under the Childcare Act 2006

The Childcare (disqualification) Regulations 2009 are made under section 75 of the Childcare Act 2006. This provides that a person who is disqualified under the 2009 regulations may not provide relevant childcare provision or be directly concerned in the management of such provision. Schools are prohibited from employing a disqualified person within the relevant childcare provision. Whilst at the time of writing this regulation applies to early years settings Phoenix wishes to ensure that any employee who falls within the legislation including that they be disqualified “by association” under regulation 9 of the 2009 Regulations where they live in the same household as “to the best of their knowledge” a disqualified person or in a household where a disqualified person is employed. To achieve this we, reserve the right, to ask employees to undertake an annual self declaration.

The Recruitment and Employment of ex-offenders

Phoenix Learning and Care Ltd are committed to being an Equal Opportunities employer and this policy aims to ensure that ex-offenders receive fair treatment throughout their experience of recruitment and employment within our organisation.

We also believe the welfare of the children and Young People in our care is paramount and work in accordance with Nation Guidance such as ‘Working together to Safeguard Children (March 2013) and Safeguarding Vulnerable Groups Act 2006.

Phoenix Learning and Care Ltd recognise our social responsibility and position within the community. We appreciate the role that continuity of employment can play in rehabilitation of ex-offenders when matched with the appropriate posts.

We will ensure that application packs for positions where Disclosures will be requested contain a statement that a Disclosure will be requested in the event of a successful application, so that the applicants are aware of the situation.

This will be worded accordingly:

This post meets the requirements in respect of exempted questions under the Rehabilitation of Offenders Act 1974, any applicants for this post who are offered employment for this organisation will be subject to a criminal record check from the Disclosure and Barring Service before the appointment is confirmed. This will include details of cautions, reprimands or final warnings as well as convictions. A criminal record will not automatically bar a person from successfully taking up this post. If you have been convicted of a criminal offence, please give details including all relevant dates in the space below. (Information given will be treated in the strictest confidence). If you have not been convicted/cautioned of a criminal offence, please indicate by stating 'NONE'.

To assist us in this assessment, all applicants will be asked to provide details of unspent criminal records at the initial application stage.

In line with the Rehabilitation of Offenders Act 1974, details of spent convictions will be requested from applicants for posts which are considered exempt from the Act due to the responsibilities of the role, predominately posts which include working with children, vulnerable adults.

As employers Phoenix cannot simply turn an applicant down for a position because the applicant has been convicted of an offence if the conviction or caution is 'spent' - unless an exception applies. Additionally job applicants do not need to tell potential employers like Phoenix about spent convictions or cautions.

However, all our vacancies require an enhanced DBS check and this can illustrate that an applicant is not suitable for a vacancy because of a spent conviction or caution. Phoenix as an employer in this case *can* withdraw a job offer. Phoenix as the employer should tell the applicant that an exception applies. It is against the law to refuse someone a job because they've got a spent conviction or caution, unless it's because a DBS check shows that they're unsuitable.

Recruiting Managers should use the *Positive Disclosure Risk Assessment and Decision Sheet* form to make a balanced decision about whether they wish to recommend any individual with a positive disclosure for employment or continued employment. Before a decision is reached on whether to offer or confirm employment to an individual, following a positive disclosure, the individual applicant should be offered the opportunity to discuss the contents of the disclosure with the recruiting manager. The details of this discussion should be recorded on the assessment form and will form the basis of the risk assessment.

All recommendations following positive disclosures should be passed to the Group HR Manager. **The final decision about whether to employ, or continue to employ any individual with a positive disclosure will be taken by the Executive Management Team,** who will moderate the process to ensure consistency and fairness.

How do I decide whether to employ an ex-offender?

The vast majority of incidences when Phoenix may take on an employee with a criminal record are low risk. When considering offences, many will say that their criminal behaviour was in the past. In fact, most criminal offences are committed during youth, without a thought for the consequences that a criminal record might have on future employment. Additionally offences might be related to specific instances of intolerable provocation (an abusive relationship perhaps).

If you discover during the course of interview or DBS certificate check that a potential candidate has a criminal record then you must consider whether this additional piece of information is relevant to the decision whether to employ that individual. At interview, Phoenix Learning and Care Ltd aims to ensure that an open and measured discussion takes place on the subject of any offence or other matter that may be relevant to the position sought. This however could lead to withdrawal of an offer of employment

Of course, there are some categories of offence which preclude employment in certain sectors by law. Examples include employment with children for anyone convicted of sexual offences.

How can I determine the seriousness of offences?

In some cases an offence on its own may not appear serious; however, the context of the offence might be relevant in determining whether to offer someone a role in our business.

The age of the offence should be considered, and whether it was a one-off or multiple offences. The age of the potential employee may also be relevant, with perhaps some offences more readily explained in youth but less so if the offender is older.

The circumstances of the offence may also be relevant and is something that you could ask about. A 'heat of the moment' offence may indicate a questionable temperament, but may be more favourable than an offence which was pre-mediated and displayed a degree of calculation.

A final important way to view an offence is to look at it in the context of the individual applicant's life. Was the offence committed at a different time in that person's life, and can

they point to things that have changed to justify who they are now compared to who they were when the offence was committed.

Once in employment, employees must inform their line manager, in confidence, of any changes to their circumstances affecting their criminal records status, in order that the impact upon their suitability to undertake their role may be reviewed.

Recruitment of Agency personnel

From time to time applications may be received from individuals currently employed by labour agencies supplying resource into the company services. Agency labour usage should be avoided where possible in order to protect the integrity of the service in terms of support team continuity and to avoid the often excessive cost of agency labour provision.

Recruiting managers should be aware of the recruitment charges administered by both employment and labour agencies which can be excessive typically in the region of 20% of an employee's annual salary. Where a decision to recruit is being made where a recruitment fee is chargeable then the approval of a functional director should be sought in advance of the offer being made to the prospective candidate to ensure charges are proportionate and using suppliers that have the requisite Terms and Conditions that we would accept as a group.

Where possible potential new employees being recruited from an agency should have the requisite qualifications required for the role (e.g. QCF L3, L5 qualifications).

Internal Transfers/Promotions

Internal applications for job roles are encouraged. These may be to widen an individual's scope of experience (including working at similar facilities within the Phoenix Group) or promotional opportunities where the candidate can develop their career within the organisation.

The following general principles will apply to internal transfers;

- All positions will be advertised internally via the HR department only
- Applying for an internal vacancy will not affect an employee's current terms and conditions
- Once offered a position the successful candidate should be expected to be placed in a reasonable amount of time, typically within 8 weeks

- Employees should have passed their probation period successfully and worked for the organisation for 12 months prior to applying for a promotional role
- Where an employee applies for a role in another service where they may have a relative working this in itself will not preclude an offer being made but the appointment will be subject to a risk assessment to ensure no potential conflict of interest is present