

F8 Pre-Employment Checks and References Policy

1 Policy

- 1.1 The Council will ensure that all new appointments are made on merit alone.
- 1.2 The Council is committed to promoting best practice employment equality to eliminate discrimination and create working environments where all are treated fairly and with respect. The Council takes action to ensure that anyone who works for the Council, or who applies for a job with the Council, is not treated less favourably than anyone else because of their colour, race, ethnic or national origin, religion, gender, responsibility for dependants, disability, age, marital status, sexuality or Trade Union activity.
- 1.3 To ensure that the Council's employment equality policies are effective, all candidates and employees are monitored. All candidates must therefore give the information requested on the application form. This information is used only to monitor progress on equality matters, is treated as confidential and is not revealed outside the Council. Unsuccessful candidates' application forms are destroyed after twelve months.
- 1.4 The above forms the Council's policy as at March 2011, it should be noted that: -
 - the policy does not confer any contractual rights
 - the Council will retain the right to review the policy at any time. Changes may result from employee, management and trade union feedback and/or from changes in employment legislation. The Council, following consultation with recognised Trade Unions, will implement revisions and updates.
 - The policy will cease on the 1 April 2014.

2 Scope

- 2.1 This policy applies to all Council employees.
- 2.2 The policy is recommended for implementation by staff directly employed by schools, for example those based in Academies.

3 Principles

- 3.1 The Council will apply this policy fairly and consistently to all prospective employees and employees.
- 3.2 Provisional offers are made subject to the receipt of these checks and in line with the details contained within the Operational Guidelines.
- 3.3 The Council does not have a legal obligation to provide a reference however recognises that not to do so can cause difficulties for employees and former employees. The Council also believes that references form an important part of safer recruitment for jobs working with children and / or vulnerable adults. Therefore it is the Council policy to provide a limited factual reference, subject to the guidelines set out below.
- 3.4 Documentary evidence of any relevant qualifications and training, a full employment history, together with a satisfactory written explanation of any gaps in employment, a statement by the person as to her/his physical and mental health, details and evidence of registration with, or membership of, any professional body and satisfactory references will be required for all prospective employees.

4 References

- 4.1 Once a reference is given the Council has legal obligations to both the person about whom the reference has been provided and the recipient person or organisation. Therefore, in order to protect the Council from claims arising from references, managers and employees must follow the guidelines set out below and in the Operational Guidelines.
- 4.2 Reference requests for existing and previous employees of the Council should be forwarded directly to HR Connect to respond to.
- 4.3 Employees should give HR Connect as the contact for a reference to any prospective employer, bank, building society or other body requesting an employer reference.
- 4.4 References will be limited to factual information only and no further comment on performance, suitability for prospective role or personal characteristics will be given. Where a manager chooses to provide a more detailed reference to an individual, he or she should explain that the reference is provided on a personal basis and is not being provided on behalf of the Council.
- 4.5 For posts involving access to children or vulnerable adults, there are additional responsibilities to consider when giving a reference as per the Department for Education and Skills document

‘Safeguarding Children and Safer Recruitment in Education’. Posts that require a safeguarding interview also require a more detailed reference, and the requesting organisation should specify this. In these cases the reference form supplied at Annex B should be used instead.

- 4.6 Managers should not usually give telephone references or undertake ‘off the record’ discussions with other organisations about employees, past and present.
- 4.7 Where an employee has been successful at an interview for an internal vacancy or promotional / acting up opportunity, references are not required. The decision to appoint will be based on the selection process. In this instance ‘internal’ means any individual who is employed on a Barnet permanent, fixed term or temporary contract and does not extend to contractors, suppliers, casuals or temporary agency staff.

5 Criminal Record Bureau (CRB) Checks

- 5.1 There are two commonly used CRB checks in the Council, Standard and Enhanced. Most checks carried out in Barnet are Enhanced checks that include everyone who works with Children or Vulnerable Adults. Standard checks are normally reserved for other jobs that require checks because of their role such as Lawyers and Accountants. The level of CRB check for most Barnet posts are determined by Management Teams and recorded on SAP.
- 5.2 Recent changes to the National Standards mean that the registered person in the setting is now responsible for checking the suitability of their new and existing staff.
- 5.3 Rigorous vetting and recruiting procedures must be in place as well as the procedure for dealing with persons who have been disqualified.
- 5.4 It is an offence to employ someone who is known to be disqualified from working with children. Some of the things that disqualify people from working with children are:
 - convictions or charges of an offence against a child
 - convictions or charges of certain offences against an adult (e.g. murder, rape, kidnapping, indecent assault, assault occasioning actual bodily harm)
 - being on the Protection of Children Act (POCA) list of persons considered unsuitable to work children
 - being on the DCSF List 99 of people considered not fit and proper persons to work with children
 - being made the subject of a disqualifying order
 - being made the subject of an order where a child has been removed from his/her care or been prevented from living with

him/her.

- 5.5 If the Council wants to employ someone who is disqualified, or it is discovered that an employee is disqualified within a school setting, then Ofsted must be informed. The person must apply to Ofsted to have the disqualification waived. Ofsted cannot waive a disqualification for people who are included on the POCA list.
- 5.6 It is a requirement of the CRB's Code of Practice that all Registered Bodies must treat Disclosure applicants who have a criminal record fairly and do not discriminate because of a conviction or other information revealed. The Council's policy statement on the recruitment of ex-offenders can be seen in the Operational Guidelines.
- 5.7 Full details of the CRB Checks, Protocol and the process can be seen in the Operational Guidelines.

6 Right to Work

- 6.1 The Council's recruitment and selection process requires all applicants to bring to interview or selection a document, or a combination of documents, as proof of who they are and whether they are eligible to work in the UK. The Council will retain a photocopy of these documents and applicants will sign a declaration form during their interview.
- 6.2 Full details of the Council's Right to Work scheme can be seen in the Operational Guidelines.

7 Health and Medical Fitness

The recruiting manager may choose to include a health questionnaire as part of the recruitment process; however it is usually sufficient to include a health-related question in the request for a reference, i.e. the frequency and nature of previous sickness absence, and as part of the application form. The interviewer may ask candidates if they have any health problems, which could affect their ability to carry out the duties of the job. The Operational Guidelines contain further information.

8 Identity

- 8.1 For all applicants proof of ID, such as birth certificate, driving licence or passport combined with evidence of address, must be seen before an appointment is made. Some form of photographic identity should be seen. Proof of ID is needed in connection with an application for a CRB Disclosure.
- 8.2 Applicants should be asked to bring proof of ID with them to the interview and take copies. Proof should include:
- name
 - date of birth
 - address
 - photographic identity.

9 Eligibility

When a job is offered the Council is legally required to make sure that all applicants have the right to work in the UK. The basic checks must be made at interview, by asking to see one of the following documents. To avoid unfair discrimination ALL candidates who are invited to interview must bring one of the following along with them:

- P45 or P60 from a former employer.
- A document showing their national insurance number, such as a pay slip.
- A passport confirming they are a British citizen.
- A passport or ID card confirming they are a citizen of the European Economic Area (= EU countries plus Iceland, Norway and Liechtenstein).
- A birth certificate issued in the UK or Republic of Ireland.
- Evidence from the Home Office confirming their right to live in the UK and take up employment.

Those individuals who are nationals of certain countries within the EEA who wish to work for more than a month for an employer in the UK need to register under the Worker Registration Scheme. These countries are: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

10 Qualifications

- 10.1 At the recruitment interview, the Interviewer should ask to see the original certificates for any qualifications the applicant lists on the job application form. These must be photocopied and kept in the individual's records
- 10.2 It is important that evidence is kept that these checks have been carried out for all employees as part of their HR record. For school based employees the Ofsted Inspector may ask to see these records.

11 Unsatisfactory Pre Employment Checks or References – prior to employment

- 11.1 If the checks received from the UK Border Agency state that a prospective employee is not eligible to work in the UK, the prospective employee will receive a letter from HR stating that they have not been successful at interview. They do not need to know they have been unsuccessful because of their eligibility to work in the UK. The UK Border Agency will deal with this.
- 11.2 Where it comes to light that a prospective employee fails a CRB Check or is not able to supply the appropriate evidence of qualifications, then their offer of employment may be withdrawn by writing a letter confirming that this is the case. A right of appeal does not exist nor is a meeting required.
- 11.3 If the Council made a job offer conditional upon the applicant's fitness for the work, this should have been stated clearly in the offer letter. The applicant must give their written consent before a medical report is requested and candidates have the right to see the report and can request that it is amended or withheld from the Council. Even without the applicant seeing the report, the doctor must keep it for 21 days before sending it to the Council. Where the medical report raises issue of concern, a meeting must be held to discuss the report and its findings. Where there is a possibility that the individual is deemed to have a disability, all reasonable adjustments must be explored to ensure that the applicant can carry out the role applied for. Where adjustments are not considered reasonable then HR must be consulted before a decision is made to withdraw the job offer. Where the applicant is not considered disabled within the definition in the Equality Act 2010 then the Council may withdraw the offer from the employee in writing, without offering the right of appeal.

12 Unsatisfactory Pre-Employment Checks or References – where employment has begun

- 12.1 All employment offers are made subject to the satisfactory completion of all pre employment checks and references. Where it subsequently comes to light that an employee has been given an unsatisfactory reference or failed a pre employment check they will be called to a meeting.
- 12.2 The employee will be invited to a meeting and be given 2 working days notice, and also be given the right, in writing, to be accompanied by a work colleague or a recognised Trade Union Representative.
- 12.3 The definition of a working day is Monday to Friday (excluding Bank and Public Holidays) irrespective of whether this is a normal working day for the employee.
- 12.4 The meeting will be convened and chaired by an appropriate senior manager, normally the second line manager or Head Teacher, to determine whether continued employment is appropriate based on the circumstances. The content of the Reference, Medical report or Disclosure must be discussed with the employee before a decision is made to terminate the contract. The employee may be provided with a copy of this policy and the CRB Code of Practice, upon request.
- 12.5 This process will be followed to determine suitability for continued employment, however where dismissal is appropriate there will be no right of appeal.
- 12.6 Dismissal must be confirmed in writing and is with effect from the date of the meeting, where it is felt appropriate by the line manager, pay in lieu of notice can be provided.
- 12.7 Where an employee is considered to have a disability, in line with the definition within the Equality Act 2010 it is important to ensure that all reasonable adjustments are considered before a decision is made to progress with dismissal.